



NZX Regulation Decision

NZX Regulation (NZXR)

Ruling on NZX Main Board/Debt Market Listing Rule
6.2.6(b) / NZAX Listing Rule 6.2.5(b) / NXT Market Listing
Rule 65

27 July 2017



Background

1. NZX Main Board/Debt Market Listing Rule 6.2.6(b), NZAX Listing Rule 6.2.5(b) and NXT Market Listing Rule 65 (**Proxy Rules**) provide that a proxy form may not be sent with the name of a person or office (e.g. board chair) filled in as proxy holder.
2. NZX has observed that a number of issuers provide in proxy forms that:
 - a. if, in appointing a proxy, a shareholder completes the proxy form in full but does not name a person as their proxy; or
 - b. a shareholder's named proxy does not attend the meeting,

a named person or office will act as that shareholder's proxy and vote in accordance with their express direction.
3. NZX wishes to clarify whether the practice set out in paragraph 2 above is permitted under the Proxy Rules.
4. Capitalised terms which have not been defined in this decision have the meanings given to them in the Rules.

Decision

5. Subject to the conditions in paragraph 6 below, and for the purposes of the Proxy Rules, Issuers may provide in their proxy forms that:
 - a. if, in appointing a proxy, a shareholder completes the proxy form in full but does not name a person as their proxy; or
 - b. a shareholder's named proxy does not attend the meeting,

a named person or office will act as that shareholder's proxy and vote in accordance with their express direction.
6. The decision set out in paragraph 5 above is provided on the conditions that:
 - a. the Issuer clearly and prominently discloses in its notice of meeting and proxy form the intention to appoint a named person or office (e.g. board chair) in the circumstances set out in paragraph 5(a) or 5(b);
 - b. the named person or office acting as proxy must only vote in accordance with the express directions of the relevant shareholder; and
 - c. if the named person or office acting as proxy is expressly granted a discretion on how to vote on a resolution, and that resolution is subject to a voting restriction that applies to the proxy under NZX Main Board Listing Rule 9.3.1, NZAX Listing Rule 9.3.1 or NXT Market Rule 62(c) and Schedule 6A, then that proxy will be prohibited from voting such discretionary proxies on that resolution.



Reasons

7. In coming to the decision to provide the Ruling set out in paragraph 5 above, NZXR has considered that:
 - a. the policy of the Ruling aligns with the disclosure based regime under which Issuers operate;
 - b. Issuers seeking to apply a default proxy mechanism as set out in paragraph 5 above, will be required to provide clear and prominent disclosure of that intention to shareholders and to the market in both the notice of meeting and proxy form related to that meeting;
 - c. shareholders retain the ability to name a specific person or office as proxy;
 - d. relevant proxy forms will still be required to be validly completed and submitted in order to be effective; and
 - e. the condition in paragraph 6(b) means that a default proxy will only be able to vote in accordance with the express directions of the relevant shareholder.

