



NZX Regulation Decision

Class waivers and rulings for NZX Main Board and Debt Market Transition -

NZX Listing Rules (dated 1 January 2019)

NZX Main Board/Debt Market Listing Rules (dated 1 October 2017)

19 November 2018



Background

1. These waivers apply to Transitioning Issuers, as more particularly described in Appendix One.
2. The Rules to which these decisions relate are set out in Appendix Two.
3. Capitalised terms that are not defined in these decisions have the meanings given to them in the Rules, unless the terms are not defined in the Rules, in which case they shall have the meanings given to them in the Existing Listing Rules as the context requires.

Ruling on waivers and rulings under Existing Listing Rules

Decision

4. Subject to the conditions in paragraph 5 below, NZX Regulation (**NZXR**) grants a ruling under Rule 9.6 that, for a period from, and including, 1 January 2019 to, and including, 30 June 2020, waivers and rulings previously granted to Transitioning Issuers in respect of the Existing Listing Rules, will continue to have effect from a Transitioning Issuer's Transition Date, in respect of the application of such waivers and/or rulings to the comparable Rule to which such waivers and/or rulings relate.
5. The ruling set out in paragraph 4 above is subject to the condition that:
 - a. For the purposes of the Transitioning Issuer's annual reporting disclosure obligations under Rule 3.7.1(g), the Issuer include:
 - (i) a statement to the effect that the Issuer has relied on this class ruling and that this class ruling is available until 30 June 2020; and
 - (ii) a summary of the waivers on which that Transitioning Issuer has relied upon in the 12 month period preceding the Transitioning Issuer's balance date (or a reference to where this information can be found on the Issuer's website, where it must remain available until publication of the next annual report); and
 - b. when applying the waivers and/or rulings, the comparable Rule will be as set out in the finder table on NZX's website (available on the date of this ruling at https://s3-ap-southeast-2.amazonaws.com/nzx-prod-c84t3un4/comfy/cms/files/files/000/004/073/original/Finder_table_of_existing_rules_to_updated_rules.pdf) or as otherwise advised by NZXR to any particular Transitioning Issuer.

Waiver from Rules 1.1.1(a), 1.2.1(a), 2.18.1(a), 2.20.1 and 2.21.1

Decision

6. Subject to the conditions in paragraph 7 below, NZXR grants waivers from NZX Listing Rules (**Rule**):

- a. 1.1.1(a), 2.18.1(a) and 2.20.1, to the extent those Rules would require a Transitioning Equity Issuer to have a Governing Document that complies with Rules 2.18.1(a) and 2.20.1 from its Transition Date; and
 - b. 1.2.1(a), 2.18.1(a) and 2.21.1, to the extent those Rules would require a Transitioning Debt Issuer to have a Governing Document that complies with Rules 2.18.1(a) and 2.21.1 from its Transition Date.
7. The waivers set out in paragraph 6 above are provided on the conditions that:
- a. if necessary in order to approve a Rules compliant Governing Document, the relevant Transitioning Issuer puts a resolution at its next scheduled annual meeting (or earlier, if a special meeting of shareholders is called (other than a meeting called by the Board following a request by shareholders pursuant to section 121(b) of the Companies Act 1993) prior to the scheduled annual meeting) after its Transition Date to approve a Rules compliant Governing Document; and
 - b. until the relevant Transitioning Issuer adopts a Rules compliant Governing Document, it will comply with, and procure that its directors will comply with, the Rules from its Transition Date, as if the content requirements of:
 - (i) Rules 2.18.1 and 2.20.1, in the case of a Transitioning Equity Issuer; and
 - (ii) Rules 2.18.1 and 2.21.1, in the case of a Transitioning Debt Issuer,were contained in the relevant Transitioning Issuer's Governing Document.

Reasons

8. In coming to the decision to provide the waivers set out in paragraph 6 above, NZXR has considered that:
- a. the policy behind Rules 1.1.1(a), 1.2.1(a), 2.18.1(a), 2.20.1 and 2.21.1 is to ensure that Governing Documents of Issuers of equity and debt securities are consistent with the Rules. This consistency helps to reinforce the protections that the Rules provide Financial Product holders, and it ensures that such Issuers are not conflicted in complying with both the Rules and their Governing Documents;
 - b. the condition set out in paragraph 7(b) provides NZXR with comfort that Financial Product holders will not be disadvantaged by a Transitioning Issuer's Governing Document not including the content requirements set out in Rules 2.18.1(a), 2.20.1 and 2.21.1 (as applicable) immediately on its Transition Date, and its protections will resemble the requirement for a Governing Document to be consistent with the Rules;
 - c. all Transitioning Issuers will remain bound by a Listing agreement with NZX, which requires them to comply with all of its obligations under the Rules;
 - d. the waiver is temporary, and will only apply until the earlier of the Transitioning Issuer's next scheduled annual meeting or next special meeting of shareholders, if such a meeting is called prior to the scheduled annual meeting (other than a meeting called by the Board following a request by shareholders pursuant to section 121(b) of the Companies Act 1993), after its Transition Date; and
 - e. there is precedent for this decision.

Waiver from Existing Listing Rules 6.1.1, 6.1.2, 6.1.4, and 6.1.5

Decision

9. Subject to the conditions set out in paragraph 10 below, NZXR grants a waiver from Existing Listing Rules 6.1.1, 6.1.2, 6.1.4 and 6.1.5 to the extent that those rules would require a Transitioning Issuer, which intends to adopt a Rules compliant Governing Document to be effective from its Transition Date, to:
 - a. obtain from NZXR prior approval for:
 - (i) any proposed changes to the Governing Document; or
 - (ii) any notice of meeting of the Financial Product holders of the Transitioning Issuer to be issued in relation to the meeting at which approval will be sought from those Financial Product holders for amendments to a Governing Document; and
 - b. submit to NZXR in draft full final form for approval at least 10 Business Days before that document is intended to be circulated:
 - (i) any document setting out the proposed changes to such Governing Document; and
 - (ii) any notice of meeting of the Financial Product holders of the Transitioning Issuer to be issued in relation to the meeting at which approval will be sought from those Financial Product holders for amendments to such Governing Document.
10. The waivers set out in paragraph 9 above are provided on the conditions that:
 - a. the relevant notice of meeting would not otherwise require review and approval by NZXR under Existing Listing Rules 6.1.1, 6.1.2, 6.1.4 and 6.1.5; and
 - b. the Transitioning Issuer provides to NZXR, prior to any amendments to that Transitioning Issuer's Governing Document becoming effective, a solicitor's opinion satisfying the requirements of Rule 2.19.1 (whether or not that Rule is then in force), and which opinion is stated by reference to the Governing Document complying with the Rules on and from the Transition Date.

Ruling on Rule 3.6

Decision

11. NZXR rules that Transitioning Equity Issuers and Transitioning Debt Issuers will immediately be subject to Rule 3.6 on and from their Transition Date, including in respect of periodic reporting obligations for full and half-year financial periods ended prior to that Transition Date.

Reasons

12. The ruling in paragraph 11 above is intended to clarify, for the avoidance of doubt, that Transitioning Equity Issuers or Transitioning Debt Issuers will have the benefit of Rule 3.6 from their Transition Date, including in relation to their most recently concluded full or half-year financial period. This ruling confirms that if an Transitioning Issuer's Transition Date falls in the period between (i) a half-year balance date, and (ii) the date on which a half-year report would otherwise be required under Existing Listing Rule 10.4.2, that Issuer will immediately have the benefit of the revised reporting framework under Rule 3.6, and not be required to publish a separate half-year report in relation to that most recently ended half-year financial period.

Ruling on definition of “Minimum Holding”

Decision

13. NZXR rules that, in relation to the definition of “Minimum Holding” in the Rules, the reference to “Offer Document” is deemed to include, as the context permits, a Profile.

Ruling on Rules 4.6.1(c)(ii), 4.9.1(b)(ii) and 4.14.1(e)

Decision

14. NZXR rules that, in relation to Rules 4.6.1(c)(ii), 4.9.1(b)(i) and 4.14.1(e), the reference to a Financial Product or Equity Security issued in accordance with Rule 4.3 is deemed to include, as the context permits, a Financial Product or Equity Security issued in accordance with Rule 4.4.1.

Ruling on Existing Listing Rule 10.2.1(a)

Decision

15. NZXR rules that Transitioning Issuers will, from 22 January 2019, be required for the purposes of Existing Listing Rule 10.2.1(a) to input the data required by NZX's Market Announcement Platform when submitting certain announcements to the market for release.

Reasons

16. The ruling in paragraph 15 above is intended to clarify, for the avoidance of doubt, that all Issuers, whether or not they have transitioned to the Rules, will be required to use the new features of NZX's Market Announcement Platform that will be implemented from 22 January 2019.

Ruling in relation to Governing Documents

Decision

17. NZXR rules that the provisions of Existing Listing Rules 3.3.3 to 3.3.15, 3.4 and 3.6 are inconsistent with the provisions of Rules 2.2 to 2.10 and 2.13 for the purposes of Rule

2.20.1(e), and that each Transitioning Equity Issuer is authorised on and from their Transition Date for the purposes of Rule 2.20.1(d) to comply with the provisions of Rules 2.2 to 2.10 and 2.13 to the exclusion of any provisions in its Governing Document that substantially repeat some or all of Existing Listing Rules 3.3.3 to 3.3.15, 3.4 and 3.6.

Reasons

18. NZXR is aware that Governing Documents may repeat some or all of the Existing Listing Rules in relation to the appointment and rotation of Directors, the powers of Directors and the requirements in relation to Audit Committees, rather than incorporating these provisions of the Rules by reference. The ruling in paragraph 17 above is intended to clarify, for the avoidance of doubt, that Transitioning Equity Issuers should generally comply with the governance requirements of the Rules in relation to these matters.
19. NZXR also draws Transitioning Equity Issuers' attention to the general ruling below in relation to the application of Rule 2.7.1 to persons appointed as Directors of a Transitioning Equity Issuer by the Directors, Executive Directors of a Transitioning Equity Issuer and Directors of a Transitioning Equity Issuer who are holders of a special office. These persons may be required to retire from office at a Transitioning Equity Issuer's next annual meeting, notwithstanding any provisions to the contrary in the Transitioning Equity Issuer's Governing Document.

General Rulings

Decision

20. NZXR grants a class ruling that matters undertaken under Existing Listing Rules as set out in the table below are deemed to have been undertaken under the equivalent Rules.

Rule	Application to Transitioning Issuer
1.19.2	An exercise of NZX's powers to impose a condition under Existing Listing Rule 5.3.2 shall be deemed to be an exercise of NZX's powers under Rule 1.19.2 and such condition will continue to apply to a Transitioning Issuer.
2.7.1	Any person appointed as a Director of a Transitioning Equity Issuer by the Directors of a Transitioning Equity Issuer prior to Transition who has not retired from office in accordance with Existing Listing Rule 3.3.6 shall be required to retire from office at the next annual meeting of the Transitioning Equity Issuer in accordance with Rule 2.7.1.
2.7.1	Any person who is an Executive Director of a Transitioning Equity Issuer, and who has held office (without re-election) past the third annual meeting following the Director's most recent election or re-election or for more than 3 years, whichever is longer, must retire from office at the Transitioning Equity Issuer's next annual meeting, but shall be eligible for re-election at that meeting in accordance with Rule 2.7.1.

Rule	Application to Transitioning Issuer
2.7.1	Any person who is a Director of a Transitioning Equity Issuer that is the holder of a special office for the purposes of Existing Listing Rules 3.3.14 and 3.3.15, and who has held office (without re-election) past the third annual meeting following the Director's most recent election or re-election or for more than 3 years, whichever is longer, must retire from office at the Transitioning Equity Issuer's next annual meeting, but shall be eligible for re-election at that meeting in accordance with Rule 2.7.1.
2.8.1 and 3.8.1(f)	A Director appointed under Existing Listing Rule 3.3.8 shall be deemed to have been appointed under Rule 2.4.1 for the purposes of Rule 2.8.1 and Rule 3.8.1(f).
2.11 and 2.12	The remuneration which a Transitioning Equity Issuer is authorised to pay under Existing Listing Rule 3.5.1 shall be deemed to be authorised under Rules 2.11 and 2.12.
3.7.1(h)	An exercise of NZX's powers under Existing Listing Rule 5.4.2 shall be deemed to be an exercise of NZX's powers under Rule 9.9.3.
4.1.1	A resolution passed pursuant to Existing Listing Rule 7.3.1(a) shall be deemed to be a resolution passed pursuant to Rule 4.2.1(a).
4.2.1(b)	A resolution passed pursuant to Existing Listing Rule 7.3.3(c) shall be deemed to be a resolution passed pursuant to Rule 4.2.1(b).
4.2.4	An approval by NZX under Existing Listing Rule 7.3.9 shall be deemed to be an approval under Rule 4.2.4.
4.5.1 and 4.6.1	<p>For the purposes of Rules 4.5.1 and 4.6.1:</p> <ul style="list-style-type: none"> • Equity Securities issued pursuant to Existing Listing Rule 7.3.1(a); 7.3.4; 7.3.5; 7.3.6; or 7.3.10 shall be deemed to have been issued under Rules 4.2.1; 4.3.1 or 4.4.1; 4.5.1; 4.6.1; and 4.8.1 or 4.9.1 respectively; • Equity Securities issued pursuant to Existing Listing Rule 7.3.5, the issue of which has been ratified by an Ordinary Resolution of the Transitioning Equity Issuer, shall be counted in Rule 4.5.1(c) as if they had been issued and ratified under the Rules; and • A Transitioning Equity Issuer shall not be in breach of Rule 4.5.1 or 4.6.1 if the Equity Securities issued by it prior to its Transition Date exceeds the aggregate permitted by those Rules in circumstances where the Transitioning Equity Issuer issued those Equity Securities in compliance with Existing Listing Rule 7.3.5 or 7.3.6 respectively.
4.7.1	A resolution passed pursuant to Existing Listing Rule 3.5.1 that expressly provided that the remuneration may be payable either in part or in whole by way of an issue of Equity Securities shall be deemed to be a resolution passed pursuant to Rule 2.11.2 for the purposes of Rule 4.7.1.

Rule	Application to Transitioning Issuer
4.9.1	<p>For the purposes of Rule 4.9.1:</p> <ul style="list-style-type: none"> • Securities issued in accordance with any of Existing Listing Rules 7.3.1(a); 7.3.4; 7.3.5; 7.3.6; 7.3.10(a); or 7.3.10(e) shall be deemed to have been issued in accordance with Rules 4.2.1; 4.3.1 or 4.4.1; 4.5.1; 4.6.1; 4.9.1(a); and 4.8.1 respectively; and • Securities, the issue of which was approved in the manner set out in Existing Listing Rule 7.3.1(a), shall be deemed to have been approved in the manner set out in Rule 4.2.1.
4.14.1	<p>For the purposes of Rule 4.14.1, Equity Securities issued in compliance with, or under, Existing Listing Rules 7.3.1(a); 7.3.4; or 7.3.6 shall be deemed to have been issued in compliance with, or under, Rules 4.2.1; 4.3.1 or 4.4.1; and 4.6.1 respectively.</p>
4.14.1(b)(ii)	<p>For the purposes of Rule 4.14.1(b)(ii)(B), Equity Securities acquired under Existing Listing Rule 7.6.1(f) shall be deemed to have been acquired under Rule 4.14.1(b)(ii).</p>
4.15	<p>For the purposes of Rule 4.15, financial assistance given under Existing Listing Rule 7.6.4(a) or (b) shall be deemed to have been given under Rule 4.15.2(a) and (b) respectively.</p>
4.16.1	<p>A proposal authorised by resolutions passed pursuant to Existing Listing Rule 7.6.5 shall be deemed to be a proposal authorised by resolutions passed pursuant to Rule 4.16.1.</p>
5.1.1 and 5.2.1	<p>A transaction authorised by resolutions passed pursuant to Existing Listing Rules 9.1.1 or 9.2.1 shall be deemed to be a transaction authorised by resolutions passed pursuant to Rules 5.1.1 or 5.2.1.</p>
7.1.1	<p>An approval by NZX under Existing Listing Rule 6.1.1 shall be deemed to be a confirmation of no objection by NZX of the relevant document under Rule 7.1.1.</p>
8.1.6(a)	<p>An approval by NZX under Existing Listing Rule 11.1.5 shall be deemed to be an approval under Rule 8.1.6(a) or 8.1.6(b).</p>
8.3.2	<p>A statement required by Existing Listing Rule 11.2.1 or 11.2.3 shall be deemed to be a Statement required by Rules 8.3.1 and 8.3.3 respectively for the purposes of Rule 8.3.2.</p>
8.3.4(b)	<p>A statement of holding of Securities complying with Existing Listing Rule 11.2 shall be deemed to be a Statement for the purposes of Rule 8.3.4(b).</p>

Appendix One

1. In 2017, NZX Limited announced that it would undertake a review of the NZX Main Board/Debt Market Rules and its current equity market structure.
2. That review included a formal consultation process on the settings of the existing NZX Main Board/Debt Market Rules dated 1 October 2017 (**Existing Listing Rules**). The consultation process resulted in the development of revised listing rules for issuers listed with securities quoted on the NZX Main Board and Debt Market, which were approved by the Financial Markets Authority on 29 October 2018 (**Rules**).
3. The Rules will take effect from 1 January 2019, subject to a transition period until 30 June 2019. Issuers with securities quoted on the NZX Main Board and Debt Market will transition on a date to be selected by them during this period or, if no such date is selected, on 1 July 2019 (**Transition Date**). On and from an issuer's Transition Date, they will be subject to the Rules as the successor rules to the Existing Listing Rules.
4. For the purposes of these waivers and rulings:
 - a. **Transitioning Debt Issuer** means a listed Issuer that has NZX as its Home Exchange, with debt securities quoted on the Debt Market, and who will transition to the Rules;
 - b. **Transitioning Equity Issuer** means a listed Issuer that has NZX as its Home Exchange, with equity securities quoted on the Main Board, and who will transition to the Rules;
 - c. **Transitioning Fund Issuer** means a listed Issuer that has NZX as its Home Exchange, with fund securities quoted on the Main Board, and who will transition to the Rules; and
 - d. **Transitioning Issuer** means a Transitioning Debt Issuer, Transitioning Equity Issuer or Transitioning Fund Issuer, as the case may be.
5. NZX Regulation (**NZXR**) has considered the process under which Issuers will transition from the Existing Listing Rules to the Rules, given the outcome of NZX's consultation process. NZXR considers it appropriate to clarify for existing Main Board and Debt Market Issuers the application of various Rules that will apply to those Issuers following their respective Transition Dates.
6. NZXR considers that the waivers and rulings are appropriate, as:
 - a. the waivers and the rulings will minimise the immediate compliance impacts for Transitioning Issuers, in relation to some specific aspects of the Rules that would otherwise apply immediately on and from a Transition Date;
 - b. the rulings are necessary to ensure that actions taken in respect of Transitioning Issuers prior to their Transition Date are appropriately recognised for the purposes of the Rules without requiring those actions to be repeated under the Rules; and
 - c. other than the waivers of the Rules granted in this class waiver, Transitioning Issuers will be required to fully comply with the Rules in all other respects.

Appendix Two

NZX Listing Rules – 1 January 2019

Glossary

Part A – Definitions

Minimum Holding

means a holding of a Class of Financial Products having a value of at least \$1,000 calculated:

- (a) prior to Quotation, at the issue or sale price of such Financial Products specified in any Offer Document (and, if expressed as an indicative price range, the mid-point of that range), or
- (b) at any other time, at the Average Market Price.

Section 1 Listing and Quotation

Eligibility requirements for Equity, Debt & Fund Securities

1.1 Eligibility for Listing as an Issuer of Equity Securities and Quotation of Equity Securities

1.1.1 For an applicant to be Listed on the Main Board, with NZX as its Home Exchange and its Equity Securities Quoted:

- (a) the applicant must have a Governing Document consistent with Rule 2.18 and Rule 2.20 and applicable legislation, and

1.2 Eligibility for Listing as an Issuer of Debt Securities and Quotation of Debt Securities

1.2.1 For an applicant to be Listed on the Debt Market, with NZX as its Home Exchange, and its Debt Securities Quoted:

- (a) the applicant must have a Governing Document consistent with Rule 2.18 and Rule 2.21, and applicable legislation, and

General rules for all Listings and Quotations

1.19 NZX discretion as to Listing and Quotation

1.19.2 NZX may at any time impose conditions on an applicant for Listing or Issuer which must be fulfilled in order to obtain or maintain a Listing or Quotation where NZX considers this necessary or desirable to maintain a properly informed market or to ensure compliance

with, or achieve the intent of, any of the Rules. Such conditions will be additional to the Rules.

Section 2

Governance Requirements

Governance requirements for Equity Security Issuers

2.2 Appointment of Directors

2.2.1 A person may be appointed as a Director of the Issuer by:

- (a) appointment by the Board, if permitted by the Governing Document of the Issuer,
- (b) nomination and appointment at an Issuer's annual or special meeting of Equity Security holders in accordance with Rule 2.3,
- (c) appointment by an Equity Security holder, as contemplated in Rule 2.4, or
- (d) appointment as an alternate Director under Rule 2.5.

2.3 Director Nominations and Appointment

2.3.1 No person (other than a Director retiring at the meeting) may be elected as a Director at a meeting of an Issuer's Equity Security holders unless that person has been nominated by an Equity Security holder who will be entitled to attend and Vote at the meeting if he, she or it continues to hold Equity Securities on the date on which the entitlement to attend and Vote at the meeting is determined.

2.3.2 An Issuer must comply with the following Director nomination process:

- (a) the closing date for nominations must be no more than two months before the date of the relevant meeting at which the election is to take place,
- (b) the closing date for nominations must be announced to the market at least 10 Business Days prior to such closing date,
- (c) there must be no restriction on who may be nominated as a Director, unless:
 - (i) the Governing Document requires Directors to hold certain Financial Products to qualify as a Director, or
 - (ii) applicable legislation restricts who may be a Director of the Issuer,
- (d) subject to (c) above, there must be no precondition to the nomination of a Director other than compliance with the time limits in this Rule, and
- (e) details of all nominations received prior to the closing date (and not later withdrawn) must be included in the notice of the relevant meeting.

2.3.3 Each resolution of the holders of Equity Securities to appoint, elect or re-elect a Director must be for the appointment, election or re-election of one Director only.

2.4 Equity Holder appointment rights

- 2.4.1 The Governing Document may give an Equity Security holder the right to appoint one or more Directors (and to remove any Director so appointed), provided:
- (a) the appointment does not result in the proportion of such Directors to the total number of Directors (excluding alternate Directors) exceeding the proportion of total Votes attaching to the Equity Securities in the Issuer held by the appointer, and
 - (b) if the appointer exercises its right to appoint one or more Directors with such Director remaining in office at the time of the election of other Directors, the appointer must not also Vote upon the election of other Directors.

2.5 Alternate Directors

- 2.5.1 No Director may appoint an alternate Director to act for him or her except with the consent of a majority of his or her co-Directors. The alternate appointment may be revoked by the appointing Director or by a majority of the Board. A Director may not act as alternate for another Director. No Director may appoint a deputy or agent otherwise than as an alternate Director.

2.6 Independence of Directors

- 2.6.1 The Board must identify which Directors it has determined to be Independent Directors, having had regard to the non-exhaustive factors described in the NZX Corporate Governance Code that may impact director independence.
- 2.6.2 The determination under Rule 2.6.1 as to whether a Director is an Independent Director must be made and released through MAP no later than 10 Business Days after any Director's initial appointment.
- 2.6.3 If, at any time, the Board makes a determination regarding a Director's independence that differs from the position most recently released through MAP (for example, that an Independent Director is no longer independent), such determination must be promptly and without delay released through MAP.
- 2.6.4 The Issuer is responsible for ensuring that Directors provide sufficient information to the Board for the Board to make a determination under Rule 2.6.1.

2.7 Rotation of Directors

- 2.7.1 A Director of an Issuer must not hold office (without re-election) past the third annual meeting following the Director's appointment or 3 years, whichever is longer. However, a Director appointed by the Board must not hold office (without re-election) past the next annual meeting following the Director's appointment.
- 2.7.2 Rule 2.7.1 does not apply to Directors appointed by an Equity Security holder under Rule 2.4.

2.8 Removal of Directors

- 2.8.1 All Directors (other than a Director appointed by an Equity Security holder under Rule 2.4) must be subject to removal from office by Ordinary Resolution.

2.9 Proceedings and Powers of Directors

2.9.1 Directors may continue to act where there is a vacancy in their body, but where the number of Directors has fallen below the minimum set by the Governing Document, the continuing Directors may act to remedy the shortfall in Directors or to summon a meeting of the Issuer's Equity Security holders, but for no other purpose.

2.10 Interested Directors

2.10.1 A Director must not vote on a Board resolution for, or be counted in a quorum for the consideration of, any matter in which that Director is interested. For this purpose, the term "interested" bears the meaning assigned in section 139 of the Companies Act 1993. If the Issuer is not a company registered under that Act, the reference to the "company" in that section will be read as a reference to the Issuer.

2.10.2 Notwithstanding Rule 2.10.1, a Director of an Issuer incorporated under the Companies Act 1993 may vote on a Board resolution for, and be counted in a quorum for the consideration of, a matter in which that Director has an interest, if the matter:

- (a) is one in respect of which Directors are expressly required under that Act to sign a certificate, or
- (b) relates to the grant of indemnity under section 162 of that Act.

2.11 Directors' Remuneration

2.11.1 No remuneration may be paid by an Issuer, or its Subsidiaries (unless such Subsidiary is Listed), to a Director in his or her capacity as a Director without prior authorisation by an Ordinary Resolution. Such resolution must express Directors' remuneration as either a monetary sum per annum payable to:

- (a) all Directors of the Issuer in aggregate, or
- (b) any person who from time to time holds office as a Director of the Issuer.

2.11.2 A resolution for the purposes of Rule 2.11.1:

- (a) must only be approved if notice of the amount of any increase in remuneration has been given in the notice of meeting, and
- (b) may provide that the remuneration may, in whole or in part, be through an issue of Equity Securities, provided the issue is in compliance with Rule 4.7.

2.11.3 If remuneration is expressed in accordance with Rule 2.11.1(a) and there is an increase in the number of Directors from the number when the remuneration was approved by an Ordinary Resolution, the Board may, without an Ordinary Resolution, increase the remuneration payable to all Directors of the Issuer in aggregate. The amount of the increase per additional Director may not exceed the amount necessary to enable the additional Director or Directors to be paid the average amount then being paid to each non-Executive Director (other than the chairperson) of the Issuer.

2.11.4 A lump sum payment or pension may be made to a Director or former Director, or to his or her dependents, on retirement or cessation of office provided that the amount of the payment, or the method of calculation, has been authorised by an Ordinary Resolution.

2.11.5 The resolutions referred to in this Rule 2.11 are subject to the voting restrictions in Rule 6.3.

2.12 **Directors' Remuneration as Employees or in another capacity**

2.12.1 Nothing in Rule 2.11 affects:

- (a) the remuneration of Executive Directors in their capacity as Employees, or
- (b) the amount paid to an Executive Director upon or in connection with the termination of his or her employment with the Issuer, or any payments relating to the contribution (or any normal subsidy related thereto) made by a Director to a superannuation scheme.

2.12.2 A Director's remuneration for work outside his or her capacity as a Director of the Issuer or a Subsidiary may be approved by the Directors without Shareholder approval, subject to Rule 5.2 (if applicable).

2.13 **Audit Committee**

2.13.1 Each Issuer must establish an Audit Committee.

2.13.2 The Audit Committee must:

- (a) be comprised solely of Directors of the Issuer,
- (b) have at least three members,
- (c) have a majority of Independent Directors, and
- (d) have at least one member with an accounting or financial background.

2.13.3 The responsibilities of an Issuer's Audit Committee include as a minimum:

- (a) ensuring processes are in place and monitoring those processes so that the Board is properly and regularly informed and updated on corporate financial matters,
- (b) recommending the appointment and removal of the independent auditor,
- (c) meeting regularly to monitor and review the independent and internal auditing practices,
- (d) having direct communication with and unrestricted access to the independent and any internal auditors or accountants,
- (e) reviewing the financial reports and advising all Directors whether they comply with the appropriate laws and regulations, and
- (f) ensuring that the Key Audit Partner is changed at least every five years.

Governing Document requirements for all Issuers

2.18 Requirement to have Governing Document

2.18.1 An Issuer must:

- (a) have a Governing Document that complies with the applicable provisions of this Section 2, and

Governing Document requirements for Issuers of Equity Securities

2.20 Content of Governing Document for Issuers of Equity Securities

2.20.1 The Governing Document of each Issuer of Quoted Equity Securities must:

- (a) incorporate by reference provisions consistent with, and having the same effect as, the following provisions, as modified by any Ruling relevant to the Issuer:
 - (i) Rule 2.1.1, Rule 2.2.1, Rule 2.5.1, Rule 2.8.1, Rule 2.9.1, Rule 2.10.1 and Rule 2.10.2,
 - (ii) Rule 6.3.1 to Rule 6.3.3, and Rule 6.3.5, and
 - (iii) if the Issuer is not a company incorporated under the Companies Act 1993, Rule 6.7.1,
- (b) in the case of any non-Code Company, incorporate by reference the provisions required by Appendix 3,
- (c) provide that, for so long as the Issuer is Listed, the Issuer must comply with the Rules, and
- (d) provide that any Rulings authorising an act or omission which would otherwise be in breach of the Issuer's Governing Document will be deemed to be authorised by the Governing Document unless the Governing Document contains a contrary intention, and
- (e) provide that, subject to (d), if a provision in the Governing Document is inconsistent with the Rules, the Rules will prevail.

Governing Document requirements for Issuers of Debt Securities

2.21 Content of Governing Document for Issuers of Debt Securities

2.21.1 Every Governing Document governing Quoted Debt Securities must provide that:

- (a) a meeting of Debt Security holders must be convened by the Issuer on the written request of holders of Debt Securities that have a combined nominal value of 5% or more of the nominal value of the Debt Securities on issue in that Class, or such other number of holders as required by section 120(1)(b) of the FMC Act (if applicable),

- (b) the necessary majority for passing an extraordinary resolution is approval of holders holding at least 75% of the nominal value of those Debt Securities held by persons entitled to vote and voting, and
- (c) must contain such other provisions as NZX may require in any particular case for the protection of holders of the Debt Securities in question.

Section 3

Disclosure

Periodic disclosure – Equity and Debt Securities

3.6 Preparation and delivery of Annual Reports

3.6.1 Each Issuer of Quoted Equity Securities or Quoted Debt Securities must within three months after the end of each financial year:

- (a) prepare an annual report, which must contain all information required by all applicable laws and these Rules, and
- (b) deliver, subject to Rule 3.6.2, the annual report to:
 - (i) NZX by release through MAP (including by URL link to the annual report on an Issuer's website) before or at the same time as it is made available to Quoted Financial Product holders, and
 - (ii) each Quoted Financial Product holder in accordance with Rule 3.6.3.

3.6.2 An Issuer that comes within the State-Owned Enterprises Act 1986 is not required to issue an annual report to its Quoted Financial Product holders or NZX until that report has been provided to the Minister responsible for the State Enterprise in accordance with the requirements of the State-Owned Enterprises Act 1986 and laid by the Minister responsible for that State Enterprise before the House of Representatives in accordance with the State Owned Enterprises Act 1986 or published in the Gazette under section 17(2A) of the State-Owned Enterprises Act 1986, whichever is the earlier.

3.6.3 Annual reports must be made available to Quoted Financial Product holders by:

- (a) sending to Quoted Financial Product holders:
 - (i) a hard copy of the annual report, or
 - (ii) a notice under 209(3) of the Companies Act 1993, or
- (b) complying with regulations 61B to 61F of the FMC Regulations.

For the purposes of this Rule 3.6.3, sections 209 to 209C of the Companies Act 1993 and regulations 61B to 61F of the FMC Regulations will be deemed to be modified so that:

- (c) "shareholders" are members of the relevant Class of Quoted Financial Product holders of that Issuer,
- (d) "company" includes all Issuers, whatever their structure,

- (e) “board of a company” includes the Manager of a Managed Investment Scheme,
- (f) “annual report” means an annual report as required by Rule 3.6.1,
- (g) references to “working days after it is prepared” and “working days after the annual report for the period is prepared” are, for an Issuer that is a State Enterprise complying with regulations 61B to 61F of the FMC Regulations, interpreted as “working days after the annual report has been provided to the Minister responsible for the State Enterprise in accordance with the requirements of the State-Owned Enterprises Act 1986 and laid by that Minister responsible for that State Enterprise before the House of Representatives in accordance with the State Owned Enterprises Act 1986 or published in the Gazette under section 17(2A) of the State-Owned Enterprises Act 1986, whichever is the earlier.”

3.7 Contents of Annual Report

3.7.1 The annual report of an Issuer of Quoted Equity Securities or Quoted Debt Securities must contain:

- (h) details of any public exercise of NZX’s powers set out in Rule 9.9.3, and

3.8 Further Annual Report content for Issuers of Equity Securities

3.8.1 Further to the requirements of Rule 3.7.1, the annual report of an Issuer of Quoted Equity Securities must also contain:

- (f) details of any Director who has been appointed under the provisions of the Governing Document complying with Rule 2.4, and the Financial Product holder which appointed that Director.

Section 4

Changes to Capital

Rules applying to Issuers of Equity Securities

4.1 Issue of New Equity Securities

4.1.1 Except as provided in Rule 4.1.2, an Issuer must only issue Equity Securities with approval by Ordinary Resolution in accordance with Rule 4.2.1.

4.2 Shareholder approval for Issues by Ordinary Resolution

4.2.1 For the holders of Equity Securities to approve an issue of Equity Securities by the Issuer, the precise terms and conditions of the issue must have been approved by:

- (b) if a Class of Quoted Equity Securities were issued on terms that the holders would vote together with the holders of another Class or Classes of Equity Securities on a resolution of the nature referred to in Rule 4.2.1(a), a single resolution of all such Classes of Equity Securities voting together.

4.2.4 Except as provided in Rules 6.5.1, 6.5.2 and 6.5.3, no Issuer may re-price or amend the terms of any Equity Securities issued under Rule 4.2.1 held by Employees or Directors, in

their capacity as such, without either the approval of NZX or a further Ordinary Resolution of the Quoted Equity Security holders approving the repricing or amendment.

4.5 **15% Placements**

4.5.1 An Issuer may issue Equity Securities provided the number to be issued, together with all other Equity Securities of the same Class issued under this Rule 4.5.1 over the shorter of the previous 12 months or the period since the Issuer was Listed, will not exceed the aggregate of:

- (a) 15% of the Equity Securities of that Class on issue at the beginning of that period, and
- (b) 15% of the Equity Securities of that Class issued during that period under any of Rules 4.2.1, 4.3, 4.4.1(a), 4.6, 4.8.1 and 4.9, and
- (c) any Equity Securities of that Class issued under this Rule 4.5.1 during that period, the issue of which has been ratified by an Ordinary Resolution (such resolution being subject to the voting restrictions in Rule 6.3), less
- (d) 15% of Equity Securities of that Class which have been acquired or redeemed by the Issuer during that period (other than Equity Securities held as Treasury Stock),

provided that:

- (e) Employees and Directors of the Issuer, and Associated Persons of a Director of the Issuer may participate only if:
 - (i) all Directors voting in favour of the resolution to issue the Equity Securities sign a certificate that the participation of such persons is in the best interests of the Issuer and fair to other Equity Security holders,
 - (ii) the terms of issue are the same for all persons participating in the issue and such persons are not exclusively Employees and / or Directors of the Issuer and / or Associated Persons of a Director of the Issuer, and
 - (iii) the level of participation of any Employee, Director or Associated Person of a Director, is determined according to criteria applying to all persons participating in the issue, and
- (f) Financial Products which may Convert to Quoted Equity Securities are deemed to be of the same Class as the Quoted Equity Securities into which they may Convert, and
- (g) the Financial Products referred to in paragraph (f) are deemed to be of the same number as the Quoted Equity Securities to which they may Convert, except that for the purpose of this calculation:
 - (i) in relation to the conversion ratio or conversion price, any reference to the market price (however described) of the underlying Quoted Equity Securities will instead be to the Average Market Price, and
 - (ii) any provisions for early Conversion at the option of a holder exercisable in limited circumstances (such as due to an event of default or change of control or similar) using a different formula or method will be disregarded.

4.6 3% Issues to Employees and Executive Directors

4.6.1 An Issuer may issue Equity Securities if:

- (a) the issue is made to, or to a trustee to hold for the benefit of, Employees and may include Employees that are Directors or Associated Persons of Directors only if their participation satisfies the allocation criteria applying to Employees generally,
- (b) the issue is of a Class of Equity Securities already on issue, and
- (c) the number to be issued, together with all other Equity Securities of the same Class issued under this Rule 4.6.1 over the shorter of the previous 12 months or the period since the Issuer was Listed, will not exceed 3% of the aggregate of:
 - (i) the total number of Equity Securities of that Class on issue at the commencement of that period, and
 - (ii) the total number of Equity Securities of that Class issued during that period under Rules 4.2.1, 4.3, 4.5.1, 4.8 and 4.9,

provided that for the purposes of this Rule 4.6.1:

- (d) Financial Products which may Convert to Quoted Equity Securities are deemed to correspond in number to, and be deemed to be of the same Class as, the Quoted Equity Securities into which they may Convert, and
- (e) if the conversion ratio is fixed by reference to the market price of the underlying Equity Securities, unless otherwise specified in the issue terms, this is the Average Market Price.

4.7 Issues to Directors as remuneration

4.7.1 An Issuer may issue Equity Securities to a Director (or a person at the direction of the Director) if:

- (a) the issue is made to satisfy Director remuneration in accordance with a resolution passed under Rule 2.11.2,
- (b) the issue is of a Class of Equity Securities already on issue,
- (c) the issue of Equity Securities is made after the end of the period to which that remuneration is payable, and
- (d) the issue price of the Equity Securities is not less than the Average Market Price before the issue is made.

4.9 Issues relating to takeovers, conversions, minimum holdings and amalgamations

4.9.1 An Issuer may issue Equity Securities if:

- (a) the issue is in consideration of an offer made by the Issuer in accordance with:
 - (i) the Takeovers Code or a scheme of arrangement under Part 15 of the Companies Act 1993, or

- (ii) the takeover regime of a jurisdiction other than New Zealand which NZX considers provides a similar or greater level of protection to the recipients of the offer as the Takeovers Code or Appendix 3, and

the offer is made to all holders (other than the Issuer) of any Equity Securities in any other entities Listed on the Main Board or on another stock exchange, except if the other entity is an Associated Person of the Issuer or of any Director of the Issuer,

- (b) the issue of Equity Securities (Security B) is made on Conversion of any Financial Product (Security A), and

- (i) the terms of issue of Security A provided for the Conversion to Security B and the issue of Security A was approved in the manner set out in Rule 4.2.1 or Security A was issued in accordance with any of Rules 4.3, 4.5.1, 4.6, 4.8 or 4.9.1(a) (whether or not any of the Rules quoted applied to the issue of Security A), or

- (ii) the issue of Security B is approved in the manner set out in Rule 4.2.1, or Security B is issued in accordance with Rule 4.5.1 or Rule 4.6,

- (c) the issue is made to bring an existing holder's holding up to a Minimum Holding, or

- (d) the issue is made under an arrangement, amalgamation or compromise effected through Part 13 or Part 15 of the Companies Act 1993 or an equivalent statutory regime in a jurisdiction other than New Zealand which NZX considers is at least as useful to the recipients.

4.14 Buy Backs and Redemption of Equity Securities

4.14.1 An Issuer may only acquire or redeem Equity Securities of that Issuer by:

- (a) an acquisition effected through NZX's order matching market or through the order matching market of an Issuer's Home Exchange,

- (b) an acquisition effected in compliance with:

- (i) section 60(1)(a) (read together with section 60(2)) of the Companies Act 1993,

- (ii) section 60(1)(b)(ii) (read together with section 61) of the Companies Act 1993, and:

- (A) not made from a Director, or an Associated Person of a Director, of the Issuer, and

- (B) not of a size which would cause the number of Equity Securities of the same Class acquired under this Rule 4.14.1(b)(ii) either in the 12 months preceding the date of the acquisition or since the issuer was listed, whichever is earlier, to exceed 15% of the total number of Equity Securities of the same Class on issue at the commencement of that period,

- (iii) section 61(7) of the Companies Act 1993, or
 - (iv) sections 110 or 118 of the Companies Act 1993, or other applicable legislation, if required by a shareholder pursuant to such sections or legislation,
- (c) a redemption in compliance with section 69(1)(a) of the Companies Act 1993,
- (d) an acquisition or redemption:
- (i) approved in accordance with Rule 4.16.1,
 - (ii) of Equity Securities that were issued under Rule 4.6, or
 - (iii) from a holder who holds less than a Minimum Holding, or
- (e) a redemption of Equity Securities issued in compliance with Rule 4.2.1 or 4.3, where the Issuer is bound or entitled to redeem those Equity Securities pursuant to their terms of issue,

provided that for the purposes of Rule 4.14.1(b)(ii)(B):

- (f) Financial Products which may convert to Quoted Equity Securities are deemed to be of the same Class as the Quoted Equity Securities into which they may convert, and
- (g) the Financial Products referred to in paragraph (f) are deemed to be of the same number as the Quoted Equity Securities to which they may Convert, except that for the purpose of this calculation:
 - (i) in relation to the conversion ratio or conversion price, any reference to the market price (however described) of the underlying Quoted Equity Securities will instead be to the Average Market Price, and
 - (ii) any provisions for early Conversion at the option of a holder exercisable in limited circumstances (such as due to an event of default or change of control or similar) using a different formula or method will be disregarded.

4.15 Financial Assistance

4.15.1 An Issuer must not give financial assistance for the purpose of, or in connection with, the acquisition of its Equity Securities except if that assistance:

- (a) complies with Rule 4.15.2, or
- (b) is approved in accordance with Rule 4.16.1.

4.15.2 An Issuer may give financial assistance of the nature referred to in Rule 4.15.1 provided:

- (a) such assistance is not given (either in whole or in part) to any Employee, Director, or Associated Person of a Director, and the amount, together with any other financial assistance given under this paragraph (a) over the preceding 12 months or since the Issuer was listed, whichever is the shorter, does not exceed 10% of the Average Market Capitalisation of the Issuer, or

- (b) such assistance is given to Employees of the Issuer and:
 - (i) the amount, together with all other financial assistance given under this paragraph (b) by the Issuer during:
 - (A) the shorter of the preceding three years or the period from the date on which the Issuer was Listed, will not exceed \$1 million, or
 - (B) the shorter of the preceding 12 months or the period from the date on which the Issuer was Listed, will not exceed 5% of the Average Market Capitalisation of the Issuer, and
 - (ii) the amount, together with all other financial assistance given under Rule 4.15.2(b)(i) during the shorter of the preceding five years or the period from the date on which the Issuer was Listed does not exceed 10% of the Average Market Capitalisation of the Issuer, and
 - (iii) may only be given to a Director of the Issuer who is an Employee, or Associated Person of such Director, if their participation satisfies the allocation criteria applying to Employees generally, or
- (c) all holders of Equity Securities of the Issuer are treated, or given the opportunity to be treated, on the same basis.

4.15.3 For the purposes of Rule 4.15.2(b)(iii) financial assistance given to a Director or an Associated Person of a Director solely in that person's capacity as a trustee of a bona fide employee share or superannuation scheme or suchlike, in which that Director or Associated Person has no beneficial interest, is deemed not to be financial assistance given to a Director or Associated Person of a Director.

4.16 Shareholder approval of buy backs, redemption and financial assistance

4.16.1 An Issuer may acquire or redeem Equity Securities under Rule 4.14.1(d)(i) or give financial assistance under Rule 4.15.1(b) if the precise terms and conditions of the transaction have been approved by separate resolutions (passed by a simple majority of Votes) of the holders of each Class of Quoted Equity Securities whose rights or entitlements will be materially and similarly affected.

Section 5

Major and Related Party Transactions

Rules applying to Equity Issuers

5.1 Disposal or Acquisition of Assets

- 5.1.1 An Issuer must not enter into any transaction, or a related series of transactions, to acquire, sell, lease (whether as lessor or lessee), exchange, or otherwise (except by way of charge) dispose of assets where the transaction or related series of transactions:
- (a) would significantly change, either directly or indirectly, the nature of the Issuer's business, or

- (b) involves a Gross Value above 50% of the Average Market Capitalisation of the Issuer,

unless the transaction, or related series of transactions, is:

- (c) approved by an Ordinary Resolution, or a special resolution if approval by way of special resolution is required under section 129 of the Companies Act 1993, or
- (d) conditional upon such approval required by paragraph (c) above.

5.2 Transactions with Related Parties

5.2.1 An Issuer must not enter into a Material Transaction if a Related Party is, or is likely to become:

- (a) a direct party to the Material Transaction, or
- (b) a beneficiary of a guarantee or other transaction which is a Material Transaction,

unless that Material Transaction is approved by an Ordinary Resolution (such resolution being subject to the voting restrictions in Rule 6.3) or conditional on such approval.

Section 7

Requirements for Documents

NZX Review of documents

7.1 NZX to review documents

7.1.1 The documents listed in Rule 7.1.2 must not be circulated to holders of Financial Products, executed or otherwise given effect to in any way, until NZX provides written confirmation that it does not object to the document.

Section 8

Transfers and Statements

Transfers

8.1 Transfer of Quoted Financial Products (common rules)

8.1.6 The Governing Document of an Issuer may:

- (a) restrict the transfer of Debt Securities by requiring that holders must hold those Debt Securities in a specified minimum nominal amount (of no more than \$10,000, or such higher amount as NZX may specify from time to time) and/or in integral multiples of a specified nominal amount (of no more than \$1,000, or such higher amount as NZX may specify from time to time),

Statements

8.3 Statements

- 8.3.2 An Issuer is not obliged to provide a holder with the Statement required by Rule 8.3.1 if:
- (a) such a Statement has been provided within the previous six months, and
 - (b) the holder has not acquired or disposed of Financial Products of the relevant Class since a previous Statement required by Rule 8.3.1 or Rule 8.3.3 was provided.
- 8.3.4 Where the Statement required by Rule 8.3.3 is issued following a transfer, the Statement must include:
- (b) the number of Financial Products transferred (to or from the holder) in each transfer since the last Statement.

Existing NZX Main Board/Debt Market Listing Rules – 1 October 2017

Section 3: Constitutions, Trust Deeds and Directors

3.3 Appointment and Rotation of Directors

- 3.3.3 The Board must make a determination under Rule 3.3.2:
- (a) no later than 10 Business Days following an appointment of a Director by Security holders. Immediately after making such a determination the Issuer shall release to the market whether the Board has determined that the Director is an Independent Director unless a determination by the Board in relation to that Director was disclosed under Rule 10.4.5(l) in the most recently published annual report; and
 - (b) no later than 10 Business Days following appointment by the Board in respect of any Director appointed by the Board and immediately after making such determination, the Issuer shall release to the market whether the Board has determined that such Director is an Independent Director; and
 - (c) prior to publication of its annual report to enable it to comply with Rule 10.4.5(l).
- 3.3.4 It is the responsibility of the Issuer to make the necessary arrangements to require its Directors to provide sufficient information to the Board in order for the Board to make a determination under Rule 3.3.2.
- 3.3.5 No person (other than a Director retiring at the meeting) shall be elected as a Director at an annual meeting of Security holders of an Issuer unless that person has been nominated by a Security holder entitled to attend and vote at the meeting. There shall be no restriction on the persons who may be nominated as Directors (other than the holding of qualification shares, if the Constitution so requires) nor shall there be any precondition to the nomination of a Director other than compliance with time limits in accordance with this

Rule 3.3.5. The closing date for nominations shall not be more than two months before the date of the annual meeting at which the election is to take place. An Issuer shall make an announcement to the market of the closing date for Director nominations and contact details for making nominations no less than 10 Business Days prior to the closing date for Director nominations. Notice of every nomination received by the Issuer before the closing date for nominations shall be given by the Issuer to all persons entitled to attend the meeting together with, or as part of, the notice of the meeting and the Issuer shall specify in such notice the Board's view on whether or not the nominee would qualify as an Independent Director.

- 3.3.6 Any person who is appointed as a Director by the Directors shall retire from office at the next annual meeting of the Issuer, but shall be eligible for election at that meeting.
- 3.3.7 No Director may appoint another person to act as alternate Director for him or her, except with the consent of a majority of his or her co-Directors. That appointment may be revoked by a majority of his or her co-Directors or by the Director who appointed the alternate. A Director may not be appointed to act as alternate for another Director. No Director shall appoint a deputy or agent otherwise than by way of appointment of an alternate.
- 3.3.8 The Constitution may give a Security holder the right to appoint Directors, so long as:
- (a) the proportion which the number of such Directors bears to the total number of Directors expected to hold office immediately after such appointment does not exceed the proportion of the total Votes of the Issuer attaching to Securities held by the appointer; and
 - (b) if the appointer exercises its rights to appoint Directors, then the appointer has no right to Vote upon the election of other Directors.
- 3.3.9 No term of appointment of an Executive Director of an Issuer or any of its Subsidiaries, shall exceed five years. This provision shall not preclude reappointment of an Executive Director upon expiry of a term of appointment, and shall not affect the terms of the engagement of that Executive Director as an employee.
- 3.3.10 All Directors (other than a Director appointed pursuant to Rule 3.3.8) shall be subject to removal from office as Director by Ordinary Resolution of the Issuer.
- 3.3.11 Subject to Rule 3.3.12, at least one third of the Directors or, if their number is not a multiple of three, then the number nearest to one third, shall retire from office at the annual meeting each year, but shall be eligible for re-election at that meeting. Those to retire shall be those who have been longest in office since they were last elected or deemed elected.
- 3.3.12 The following Directors shall be exempt from the obligation to retire pursuant to Rule 3.3.11:
- (a) Directors appointed pursuant to Rule 3.3.8; and
 - (b) Directors appointed by the Directors, who are offered for re-election pursuant to Rule 3.3.6; and
 - (c) one Executive Director (if the Constitution so provides).

The Directors referred to in (a) and (c) shall be included in the number of Directors upon which the calculation for the purposes of Rule 3.3.11 is based. The Directors referred to in (b) shall be excluded from that number.

3.3.13 No resolution to appoint or elect a Director (including a resolution to re-elect any Director under Rule 3.3.6) shall be put to holders of Securities unless:

- (a) the resolution is for the appointment of one Director; or
- (b) the resolution is a single resolution for the appointment of two or more Directors, and a separate resolution that it be so voted on has first been approved without a Vote being cast against it.

Nothing in this Rule 3.3.13 prevents the election of two or more Directors by ballot or poll.

3.3.14 An Issuer may, with the prior approval of NZX, provide in its Constitution for the appointment of a person to a special office such as “Founder President”. If the person holding that office is a Director, then (subject to Rule 3.3.15) all of the provisions of the Rules as to Directors shall apply to that person

3.3.15 A holder of a special office in terms of Rule 3.3.14 who is also a Director shall not be subject to retirement by rotation under Rule 3.3.11, provided that:

- (a) the holder of a special office shall retire every fifth year following appointment to the special office, as if Rule 3.3.11 applied to him or her in that year; and
- (b) the holder of the special office shall in each year be included in the number of Directors upon which the calculation for the purposes of Rule 3.3.11 is based; and
- (c) if an Executive Director holds office and is exempted from retirement by rotation under Rule 3.3.12, this Rule shall not apply, and the holder of the special office shall be subject to retirement by rotation under Rule 3.3.11

3.4 Proceeding and Powers of Directors

3.4.1 Directors may act notwithstanding any vacancy in their body but, if and for so long as their number is reduced below the number fixed by the Constitution as the minimum number of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the Issuer, but for no other purpose.

3.4.2 In cases where two Directors form a quorum, the chairperson of a meeting at which only two Directors are present shall not have a casting vote.

3.4.3 Subject to Rule 3.4.4, a Director shall not vote on a Board resolution in respect of any matter in which that Director is interested, nor shall the Director be counted in the quorum for the purposes of consideration of that matter. For this purpose, the term “interested” bears the meaning assigned to that term in section 139 of the Companies Act 1993, on the basis that if an Issuer is not a company registered under that Act, the reference to the “company” in that section shall be read as a reference to the Issuer.

3.4.4 Notwithstanding Rule 3.4.3, a Director of an Issuer which is a company registered under the Companies Act 1993 may vote in respect of and be counted in the quorum for the Board for the purposes of a matter in which that Director is interested if that matter is one

in respect of which, pursuant to an express provision of that Act, Directors are required to sign a certificate or one which relates to the grant of an indemnity pursuant to section 162 of the Companies Act 1993.

3.6 **Audit Committee**

3.6.1 Each Issuer shall establish an Audit Committee.

3.6.2 The Audit Committee shall:

- (a) be comprised solely of Directors of the Issuer; and
- (b) have a minimum of three members; and
- (c) have a majority of members that are Independent Directors; and
- (d) have at least one member with an accounting or financial background.

3.6.3 The responsibilities of an Issuer's Audit Committee include as a minimum:

- (a) ensuring that processes are in place and monitoring those processes so that the Board is properly and regularly informed and updated on corporate financial matters; and
- (b) recommending the appointment and removal of the independent auditor; and
- (c) meeting regularly to monitor and review the independent and internal auditing practices; and
- (d) having direct communication with and unrestricted access to the independent and any internal auditors or accountants; and
- (e) reviewing the financial reports and advising all Directors whether they comply with the appropriate laws and regulations; and
- (f) ensuring that the external auditor or lead audit partner is changed at least every five years.

Section 6: Requirements for Documents

6.1 **Approval of Documents by NZX**

6.1.1 The documents listed in Rule 6.1.2 shall be subject to the approval of NZX, and shall not be circulated to holders of Securities, executed, or otherwise given effect to in any way, until the written approval of NZX is obtained.

6.1.2 The documents referred to in Rule 6.1.1 are:

- (a) any Constitution; and
- (b) any Trust Deed; and
- (c) any proposed change to the documents referred to in (a) or (b); and

- (d) any notice of a meeting of holders of Quoted Securities to consider any matter other than declaring a dividend, the consideration of financial statements and reports of Directors or auditors, the election of Directors, the fixing of the remuneration of Directors, a change of name of the Issuer, or the appointment of, and fixing of remuneration of, auditors, or a resolution required or permitted under the Takeovers Code; and
 - (e) any Offering Document, Profile, or Prospectus in respect of Securities Quoted or to be Quoted on the Main Board or Debt Market except where NZX has determined approval is not required.
- 6.1.4 Each document referred to in Rule 6.1.2 shall be submitted to NZX in draft form for approval at least 10 Business Days before that document is intended to be circulated, executed, or otherwise given effect to (or, if that document is to be printed, 10 Business Days before printing is intended to commence).
- 6.1.5 Each document referred to in Rule 6.1.2 shall be submitted in its proposed full form, and if more than one document is required to be approved, they shall be submitted together. If an Appraisal Report is required to accompany a notice of meeting, a draft of that Appraisal Report shall be submitted together with the draft of the notice of meeting and any information required by NZX for the purposes of Rule 1.7. The period of 10 Business Days referred to in Rule 6.1.4 shall not commence until NZX has received all relevant documents in their proposed final form. If any alteration is made to a document already submitted (that alteration not being required as a consequence of NZX's review of that document), NZX may regard in its absolute discretion that period of 10 Business Days as commencing at the time that alteration is received by NZX.

Section 10: Disclosure of Information

10.2 Form of Disclosure and Communication

10.2.1 All information provided to NZX by an Issuer for release to the market shall be:

- (a) delivered using NZX's Market Announcement Platform, and must comply with the required forms or templates (with such alterations and completions as are satisfactory to NZX) relevant for that information as are available through NZX's Market Announcement Platform; and