

NZX Regulation Decision

NZX Regulation Waiver of NZX Participant Rules 3.8.3, 3.8.4, 3.21 and 3.29 in relation to Broking Offices and Derivatives Market Rule 4.5.2(c)

24 March 2020



Waiver of NZX Participant Rules 3.8.3, 3.8.4, 3.21 and 3.29 and Derivatives Market Rule 4.5.2(c)

Background

1. This waiver applies to the notification of changes to the location of Broking Offices or opening of further Broking Offices and details of the location and ongoing management and supervision of such Broking Offices as required by NZX Participant Rules (**Rules**) 3.8.3, 3.8.4, 3.21 and 3.29(c) and to the notification of any change in the address at which the Participant carries on business as required by Derivatives Market Rule (**Derivatives Rules**) 4.5.2(c).
2. References to a Participant in this waiver includes:
 - a. an NZX Advising Firm under the Participant Rules;
 - b. an NZX Trading & Advising Firm under the Participant Rules; and
 - c. a Participant under the Derivatives Market Rules;collectively "**Participants**" for the purpose of this waiver.
3. Capitalised terms that are not defined in this decision have the meanings given to them in the Rules or Derivatives Rules.
4. As a result of the COVID-19 pandemic and responses to it (**COVID-19 Event**), NZX Regulation (**NZXR**) is aware that Participants are implementing social separation or isolation arrangements in respect of their Employees, in addition to aspects of their Business Continuity Plans. This is being done by separating Employees into different offices and/or by arranging for Employees to work from their homes.
5. Any location where a Participant carries out Broking Business is considered a Broking Office under the Rules.
6. Participants are required under Rule 3.8.3 and 3.8.4 to have in place management and supervision arrangements with respect to each Broking Office to ensure compliance with the Rules and to notify NZX of the person who has oversight of each Broking Office.
7. Where a Participant changes the location of a Broking Office, Rule 3.29(c) requires the Participant to notify NZX of the location not less than 10 Business Days prior to the change.
8. Where the Participant wishes to open further Broking Offices, Rule 3.21 requires the Participant to notify NZX of its intention to do so not less than 15 Business Days prior to the change and to include the full address of the Broking Office and the name of the Employee appointed to manage that Broking Office under Rule 3.8.4.
9. Where there is any change in the address at which the Participant carries on business, Derivatives Rule 4.5.2(c) requires the Participant to give NZX not less than five Business Days' prior Notice.
10. In the context of the COVID-19 Event, NZXR recognises that Participants may have difficulty meeting the notice requirements of Rules 3.21 and 3.29(c) and Derivatives Rule 4.5.2(c).



11. NZX understands that a significant number of Employees will be working from their homes during the COVID-19 Event, using technological mechanisms and will not be, for example, engaging with clients in person at these locations. NZXR recognises that there is limited benefit in requiring that it be provided details of each person's home address to record as a Broking Office or an address at which the Participant carries on business.
12. This is consistent with the approach adopted by the Financial Markets Authority in respect of the management of the COVID-19 Event.

Decision

13. NZXR grants a waiver of Rules 3.8.3, 3.8.4, 3.21 and 3.29(c) and Derivatives Rule 4.5.2(c) to the extent that:
 - a. notifications of changes to Broking Offices or an address at which the Participant carries on business (including the opening of additional Broking Offices at Employees' homes), which are received at the time such changes are implemented, will meet the notification requirements of Rules 3.21 and 3.29 and Derivatives Rule 4.5.2(c); and
 - b. such notifications do not need to include the full address of the Broking Office and the name of the Employee appointed to manage that Broking Office under Rule 3.8.4 or the address at which the Participant carries on business, for each relevant Employee's home.
14. The waiver set out in paragraph 13 above is subject to the conditions that:
 - a. the changes to Broking Offices or addresses at which the Participant carries on business which rely on this waiver occur solely as a result of the COVID-19 Event; and
 - b. the Participant keeps records of the address at which each of the relevant Employees is conducting Broking Business or addresses at which the Participant carries on business and must provide this to NZXR on request;
 - c. the Participant provides confirmation that its supervision approach remains effective to cover the supervision of all Employees in all locations, including those located at their Employees' homes; and
 - d. the Participant provides contact details for Employees that are Dealers or conduct key Clearing & Settlement roles who are operating from the alternate locations.
15. This waiver is effective until revoked by NZXR. NZXR reserves the right to revoke or vary this waiver at any time.
16. The rules to which this decision relates are set out in Appendix One to this decision.

Reasons

17. In reaching the decision to provide this waiver, NZXR has considered that:
 - a. the intention of Rules 3.8.3, 3.8.4, 3.21 and 3.29, and Derivatives Rule 4.5.2(c), are to ensure that NZXR is aware of all locations from which a Participant is conducting its



Broking Business or addresses at which the Participant carries on business, and that the Participant has adequate oversight and supervision of all its Employees in all locations;

- b. given the COVID-19 Event, NZXR accepts that Participants may be unable to meet the timeframes set out for notification; and
- c. all necessary information will still be held by the Participant and available to NZXR on request and essential information such as contact details for Employees in critical roles will still be provided.

Publication

18. This waiver will be published.

ENDS



Appendix One

Participant Rules:

3.8 NAME AND CONTROL OF BROKING OFFICES

3.8.1 A Market Participant must not operate any Broking Office under a name that is different from that of the Market Participant.

3.8.2 Each Market Participant who has more than one Broking Office shall designate one such Broking Office as its Principal Broking Office.

3.8.3 A Market Participant must have in place appropriate management and supervision arrangements to ensure that each Broking Office conducts its Broking Business in accordance with these Rules and Good Broking Practice.

3.8.4 Without limiting Rule 3.8.3, each Principal Broking Office shall be under the direct full time oversight of a Managing Principal or a Responsible Executive, as applicable. In relation to other Broking Offices:

(a) a Market Participant must appoint, and must at all times have appointed, an Employee (or Employees, as relevant) who is appropriately qualified and experienced to have oversight of the Broking Office or, subject always to Rule 3.8.3, a number of such Broking Offices, taking account of the nature of the Broking Business conducted at that Broking Office or Broking Offices; and

(b) a Market Participant must notify NZX of any Employee appointed under Rule 3.8.4(a) in relation to each Broking Office, and any Employee appointed to replace such an Employee, within one Business Day of that appointment or replacement being made.

3.21 PROPOSED BROKING OFFICE OR ASSOCIATION WITH ANOTHER MARKET PARTICIPANT

A Market Participant wishing to:

(a) open further Broking Offices, in addition to its Principal Broking Office and/or Broking Offices open at the time the Market Participant was designated; or

(b) join in partnership or become formally associated with another Market Participant,

shall give NZX at least 15 Business Days' prior notice in writing of its intention to do so. In the case of a Broking Office, the notice shall state the full address of the Broking Office and the full name of the Employee appointed under Rule 3.8.4(a) to have control and oversight of the Broking Office.

3.29 CHANGES IN SOFTWARE, NAME AND/OR LOCATION

Each Market Participant must notify NZX of a change to the:

(a) accredited client accounting software vendor (if applicable) used by that Market Participant. Each Market Participant must provide NZX with 20 Business Days' notice in writing prior to that

change coming into effect if the change will in any way impact the Trading System and/or the Clearing House System and/or Depository System and/or Legal Title Transfer System, or 10 Business Days' notice in writing if there is no impact to the Trading System and/or the Clearing House System and/or the Depository System and/or Legal Title Transfer System;

(b) name of the Market Participant not less than 10 Business Days before the name change is intended to be effected; and/or

(c) location of any of the Market Participant's Broking Offices not less than 10 Business Days prior to the intended location change.

“Broking Business” includes:

(a) trading in Securities when Acting as Principal, or for and on behalf of, or as agent for, any other person;

(b) giving investment advice relating to NZX Quoted Products to any other person for remuneration; and/or

(c) any other business performed by a Market Participant which relates to Securities and which impacts on the financial position of the Market Participant including, but not limited to, settlement and delivery of Securities;

“Broking Office” means any place of business from which a Broking Business is conducted;

Derivatives Market Rules

Notification and provision of information to NZX

4.5.2

In addition to the information that a Participant is required to give to NZX set out in Rule 3.7, Rule c, Rule 3.11.1, Rule a, Rule 3.22.7, Rule 3.22.8, and Rule 8.3.4 a Participant must give NZX not less than five Business Days' prior Notice of:

(a) the proposed appointment or resignation of its auditor;

(b) any proposed Major Transaction (or analogous transaction under the law of another jurisdiction) or material change in the nature or scope of its business or any proposed cessation of its business as a Participant;

(c) the change of its name or the name in which it carries on business, or any change in the address at which the Participant carries on business or stores or maintains records or other information required to be stored or maintained by these Rules;

