



NZX Participant Guidance Note

STANDS IN THE MARKET

December 2020



This Guidance Note replaces the previous Stands in the Market Guidance Note issued in December 2017.

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This Guidance Note has been issued by NZX Limited (**NZX**) to promote market certainty and assist market participants. This Guidance Note sets out NZX's general approach to the subject, but is not to be regarded as a definitive statement of the application of the Participant Rules in every situation. NZX may replace Guidance Notes and Practice Notes at any time and a Market Participant should ensure it has the most recent versions of these documents. Guidance Notes do not constitute legal advice. NZX recommends that Market Participants take advice from qualified persons.

1. Introduction

The purpose of this Guidance Note is to provide guidance to Trading Participants in the interpretation of those NZX Participant Rules that relate to stands in the market.

Under Rule 21.4.1, NZX may act by and through NZX Regulation Limited (**NZ RegCo**) in performing any function or discharging any power set out in the Rules. References in this Guidance Note to NZX therefore also include NZ RegCo in relation to any regulatory activity or discretion.

2. Background

Participant Rule 13.7.1 requires a proportion (20%) of significant (i.e. more than 10% of the issued capital of the issuer) share purchase orders placed with Trading Participants to be offered to the market via the trading screen. This will have the consequence of many stands being conducted on-market in respect of a significant order that could possibly have been filled off-market. There are, however, exceptions to the requirement to hold a stand at 13.7.1(a) and (b).

The policy behind the rule to date, as is reflected at Participant Rule 13.7.2, is to ensure retail participation.

A practice was developed by NZX and was in place for some time of requiring a CSN to be provided on entry of the order. This has been reflected until now in the standard NZX stand terms. Its purpose included the desire to level the playing field between retail and institutional investors in respect of the manner of order entry.

3. Stand Policy

NZX has conducted focussed consultation on its policy for stands in the market. At this time, NZX intends to make no change to the requirement to offer 20% of a substantial purchase to the market. However, NZX understand that Trading Participants have a preference for a general stand policy that seeks to facilitate broader participation in such transactions which usually occur at a premium to recent market price rather than a policy which seeks to specifically ensure retail participation.

NZX has analysed the issue and agrees with the merits of making such a change to current stand policy.

Until further advised by NZX (which would be by Guidance Note or Participant Rule revision) the implication of the reference to the requirement that NZX be satisfied that the conduct of a stand “recognises Retail Clients” at 13.7.2 shall be limited to consideration of the consent available under that provision. Accordingly, availability of the Special Order Facility and the management of stands generally will reflect an underlying policy of broad rather than retail participation. This would not prevent a stand applicant from, say, insisting upon retail participation in its own (as opposed to the standard) stand terms or conditions.

4. Stand Practice

The refinement to NZX policy regarding stands in the market outlined above will have the following practice consequences:

- 1) CSN requirements relating to entering orders into a stand will be the same as for “general” trading i.e. those at Participant Rule 15.5. The stand term referring to CSNs that has been in existence for some time has been deleted. For the avoidance of doubt, this practice permits the use of the “m” flag and other legitimate exceptions from the requirement to enter a CSN. NZX will conduct surveillance to ensure that these “general” trading requirements relating to CSNs are being met. NZX considers that the use of the “m” flag in an effort to warehouse a sale at the stand price in respect of clients not yet identified is an abuse of the opportunity to participate in the stand and a breach of Good Broking Practice. A client that has not given a sell order to the Trading Participant (either specifically or generally in the context of, say, a nominee or custody service) will not be an identifiable client at the time that the order has been placed.
- 2) NZX issued a class waiver in respect of CSN use in July 2006. For the avoidance of doubt, stands in the market are, as is the case for general trading, subject to the conditions of this class waiver. Where a participant acts in breach of the conditions of this class waiver, the Order (and resulting trade) will be excluded from the stand in the market.
- 3) Short selling shall be governed by the standard rules relating to that issue in force from time to time. These rules are currently at 10.11 of the Participants Rules.

Other than outlined herein, no additional change to stand policy or practice has been made at this time.

