

15 April 2020

Angus Ross  
Financial Markets Authority  
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Auckland, 6011  
By email: [angus.ross@fma.govt.nz](mailto:angus.ross@fma.govt.nz)

Dear Angus

### **Consultation on Financial Markets Conduct (US Futures Commission Merchants) Exemption Notice 2015**

1. NZX Limited (**NZX**) would like to thank the FMA for the opportunity to provide this submission in respect of the consultation on the potential roll-over of the Financial Markets Conduct (US Futures Commission Merchants) Exemption Notice 2015 (the **Exemption Notice**), which is due to expire on 30 October 2020.
2. We note that in 2015 NZX applied to the FMA for the class relief contained in the Exemption Notice. We made that application on the basis that it would be unduly burdensome for a Futures Commission Merchants (**FCM**) to be required to comply with both CFTC client fund requirements and New Zealand requirements, and noted that the participation of United States domiciled participants in NZX's Derivatives Market was vital to its overall liquidity and success.
3. We remain of the view that the Exemption is appropriate for these reasons, and we support the FMA continuing to provide this relief through a roll-over of the Exemption Notice.
4. NZX Limited currently has two NZX Derivatives Participants who are US Futures Commission Merchants (being INTL FC Stone Inc. and ADM Investor Services, Inc.) (together, the **FCM Participants**). Those FCM Participants rely on the Exemption Notice in respect of trades for New Zealand investors on the NZX Derivatives Market. The Exemption Notice enables those Participants to avoid duplicative regulation and unnecessary compliance costs, while providing adequate protection for New Zealand investors' derivatives investor money and property.
5. We are aware that the Futures Industry Association, Inc. has previously raised concerns with the FMA that the relief provided in the Exemption Notice is too narrow, in that the conditions imposed by clause 6(d) and (e) (which require FCM to comply with regulations 242 and 243 of the Financial Markets Conduct Regulations 2014) do not allow FCM to invest client money and property in permitted investments under the CFTC Regulations.

6. We note that we are not aware that this restriction has caused difficulties for our FCM Participants, as we understand that they do not engage in such investment activities. We suggest that if the FMA is to consider extending the relief contained in the Exemption Notice to allow for such investments, that the benefits of enabling participation in the NZX Derivatives Market (by removing this barrier to entry) are balanced by a consideration of the effects on New Zealand investors.

**General**

7. NZX again thanks the FMA for the opportunity to comment on the proposed roll-over of the Exemption Notice, and we would be happy to discuss these matters with you further.

Yours sincerely,



Kristin Brandon  
NZX Head of Policy and Regulatory Affairs