



# NZX Regulation Decision

Class waiver for accelerated entitlement offers -  
NZX Main Board Listing Rules 7.3.1(a), 7.10.1, 7.10.2,  
7.1.7, 7.10.8 and 9.2.1

13 June 2017



## Background

1. These waivers apply to Issuers undertaking Accelerated Offers satisfying the criteria 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.

## Waiver from Rule 7.3.1(a)

### Decision

4. Subject to the conditions in paragraph 5 below, NZX Regulation (**NZXR**) grants a waiver from NZX Main Board Listing Rule (**Rule**) 7.3.1(a), to the extent that that Rule would require an Issuer undertaking an Accelerated Offer to obtain shareholder approval for the issue of the New Shares in connection with the Accelerated Offer.
5. The waiver set out in paragraph 4 above is provided on the conditions that:
  - a. the issue of the New Shares is conducted in accordance with Rule 7.3.4(a) (read in conjunction with Rules 7.3.4(d) to 7.3.4(h), subject to paragraph 5(c) below), except for the requirement in Rule 7.3.4(a) that the Accelerated Offer is Renounceable;
  - b. instead of the requirement in Rule 7.3.4(a) that the Accelerated Offer is Renounceable, the Issuer ensures that any bookbuild(s) undertaken in relation to the Accelerated Offer, occurs pursuant to the Offer Document; and
  - c. instead of the requirement in Rule 7.3.4(h) that the Issuer arrange for the sale of Renounceable Rights, New Shares of Ineligible Shareholders are offered under one or more bookbuild(s) undertaken in relation to the Accelerated Offer.

### Reasons

6. In coming to the decision to provide the waiver set out in paragraph 4 above, NZXR has considered that:
  - a. Rule 7.3.1(a) is designed to prevent the dilution of shareholders' interests without their prior approval. The policy of Rule 7.3.4(a) is that shareholder approval is not required where all shareholders have the same entitlement to participate in the issue because those shareholders have the opportunity to avoid dilution;
  - b. Rule 7.3.4(a) recognises that an Issuer may make a pro-rata renounceable rights issue without the prior approval of its shareholders under Rule 7.3.1(a). The issue of New Shares under an Accelerated Offer is consistent with the policy of Rule 7.3.4(a). Those New Shares will be offered on a pro-rata basis to Eligible Institutional Shareholders and Eligible Retail Shareholders, and they will have the opportunity to maintain their existing proportionate rights. New Shares will not be offered to Ineligible Shareholders, but such New Shares will be dealt with via one or more bookbuild(s) in accordance with the terms of offer set out in the relevant Offer Document, which is

consistent with the policy of Rule 7.3.4(h) for offers conducted in accordance with Rule 7.3.4(a);

- c. Accelerated Offers may provide a return to shareholders who do not, or are unable to, exercise their entitlement, in the form of any premium achieved in the bookbuild(s) in excess of the Entitlement Price;
- d. the conditions in paragraphs 5(a) to (c) ensure that any exceptions to the proportionate nature of the issue must be effectively conducted in accordance with Rules 7.3.4(d) – (h) and pursuant to the relevant Offer Document;
- e. accordingly, NZXR is satisfied that the policy of Rule 7.3.1(a) will not be offended by the granting of this waiver; and
- f. there is precedent for this decision.

## Waiver from Rule 7.10.1

### Decision

7. NZXR grants a waiver from Rule 7.10.1, to enable Eligible Institutional Shareholders to be notified of their entitlement prior to the Record Date, and to enable that notification to occur by means other than by physical letters of entitlement.

### Reasons

8. In coming to the decision to provide the waiver set out in paragraph 7 above, NZXR has considered that:
  - a. the policy behind Rule 7.10.1 is to ensure that letters of entitlement are sent as soon as possible after the Record Date for an entitlement. This ensures that shareholders have the maximum amount of time in which to consider how to deal with their entitlement. NZXR is satisfied that the granting of this waiver will not offend this policy;
  - b. the waiver will only apply to Eligible Institutional Shareholders. NZXR accepts that, due to the structure of Accelerated Offers, Issuers will need to calculate the entitlements of its Eligible Institutional Shareholders prior to the Record Date, and inform those Eligible Institutional Shareholders of their entitlement in time for them to participate in the Institutional Entitlement Offer;
  - c. Rule 7.10.1 contemplates that an Issuer will not know the identity of entitled shareholders prior to the Record Date. In the case of Accelerated Offers, the Eligible Institutional Shareholders will be known prior to the Record Date. NZXR does not consider the policy behind Rule 7.10.1 would be to preclude notification of entitlements prior to the Record Date when such entitlements are known;
  - d. Issuers relying on this waiver will need to notify Eligible Institutional Shareholders of their entitlement in as timely manner as possible, which may include means other than physical letters of entitlement;
  - e. Issuers undertaking an Accelerated Offer will still be required to comply with Rule 7.10.1 in relation to Retail Shareholders; and

- f. there is precedent for this decision.

## Waiver from Rule 7.10.2

### Decision

9. Subject to the condition set out in paragraph 10 below, NZXR grants a waiver from Rule 7.10.2, to the extent that that Rule would otherwise require the Institutional Entitlement Offer component of an Accelerated Offer to remain open for twelve Business Days.
10. The waiver set out in paragraph 9 above is provided on the condition that the relevant announcement and Offer Document relating to the Accelerated Offer will clearly state that a shorter than usual offer period will apply to Eligible Institutional Shareholders under the Institutional Entitlement Offer.

### Reasons

11. In coming to the decision to provide the waiver set out in paragraph 9 above, NZXR has considered that:
  - a. the policy behind Rule 7.10.2 is to ensure that shareholders have sufficient time to consider, and act on, an entitlement offer;
  - b. the waiver only applies in respect of Eligible Institutional Shareholders. NZXR accepts that Eligible Institutional Shareholders are accustomed to considering offers and making investment decisions at short notice and therefore will not require the full amount of time contemplated under Rule 7.10.2;
  - c. Issuers undertaking an Accelerated Offer will still be required to comply with Rule 7.10.2 in relation to the Retail Entitlement Offer;
  - d. the policy behind Rule 7.10.2 will not be offended by granting this waiver; and
  - e. there is precedent for this decision.

## Waiver from Rule 7.10.7

### Decision

12. Subject to the conditions set out in paragraphs 13 and 14 below, NZXR grants waivers from Rule 7.10.7, to the extent that Rule would otherwise require:
  - a. notification via an Appendix 7 announcement of an Accelerated Offer five Business Days before the Ex Date; and
  - b. quotation of rights for an Accelerated Offer to cease at the close of trading on the day four Business Days before the closing date for receipt of acceptances and renunciations.

13. The waiver set out in paragraph 12(a) is provided on the conditions that:
  - a. the information that would otherwise be provided in an Appendix 7, to the extent that such information is available, is provided to NZXR no later than five Business Days before the Ex Date for the Accelerated Offer; and
  - b. the Accelerated Offer is notified to the market otherwise in accordance with Rule 7.10.7(a) no later than the Ex Date for the Accelerated Offer.
14. The waiver set out in paragraph 12(b) is provided on the condition that, where there is quotation of any relevant rights, the quotation of such rights will cease at the close of trading on the day four Business Days before the closing date of the Retail Entitlement Offer.

## Reasons

15. In coming to the decision to provide the waivers set out in paragraph 12 above, NZXR has considered that:
  - a. the relevant policy behind Rule 7.10.7 is to provide (i) shareholders and stakeholders within the market sufficient notice of an upcoming entitlement and (ii) a prescribed period within which eligible shareholders are able to trade their entitlements (for example, if the Accelerated Offer structure contemplates rights quotation);
  - b. NZXR has been advised that a shortened Record Date notification period in relation to Accelerated Offers does not raise issues for share registries;
  - c. it is a feature of Accelerated Offers that Issuers do not provide five Business Days' prior notification of the Record Date and without waiving the Rule, Issuers would be unable to undertake Accelerated Offers; and
  - d. the treatment of Eligible Retail Shareholders under an Accelerated Offer which is a PAITREO, in relation to the ability to trade rights on market, will effectively be the same as if the offer had been a Renounceable Rights offer, with quotation conducted in accordance with Rule 7.10.7, save for the shortened Record Date notification period.

## Waiver from Rule 7.10.8

### Decision

16. Subject to the conditions set out in paragraph 17 below, NZXR grants a waiver from Rule 7.10.8, to the extent that that Rule would otherwise require notification via an Appendix 7 announcement of an Accelerated Offer five Business Days before the Ex Date.
17. The waiver set out in paragraph 16 above is provided on the conditions that:
  - a. the information that would otherwise be provided in an Appendix 7, to the extent that such information is available, is provided to NZXR no later than five Business Days before the Ex Date for the Accelerated Offer; and
  - b. the Accelerated Offer is notified to the market in accordance with Rule 7.10.8 no later than the Ex Date for the Accelerated Offer.

## Reasons

18. In coming to the decision to provide the waiver set out in paragraph 16 above, NZXR has considered that:
- c. the policy behind Rule 7.10.8 is to provide shareholders and stakeholders within the market sufficient notice of an upcoming entitlement. It also provides an opportunity for investors to trade in or out of that relevant security;
  - d. NZXR has been advised that a shortened Record Date notification period in relation to Accelerated Offers does not raise issues for share registries;
  - e. it is a feature of Accelerated Offers that Issuers do not provide five Business Days' prior notification of the Record Date and without waiving the Rule, Issuers would be unable to undertake Accelerated Offers; and
  - f. there is precedent for this decision.

## Waiver from Rule 9.2.1

### Decision

19. Subject to the conditions set out in paragraph 20 below, NZXR grants a waiver from Rule 9.2.1, to the extent that that Rule would otherwise require prior shareholder approval for Related Parties to participate in an Accelerated Offer. The waiver in this paragraph 19 does not apply in relation to Related Parties acting as an underwriter or sub-underwriter for the Accelerated Offer.
20. The waiver set out in paragraph 19 is provided on the conditions that:
- a. the Independent Directors of an Issuer undertaking an Accelerated Offer certify, in a form acceptable to NZX, that:
    - (i) the terms of the Accelerated Offer are fair, reasonable and in the best interests of the Issuer's shareholders, other than the Related Parties or shareholders that are Associated Persons of the Related Parties;
    - (ii) the relevant Issuer will pay and receive fair value under the Accelerated Offer;
    - (iii) the relevant Issuer was not unduly influenced in its decision to enter into the Accelerated Offer by the Related Parties;
    - (iv) none of the Related Parties will be involved in, or influence, any allocation decision in relation to any bookbuild(s) undertaken in connection with the Accelerated Offer; and
    - (v) the Related Parties will derive no benefit as a result of the Related Party relationship, other than solely through participation in the Accelerated Offer on the same terms and conditions as other shareholders; and
  - b. the Accelerated Offer is conducted in accordance with the conditions to the waivers from Rules 7.3.1(a) set out in paragraph 5.

## Reasons

21. In coming to the decision to provide the waiver set out in paragraph 19 above, NZXR has considered that:
- a. the policy behind Rule 9.2.1 is to regulate transactions where a Related Party to a Material Transaction may gain favourable consideration due to its relationship with the Issuer. NZXR may waive the requirement to obtain approval of a Material Transaction if it is satisfied that the involvement of any Related Party is plainly unlikely to have influenced the promotion of, or the decision to enter into, the transaction. NZXR is satisfied that the granting of this waiver will not offend the policy of this Rule;
  - b. the participation by Related Parties in an Institutional Entitlement Offer or Retail Entitlement Offer will be on identical terms (including as to price and ratio) as the Issuer's Eligible Institutional Shareholders or the Eligible Retail Shareholders (respectively) on the Record Date. In addition, any participation by Related Parties in any bookbuild(s) undertaken in relation to the Accelerated Offer will be on identical terms to any other participant. Accordingly, any Related Parties participating in an Accelerated Offer will not gain additional favourable consideration due to their relationship with the relevant Issuer;
  - c. the condition in paragraph 20(a) provides comfort that:
    - (i) Related Parties have not unduly influenced the promotion of, or the decision to enter into, the Accelerated Offer;
    - (ii) the Accelerated offer is fair, reasonable and in the best interests of the relevant Issuer's shareholders other than the Related Parties or their Associated Persons; and
    - (iii) Related Parties will not gain additional favourable consideration due to their relationship with the relevant Issuer;
  - d. the participation by Related Parties as an underwriter or sub-underwriter for an Accelerated Offer will still require shareholder approval pursuant to, or waiver from, Rule 9.2.1; and
  - e. there is precedent for this decision.

## Waivers from Rules 7.3.1(a), 7.10.1, 7.10.2, 7.10.7, 7.10.8, and 9.2.1

22. The waivers set out in paragraphs 4, 7, 9, 12, 16 and 19 are subject to the conditions that:
- a. a summary of each waiver relied on, and its conditions and effect, are disclosed in the Offer Document for the relevant Accelerated Offer; and
  - b. a link to this class waiver, together with a summary of each waiver relied on, is included in the annual report of the relevant Issuer for the year in which any Accelerated Offer takes place.

## Appendix One

1. Under NZX Main Board Listing Rules (**Rules**) 7.3.1(b) and 7.3.4(a), Listed Issuers with Securities Quoted on the NZX Main Board are able to undertake pro-rata renounceable offers of Equity Securities without approval from holders of existing Quoted Equity Securities.
2. NZX Regulation (**NZXR**) has granted a number of transaction-specific waivers to Issuers which have undertaken accelerated pro-rata entitlement offers of new shares (**New Shares**), in circumstances where the specific terms of the entitlement offer have not qualified as pro-rata renounceable offers for the purposes of Rule 7.3.1(b) and 7.3.4(a).
3. For the purposes of this waiver, an accelerated pro-rata entitlement offer (**Accelerated Offer**) is either:
  - a. an accelerated renounceable entitlement offer (**AREO**);
  - b. a simultaneous accelerated renounceable entitlement offer (**SAREO**); or
  - c. a pro-rata accelerated institutional, tradeable retail, entitlement offer (**PAITREO**).
4. Under an AREO, the entitlement offer is conducted in the following stages:
  - a. **Institutional Entitlement Offer:** An accelerated pro-rata entitlement offer is made at a fixed price (**Entitlement Price**) to institutional shareholders resident in New Zealand and various overseas jurisdictions (**Eligible Institutional Shareholders**) (**Institutional Entitlement Offer**);
  - b. **Institutional Bookbuild:** New Shares not taken up by Eligible Institutional Shareholders, along with New Shares in respect of entitlements that would have been offered to any ineligible overseas institutional shareholders, are offered under a bookbuild (**Institutional Bookbuild**). If the price achieved in the Institutional Bookbuild is higher than the Entitlement Price, the excess will be shared (on a pro-rata basis) between the institutional shareholders who did not, or who were not able to, take up their entitlement;
  - c. **Retail Entitlement Offer:** Following completion of the Institutional Bookbuild, a pro-rata offer of New Shares (**Retail Entitlement Offer**) is made at the same price and ratio as the Institutional Entitlement Offer to existing retail shareholders in New Zealand and certain eligible overseas jurisdictions (if relevant), who did not receive an offer under the Institutional Entitlement Offer (**Eligible Retail Shareholders**); and
  - d. **Retail Bookbuild:** New Shares not taken up by Eligible Retail Shareholders, along with New Shares in respect of entitlements that would have been offered to any ineligible overseas retail shareholders, are offered under a bookbuild (**Retail Bookbuild**). If the price achieved in the Retail Bookbuild is higher than the Entitlement Price, the excess will be shared (on a pro-rata basis) between the retail shareholders who did not, or who were not able to, take up their entitlement.



5. Under an AREO:
  - a. it is standard practice for the Issuer not to make the offer available to shareholders resident in certain overseas jurisdictions (**Ineligible Shareholders**), on the grounds that it would be unduly onerous to make an Accelerated Offer available to those Ineligible Shareholders; and
  - b. Eligible Institutional Shareholders and Eligible Retail Shareholders are offered New Shares on a basis that would (if accepted by all shareholders) maintain the existing proportionate rights of each shareholder (relative to all other shareholders) to votes and distributions. New Shares in respect of entitlements that are not taken up, or not able to be taken up, by shareholders are offered through the Institutional Bookbuild and the Retail Bookbuild, providing an opportunity for shareholders that do not, or are not eligible to, take up their entitlements to receive value for them. Entitlements are not able to be traded or sold privately by shareholders.
6. Under a SAREO, the entitlement offer is conducted largely in the manner as an AREO. Under a SAREO, however, there is no Institutional Bookbuild. Instead, a SAREO features a single bookbuild conducted at the end of the Retail Entitlement Offer.
7. Under a PAITREO, the entitlement offer is also largely conducted in the manner as an AREO. Under a PAITREO, however, quotation is also sought for the entitlements under the Retail Entitlement Offer, to enable them to be traded on market.
8. Accelerated Offers are customarily:
  - a. conducted pursuant to clause 19 of Schedule 1 of the Financial Markets Conduct Act 2013 (**FMCA**) and the associated regulations, with an offer booklet containing terms of the Accelerated Offer (**Offer Document**) being prepared and released, and a number of cleansing notices being released by the Issuer in accordance with the FMCA and associated regulations; and
  - b. underwritten by one or more market participants involved in the offer.
9. The main benefits to Issuers under an Accelerated Offer structure, as opposed to undertaking a traditional renounceable rights offer, include the following:
  - a. the accelerated institutional component of Accelerated Offers means that any underwriter has a shorter period of exposure on that part of the offer. This reduced exposure makes obtaining underwriting commitments more achievable for Issuers, as both the risk and the cost associated with such underwriting commitments is substantially reduced;
  - b. the underwriting commitment provides certainty to Issuers as to the minimum amount to be raised from the Accelerated Offer;
  - c. evidence from recent Accelerated Offers suggests that the shorter timetable for the institutional component potentially reduces the issue price discount when compared to traditional rights offers, as less market risk arises for institutions; and
  - d. as the Institutional Entitlement Offer and, where relevant, the Institutional Bookbuild, will be conducted at the beginning of the Accelerated Offer, the Issuer

receives the proceeds of the institutional component of the offer before the Retail Entitlement Offer is completed.

10. In addition to the benefits outlined above, Accelerated Offers have features considered by Issuers to be in the best interests of shareholders for the following reasons:
  - a. the sale of entitlements through a bookbuild process galvanises demand for new Shares from all eligible investors at one time. This can be of advantage to shareholders who do not, or are not eligible to, take up their entitlement because investors compete for New Shares in the bookbuild process;
  - b. shareholders will not be required to pay any brokerage or incur other transaction costs under a bookbuild structure in order to realise the value of their entitlements. Under a conventional renounceable offer, shareholders selling their rights would be required to pay brokerage. For smaller shareholders, the cost of brokerage could exceed the value of the rights; and
  - c. Eligible Retail Shareholders will have the benefit of knowing the outcome of the Institutional Entitlement Offer and Institutional Bookbuild (as applicable) prior to deciding whether or not to take up their entitlement.

## Waiver from Rule 7.10.1 – Further Background

11. Accelerated Offers are structured so that the Record Date for the Institutional Entitlement Offer will be after the Institutional Entitlement Offer closes. As a result the Issuer undertaking the Accelerated Offer will need to:
  - a. calculate the entitlements of its Eligible Institutional Shareholders prior to the Record Date; and
  - b. notify Eligible Institutional Shareholders of their entitlement at the same time or after the Offer Document is released to NZX (which may include notification by methods other than physical letters of entitlement).

## Waiver from Rule 7.10.2 – Further Background

12. A key feature of Accelerated Offers is receipt by the Issuer of upfront commitments from Eligible Institutional Shareholders to enable the Issuer to obtain the benefits of the Accelerated Offer structure described in paragraphs 9 and 10 above.
13. Under standard Accelerated Offer timetables, the Offer Document will be provided to Eligible Institutional Shareholders on the day on which the Institutional Entitlement Offer is announced and opens, with those institutions then having a condensed period to consider the offer.
14. Eligible Institutional Shareholders are unlikely to be prejudiced as a result of the shortened offer period because:
  - a. Institutional shareholders are accustomed to considering offers and making investment decisions at short notice;

- b. the proposed timetable is consistent with market practice for offers to such investors; and
- c. the announcement and offer booklet for the Accelerated Offer will clearly state that a shorter than usual offer period will be available to Eligible Institutional Shareholders under the Institutional Entitlement Offer.

## Waiver from Rules 7.10.7 and 7.10.8 – Further Background

- 15. Accelerated Offer structures customarily provide for the offer to be announced to the market at the same time as the Institutional Entitlement Offer opens and current Securities in the Issuer are placed into trading halt. This is the standard timeframe for Accelerated Offer transactions, and it is one with which investors in New Zealand and overseas are familiar.

## Waiver from Rule 9.2.1 – Further Background

- 16. An Accelerated Offer may, either independently, or together with any associated underwriting arrangement, be a transaction, or one of a related series of transactions, which could have an Aggregate Net Value in excess of 10% of the Issuer's Average Market Capitalisation and so be a Material Transaction for the purposes of Rule 9.2.
- 17. Rule 9.2.1 prohibits Issuers from entering into a Material Transaction if a Related Party is, or is likely to become, a direct or indirect party to the Material Transaction, or to at least one of a related series of transactions to which the Material Transaction forms part.
- 18. An Accelerated Offer may involve Related Parties for the purposes of Rule 9.2 if:
  - a. shareholders holding a Relevant Interest in 10% or more of the Issuer's Equity Securities participate individually or together with their Associated Persons in the Accelerated Offer; or
  - b. the Issuer's directors or executive officers who are shareholders participate, either individually or together with their Associated Persons, in the Accelerated Offer.
- 19. Under Rule 9.2.4(b), pro-rata issues are excluded from the application of Rule 9.2.1 if all holders of Securities in the Class in question are treated in the same way, so that each such holder has the opportunity to receive the same benefit in respect of each Security held by that holder (ie the issue is pro-rata in all respects) except to the extent that an issue excludes holders outside New Zealand in accordance with Rule 7.3.4(h). Issuers undertaking Accelerated Offers are unable to rely on Rule 9.2.4(b) because the structure of such offers allows Eligible Institutional Shareholders and Eligible Retail Shareholders to participate and settle their subscriptions at different times.

## Appendix Two

### **Rule 7.3 Issue of New Equity Securities**

- 7.3.1 No Issuer shall issue any Equity Securities unless:
- (a) the precise terms and conditions of the specific proposal to issue those Equity Securities have been approved (subject to Rule 7.3.3) by separate resolutions (passed by a simple majority of Votes) of holders of each Class of Quoted Equity Securities of the Issuer whose rights or entitlements could be affected by that issue, and that issue is completed within the time specified in Rule 7.3.2.

### **Rule 7.10 Rights Issues and Share Purchase Plan Additional Requirements**

- 7.10.1 Letters of entitlement to Rights (whether or not Renounceable) are to be sent to holders of the Rights within five Business Days of the Record Date for the determination of the entitlement and by means that will give the holders reasonable time to deal with their Rights, whether the holders' addresses are in New Zealand or elsewhere.
- 7.10.2 Without limiting Rule 7.10.1, the closing date and time for applications under Rights issues (whether or not renounceable) shall not be earlier than the 12th Business Day after the day of mailing of the last of the letters of entitlement.
- 7.10.7 An Issuer may apply to NZX for Quotation of Rights under a Rights issue of Securities. Appendix 7 shall be completed and supplied to NZX with the application required by Rule 5.2.2. If such Quotation is granted:
- (a) an Appendix 7 must be delivered in accordance with Rule 10.2.2 for public release no later than 5 Business Days before the Ex Date for the Rights Issue; and
- [...]
- (d) Quotation of Rights for a Renounceable Rights issue will cease at the close of trading on the day four Business Days before the closing date for receipt of acceptances and renunciations.
- 7.10.8 Where a Rights issue is to be made but Quotation is not sought the Issuer shall give to NZX forthwith after the decision has been made and at least 5 Business Days before the Ex Date to determine entitlements, on the form in Appendix 7, full details of the issue, including the nature, entitlement and timing of the issue of Rights and conversion, pricing, amounts payable and ranking of Securities for future benefits.

### **Rule 9.2 Transactions with Related Parties**

- 9.2.1 An Issuer shall not enter into a Material Transaction if a Related Party is, or is likely to become:

- (a) a direct or indirect party to the Material Transaction, or to at least one of a related series of transactions of which the Material Transaction forms part; or
- (b) in the case of a guarantee or other transaction of the nature referred to in paragraph (d) of the definition of Material Transaction, a direct or indirect beneficiary of such guarantee or other transaction,

unless that Material Transaction is approved by an Ordinary Resolution of the Issuer.

9.2.2 For the purposes of Rule 9.2.1, “Material Transaction” means a transaction or a related series of transactions whereby an Issuer:

[...]

- (b) issues its own Securities or acquires its own Equity Securities having a market value in excess of 10% of the Average Market Capitalisation of that Issuer, save in the case of an issue pursuant to Rule 7.3.5 where only the market value of those Securities being issued to the Related Party or to any Employees of the Issuer are to be taken into account; or

[...]

9.2.3 For the purposes of Rule 9.2.1, “Related Party” means a person who is at the time of a Material Transaction, or was at any time within six months before a Material Transaction:

- (a) a Director or executive officer of the Issuer or any of its Subsidiaries; or
- (b) the holder of a Relevant Interest in 10% or more of a Class of Equity Securities of the Issuer carrying Votes; or
- (c) an Associated Person of the Issuer or any of the persons referred to in (a) or (b), other than a person who becomes an Associated Person as a consequence of the Material Transaction itself (or an intention or proposal to enter into the Material Transaction itself); or
- (d) a person in respect of whom there are arrangements other than the Material Transaction itself, intended to result in that person becoming a person described in (a), (b), or (c), or of whom the attainment of such a status may reasonably be expected, other than as a consequence of the Material Transaction itself;

[...]

9.2.4 Rule 9.2.1 shall not apply to:

[...]

- (b) the issue, acquisition or redemption by an Issuer of Securities of that Issuer, or the giving by an Issuer of financial assistance for the purposes of, or in connection with, the purchase of Securities, or the payment of a

distribution to holders of Securities, if all holders of Securities of the Class in question are treated in the same way, so that each such holder has an opportunity to receive the same benefit in respect of each Security held by that holder except to the extent that an issue excludes holders outside New Zealand in accordance with Rule 7.3.4(h). For the purposes of this paragraph, the transfer, by an Issuer which is a company registered under the Companies Act 1993, of shares held by that company in itself, shall be deemed to constitute an issue of Securities; or

[...]