

Summary of Rule Changes

The proposed amended NZSX/DX Listing Rules are contained below. For ease of reference, these are arranged in the order in which they appeared in the Consultation Paper. The same changes will be made, where applicable, throughout the equivalent NZAX Rules in line with the Exposure Draft policy discussions.

4. Private Placements

The proposed wording of the amended Rules Rule 7.3.5 is set out below, as outlined in Proposal 4 in the Consultation Paper.

7.3.5 An Issuer may issue Equity Securities if:

- (a) the total number of Equity Securities issued, and all other Equity Securities of the same Class issued pursuant to this Rule 7.3.5 during the shorter of the period of 12 months preceding the date of the issue and the period from the date on which the Issuer was Listed to the date of the issue, will not exceed the aggregate of:
 - (i) 20% of the total number of Equity Securities of that Class on issue at the commencement of that period; and
 - (ii) 20% of the number of the Equity Securities of that Class issued during that period pursuant to any of Rules 7.3.1(a), 7.3.4, 7.3.6 and 7.3.8; and
 - (iii) any Equity Securities of that Class issued pursuant to this Rule 7.3.5 during that period, the issue of which has been ratified by an Ordinary Resolution of the Issuer; and less
 - (iv) 20% of the number 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).
- (b) Directors of the Issuer, Associated Persons of a Director or Employees (as defined in Rule 7.3.6) of the Issuer may participate in an offer made under this Rule if:
 - (i) The Board signs a certificate that their participation is in the best interests of the Issuer and Shareholders generally;
 - (ii) The terms of the issue to all persons under this Rule are the same; and
 - (iii) The level of participation of any Director, Associated Person of a Director or Employee is determined according to criteria applying to all persons participating in the offer.

Provided that for the purposes of this Rule 7.3.5:

- (c) Securities which will, or may, Convert to other Equity Securities shall be deemed to be of the same Class as, and to correspond in number to, the Equity Securities into which they will, or may, Convert; and
- (d) where the conversion ratio is fixed by reference to the market price of the underlying Equity Securities, the market price, unless otherwise specified in the terms of the issue, shall be the volume weighted average market price over the 20 Business Days before the earlier of the day the issue is made or announced to the market.

5. Rights Issues – Reduced Timeframes

The proposed wording of Rules 7.10.2 and 7.10.10 is set out below, as outlined in proposal 5 of the Consultation Paper.

- 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.

New Rule 7.10.10

- 7.10.10 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 3 Business Days before the Record 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.

6. Issue of Equity Securities Carrying Voting Rights

The proposed wording of the amended Rule 8.1.3 is set out below, as outlined in proposal 6 of the Consultation Paper.

- 8.1.3 If:
- (a) an Issuer proposes to issue Equity Securities carrying Votes, or Securities which are Convertible into Equity Securities carrying Votes, under Rules 7.3.4(ba), 7.3.5 or 7.3.6 (the “Affected Securities”); and
 - (b) If the issue price of an Affected Security is less than 85% of the Average Market Price, then before issuing Affected Securities the Directors must certify to NZX that they have made reasonable endeavours to get the best price possible for the issue of the Affected Securities.

Provided that:

- (c) for the purposes of this Rule 8.1 “Average Market Price” means the volume weighted average market price of the Issuer’s Quoted Equity Securities over the 5 Business Days before the earlier of the day the issue is made, or the proposal is announced to the market; and
- (d) if the Issuer has more than one Class of Equity Securities Quoted, the existing Quoted Equity Securities in Rule 8.1.3(b) shall refer to the Class having the most similar characteristics (other than Votes) to the Affected Securities or, in the case of Convertible Securities, the Securities into which the Affected Securities Convert; and
- (e) in the case of Convertible Securities where the consideration payable on Conversion is fixed by reference to the market price of existing Securities, the consideration payable on Conversion must be at least 85% of the Average Market Price of the Securities into which the Affected Securities Convert.

7. Remuneration of Directors by stock level approved by shareholders

The proposed wording of the amended Rule 3.5.1, and the new Rule 7.3.6A, are set out below, as outlined in Proposal 7 in the Consultation Paper.

3.5 Directors’ Remuneration

- 3.5.1 No remuneration shall be paid to a Director in his or her capacity as a Director of the Issuer or any Subsidiary, other than a Subsidiary which is Listed (including any remuneration paid to that Director by a Subsidiary, other than a Subsidiary which is also Listed) unless that remuneration has been authorised by an Ordinary Resolution of the Issuer. Each such resolution shall express Directors’ remuneration as either:

Such a resolution may expressly provide that the remuneration may be payable either in part or in whole by way of an issue of Equity Securities, provided that issue occurs in compliance with Rule 7.3.6A.

- (a) a monetary sum per annum payable to all Directors of the Issuer taken together; or
- (b) a monetary sum per annum payable to any person who from time to time holds office as a Director of the Issuer.

If remuneration is expressed in accordance with (a), then in the event of an increase in the total number of Directors of the Issuer holding office, the Directors may, without the authorisation of an Ordinary Resolution of the Issuer, increase the total remuneration by such amount as is necessary to enable the Issuer to pay to the additional Director or Directors of the Issuer remuneration not exceeding the average amount then being paid to each of the other

non-Executive Directors (other than the chairperson) of the Issuer

No resolution which increases the amount fixed pursuant to a previous resolution shall be approved at a general meeting of the Issuer unless notice of the amount of increase has been given in the notice of meeting. Nothing in this Rule 3.5.1 shall affect the remuneration of Executive Directors in their capacity as executives.

Directors' remuneration for work not in the capacity of a Director of the Issuer or a Subsidiary may be approved by the Directors without Shareholder approval, subject to Rule 9.2 (if applicable).

Proposed new wording of new Rules 7.3.6A and 7.3.7AA

7.3.6A Directors' Remuneration – Issue of Equity Securities: An Issuer may issue Equity Securities to a Director if:

- (a) the issue is made in accordance with a resolution passed under Rule 3.5.1; and
- (b) the issue is of a Class of Equity Securities already on issue; and
- (c) the issue of Equity Securities is made after the end of the period (or half period) to which that remuneration relates; and
- (d) the issue price of the Equity Securities is equal to the volume weighted average market price of Equity Securities of that class over the 20 Business Days before the issue occurs.

7.3.7 For the purposes of Rule 7.3.6, an issue 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 scheme, superannuation scheme, or the like, in which that Director or Associated Person has no beneficial interest, shall be deemed not to be an issue to a Director or Associated Person of a Director, or an issue in which Directors or Associated Persons participate.

7.3.7AA Directors and Associated Persons of Directors may participate in an issue under 7.3.6 if their participation is determined by criteria applying to employees generally.

8. Related Party Transactions: Materiality

The proposed new wording of Rule 9.2.2, as outlined in proposal 8 of the Consultation Paper, is set out below.

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:

- (a) purchases or otherwise acquires, gains, leases (as lessor or lessee) or sells or otherwise disposes of, assets having an Aggregate Net Value in excess of 10% of the Average Market Capitalisation of the Issuer; or
- (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 value of those securities being issued to the Related Party are to be taken into account; or

- (c) borrows, lends, pays, or receives, money, or incurs an obligation, of an amount in excess of 10% of the Average Market Capitalisation of the Issuer; or
- (d) enters into any guarantee, indemnity, underwriting, or similar obligation, or gives any security, for or of obligations which could expose the Issuer to liability in excess of 10% of the Average Market Capitalisation of the Issuer; or
- (e) provides or obtains any services (including without limitation obtaining underwriting of Securities or services as an employee) in respect of which the actual gross cost to the Issuer in any financial year (ignoring any returns or benefits in connection with such services) is likely to exceed an amount equal to 1% of the Average Market Capitalisation of the Issuer; or
- (f) amalgamates, except for amalgamations of a wholly owned Subsidiary with another wholly owned Subsidiary or with the Issuer:

For the purposes of Rule 9.2.2(a), "Aggregate Net Value" means the net value of those assets calculated as the greater of the net tangible asset backing value (from the most recently published financial statements) or market value.

9. Employee Share Schemes and Stock Issuance

The proposed new wording of Rule 7.6.1(f)(i), as outlined in proposal 9 of the Consultation Paper, is set out below.

7.6 Buy Backs of Equity Securities, Redemption of Equity Securities, and Financial Assistance

- 7.6.1 An Issuer shall not acquire or redeem Equity Securities of that Issuer other than by way of:
- (a) an acquisition effected by offers made by the Issuer through NZX's order matching market, or through the order matching market of a Recognised Stock Exchange; or
 - (b) an acquisition effected in compliance with section 60(1)(a) (read together with section 60(2)) of the Companies Act 1993; or
 - (c) an acquisition of the nature referred to in section 61(7) of the Companies Act 1993; or
 - (d) an acquisition or redemption approved in accordance with Rule 7.6.6; or
 - (e) an acquisition required by a shareholder of the Issuer pursuant to sections 110 or 118 of the Companies Act 1993;

or

- (f) an acquisition effected in compliance with section 60(1)(b)(ii) (read together with section 61) of the Companies Act 1993 and:
 - (i) is made from any person who is not a Director, Associated Person of a Director of the Issuer; and
 - (ii) the total number of Equity Securities of the same Class acquired together with all other Equity Securities of the same Class as those Equity Securities that are to be acquired, pursuant to this Rule 7.6.1(f) during the shorter of the period of 12 months preceding the date of the acquisition and the period from the date on which the Issuer was listed to the date of the acquisition, will not exceed 15% of the total number of Equity Securities of that Class on issue at the commencement of that period; or
- (g) a redemption from a holder who holds less than a Minimum Holding; or
- (h) a redemption of Equity Securities issued:
 - (iii) before 1 September 1994; or
 - (iv) in compliance with Rule 7.3.1(a) or Rule 7.3.4, where the Issuer is bound or entitled to redeem those Equity Securities pursuant to their terms of issue; or
 - (v) a redemption in compliance with section 69(1)(a) of the Companies Act 1993; or
- (i) a redemption of Equity Securities that are Debt Securities which may be Converted into shares in an Issuer which is a company, and, before that Conversion, they are redeemed in cash;

Provided that for the purposes of Rule 7.6.1(f):

- (j) Securities which will, or may, convert to other Equity Securities shall be deemed to be of the same Class as, and to correspond in number to, Securities into which they will, or may, convert; and
- (k) where the Conversion ratio is fixed by reference to the market price of the underlying Securities, the market price for the purposes of Rule 7.6.1(f) shall be the volume weighted average market price over the 20 Business Days before the earlier of the day the acquisition is entered into or announced to the market.

10. Financial Assistance

The proposed wording of the amended Rule 7.6.5, as outlined in proposal 10 of the Consultation Paper, is set out below.

7.6.5 An Issuer may give financial assistance of the nature referred to in Rule 7.6.4 if:

- (a) the financial assistance is not given in whole or in part to any Director of the Issuer, Associated Person of a Director or Employee (as defined in Rule 7.3.6) of the Issuer, and the amount of the financial assistance, together with the amount of all other financial assistance given under this paragraph (a) by the Issuer during the shorter of the period of 12 months preceding the date of giving of the financial assistance, and the period from the date on which the Issuer was Listed to the date of giving of the financial assistance, does not exceed 5% of the Average Market Capitalisation of the Issuer; or (Amended 10/05/06)
- (b) the financial assistance is given to Employees (as defined in Rule 7.3.6) of the Issuer and:
 - (vi) the amount of the financial assistance, together with the amount of all other financial assistance given under this paragraph 7.6.5(b)(i) by the Issuer during the shorter of the period of 12 months preceding the date of giving of the financial assistance and the period from the date on which the Issuer was Listed to the date of giving of the financial assistance, does not exceed 5% of the Average Market Capitalisation of the Issuer; and
 - (vii) the amount of the financial assistance, together with the amount of all other financial assistance given under Rule 7.6.5(b)(i) during the shorter of the period of five years preceding the date of the giving of financial assistance and the period from the date on which the Issuer was Listed to the date of the giving of the financial assistance, does not exceed 10% of the Average Market Capitalisation of the Issuer; and
- (c) the financial assistance is offered or given so that all holders of Equity Securities of the Issuer are treated, or given the opportunity to be treated, on the same basis.