

# **A Strategy for Growth—Redefining New Zealand's Equity Market**

NZSE Vision:

To create an efficient equity capital market that maximizes opportunities for New Zealand's diverse and unique businesses while protecting the interests of all investors



# Contents

<b>I. Proposal and Purpose</b>	<b>3</b>
A. Market Pillars	3
B. Listing Types	3
C. Key Points of Difference from the First Proposal	3
D. Goals of this Comment Period	4
E. Giving Feedback	4
<b>II. Market Pillars</b>	<b>5</b>
A. Quality Companies	5
B. Cost Efficient Process Management	5
C. Primary Market: Access	7
D. Secondary Market: Structure and Support	8
<b>III. Non-standard Listings</b>	<b>11</b>
A. Company Types	11
B. Key Listing Differences	11
C. Shared features	11
D. Next Steps	11
<b>IV. Transfer Process</b>	<b>12</b>
A. Unlisted Facility	12
B. New Capital Market	12
C. Main Board	12
<b>V. Appendix</b>	<b>13</b>
A. Standard Listing Rules	13

## I. Proposal and Purpose

After an extended period of feedback and discussion, we have formulated an improved version of our previous proposal. We hope to continue to improve the design of this market over the next couple months in preparation for a launch in Q2 2003. This section briefly outlines the proposal and identifies our goals for this feedback period.

### A. Market Pillars

This new market, and its design, is based on four pillars. An overwhelming portion of our feedback focused on these four issues. We have identified many key market characteristics and mechanics that promote these principles; these are covered in detail in Section II of the proposal.

1. **Quality companies:** Transparency, not artificial constraints, will drive quality. The NZSE will work to place the onus of bringing quality issues to market on company sponsors—and also to deliver power to investors through increased access to information and enhanced information quality.
2. **Cost efficient process management:** A set of listing rules (specific to each listing type) combined with existing legislation and regulation will balance the needs of investors and of small companies. The NZSE will also commit resources to facilitating listing and ongoing compliance.
3. **Primary market: access and participation:** The type and number of firms eligible to bring an issue to market will be expanded by redefining the “organising broker” role. An underwriting/distribution panel will be formed to facilitate capital raising and distribution.
4. **Secondary market: structure and support:** A unique trading structure or “microstructure” consisting of call auctions and market makers will be developed to improve liquidity. Furthermore, increased quantity and quality of information, research, as well as NZSE marketing and education efforts will grow trading volumes and contribute to improved liquidity.

### B. Listing Types

Our proposal of August 2002 defined two types of listings that would be available in the AX (current holding name for new board). We still believe there are two types of issuers that need to be served. In this proposal we call them “Standard” and “Non-standard”, previously we labelled them “Type A” and “Type B”. These two listing types have distinct purposes and should be easily differentiated by investors.

#### Standard

This option is fitting for the majority of small-medium sized companies with a traditional ownership and management structure. Capital raising will be the chief benefit for these issuers.

#### Non-standard

This listing option targets companies and organisations with unique constitutions or structures which are prevalent in NZ. These companies usually have sufficient working capital for operational purposes and may be most motivated by other benefits of a public listing. Price discovery and transparency are likely to be the two most important benefits of listing for these companies. The most unique feature of this option for listing is that it permits defining a fixed set of shareholders.

### C. Key Points of Difference from the First Proposal

This proposal contains some new and important ideas. We remain committed to a creating a market that serves the uniqueness of New Zealand, but have pushed our thinking in a number of key areas and extended our thinking on some areas covered only briefly in the previous proposal.

Below is a summary of the key areas of change and progress:

- New “Company sponsor” role to expand primary market access and challenge company advisors
- Tailored trading microstructure to create and unlock liquidity (e.g., market making, call auctions, tick-size)
- Increased distribution and alternative underwriting options to facilitate listings, broaden distribution, and increase secondary market support
- Appropriately calibrated regulatory framework outline to provide higher level of guidance to potential issuers and their advisors
- Improved information and market transparency plan to increase investor confidence and contribute towards improved liquidity

## D. Goals of this Comment Period

This comment period should conclude with a sufficient level of information and market certainty to allow the NZSE to invest in the specifics of the development of the required infrastructure. Specifically this includes the following activities:

- Build out trading infrastructure.
- Investment in market facilitation efforts.
- Initial marketing efforts.
- Drafting and approval of formal listing rules under the Securities Markets Act 1988.
- Coordination with the Securities Commission regarding exemptions.

Additionally, we hope that this document will provide sufficient direction and clarity to prompt market participants to make similar investments. These might include:

- Approaching those companies appropriate for a listing.
- Preparation of companies for a listing.

- Dedication of AX specialists (e.g., lawyers, accountants, banks).
- Development of specific skills to serve the market (e.g., market making, research)

## E. Giving Feedback

As with the first proposal, we encourage interested parties to submit written comments or to schedule meetings with the NZSE. This feedback should once again be mailed or emailed to:

Geoff Brown  
 NZSE  
 Level 9, ASB Bank Tower  
 WELLINGTON

Or

[Geoff.Brown@nzse.co.nz](mailto:Geoff.Brown@nzse.co.nz)

In addition to these traditional forms of feedback, the NZSE will create informal and balanced working groups to target specific parts of this proposal (e.g., market making, research, distribution panel, company sponsors). A more formalized set of working sessions will be held to address the concerns of key stakeholder groups (e.g., unlisted companies, NCM companies, brokers). Stakeholders and interested individuals can make known their areas of interest either via our website or via email to Geoff Brown.

The NZSE does not have all the answers. The right answers will come from the collaborative input of market participants. If you don't identify yourselves, we will come and find you.

## II. Market Pillars

This section details the mechanics behind the key market principles which will make this market an attractive and distinct option for companies and investors. This is not an exhaustive definition of the market structure. Instead, it focuses on the key aspects and important changes that make this market a unique offering in comparison to the main board and existing structures. All the following aspects will apply to standard issues. Most also apply to non-standard issues. Section III specifically identifies the differences that apply to non-standard listings.

### A. Quality Companies

This marketplace is not a “quick” or expedient method for achieving a public listing. Listing requires firm commitment from a company’s senior management, its directors, and its sponsors. While recognising the damage “fly by night” companies pose to the reputation of the market and the confidence of domestic investors, the NZSE also recognises that it cannot guarantee the success of listed companies. Issuers will not be forced to meet specific admission criteria (e.g., minimum period of existence, profit history) or pass through NZSE created “gatekeeper” type entry mechanisms. Instead, the NZSE will focus on creating an efficient and transparent market whereby investors are empowered to differentiate amongst investment opportunities.

#### Admission Criteria

No minimum market cap or company history measurements will be established. While specific admissions criteria can identify companies more suitable for listing than others, these “rules” do not fit every situation. No minimum bar will be established. Instead, responsibility will be placed on company sponsors to identify quality companies. A migration scheme will be devised to enable migration to the main board for companies sustaining a high market capitalization and seeking the advantages of a position on the main board.

### Company Sponsors

Companies require assistance in the course of a public listing. Today the key participants in this role are the organising brokers. The section covering primary market access will explore the changes to this role in depth, but for a variety of market structure and informational issues, this role needs to be expanded. It is expected that firms fulfilling the role of “organising broker” or “company sponsor” will act responsibly in the selection of companies presented to the market. The NZSE is considering methods by which the company sponsor role can be applied to provide further quality assurance.

### Transparency and Access to Information

The most effective, and straight forward form of quality assurance is transparency. The NZSE has a role in ensuring the widest possible availability of information pertaining to the companies being listed. We intend to significantly improve the quality of information available in both in the primary and secondary markets. Specific details are covered Section D on secondary market support and facilitation.

### B. Cost efficient process management

Companies considering a public listing face two sets of “costs”. The first are associated with the primary offering and/or listing and are one-time costs. The second are the ongoing costs associated with meeting the compliance requirements of a being a publicly listed company. This market aims to lower these costs. There are two primary ways to achieve this:

- Market rules and regulations: A variety of rules and regulations govern publicly listed companies including the Companies Act 1993, the Financial Reporting Act 1993, the Securities Act 1983, the Securities Market Act 1988, and the NZSE listing rules. The NZSE is reviewing how standard and non-standard

listing rules fit within this legislative framework and what rules are necessary and appropriate in the context of this effort.

- **Efficiency improvements:** Without altering any rules or regulations, the NZSE, along with many market participants, can help lower the burden on companies considering a listing.

## **Market Rules and Regulations**

The NZSE is conscious of balancing the sometimes conflicting need of reducing compliance and other process costs with ensuring a robust regulatory environment that will enhance investor confidence, attract investors to the market and provide adequate protections to all market participants. In its efforts to balance these needs, the NZSE has assessed the adequacy of the regulatory regime which exists outside the listing rules as the base compliance requirement.

### ***Listing Rules***

The listing rules will be based on the listing rules that apply to issuers listed on the main board, with a number of exceptions which reflect the differences in the types of companies that are targeted. The NZSE has analysed the additional protections conferred on investors in publicly listed companies by the listing rules and determined whether these protections are necessary in this market. Those rules which provide a needed protection will be retained whilst the other rules will be deleted to the extent that the protection conferred by the existing regulatory framework is perceived as adequate. Accordingly, a number of key listing rules will not be changed or altered.

The appendix contains a section by section analysis of the current listing rules and identifies the rules considered for change.

The Securities Markets Act 1988 provides that any changes to NZSE's listing rules must be provided to the Minister of Commerce. The Minister then seeks advice of the Securities Commission on the proposed changes. Any listing rule changes are required to go through this process.

### ***Securities Commission Exemption***

The NZSE is considering formally applying to the Securities Commission for an exemption that would allow the prospectus and investment statement to be combined into a single disclosure document for all capital raising exercises by for standard issuers. (Non-standard issuers will not be raising capital.) The NZSE is considering the merits of having one investment disclosure document. All feedback received indicates market practitioners see little or no benefit in current requirements for separate prospectuses and investment statements. It is anticipated that, if an exemption were granted by the Securities Commission, this disclosure document would replace the Prospectus and Investment Statement currently required by the Securities Act 1983 whilst still providing prospective investors complete and full information on which to base their investment decision. It is anticipated that such document would not require all the information currently required by the Investment Statement and Prospectus. The NZSE is in discussions with the Securities Commission on this issue although no formal exemption application has been made at this time.

The NZSE would be particularly interested in detailed feedback from issuers or their advisers on elements of either the Prospectus or/ Investment Statement they consider could be dispensed with in the event that a single investment disclosure document were permitted for standard issuers raising capital.

### ***Prospective Financial Information***

Whilst the NZSE continues to question the value that prospective financial information provides to investors, the NZSE does not anticipate that the requirement should be avoided by issuers on this market. The NZSE encourages accuracy in this data so investors have information on which to make decisions.

A prospective statement of expected cash flows for the first year is only required for initial public offerings. A prospective statement is not required for a compliance listing for any company who has previously raised capital by way of an initial public offer. Accordingly, all companies transferring from the main board or from the NCM will not be required to produce this information.

## **Efficiency Improvements**

The NZSE believes that it can provide a number of services to facilitate the process of listing and reduce the uncertainty that surrounds the process. The following is list of the contributions we can make:

### ***Help desk and inquiry triage***

A service oriented approach to answering specific questions from companies, advisors and investors. This will take shape in the form of a website, written communications, and a market help desk where calls and inquiries can be handled personally.

### ***Adviser Reference***

The NZSE will create and develop a list of organisations that have an interest in, and commitment to, serving companies in this market. Referrals will be made.

### ***Listing and Related Services***

The NZSE will provide support by making readily available procedural advice in relation to listing and compliance procedures.

### ***Standard Template Documentation***

The NZSE will develop and make available template versions of constitutions, prospectuses, and other important documents.

## **C. Primary Market: Access**

Today the single pathway to a public listing is the “organising broker”. While many brokers invest heavily in the development of this practice targeting small to medium sized companies, potential issuers will benefit significantly from the expansion of eligible parties that could sponsor or bring the issue to market.

### **Company Sponsor Role**

We propose to expand the “organising broker” role (and change the name) to allow non NZSE member firms (e.g., lawyers, accountants, banks with capital market experience) with extensive knowledge of companies to bring a company to market.

Many companies poised for a listing have yet to develop ties to brokers but have significant, capital based, relationships with professional service firms such as these.

Company sponsors will be regulated by way of a contract with the NZSE similar to the way both issuers and NZSE firms are regulated. The extent of that regulation will ultimately depend on the role they take. A standard of entry, similar to the entry process for brokers, will accredit firms for this role. The company sponsor will have added and ongoing responsibilities both to the market and to the issuer.

### **Underwriting/Distribution**

Underwriting/distribution costs make up the largest part of initial listing costs. Expanding the access options to the primary market will give companies, and their advisors, additional room for creativity in designing a listing process that minimises these types of fees. Company sponsors, and standard issuers, will have two mutually exclusive options for underwriting or distributing new issues:

#### ***Sponsor Driven***

Similar to the current method, the company’s sponsor would underwrite/distribute the entirety of the issue either on its own or in conjunction other parties. A percentage for public allocation is being considered as a potential requirement for this option.

#### ***Distribution Panel***

A group of market participants, the “distribution panel”, would provide the support for issues whose sponsor decides not to handle the entire distribution. Issuers and sponsors could select this method as a more attractive alternative to handling the distribution themselves. Panel participants would self-select into participation based on their ability and willingness to make capital commitments.

This model provides several benefits. First, it facilitates the listing of companies without requiring one single firm to put forth a prohibitive amount of capital or allotment guarantee. Second, it spreads the issue out amongst investors and across brokerage firms. Third, it creates a broad vested interest in the success of

an issue and broadens the attention paid to smaller companies by key secondary market participants.

- **Panel composition:** All NZSE member firms will have the option of joining the distribution panel. Professional service firms and banks that act in the ‘company sponsor’ role will also have the option of joining the panel.
- **Governance:** The panel will govern itself. Membership would be reviewed on an annual basis. The panel is required to accept issues placed before it, with the caveat that if 75% of the participants do not support the listing, the panel has no collective obligation to fulfil the distribution. This “veto” power protects the panel against ill-advised offerings.
- **Participation options:** A tiered structure will aim to allow panel participants member firms to choose their level of commitment. For example, Tier 1 participants could have twice as much capital responsibility (and subsequent access to distribution) as Tier 2 participants. Company sponsors would retain the right, but not the obligation, to control a portion (e.g., 33%) of any issue distributed by the panel.
- **Value proposition to participants:** Participating firms will benefit from access to new issues, and from diversified exposure to, and knowledge of, multiple new issues.
- **Mechanics:** Panel participants would be given allotments of the issue and be required to distribute those allotments. Capital commitments would be due to the issuer on the closing date.

## D. Secondary Market: Structure and Support

Attracting a large number of quality issuers is not the only success target. The aim is to create an active and liquid marketplace that will unlock many core benefits of a public listing (e.g., price discovery, liquidity). Given the current illiquidity of small cap stocks on the main board, this is a particularly challenging goal. Achieving liquidity requires unique and innovative approaches across a number of areas. All of these approaches have been applied to some degree in offshore markets.

## Microstructure

A new approach to trading will unlock and create additional liquidity in small-cap stocks<sup>1</sup>. “Microstructure” encompasses all the design features and rules and regulations of the trading process. The current price matching structure does not maximise potential liquidity, nor encourage the creation of additional liquidity. Attention to these specific aspects of the market is particularly important for smaller, more illiquid securities.

### Trading Hours

Market hours will remain the same as hours for the main board.

### Call Auctions

Market will open and close with a one-hour call auction where bid and ask quotes are aggregated and then executed at a single price. The main board currently has a pre-open call auction period. This mechanical structure will be used in facilitating call auctions in this market. This ensures that all potential trades between willing buyers and sellers are made, and eliminates the need for exact matching that is so difficult in small markets. Additionally, this will concentrate liquidity in specific bands more effectively than setting unique trading hours.

### Tick Size

Issues will trade on wider tick sizes than currently in place. Tick sizes will vary based on share price. A 2-5% spread is the proposed target band with \$.01 and \$.05 being the smallest and largest, respectively, ticks available. Below is a table showing the proposed tick sizes:

Share price (\$)	Tick size (\$)
0-.50	.01
.51-1.00	.02
1.00 +	.05

<sup>1</sup> Trading structure changes, including rules and regulations, will also be considered for the ability to maximize liquidity for main board issues.

Increased tick size should increase the incentive of brokers to act as market makers and provide liquidity to the market.

### **Market Making**

Each standard issue will be assigned at least one market maker. Assignment occurs either voluntarily as brokers develop unique company knowledge or as part of a requirement placed upon the company sponsor. If the sponsor is not able to make the market, they must enlist the support of a member firm. There are a few key impediments to market maker implementation (e.g., short selling restrictions, scrip lending tax considerations, trade fees, etc.). Overcoming these hurdles requires a high level of cooperation and input from the broking firms. We expect to form a group to address the feasibility of this proposal.

In general, the market making role:

- Improves the efficiency of the price discovery process
- Fills the liquidity gaps in trading
- Reduces price volatility
- Increases the importance of market information
- Increases the attention paid to smaller companies by brokers
- Offers brokers the opportunity to earn attractive returns

### **Best Price Obligation**

The AX will impose a rule similar to rules in other markets (e.g., NYSE) whereby brokers are required to deliver the best possible price, regardless of bid or ask, to their client.

### **Straight to Market**

The majority of trading activity will be small, retail trades. Trade orders below a certain size will be required to go straight into the market.

### **Undisclosed Orders**

Brokers will not be allowed to place undisclosed orders.

### **Trading products and Support**

In addition to a customised microstructure, liquidity and activity in standard issues will also be supported via the appropriate use of various trading and information products. Implementation requires a cooperative approach by the NZSE and key participants. We will actively seek out participants that are well positioned to make these products and ideas a reality and a success. Below are descriptions of various ideas:

#### **Indices**

A basket of standard issues providing representative and stable tracking of market performance.

#### **ETF's**

An investment product allowing broad exposure to standard issues. Specific challenges for this product include:

- Trading risk
- Portfolio construction
- Economics of manufacture

### **NZSE Sponsored Information**

Transparency and access to information are critical features of successful markets. Free and readily available information is a public good that promotes corporate discipline and provides investors with the ability to make important investment decisions. New Zealand currently lacks a free and readily available source for information on smaller companies, their operations, and their key performance metrics. While a number of investor information websites cover New Zealand companies, there are none that freely distribute a level of information beyond basic

corporate summaries. This type of service is especially important for companies with less liquidity, less coverage from professional institutions, and lower public profiles. The NZSE will work to ensure that investors have free access to advanced levels of information for issues in this space.

### **Collection**

Issuers will be required to submit company information, via the NZSE company announcements platform, to the NZSE that will be distributed for investor consumption. The NZSE will define required information.

### **Distribution**

Either via partnership or on its own, the NZSE will provide an information website where investors can access a broad range of information. A review of information available in offshore markets provides a guideline for content. The following is a list of information items that should be available on each company:

- Business summary
- Names and biographies of senior managers
- Names and biographies of directors
- Information on company sponsors
- Annual reports
- Mandatory filings (e.g., Prospectus, Investment Statement, annual reports, semi-annual reports)
- Historical financials
- Historical stock performance
- Official company announcements
- Official company presentations
- Related press articles

### **Research**

Small to medium sized New Zealand companies, and their potential investors, are currently disadvantaged by a lack of professional research. Companies in the top 40 on the main board tend to get a solid level of coverage. However, outside this group of companies research is lacking. There are many explanations for the lack of research ranging from the economics of production to the lack of company commitment. These obstacles must be overcome. We have considered a number of ways to achieve this and will settle on one or more of the options listed below:

- **Coverage by Company Sponsors:** Require mandatory coverage requirements from company sponsors for a period of time following the initial listing.
- **Commissioning of an independent provider(s) to supply coverage for the entire market:** The NZSE is currently exploring (i.e., speaking with potential providers) economical means of achieving value added research coverage for the entire market. We recognise that full, comprehensive reports that include projections and valuation models may be prohibitively expensive. Nonetheless, there exists a spectrum of options that could potentially add additional transparency and value to this market.
- **Distribution panel:** The distribution panel jointly funds coverage of companies distributed via the panel either by independent firm or other research coverage provider (e.g., member firm).

### III. Non-standard Listings

This customised listing option will allow companies with specific needs and/or constitutional restrictions the ability to benefit from the transparency, price discovery, and liquidity offered by a listing on a regulated electronic market. This listing structure has a smaller set of target companies. Below are details of the key operational and regulatory features that distinguish this listing alternative. Because the rules and regulations over these issues will be different than those over standard issues, they will be clearly defined or 'tagged' in the market.

#### A. Company Types

Unlike the standard listing, this listing option targets companies that are likely to have sufficient working capital for operational purposes and that are not in need of capital to fund projects with significantly different risk profiles from the underlying business. Notably, this listing is not likely to allow for a capital raising event. Within New Zealand there are several large organisations that could choose to benefit from this type of offering.

#### B. Key Listing Differences

##### ***Defined Shareholder Universe***

Restricts trading to a group of individuals defined by the issuing organisation. Individuals not identified as approved shareholders are not able participate in the market.

##### ***Rules and Regulations***

Rules and regulations governing this listing structure will be proposed through a process similar to that undertaken for standard issue listing rules. More specifically, the NZSE will consider the current set of regulations over these organizations and determine to what extent additional protections are necessary.

##### ***Admission***

Companies will be introduced to the market and bring with them an existing set of shareholders. An application process, combined with a defined set of required filings, will be designed. Company sponsors will have a large role to play just as they do for standard listings.

#### C. Shared features

As stated earlier, a significant number of the ideas and design features identified the Market Detail section will apply to non-standard issues. Some of the key features are:

##### ***Continuous disclosure:***

For the protection of shareholders, continuous disclosure will be required of non-standard issues. The NZSE will make this information available to shareholders electronically in the same fashion its does for all other issues.

##### ***Transparency:***

In addition to company disclosures, the NZSE will encourage and promote the distribution of information on the issuers and their activities.

##### ***Microstructure:***

Efforts to improve liquidity and the shareholder's ability to find the best possible trade will be extended to apply to this listing class as well. Some of the features will be applied differently (e.g., market making), but the goals are the same.

#### D. Next Steps

Design and implementation of this customized listing structure will require a high level of coordination between targeted companies, their advisors, regulators and the NZSE. We will be forming specific working groups to identify the right set of listing rules and structure.

## IV. Transfer Process

This effort will result in the immediate discontinuation of the NCM and, ultimately, the unlisted facility. However, the NZSE will take special consideration in facilitating solutions for companies currently listed on the NCM or unlisted facility. Companies currently listed on the main board, and fitting the targeted company profile, will be encouraged to consider a transferring to the AX under a standard listing. We plan on holding formal working sessions with these groups companies and their advisors to address the specific mechanics of transfer.

Below we explain our reasons for redefining the equity market structure and also our initial thoughts regarding the transfer process for each segment.

### A. Unlisted Facility

The NZSE currently facilitates trading for some unlisted companies with no set listing rules to protect investors or guide companies. There are roughly 60 companies that are currently “traded” on the unlisted facility. There exists the potential that investors, and sometimes the companies themselves, can be misled into believing that this facility offers the same value proposition and protections as a recognised market. In addition to having very poor pricing information and very minimal transparency, basic company information is extremely difficult to access. Furthermore, the majority of these stocks are not settled through FASTER or any low risk electronic settlement system. This allows for the potential of long settlement delays and a heightened settlement risk. Accordingly, as appropriate, this facility will be wound down. The process and timing for this wind-down is yet to be determined.

The majority of companies on the unlisted facility are solid candidates for listing. Of these listing candidates, the majority fit the standard listing profile. However, some are a better fit for the main board. The process for transfer will be largely dependent on the status of compliance companies have achieved and on their past capital raising activities. Given the diversity of the unlisted facility issuers, there is no single prescribed manner for transfer. Furthermore, the process will

depend on whether or not companies are looking for a compliance listing or a listing that raises additional capital.

### B. New Capital Market

The NCM did not succeed in capturing the support of companies or capital market participants. This occurred for a number of reasons. First, unique and difficult to follow regulatory structures raised the costs of compliance, failed to attract investor confidence, and confused key company advisors. Second, numerous restrictions were placed on the types of capital market activities available to these companies (e.g., debt issue, capital raising of greater than \$1 million issue of stock options). The NZSE has tried to address these issues in the creation of this new market.

NCM companies deciding to transfer will do so as standard listings and the NZSE will work to facilitate this process.

### C. Main Board

All main board issuers considering a transfer would do so under a standard listing. The AX will provide a unique value proposition to small-cap companies and main board companies will not be excluded from taking this option. Those companies currently listed on the main board who believe that their company would be better served by a standard listing on the AX will be encouraged to transfer. Companies that wish to transfer from the main board must be under a certain size (e.g., \$50m). Feedback is invited on this ceiling level. Transfer rules and guidelines (e.g., shareholder vote, public notification) will be finalized to govern this process and to ensure companies make the transfer in a manner that protects investor interests.

Once again, the NZSE will hold working session that address these issues for main board companies.

## V. Appendix

### A. Standard Listing Rules

It is proposed that listing rules for the new board should comprise the existing listing rules with a series of amendments to reflect the specific needs of this market, particularly where the existing regulatory regime adequately protects investors. As already mentioned, the NZSE is particularly interested in receiving feedback from issuers and their advisers in relation to particular existing listing rules they believe should be varied or are not applicable to this market. The following analysis identifies proposed listing rule changes to the main board listing rules. Many of the areas are identified as suggestions only, others are firm proposals.

#### Section 1: Interpretation, Rulings and Waivers

- NCM specific terms will be removed, such as key transaction, NCM Associate, etc
- Additional terms that relate to standard listings will be included.

#### Section 2: Compliance and Enforcement

- It is proposed that the Board of the NZSE make additional delegations to the Market Surveillance Panel giving it authority in relation to standard (and non-standard) listings (similar to main board)
- The NZSE is looking at the costs to issuers in providing a bond under LR 2.8.2 and appropriate levels of bond.

#### Section 3: Constitution, Trust Deeds and Directors

- The NZSE proposes to provide a template document to assist standard issuers in the preparation of their Constitution. For those issuers with a Constitution already in place, the NZSE will require an issuer to certify that its Constitution complies with, or is not inconsistent with, the template.
- LR 3.1.1 is to be amended so that it can be reduced by requiring each Constitution to include a provision to the effect that the Listing Rule's prevail

over the provisions of a company's Constitution where the two are inconsistent.

- LR 3.1.1 (b) which relates to non-code companies is to be deleted.
- LR 3.2 is to be amended to include hybrid securities which are set up by trust deed rather than by constitution.
- LR 3.3 – It is proposed that the requirement in terms of Directors for standard issuers is as follows:
  - Three directors with one independent; or
  - If the CEO is the chairman an extra independent director is required
  - If more than three directors the Board is to comprise at least 1/3 independent directors.
  - It is proposed that waivers be considered from the requirement for independent directors
- Corporate governance rules will apply in full to standard issuers but will be on a 'code' basis (i.e. can choose not to comply but have to state why) rather than rule basis (with 1 or 2 variations, e.g. number of directors)
- LR 3.3.8 and 3.3.9 – NZSE is interested on receiving comment on standard issuers be exempt from compliance with these rules which relate to the rotation of Directors on the basis that there is sufficient protection for shareholders contained in the Companies Act 1993 (sections 150 to 154)
- LR 3.4.3 – NZSE is interested in receiving comment on this rule which restricts interested directors from voting. The NZSE questions whether there are adequate protections for shareholders contained in the Companies Act. The NZSE does not consider that the Companies Act protections are sufficient but would be interested in receiving stakeholder views.

#### Section 5: Listing and Quotation

- LR 5.1.3 – It is proposed that there be no prescribed minimum value for standard listings.

- LR 5.2.3 – Spread requirements are also to be revised for standard issuers to 200 members (or possibly no spread requirements)
- It is proposed that the listing process be simplified for issuers by reference to template documents to be provided by the NZSE.
- LR 5.2.1 – The requirement for an organising broker in relation to listing is being reviewed by the NZSE.
- LR 5.3.4 – It is also queried whether the independent vetting of technical or financial information contained in any offering document, constitution or trust deed is needed.

#### **Section 6: Requirements for Documents**

- LR 6.1.3 - The NZSE is considering whether an independent solicitor's opinion in relation to trust deeds or constitutions is needed in the case of standard issuers. Costs could be reduced by dispensing with this requirement for issuers and instead requiring a solicitor's certificate in relation to the constitution or trust deed from the applicant's solicitor.

#### **Section 7: Issue and Buy Backs of Shares**

- LR 7.3.5 – The NZSE has queried whether the requirement for equity securities to be issued within the 10% limit should apply to issuers, given that smaller businesses may use the issue of shares to acquire assets and grow. On that basis it is proposed that issuers be allowed to issue up to 20 or 25% where they use the issue for an acquisition.
- LR 7.3.6 – Similar increases should also be made for employee share schemes.
- LR 7.5 and 7.6 – which regulate issues and buy backs of securities affecting control should be deleted for issuers on the basis that there is sufficient regulation under the Companies Act 1993, in particular sections 58 to 61 which set out provisions relating to the acquisition of its own shares by a company.

#### **Section 9: Transactions with Related Parties and Major Transactions**

- LR 9.1 – The NZSE would be interested in receiving stakeholder views on this rule and its application to AX companies. The NZSE is currently of the view that AX companies should comply with this rule as the major

transactions regime contained in the section 129 of the Companies Act 1993 does not adequately protect investors.

- LR 9.3 – The NZSE would be interested in receiving stakeholder views on the voting restrictions contained in this rule and their appropriateness for AX companies. It is questioned whether the Companies Act regime in relation to interested directors confers adequate protection or whether interested directors should be restricted from voting. NZSE is currently of the view that the Companies Act regime does not confer adequate protection.

#### **Section 11: Transfer and Statements**

- LR 11.1.4 (a) – prohibits pre-emptive rights in shares. Given that smaller companies, such as those which may select a standard listing, may wish to transfer shares within a family, it is proposed that this rule be amended for issuers to enable transferability of shares to family members.

#### **Section 12: New Capital Market**

- Following the transition of currently listed NCM issuers off the NCM, it is proposed that these rules be revoked.