

NZX Regulation Decision

Livestock Improvement Corporation Limited (LIC) (NS)
Application for Waivers and Rulings from NZX
Definitions of “Minimum Holdings” and “Renounceable”,
NZX Listing Rules 2.3.1, 2.3.2, 3.13.1, 6.2.4, 6.6.1 and
8.1.6(b)

1 October 2020



Background

1. The approval from NZX Regulation (**NZXR**) for the Rulings and waivers set out in the decisions below will not apply if the information provided by LIC is not, or ceases to be, full and accurate in all material respects.
2. This decision relates to the redocumentation decision granted by NZXR to LIC when it migrated to the NZX Main Board on 1 July 2019.
3. The information on which this decision is based is set out in Appendix One to this decision.
4. The Rules to which these decisions relate are set out in Appendix Two to this decision.
5. Capitalised terms which have not been defined in this decision have the meaning given to them in the NZX Listing Rules (**Rules**), and in Appendix One.

Ruling on definition of “Minimum Holdings”

Decision

6. On the basis that the information provided by LIC is complete and accurate in all material respects, NZXR grants the Ruling that the term “Shareholding Requirement” (the **Shareholding Requirement**) as defined in LIC’s Constitution (the **Constitution**) replaces “Minimum Holdings” for the purposes of the definition of “Minimum Holdings” in the Glossary of the Rules.

Reasons

7. In coming to the decision to provide the waiver set out in paragraph 6 above, NZXR has considered that:
 - a. the Ruling is required to ensure that LIC’s shareholdings reflect the Share Standard requirements set out in its Constitution, which is integral to its co-operative ownership structure; and
 - b. LIC has previously been granted a waiver from an equivalent provision under the 1 October 2017 NZAX Listing Rules (the **NZAX Rules**) in an NZXR decision dated 9 February 2018 and under the Rules in the Migration Decision, and LIC’s operating structure has not materially changed.

Ruling on definition of “Renounceable”

Decision

8. On the basis that the information provided by LIC is complete and accurate in all material respects, NZXR grants LIC a Ruling to the extent that the definition of “Renounceable” refers to a Right or an offer of securities by LIC that is transferrable to any person entitled to hold those securities under the Constitution for the purposes of the Rules.

Reasons

9. In coming to the decision to provide the Ruling set out in paragraph 8, NZXR has considered that:
 - a. this waiver is required to facilitate LIC’s co-operative structure; and



- b. LIC has previously been granted a waiver from an equivalent provision under the NZAX Rules in an NZXR decision dated 9 February 2018 and under the Rules in the Migration Decision, and LIC's operating structure has not materially changed.

Waiver from Listing Rules 2.3.1 and 2.3.2

Decision

- 10. Subject to the conditions in paragraph 11, and on the basis that the information provided by LIC is complete and accurate in all material respects, NZXR grants LIC waivers from:
 - a. Rule 2.3.1, to allow director nominations for Elected Directors by Users to be restricted by:
 - i. region, as set out in clause 22.4(b) of the Constitution; and
 - ii. qualification, as set out in Schedule 3 of the Constitution; and
 - b. Rule 2.3.2, to allow the nomination procedures for Appointed Directors and Elected Directors (including casually appointed directors) as set out in Schedule 3 of the Constitution.
- 11. The waivers contained in paragraph 10 are subject to conditions that:
 - a. LIC bears a "Non Standard" designation to alert investors to LIC's unique governance arrangements; and
 - b. these waivers cease to have effect in the event of any changes to LIC's governance structure.

Reasons

- 12. In coming to the decision to provide the waivers set out in paragraph 10 above, NZXR has considered that:
 - a. the waivers allow LIC's corporate governance structure and Constitution to operate, reflecting the co-operative nature of LIC;
 - b. LIC's current Elected Directors' nomination, appointment and ratification process is thoroughly understood by LIC's shareholders and reflects the co-operative nature of LIC;
 - c. LIC's Elected Directors have been elected by LIC's shareholders on a regional basis, and its Appointed Directors are appointed by the Board, in accordance with the procedures set out in the Constitution;
 - d. LIC has submitted, and NZX has no reason not to accept, that the election procedures are a robust, democratic and appropriate method of providing representation on a regional basis for LIC's shareholders and introducing the skills of external directors (i.e. non co-operative members), while ensuring there is appropriate independence on LIC's Board;
 - e. LIC's governance structure and nomination procedures have been considered and approved by LIC's shareholders on 15 October 2020; and
 - f. LIC has previously been granted a waiver from an equivalent provision under the NZAX Rules in an NZXR decision dated 9 February 2018 and under the Rules in the Migration

Decision, and the relevant features of LIC's governance structure have not materially changed.

Waiver from Listing Rule 3.13.1

Decision

13. Subject to the conditions in paragraph 15, and on the basis that the information provided by LIC is complete and accurate in all material respects, NZXR grants LIC a waiver from Rule 3.13.1 to the extent that this Rule requires LIC to release to the market details of Nil Paid Shares (issued under the Reclassification) which are converted into Fully Paid Shares.
14. For the avoidance of doubt, LIC does not need to release a notice under Rule 3.13.1 if no Nil Paid Shares have been fully paid up within the calendar month.
15. The waiver in paragraph 13 above is provided on the conditions that:
 - a. LIC must give to NZX for release to the market details of the Nil Paid Shares that are converted into Fully Paid Shares for a calendar month in the form as required under Rule 3.13.1, aggregating the number of Nil Paid Shares that have been paid up (if any) to provide monthly totals;
 - b. notices required under paragraph 15(a) must be provided to NZX no later than on the first business day of the calendar month following the calendar month to which the notice relates; and
 - c. every notice made under paragraph 15(a) must clearly be identified as a payment notice for Nil Paid Shares and include a reference that the notice is being made in reliance on this waiver and where a copy of the waiver is available.

Reasons

16. In coming to the decision to provide the waiver set out in paragraph 13 above, NZXR has considered that:
 - a. the information provided under Rule 3.13.1 is generally required to inform investors of the dilutionary effect on their quoted securities when securities are issued, acquired or redeemed. The structure of the Reclassification is such that each Nil Paid Share issued to LIC shareholders carries the same dividend and voting rights as attached to the Fully Paid Shares. The Nil Paid Shares were issued to ensure that the relative values and rights attaching to the two classes of shares were equalised;
 - b. the number of shares displayed on the NZX register will not include Nil Paid Shares and that LIC shareholders are not being diluted by any conversion from Nil Paid Shares to Fully Paid Shares. Therefore, the granting of this waiver will not offend the policy behind Rule 3.13.1;
 - c. LIC submits, and NZX has no reason not to accept, that managing approximately 10,000 shareholders and their ability to pay up their respective Nil Paid Shares at any time (pursuant to the Constitution) would otherwise create unnecessary complexity and administrative burden to LIC if it had to release daily notices under Rule 3.13.1;
 - d. this waiver is limited to the Nil Paid Shares issued under the Reclassification only, which are converted to Fully Paid Shares, and will not apply to other issues, acquisitions or



redemptions of units (for example, a bonus issue of units as a result of a bonus issue in respect of LIC shares), which could affect the value of units;

- e. in the absence of a waiver, notifications under Rule 3.13.1 would have to be made on a daily basis. Notices of events which could have a dilutionary effect on the value of the units may not be highlighted due to the similarities in the announcements and therefore, the policy intention of this Rule would not be met;
- f. NZXR considers that notices which would be provided under Rule 3.13.1 to document the payment of Nil Paid Shares are generally not of any significant value to LIC shareholders. Further, NZXR considers that there will be no detrimental impact on shareholders if they receive these notifications on a monthly basis; and
- g. LIC has previously been granted a waiver from an equivalent provision under the NZAX Rules in an NZXR decision dated 23 July 2018 and under the Rules in the Migration Decision.

Waiver from Listing Rule 6.2.4

Decision

- 17. Subject to the conditions in paragraph 18, and on the basis that the information provided by LIC is complete and accurate in all material respects, NZXR grants LIC a waiver from Rule 6.2.4 to allow the Nil Paid Shares to carry full voting rights.
- 18. The waiver granted in paragraph 17 above is provided on the conditions that:
 - a. Nil Paid Shares with full voting rights are only issued for the purpose of the Reclassification; and
 - b. LIC clearly and prominently discloses this waiver, its conditions, and its implications in LIC's annual reports, during the period the waiver is relied on.

Reasons

- 19. In coming to the decision to provide the waiver set out in paragraph 17 above, NZXR has considered that:
 - a. the policy behind Rule 6.2.4 is to ensure that the voting rights of fully paid shareholders are not unfairly diluted as a result of the issue of partly paid, or unpaid, shares. NZXR is comfortable that the granting of this waiver does not offend the policy of this Rule as the Nil Paid Shares were issued to Users on a pro rata basis to their holdings of Co-operative Control Shares before the Share Simplification Restructure;
 - b. LIC's shareholders approved the Share Simplification Restructure on 14 March 2018;
 - c. LIC has submitted, and NZXR has no reason not to accept, that following the completion of the Share Simplification Restructure, this waiver remains relevant to facilitate the implementation, as there are outstanding Nil Paid Shares held by LIC Users. The simplification of the two classes of shares required partial consideration to be provided to ensure that all shareholders were receiving the correct amount of ordinary shares (including both fully paid and Nil Paid); and



- d. LIC has previously been granted a waiver from an equivalent provision under the NZAX Rules in an NZXR decision dated 9 February 2018 and under the Rules in the 2019 Migration Decision, and LIC's structure has not materially changed.

Waiver from Listing Rule 6.6.1

Decision

20. Subject to the condition in paragraph 21, and on the basis that the information provided by LIC is complete and accurate in all material respects, NZXR grants LIC a waiver from Rule 6.6.1 to allow the lien provision in clause 18 in the Constitution to be read in place of this Rule.
21. The waiver contained in paragraph 20 is conditional on LIC bearing a "Non Standard" designation to act as notification to the market of its unique co-operative company structure.

Reasons

22. In coming to the decision to provide the waiver set out in paragraph 20 above, NZXR has considered that:
 - a. LIC shareholders are also customers of LIC, and must transact with the company to remain as co-operative members and shareholders. As a result, LIC shareholders are likely to have amounts owing to LIC on multiple accounts which are not specifically tied to the shares that they hold in LIC;
 - b. Rule 6.6.1 restricts an Issuer's lien on Equity Securities to unpaid amounts relating to, and owing on, Equity Securities. LIC's broader lien, as provided in the Constitution, reflects the commercial transactional relationship between a company and its customers. In the absence of a waiver, LIC's ability to recoup amounts owed on products and services supplied on credit to shareholders may be prejudiced;
 - c. the Constitution, since 2002 (following the enactment of the Dairy Industry Restructuring Act 2001), has contained a lien provision of the same breadth, allowing LIC to recover amounts presently payable by a shareholder on account. LIC's co-operative structure and its application of liens under the Constitution have not materially changed; and
 - d. in an NZXR decision dated 9 February 2018 and the 2019 Migration Decision, LIC was granted Rulings that the equivalent provision under the NZAX Rules and the Rules did not apply to LIC due to its "Non Standard" designation. LIC will retain its "Non Standard" designation under the Rules to alert investors to its unique company structure.

Approvals under Listing Rule 8.1.6(b)

Decision

23. Subject to the conditions in paragraph 24, and on the basis that the information provided to NZXR is full and accurate in all material respects, NZXR grants LIC approval to include the following restrictions in the Constitution:
 - a. LIC is restricted in relation to the voting securities that may be issued, as set out in clause 3.2(b) of the Constitution, thereby maintaining its co-operative structure;
 - b. ordinary shares in LIC may only be held by or transferred to certain persons, as set out in clause 3.2(c) of the Constitution;

- c. ordinary shares in LIC shall not be held or acquired for the benefit of any person who is not a User, unless an exception is provided, as set out in clause 3.2(d) of the Constitution;
- d. no person shall hold a relevant interest in more than 5% of the total number of ordinary shares in LIC on issue, as set out in clause 6.3(a) of the Constitution;
- e. LIC may require Users who have spent in excess of the Minimum Purchase Amount to compulsorily acquire sufficient ordinary shares to meet the Shareholding Requirement, as set out in clause 7.1 of the Constitution;
- f. LIC may require Users who no longer spend the Minimum Purchase Amount to compulsorily dispose of their ordinary shares, as set out in clause 7.2 of the Constitution; and
- g. while the Dairy Industry Restructuring Act 2001 restricts voting rights in LIC, no person can exercise, or control the exercise of, more than 1% of the maximum number of votes exercisable at any meeting of LIC, as outlined at clause 20.4 of the Constitution.

24. The approvals granted in paragraph 23 above are conditional on:

- a. LIC retaining its “Non Standard” designation to act as notification to the market of this matter;
- b. there being no further changes to the Constitution or corporate governance structure (except to reflect the changes approved at the 2020 Annual Meeting to the Constitution e.g. Governance Changes); and
- c. the approved restrictions and their implications being clearly disclosed in LIC’s Service Rules which are released annually to coincide with the farming season (June 1 – 31 May) (the **Service Rules**).

Reasons

25. In coming to the decision to provide the approvals set out in paragraph 23, NZXR has considered that:

- a. the transfer restrictions were approved by LIC shareholders on 14 March 2018 when the shareholders approved the Constitution which came into effect on 19 July 2018;
- b. the transfer restrictions are clearly disclosed in the Constitution and the Service Rules,
- c. it is appropriate to approve the transfer restrictions so that LIC is able to maintain their co-operative structure, and to comply with their statutory duties;
- d. the condition contained in paragraph 23(c) ensures that Users will be fully informed of all restrictions on the issue, acquisition and transfer of their ordinary shares; and
- e. LIC has previously been granted a waiver from an equivalent provision under the NZAX Rules in an NZXR decision dated 9 February 2018 and under the Rules in the Migration Decision, and LIC’s shareholding restrictions have not materially changed.

Confidentiality

26. LIC has requested that this application and any decision remain confidential until LIC publishes the announcement following the completion of the 2020 Annual Meeting, that state the LIC shareholders have voted to approve the Governance Changes.



27. In accordance with Rule 9.7.2(a), NZXR grants this request.



Appendix One

Background

1. Livestock Improvement Corporation Limited (**LIC**) is a Listed Issuer with a “Non Standard” (**NS**) designation on the NZX Main Board (**NZX**). LIC migrated from the NZX Alternative Board (**NZAX**) to the NZX Main Board with effect on 1 July 2019.
2. LIC is a farmer-owned co-operative company registered under the Companies Act 1993, operating in the dairy industry in New Zealand.
3. Prior to LIC’s current form as a co-operative company, LIC was a wholly-owned subsidiary of the New Zealand Dairy Board. LIC was established under the Dairy Industry Restructuring Act 2001 (**DIRA**), with a number of elements of LIC’s governance and ownership structure mandated by DIRA. Given LIC’s co-operative structure, certain corporate governance requirements either cannot apply to LIC, or it would create adverse effects.
4. LIC’s shareholders are its customers who spend more than the prescribed minimum expenditure on qualifying products and services in a season (the **Users**) (the **Minimum Purchase Amount**), and employees of LIC (up to a maximum of 5%). It is compulsory for customers of LIC purchasing LIC’s products and services to hold a certain number of shares in LIC based on their expenditure with LIC (the **Share Standard**).
5. LIC shareholders are only able to nominate and vote for directors that represent their region (**Elected Directors**). The regional elections are a key part of the process to ensure appropriate representation of LIC’s shareholders.
6. LIC, until 19 July 2018, had two classes of shares on issue:
 - a. Co-operative Control shares which were not Quoted but had voting rights attached, as well as the right to a specified nominal priority dividend (**Co-operative Control Shares**); and
 - b. Investment shares which were Quoted on the NZAX and did not carry voting rights, but carried a right to a dividend which was subordinate to the priority dividend paid on Co-operative Control Shares (**Investment Shares**).
7. Co-operative Control Shares had a nominal value of \$1.00. Investment Shares did not have a nominal value, and were traded at the market price on the NZAX.
8. LIC had altered its capital structure to reclassify the two classes of shares into a single class of ordinary shares to be Quoted on the NZAX (the **Share Simplification Restructure** or the **Reclassification**). The objective of the Reclassification was to create a sustainable capital structure that aligned LIC’s economic and voting rights.
9. Due to the difference in value and rights attaching to the two classes of shares, the shares needed to be equalised before the reclassification could occur. In order to equalise the two classes of shares, LIC:
 - a. issued three nil paid Co-operative Control shares for every one Co-operative Control Share held. Once reclassified into Ordinary Shares, nil paid shares carry full dividend and voting rights but retain an outstanding liability (**Nil Paid Shares**); and



- b. subdivided every Investment Share held into four fully paid Investment Shares (**Fully Paid Shares**).
10. On 20 July 2018, the Investment Shares and Co-operative Control Shares were reclassified into ordinary shares, following the issuance of Nil Paid Shares, maintaining the pre-restructure shareholding proportions. Nil Paid Shares are not included as part of the number of LIC ordinary shares on issue because they are not tradeable until they are paid up by their respective shareholders. However, Nil Paid Shares retain full voting rights as if it were Fully Paid Shares.
 11. Shareholders with Nil Paid Shares are required to pay up over time, with all dividends paid on the Nil Paid Shares and any Ordinary Shares required to be held to satisfy the Shareholding Requirement being used for this purpose. LIC shareholders may also choose to make additional payments on their Nil Paid Shares at other times.
 12. Link Market Services maintains the register of Nil Paid Shares. As set out above in the waiver to Rule 3.13.1, LIC will update the number of ordinary shares on issue each month after Nil Paid Shares are paid up by LIC shareholders and convert into Fully Paid Shares.
 13. LIC shareholders are encouraged to only make voluntary payments for their Nil Paid Shares on a quarterly basis to reduce the cost and complexity of LIC's administration. However, LIC shareholders are able to pay up their Nil Paid Shares at any time as permitted by the Constitution.

Application for waivers from, or Rulings in respect of, various requirements in the NZX Listing Rules

14. LIC previously relied on a number of waivers and rulings from the NZAX Listing Rules (the **NZAX Rules**), which were granted by NZXR to both allow LIC to maintain its co-operative structure, and to implement the Share Simplification Restructure.
15. As part of its migration to the NZX Main Board, LIC applied for the re-documentation of these Rulings and waivers that were granted by NZXR in 9 February 2018 and 19 July 2018. The waivers and rulings decision was granted on 1 July 2019 when LIC migrated to the Main Board (**Migration Decision**).
16. LIC has, to date, relied on all of the waivers published in the Migration Decision.

Further background information relating to LIC's governance structure changes

17. On 2 September 2020, LIC announced it would introduce the relevant proposal (**Governance Changes**) at its 2020 annual meeting of shareholders on 15 October 2020 (**2020 Annual Meeting**) through amendments of the LIC Constitution (**Constitution**), for LIC shareholder approval.
18. LIC has approximately 10,000 shareholders, spread across four regions (Northern, Midland, Central and Southern regions as defined in its 19 July 2018 Constitution). Under the amendments to the Constitution approved at the 2020 Annual Meeting, it simplified LIC's shareholder voting regions into two – North Island and South Island.
19. Prior to the Governance Changes being approved, the Elected Directors made up seven out of the 10 directors, with the remaining being Board appointed directors from outside of the co-operative. Following the approval of the Governance Changes, Elected Directors make



up six of the 10 directors, with the remaining being appointed directors (**Appointed Directors**).

20. The revised LIC Constitution was approved at the 2020 Annual Meeting and the governance structure relating to LIC directors will be as follows:
 - a. up to three Elected Directors may be elected to represent the North Island Region;
 - b. up to three Elected Directors may be elected to represent the South Island Region; and
 - c. up to four Appointed Directors.
21. Under the Governance Changes, LIC shareholders approved reducing the Elected Director terms to approximately three years (instead of four years) and aligning their election timing with the annual shareholders meeting in October each year.
22. Other Governance Changes included changes to the Shareholder Representation Group (**SRG**) (previously, LIC Shareholder Council). The changes relating to the SRG and the Shareholder Council take effect from 1 January 2021.
23. Under the Governance Changes, LIC shareholders approved transitional arrangements relating to LIC's Board and the Shareholder Council/SRG. To effect the transitional arrangements in respect of the Board, NZX granted LIC a new waiver to Rule 2.7.1, dated 31 August 2020, on a one-off basis to amend the current Elected Directors' terms of tenure to minimise the disruption to LIC and its shareholders. Upon the completion of transitional arrangements (which is expected to be October 2023), LIC will no longer be reliant on that waiver to Rule 2.7.1.
24. All of the changes voted on by LIC Shareholders are set out in detail within the notice of meeting for the 2020 Annual Meeting, as announced on nzx.com on 2 September 2020.

Waivers no longer relied upon by LIC after the approval of the Governance Changes

25. In respect of the Migration Decision, LIC will no longer need to rely on the waiver to Rule 2.7.1 set out in that decisions insofar as below:



MIGRATION DECISION REFERENCE	POSITION BEFORE GOVERNANCE CHANGES	THE POSITION AFTER THE GOVERNANCE CHANGES
Waiver from Rule 2.7.1 (paragraph 10 c. of the waiver decision)	To allow Elected Directors appointed on a casual basis by LIC's Board to stand for re-election on or around the next occurring first day of June, as set out in the Schedule 3 of the Constitution.	LIC's Elected Directors, whether casually appointed or nominated through the regional director nomination process, will have their terms align with the annual meeting in October each year.
Waiver from Rule 2.7.1 (paragraph 10 d. of the waiver decision)	To allow Elected Directors to retire on or around the first day of June each year, four years following their appointment, as set out in clause 23 and Schedule 3 of the Constitution.	Elected Directors will retire and be eligible for re-election at the annual shareholders meeting. Elected Directors currently elected at the time of this decision have had their terms amended on a one-off basis via a separate waiver from Rule 2.7.1 (31 August 2020 decision), but otherwise, will be appointed for up to three years or the third annual meeting following appointment (whichever is longer).

Glossary Definition of "Minimum Holdings"

26. LIC has sought a Ruling that "Shareholding Requirement" as defined in the Constitution replaces "Minimum Holdings" for the purposes of the definition in the Glossary of the Rules.
27. In support of its application, LIC submits that the Ruling is required to ensure that the ownership of the co-operative reflects the amount spent by each of its Users.

Glossary Definition of "Renounceable"

28. The definition of "Renounceable" is tied to Rights that are transferrable by a holder of securities to another person. Due to LIC's co-operative structure, only persons who make the Minimum Purchase Amount and meet the Share Standard are able to hold and transfer securities in LIC. Accordingly, LIC has sought a Ruling such that the definition restricts trading of LIC shares only to persons entitled to hold those securities.
29. In support of this application, LIC submits that:

- a. to reflect the co-operative nature of LIC, the right to transfer securities in LIC must be limited to persons who are entitled to hold securities in LIC; and
- b. the right to hold securities is defined in clause 2.1 of the Constitution.

Listing Rules 2.3.1 and 2.3.2 – Appointment, Nomination, Rotation, Removal and Ratification of Directors

30. LIC's current nomination, appointment and election process has been in place since it was a subsidiary of the New Zealand Dairy Board, and has been carried across to its current Constitution. Due to its co-operative structure, LIC's current nomination, appointment and election process is inconsistent with the Rules. Accordingly, LIC has sought waivers from:

- a. Rule 2.3.1, to allow director nominations by Users to be restricted by:
 - i. region, as set out in clause 22.4(b) of the Constitution; and
 - ii. qualification, as set out in Schedule 3 of the Constitution; and
- b. Rule 2.3.2, to allow the nomination procedures for Appointed Directors and Elected Directors (including casually appointed directors), as set out in Schedule 3 of the Constitution.

31. In support of this application, LIC submits that in respect of:

- a. Rule 2.3.1:
 - i. LIC has two regions (North Island and South Island, as set out in the Constitution) and shareholders are only able to nominate and vote for director(s) that represent their region. The regional elections are a key part of the process to ensure appropriate representation of LIC's shareholders;
 - ii. The respective Elected Directors make up six out of the ten directors, with the remaining being Board appointed directors from outside of the co-operative, being Appointed Directors; and
 - iii. LIC's election process is robust, democratic and an appropriate method of providing representation on a regional basis for LIC's shareholders and introducing skills of external directors (i.e. non co-operative members) while ensuring there is appropriate independence on LIC's Board.
- b. Rule 2.3.2:
 - i. Schedule 3 of the Constitution would be read in place of the Rule. The clause imposes the following restrictions:
 - A. an Elected Director must be an ordinary shareholder of LIC, or a shareholder of a company or a member of a partnership which is an ordinary shareholder of LIC. That ordinary shareholder must use at least one of LIC's herd testing options and must submit a minimum of 60% of one of their herds for artificial breeding to semen marketed by LIC;



- B. no person shall be eligible for election as an Elected Director, or if elected shall immediately vacate office, if in the opinion of the Board that person, directly or indirectly, has a continuing business arrangement with respect to products, services or livestock competing with the products, services or livestock offered or owned by LIC to such an extent that that person should cease to be eligible to be or continue to be an Elected Director; and
 - C. no person shall hold office as an LIC Elected or Appointed Director and a SRG Member (previously, a Shareholder Councillor) concurrently and any person who is holding office as both an LIC Director and a SRG Member shall forthwith resign his or her office as a SRG Member.
- ii. LIC's director nomination process is thoroughly understood by LIC's shareholders, and serves to protect the interests of the co-operative by broad representation throughout New Zealand in a defined process; and
 - iii. there is a high threshold of 75% approval by shareholders for changes to the Constitution, in which the Governance Changes were approved under.

Listing Rule 3.13.1 – Notices of issue of Financial Products

32. LIC sought a waiver from Rule 3.13.1 to the extent that this Rule requires LIC to release to the market details of Nil Paid Shares which are converted into Fully Paid Shares issued under the Reclassification.
33. In support of the application, LIC has submitted that:
- a. the information provided under Rule 3.13.1 is generally required to inform investors of the dilutionary effect on their quoted securities when securities are issued, acquired or redeemed. The structure of the Reclassification is such that each Nil Paid Share issued to LIC shareholders carry the same dividend and voting rights attached to the Fully Paid Shares. The Nil Paid Shares were issued to ensure that the relative values and rights attaching to the two classes of shares were equalised;
 - b. the number of shares displayed on the NZX register will not include Nil Paid Shares and LIC shareholders are not being diluted by any conversion from Nil Paid Shares to Fully Paid Shares. Therefore, the granting of this waiver will not offend the policy behind Rule 3.13.1;
 - c. managing approximately 10,500 shareholders and their ability to pay up their respective Nil Paid Shares at any time (in accordance with the Constitution) would otherwise create unnecessary complexity and administrative burden to LIC if it had to release daily notices until Rule 3.13.1;
 - d. this waiver is limited to the Nil Paid Shares, which are converted to Fully Paid Shares, issued under the Reclassification only, and will not apply to other issues, acquisitions or redemptions of units (for example, a bonus issue of units as a result of a bonus issue in respect of LIC shares), which could affect the value of units;
 - e. in the absence of a waiver, notifications under Rule 3.13.1 would have to be made on a daily basis. Notices of events which could have a dilutionary effect on the value of the



units may not be highlighted due to the similarities in the announcements and therefore, the policy intention of this Rule would not be met; and

- f. notices which would be provided under Rule 3.13.1 to document the payment of Nil Paid Shares is generally not of any significant value to LIC shareholders;

Listing Rule 6.2.4 – Votes attaching to financial products

34. Rule 6.2.4 requires any security that is not fully paid to carry a proportional fraction of the voting rights that would be exercisable if the security were fully paid. LIC has applied for a waiver from Rule 6.2.4 to allow LIC to issue the Nil Paid Shares, with full voting rights.

35. In support of the application, LIC submitted that:

- a. the policy behind Rule 6.2.4 is to ensure that the voting rights of fully paid shareholders are not unfairly diluted as a result of the issue of partly paid, or unpaid, shares. The granting of this waiver does not offend the policy of this Rule as the Nil Paid Shares were issued to Users on a pro rata basis to their holdings of Co-operative Control Shares;
- b. LIC's shareholders approved the Share Simplification Restructure on 14 March 2018; and
- c. this waiver is required to continue to facilitate the implementation of the Share Simplification Restructure, and to provide partial consideration for the simplification of the two classes of shares.

Listing Rule 6.6.1 – Lien and forfeiture

36. NZAX Rule 8.2.1 (being the equivalent of Rule 6.6.1), included an exception for "Non Standard" Issuers to not have to comply with the NZAX Rule 8.2.1. This exception has not been carried across into Rule 6.6.1.

37. LIC has applied for a waiver from Rule 6.6.1 to allow its lien provision in clause 18 of the Constitution to be read in place of this Rule. This is effectively a continuation of the previous Ruling granted to LIC under NZAX Rule 8.2.1.

38. In support of this application, LIC submitted that:

- a. LIC's lien is broader because of the close, transacting nature of the commercial relationship between the company and the customer. The co-operative nature of LIC means that the LIC shareholders must transact with the company to remain as co-operative members and shareholders;
- b. it is, and has always been, a fundamental term of co-operative membership (and therefore of shareholding) that amounts owed to LIC by its members are secured by a lien over its shares. This enables LIC to have comfort as to its ability to recoup amounts owed (e.g. when products or services are supplied on credit). As a provision of significant importance, it is expressly provided for in the Constitution;
- c. the Constitution, since 2002 (following the enactment of the Dairy Industry Restructuring Act 2001), has contained a lien provision of the same breadth allowing LIC to recover money presently payable by a shareholder on any account. The



Constitution has not changed since it was previously granted a Ruling confirming that NZAX Rule 8.2.1 did not apply to LIC; and

- d. in the absence of a waiver, a substantive change to the Constitution and its Service Rules would be required. LIC's ability to recover all amounts owing from LIC's customers (being its shareholders) would be prejudiced, and the co-operative nature of the company would be undermined.

Listing Rule 8.1.6(b) – Transfer restrictions

39. Rule 8.1.6(b) allows an Issuer to include restrictions on the issue, acquisition, or transfer of relevant interests in securities in its Constitution subject to NZX's approval.

40. LIC has sought approval under Rule 8.1.6(b) for the following restrictions to reflect the co-operative nature of LIC's shares:

- a. LIC is restricted in relation to the voting securities that may be issued, as set out in clause 3.2(b) of the Constitution, thereby maintaining its co-operative structure;
- b. Ordinary shares in LIC may only be held by or transferred to certain persons, as set out in clause 3.2(c) of the Constitution;
- c. No person shall hold a relevant interest in more than 5% of the total number of ordinary shares in LIC on issue, as set out in clause 6.3(a) of the Constitution;
- d. LIC may require Users who have spent in excess of the Minimum Purchase Amount to compulsorily acquire sufficient ordinary shares to meet the Shareholding Requirement, as set out in clause 7.1 of the Constitution;
- e. LIC may require Users who no longer spend the Minimum Purchase Amount to compulsorily dispose of their ordinary shares, as set out in clause 7.2 of the Constitution; and
- f. While the Dairy Industry Restructure Act 2001 restricts voting rights in LIC, no person can exercise, or control the exercise of, more than 1% of the maximum number of votes exercisable at any meeting of LIC, as outlined in clause 20.4 of the Constitution.

41. In support of the application, LIC submitted that:

- a. the transfer restrictions were approved by shareholders on 14 March 2018 when the shareholders approved the Constitution, which came into effect on 19 July 2018;
- b. the provisions relating to transfer restrictions are accurately described in the Constitution, and LIC's Service Rules, which are released annually to coincide with the farming season (June 1 – 31 May); and
- c. LIC currently bears a "Non Standard" designation to act as notification to the market of this matter.



Appendix Two

Definitions

Minimum Holding means a holding of a Class of Financial Products having a value of at least \$1,000 calculated:

- (a) prior to Quotation, at the issue or sale price of such Financial Products specified in any Offer Document (and, if expressed as an indicative price range, the mid-point of that range), or
- (b) at any other time, at the Average Market Price.

Renounceable in relation to a Right or offer of Equity Securities means a Right or offer of Equity Securities that is transferable (whether on or off-market) by the holder to another person (whether or not an existing holder of any Equity Securities to which the Right or offer relates).

Rule 2.3 Director Nominations and Appointment

2.3.1 No person (other than a Director retiring at the meeting) may be elected as a Director at a meeting of an Issuer's Equity Security holders unless that person has been nominated by an Equity Security holder who will be entitled to attend and Vote at the meeting if he, she or it continues to hold Equity Securities on the date on which the entitlement to attend and Vote at the meeting is determined.

2.3.2 An Issuer must comply with the following Director nomination process:

- (a) the closing date for nominations must be no more than two months before the date of the relevant meeting at which the election is to take place,
- (b) the closing date for nominations must be announced to the market at least 10 Business Days prior to such closing date,
- (c) there must be no restriction on who may be nominated as a Director, unless:
 - (i) the Governing Document requires Directors to hold certain Financial Products to qualify as a Director, or
 - (ii) applicable legislation restricts who may be a Director of the Issuer,



- (d) subject to (c) above, there must be no precondition to the nomination of a Director other than compliance with the time limits in this Rule, and
- (e) details of all nominations received prior to the closing date (and not later withdrawn) must be included in the notice of the relevant meeting.

3.13 Issues, acquisitions and redemption of capital

3.13.1 If an Issuer issues, acquires or redeems:

- (a) Quoted Financial Products, or
- (b) Financial Products Convertible into Quoted Equity Securities or Options to acquire Quoted Equity Securities,
the Issuer must, subject to Rule 3.13.3, provide for release through MAP in prescribed form (as applicable) details of:
 - (c) the Class of Financial Product and ISIN,
 - (d) the number of Financial Products issued, acquired or redeemed,
 - (e) the nominal value (if any) and the issue, acquisition, or redemption price,
 - (f) whether payment was in cash,
 - (g) any amount paid up (if not in full),
 - (h) for an issue of Convertible Financial Products or Options, the principal terms of Conversion (for example, the conversion price and conversion date and the ranking of the Financial Product in relation to other Classes of Financial Product) or the Option (for example, the exercise price and exercise date),
 - (i) the percentage of the total Class of Financial Product issued, acquired or redeemed (calculated on the number of Financial Products of the Class, excluding any Treasury Stock, in existence immediately prior to the issue, acquisition or redemption),
 - (j) the reason for the issue, acquisition or redemption,
 - (k) the specific authority for the issue, acquisition or redemption (if any),
 - (l) any terms or details of the issue, acquisition or redemption (such as an escrow provision),



- (m) the total number of Financial Products of the Class in existence after the issue, acquisition or redemption (excluding Treasury Stock) and the total number of Financial Products of the Class held as Treasury Stock after the issue, acquisition or redemption,
- (n) in the case of an acquisition of Equity Securities by an Issuer which is a company registered under the Companies Act 1993, whether those Equity Securities are to be held as Treasury Stock, and
- (o) the dates of issue, acquisition or redemption.

Subject to Rule 3.13.2, notices required by this Rule must be released through MAP within one Business Day after the issue, acquisition or redemption. For the purposes of this Rule, the sale or transfer of Treasury Stock by an Issuer is deemed to be an issue of Financial Products.

Rule 6.2 **Votes attaching to Financial Products**

6.2.4 Each Financial Product which is not fully paid will carry the fraction of the Vote which would be exercisable if the Financial Product was fully paid that is proportionate to the payment which has been made (excluding amounts credited and amounts paid in advance of a call).

Rule 6.6 **Lien and forfeiture**

6.6.1 An Issuer's lien on Equity Securities and on dividends or other distributions from time to time declared in respect of such Securities shall be restricted to one in respect of:

(a) unpaid calls, instalments, premiums or other amounts, and any interest payable on such amounts, relating to the specific Securities; and

(b) any amount which the Issuer may be called upon to pay under any legislation in respect of the specific Securities, whether or not the due date for payment thereof has passed.

Rule 8.1 **Transfer of Quoted Financial Products (common rules)**

8.1.1 Subject to the provisions of any legislation, and to Rule 8.1.4, Rule 8.1.6(a), Rule 8.1.6(b) and Rule 8.2, no Issuer may impose, in its Governing Document or otherwise, any restriction on the right of a holder of a Quoted Financial Product to transfer that Financial Product, or any restriction upon registration of a properly completed transfer of Quoted Financial Products.



8.1.6

The Governing Document of an Issuer may:

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- (b) with the prior approval of NZX, incorporate any other provision restricting the transfer of Relevant Interests in Financial Products, or

