



16 February 2022

**APPLICATION FOR WAIVER FROM NZX LISTING RULE 4.19.1
NZX LIMITED**

1. This is a decision of the Special Division of the NZ Markets Disciplinary Tribunal ("*Special Division*").
2. Capitalised terms that are not defined in this decision have the meanings given to them in the NZX Listing Rules (the "*Rules*").

Background

3. NZX Limited ("*NZX*") is a Listed Issuer with Securities Quoted on the NZX Main Board and NZX Debt Market and is subject to the Rules.
4. NZX operates New Zealand's national stock exchange, including being responsible for monitoring, enforcing and developing the market rules under which the NZX markets operate.
5. NZX proposes to undertake a capital raising ("*Offer*") in the form of an accelerated renounceable entitlement offer ("*AREO*"). The AREO structure is intended to be functionally equivalent to a pro rata entitlement offer of new shares in NZX ("*New Shares*") to existing shareholders in NZX. However, the AREO will be conducted in two stages, with an accelerated entitlement offer to institutional shareholders ("*Institutional Entitlement Offer*") followed by an entitlement offer to retail shareholders ("*Retail Entitlement Offer*").
6. The entitlement price will be the same under both the entitlement offers ("*Entitlement Price*").
7. New Shares not, or not able to be, taken up by existing shareholders under the offers will be offered to institutions in two bookbuilds. If the price achieved in the relevant bookbuild is higher than the Entitlement Price, the excess will be shared (on a pro rata basis) between the relevant shareholders who did not, or who were not able to, take up their entitlement.
8. The entitlements are therefore not "renounceable" in the traditional sense, but achieve an equivalent result, with shareholders who do not (or are ineligible to) exercise their entitlement receiving the benefit of any price achieved for the New Shares in the relevant bookbuild above the Entitlement Price.
9. The FMC Act and FMC Regulations impose a control limit restricting any person becoming the holder or controller of more than 10% of the voting rights (in effect 10% of the ordinary shares) in NZX ("*the control limit*"). This is also set out in NZX's constitution.

10. NZX has advised the Special Division that NZX's largest shareholder, Aberdeen Standard Investments (Asia) Limited and Aberdeen Asset Management Limited ("*Aberdeen*") which acts as investment manager for various clients and entities (together, the "*Aberdeen Shareholders*") is understood to have a current relevant interest in respect of shares which Aberdeen and its related entities are the holder or controller of in excess of 9%. Aberdeen is treated as a single person for the purpose of the control limit, in respect of the Aberdeen Shareholders.
11. As institutional investors, the Aberdeen Shareholders will be eligible to participate in the Institutional Entitlement Offer, and not the Retail Entitlement Offer.
12. The acceleration of the Institutional Entitlement Offer may cause Aberdeen to exceed the control limit if the Aberdeen Shareholders take up their full entitlement in the Offer. This is a matter of timing only, as upon completion of the Retail Entitlement Offer, the percentage shareholdings of parties taking up their pro rata entitlement would return back to their current level.
13. In order to ensure that Aberdeen and the Aberdeen Shareholders can both comply with the control limit and take up their full pro rata entitlement, it is proposed that the Aberdeen Shareholders be permitted to settle their subscriptions under the Institutional Entitlement Offer in two tranches:
 - (a) on the settlement date for the Institutional Entitlement Offer; and
 - (b) on the settlement date for the Retail Entitlement Offer,in such a manner that their proportionate shareholdings are maintained (but not exceeded) throughout the two stages of the Offer.

Decision

14. Subject to the conditions below and on the basis that the information provided by NZX is complete and accurate in all material respects, the Special Division grants NZX a waiver from Rule 4.19.1 to the extent that the Rule would otherwise require the allotment of New Shares to Aberdeen and the Aberdeen Shareholders, in respect of subscriptions received under the Institutional Entitlement Offer to occur within 10 Business Days of the closing date for the Institutional Entitlement Offer ("*the Waiver*").
15. The Waiver is provided subject to the following conditions:
 - (a) that, to the extent allotment of New Shares to the Aberdeen Shareholders cannot occur on the settlement date for the Institutional Entitlement Offer without Aberdeen and the Aberdeen Shareholders exceeding the control limit, the allotment of New Shares to the Aberdeen Shareholders occurs on the settlement date for the Retail Entitlement Offer;
 - (b) the Waiver, its conditions and its implications, are disclosed in the Offer document; and
 - (c) the Waiver, its conditions and its implications, are disclosed in NZX's annual report for the financial year ending 31 December 2022.

16. The Waiver will not apply if (a) the information provided to the Special Division is not, or ceases to be, full and accurate in all material respects; or (b) any of the conditions are not complied with.
17. The Rule to which this decision relates is set out in Appendix One.

Reasons

18. In coming to the decision to provide the Waiver, the Special Division has considered that:
 - (a) the purpose of Rule 4.19.1 is to ensure that, where application monies have been submitted, subscribers obtain the benefit of their investment without undue delay;
 - (b) to the extent that allotment of New Shares is delayed in respect of the Aberdeen Shareholders, the Aberdeen Shareholders will not be required to submit their money until the settlement of the Retail Entitlement Offer. Accordingly, in effect, the Aberdeen Shareholders will not be denied the benefit of this capital for any greater period than would otherwise have been the case, as a result of the Waiver;
 - (c) the need for the Waiver from Rule 4.19.1 has only arisen because the Offer is being conducted in two stages – the Institutional Entitlement Offer followed by the Retail Entitlement Offer. The Waiver allows Aberdeen and the Aberdeen Shareholders to stagger the settlement of their subscriptions under the Institutional Entitlement Offer to enable them to comply with the control limit while still taking up their pro rata entitlement under the Offer should they choose to do so;
 - (d) the Waiver has no impact on the control limit; and
 - (e) there is precedent for this decision, including waivers from Rule 4.19.1 granted by NZX Regulation Limited to Synlait Milk Limited on 10 November 2020 and Asset Plus Limited on 10 September 2020.

Confidentiality

19. NZX has requested that this decision be kept confidential until NZX releases an announcement relating to the Offer.
20. In accordance with Rule 9.7.2, the Special Division grants NZX's request.

Appendix One

4.19 Allotment of Financial Products

- 4.19.1 An Issuer making an offer of Financial Products intended to be Quoted (other than Equity Securities issued under Rule 4.8 or Rule 4.9) must allot such Quoted Financial Products no later than 10 Business Days after the final closing date for the offer.