

Response to NZX Listing Rule Review Discussion

Harbour Asset Management Limited

November 30, 2017

The following contains the response from Harbour Asset Management Equities on the NZX Listing Rule Review Discussion Paper:

As members of the New Zealand Corporate Governance Forum (NZCGF), we have participated in the discussion and support the submission of the group response. Our view is mostly aligned with the NZCGF which is why we have submitted this cover letter rather than a comprehensive response addressing each of the questions outlined in the discussion paper. The purpose of this letter is to emphasise areas of our concern.

Our primary issue is the rigidity of some of the proposed changes in the NZCGF submission. Although we support the continuing improvement of corporate governance standards in the New Zealand market, we acknowledge the burden these rules can place on listed companies. One of the risks of changing the rules to be more strict is that it will discourage future NZ companies from listing and also incentivise existing issuers to delist in pursuit of other less stringent overseas listings. The IPO pipeline for NZ has already been low in recent years which is why we support the attention that has been paid to SMEs in the review. However, we must also ensure that our listing rules are not too lenient towards these issuers because we do aim for best practice in corporate governance which is facilitated by the rules. This must also be balanced against the alignment with peer markets overseas to keep the NZ listed market competitive.

We feel that rather than providing differentiated standards for smaller issuers indefinitely, we agree with the forum's suggestion to allow a 'grace' period to provide these issuers time to fully comply to the single set of standards. In our view, the threshold to be considered an SME should be extended to a higher market capitalisation to expand the flexibility to a larger universe of companies that may find it challenging to fully comply at first.

We believe the key areas of focus in this review include the definition of director independence, the threshold for shareholder approval of non-pro-rata capital raisings and major transactions.

We think that the definition of director independence in the listing rules should be reworked to be more transparent and concise whilst truly representing the term. This is important because there are multiple interpretations of independence and a variety of definitions that are currently referenced including the NZCGF's definition in the guidelines, the ASX Corporate Governance code and the FMA Corporate Governance Handbook. Effort should be made to converge these definitions without placing excessive hurdles on achieving the independent status. Legal advice and further market consultation is recommended to decide on the end result of the revised definition. We also support the recommendation for boards to be majority independent getting added to the NZX code.

The threshold for requiring approval from shareholders in the issue of capital through placements has a range of views across the NZCGF. Our take is that we would like to see the threshold lowered to 15% which would be aligned with the ASX listing rules. This will improve the power of shareholders to prevent excessive dilution of holdings to those investors unable to participate in a capital raising. It also prevents overly rigid barriers to issuing capital which may incentivise companies to seek overseas listings. We do agree that pro-rata capital raisings should be recommended in the NZX code to be fair across all shareholders.

We view the current threshold for requiring shareholder approval for major transactions as being too high. We agree that this should be lowered significantly and commend the NZX for the threshold suggested (25% of market capitalisation over the last 20 business days). The definition for major

transactions should also be investigated with the assistance of third parties to ensure coverage of all material transactions that will impact shareholders.

For all remaining discussion points, please refer to the NZCGF submission however we do hope that further market participant consultation is conducted along with analysis into the effects of differential standards on SMEs in the lead up to the revised set of listing rules.

Andrew Bascand, Managing Director



Kevin Bennett, Head of Research



Jorge Waayman, Investment Analyst

