



1 August 2016

Dear LCA Member,

We thought it might be useful to outline some of the work and interaction that the LCA has been undertaking recently on behalf of listed issuers.

***ASX Engagement – Foreign Exempt Issuer Compliance***

The LCA has held discussions with ASX on areas of uncertainty for foreign exempt listed issuers, with regards to ongoing disclosure obligations. Following our discussions, ASX has agreed to amend the ASX Listing Rules and guidance notes to remove the uncertainty expressed by most foreign exempt issuers canvassed by the LCA. Refer to the LCA letter and ASX response on the LCA website: [www.listedcompanies.co.nz/news/](http://www.listedcompanies.co.nz/news/) for more details (password: [tjg\\*vM2U](#)).

During our discussions, ASX encouraged dual-listed issuer's that were uncertain about any compliance obligation to contact their ASX adviser, who was more than happy to assist.

***NZX Listing Rule Review & NZX Corporate Governance Review***

The LCA is collating a list of issues with the current NZX listing rules to feed into NZX's upcoming listing rule review. If you have any issues you would like included on our list, please send them through to [info@listedcompanies.co.nz](mailto:info@listedcompanies.co.nz).

Earlier in the year, the LCA made a submission on NZX's review of corporate governance reporting requirements within the NZX Main Board Listing Rules. We look forward to NZX releasing its proposed changes to the rules over the coming months.

***Submission on IRD Review of Employee Share Schemes***

LCA has, with assistance from Russell McVeagh (and other Executive members), made a submission to the IRD relating to employee share schemes. If you wish to view this, please refer to the LCA website: [www.listedcompanies.co.nz/news/](http://www.listedcompanies.co.nz/news/)

***Recent Industry Meetings***

Several weeks ago, the LCA Executive met with Joost van Amelsfort and Hamish Macdonald of NZX Regulation and Policy; and with John Hawkins of the New Zealand Shareholders Association. We summarise the discussions in the Appendix to this letter (extracted from the minutes of the meeting).

We trust that this update is useful to issuers and we welcome any feedback or queries from any LCA member about the above.

Regards,

**Listed Companies Association Executive**

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## Appendix

### Extracts from the Minutes of the LCA Meeting with NZX & NZSA

#### 1. NZX Session on its review of the corporate governance reporting requirements:

- NZX confirmed that the 45 submissions received had now been published and included submissions from the major law firms and LCA as well as investors and industry bodies, some of which had focused on specific areas such as sustainability / environmental reporting.
- NZX expect to publish the new draft code sometime in Q3 2016, most likely in late August or September subject to approval by the NZX Board. There would then be a period for feedback and submissions which would be about six weeks. Thereafter, the code would be finalised and then sent to FMA for approval before the end of 2016.
- Remuneration was an issue the NZX Board were looking at closely and there was support for a remuneration policy at a high level addressing CEO pay, looking at STIs and LTIs.
- Risk Management was also an issue being considered carefully as there appeared to be a gap in the code to address this in view of the new H&S requirements and ESR reporting. NZX did note that the level of reporting would be different for each company and therefore NZX intended to address this through commentary and not mandatory requirements, it would not be too prescriptive.
- Audit reporting would be dealt with in the main listing rule review.
- NZX noted that there was much support for reporting and disclosure of information on company websites. He also indicated that there would be standard forms of disclosure much like ASX and this would help smaller issuers make compliance easier e.g. with a standard form diversity policy.
- NZX noted and understood that there would need to be a period of transition between the current regime and the new rules and given the likely substantive changes flagged above, the issue of compliance by smaller issuers was raised and noted.
- NZX welcomed submissions from the LCA in respect of the upcoming listing rule review and second round of consultation on the Trading Halt process for price sensitive announcements.

#### 2. NZSA

We met with John Hawkins of the NZSA to go through issues of concern for them. In short:

- Demerger tax situation: JH stated that NZSA believed that some companies were not dealing with the interests of small / minority shareholders. The issue arose as a deemed dividend arose after demerger. He noted that some progress had been made in this area with NZSA having raised and discussed the matter with IoD, CAANZ and SIA. Government / IRD had also agreed to consider the matter as part of the legislative work schedule;
  - Tax treatment of employee share schemes: NZSA noted that some smaller companies were engaging in share schemes that did not benefit shareholders as a whole but certain individuals. No specific examples were mentioned;
  - CEO / director remuneration: NZSA noted that most of the discussions regarding its concerns were held behind closed doors with the companies concerned and JH indicated that NZSA continued to take a pragmatic view on this issue. The argument that pay had to be matched to other companies or a generic statement that this was what the market was paying was not accepted by NZSA. NZSA urged companies to assess what the job was really worth in terms of hours spent by the board, the number of meetings and the complexity of the work;
  - Director remuneration 2: NZSA had recently completed scatter diagrams relating to directors' performance and remuneration. A similar diagram would be completed shortly for CEO pay. JH noted that there was 0.01% correlation between performance and remuneration in the US. He also noted that Government might impose mandatory requirements if the situation continued as it currently did;
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- Financial education: This was an area that continued to concern NZSA. JH outlined some of the initiatives being undertaken by NZSA such as web-based programs and he stated that NZSA believed that companies had a responsibility to increase investor education as did the Government;
  - Whistleblowing Policies: NZSA believed that all companies should disclose their whistleblowing policies in the annual report and on their websites.
  - Placements of shares: NZSA's position was that placements of shares had the ability to disadvantage smaller shareholders. NZSA believed that all shareholders needed to be treated equally and therefore a rights issue was a fairer way of increasing the number of shares as a result;
  - NZX MAP – library of announcements: NZSA had raised the issue with NZX as to the number of announcements that could be publicly accessed. NZX had agreed to increase the number to fifty but NZSA believed that NZX should follow the ASX example and make all announcements searchable and accessible;
  - Registries – deletion of information on change of registry: NZSA had raised concerns with the major share registrars about the deletion of historical information if a company decided to change registries. NZSA believed that this was an odd practice but did not know what companies could do about it.
  - NZX Corporate Governance Review: JH noted that the NZSA submission was on the NZSA website. Without going into it in detail, he confirmed that NZSA generally supported the 'comply and explain' approach.
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