Submission

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NZX Listing Rule Review (27 September 2017)

December 2017

About the McGuinness Institute

The McGuinness Institute was founded in 2004 as a non-partisan think tank working towards a sustainable future for New Zealand. *Project 2058* is the Institute's flagship project focusing on New Zealand's long-term future. Because of our observation that foresight drives strategy, strategy requires reporting, and reporting shapes foresight, we developed three interlinking policy projects: *Foresight*NZ, *Strategy*NZ and *Reporting*NZ. Each of these tools must align if we want New Zealand to develop durable, robust and forward-looking public policy. The policy projects frame and feed into our research projects, which address a range of significant issues facing New Zealand. The six research projects are: *Civics*NZ, *Livestock*NZ, *OneOcean*NZ, *PublicScience*NZ, *TacklingPoverty*NZ and *Talent*NZ.

About the author

Wendy McGuinness, Chief Executive

Wendy McGuinness wrote the report *Implementation of Accrual Accounting in Government Departments* for the New Zealand Treasury in 1988. She founded McGuinness & Associates, a consultancy firm providing services to the public sector during the transition from cash to accrual accounting from 1988 to 1990. Between 1990 and 2003, she continued consulting part-time while raising children. Over that time she undertook risk management work for the public good. In 2002, she was a member of the New Zealand Institute of Chartered Accountants (NZICA) Taskforce, which published the *Report of the Taskforce on Sustainable Development Reporting*. From 2003 to 2004 she was Chair of the NZICA Sustainable Development Reporting Committee. In 2004 Wendy established the McGuinness Institute in order to contribute to a more integrated discussion on New Zealand's long-term future. In 2009 she became a Fellow Chartered Accountant (FCA).

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1.0 Introduction

Thank you for reading our submission. We appreciate it sets a broad context rather than answering specific questions. If you only have a small amount of time, we suggest you focus on questions 7 and 30, in Section 3.0.

What follows is the Institute's perspective on the *Rules* at this point in time, as our *ReportingNZ* research (see Section 2.0 below) will not be complete until mid-2018. We have little knowledge of depository receipts or funds, hence questions on these topics have not been answered.

Section 2.0 outlines our thoughts and observations on the purpose of external reporting, which is supported by *Think Piece 28 – The right thing to do: Corporate disclosure in the 21st century*. This think piece focuses on the important relationships that exist within and between government, companies and citizens, and how these relationships need to be managed to minimise risks. We have tentatively listed the risks that we believe need to be managed. This may help to explain our responses in Section 3.0 of this submission.

Our main concern is whether the current legislation and practices that shape reporting requirements in New Zealand are future-focused and fit for purpose. Companies have a large economic, social and environmental footprint in New Zealand in areas such as employment, tax, community services, donations and use of natural resources. This footprint necessitates greater transparency in these areas by a wide range of companies that operate within the economic domain of New Zealand. The companies listed on the NZX Main Board (NZSX) and NZX Alternative Market (NZAX) are visible and transparent and subject to greater reporting requirements than those companies that are not listed. Our interest is in both – the visible and the invisible – how we might together improve the quality of visible companies and how we might identify and require better reporting of invisible companies. This submission deals with the first, but we are also highly aware that the lack of reporting by the second (the invisible companies) may have an impact on listed companies.

To this end, suggestions may not necessarily be implementable by NZX and we acknowledge that a number of institutions, including the External Reporting Board (XRB) and Financial Markets Authority (FMA), work together to maintain high-quality reporting standards. That said, with improved NZX Listing Rules (*Rules*) and guidance, we believe that NZX can lever its trusted reputation and lead the way in extended external reporting (EER) as an avenue of unique value creation. For the purpose of this discussion, EER includes all information above and beyond what a company is required to provide under the Companies Act 1993 and the Financial Reporting Act 2013. EER can include information on a company's outcomes, governance, risks, prospects, strategies and its economic, environmental, social and cultural impacts.

Given the above context, we make the following six recommendations.

Recommendation 1
Companies listed on the NZX should be required to specify the 'nature of the business of the company' in accordance with the Australian and New Zealand Standard Industrial Classification 2006 system and this disclosure should be placed in a specified part of their annual report.

Recommendation 2
Companies listed on the NZX should be required to report on their economic, social and environmental footprint and, where appropriate, align their strategies and goals with government

priorities and in particular (i) the requirements of the Environmental Reporting Act 2015 (which creates five environmental domains for the purpose of reporting [air, atmosphere and climate, freshwater, land, and marine]), (ii) the Health and Safety at Work Act 2015, (iii) the 17 Sustainable Development Goals and (iv) the Task Force on Climate-related Financial Disclosures [TCFD]).

Recommendation 3
NZX should not use the term 'premium' as it suggests a better investment product (and that is not necessarily the case). Inferior is an antonym of premium.

Recommendation 4
Companies listed on the NZX should be required (i) to rotate auditors every two years and (ii) to publish in the auditor's report any other fees the audit firm has received from the listed company in the previous two years.

Recommendation 5
Companies listed on the NZX should be required to disclose more information on the their nature of business, health and safety impacts, environmental impacts, diversity practices and corporate governance polices, practices and processes (in particular the skills, conflicts of interest, independence and diversity the board and top management bring to the decision-making table).

Recommendation 6
Companies listed on the NZX should be required to produce quarterly cash flow reports.

To conclude
NZX has an important role in contributing efficiently and effectively to the external reporting ecosystem. Your September 2017 discussion paper is timely as it explores ways the system could be designed for the challenges and opportunities that lie ahead.

2.0 Project ReportingNZ: Setting the context

Our most recent research project, *ReportingNZ*, specifically looks at the role of annual reports as a tool for improving the relationship between businesses and the communities in which they operate, and as one of the few places to collect readily available data on businesses to use as an evidence base for policy development. The scope of the project includes surveys of the preparers and users of annual reports on the current landscape of EER, and a review of the annual reports of companies listed on the NZSX and in the Deloitte Top 200. As this research project will not be completed until mid-2018, we acknowledge that our views, as expressed in this submission, may change as new information comes to light.

We also acknowledge that information needs can be complex and variable, but the overall purpose of the *ReportingNZ* project is to ascertain whether current information provisions meet our global, national, local or personal goals.

- **Global goals** include our rights and responsibilities to fellow citizens of the world. This includes UN goals such as the 17 Sustainable Development Goals,[1] the Declaration on the Rights of Indigenous Peoples,[2] and the Paris Agreement on climate change.[3]
- **National goals** include our rights and responsibilities under the Treaty of Waitangi and cover goals such as the health of the environment (e.g. pollution), financial stability and growth (e.g. tax), social conditions (e.g. health and safety, diversity), political interests (e.g. political donations) and security (e.g. defence and disaster management). The role of legislation, public policy and in particular government department strategies (GDS) documents[4] are key in identifying the goals of government.
- **Local goals** involve groups such as local councils, employers and neighbours. Relevant issues include water quality, biodiversity and hazards, and living wages.
- **Personal goals** are held by parties such as employees, investors, brokers, and competitors. Relevant issues include increasing wealth or improving health.

The breadth and depth of these goals illustrates why our comments in this submission address more than just the goals of investors, even though we recognise how important the role of an effective trading market is in meeting investment goals.

1 See www.un.org/sustainabledevelopment/sustainable-development-goals
2 See www.un.org/esa/socdev/unpfii/documents/DRIPS_en.pdf
3 See www.unfccc.int/2860.php
4 See a list of government department strategies gdsindexnz.org

3.0 Responses to Questions Raised in NZX Discussion Paper

__Context to review__

Q 1: Do you agree with the stated objectives of the review? If not, why not?

The NZX discussion document, understandably, has been written from the perspective of NZX, for the benefit of investors and listed companies. We believe that New Zealand needs to organise itself for the future. This includes collecting reliable and comparable information and knowledge to manage the emerging environmental, investment, employment and social challenges that lie ahead.

We do generally agree with the objectives but we believe the fourth and fifth objectives lack specific contextual information. In particular, it would have been good to understand more about why these objectives were chosen. The fourth objective implies that access is not as good as it could be, but there is no outline of what current access is like or what a specific target or measure of improvement might be. The fifth objective implies that current costs are excessive, but it would be useful to know in more detail what information there are cost or timing issues in the preparation of and which rules companies are finding difficult to navigate. We appreciate that the purpose of the review is to explore these possibilities, but equally it is hard to respond if we do not know the size and nature of the issue. Although it is early in the process, we think the links between the problem definition and the objectives could be strengthened going forward.

Q 2: Do you agree with the proposed timetable and process for review? If not, why not?

As you know, it is a busy time of year and our late submission clearly indicates that we could not meet the original timetable. We appreciate your patience and flexibility regarding to this. Overall the timetable looks achievable but, due to the nature of the work you are doing, we suspect it would not be surprising for there to be some slippage. We were pleased to hear about the workshops that you might be running and certainly support a meeting of the key organisations, as we believe the whole external reporting ecosystem requires a strategic review. This is one of our recommendations.

__Proposed structure of updated rules__

Q 3: Do you agree that NZX should retain the current requirements under the Listing Rules (subject to addressing drafting issues) as the basis for the updated rules?

Yes, but there is a great deal more work that needs to be undertaken.

Q 4: Do you agree that NZX should adopt a modular approach to updated rules? If not, why not?

Yes, provided the *Rules* are easy to identify, use and compare.

Q 5: Do you agree with NZX's preferred approach of delivering an updated market structure via a single rule set with differential standards for equity issuers? If not, why not?

Yes, particularly in light of the majority of New Zealand issuers being new and/or growing.

We also prefer your second option: to 'have a single equity market and a single set of *Rules*'. However, rather than supporting 'differential standards for smaller equity users', we suggest you use this opportunity to put in place a more useful system of reporting. We make some suggestions to other ways differential standards could be implemented in question 7 below.

<u>**Options for Approaching Differentiation**</u>

Q 6: Do you agree that NZX should have differential requirements for equity issuers?
Yes in theory, but we consider other differential approaches would be more effective. See questions 7 and 8 below.

Q 7: What criteria should be used to determine whether differential requirements should apply (e.g. options 1 or 2 above or something else)?

In terms of differentiation, the challenge is to develop a system that manages the nine risks we mention in *Think Piece 28* and delivers the best outcomes for all concerned in society, not just investors, board members and employees. This requires balancing a number of competing tensions. With this in mind we outline three additional options, which could be cut and pasted into a number of different permutations.

The following options suggest certain disclosure requirements should become industry specific. This is in line with feedback we have received from our research that the relevance of different reporting standards varies between different industries. New Zealand already has disclosure requirements that could be strengthened to provide more useful information: companies are required to state any changes in their annual report as to the 'nature of the business of the company', see s 211(1)(a)(i) of the Companies Act 1993.[5] Further the Australian and New Zealand Standard Industrial Classification 2006, already has a list of 20 types of industries that have been consistently applied by StatisticsNZ. These two combined would enable industry reporting standards to be developed that can be compared and measured over time.

In addition to the two options in the discussion paper, we propose three additional options for consideration:

Option 3: **EER differential requirements designed for stakeholders**.
If NZX is to focus on wider stakeholders, we consider two types of requirements (i.e. Industry specific and New Zealand general) and a gold standard EER accreditation could be developed:

(i) Industry specific requirements are mandatory.
These reporting requirements are small in nature, industry specific and have agreed measurement definitions specified by StatisticsNZ. We would expect this would be limited to the top five statistics for each industry (see industry classification system above) and that the data reported would be auditable and comparable. These definitions should align with the work being implemented under the Environmental Reporting Act 2015[6] and/or

5 Our initial research has indicated that companies do not necessarily state clearly or consistently the nature of their business in their annual reports, but assumptions can generally be made by the reader. We consider the disclosure requirements could be further tightened so that the StatisticsNZ industry classifications be required when making the disclosure statement. Furthermore, we believe this disclosure be required in the notes to the financial statements or another specific place within the report as they have proven hard to find.

6 Ministry for the Environment (MfE) (2017). *About the Environment Reporting Act 2015*. Retrieved from www.mfe.govt.nz/more/environmental-reporting/about-act

the Health and Safety at Work Act 2015.[7] Where a company has a certain percentage of revenue (say 25% or more) in its financial statements from operating in an industry, it must meet the reporting requirements by publishing these measures in a designated and easy-to-find place in its annual report (i.e. industry reporting statistics).

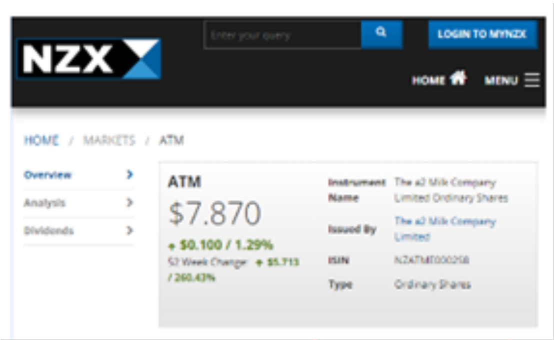
(ii) General EER requirements are 'comply or explain'.

These reporting requirements are wider in nature and have agreed measures specified by StatisticsNZ that are in line with Government Priorities and the work being undertaken under the Environmental Reporting Act 2015[8] or the Health and Safety at Work Act 2015.[9]

(iii) Gold standard EER accreditation are voluntary.

Guidelines could be set by the External Reporting Board or another independent Crown Entity and if the criteria are met, the institution would be issued a certificate that they could publish on their annual report, the Company Register and display on the NZSX listing, see Figure 1.

Figure 1: Illustrating where the accreditation could be placed on the current website



Based on our initial research, the following ten companies listed on the NZSX in 2017 would be likely contenders for meeting a gold standard EER accreditation:

- [ATM] The A2 Milk Company;
- [CEN] Contact Energy Limited;
- [CVT] Comvita Limited;
- [FBU] Fletcher Building Limited;
- [KMD] Kathmandu Limited;
- [SAN] Sanford Limited;
- [SCY] Smith City Group Limited;
- [TME] Trade Me Group Limited;
- [VCT] Vector Limited; and
- [ZEL] Z Energy Limited.

7 Worksafe (2017). *Health and Safety Work Act 2015*. Retrieved from worksafe.govt.nz/laws-and-regulations/acts/hswa

8 Ministry for the Environment (MfE) (2017). *About the Environment Reporting Act 2015*. Retrieved from www.mfe.govt.nz/more/environmental-reporting/about-act

9 Worksafe. (2017). *Health and Safety Work Act 2015*. Retrieved from worksafe.govt.nz/laws-and-regulations/acts/hswa

Although we would prefer EER to be mandatory for all companies, we also put forth an alternate 'opt-out' approach, whereby EER is mandatory for firms fitting specified capitalization criteria, whilst the remaining firms have the ability to 'opt-out' at outset,[10] with the subsequent ability to 'opt-in' in perpetuity.

Further, if the 'opt-out' approach is undertaken, it may also be useful to differentiate between those for whom it is mandatory and those who do not meet the capitalization threshold but have not 'opted-out'. It must also be kept in mind that small firms may not appropriately be exposed to some non-EER related *Rules* attached to 'premium' issuers, which is outside the scope of this submission.

Option 4: Socially Responsible Investment (SRI) differential requirements designed for investors.

If NZX prefers to simply focus on the investor, there are some choices in how option 3 might be used as a base. For example, issuers may voluntarily adhere to certain standards to attain SRI accreditation 'rather than' or 'in addition to' an EER accreditation outlined in option 3 (iii) above.

Several companies are actively seeking to promote themselves as sustainable and responsible investment options to investors and banks (see Figure 2). Voluntary adherence to SRI standards would provide for market differentiation, creating value for firms operating in these areas (e.g. green companies and products) especially if, similar to EER, these are notified on the NZX website (see Figure 1).

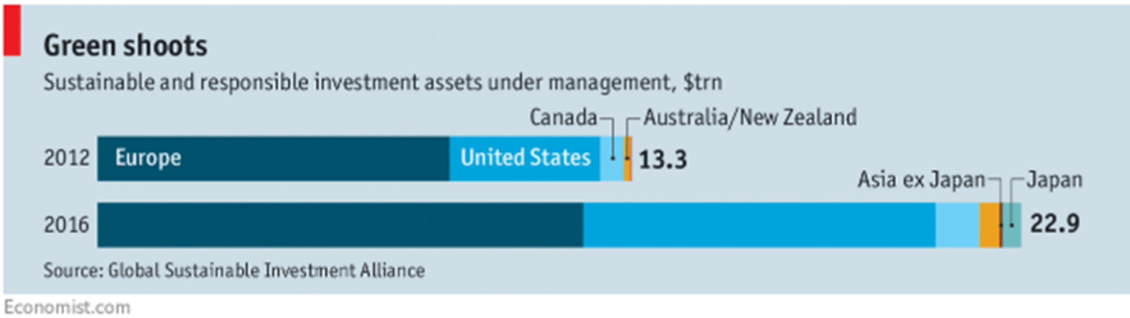
Providing this option would align with New Zealand's clean and green brand and enable small and new companies to enter the market and develop an identifiable competitive advantage early.

This option is arguably an extension of the work NZX is undertaking in the area of 'green bonds'. In particularly, this would align with the goals set out by the NZX when they joined the UN Sustainable Stock Exchanges Initiative in April this year.[11]

Figure 2: Sustainable and responsible investment assets under management

10 For listed companies, this would occur when the new *Rules* are introduced and would likely require shareholder approval. For unlisted companies seeking to list, this decision would be made upon listing.

11 Sustainable Stock Exchange Initiative (2017) NZX Limited joins the SSE. Retrieved from www.sseinitiative.org/home-slider/nzx-limited-joins-the-sse/



Option 5: Climate change differential requirements designed for current and future citizens.

Given that one of the key issues facing the world is climate change, NZX could make a requirement for all companies listed on the NZX to 'comply or explain' with the voluntary standards developed by the Task Force on Climate-related Financial Disclosures (TCFD).[12]

Although we would like to see this type of reporting being advocated and included in option 3 above, we also see merit in it being a standalone reporting requirement. This is a real opportunity that would align well with our national brand.

These observations lead to our first two recommendations.

Recommendation 1
Companies listed on the NZX should be required to specify the 'nature of the business of the company' in accordance with the Australian and New Zealand Standard Industrial Classification 2006 system and this disclosure should be placed in a specified part of their annual report.

Recommendation 2
Companies listed on the NZX should be required to report on their economic, social and environmental footprint and, where appropriate, align their strategies and goals with government priorities and in particular (i) the requirements of the Environmental Reporting Act 2015 (which creates five environmental domains for the purpose of reporting [air, atmosphere and climate, freshwater, land, and marine]), (ii) the Health and Safety at Work Act 2015, (iii) the 17 Sustainable Development Goals and (iv) the Task Force on Climate-related Financial Disclosures [TCFD]).

Q 8: What do you consider is an appropriate cut off to be considered for a smaller issuer?
We do not consider a distinction between large and smaller issuers to be useful or relevant. For example, given your approach we consider a large issuer in the finance industry might not be as important as a small issuer in the agriculture or mining industry. See our alternative suggestions in answer to question 7 and our comment in answer to question 9.

Q 9: What branding should NZX use for the separate equity listing categories?
We strongly dislike the term 'premium' as defined in the discussion document. In our

12 Task Force on Climate-related Financial Disclosures (TCFD) (2017). *TCFD – Homepage*. Retrieved from www.fsb-tcfd.org

view, the term 'premium' is misleading and is likely to disadvantage smaller issuers through misconceptions that this is indicative of a superior quality and/or lower risk. Premium, as used in this way, implies other products are inferior products (inferior, low-class, poor etc. are the antonyms of premium).

Recommendation 3
NZX should not use the term 'premium' as it suggests a better investment product (and that is not necessarily the case). Inferior is an antonym of premium.

Q 10–21: No comment.

<u>Specific rule settings</u>

Q 22: Do you have any suggestions on amendments to the minimum director and director rotation requirements under the rules?
This is an area in which the Institute would like to see more research undertaken, in particular to what extent directors appointed by shareholders are rotating and whether the current system is working. We believe this question raises a number of broader issues over what makes a good board of directors in terms of the wider global, national, local and personal goals discussed in *Think Piece 28*.

Q 23: No comment.

Q 24: Do you agree NZX should align its NZ residential director requirement with legislation i.e. a requirement to have at least one NZ resident director?
As noted in our response to question 22, we consider independence and alignment of goals are important. For this reason we believe the existing rule set out in section 3.3.1 whereby at least two residential directors must always be on the board, should remain. This way national goals are more likely to be taken into consideration around the board table.

Q 25–26: No comment.

Q 27: Do you agree that NZX should move to a more principles-based test of independence?
Principles only work if people are honest and have an incentive to work towards good practice. This means some sort of system that amplifies good behaviour is necessary. Rules, on the other hand, are required when the risks of poor behaviour can do a great deal of harm to innocent or trusting individuals or groups. Given that NZX is in the business of delivering a market place where buyers and sellers must trust each other, we suggest both principles and rules are necessary. Principles to deliver innovation and rules to deliver trust.

Q 28: No comment.

Q 29:Do the auditor rotation requirements within the Listing Rules achieve outcomes that could not be met by auditing standards? (i.e. are these valued by investors)?
We feel that the current auditor rotation requirements should not be removed but strengthened. We consider a higher standard is appropriate for listed companies than non-

listed companies. In our view we would be more comfortable with a rule that requires auditors of listed companies to rotate every two years.

In addition we would like to see the auditor's report (sitting within the financial statements) state any potential conflicts arising from other work the auditor has undertaken for the listed company during the last two financial years. This might include consultancy advice, merger or takeovers or preparing issuing documents for the NZX.[13] New Zealand is a small country and there will always be situations where Chinese walls are necessary, but there is no excuse for these walls not to be identified in the audit report or any situation where the documents are portrayed as being undertaken by an independent auditor. Our understanding is that there is no current guideline requiring transparency in situations where audit firms are also operating as a consultant.

Recommendation 4
Companies listed on the NZX should be required (i) to rotate auditors every two years and (ii) to publish in the auditor's report any other fees the audit firm has received from the listed company in the previous two years.

Q 30: Should NZX make any amendments to the current disclosure requirements within the rules?

Recent international research by KPMG on corporate responsibility (CR) provides some useful insights. The 2017 survey spotlights four major emerging trends within CR reporting: 'reporting on climate-related financial risk, reporting on the UN Sustainable Development Goals (SDGs), reporting on human rights and reporting on carbon reduction targets.' It also states: 'In the many interviews we conducted for this survey, regulation emerged as a clear and recurrent theme. We heard how governments and stock exchanges the world over – from Latin America to Japan, the US and the EU, to India and Taiwan – are bringing in new layers of regulation for environmental, social and governance (ESG) disclosure.' Also identified were themes such as 'reporting integration is the new normal and "non-financial" is the new financial' and 'it is all about impact not just statistics'.[14]

Below we outline some suggestions but in practice our final thinking will not be out until next year. Based on our work to date, more disclosure is required in the following areas:

(1) Nature of the business of the company statement
Companies listed on the NZX should be required to specify the 'nature of the business of the company' in accordance with the Australian and New Zealand Standard Industrial Classification 2006 system and that this disclosure should be placed in a specified part of their annual report (see explanation for Recommendation 1 above).

13 If NZX is interested in this practice, we can provide examples.
14 KPMG (2017, 13 October). The road ahead: The KPMG Survey of Corporate Responsibility Reporting 2017. 'KPMG's Survey of Corporate Responsibility (CR) Reporting has been monitoring developments in the field of CR and sustainability reporting since 1993.' Retrieved from www.assets.kpmg.com/content/dam/kpmg/xx/pdf/2017/10/executive-summary-the-kpmg-survey-of-corporate-responsibility-reporting-2017.pdf. Pp. 6-7.

(2) Health and safety information
Listed companies should disclose whether they have a health and safety policy and disclose statistics like workplace fatalities,[15] Lost Time Injury Frequency Rate (LTIFR) and Total Recordable Injury Frequency Rate (TRIFR).

(3) Environmental information
Listed companies should disclose (i) whether they have an environmental policy and (ii) whether they have a strategy to minimise their footprint; what their environmental targets and/or goals are and to disclose specific information on carbon emissions, water use, energy consumption, waste disposal and/or processes the company is undergoing to reduce these, where appropriate.

(4) Diversity information
Listed companies are already required to disclose requirements on diversity, as set out in section 10.4.5(j) of the *Rules*. The current *Rules* require a quantitative break down as to the gender composition of Issuer's Directors and Officers and to include comparative figures for the previous year. The way this is defined creates a level of ambiguity around application of this rule. Some Issuers disclose percentages, while others only disclose the number of women, not total gender composition. The diversity policy should hence be adjusted to redefine what a 'quantitative breakdown' is for improved diversity disclosure.

Further, the *Rules* recommend Issuers have a diversity policy, but we consider first that a broader definition of diversity than just gender should be required and second that this disclosure should be mandatory. Diversity, as noted in the *Rules* is also much wider than gender. The need for a broad definition of diversity and for mandatory reporting was raised by the Shareholders Association in 2012, and we consider it to be an issue that needs more work: 'One of its board members Gayatri Jaduram says the policies should also cover age, education, ethnicity and other factors. She says white middle class males are over-represented and they often have similar thinking.[16]

(5) Governance information
The most specific rule on corporate governance seems to be rule 10.4.5 in the *Rules* which states that the annual report of an issuer must contain 'a statement of any corporate governance policies, practices and processes, adopted or followed by the Issuer'. This is further supported by the latest NZX Corporate Governance Code
(5) 2017 (*Code*).[17]

15 Radio New Zealand (RNZ) (2013, December 5). Number of forestry deaths unacceptable – CEO. 'The Government has set a target of reducing the number of workplace fatalities by 25% by 2020.' Retrieved from www.radionz.co.nz/news/national/229981/number-of-forestry-deaths-unacceptable-ceo

16 Radio New Zealand (RNZ) (2012, July 6). Disappointment NZX diversity rule limited to gender. Retrieved from www.radionz.co.nz/news/business/110004/disappointment-nzx-diversity-rule-limited-to-gender

17 NZX (2016). Main Board/Debt Market Listing Rules. 7 March 2016. Retrieved from www.nzx.com/files/static/cms-documents//NZX_Main_Board_Listing_Rules_-_2016_-_Clean_SECURE.pdf. P. 141.

However our initial thinking is there are too many codes and there remains a lot of confusion over content and placement of the statement.[18] We consider the rule should be strengthened by (i) making the statement mandatory and (ii) by requiring the statement to be published in a separate part of the annual report under the title Corporate Governance Disclosure. If the corporate statement is important, it should be prepared and contained in the annual report every year. We consider the following requirement from the NZX Governance statement failing to provide consistent and comparable information over time and between companies.

> The disclosure of an issuer's compliance with the NZX Code is intended to be flexible so that disclosure can either be:
>
> - in its annual report - where an issuer chooses to include its statement in the annual report rather than its website, NZX recommends that the statement and any related disclosures appear in a clearly labelled corporate governance section; or
> - on its website - disclosures should be clearly presented and centrally located on or accessible from the landing page of the website, and the link should be easy to locate, prominently displayed in a category such as 'About Us' or 'Investor Centre'; or
> - a combination of both reporting in the annual report and cross referencing on the website.[19]

Furthermore, we think the *Rule* should also be expanded to explain what the distinction is between a corporate governance policy, a corporate governance practice and a corporate governance process. We have some views on this but we think more clarity is required. We also consider the principles should be included in the *Rules* (they are very good).

Recommendation 5
Companies listed on the NZX should be required to disclose more information on the their nature of business, health and safety impacts, environmental impacts, diversity practices and corporate governance polices, practices and processes (in particular the skills, conflicts of interest, independence and diversity the board and top management bring to the decision-making table).

Q 31–46: No comment.

Q 47: Should NZX introduce quarterly cash flow reporting for Standard Issuers? Should this apply to all new Standard Issuers (or a subset) and for how long?
We consider cash flow reporting to be very important and propose quarterly cash flow reporting be required by all issuers. Cash flow statements are easy to produce and cheap to audit. While reporting requirements have become increasingly messy in terms of reporting on profit (also known as alternative performance measures),[20] cash flow statements have become increasingly important as they are considered more reliable and

18 The Institute of Directors Code of Practice for Directors does specify best practice but should be read in conjunction with the FMA principles and Guidelines as well as the NZX Listing Rules. A comparative table of corporate governance codes used in New Zealand as at September 2017 can be found at: www.iod.org.nz/Governance-Resources/Publications/Corporate-governance-codes-compared

19 NZX (2017). *NZX Corporate Governance Code 2017*. Retrieved from www.nzx.com/files/attachments/257864.pdf. P. 5.

20 PWC, (2016, January). Alternative Performance Measure reporting practices in the FTSE 100. Retrieved from www.pwc.co.uk/audit-assurance/assets/pdf/an-alternative-picture-of-performance.pdf

trustworthy. Arguably, different auditors are thought to produce more consistent cash flow statements than other aspects of the financial statements. Investors have a strong interest in liquidity and stakeholders have a strong interest in taxes paid.[21]

Recommendation 6
Companies listed on the NZX should be required to produce quarterly cash flow reports.

Q 48–79: No comment.

Thank you for opportunity to submit on this important topic.

[21] Nippert, M. (2017, March 18). Apple pays zero tax in NZ despite sales of $4.2 billion. *NZ Herald*. Retrieved from www.nzherald.co.nz/business/news/article.cfm?c_id=3&objectid=11820240