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Regulatory & Public Policy
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Attention: Ms Diane Lewis

By email: regulatorypolicy@asx.com.au

Dear Diane

ASX'S FOREIGN EXEMPT LISTING RULES

- 1 We refer to ASX's consultation paper, *Facilitating Dual Listings by New Zealand Companies – Updating ASX's Foreign Exempt Listing Rules* dated 11 March 2015.

Summary of submission

- 2 We strongly support ASX's proposals:
 - 2.1 to dis-apply the profits, net-tangible assets and shareholder spread admission criteria for ASX Foreign Exempt Listings for entities with a primary listing on the NZX Main Board
 - 2.2 to remove the requirement for an entity to register as a foreign corporation, unless it carries on business in Australia.

Submission

- 3 Chapman is a top-tier New Zealand law firm. We are the primary New Zealand corporate and securities law adviser for twelve of the New Zealand based companies currently listed on ASX with a full ASX Listing, and do some work for a further eight of them. We acted on six of the recent IPOs and NZX/ASX listings, and have acted on three recent compliance listings of NZX Main Board issuers on ASX.
- 4 We support the ASX proposals. In our experience, the NZX Main Board listing rules are substantially similar to those of ASX, although differences in the detail create an unnecessary compliance burden for NZX Main Board listed issuers.
- 5 Although many NZX Main Board listed issuers have waivers and confirmations that dis-apply a number of the ASX listing rules, there remains considerable overlap of matters each rule set addresses in a slightly different way.
- 6 Of our client's recent listings, seven of the nine were required to register as a foreign corporation solely to satisfy ASX Listing Rule 1.1, Condition 4, as they do not

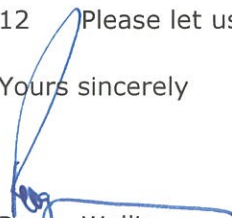
otherwise carry on business in Australia. We agree that this is an unnecessary requirement, as long as the entity has a local agent authorised to accept service.

- 7 The proposals have a similar effect to the rules that prevailed until 2001, when the lower profit threshold entitled many more NZX Main Board issuers to list as Foreign Exempt Entities on ASX, including a number of the present ASX listed issuers also listed on the NZX Main Board.

Other comments

- 8 Although not specifically stated in the consultation paper, we assume ASX will allow existing ASX listed issuers also listed on the NZX Main Board to transfer their listing to a Foreign Exempt Listing without any additional fees – certainty that is what section 2.9 of *Guidance Note 15* indicates.
- 9 Many of our clients have 30 June balance dates, and will need to ensure their 2015 preliminary announcement and annual report (including governance disclosures) comply with both NZX and ASX requirements, unless ASX can promulgate the necessary rules changes, and promptly process any applications to transfer listings.
- 10 Some of our clients have had to prepare a prospectus, to enable their ASX Listing, as they have issued securities in New Zealand within the last 12 months and otherwise the secondary sale provisions in section 707(3) Corporation Act 2001 would have applied. Although ASX has recognised full New Zealand compliant prospectuses for the purposes of ASX Listing Rule 1.1, Condition 3, in other instances our clients have had to prepare Corporations Act compliant transaction specific prospectuses to facilitate their listings (due to the issuance of securities in New Zealand the last 12 months), as ASX has not been prepared to recognise New Zealand law compliant simplified disclosure prospectuses.
- 11 For those issuers that opt to apply for full ASX Listings in the future, we recommend that ASX recognise New Zealand law compliant Product Disclosure Statements (PDS) lodged in Australia under the Trans-Tasman mutual recognition of securities offerings treaty, as a further means to reduce compliance cost of listing on ASX. Should ASX go ahead with the Foreign Exempt Entity Listing Rule proposals, some entities wishing to list as such will still need to prepare an offering document, and/or seek ASIC class order relief, so as not to breach section 707(3) Corporation Act 2001 or the warranty at paragraph 2 (second bullet point) of Appendix 1C, so again may wish to prepare a New Zealand law compliant PDS and lodge it in Australia under the Trans-Tasman mutual recognition of securities offerings treaty to ensure compliance.
- 12 Please let us know if you need any further information.

Yours sincerely



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