

NZX review 2017

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Executive summary

Purpose of this report

We are required by law to report, at least once a year, on how well NZX is meeting its licensed market operator obligations¹. This is our sixth review, which covers the 2016 calendar year ('the review period').

We gathered information for this report through regular meetings, discussions and coordination with NZX throughout the review period. We also completed a targeted review that looked at how NZX carries out its regulatory enforcement function, certain governance arrangements, and the adequacy of human resourcing. See Appendix 1 on page 18 for more information about the method we used to conduct this review.

Key findings

NZX complied with its market operator obligations during the review period. We did not find any systemic issues in relation to NZX's compliance with its market operator obligations. However, we have made some suggestions where we think improvements could be made. We will continue to engage with NZX on these suggested improvements as both the FMA and NZX seek to support confident and informed participation in fair, orderly and transparent financial markets.

We have grouped our key findings into three main themes:

Regulation and enforcement

NZX has made some positive developments during the review period to increase communication of its regulatory activities. There was also increased co-operation between NZX and the FMA on joint regulatory matters. We have asked NZX to consider whether there is greater scope to publically disclose when it is making enquiries into a significant market issue, as this will help overall market confidence.

We think NZX generally investigates potential breaches adequately. However it needs to ensure levels of enquiry and professional scepticism remain consistently high when it investigates potential non-compliance by market participants. There were some instances during the review period where the level of enquiry fell short of our expectations.

NZX should consider how to use the NZ Markets Disciplinary Tribunal ('NZMDT') more frequently where it believes there has been a more than minor breach of the market rules.

Governance and conflict management

NZX's Regulatory Governance Committee (RGC) is, in general, an effective oversight body. However, NZX should look at how the RGC could improve its assessment process for reviewing the quality of NZX's regulatory decision-making.

¹The market operator obligations are set out in Appendix 1.

Human resources

Given turnover in key regulatory roles, NZX should consider how it can provide more job-specific training to up-skill its newer staff.

Summary

NZX demonstrated that it complied with its market operator obligations by:

- ensuring, wherever practical, that its licensed markets operated in a fair, orderly and transparent way
- putting in place adequate arrangements to notify market participants' disclosures and continuing to make these disclosures available
- effectively handling conflicts between its commercial interests and its obligation to ensure its markets operate in a fair, orderly and transparent way
- having adequate arrangements to monitor the conduct of its market participants
- having adequate arrangements to enforce compliance with market rules
- having sufficient resources (including financial, technological and human resources) to operate its licensed markets properly.

Regulation and enforcement

As a frontline regulator, part of NZX's role is to enforce compliance of its market rules. Effective enforcement is essential to maintaining market integrity.

NZX is responsible for regulatory decision-making, which includes investigating potential breaches of market rules and taking appropriate enforcement action when necessary. NZX receives information about potential breaches from different sources including:

- its own monitoring and surveillance
- self-reporting from market participants or issuers
- complaints from the public
- referrals from other regulators.

When NZX receives a complaint it has a range of enforcement tools it can use to deal with the non-compliance identified².

When regulatory overlap occurs between the FMA and NZX, we take a collaborative approach. This generally works well and it ensures a uniform approach. However in this review period we identified a few instances where there was room for improvement in the process of regulatory decision-making.

Focus of our review of enforcement matters

We looked at NZX's inquiry logs and a selection of enforcement files. Last year we focused on participant compliance. This year we mainly reviewed files about issuers' compliance. We also considered one participant compliance matter. We selected files where NZX determined there was no breach of their rules, or where a breach was identified and NZX issued an obligations letter or took no further action.

Our focus was on the depth of enquiry and professional scepticism applied. We looked for appropriate levels of questioning, and independent verification of information where necessary. This would enable NZX to make its own informed assessment of the conduct before it decided on a regulatory outcome. In the majority of the issuer compliance files we reviewed, the matter concerned the issuer's continuous disclosure obligation. While an issuer is usually best placed to know what information is material to its business, NZX - as a frontline regulator - must ensure issuers assess this adequately.

Findings from our review

We were generally satisfied that NZX applied appropriate levels of enquiry and professional scepticism to its file assessments. However, we found some instances where the level of enquiry fell short of our expectations. In these cases, NZX appeared to have accepted the explanations provided by the market participants at face value without sufficiently challenging the explanations provided.

² For a list of NZX's enforcement tools, see <https://www.nzx.com/regulation/how-we-regulate>.

We acknowledge there is a spectrum for the level of enquiry that should be made. This requires a balance of resourcing, compliance burden on participants, and potential harm. In these instances, we do not feel NZX got this balance right. We engaged with NZX and consider all outstanding matters have been resolved or are being addressed by NZX and/or the FMA.

Following our engagement, we are now satisfied these specific cases were isolated incidents rather than a systemic issue. We think NZX met its obligation to have adequate arrangements for enforcing compliance with its market rules. A systemic issue concerning the level of enquiry or application of professional scepticism by a licensed market operator could lead to a breach of the market operator obligations, so we have encouraged NZX to focus on this aspect of its regulatory function.

There were some cases where NZX saw the issuers' conduct as technically compliant but falling short of best practice. NZX continued to work with the issuers which led to better quality information being released to the market. This was positive and NZX's actions aligned with their enforcement policy.

NZX should ensure levels of enquiry and professional scepticism stay consistently high when it investigates potential non-compliance by market participants.

Cooperation between FMA and NZX

There is potential regulatory overlap between issuers' continuous disclosure obligations enforced by NZX under the listing rules and their fair dealing obligations enforced by the FMA³. Where an issuer's disclosure potentially breached both obligations, the two organisations increased their collaboration and used a coordinated approach.

The decision about how best to deal with a particular matter, and which regulator will lead the investigation, was made on a case-by-case basis. The decision will be based on the remedies available and the desired regulatory outcome. We expect NZX to be the primary channel to initiate enquiries and to follow up where an issuer appears to have breached their continuous disclosure obligations due to late, false, or misleading disclosure. Similarly, we believe that the Listing Rules are generally the appropriate set of rules to examine listed issuer disclosure against.

We expect our views about specific conduct may sometimes differ, but we see this increased collaboration as a positive step. Better collaboration should also mean that market participants do not have to participate in two separate investigations relating to the same conduct.

Increased proactive engagement

NZX increased its focus on market engagement during the review period. Greater emphasis is now placed on NZX's role in lifting standards of conduct and facilitating compliance through education and engagement.

At the start of 2017, NZX introduced practice notes, which sit alongside guidance notes and provide additional practical advice to help participants comply with specific obligations. The practice notes also aid engagement with market participants and enable NZX to better respond to common questions or areas for clarification.

³ Part 2 of the FMC Act prohibits issuers from engaging in false, misleading or deceptive conduct, or from making unsubstantiated representations. Release of false or misleading material information by an issuer will also be a breach of the continuous disclosure obligations because the market has not been kept up to date concerning the correct material information.

NZX continued its issuer engagement strategy in 2016 through sessions at the NZX issuer forum, workshops, and direct one-on-one engagement with management. NZX encouraged issuers to think proactively about their own compliance measures to prevent potential rule breaches. Increased engagement also helps NZX to be across any regulatory problems issuers are facing.

We understand NZX will continue to develop and enhance its issuer engagement strategy in 2017. Engagement will be tailored to reflect issuers' needs, touching on key regulatory themes and issues. Additional materials and training will be provided for issuers that are newly listed, small-to-medium sized, and for new board members and senior management. NZX will also increase engagement with its brokers to put in place recent rules amendments and introduce its trading conduct guidance note⁴.

Focus on improving information quality

During the review period, as part of its wider market engagement strategy, NZX increased its focus on the quality of issuer disclosures and disclosure practices. This recognises the important impact that full, timely and accurate disclosure has on market confidence.

Compared to 2015, this review period saw an increase in the number of investigations into issuer conduct. A high number of these investigations were about disclosure matters⁵. If an investigation concluded the issuer was technically compliant, our file review showed NZX continued to engage with the issuer to improve the quality of information the issuer provided to the market.

In June 2016, a more robust price enquiry process was introduced which required more detailed information to be provided, confidentially, by an issuer. This new enquiry process will help enhance NZX's oversight of issuers' compliance and should help it determine whether an issuer continues to comply with their disclosure obligations.

NZX has confirmed that it will continue to focus on the quality and timing of issuer disclosures throughout 2017. This includes introducing formal thematic reviews to help ongoing monitoring of market and compliance trends. It will then publish its findings and any recommendations from these reviews.

Embedding penalty regime changes

Changes to the NZ Markets Disciplinary Tribunal (NZMDT) rules were introduced in February 2016.

The changes included:

- an infringement notice regime
- simplified penalty bands
- additional guidance on the application of the penalty regime.

NZX engaged with the NZMDT about these amendments, developed internal guidance, implemented process changes, and provided training to both the enforcement solicitor and participant compliance team.

The RGC minutes show the RGC paid particular attention to infringement notices during the review period.

⁴ The participant rule amendments and trading conduct guidance note are addressed later in this report on page 16.

⁵ 59 of the 149 issuer investigations undertaken during the review period related to continuous disclosure matters.

Infringement notices provide NZX with an effective regulatory tool for dealing with clear, minor breaches. NZX issued four infringement notices during the review period. Three related to administrative breaches; one was for trading for a prescribed person of another firm - in this case, the participant appealed and was successful.

As infringement notices are for clear and minor breaches of the rules, they do not replace the role of the NZMDT to review more serious or complex cases. The NZMDT is meant to be a quicker, more appropriate, enforcement mechanism for conduct which is not serious enough to pursue court action. Only four cases were referred to the NZMDT during the review period⁶. This compares to 13 referrals in 2015, although we acknowledge that some of the reduction in referrals may be due to the introduction of the infringement notice regime.

We encourage NZX to make greater use of the NZMDT where there is reasonable evidence there was more than a minor breach of the rules.

This reflects the educational value of NZMDT decisions and the flexibility in penalties that can be applied by it. This includes the NZMDT's discretion in deciding not to name someone involved in a less severe breach of the rules. Referrals to the NZMDT might also be appropriate where infringement notices were issued previously or repetitive breaches occurred.

Increased visibility of regulatory activities

Our 2016 report encouraged NZX to keep improving the public visibility of its regulatory activities. In April 2016, NZX released its first annual regulatory agenda. This detailed NZX's regulatory priorities for the year and what it wants to achieve, giving the market greater visibility of NZX's regulatory focus areas. The 2017 agenda, published in February 2017, expands NZX's regulatory scope from three to five key focus areas.

NZX published the first in an annual series of reports called the '*NZX Oversight and Engagement Report*' in March of this year. It provides an overview of its enforcement and investigations work from the preceding year. This report improves public visibility of NZX's regulatory activities significantly and also highlights the extensive amount of work carried out.

It sets out:

- the number and type of investigations
- the key trends identified
- the enforcement action(s) taken
- case studies
- regulatory initiatives for both issuers and participants.

⁶ Three referrals involved settlements and one was an appeal from the issuer of the NZMDT's decision. Refer to the [NZMDT Annual Report 2016](#) for further details.

NZX continues to use issuer and participant updates to communicate periodic compliance updates effectively. Issuer updates are available on NZX's [website](#). In April 2017, NZX made its participant updates publically available, as suggested in our 2016 review.

In August 2016, NZX revised its enforcement policy and released an updated policy to help the market understand its enforcement approach.

The NZMDT's annual report provides more detail on referred cases from the preceding year, although it received few referrals. We recognise the efforts NZX has made to improve the visibility of its regulatory activities. NZX has stated it will continue to enhance public visibility of its oversight and enforcement function over the coming year, and we support this.

We acknowledge that NZX does not usually comment publicly on individual enquiries or enforcement work. This is because it wants open and honest communication with market participants and members of the public, without being concerned that any information provided will be used in an unforeseen way. However, we believe there is sometimes scope for NZX to disclose to the market when it is making enquiries into a market participant. This would assist market confidence when significant market issues occur.

We encourage NZX to think about the scope it has to disclose that it has started enquiries into a significant market issue.

Governance and conflict management

NZX must have adequate arrangements in place to manage any actual or perceived conflicts of interest between its commercial interests and its role as a frontline regulator. This is essential to maintain public confidence in NZX and its continued effective regulation of its markets to ensure they remain fair, orderly and transparent.

The NZX board has ultimate responsibility for fulfilling NZX's regulatory responsibilities. The board delegates the day-to-day responsibility for this to the Head of Market Supervision (HOMS). The HOMS reports directly to the board to ensure the regulatory function is not subject to undue commercial pressures. Sub-committees help the board fulfill its governance responsibilities for its regulatory function.

The regulatory governance committee (RGC)

NZX established the RGC in 2013, following a recommendation in our 2012 report that NZX should enhance its board's oversight of the performance of its regulatory delegations. The RGC was set up as a mechanism to monitor the quality of NZX's regulatory decision-making, and to ensure the board is properly informed of regulatory activity.

As it has been operating for three years, we wanted to review its robustness as a governance oversight body. We also looked at how effective it was in assisting the board to fulfill its regulatory obligations.

We reviewed the information provided to the committee, meeting minutes and carried out interviews with two committee members⁷. We focused on the kind of regulatory matters the committee received, the depth of information provided, and how the committee tests the appropriateness and consistency of its regulatory decisions.

Regulatory reporting to the RGC

NZX staff provide quarterly schedules to RGC members containing succinct summaries of all formal regulatory decisions and certain other enquiries and decisions made during that quarter⁸. The schedules are circulated to members allowing them to raise initial queries and receive staff responses before meetings. Committee members and the HOMS then choose which decisions they want to discuss further.

We were satisfied with the quality of information provided to the RGC. However, we were concerned that we were aware of two matters that had not been communicated. This included a decision made in the ordinary course of business which did not constitute a formal determination but was still regulatory in nature. If these types of decisions are not recorded in RGC schedules or otherwise discussed with the RGC, this means there is little visibility over the decision-making process behind them. In addition, we are aware of one instance where a matter was reported directly to the board but not the RGC.

We encourage NZX to record all decisions, including those where they decided not to commence a formal investigation, but the matter required judgment of conduct that was not trivial or unambiguous. In particular, this should include situations where other regulatory agencies bring a matter to NZX's attention or have expressed a different viewpoint.

⁷ The independent chair of the committee and a non-executive board member of NZX.

⁸ This includes all decisions made in respect of complaints, waivers, permissions, exemptions, rulings, trading halts, approvals and investigations.

We also recommend NZX ensures all regulatory decisions are reported to the RGC even if they are also reported directly to the board. This is because the RGC has greater independence due to its independent membership.

NZX has confirmed it will ensure that any changes in decisions, previously communicated to the committee, will be included in subsequent reporting.

Testing the quality of decision-making

Comments made in the summary schedules and meeting minutes demonstrated a thorough questioning of the information provided. Members frequently questioned the rationale and consistency behind decision-making, sought clarification, identified trends, or queried whether recurrent issues are indicative of educational gaps or require rule changes.

However, we had some concerns about how the RGC ensures the regulatory decision-making was appropriate, given members did not obtain or review underlying information on any of the matters reported. Specifically, the RGC relied wholly on the summaries and responses provided by management, who are also responsible for making the regulatory decision.

We appreciate there is an inherent reliance on management to undertake the day-to-day functions and report matters to the committee. We also appreciate that it is not the committee's role to perform an 'audit' of all regulatory decision-making. We also realise it has no delegation to make, reverse, or alter any decisions. However, as a demutualised exchange, there is an inherent conflict between regulatory decisions and other aspects of NZX's business. Therefore, the mechanisms for testing the quality of regulatory decision-making are crucial to the management of these conflicts. We believe the RGC and referrals to the NZMDT could be utilised more for this purpose. We also recommend that the RGC should sometimes consider information outside of the summaries provided by management.

NZX should consider whether it can make improvements to the RGC's assessment process to review the quality of a regulatory decision.

Board oversight of regulatory activities

RGC members who are also board members provide frequent oral updates to the board on regulatory activities. During the review period, NZX changed its process so that the committee's independent chair now also attends board meetings on a bi-annual basis. We regard this to be a positive development. The board continues to receive monthly metrics relating to NZX's regulatory function.

Adherence to conflict management arrangements

The conflicts committee's (CC) role is to satisfy NZX's board that the organisation has effective policies and procedures to manage any conflicts of interest within the NZX group, and ensure they are adhered to.

This includes any actual or perceived conflicts between NZX's commercial interests and regulatory responsibilities.

The CC commissioned Buddle Findlay to review its conflict management arrangements in 2016. The review's primary focus was NZX's regulatory functions. Buddle Findlay found the controls and procedures for managing conflicts had worked effectively during the preceding year. All material recommendations had either been completed or included in the 2017 work plan. This included putting in place additional conflicts guidance and training for board and committee members, and managers who may have to make decisions on managing conflicts.

Process amendments in relation to Smartshares

In November 2016, NZX amalgamated Superlife and Smartshares. Smartshares, as the surviving entity, now holds shares in certain listed issuers. Following the merger, NZX updated its processes to monitor Smartshare's shareholding in listed issuers to ensure their 'associated entity protocol'⁹ is applied correctly. *Ad-hoc* reports are provided to the NZX board and CC when an entity is determined to be an 'associated' or 'related' entity. Regulatory decisions made about 'associated entities' continue to be included in the reports provided to the RGC. Management also now provides the NZX board with six-monthly reports identifying associated entities. This gives the board visibility over the protocol's application. We support the increase in reporting. NZX also intends to amend its definition of 'related entities' in 2017, and has consulted with us on their proposed changes.

⁹The protocol is included as attachment 4 of the [NZX Conflict Management Policy](#).

Human resources

NZX must be adequately resourced to ensure it operates and regulates its markets in a fair, orderly and transparent way. NZX must employ sufficient people with the appropriate skills and capabilities to carry out its work.

Capability and training

In 2016 and at the start of 2017, NZX experienced relatively high staff turnover, with new appointments in all four functional areas supporting its market operations¹⁰. This was caused, in part, by internal transfers and new staff being hired to fill these internal vacancies. Some vacancies - in the market supervision and surveillance teams - were filled with less experienced personnel. These teams play an integral role in the frontline monitoring of NZX's markets, and it is critical that NZX invests in people of sufficient experience and credibility to operate in these roles.

NZX provides all its new staff with induction training. Staff also have development plans and quarterly reviews which address their development needs. NZX also provides some team-level and cross team training, but we suggest NZX put in place more job-specific training and up-skilling for new staff members. This will ensure NZX is able to continue to meet its market operator obligations effectively. Where more experienced employees have moved into different internal roles, we encourage NZX to continue to draw on their experience to help new employees. This will ensure consistency in approach and the overall quality of decision-making.

NZX should consider how to provide more job-specific training and up-skilling for new staff.

Structural changes

NZX's market services and market supervision teams underwent a restructure during the review period and in early 2017.

In March 2016, the client market services team and data team were merged to form the client and data services team. NZX has advised this change is intended to improve its operational efficiency to enhance resilience to market demands.

In January 2017, the enforcement and issuer regulation teams merged to create a new issuer compliance team. This enables staff in both teams to broaden their skills and work across both issuer transactions and enforcement matters. It also reflects NZX's increased regulatory focus on issuer compliance.

These changes will not impact any investigations and enforcement matters within the participant compliance team. The participant compliance team remains responsible for initial investigations into market participants. When the participant compliance team recommends an enforcement outcome, it is then escalated to the Head of Market Supervision (HOMS).

¹⁰ These are the market supervision, market services, policy, and technology teams.

Other matters

Technology

NZX must have sufficient technological resources to operate its markets properly. Technology is central to the operation of NZX's markets. A failure in provider infrastructure or inadequate cyber resilience can impact market integrity and confidence.

There were no technological outages during the review period. There was one technological outage in March 2017, which resulted in a delay in the market opening. There were some issues with notification of this outage, and we have engaged with NZX on this. Given market infrastructure and cyber resilience are key areas of focus for the FMA, we will continue to look at the adequacy of NZX's technological resources in future reports.

Policy initiatives

As a market operator, NZX must ensure there are adequate arrangements for monitoring conduct on its markets. This includes making sure its market rules and guidance remain appropriate and relevant to current trends and market conditions.

Rules reviews

We are satisfied NZX reviews its rules, regularly, to ensure they stay appropriate. This includes continuing its targeted review of the participant rules, with the amended rules scheduled to be introduced in 2017.

During the review period, the following rule changes occurred:

- NZMDT market rules changed. (See page 9 for more details)
- The market rules were amended. This reduced the standard settlement from three trading days down to two.

A comprehensive review of the listing rules is planned for 2017. NZX also indicated its intention to review the NXT market. We will engage with NZX on this review and on the operation of the NXT market in general.

Other policy activities

NZX dedicated significant resources in 2016 to update its market guidance and undertake other policy initiatives. These included:

- consulting on the corporate governance best practice code. (Published in May 2017)
- engaging with market participants and the FMA on the trading conduct guide. (Released later in 2017)
- reviewing its process for identifying price sensitive information and the consequential application of trading halts
- consulting on proposed updates to its guidance note on continuous disclosure to address the use of consensus forecasts.

These resources are all available on NZX's [website](#).

Other activities

NZX carried out these activities below, during 2016, which contributed to fair, orderly and transparent markets.

Access to historical issuer announcements

As mentioned in last year's report, the FMC Act added a new general obligation which requires NZX to have adequate arrangements for notifying disclosures made to it and for continuing to make them available.

NZX now provides all announcements for each issuer, for the preceding six month period, online and free of charge. All other announcements continue to be available via paid subscriptions. We have been informed by NZX that they will shortly implement enhanced free public access to issuer announcements, which at the first stage, will provide free online access to issuer announcements going back to at least 2010. It is anticipated that this will be shortly followed by free online access to all historical issuer announcements. We support these enhancements to the availability of issuer announcements.

Enhanced regulatory coordination

NZX became a member of the Intermarket Surveillance Group in early 2016¹¹. Its membership of this group will help it to effectively carry out its frontline monitoring activities.

NZX intends to expand its regulatory relationships in 2017 by applying for certification as a 'foreign regulator' under the Mutual Assistance in Business Regulation Act (AU) 1992. If certified, NZX would be able to access information directly from ASIC.¹² This will be beneficial with the growth of direct market access trading and Australian-based participants and investors present in NZX's markets.

¹¹ The ISG is an international group of frontline market surveillance bodies, with two main purposes: coordinating and developing programs and procedures to identify possible fraudulent and manipulative activities across markets; and information sharing. More information is available at www.isgportal.org/home.html

¹² ASIC is Australia's corporate, markets and financial services regulator.

Appendix 1: Our review

Our role

Under the FMC Act, we are required to review, at least annually, how well a licensed market operator is meeting its obligations and to publish a written report. This review supports our priorities, outlined in our *Strategic Risk Outlook 2017*, which focus on capital market growth and integrity, as well as ensuring frontline regulators are effective in their role.

We had regular meetings with NZX in 2016. Our memorandum of understanding, signed in January 2015, sets out the principles for engagement and co-operation, and provides for regular operational meetings. This means NZX keeps us up to date about its key initiatives and developments throughout the year. We also have an agreed set of protocols for communications when we deal with normal business activities concerning both of us. These include continuous disclosure inquiries and reviewing offer documents.

This regular interaction and coordination contributed to how NZX met its market operator obligations in 2016 and to our findings in this report.

NZX's markets

NZX is licensed to operate the following markets:

- NZX main board
- NZX debt market
- NZX alternative market
- Fonterra shareholders' market
- NZX derivatives market
- NXT market

Details of NZX's licences are on our [website](#).

The FMC Act explicitly excludes NZX's wholly owned subsidiary, New Zealand Clearing and Depository Corporation (NZCDC), from our review. NZCDC operates a designated settlement system and is regulated jointly by the FMA and the Reserve Bank of New Zealand.

Market operator obligations

In the FMC Act, 'market operator obligations' mean:

- the general obligations contained in section 314 of the FMC Act:
 - to ensure, as practicable, that each licensed markets is fair, orderly and transparent
 - to have adequate arrangements for notifying disclosures from participants in its markets, and for continuing to make them available
 - to have adequate arrangements for handling conflicts between its commercial interests and the obligation to ensure its markets operate in a fair, orderly and transparent manner
 - to have adequate arrangements for monitoring the conduct of participants in its markets
 - to have adequate arrangements for enforcing compliance with market rules
 - to have sufficient resources (including financial, technological and human resources) to operate its licensed markets properly
- an obligation to respond to a request from the FMA to make changes to market rules (*section 333*)
- an obligation to give the FMA an annual self-assessment of compliance with its obligations (*section 337*)
- an obligation to act on the directions of the FMA or the Minister, if the operator is found to be failing to meet any of its obligations (*sections 340 to 342*)
- any obligation imposed as a condition of a market operator's licence.

Information reviewed

Our ongoing oversight of NZX in 2016 included:

- periodic operational meetings
- review of quarterly documentation under the memorandum of understanding
- discussions about market matters arising as required
- consulting on NZX policies and proposed rule changes where appropriate
- liaising on market misconduct matters
- feedback on NZX referrals to the FMA under the FMC Act.

For the purposes of this report, we also took account of the following:

- NZX's self-assessment of performance against its statutory obligations, provided in March 2017 (to comply with section 337 of the FMC Act)
- an onsite review of issuer compliance documentation
- NZX board and committee papers and minutes
- NZX procedures and policies, particularly new procedures.

Appendix 2: Market conditions

NZX advised us of the following:

- The total value of NZX's equity markets grew during the review period. The NZX 50 rose 8.96% in 2016.
- There were three IPOs and two compliance listings on the NZX main board.
- There were two compliance listings on the NXT growth market. While this increased the total number of issuers on the NXT market to four, no new capital was raised during the review period.
- The total value of equity from IPO and compliance listing activity was \$2.12 billion. This compared with \$1.7 billion raised in 2015 - showing a 24.5% increase.
- The listed debt market's capitalisation rose by 29.7% to \$25.7 billion, with 18 listed issuers cumulatively raising \$6.43 billion of new debt in 2016. Many firms took advantage of the new legislative environment which enabled them to raise secondary capital more easily¹³.
- NZX's dairy derivatives markets were not very active during the first half of 2016, but volumes grew in the second half of the year. Participation was up 67% since 2015. In late May, the NZ Milk Price Futures & Options also launched.

¹³ Clause 19, schedule 1 of the FMC Act exempts issuers from having to produce a full product disclosure statement when they offer quoted securities of the same class.

Glossary

ASIC	The Australian Securities and Investments Commission, Australia's corporate, markets and financial services regulator.
DMA or direct market access	Direct market access trading allows clients of participant firms to enter orders directly into NZX's trading system, unless the firm's system controls do not allow the order.
CC or conflicts committee	A sub-committee of NZX's board, whose role is to review and consider the effectiveness of NZX's conflict management arrangements.
FMA	Financial Markets Authority.
FMC Act	Financial Markets Conduct Act 2013.
HOMS or head of market supervision	The NZX board delegates all decision-making responsibility for regulatory matters solely to the Head of Market Supervision. They lead the NZX regulation team.
Issuer or listed issuer	Any company that is or has been listed on any of NZX's markets.
Licensed markets or NZX's markets	Financial product markets NZX is licensed to operate under the FMC Act.
Listing rules	NZX rules governing issuers on NZX's licensed markets.
Market supervision	The regulatory function of NZX, led by the HOMS. During 2016, it had three functional areas – issuer regulation, participant compliance, and enforcement.
Market operator obligations	Obligations imposed on a licensed market operator as a condition of its licence or under sections 314, 333, 337, 340, 341 and 342 of the FMC Act.
Market rules	All of the rules governing NZX's licensed markets, including listing rules, participant rules and NZMDT rules.
NXT	The NXT market which is a stepping stone market for small and mid-sized businesses.
NZMDT	NZ Markets Disciplinary Tribunal, an independent regulatory body that determines potential breaches of NZX's market rules.
NZX	NZX Limited.
Participant	A participant in the licensed markets who has been accredited and approved by NZX under the participant rules.

Participant rules	NZX rules governing participant firms.
Review period	The 2016 calendar year
RGC or regulatory governance committee	A sub-committee of NZX's board, whose role is to facilitate the board's monitoring of NZX's regulatory function.