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14 October 2016

### **Submission to NZX Corporate Governance Code Review**

To the NZX CG Code submission team,

These additions are proposed on top of the existing code proposal, unless where defined otherwise:

#### **2.0 Board Composition and performance**

With full respect to the large amount of small listed entities on the NZX board, The NZX should provide guidance on what independence looks like. This should be part of the code, but at the very least as part of the commentary:

- Explanation should be given to shareholders for the presence of executives on the Board other than the CEO.
- A non-executive director should be independent

Factors that may compromise independence:

- o Employment in the past 3 years
- o Senior employment by a significant professional adviser in the past 3 years
- o Ownership of over 10% of the voting rights in the company's shares
- o An officer, director, representative or employee of such a shareholder
- o A director or employee of another company in which the main company has invested more than 10% of the share capital
- o A major supplier or customer to the company (or their representative or executive)
- o A material contractual relationship with the company
- o Receiving fees for services to the company at a level indicative of either significant involvement in a company's affairs, or are significant in relation to the salaries received by directors.
- o Relationships (including other directorships or with related parties) that could be (or be perceived to be) capable of materially interfering with acting in the company's best interests.
- o Benefiting from a related party transaction
- o Participation in performance incentive schemes, including options that are also granted to executives
- o Participating in a bid for the counterparty (either as a buyer or seller)
- o Non-executive directors who have served longer than nine years should be subject to annual re-election. The Board should have a succession plan in place to address long-tenure of directors. They should not be defined as independent board members.

### 3.0 Board Committees

The language regarding the composition of board committees should be stronger, and in the code: e.g., “Board committees should be majority independent, and the chairperson of each committee should be independent.”

### 4.0 Reporting and Disclosure

The NZX has an opportunity to provide leadership in non-financial disclosure recommendations. They should place a higher emphasis on the standards of non-financial reporting. Harbour supports the recommendation of the implementation of a best-in-class standard for companies, such as the Global Reporting Initiative (GRI) template. As an alternative to the GRI, Integrated Reporting Framework (<IR>) also provides practical and transferrable guidance. Harbour is aware that such standards can be onerous for smaller listed entities, however, in our view this is the part of the modern cost of being listed (and exceptions can be made where explanation warrants).

Regardless of the standard chosen, areas of focus should be forward-looking guidance surrounding non-financial considerations, and materiality of relevant environmental and social risks. Relevant metrics measuring these risks should be reported and updated regularly. We feel strongly that this should be recommended, rather than commented on.

### 6.0 Risk Management

Considering the prominence of environmental, social, and governance (ESG) and Cybersecurity risks moving forward, Recommendation 6.1, or a further recommendation should specify that ESG and cybersecurity risks are and have been considered. These issues will define businesses from all areas in the future and should not be relegated to commentary.

### 7.0 Auditors

“Independence” of the auditors should be specified in the Recommendation, not just the commentary.

Additionally:

7.2 There should be active consideration of audit firm rotation every 10 years

Commentary should address the effectiveness of the external audit process.

### 8.0 Shareholder relations

Listed entities should support one share/one vote principles.

At AGM/SGMs they should allow for the conveyance of votes electronically without the need of delegating proxy responsibility to the Chair.

Further, Harbour supports the submission to the NZX CG Code review made by the NZ Corporate Governance Forum.

Regards,

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Blaine Abraham  
Research Analyst

A blue ink signature of Kevin Bennett, featuring a stylized 'K' and 'B'.

Kevin Bennett  
Head of Research