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THE  
NEW ZEALAND  
STOCK EXCHANGE  
RULES  
1991

## **Sharebrokers Amendment Act 1981**

### **The New Zealand Stock Exchange Rules 1991**

CATHERINE A. TIZARD, Governor-General

At Wellington this 17th day of June 1991

Present:

HER EXCELLENCY THE GOVERNOR-GENERAL IN COUNCIL

Pursuant to section 7 (3) of the Sharebrokers Amendment Act 1981, Her Excellency the Governor-General, acting by and with the advice and consent of the Executive Council, hereby approves the following Rules of the New Zealand Stock Exchange, being Rules adopted by the New Zealand Stock Exchange in substitution for the New Zealand Stock Exchange Rules 1989.

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#### **1 Interpretation**

1 (1) In these Rules and any Regulations made hereunder—

“Board” means the Board of Directors of the Exchange as constituted by Rule 8 (1).

“Chairman” means the Chairman of the Board.

“company” has the same meaning as in the Companies Act 1955.

“company member” means a member of the Exchange that is a company.

“Deputy Chairman” means the Deputy Chairman of the Board.

“Exchange” or “N.Z. Stock Exchange” means the New Zealand Stock Exchange (which body is referred to in section 3 of the Sharebrokers Amendment Act 1981 as the successor of the Stock Exchange Association of New

Zealand, the Auckland Stock Exchange, the Wellington Stock Exchange, the Christchurch-Invercargill Stock Exchange Limited and the Dunedin Stock Exchange).

“Managing Director” means the managing director of the Exchange or the person for the time being carrying out the duties of the managing director as provided in Rule 8 (31).

“individual member” means a member of the Exchange who is a natural person and includes those members formerly classified as country members.

“member” means a member of the Exchange and includes both individual members and company members, except where a contrary intention appears.

“Membership Committee” means the Committee established by the Board in terms of Rule 5 (1).

“Membership Appeal Committee” means the Committee established by the Board in terms of Rule 5 (6).

“personal place of business” means:

- (a) In relation to an individual member, the sharebroking office where the member ordinarily works; and
- (b) In relation to a company member, the registered office of that member.

“regulations” means the regulations made by the Board under Rule 8 (24) and for the time being in force.

“share” or “shares” shall include stock and vice versa.

“sharebroker” shall include stockbroker and vice versa.

“sharebroking” shall include stockbroking and vice versa.

“sharebroking firm” means a company member, or a partnership of individual members, or a member in practice as a sole trader.

“sharebroking office” means:

- (a) any place from which a sharebroking business is conducted; and
- (b) where used in relation to a member, any such place under the control of the member or of a partner, employee, or employer of the member.

“The Act” means the Sharebrokers Amendment Act 1981 or any statutory modification thereof.

“Vice-Chairman” means any member appointed to that office by the Board in terms of Rules 9 (1) and 9 (2) including any member so appointed under a title other than Vice Chairman.

1 (2) Any marginal notes or headings shall not affect the construction of these Rules.

1 (3) Words importing persons include firms and corporations unless the context otherwise requires.

1 (4) Words importing one gender shall include the other genders.

1 (5) Words importing the singular number include the plural number also, and vice versa.

#### **2 Objects**

2 (1) As prescribed by section 4 (1) of the Act, the functions of the Exchange are:

- (a) To operate a national stock exchange, which may be wholly or in part operated through the establishment of regional stock exchanges;
- (b) To promote and specify the conditions and terms for the listing and trading of securities on its exchange;
- (c) To regulate and promote uniformity in the conduct of its members and of business by its members;
- (d) To promote the interests of its members and members of the public in relation to the listing, trading, underwriting, and marketing of securities.

2 (2) As prescribed by section 4 (2) of the Act, the Exchange

shall have all such powers as are reasonably necessary or expedient to carry out its functions.

### 3 Membership

3 (1) Members shall consist of all persons who have become members pursuant to any rule for the time being in force and all persons admitted to membership as hereinafter provided.

3 (2) Membership of the Exchange shall comprise the following classes:

- (a) individual members; and
- (b) company members.

3 (3) The Membership Committee shall admit as an individual member of the Exchange a natural person who has applied for membership of the Exchange in accordance with Rule 4 if:

- (a) The person supplies evidence satisfactory to the Membership Committee to the effect that:
  - (i) He holds a sharebroker's licence; and
  - (ii) He has obtained and lodged with the Exchange a bond pledging the amount of \$200,000 as being available for commitment to the sharebroking business of that member at all times that he conducts business other than as an officer or employee of a company member, and whether as a sole trader or a member of an unincorporated partnership. Such bond shall be provided on terms reasonably deemed by the Board to afford reliable security for the amount thereof, and shall be renewed annually and maintained in all respects at all times while an individual member is in business.

This condition of membership shall apply to all persons making application after the date on which these rules take effect provided however that the bond required may be stipulated by the Board in any particular case to be for such lesser amount as the Board shall in its absolute discretion determine having regard to the reasonable potential for smaller commitments and trading obligations likely to be incurred given the scale, nature and location of the business of the applicant.

- (iii) He has been employed full time for a total of not less than three years in the five year period immediately preceding his application for membership in the sharebroking office of a member, or of a member of an overseas stock exchange recognised by the Exchange, or he can provide evidence of qualification or experience which the Membership Committee may accept either in reduction of the three year full time employment requirement or in extension of the five year period; and
- (iv) He has obtained a pass in such examinations as the Board may from time to time prescribe:

Provided that the Board may exempt from this rule a former member seeking readmission to the extent that the Board considers that the former member's previous sharebroking experience makes compliance with this rule unnecessary; and

- (v) He will carry out his responsibilities as a member and sharebroker honestly and diligently. Without limiting the power of the Membership Committee to satisfy itself with regard to this requirement, it may accept references from at least 2 suitable persons as evidence of the candidate's intentions in this matter.
- 3 (4) The Membership Committee shall admit as a company member of the Exchange a company that has applied for membership in accordance with Rule 4 if:
- (a) The company provides evidence satisfactory to the Membership Committee to the effect that:

- (i) The requirements of Rule 6 (6) are met; and
  - (ii) The company holds a sharebroker's licence.
- (b) Each director of the company has delivered to the committee a statutory declaration stating that the requirements of Rule 6 (6) are met and that the director will ensure that the company will abide by the Rules of the Exchange.

3 (5) A person shall cease to be a member:

- (a) If he shall have delivered his resignation in writing to the Board and the Board shall have accepted the same (and no such acceptance shall be withheld without good reason); or
- (b) On termination or expulsion pursuant to Rule 3 (14) or Rule 20 (10).

3 (6) The Board may at its discretion appoint as an honorary member, any individual member who may have resigned in terms of Rule 3 (5) (a).

3 (7) An honorary member shall have no voting rights at any general meeting of the Exchange but he shall be entitled to attend such meetings in a non voting capacity.

3 (8) An honorary member shall have no liability for any fee, levy or other charge made by the Exchange and shall hold his honorary status at the complete discretion of the Board.

3 (9) For the purposes of this Rule, Rules 3 (10)–3 (15) inclusive, Rule 7 (5) (d), Rule 20 (5) (d) and Rule 24 (4), the term "principal" shall mean:

- (a) Any member in practice as a sole trader;
- (b) Any member who is a partner, director or shareholder of a sharebroking firm;
- (c) Any member who is a director of or controlling shareholder in a company which holds directly or indirectly more than 25% of the issued capital of a company member;
- (d) Any member who has or has had at any time a relationship with a sharebroking firm giving that member the right or opportunity to influence or control the direction of that firm which in the opinion of the Board, would reasonably require that member to be regarded at the material time as a principal of that sharebroking firm.

3 (10) Where a sharebroking firm has been declared a defaulter in terms of Rules 22 (1) or 22 (4), every principal of that sharebroking firm shall, from the time such declaration of default has been made, be deemed to be suspended until further notice.

3 (11) Any member suspended under Rule 3 (10) shall, as a condition of retaining his membership:

- (a) Provide all reasonable assistance to the receiver, liquidator, special manager or any other appropriate person to enable both the financial position of the sharebroking firm to be established and the reconciliation of accounts with all other members to be completed; and
- (b) Contribute financially his appropriate share—
  - (i) to the costs of the resolution of the sharebroking firm's affairs; and
  - (ii) to the funding of any liability which the firm might have to its clients and sharebroking creditors after determining the sharebroking firm's recoverable assets.

3 (12) The amount of the appropriate share in Rule 3 (11) (b) shall be determined by the Board and in making such a determination the Board shall have regard to the interest which a member has in the sharebroking firm, the extent to which the member was in a position to influence or control the direction of the sharebroking firm and any other matters which the Board could

reasonably regard as relevant to enable the appropriate share to be determined.

- 3 (13) Any member who has been suspended in terms of Rule 3 (10) may apply in writing to the Board for that suspension to be lifted. Without limiting the discretion of the Board to decide the matter, it shall be reasonable grounds for the suspension to be lifted where:
- (a) The member is able to show to the satisfaction of the Board that in the circumstances of his case, it might not have been appropriate for the suspension to be imposed; or
  - (b) The member is able to provide evidence satisfactory to the Board of his ongoing commitment to meet the obligations set out in Rules 3 (11) (a) and 3 (11) (b).
- 3 (14) Any member who is not prepared and able to meet the obligations set out in Rules 3 (11) (a) and 3 (11) (b) shall be required to advise the Board in writing.
- Upon receipt of such advice, the Board may without further notice, terminate the membership of such member. Alternatively, the member in question may, as part of his advice to the Board, tender his resignation from membership.
- 3 (15) Any resignation under Rule 3 (14) shall be made in terms of Rule 3 (5) (a) and shall be conditional upon the member in question having settled all outstanding fees and levies owed to the Exchange and any other expenses incurred in respect of the member by the Exchange.
- 3 (16) Any member who either resigns or has his membership terminated in terms of Rule 3 (14) without having met any obligations imposed under Rules 3 (11) (a) and 3 (11) (b) or without having paid all outstanding fees, levies and other expenses, shall not be eligible to subsequently apply for readmission to membership until all such obligations have been discharged to the satisfaction of the Board.
- 3 (17) Where at any time any member obliged to maintain a bond in terms of Rule 3 (3) (a) (ii) does not for any reason have such a bond in force, that member shall be suspended until a bond is in force on terms reasonably acceptable to the Board. This Rule in no way affects the application of Rules 3 (10) to 3 (13).
- 3 (18) For the purposes of any of the rules or regulations which provide for suspension of a member, suspension shall mean that the member concerned shall not, for the period of the suspension, be entitled to exercise any of his rights as a member, including the right to practise sharebroking as a member, the right to hold any position or office which must be held by a member, whether in his firm or in the Exchange, the right to vote at any meeting of members, and the right to hold himself out to the public as a member. Suspension shall not, however, excuse a member from meeting any of his obligations to the Exchange including the obligation to pay all fees and levies as they fall due.
- 3 (19) Where a member is convicted of a crime involving dishonesty as defined by section 2 of the Crimes Act 1961 or any statutory modification or amendment thereto, the Board shall without further notice terminate the membership of such member.
- 3 (20) For the purposes of Rule 3 (19), proof of the conviction of a member may be given by a certificate containing the substance of the conviction and purporting to be signed by the Registrar or other proper officer of any Court by which the member was convicted.

#### 4 Application for Membership

- 4 (1) Application for membership shall be made in writing to the Board.

4 (2) An application for membership shall state:

- (a) That the applicant agrees to be bound by the Rules of the Exchange; and
- (b) Evidence of the applicant's eligibility under Rule 3 (3) or 3 (4) as the case may be.

4 (3) Upon receipt of any application for individual membership, the Board shall thereupon advise all members of the application setting out the full name of the applicant and the applicant's present employer.

#### 5 Admission to Membership

- 5 (1) The Board shall establish a committee to be known as the membership committee which shall consider all applications for membership of the Exchange.
- 5 (2) The Membership Committee shall consist of 4 individual members, plus one fulltime employee of the Exchange, all appointed by the Board and shall meet as required to consider applications for membership both from individuals and from companies. The quorum for a meeting of this committee shall be 3 persons and the Committee shall elect its own chairman.
- 5 (3) All applications for membership shall in the first instance be directed to the Board.
- 5 (4) The Board shall review each application for membership and satisfy itself that the appropriate requirements of Rules 3, 4 and 6 of the Rules have been met. If the Board is so satisfied, the application shall then be forwarded to the Membership Committee for its consideration.
- 5 (5) A majority vote of the Membership Committee shall be needed to approve an application for membership. In the case of an equality of votes, the chairman of the committee shall have a second or casting vote.
- 5 (6) An unsuccessful applicant for membership of the Exchange shall have the right of appeal against this decision and the Board shall establish a standing committee to be known as the Membership Appeal Committee, for this purpose.
- 5 (7) The Membership Appeal Committee shall consist of three persons of suitable standing in the business community, at least one of whom shall be a member of the Exchange, and at least one of whom shall be a barrister or solicitor of not less than seven years standing currently in practice and the Membership Appeal Committee shall be chaired by the barrister or solicitor member.
- 5 (8) Members of the Membership Appeal Committee shall be entitled to remuneration for all reasonable expenses incurred in the carrying out of their duties, at a rate to be determined by the Board.
- 5 (9) Appointments to the Membership Appeal Committee shall be made by the Board and shall be for a maximum term of 3 years, provided that the Board may reappoint any member of this committee for a further term or terms.
- 5 (10) The Board shall have power to review the membership of the Membership Appeal Committee at any time and shall have power to remove or replace any persons then serving upon any reasonable ground for doing so.
- As examples of reasonable grounds but without in any way limiting the right of the Board to decide that a particular ground is reasonable a person may be removed and replaced who becomes of unsound mind or is declared bankrupt or makes any arrangement or composition with his creditors.
- 5 (11) The quorum for a meeting of the Membership Appeal Committee shall be 3 persons.
- 5 (12) The Membership Appeal Committee shall have the

power to make any ruling regarding the costs of the appeal which it deems appropriate and it shall be a condition of any appeal that at the time the appeal is lodged the appellant gives an undertaking acceptable to the Membership Appeal Committee regarding the payment of costs in the event that they are awarded against him.

- 5 (13) Both the Membership Committee and the Membership Appeal Committee may, in lieu of meeting, transact business by letter, facsimile, telex, telephone or any commonly used form of electronic communication and unless otherwise provided by these rules, both committees shall have the power to regulate their proceedings in whatever manner they deem appropriate.

### 6 Conditions of Membership

- 6 (1) No member shall, in respect of his activities as a sharebroker, describe his occupation in any way other than as a member of the Exchange.

- 6 (2) Where any member is in any way associated with any group or association, whether incorporated or not, the functions or purposes of which include the provision in New Zealand of any services of any sort falling within the objects of the Exchange, then:

- (a) The member shall in all circumstances clearly identify to all persons with whom that member may deal and all other persons who may become aware of the member's conduct, the distinction between conduct undertaken by the member as a member of the Exchange, and conduct undertaken in the course of or by virtue of the member's association with that other body:

Provided always that, if after appropriate warning a member continues to breach this rule, then the Board may, in addition to exercising any disciplinary powers, suspend the member until appropriate arrangements are made for full dissemination of advice identifying the precise scope of that member's activities as a member of the Exchange.

- (b) In relation to the dissemination of information or provision of access to facilities that are provided by the Exchange for members (in this rule collectively described as "the services") all members acknowledge:

- (i) the services are provided to members of the Exchange on a basis of the cost thereof being in whole or in part shared by the members of the Exchange;
- (ii) the services may incorporate or rely upon material in respect of which the Exchange enjoys copyright;
- (iii) the services may incorporate information produced for the confidential use of members only, without it being specifically delineated but in circumstances that require all members to respect absolutely that confidentiality;

in such circumstances that in any case where the Board is satisfied that a member is misusing the access to those services for the purpose of promoting or conducting business in the course of its association with any other organisation as defined in Rule 6 (2) herein, the Board may at any time restrict access for that member to the services or suspend participation by that member in the facilities provided by the Exchange.

- 6 (3) Every individual member who was a member on 22 March 1990 and who has continuously retained that membership since that date shall ensure that at all times during the period of that membership, his assets exceed his liabilities by such sum (not being less than \$200,000 for a member with trading floor representation or \$100,000 for a member without trading floor representation) as may from time to time be determined by the Board for the purposes of this rule, provided that any such member may at any time elect to satisfy this

condition of membership by the provision of a bond on the terms provided for in Rule 3 (3) (a) (ii). The Board may accept a guarantee as part of the member's assets.

- 6 (4) Every member shall maintain accounting and other records of his sharebroking business separate and distinct from the accounting and other records of any other business in which he may be involved.

- 6 (5) Every sharebroking firm shall, in respect of every individual member associated with that firm whether as a partner, director, shareholder, employee or otherwise, pay such fees, levies and other expenses as shall from time to time be fixed or incurred on behalf of such member by the Exchange. In addition, each individual member shall also be liable to pay such fees, levies or other expenses in the event that his firm is unable, through default or other financial difficulty, to make or complete the appropriate payment and the member's liability shall be limited to the amount owing and still unpaid. There may be differentiation as regards the amount of such fees, levies or other expenses as between different classes of membership, between company members, individual members who are not shareholders of company members, and individual members who are shareholders of company members and between individual members themselves, if in the opinion of the Board, such differentiation is not unreasonable in the particular circumstances.

- 6 (6) Every company member, and every individual member who is a director of a company member, shall ensure that at all times:

- (a) A majority of the directors of the company are individual members of the Exchange:

Provided that for the purposes of this Rule 6 (6), the Board may resolve that a member of an overseas stock exchange shall be deemed to be a member until and if such resolution is revoked.

- (b) The issued and paid up share capital of the company is at least equal to the greater of:

- (i) The sum of \$1,000,000; or

- (ii) If the company has trading floor representation, the sum derived by multiplying \$200,000 by the number of individual ordinary members of the Exchange who are the beneficial and registered owners of the voting shares of the company; or

- (iii) If the company does not have trading floor representation, the sum derived by multiplying \$100,000 by the number of individual ordinary members of the Exchange who are the beneficial and registered owners of the voting shares of the company.

- (c) The holders of any uncalled, or called but unpaid, shares in the capital of the company have been approved by the Board as persons of proper financial standing and repute.

- (d) The articles of association of the company provide that:

- (i) The company agrees to be bound by the Rules of the Exchange, in force from time to time; and

- (ii) The directors required to form a quorum for a directors' meeting shall include a majority of directors who are members of the Exchange; and

- (iii) The directors may not delegate their powers by power of attorney or in any other manner:

Provided that a director who is a member of the Exchange may appoint as his alternate director a person who is a member of the Exchange.

- (e) The registered office of the company is located at a sharebroking office of the company except that where the company is a wholly owned subsidiary of any other company with its registered office in New Zealand, the

member's registered office may be situated at the same location as that of its parent company.

- (f) The articles of association of the company comply in all material respects with the standard form (if any) prescribed from time to time for such articles by the Board and the determination of the Board that the articles of association of a company do or do not at any time comply with this Rule 6 (7) (f) shall be final and binding on the company member.
- 6 (7) The shares of a company member may be held in the name of a nominee but where any shares of a company member are held in or transferred into the names of nominees, the directors of the company member shall immediately advise the Board of the identity of the beneficial owner or owners of such shares.
- 6 (8) No company member shall have any of its shares held in such a way that the identity of the beneficial owner of those shares cannot be determined or disclosed to the Board and to all other members. All company members shall provide the Managing Director with a schedule of their shareholders, listing the identity of the beneficial owners of such shares and the number of shares held by each beneficial owner. The Managing Director shall maintain a file of such schedules and the file shall be open for inspection by any person at an office of the Exchange nominated by the Managing Director.
- 6 (9) Where there is a change in either the registered ownership or the beneficial ownership of any shares in a company member, the directors shall immediately advise the Managing Director, giving full details of the change and also confirming the identity of the beneficial owner of such shares so that the register referred to in Rule 6 (8) may be updated.
- 6 (10) Failure by a company member to disclose either changes in shareholding or the identity of the beneficial owners of its shares shall render the member liable to suspension by the Board. A suspension pursuant to this rule shall continue until such disclosure shall have been made to the satisfaction of the Board.
- 6 (11) Whenever a new director of a company member is appointed, the company shall forthwith deliver to the Exchange a statutory declaration by the director stating that the company is complying with Rule 6 (6) and that the director will ensure that the company will abide by the Rules of the Exchange.
- 6 (12) Whenever a company member files with the Registrar of Companies an annual return or a notice of a change in its share capital, or its directors or articles of association, it shall at the same time send a copy of such return or notice to the Managing Director.
- 6 (13) Every sharebroking firm shall designate one individual member to be managing partner or managing director as the case may be.

### 7 Sharebroking Offices

- 7 (1) A member may have more than one sharebroking office and any sharebroking office may be situated anywhere in New Zealand or overseas:
- Provided that no member shall operate such sharebroking office under a name which is different from that of his sharebroking firm.
- 7 (2) Every sharebroking office shall be under the direct full time control of either at least one individual member or a suitably qualified and experienced employee of that member.
- 7 (3) Where a member proposes to operate a sharebroking office under the control of a non-member employee, that member shall first seek the consent of the Board to the proposal by satisfying the Board that the employee

containing the substance of the conviction and purporting to be signed by the Registrar or other proper officer of any Court by which the member was convicted.

### 4 Application for Membership

- 4 (1) Application for membership shall be made in writing to the Board.

concerned has the necessary qualifications and experience to be in charge of a sharebroking office.

- 7 (4) As a minimum, an employee so proposed should:
- Have at least 2 years' full time experience in the office of a member or in the giving of investment advice to the public; and
  - Hold a sharebroker's licence; and
  - Have attained a pass in such examinations or part thereof as the Board may from time to time prescribe or have completed any educational programme which in the opinion of the Board should qualify such a person to be in charge of a sharebroking office.
- 7 (5) A member wishing to open his first sharebroking office, or to establish a new sharebroking firm, whether as a sole trader, as a company member or in association with another member, shall first be required to satisfy the Board that:
- He and any other member with whom he is associated in the venture, is able to meet the capital and equity requirements set out in these rules or in any regulations made thereunder;
  - His office and book keeping systems are of an acceptable standard when measured against those already in place in other sharebroking firms. For the purposes of this rule, a certificate to the appropriate effect from the Stock Exchange Inspector will suffice;
  - his senior staff are suitably experienced and capable to enable his business to be conducted in a way which will not place other members and the investing public at financial risk;
  - he has fully met all obligations arising from his previous activities as a principal of a sharebroking firm.

For the purposes of this Rule, no sharebroking firm shall be deemed to be "new" merely because another member has become associated with it or because any part of its shareholding may have changed hands or because it has merged with another sharebroking firm.

- 7 (6) Any person admitted to membership who is at the time of his admission a principal or director of a sharebroking business and wishes to continue to operate that business as a sharebroking firm in terms of these Rules, shall first satisfy the Board that he and his business are able to meet the criteria set out in Rule 7 (5).
- 7 (7) A member wishing to open further sharebroking offices in addition to his principal place of sharebroking business or to join in partnership or become formally associated with another member shall give the Exchange at least 21 days' written notice of his intention to do so. In the case of a sharebroking office, the notice shall state the full address of the office and the full names of the person or persons under whose direct full time control it will be placed. On receipt of any such notice the Managing Director shall forthwith advise all members of its details.
- 7 (8) A member shall be entitled to participate either in person or through an authorised clerk in the official trading meetings on any trading floor of the Exchange so long as that member has paid such fees and levies as the Board shall reasonably determine.
- 7 (9) Where a member has more than one sharebroking office, deliveries to the member shall be made to the office of the Exchange nominated by the member for that purpose unless otherwise agreed between the parties.
- 7 (10) Where a member has a sharebroking office situated overseas:
- Subject to Rule 7 (10) (b), the provisions of these Rules which relate to the operation of sharebroking offices

particular ground is reasonable a person may be removed and replaced who becomes of unsound mind or is declared bankrupt or makes any arrangement or composition with his creditors.

- 5 (11) The quorum for a meeting of the Membership Appeal Committee shall be 3 persons.
- 5 (12) The Membership Appeal Committee shall have the

shall apply in respect of that overseas sharebroking office except in so far as they conflict with any requirements whether statutory or otherwise that apply in the jurisdiction in which that sharebroking office is situated;

- (b) Rule 23 shall apply in respect of that sharebroking office, except that an inspector appointed under Rule 23 (4) may appoint an overseas chartered accountant in public practice as his agent and delegate to him any or all of his powers as inspector in relation to that sharebroking office.

### 8 Board of Directors

- 8 (1) The management and control of the business and affairs of the Exchange shall be in the hands of a Board of Directors ("the Board"). The powers of the Board shall be subject only to such limitations as are expressly imposed by these rules.
- 8 (2) The Board shall consist of 10 persons of whom at least 5 shall be individual members of the Exchange, at least 2 shall be non-members and a maximum of 2 may be full time employees of the Exchange who shall be appointed by the Board at the recommendation of the Chairman.
- 8 (3) All appointments to the Board, other than that of any fulltime employee of the Exchange, shall be by election at the annual meeting of members and such appointees shall be subject to nomination as specified by these Rules.
- 8 (4) Nominations for member appointees to the Board shall be made by two other individual members and submitted in writing to the Managing Director no later than five weeks prior to the date of the annual meeting. All persons nominated shall confirm in writing to the Managing Director their willingness to accept nomination.
- 8 (5) No person who is not a member other than any fulltime employee of the Exchange appointed in terms of Rule 8 (2), shall be eligible for election to the Board unless he has first been nominated by the Chairman and he has suitable business experience (as determined by the Board). Any person so nominated shall signify in writing his willingness to accept the nomination and the nomination shall be submitted in writing to the Managing Director no later than five weeks prior to the date of the annual meeting.
- A non-member Director elected to the Board shall:
- (a) Not be employed concurrently in any office of the New Zealand Stock Exchange or any of its sharebroking firms;
- (b) Be entitled to all information and any notices circulated to members and may attend, but not vote, at general meetings of members;
- (c) Not by reason of his election become a member of the Exchange.
- 8 (6) All directors shall be entitled to remuneration at such a rate or by such sum as the members may at any general meeting from time to time determine. The remuneration so determined shall apply to the year specified in such determination and to all subsequent years until altered by the members in general meeting.
- 8 (7) The remuneration shall not be altered unless notice of intention to move accordingly stating the amount of the proposed increase or decrease has been given in the notice convening the relevant meeting.
- 8 (8) The remuneration of the Directors may be fixed individually or collectively or by both of such means. Remuneration payable to any Directors collectively shall be divided amongst them in such proportions and in such manner as they may determine, and in default of

such determination shall be divided amongst them equally.

- 8 (9) The Directors shall be entitled to be paid reasonable expenses incurred in attending meetings of the Board and whenever else engaged on the business or affairs of the Exchange.
- 8 (10) The Board may allow special remuneration by a fixed sum or salary to any Director rendering any special services or undertaking work additional to that normally required of the Directors. This provision shall also empower the Board to authorise additional payment to the Chairman where his commitment to the affairs of the Exchange substantially exceeds that reasonably expected of a non-executive chairman.
- 8 (11) Any Director or any firm of which that Director is a member or partner may act in a professional capacity for the Exchange and shall be entitled to remuneration for professional services as if the Director were not a Director. A Director or that Director's firm shall not act as auditor to the Exchange.
- 8 (12) At each annual meeting 2 member Directors and 1 non-member Director shall retire from office. The Directors to retire shall be those who have been longest in office since their last election.
- 8 (13) As between persons who became Directors on the same day those to retire by rotation shall (unless they otherwise agree) be determined by lot.
- 8 (14) A Director who is retiring in terms of Rule 8 (12) may offer himself for re-election and shall be deemed to have been re-elected unless at the meeting it is resolved that the vacated office shall not be filled or that the retiring Director shall not be re-elected.
- 8 (15) A retiring Director who is not standing for re-election shall hold office until the closure or adjournment of the meeting at which any successor of the retiring Director is elected.
- 8 (16) The appointment of any Director shall be terminated:
- (a) At any time agreed upon by a majority of the Board;
- (b) Upon the death or resignation in writing of that Director;
- (c) By a resolution approved by a majority of those members, present in person or by proxy at any general meeting of members.
- 8 (17) At its first meeting following the annual meeting, the Board shall elect two of its members to act as Chairman and Deputy Chairman. A non-member Director shall not be eligible for election either as Chairman or Deputy Chairman but shall be eligible to act as Chairman of a meeting in terms of Rule 8 (26).
- 8 (18) Where a member of the Board is temporarily unable to act, for whatever reason, that member may in writing, appoint an alternate (being a member or non-member as appropriate) who is not already a Director and who is approved by a majority of the other Directors, to act in all matters for him during his temporary inability to act.
- 8 (19) The appointee while holding office as an alternate shall be entitled to notice of meetings of the Directors and in the absence from meetings of the appointor to attend and vote at meetings as a Director but shall not be entitled to be remunerated otherwise than out of the remuneration of the appointor.
- 8 (20) The appointment may be revoked at any time by the appointor or by a majority of Directors by notice in writing delivered to the Managing Director.
- 8 (21) In the event of any member of the Board being unable or unwilling to act for the term or balance of the term for which he was appointed, then the Board at its

discretion may appoint another person (being a member or non-member as appropriate) to fill the casual vacancy so created until the date of the next annual meeting at which the person so appointed shall retire.

- 8 (22) Any person appointed to the Board to fill a casual vacancy in terms of Rule 8 (21) shall be eligible for nomination and reappointment to the Board by the meeting at which he has retired.
- 8 (23) The Board shall have power to appoint sub-committees, with such powers, special or general, as it may from time to time and in any particular case determine.
- 8 (24) The Board shall have power to:
- Make regulations not inconsistent with these rules governing incidental matters of detail or administrative machinery relating to matters provided for by these rules, and from time to time to amend or replace such regulations. The regulations shall be as binding on all members as if they were incorporated in these rules. A copy of the regulations shall be available for public inspection free of charge at offices of the Exchange.
  - Delegate to any person, sub-committee of the Board or other committee or body, whether incorporated or unincorporated, and whether or not it includes or comprises persons who are not members, any of the powers, rights and discretions of the Board including the power of delegation on such terms and conditions as the Board may from time to time specify.
- 8 (25) Meetings of the Board shall be held at such time and place and upon such notice to its members as the Chairman may from time to time appoint or determine.
- 8 (26) In the absence of both the Chairman and Deputy Chairman from any meeting of the Board, the members of the Board present shall elect from their number a chairman for that meeting.
- 8 (27) The quorum for a meeting of the Board shall be 4 (of whom not less than 3 shall be members of the Exchange).
- 8 (28) Questions arising at meetings of the Board shall be decided by a majority of the votes cast.
- 8 (29) Each member of the Board shall have one vote and in the event of an equality of votes the chairman shall have a second or casting vote.
- 8 (30) The Board may, in lieu of meeting, transact business by letter, facsimile, telex, telephone or any commonly used form of electronic communication but the following rules shall apply:
- Every reasonable effort (having regard to the urgency of the matter) shall be made to refer the business to every member of the Board;
  - The provisions of Rules 8 (26) to 8 (28) shall apply as if the questions were determined at a meeting;
  - A minimum of 4 votes cast shall be necessary to determine the question.
- 8 (31) The secretariat of the Exchange shall be the responsibility of the Managing Director who shall be appointed by, and be accountable to, the Board. In any temporary absence of the Managing Director, the Board may appoint any other person to that position for the period of absence of the Managing Director.
- 8 (32) Where by these rules any thing or matter is prescribed to be done by the Chairman and the Chairman is unwilling or unable to act, such thing or matter may be done by the Deputy Chairman or failing him, then by the Board.
- 8 (33) No member of the Board shall vote at any meeting on any matter in which he is personally interested and on

that matter he shall not be included among the members present for the purpose of the quorum.

### 9 Local Activities

- 9 (1) The Board may at its discretion appoint a member or members to represent the interests of the Exchange and its members in a particular region or location.
- 9 (2) Any member so appointed shall hold the title of Vice Chairman of the Exchange or such other title as the Board may from time to time determine and shall have such functions as these rules may provide or as the Board at its complete discretion may from time to time determine.

### 10 General Meetings of Members

- 10 (1) The financial year of the Exchange shall end on a date to be determined from time to time by the Board. An Annual General Meeting of Members shall be held after the end of each financial year, not later than fifteen months following the preceding Annual General Meeting and in any event not later than six months after the end of the financial year.
- Such Annual General Meeting shall be held at a time and place to be determined by the Board. Members shall be advised of the place and date of each Annual General Meeting no later than four months prior to the date on which such Annual General Meeting is to be held.
- 10 (2) At the annual meeting of members or any adjournment thereof, the business shall be to receive the report and balance sheet, consider resolutions from the Chairman, the Board, and members, conduct elections to the Board and transact any other business whatever that may be introduced in accordance with these rules. Notice of any resolution to be proposed at the annual meeting shall be given to the Managing Director no later than 5 weeks prior to the date of such annual meeting. All other meetings of members shall be deemed to be special meetings.
- 10 (3) At least 21 days' notice shall be given of all Annual General Meetings.
- 10 (4) General meetings of members shall be convened on the requisition of the Chairman, the Board or by not less than 10% of those persons who are members of the Exchange at the date on which the requisition is deposited in terms of Rule 10 (5).
- 10 (5) Every requisition shall be in writing, shall state the objects of the meeting and shall be deposited at the office of the Managing Director.
- 10 (6) The Board shall within 7 days of the date of deposit of the requisition convene a meeting to be held within 40 days from the said date. Notice in writing of such meeting shall be sent to all members not later than 21 days prior to the meeting. The accidental omission to send a notice to a member or the non-receipt of a notice by a member shall not invalidate the proceedings of that meeting. The notice shall specify the place, day and hour of the meeting and also the objects of the meeting as specified in the requisition and any other business which the Board may wish to refer to the meeting.
- 10 (7) The Chairman shall preside at every general meeting but if he is not present a member appointed by the Board shall preside.
- 10 (8) No business shall be transacted at any general meeting unless a quorum of not less than 50% of the members eligible to vote is present in person or by proxy at the time of the commencement of the meeting. If within half an hour of the time appointed for the meeting a quorum is not present the meeting shall be dissolved.



- 10 (9) The Chairman may adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than business left unfinished at the meeting from which the adjournment took place. It shall not be necessary to give notice of an adjourned meeting.
- 10 (10) No business other than that specified in the notice of meeting shall be transacted at any general meeting except with the consent of the Chairman.
- 10 (11) At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll shall be demanded by the Chairman or by not less than 5 members. Each member present in person or by proxy shall be eligible to vote and shall have one vote. In the case of an equality of votes the Chairman shall have a second or casting vote. In all cases of dispute doubt or difficulty respecting or arising out of matters or procedure and voting the decision of the Chairman shall be final and binding.
- 10 (12) A proxy may be communicated to the Managing Director by facsimile transmission to meet the deadline required provided that the original of the facsimile shall be in the hands of the Managing Director before the time scheduled for the commencement of the general meeting.
- 10 (13) No person shall hold a proxy to attend and vote on behalf of an individual member unless he is also an individual member. Any director of a company member may hold a proxy to attend and vote for that member.
- 10 (14) No member who is in default or suspended shall be eligible to vote at a general meeting of members. Where there is any dispute about a member's eligibility to vote, a ruling shall be given by the Chairman, whose decision shall be final.

### 11 Conduct of Members

- 11 (1) Every member shall:
- At all times observe proper ethical standards;
  - Refrain from any action or conduct which might bring discredit to the Exchange and its members or bring the Exchange or members generally into disrepute.
- 11 (2) No member shall buy or sell securities for an employee of any other member.

### 12 Listing

- 12 (1) *Right of Quotation*—The right of quotation on the official list shall be granted only by the Exchange and upon such terms and conditions as the Board may generally or in any particular case from time to time determine:

Provided that notwithstanding the foregoing, the Board may delegate to the Managing Director or other officer or officers of the Exchange (subject to such conditions as it shall from time to time determine) a general power to grant such right of quotation in respect of any securities where the general requirements and conditions from time to time laid down by the Board as a condition precedent to the right of quotation on the official list have been complied with.

- 12 (2) A company desiring to have its equity or loan securities or any class or classes thereof granted the right of quotation on the official list shall make application in that behalf to the Executive Office of the Exchange and pay the fee from time to time prescribed by the Board. The Exchange may, without assigning any reason, refuse to grant such securities or any class of such securities the right of quotation on the official list, and

similarly may at any future time suspend or cancel such right of quotation:

Provided that such right shall also be cancelled when the Exchange is so requested by the company provided that the Board is satisfied that the rights of minority shareholders would not be unduly prejudiced by such cancellation.

- 12 (3) The Exchange may grant by way of courtesy and either with or without payment of any fee the right of quotation on the official list of any class of shares of a company registered outside New Zealand in respect of which the right of quotation on its official list has been granted by a stock exchange, outside New Zealand, recognised by the Exchange.
- 12 (4) Where a prospectus states that listing has been applied for no member shall deal in the securities concerned until they have been listed by the Exchange or listing has been refused.

### 13 Prospectuses

- 13 (1) Subject to Rule 13 (2) all members shall be deemed to have authority to act as brokers to or to be associated with any flotation where a prospectus or other document soliciting applications for shares or other securities or capable of promoting inquiries for shares or other securities is issued to members of the public as contemplated in the definition of "offers of securities to the public" in the Securities Act 1978.
- 13 (2) In the case of any flotation or further issue of shares or other securities for which listing is being or will be sought, no member shall have authority to act unless the issuer or its organising broker has sought and received assurance from the Exchange that authority to act has not been withdrawn. In considering an application for assurance of authority to act, the Exchange shall have regard to whether the requirements of the general law and the rules, regulations and listing requirements of the Exchange have been or are likely to be complied with, the standing and repute of the issuer and such other matters as the Exchange may consider to be relevant in the interests of the investing public and the standing of members.
- 13 (3) Application for assurance of authority to act shall be made by the member acting as organising broker to the Board or to any delegate of the Board and shall be accompanied by such fee as may from time to time be prescribed by the Board.
- 13 (4) The term "flotation" where it is used in Rule 13 of these rules shall not include the issue of debentures or stock by the New Zealand Government or by any local body within New Zealand.
- 13 (5) Assurance of authority to act given to any one member shall be deemed to be authority for all other members to be associated with the particular flotation but shall not confer upon such other members any right to demand to be allowed to place a portion of the issue.
- 13 (6) In each case in which assurance of authority to act has been received, there shall be endorsed upon the relevant prospectus or other document soliciting applications for shares or other securities the following statement:

"The New Zealand Stock Exchange has authorised members to act in this issue but accepts no responsibility for any statement in this prospectus."

### 14 Underwriting

- 14 (1) Upon receipt of an application for assurance pursuant to Rule 13 (3) that a member has authority to act in a flotation which he is underwriting whether wholly or in

part or in conjunction with any other person, the Board may request the Inspector appointed under Rule 23 (4) to verify, by examination of the records of the applicant, the details contained in the application in so far as they relate to the underwriting of the floatation and to report to the Board on the accuracy of such application with any comments which he considers may affect the Board's consideration of the application. In considering the application the Board shall satisfy itself that the obligations likely to devolve upon the member are within his financial capacity.

### 15 Quotations and Sales Reporting

- 15 (1) To maintain a quotation at official trading sessions, members offering to buy or sell shall be deemed to be bound to deal in numbers prescribed by the regulations, which numbers shall be known as marketable parcels. Nothing in this rule shall prevent any member agreeing to deal in quantities other than a marketable parcel or any multiple thereof.
- 15 (2) Sales shall be reported within such times and in such manner as shall from time to time be prescribed by the regulations.

### 16 Brokerage

- 16 (1) Subject to the provisions of the Rules and subject to the laws of the country wherein the register of securities dealt in is situated, stamp duty and transfer fees shall be paid by the purchaser. Where the transaction is for less than a marketable parcel as defined by the regulations the buyer and/or the seller shall pay such stamp duty and fees as may be prescribed from time to time by odd lot regulations of the Exchange.

### 17 Contracts

- 17 (1) In contracts between members for the sale and purchase of shares and stocks, they shall be held to be principals to each other, unless a written arrangement to the contrary is made between buying and selling brokers at the time the contract is made.
- 17 (2) The inclusion of a transaction in a member's matched trade report shall be prima facie evidence that the transaction has taken place and of the terms thereof.
- 17 (3) Refusal of the Board of Directors of any company to register a transfer shall not invalidate a contract between members.

### 18 Delivery and Settlement

- 18 (1) In order to ensure that members at all times meet their obligations regarding delivery of documents relating to share transactions and the settlement thereof:
- (a) all members shall deliver and settle according to the procedures and within the time limits set out in the regulations.
- (b) the Board shall make regulations setting out procedures to buy in shares or to provide a cash settlement in lieu where any member fails to meet delivery obligations. Such regulations shall include provision for charges which may be levied against the member in breach as a result of such procedures having to be invoked with regard to any particular transaction.
- 18 (2) Where any client of a member has failed to meet an obligation with regard to delivery or settlement then in the case of failure to deliver, the member concerned shall have the right to pass on and the client shall have the obligation to meet any charge or levy incurred by the member because of the client's failure to make delivery with the time needed to enable the member to meet the time limits set out in the regulations.
- 18 (3) Where a client has failed to settle with a member, both parties shall have the rights and obligations set out in

the regulations regarding cancellation of the contract and the mitigation of any loss relating thereto.

### 19 Trading Activities

- 19 (1) The Board may from time to time determine the method or methods by which the trading of securities takes place on the Exchange.
- 19 (2) Without limiting the Board's power to determine that trading in a particular security or class of securities may be carried on by a particular method, trading in any securities which may from time to time be listed on the Exchange, may take place by electronic means, or on a trading floor or in any combination of those two methods.
- 19 (3) The Board may at its discretion resolve that a trading floor or trading floors shall be established or maintained in a particular location or locations and may also by resolution establish the terms under which such a trading floor shall operate and the basis on which it is to be funded.
- 19 (4) In considering whether a trading floor shall be established or maintained in any location, the Board shall have regard to the needs of members and investors in that location, the effect which the establishment or maintenance of such a trading floor might have on the market generally and any other factor which the Board may reasonably take into account in making its decision.
- 19 (5) The Board may in respect of any electronic system of trading, determine the method by which such electronic trading shall be established and take place including its initial and ongoing funding, and the purchase and development of any computer hardware or software which in the opinion of the Board is necessary to establish and maintain such a system.
- 19 (6) Without in any way limiting the powers in Rule 8 (24) relating to the making of regulations, the Board shall make regulations for the conduct of trading, whether on an electronic system or on a trading floor or on any combination thereof, established or maintained pursuant to Rules 19 (3) or 19 (5). Such regulations may include provision for the terms under which any person, whether a member or an employee of a member, may have access to any electronic system or trading floor, or may trade any of the securities listed on the Exchange.

### 20 Discipline

#### 20 (1) Disciplinary Committee

- (a) The Board shall appoint a Disciplinary Committee consisting of:
- a barrister of not less than seven years' practice who shall be chairman;
  - three individual members, none of whom shall be a member of the Board;
  - one lay member, appointed in terms of Rules 20 (2) (a) and 20 (2) (b).
- (b) Subject to Rules 20 (1) (d) and 20 (1) (e) each appointment of a chairman shall be for a term of five years but the Board may reappoint any chairman for a further term or terms at its complete discretion.
- (c) Subject to Rules 20 (1) (d) and 20 (1) (e) each appointment of a member of the Disciplinary Committee (other than the lay member) shall be for a term of 3 years, provided that the Board may at its complete discretion appoint a retiring member for a further term or terms.
- (d) The Board may from time to time remove from office any member of the Disciplinary Committee or fill any

vacancy in its membership or appoint any additional member within the limits of Rule 20 (1) (a).

- (e) No member of the Disciplinary Committee who has reached the age of 70 years shall be eligible for appointment and any member of the Disciplinary Committee reaching that age shall retire from the Disciplinary Committee at the conclusion of the next annual meeting of the Exchange and shall not be eligible for reappointment.
- (f) The remuneration and expenses of the Disciplinary Committee shall be as agreed with the Board and shall be paid by the Exchange.

#### 20 (2) *Lay Member*

- (a) The Board shall appoint one member of the public (not a barrister or solicitor) to be the lay member of the Committee.
- (b) Each appointment of a lay member shall be for a period of one year, but may also be renewed.
- (c) The appointment shall be advised by the Exchange to the Securities Commission, to whom the lay member shall report at least once in each year.

#### 20 (3) *Quorum*

- (a) The quorum for a meeting of the Disciplinary Committee shall consist of the chairman and at least two other members of the Committee one of whom shall be the lay member.
- (b) If the chairman of the Disciplinary Committee, or the lay member or any other member through absence or any other cause, is unable to act, the Board shall as necessary appoint a suitably qualified person to act in his place during the period of his inability to act.

#### 20 (4) *Members' Interests*

- (a) At the hearing of any charge against a member, no member of the Disciplinary Committee who is concerned or implicated in or whose firm is concerned or implicated in that charge shall be eligible to attend any meeting of the Disciplinary Committee in respect of that charge.
- (b) The lay member shall as soon is practicable after being advised of any charge, declare any interest in connection with the parties to or the subject matter of the charge. In such a case he shall not be eligible to attend any hearing of that charge and the Board shall appoint another lay member for that hearing only.

#### 20 (5) *Powers of the Disciplinary Committee*

- (a) Without limiting or derogating from any other provisions of these Rules, the Disciplinary Committee shall have power to hear any charge made against any member and referred to it by the Board or its delegate.
- (b) The Disciplinary Committee may, by notice in writing signed by its chairman or by any person nominated by its chairman to act as its secretary, require any person (including any officer or employee of a company member) to attend and give evidence before it at the hearing of a charge and/or to produce for inspection all books, records, tapes, documents and papers that are in the custody or under the control of the person relating to the subject matter of any such hearing.
- (c) The Disciplinary Committee may, by notice in writing require any investigating committee appointed in terms of Rule 20 (6) (a) or any member thereof to appear before it and to produce all evidence arising from and any reports of the results of any investigation.
- (d) The Disciplinary Committee shall have power to enquire into any charge by the Board that a member
  - is in partnership with a non-member who has been guilty of, or

- has engaged as an employee a person who has been guilty of, or
- has engaged as a principal as defined in Rule 3 (9) a person who has been guilty of

conduct which if committed by a member would justify the Disciplinary Committee imposing on him any of the penalties referred to in Rule 20 (10).

- (e) If the Disciplinary Committee shall find any charge as contemplated by Rule 20 (5) (d) proved it may order
    - in the case of a non-member partner, that the partnership be dissolved;
    - in the case of a principal, that such person's engagement be terminated;
    - in the case of an employee, that such employee be dismissed.
  - (f) If any member fails to carry out an order of the Disciplinary Committee made under Rule 20 (5) (e), the Disciplinary Committee may suspend him until the order is complied with.
  - (g) At any time after a charge has been made against any member, the Disciplinary Committee may of its own motion and without the necessity of giving any prior notice to the member, make an order suspending his membership until the charge has been heard and disposed of. The Disciplinary Committee shall give public notice of the fact of interim suspension.
  - (h) The member in respect of whom any interim suspension order is made may at any time apply to the Disciplinary Committee for the revocation of the order and the Disciplinary Committee may grant, on such terms as it thinks fit, or refuse any such application.
  - (i) A member who has been suspended under Rule 20 (10) may apply to the Disciplinary Committee for revocation of his suspension and the Disciplinary Committee may grant on such terms as it thinks fit, or refuse such application.
  - (j) The Disciplinary Committee may require as a condition of granting an application under Rule 20 (5) (i) that the member pay, as well as his current year's subscription to the Exchange, an additional amount not exceeding a year's subscription together with the amount payable by a member to the fidelity guarantee fund during the period of the applicant's suspension. The additional amount payable, except that part due to the fidelity guarantee fund, shall be applied for the general purposes of the Exchange.
  - (k) The Disciplinary Committee shall hear and determine any appeal by a member from the decision of a complaints committee appointed in terms of Rule 20 (13) (a). Such appeal shall be by way of complete rehearing unless the Disciplinary Committee shall decide otherwise.
  - (l) Notwithstanding Rules 6 (6) and 6 (13) no charges against members shall be open to challenge on the grounds that the same, or substantially similar allegations, are made against one or more individual members and against a company member with which the individual members are associated. Charges against a company member may raise allegations as to conduct or omission by any natural persons employed by, or officers in, that company member.
- #### 20 (6) *Investigating Committee*
- (a) The Board or its delegate may appoint an investigating committee and cause or require it to conduct such further investigation as the Board or its delegate deems appropriate on any matter which has been the subject of a complaint.
  - (b) The composition of such investigating committee shall

be at the complete discretion of the Board or its delegate save that no member of the Board, the Disciplinary Committee or any complaints committee shall be eligible for appointment.

- (c) The Board may delegate to an investigating committee any power it may have relating to the inspection of members' records. Such delegation shall be in writing.

#### 20 (7) *Notice of Hearing*

The Disciplinary Committee shall give at least 10 days' notice in writing (or such lesser time than 10 days as may be agreed upon by the parties concerned) to the member against whom a charge has been made, specifying the nature of such charge and the date, place and time of the meeting of the Disciplinary Committee called to consider that matter.

#### 20 (8) *Procedure*

- (a) Except as otherwise provided in these rules, the Disciplinary Committee shall regulate its own procedure.
- (b) The Disciplinary Committee may require evidence to be given either orally or in writing and may require any evidence to be verified by statutory declaration.
- (c) The chairman of the Disciplinary Committee may require that any oral evidence be received only after the witness has taken an appropriate oath or affirmation.
- (d) At any hearing of the Disciplinary Committee, a member charged shall be given all reasonable opportunity of being heard and shall be entitled to be represented by counsel if such member so chooses.

#### 20 (9) *Statement of Findings*

- (a) The Disciplinary Committee shall forward to the Board a report of every hearing and of every penalty imposed by it.
- (b) The Board shall prepare a statement of the circumstances preliminary to the hearing of any complaint and the findings of the Disciplinary Committee on every charge and the penalty (if any) imposed.
- (c) The statement prepared in terms of Rule 20 (9) (b) shall identify the defendant member by name (unless no findings adverse to the member have been made, in which case the Board shall, at its discretion, decide whether to identify the member charged) and shall be circulated by the Board to members only or generally following the expiry of the appeal period specified in Rule 20 (13) (k).

#### 20 (10) *Penalties*

If, after hearing any charge, the Disciplinary Committee finds that the member has been guilty of misconduct or of a breach of any rule or regulation, or of any act, matter or thing detrimental to the wellbeing or proper conduct of the Exchange, it may, if it thinks fit do one or more of the following things:

- Expel the member from membership
- Suspend the member for a stated period
- Order the member to pay to the Exchange within a specified time, a sum by way of penalty not exceeding \$100,000 plus GST or any other applicable tax
- Censure the member.

#### 20 (11) *Costs and Expenses*

- (a) After hearing any charge or application, the Disciplinary Committee may at its discretion make an order as to costs including
- the costs and expenses of and incidental to any investigation or hearing, and

— the legal costs of the Exchange whether in relation to the proceedings before the Disciplinary Committee or in prior proceedings before a complaints committee appointed in terms of Rule 20 (13) (a). All witnesses' expenses shall be paid by the Exchange and shall be recoverable in terms of any order that the Disciplinary Committee may make in relation thereto.

- (b) Every person (other than a member or an officer or employee of a member) who gives evidence or attends to give evidence at a hearing by the Disciplinary Committee shall be entitled to tender for his proper travelling expenses before attending.

- (c) Every person (whether or not a member) who gives evidence or attends to give evidence at a hearing by the Disciplinary Committee shall, at the discretion of the Committee be paid such sum as the Disciplinary Committee may determine for travelling and other expenses and loss of time.

#### 20 (12) *Failure to Pay Costs or Attend*

- (a) Any member who fails within the time stated in any order of the Disciplinary Committee to pay any sum ordered to be paid by way of penalty or costs or expenses may be suspended by the Board until such sum is paid. Should any part of the sum remain unpaid for one month following the date of suspension, in the absence of any circumstance which in the opinion of the Board provides reasonable and substantial justification for such failure to pay, the Board may thereafter, at its complete discretion, expel the member forthwith.

- (b) Every member commits a breach of these rules who without lawful justification refuses or fails:

- to attend and give evidence when required to do so by the Disciplinary Committee; or
- to answer truly and fully any question put to him by a member of the Disciplinary Committee; or
- to produce to the Disciplinary Committee any book, tape, document, paper or other record required of him.

#### 20 (13) *Complaints Committee*

- (a) The Board or its delegate shall have the power to appoint one or more complaints committees either on a standing basis or to consider a particular charge, to investigate and consider charges which in the opinion of the Board or its delegate, relate to complaints which, given the circumstances of the case, would not justify the costs of convening the Disciplinary Committee.

- (b) A complaints committee shall consist of a minimum of one individual member who shall not be a member either of the Board or of the Disciplinary Committee and may hear any charge made against any member and referred to it by the Board or its delegate.

- (c) Where any member of a complaints committee is unable to act because of absence or because he or his firm is concerned or implicated in a charge, then the Board shall, if necessary, appoint another member in his place to consider and hear the particular charge.

- (d) The following rules relating to the Disciplinary Committee shall, *mutatis mutandis* and with the exceptions stated herein, apply to a complaints committee:

Rules 20 (4) (a) as to members' interests.

Rules 20 (5) (b) and 20 (5) (c) as to evidence.

Rule 20 (7) as to notice of hearing.

Rules 20 (8) (a)–20 (8) (d) inclusive as to procedure except that representation by counsel shall not be permitted without the consent of all parties.

Rules 20 (9) (a)–20 (9) (c) inclusive as to statement of findings.

Rule 20 (10) as to penalties except that a complaints committee may not suspend or expel a member nor may it impose any fine exceeding \$20,000 plus GST or any other applicable tax.

Rules 20 (11) (a) to 20 (11) (c) inclusive as to costs and expenses.

Rules 20 (12) (a) and 20 (12) (b) as to failure to pay costs or attend, subject to the member's right to appeal a finding.

- (e) Where a complaints committee decides, either on the advice of an investigating committee or after its own consideration of the facts, that the member in question has no case to answer, then the complainant shall be so informed and a written report of the findings given to both the chairman and the lay member of the Disciplinary Committee.
- (f) A complaints committee shall have the power to employ legal assistance.
- (g) A complaints committee may decline either to hear or to continue hearing a charge and instead refer it to the Disciplinary Committee.
- (h) A complaints committee may also resolve after hearing a charge that its powers as to penalties are not sufficient and refer the matter to the Disciplinary Committee.
- (i) The Disciplinary Committee in respect of any charge referred to it in terms of Rules 20 (13) (g) or 20 (13) (h) shall have the discretion to rehear any or all matters previously heard by a complaints committee.
- (j) In terms of Rule 20 (5) (k) there shall be a right of appeal to the Disciplinary Committee against the findings of a complaints committee with regard to findings and penalties (including the amount of costs).
- (k) Any appeal made in terms of Rule 20 (13) (j) shall be in writing and shall be lodged with the Managing Director not later than 10 days after the member concerned has been given written notice of the findings of the complaints committee.

## 21 Disputes

- 21 (1) All disputes between members shall be referred for determination to a vice chairman nominated by the Board.
- 21 (2) Where no vice chairman is able or willing to act as arbitrator in a dispute, the Board shall nominate another member to act as arbitrator.
- 21 (3) No right of appeal shall lie against a determination in respect of any dispute.
- 21 (4) The provisions of Rule 20 (4) (a) shall mutatis mutandis apply to hearings of disputes as if references therein to the Disciplinary Committee were references to the Board, vice chairman or any other member appointed under Rule 21 (2), as the case may be.
- 21 (5) The Board, vice chairman or any other member appointed under Rule 21 (2), as the case may be, may prepare and circulate to members or to such members as it thinks fit, a statement of its findings on any dispute.
- 21 (6) The Board, vice chairman or any other member appointed under Rule 21 (2), as the case may be, may make such order as it considers fit regarding the payment of costs of the hearing of any dispute.
- 21 (7) It shall be a condition precedent to the commencement of any action, by a member against any other member upon any matter arising out of any transaction of stockbroking or out of any transaction to which any Rule or regulation applies, that the dispute shall be first

determined in the manner provided by these Rules and thereafter action shall be commenced only for the enforcement of the decision given under these Rules and then only after the member sued shall have, after 14 days' notice in writing, refused or neglected to carry out such decision. In any action as aforesaid no member shall dispute the correctness of such decision or award, or the fact that it was given in accordance with these Rules.

## 22 Defaulting Members

- 22 (1) A member shall be deemed to be a defaulter in each of the following cases:
- (a) Where he is so declared by the Chairman after he has failed to pay forthwith the money demanded of him pursuant to any Rule relating to delivery and settlement.
- (b) Where the Board resolves that in its opinion he is in difficulties and has failed or is likely to fail to meet his liabilities.
- (c) Where he has committed an act of bankruptcy or has become bankrupt or is insolvent or has called a meeting of his creditors or has made a composition with his creditors or assigned his estate for the benefit of his creditors.
- (d) Where the Board resolves that in its opinion other circumstances exist which justify such member being considered a defaulter in order to protect the financial interests of members or of the investing public or for such other reasons as may be considered to be relevant in the interests of the Exchange and its members in the proper and efficient conduct of the Exchange's affairs.
- 22 (2) Where a member has been deemed to be a defaulter under Rule 22 (1), that decision shall be promulgated forthwith by the Chairman to all members.
- 22 (3) *Contracts with Defaulters:*
- (a) Subject to the provisions of these Rules every uncompleted contract with a member shall be deemed to be rescinded closed and terminated as from the time he becomes a defaulter and where the contract is partially uncompleted there shall be deemed to be rescission closure and termination as to the uncompleted balance.
- (b) The Board (whose decision shall be final) shall determine the market price on the day the member becomes a defaulter and any surplus or deficiency, in respect of such uncompleted contract or balance thereof shall be determined accordingly.
- (c) The defaulter shall be liable to the other member for any such deficiency and such other members shall account to the defaulter for any surplus.
- (d) Every member involved with a defaulter on a rescinded contract shall forthwith inform the Exchange of the details.
- 22 (4) The Board may declare any member a defaulter and may suspend such member from membership of the Exchange for such time as it shall think fit.
- 22 (5) In any case where it comes to the knowledge of a member that another member of the Exchange has failed to meet his obligations such member shall forthwith report the circumstances of the case to the Chairman. Failure to so report such circumstances shall be deemed to be a breach of these Rules.
- 22 (6) The Chairman upon receiving a report that a member has failed to meet his obligations, shall immediately cause an investigation of the matter to be made and shall simultaneously advise the Board that the affairs of such member are under investigation. He shall similarly advise the result of such investigation when completed.
- 22 (7) Where any inquiries as to the credit or position of any

member of the Exchange are being made by the Exchange every other member shall on request facilitate such inquiries and make all necessary inquiries into dealings with the member whose position is being investigated as aforesaid.

### **23 Members' Books of Account and Audit**

- 23 (1) Every member shall keep books of account and records containing complete and correct records and explanations of the affairs and transactions of his sharebroking business. The books, records and explanations to be kept shall be such as the Board shall from time to time determine or prescribe by the regulations. They must be sufficient to enable an auditor to supply the certificate of audit and report as required by Rule 23 (2).
- 23 (2) When notified by the Board, a member shall, within the time specified in such notification, supply to the Chairman a certificate of audit and report from a practising chartered accountant who, failing appointment by mutual consent between the member and the Board, may be appointed by the Board at the expense of the member. The certificate and report shall deal with such financial matters as the Board shall from time to time determine or prescribe by the regulations.
- 23 (3) The Board shall have full and absolute power at any time to call upon any member to produce forthwith, for inspection by the Board or its duly appointed representatives, all books, letters, telexes, telegrams or copies thereof, and other documents relating to his business as a sharebroker; and they may also require members and their clerks to appear before the Board or its duly appointed representatives at any time, and to give such information as may be required in connection with such business.
- 23 (4) The Board shall appoint either an individual or an appropriate firm, neither of whom shall be a member of the Exchange, to be or to provide appropriate personnel to carry out the duties of the Inspector of the Exchange. Any individual or firm so appointed shall be a chartered accountant, or a firm of chartered accountants, in public practice. The Board may, at its sole discretion, appoint an alternate Inspector (who shall be a chartered accountant or firm of chartered accountants, in public practice and not a member of the Exchange) if for any substantial reason it considers this necessary.
- (a) Each Inspector or alternate Inspector shall be directly responsible for work carried out by him under the provisions of these Rules or the regulations.
- (b) Neither the Inspector nor the alternate Inspector (if any) nor any member of their firm shall take any part in the accounting work involved with the day to day recording of sharebroking transactions for a member. Provided the principle of independence of the Inspector remains paramount, an Inspector may undertake for a member such accounting work as the preparation of annual accounts from a trial balance supplied by the member, preparing and lodging tax returns, or offering advice to the member on improving his accounting methods or his office procedures.
- 23 (5) The Inspector is empowered to inspect the financial records and related documents of each member at any time he considers necessary and to require from any member an explanation of any item or state of affairs whatsoever in relation to the member's sharebroking business, which, in the opinion of the Inspector, appears to need an explanation or to be at variance with these Rules or the regulations or with recognised sharebroking practice:

Provided that the Inspector may require to be given

access to information concerning the member's assets, either private or of another business when in the Inspector's opinion, it is advisable to demonstrate the members overall solvency.

- 23 (6) Each member shall be required to satisfy the Inspector that his accounts and related subsidiary records are being maintained in a satisfactory and systematic manner and are being kept regularly up to date.
- 23 (7) Each member shall be required to satisfy the Inspector that reasonable internal systems and checks exist in his sharebroking firm both in respect of the activities of employees able to initiate and control share transactions and also in respect of partners, shareholders and directors.
- 23 (8) Every member shall supply to the Inspector on a continuing basis such information as may be prescribed by the regulations.
- 23 (9) The powers in Rule 8 (24) (relating to the making of regulations) shall without in any way limiting the powers in that Rule, be deemed to extend to regulations relating to the operation of members and the supply by members of monthly returns of balances and other information to the Inspector.

### **24 Capital Adequacy Requirements**

- 24 (1) In order to ensure that members are at all times capable of meeting their financial obligations and subject as hereinafter provided, every sharebroking firm shall at all times maintain its liquid capital at or above the prescribed level.
- 24 (2) A sharebroking firm may be temporarily excused from compliance with Rule 24 (1) in respect of a particular transaction in accordance with Regulations made hereunder.
- 24 (3) For the purposes of this Rule 24 and Regulations made hereunder:
- (a) The terms "liquid capital" and "prescribed level" shall have the meanings given to them in the regulations.
- (b) The powers in Rule 8 (24) (relating to the making of Regulations) shall without in any way limiting the powers in that Rule, be deemed to extend to Regulations relating to the implementation of this Rule, including Regulations relating to the manner in which various types of assets are to be valued for determining liquid capital, the inspection of the books of members and the supply by members of regular returns to the Inspector.
- 24 (4) Where a sharebroking firm is unable to comply with the requirements of Rule 24 (1) and has not in terms of Rule 24 (2) been temporarily excused from such compliance, the Board may if it sees fit, suspend both the firm and all or any of its principals as defined in Rule 3 (9) until such time as it is satisfied that the firm is once again in a position to comply with these requirements.

### **25 Fidelity Guarantee Fund**

- 25 (1) There shall be a Fidelity Guarantee Fund ("the fund") for the purpose of meeting just claims from persons who have suffered pecuniary loss from a sharebroking transaction as a result of a member being unable to meet his financial obligations provided however that nothing in this Rule or the establishment and maintenance of the fund shall constitute a legal obligation to any such claimant.
- 25 (2) The management of the fund shall be vested in and controlled solely by the Board which may in its absolute discretion constitute a Fidelity Guarantee Fund Committee to assist with such management. The Fidelity Guarantee Fund Committee shall be

accountable to the Board and shall have such powers as the Board from time to time determines.

- 25 (3) Every member who carries on whether alone or in partnership any business in addition to the business of sharebroking shall give security by bond (at such time for such amount and in such form as shall be determined by the Board) conditioned to secure the fidelity of such member.
- 25 (4) Every member who is in partnership with any person who is not a member (whether or not such person is in the opinion of the Board actively engaged in sharebroking) shall (in addition to compliance with Rule 25 (3)) take out and maintain a bond to secure the fidelity of that person in respect of each type of business (other than sharebroking) engaged in by him each such bond to be in the sum of \$20,000 or such larger figure as the Board may from time to time determine and such bond shall be in favour of or assigned to the Exchange provided that this Rule shall not apply in respect of any business where that person is already covered by a fidelity fund covering real estate agents or chartered accountants or by some other fidelity fund approved for the time being by the Board.
- 25 (5) Every member shall (except as provided in Rule 25 (8)) pay such annual contribution and such additional levy as may from time to time be fixed by the Board, provided that the total amount of all contributions and additional levies paid by members in any one year shall not, in aggregate, exceed the sum of \$500,000 and the Board may differentiate between individual members and company members in setting the amount of any levy payable by either class of member. No person shall be entitled to a refund of any contributions or additional levies paid into the fund.
- 25 (6) The Board shall also have the power to enter into any contract of insurance which may either supplement, replace or otherwise contribute to any payment made from the fund as a result of any just claim being met.
- 25 (7) The premium for such insurance may at the complete discretion of the Board, be paid from the capital of the fund, the income of the fund, special levies upon members or upon market transactions or any combination thereof.
- 25 (8) If at the beginning of any financial year the amount of the fund after deducting the amount of all unpaid claims and other liabilities outstanding is not less than \$250,000, the amount of the annual contributions payable in respect of that year may be reduced by the Board but nothing herein shall be construed to limit the power of the Board to fix any additional levy in respect of that year.
- 25 (9) Subject to Rule 25 (11), a person claiming to be entitled to reimbursement from the fund or any scheme of insurance related thereto shall not be entitled to receive more than \$20,000 or such greater amount as the Board may in its absolute discretion determine in respect of any loss suffered as a result of the acts or defaults of any one member or his firm.
- 25 (10) Subject to Rule 25 (11), the total amount payable out of the fund or any scheme of insurance related thereto, to meet claims (as limited by Rule 25 (9)) arising out of the inability of any member or his firm to meet the financial obligations of such member or his firm shall be limited to \$500,000 or such greater or lesser amount as may be from time to time determined by the Board.
- 25 (11) Subject to Rules 25 (9) and 25 (10), the Board in its absolute discretion shall determine the extent (if any) to which any claim on the fund shall be met.

## **26 Short Sales**

- 26 (1) No member shall enter into a short sale contract, either on his own behalf or knowingly for a client unless such short sale is undertaken in compliance with procedures from time to time prescribed by the regulations.
- 26 (2) The term "short sale" shall have the meaning given to it in the regulations and variations of that term shall have corresponding meanings.
- 26 (3) The Board shall make regulations setting out the conditions on which members may make short sales. Such regulations shall include provision for approving securities which may be short sold, setting limits on the proportion of issued capital of any company which may be the subject of open contracts to short sell, and establishing margins of cover for short sales and position limits where appropriate.

## **27 Miscellaneous and Common Seal**

- 27 (1) Odd lot dealers shall be appointed to deal with sales of parcels of shares not amounting to a marketable parcel as defined by or under these Rules. The operation of dealings in odd lots by or with official odd lot dealers shall be prescribed by the regulations.
- 27 (2) Where existing shareholders are given the right to apply for new shares, notes, debentures, or other securities offered to shareholders prior to delivery of shares sold for cash, members shall take such action as may be necessary or prescribed by the regulations to protect the rights of the buyers in respect of the securities so offered.
- 27 (3) Members shall take such action as may be necessary or shall be prescribed by the regulations to protect the rights of buyers in respect of entitlements to dividends or interest and the Board may by regulation or otherwise lay down Rules for determining the respective rights of buyers and sellers in regard to dividends, interest or capital distributions and in regard to settlement procedures relating to matters affected by this Rule.
- 27 (4) The Board may by regulation or otherwise make such provision as it thinks fit for dealing with the rights and obligations of buyers and sellers with regard to calls made on shares the subject of sale.
- 27 (5) Securities transfers as defined by the Securities Transfer Act 1977 must be used for all transactions in New Zealand registered securities and the Board may determine, by regulation or otherwise, the procedures to be adopted with regard to the completion and processing of all such transfers.
- 27 (6) The Exchange shall have a Common Seal which shall be kept in the custody of the Managing Director and shall be used only by the authority of a resolution of the Board and every instrument to which the Common Seal is affixed shall be signed by a member of the Board and countersigned by a second member of the Board.

## **28 Financial**

- 28 (1) The Board shall have power to invest the funds of the Exchange in such manner as it shall think fit.
- 28 (2) The Exchange shall have power to borrow or raise or secure the payment of money in such manner as the Board may think fit and may for that purpose mortgage charge or otherwise encumber all or any of the assets of the Exchange.
- 28 (3) The control of the funds of the Exchange shall be vested in the Board.
- 28 (4) The Board may delegate to any member or members, authority to control, invest or use such part of the funds of the Exchange as it thinks fit.

**29 Amendment to Rules**

- 29 (1) These Rules or any of them may be altered, by way of rescission, amendment, addition, or otherwise by a resolution passed by a 3/4ths majority of the votes cast at an annual or special meeting of members.
- 29 (2) No resolution for alteration of these Rules or any of them shall be submitted to a meeting of members unless the same has been proposed by the Chairman, by the Board, or by a member and unless notice in writing of intention to submit such resolution shall have been given to the Managing Director within sufficient time to enable him to give the notice referred to in Rule 29 (3).
- 29 (3) Fourteen days' notice in writing of details of the proposed alteration shall be given by the Managing Director to the Board and to members.
- 29 (4) No proposed alteration if rejected by members shall

without the consent of the Board be reconsidered by members for six calendar months from the date of the meeting at which it was rejected.

- 29 (5) Where a rule is altered, no further alteration to the rule shall, without the consent of the Board be considered by members for six calendar months from the date on which such altered rule took effect.
- 29 (6) Any amendment or repeal of any of these rules shall not affect the validity of any proceedings completed, action taken or decision made under the rule or rules so amended or repealed. Unless any transitional rule is put in place, any proceedings commenced or action taken under a rule being repealed or amended shall be completed according to the provisions of the rule prior to its amendment or repeal.

MARIE SHROFF, Clerk of the Executive Council.

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