September 30th 2022

NZSA response to NZX Consultation
NZX ESG Guidance Note Consultation

The NZ Shareholders' Association (NZSA) appreciates the opportunity to comment on the Exposure Draft of the proposed ESG Guidance Note ('Guidance Note'), supporting the Code of Corporate Governance ('Code').

In the NZSA's submission on the Code in January 2022, we noted that we would prefer to see a clearer distinction between financial and non-financial reporting, with elements of the Guidance Note considered within the Code. We note that the latest exposure draft of the Code has addressed that concern.

General Commentary on NZX Consultation Document

1. Changing expectations associated with the environmental and social elements of ESG reporting, in some cases supported by developing legislative and regulatory requirements, imply a 'shelf-life' of practitioner materials supporting these expectations. NZSA would encourage NZX to place an "end-date" on the proposed guidance note, enabling periodic review.
2. NZSA believes the Guidance Note in its current form provides for a useful practitioners guide to completing the non-financial reporting requirements expressed within the Code.
3. At a jurisdiction level, NZSA remains concerned about the declining comparative standard of regulated disclosure required in the UK and Australia in relation to Climate-Related disclosures (CRD) under the CRD Act. It is unclear to us at this stage how this impacts secondary listings on the NZX, although we are currently undertaking analysis.
   a. In terms of CRD, NZSA believes the same ESG expectations are occurring in Australia and the UK, likely to be followed by legislation. Regardless of legislation, many companies with secondary listings on the NZX are likely to adopt some form of CRD as a result.
   b. Given the number of ASX and UK-based primary listings on the NZX, NZSA believes that the Guidance Note could include advice specifically for this issuer segment in comparing the Code and CRD expectations with Australian and UK requirements.

4. We support the NZX view (expressed in section 5) that ”*no one framework is preferred by NZX*”. This aligns with the ‘framework agnostic’ approach described in NZSA’s *Environmental Sustainability Policy* (release date: October 2022).

5. We note (in section 3), the commentary that “*evidence-based disclosure can help investors make investment choices by providing a more holistic view of an issuer’s performance, risks and opportunities.*” NZSA feels this could be worded more clearly, to provide a greater distinction between inputs or impacts (i.e., risks and opportunities) and the ‘outputs’ for an issuer.

    a. Investors are interested in the **impacts** of ESG factors (i.e., ‘inputs’) on an issuer’s **strategy** and **current business model**.

    b. Those impacts are a series of assessed ESG-related **risks** and **opportunities**.

    c. The outputs may be described in financial or non-financial terms, both “pre-mitigation” or “post-mitigation. It may also highlight a ‘transition’ strategy or changed business model.

6. NZSA is pleased to see the addition of section 6.4, encouraging the disclosure of ESG risks, “*how they intend to manage those risks*” and the risk management framework. We believe the use of “mitigate” as opposed to “manage” will offer a clearer outcome for both issuers and investors, and that the current wording could be interpreted as tautology in discussing the risk management framework.

7. NZSA prefers succinct, evidence-based disclosures that are easily understood by investors and are directly relevant for their investment decision. We do not support the inclusion of non-relevant information or excess story-telling or self-promotion (i.e., ‘greenwashing’). We recognise that it may be difficult for issuers to determine when disclosures ‘cross the line’ to greenwashing. Given the ‘practitioner’ nature of the Guidance Note, NZSA feels that some reference should be made within the Guidance Note to discourage this practice.

8. NZSA notes the discussion on stakeholders in section 8 is broader than the narrow definition adopted by the XRB (‘investors, creditor and lenders’). While supported by NZSA, does this inadvertently extend the practical application of scope for the Climate-Related Disclosures Framework?

9. While still in draft, work to produce standards by the International Sustainability Standards Board (ISSB), in particular IFRS S1, may be relevant for this guidance note in the ‘Further Resource’ section.

Consultation Questions – ESG Guidance Note

1. **What are the greatest challenges faced by issuers in providing ESG information to investors and other stakeholders?**

    Ongoing Change: NZSA notes the ongoing change in both investor expectations and broader societal expectations as an ongoing risk to ESG disclosure stability. We believe that issuers should provide material and engagement opportunity for a wide variety of stakeholder groups, as this is in the best interests of the company. Note, however, that NZSA does **not** advocate for a change in director’s responsibilities

Self-Assessment and Capability: We also believe that issuer's should take a holistic view of ESG risks and opportunities in assessing the impacts on their strategy and business model – but that any identification and assessment of risks and opportunities should remain the responsibility of the issuer.

a. This may require an investment in people and/or system capability.

b. NZSA is aware that many companies have invested in such capability for some time, while others have not yet begun their journey.

Greenwashing: - please refer to our comments in paragraph 6 above.

NZSA feels that the introduction of a clearer regulatory reporting standard (such as the XRB Climate-Related Disclosure Framework) is likely to minimise the practice over time.

2. The Guidance Note recognises that issuers have the flexibility to adopt an ESG reporting framework that is appropriate for their circumstances, and identifies three global frameworks that are commonly used (Global Reporting Initiative (GRI), Integrated Reporting Framework, and UN Global Compact).

a. Should NZX provide more specific guidance as to a preferred global framework?

No – NZSA supports the 'framework agnostic' approach adopted by NZX.

b. Are the frameworks referred to in the Guidance Note appropriate?

Yes

c. Are any additional frameworks not mentioned in the Guidance Note that issuers should consider reporting against?

NZSA is not sure about its status as a 'framework', but the NZX should be mindful of the draft IFRS S1 standard, as referenced in paragraph 8 above.

3. **Do you agree with the deletion of the section of the Guidance Note that relates to Green Bonds? Should NZX publish bespoke guidance in this area?**

NZSA supports the removal of this section from the Guidance Note, for the reasons outlined by NZX in the consultation paper.

4. **Are there any other matters that you consider should be addressed in the Guidance Note?**

Please refer to our suggested amendments as per our General Commentary provided above.

Oliver Mander

CEO, NZ Shareholders' Association

September 30th 2022