

NZX Limited

Application Form – Advising Participants and Trading Participants

APPLICATION

This application form should be completed by an applicant seeking to become an Advising Participant or a Trading Participant.

Please return this application form and supporting documentation to:

Head of Market Supervision

NZX Market Supervision

NZX Limited

P O Box 2959

WELLINGTON

It is essential that an applicant read this application form in conjunction with the NZX Limited Derivatives Market Rules (“Rules”) and the procedures made in accordance with the Rules (“Procedures”).

Terms used herein which are not otherwise defined have the meaning given to them in the Rules. Principles of construction set out in Rule 1.2 of the Rules are hereby incorporated into this application form mutatis mutandis.

CONFIDENTIALITY

NZX Limited (“NZX”) will keep confidential all information provided to it by the applicant in relation to its application, except to the extent that disclosure of any or all of the information is permitted under the Rules or the Procedures.

STATUS OF THIS APPLICATION

An application constitutes an offer by the applicant to be bound by the Rules and the Procedures, any condition imposed from time to time by NZX as a requirement of designation of the applicant as an Advising Participant or Trading Participant, any decisions, directions or requirements of NZX or the NZ Markets Disciplinary Tribunal under the Rules or Procedures, every undertaking and agreement between the applicant and NZX and any agreement, document, instrument, or obligation created in accordance with the Rules or Procedures.

If NZX accepts the applicant’s application and allows the applicant to be a participant in the



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Market, the acceptance by NZX shall create a binding contract between NZX and the applicant on such terms.

INSTRUCTIONS

Applicants must submit the application form in hard copy (to be completed in type written form with original signatures included) along with supporting documentation and information (as outlined in the Rules and Procedures). Supporting documentation should be supplied in typed format, in as much detail as the applicant feels appropriate to support the application, but in any event to satisfy the criteria contained in the Rules and Procedures.

Please note that NZX may require additional information in relation to the application form or any of the supporting documentation filed in support of the application.

NZX reserves the right to decline an application notwithstanding that an applicant meets the minimum criteria set out in the Rules.



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APPLICANT DETAILS

1. Name of applicant:
2. Trading Name (if different to name above):
3. Address and contact telephone numbers of proposed principal place of business and registered office, if different:
4. Name and position of main contact person for the applicant to discuss this application:
5. Class of Participant for which accreditation is sort:
6. Details of the applicant's management structures and names of the personnel holding management positions, when they were appointed and details of the experience of those persons relevant to the Applicant:
7. The names of each Director (supported by a statutory declaration from each Director in the prescribed form):
8. Emergency contact details for the applicant:
9. Details of the applicant's professional indemnity insurance and directors' and officers'

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liability insurance (or commensurate cover):
10. The name and business contact details of the applicant's proposed Responsible Executive (supported by a completed application form and statutory declaration in the prescribed form):
11. Name and business contact details of the applicant's proposed Compliance Manager, details of any other position held by such person (supported by a statutory declaration from the Compliance Manager in the prescribed form). This section does not apply to Principal Only Book Dealers and Bank Only Participants.
12. Details of any companies, partnerships or other business entities within the applicant's group:
13. If applicable, specify any non-conformity of this application with the Rules and Procedures.

SUPPORTING DOCUMENTATION / INFORMATION – as detailed in Procedure 3.1.1, to be attached to the application:

Please have regard to the assessment criteria outlined in the Rules, applicable to the class of Participant for which designation is sought when compiling this supporting documentation.

- In the case of a company, certificate of incorporation and names and details of directors and shareholders (including details of Beneficial Ownership) of the applicant company and a copy of the Constitution;
- In the case of a partnership, a list of the partners and the partnership deed and where a partner is a company, details of the directors and shareholders of that company;



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- The applicant's audited accounts for the preceding 5 years, or such shorter period since the incorporation of the applicant;
- Details of the applicant's current financial position, sufficient to demonstrate that the applicant meets the capital adequacy requirements relevant to the category of Participant it is applying to become part of;
- Details of any legal or arbitration proceedings active, threatened or pending against the applicant or any member of its group which may have a significant effect on the reputation of the applicant;
- Details of any adverse or potentially adverse matters in respect of the applicant which have been brought to the attention of any Alternative Regulator or other relevant Regulatory Authority during the last 6 years (where possible please provide copies of any relevant correspondence in relation to such matters);
- The applicant's business plan relating to its business as a Participant;
- Details of the applicant's compliance plan, business continuity plan and training plans relating to its business as a Participant;
- Details of the applicant's technology relevant to its derivatives business and its conformance with NZX's Trading System;
- Details of the applicant's payment and accounting systems;
- Copies of certificates of insurance for professional indemnity and directors and officers cover and other cover as required by the Rules;
- Application form for the applicant's Responsible Executive, including evidence of compliance with the requirements of the Rules and Procedures;
- A description of the applicant's management structures including names of Personnel holding management positions;
- Description of the applicant's corporate structure;
- Applicable declarations as required in support of the application (Responsible Executive, Directors, and Compliance Officer as appropriate); and
- Any other information which the applicant thinks may be relevant to NZX in considering this application.

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SCHEDULE 1

DECLARATION AND UNDERTAKING BY APPLICANT TO NZX LIMITED

(“NZX”)

_____ (“the Applicant”) hereby applies for approval as an *[insert type of Participant for which approval is sought]* and if NZX grants approval to the Applicant, hereby **undertakes**:

- (a) to be bound by, and to comply with:
 - (i) the NZX Derivatives Market Rules (“Rules”) and the procedures made in accordance with the Rules (“Procedures”), any applicable rules and regulations of a Futures and Options Exchange, and terms and conditions governing a Contract traded Off-Exchange;
 - (ii) any condition imposed from time to time by NZX as a requirement of designation of the Applicant as a Participant;
 - (iii) any decisions, directions or requirements of NZX under the Rules or Procedures;
 - (iv) every undertaking and agreement between the Applicant and NZX;
 - (v) every other agreement, document, instrument, or other obligation created in accordance with the Rules or Procedures;
 - (vi) the NZ Markets Disciplinary Tribunal Rules; and
 - (vii) any decision, direction or requirement of the NZ Markets Disciplinary Tribunal.
- (b) To ensure that all individuals in its employment are competent and will comply fully with all applicable Rules, Procedures and any direction given from time to time by NZX and any applicable rules and regulations of a Futures and Options Exchange, and terms and conditions governing a Contract traded Off-Exchange;
- (c) To pay all fees, levies or other charges set from time to time by NZX;

The Applicant hereby **declares** that:

- (a) All the information contained in this application form and otherwise supplied to NZX is complete, true, accurate and not misleading;
- (b) It has read the Rules and Procedures and believes that this application conforms to the criteria (except as specifically notified to NZX with this application) for designation as the class of Participant for which application is sought as set out in the Rules;
- (c) Neither the Applicant nor any of the personnel named in this application have been



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subject to any disciplinary action by a regulator or law enforcement agency in the context of financial services or corporate finance and save as set out in this application, have not been disqualified by a court from acting as a director of any company or from acting in the management or conduct of its affairs; and

- (d) *[Insert only where Applicant is an Overseas Applicant]* It grants NZX the power to request any information NZX requires at NZX's sole discretion from its Alternative Regulator directly without any further permission being required from the Applicant.

Signature of two Partners, Directors or Authorised Signatories:

1.

2.

Full Name of signatories:

1.

2.

Date:



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SCHEDULE 2

ADDITIONAL REQUIREMENTS FOR OVERSEAS APPLICANTS

An applicant who is incorporated outside of New Zealand must provide the information and undertakings under Rules 3.12 and 3.13, including:

1. Evidence that the applicant (or a Prescribed Person of the applicant) currently conducts trading operations which are conducted in compliance with the regulatory requirements of the jurisdictions in which the applicant is trading and is regulated in that jurisdiction by an Alternative Regulator acceptable to NZX:
2. Details of the amount of resources and number of Personnel to be located in New Zealand (if any):
3. Details of one or more Persons resident or incorporated in New Zealand who are authorised to accept service in New Zealand of documents on behalf of the applicant and a physical address for each such Person:
4. Evidence of the laws and regulations with which it is complying in respect of the acceptance and holding of Client Funds:

Overseas Applicants may also, upon request of NZX, be asked to provide additional



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assurances and information, including but not limited to:

1. Additional undertakings or assurances in respect of any matter which NZX considers reasonable or in the interests of NZX, NZX Markets, the Market or other Participants and/or Clients of the Overseas Applicant, including, for example, an undertaking as to access by NZX and the NZ Markets Disciplinary Tribunal to records required to be kept by the Participant under the Securities Legislation relevant to its business as a Participant or the Rules.
2. A legal opinion at the expense of the applicant, from independent lawyers acceptable to, and for the benefit of, NZX which deals with matters required by NZX and which is acceptable to NZX. Without limiting the foregoing, NZX may require a legal opinion that the Rules and Procedures (including the NZ Markets Disciplinary Tribunal Rules) would be recognised as contractually valid, binding and enforceable against the applicant in the jurisdiction in which the applicant is incorporated, domiciled or resident.

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SCHEDULE 3

ADDITIONAL REQUIREMENTS FOR TRADING PARTICIPANTS

An applicant that is applying for designation as a Trading Participant, including a Bank Only Participant (other than a Technology Connecting Facility) must:

1. Specify the Dealers and DMA Dealers designated for that Trading Participant:

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An applicant can seek NZX approval of a proposed Dealer or DMA Dealer by providing NZX with a written application in the appropriate form.

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SCHEDULE 4

ADDITIONAL REQUIREMENTS FOR ADVISING PARTICIPANTS

An applicant who is applying for designation as an Advising Participant must:

1. Specify the names of its Advisors:

Applications for designation as an Advisor are to be submitted by written application in the appropriate form.



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SCHEDULE 5

ADDITIONAL REQUIREMENTS FOR TECHNOLOGY CONNECTING FACILITY

An applicant who is applying for designation as a Technology Connecting Facility must:

1. Notify NZX of the identity of each TCF Client and the Alternative Regulator that regulates each TCF Client:
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2. Notify NZX whether or not any of its TCF Clients rely on an exemption from the regulation of an Alternative Regulator and whether it is seeking to rely on a TCF exemption for that Client:
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3. If requesting that a Regulatory Authority be approved as an Alternative Regulator, provide sufficient details of the regulatory structure and rules of the Regulatory Authority in order to satisfy NZX that such authority upholds similar standards to NZX and should therefore be deemed to be an Alternative Regulator:
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