28 August 2026

Policy and Regulatory Affairs
NZX
Wellington

Email: policy@nzx.co

Submission on NZX tiered compliance proposals

Tēnā koutou,

Thank you for the opportunity to comment on NZX's proposed tiered compliance framework for smaller listed issuers.

The Institute of Directors (IoD) supports strong, effective and trusted capital markets in New Zealand. We support more proportionate settings where they reduce unnecessary cost and give smaller listed companies greater flexibility without compromising the governance and investor confidence that underpin public markets.

Our submission focuses on those proposals with the most direct implications for boards, governance practice and shareholder protections.

Summary of IoD's position

IoD supports NZX's proposed move to more proportionate settings for SME issuers. The reduced requirements should provide boards with greater flexibility, rather than become a lower governance model that qualifying issuers are expected to adopt.

The proposed $125 million threshold would apply to a broad group of companies. NZX estimates that around 46 existing issuers would currently qualify. They will not all be start-ups or high-growth businesses: some will be established companies with significant operations, concentrated ownership or more complex governance needs. Market capitalisation determines eligibility for the proposed regime, but it does not determine the governance arrangements an individual company needs.

About the Institute of Directors

The Institute of Directors (IoD) is New Zealand's pre-eminent organisation for directors and sits at the heart of the governance community. We have over 10,500 members connected through our regional branch network and national office. We believe in the power of governance to create a strong, fair and sustainable future for New Zealand. Our role is to promote excellence and high standards in governance. We support and equip our members who lead a range of organisations from listed companies to large private organisations, state and public sector entities, small and medium enterprises, not-for-profit organisations and charities. Our Chartered Membership pathway aims to raise the bar for director professionalism in New Zealand, including through continuing professional development that supports strong governance practice.

Our key recommendations are:

- **The SME settings should operate as regulatory minimums, with boards retaining stronger arrangements where these remain appropriate.** Boards should consider the settings they use in the context of the company and their combined effect. NZX should review the regime after three years to assess how it is working in practice.
- **We support one independent director as the mandatory Listing Rule minimum and allowing the full board to undertake audit committee functions.** The Code should continue to recommend a majority-independent board and an audit committee. Boards operating with one independent director need to consider whether they retain sufficient capacity and support for effective independent judgement.
- **The proposed "apply and disclose" approach should be used selectively.** SME issuers should continue to explain departures from Code recommendations 2.8, 3.1 and 8.4, where the proposed regime removes an existing safeguard or gives the board materially greater discretion.
- **Existing listed issuers should obtain shareholder approval before electing SME issuer status.** Investors in a new listing will be able to assess the framework before investing. Existing shareholders should have a say before materially different governance and shareholder settings become available to their company.
- **We support the proposed related party transaction process in principle, with credible independent input.** The proposal places greater weight on directors' certification, so the Rule should be clear about what directors are being asked to assess and should provide for independent scrutiny where appropriate.
- **We support access to 25% placement capacity, with the additional 10% subject to an annual shareholder mandate.** This retains useful capital-raising flexibility while recognising the additional board discretion over dilution, allocation and relative shareholder influence.

Independent directors and audit oversight

IoD supports reducing the mandatory minimum from two independent directors to one. A mandatory structure should not prevent a smaller board from assembling the mix of skills, experience and independence that best fits the company.

One independent director will not be appropriate for every SME issuer. Research commissioned by the NZX Corporate Governance Institute identifies both the conventional conflict between shareholders and management and the different conflict that can arise between controlling and minority shareholders. It also recognises the need to balance independent oversight with the knowledge and capability a board needs.

With only one independent director, more of the independent challenge may fall to one person across audit oversight, conflicts and related party transactions. Boards choosing to operate at the minimum should consider that director's workload, capacity and the support available to them.

Other arrangements can strengthen independent judgement, including access to independent professional advice, direct engagement with the external auditor, an independent chair where appropriate and external expert input on particular matters. These can support the board, although they do not provide the same contribution as another independent director participating fully in board deliberations and voting.

We therefore strongly support retaining Code recommendation 2.8 that a majority of the board be independent. Where an SME issuer operates below that recommendation, it should explain why its board composition is appropriate and how independent judgement is supported.

IoD also supports allowing the full board to perform the audit committee functions. On a small board, a separate committee may reproduce substantially the same directors without materially improving oversight.

Where the full board performs those functions, it should have sufficient financial capability, direct access to the external auditor, appropriate arrangements for managing conflicts and access to specialist advice where needed. The director with an accounting or financial background need not also be the independent director.

We support retaining Code recommendation 3.1 and requiring an issuer without an audit committee to explain how the full board performs those functions.

Governance reporting

IoD supports simplifying governance reporting for SME issuers, but explanation remains useful where the board is exercising materially greater discretion.

Reporting technology is also changing the cost of producing routine disclosure. Recent UK Financial Reporting Council research found increasing use of AI in corporate reporting for narrative drafting and other lower-risk tasks, while higher-judgement work remains substantially human-led. AI can assist with preparation, but it does not replace the board judgement behind significant governance choices.

We recommend retaining comply or explain for Code recommendations 2.8, 3.1 and 8.4. Each relates directly to an area where the SME framework reduces an existing safeguard or increases board discretion. For other recommendations, apply and disclose can provide a reasonable simplification.

A short explanation of why the board has chosen one independent director, no audit committee or non-pro-rata capital raising provides useful information to investors without requiring lengthy reporting.

Existing issuers and investor choice

NZX proposes that qualifying existing issuers may choose whether to enter the SME regime. IoD supports that elective approach, but considers shareholders should participate in the decision where an existing company proposes to move into the new framework.

A new SME issuer can disclose the differential settings before investors decide whether to participate. Existing shareholders invested while their company was operating under the standard Main Board framework.

IoD recommends that an existing issuer obtain approval by ordinary resolution before becoming an SME issuer. The meeting material should identify the main differences from the standard regime, the settings the board expects to use and why SME status is appropriate for that issuer.

This should be a one-off decision about entering the framework, rather than an approval requirement each time an SME setting is subsequently used.

Related party transactions

IoD supports the proposed related party transaction process in principle. It can reduce the cost and delay of prior shareholder approval and an Appraisal Report where shareholders do not consider a meeting necessary.

The change places greater weight on the board. The initial safeguard becomes disclosure, certification by the non-interested directors and shareholders' ability to require a meeting.

Independent scrutiny is particularly important in this context. At least one independent director should participate in the certification where eligible. If no independent director can participate because of an interest or conflict, an Appraisal Report should accompany the Transaction Announcement or the standard shareholder approval process should apply.

The proposed certification also needs to be clear about what directors are being asked to assess. The draft Rule uses "best interests" language in relation to the issuer and different shareholder groups, while the consultation refers to the fairness of the transaction. Any additional assessment required of directors should be clearly distinguished from their existing statutory duties.

Capital raising

IoD supports SME issuers having access to placement capacity of up to 25%. The governance relevance lies in the additional discretion this gives the board over allocation, dilution and relative shareholder influence.

We prefer the additional 10% above the standard 15% capacity to be subject to an annual shareholder mandate. This approach, which NZX itself raises and which has an ASX comparator, preserves the board's ability to move quickly once the mandate is in place while giving shareholders a prospective say over the additional discretion.

Code recommendation 8.4 should remain subject to comply or explain.

Detailed responses to relevant consultation questions

Consultation question	IoD position
Q4 – SME designation and investor warning	IoD supports clear designation and investor warnings, but recommends that an existing listed issuer obtain approval by ordinary resolution before electing SME status. The accompanying material should identify the main differences from the standard regime, the settings the board expects to use and why SME status is appropriate for that issuer.
Q7–Q9 – independent directors and audit committee arrangements	Support reducing the mandatory minimum from two independent directors to one and allowing the full board to perform the audit committee functions. Retain Code recommendations 2.8 and 3.1. A board operating with one independent director should consider whether there is sufficient capacity and support for effective independent judgement. Where the full board performs the audit committee functions, it should have appropriate financial capability, access to the external auditor and specialist advice, and appropriate arrangements for conflicts.
Q10–Q13 – "apply and disclose" and governance reporting	Support apply and disclose generally, but retain comply or explain for Code recommendations 2.8, 3.1 and 8.4. These relate directly to areas where the SME framework reduces an existing safeguard or materially increases board discretion.
Q14 – placement capacity	Support access to 25% placement capacity, with the additional 10% above the standard 15% subject to an annual shareholder mandate. This preserves capital-raising flexibility while giving shareholders a prospective say over the additional board discretion. Code recommendation 8.4 should remain subject to comply or explain.
Q16–Q17 – related party transaction process and Appraisal Reports	Support the proposed process in principle. At least one independent director should participate in the certification where eligible. If no independent director can participate because of an interest or conflict, an Appraisal Report should accompany the Transaction Announcement or the standard shareholder approval process should apply. NZX should also ensure the 5% threshold and 10-business-day period are workable for beneficial holders using custodians, and clarify the assessment required by the directors' certificate.

Consultation question	IoD position
Broader review of the SME framework	Review the regime after three years. The review should assess whether it is contributing to new listings and capital raising, how the different concessions are being used together, and whether there are material effects on governance practice or investor confidence.

Conclusion

IoD supports NZX introducing more proportionate settings for smaller listed issuers. Greater flexibility can make the Main Board more workable for companies without requiring every issuer to adopt the same governance structures.

The framework should continue to set clear expectations about the governance functions that need to be performed well. Boards should be able to use the flexibility where it suits their company, retain stronger arrangements where they remain appropriate, and explain the important governance choices they make.

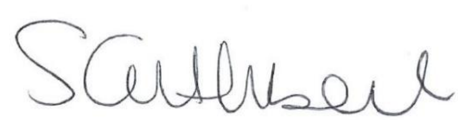
If the balance is right, the reforms can support stronger public capital markets while maintaining the governance quality and investor confidence on which those markets depend.

We appreciate the opportunity to comment and would welcome the opportunity to discuss any aspect of this submission further.

Ngā mihi nui,

Herman Visagie

General Manager Governance Leadership Centre



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