

FONTERRA SHAREHOLDERS' FUND

SUMMARY OF NZX WAIVERS

NZX Regulation has granted the following rulings or waivers to the Fund in relation to the NZX Main Board Listing Rules (NZX Listing Rules), which have been relied upon in the year ended 31 July 2018:

- a) a waiver from NZX Listing Rule 3.1.1(a) to the extent that NZX Listing Rule 3.1.1(a) would require the Trust Deed to incorporate provisions consistent with, or having the same effect as, NZX Listing Rules 3.3.10 and 3.4.3 (for which separate waivers have been granted as described below);
- b) a ruling from NZX that clause 4.5(c) of the Trust Deed represents a 'contrary intention' appearing in the constitution, for the purposes of NZX Listing Rule 3.1.1(d), such that no act or omission which seeks to circumvent the rights of the holder of the Fonterra unit could be authorised by a ruling granted by NZX;
- c) waivers from the following NZX Listing Rules, due to the procedure for the appointment of the Directors of the Manager being inconsistent with:
 - (i) NZX Listing Rule 3.3.5 to the extent necessary to allow Fonterra to appoint two Directors to the Board of the Manager, even though Fonterra is not a unit holder and to allow a precondition to be imposed in respect of persons who may be nominated by unit holders to fill three Director positions, that those candidates be Independent for the purposes of the NZX Listing Rules;
 - (ii) NZX Listing Rule 3.3.10 so that only Fonterra may remove its Appointed Directors from the Board of the Manager in accordance with the constitution of the Manager; and
 - (iii) NZX Listing Rule 3.3.11 to the extent that the Fonterra Appointed Directors are not subject to the requirement to retire by rotation but are subject to removal by a direction from Fonterra, with the effect that the reference to 'Directors' in NZX Listing Rule 3.3.11 refers solely to the Directors of the Manager appointed by the unit holders;

The waivers described in this paragraph (c) are conditional upon the Fund bearing a 'Non-Standard' designation to alert the market of the Fund's unique governance arrangements, and upon Fonterra only appointing and removing appointed Directors in accordance with the provisions of the constitution of the Manager and the Trust Deed;

- d) a ruling that no Director of the Manager is 'interested' in any matter, within the meaning assigned to that term in section 139 of the Companies Act, solely because that person is a Director of the Manager;
- e) a waiver from NZX Listing Rules 3.5.1 and 3.5.2 to permit the Directors of the Manager to be paid by the Manager without the approval by an ordinary resolution of unit holders. The waiver from NZX Listing Rules 3.5.1 and 3.5.2 is conditional upon the Fund bearing a 'Non-Standard' designation to alert the market to the Fund's unique governance arrangements;
- f) a ruling that a transfer of units to Fonterra will not be a 'restricted transfer' for the purposes of that definition in NZX Listing Rule 4.1.1, because DIRA prohibits Fonterra from exercising voting rights in respect of any units that it holds;
- g) a waiver from NZX Listing Rule 5.1.10 to permit the Trust Deed to omit the information required under paragraphs (a) (that the Trustee is entitled to appoint an independent valuer to value the assets of the Fund) and (c) (that if the office of the Trustee is vacated and a new Trustee not appointed within two months, the Fund be wound up) of Appendix 10 to the NZX Listing Rules;
- h) a waiver from NZX Listing Rule 7.3 to allow the Manager to issue units as set out in the Trust Deed, without requiring the approval of the unit holders;
- i) a waiver from NZX Listing Rule 7.4 to permit the Fund to pass on any Benefit or Distribution (as those terms are defined in the Trust Deed) to unit holders that Fonterra passes on to shareholders, without requiring unit holders' approval;
- j) a ruling that a holding of an interest in units that is less than 15 per cent of the total number of units on issue, or the total voting rights, shall not amount to 'effective control' for the purposes of NZX Listing Rule 7.5;
- k) a waiver from NZX Listing Rules 7.6.1 and 7.6.2 to the extent necessary to allow unit holders to redeem units as required by the Trust Deed, without requiring prior shareholder approval or any other restrictions;
- l) a waiver from NZX Listing Rule 7.12.1 to the extent necessary to allow the Manager to disclose details of any issue, acquisition or redemption of units in the Fund as a result of the usual daily trading activities of the Fund on a monthly, rather than daily, basis;
- m) a waiver from NZX Listing Rules 8.1.3 and 8.1.4 in respect of the pricing of units issued in accordance with the Trust Deed to reflect shares transferred or issued to the Fonterra Farmer Custodian;
- n) a ruling from NZX that the acquisition or disposal of Economic Rights of shares in accordance with the Trust Deed and the issue or redemption of units in accordance with the Trust Deed are not a 'series of linked or related transactions' for the purposes of NZX Listing Rule 9.1.1 and not a 'related series of transactions' for the purposes of NZX Listing Rule 9.2.2;

- o) a ruling that the entry into, and the performance of obligations under, the Authorised Fund Contract, is not a major transaction or series of linked or related transactions for the purposes of NZX Listing Rule 9.1.1, nor a material transaction with a related party for the purposes of NZX Listing Rule 9.2; and
- p) a waiver from the requirements in NZX Listing Rule 9.1.1 and in NZX Listing Rule 9.2 to seek unit holder approval to allow the Fund to dispose of its assets as permitted by the termination provisions of the Trust Deed.

NZX has also granted approval, in accordance with NZX Listing Rule 11.1.5, to the restriction contained in the Trust Deed allowing the Manager to refuse to register a holding that would cause a unit holder and its Associates (other than Fonterra) to have a Relevant Interest in more than 15 per cent of units on issue or voting rights, and may require a sell down if this level is exceeded, or would cause the Fund to become ineligible as a PIE or threaten any such eligibility.