Disclosure and use of New Zealand Farming Systems Uruguay (NZS) Information

This document, which was adopted by a resolution of the Board of NZS on 23 November 2010 sets out the policy of NZS concerning:

- Directors’ authority to use and disclose information they acquire in their capacity as a director (NZS information) other than for the purposes of NZS; and
- Information requests from NZS shareholders holding more than 5% of voting rights in NZS (major shareholders).

Nothing in this document authorises any Director to use or disclose any NZS information in breach of any law or any agreement binding on NZS (including the NZSX Listing Rules).

1) Disclosure of Information by a Director

(a) Disclosure generally

Under section 145(3) of the Companies Act 1993, Directors may only use or disclose NZS information (other than for the purposes of NZS) if the Board has first authorised the use of the information and:
1) Particulars of the disclosure are entered in the interests register; and
2) The use of the information will not prejudice the company.

Directors seeking authorisation should notify the Chairman in the first instance. If the Chairman has a conflict, the authorisation of two independent directors should be sought.

As a general rule, the Board will not authorise the disclosure or use of material information which has not been released to the market. Directors should cross-refer to NZS’s Continuous Disclosure Policy. The Board may impose conditions to any authorisation.

The Board has approved the following exceptions to this general rule, where to do so will not breach NZS’s obligations under the NZSX Listing Rules or the Securities Markets Act 1988:

1) Disclosure by an NZS Director in the circumstances (and subject to the conditions) set out in 1(b) below (Disclosure to major shareholders).
2) Disclosure by an NZS Director in such other circumstances as the Board may authorise from time to time.

(b) Disclosure to major shareholders

On some occasions it may be appropriate, desirable and permissible under the NZSX Listing Rules and the Securities Markets Act 1988 for a Director to disclose information to a major shareholder so long as all of the following conditions are met:

1) The Board (or the Chairman plus one independent director pending any Board meeting (if the Chairman is conflicted, then two independent directors)) has determined that NZS information may be disclosed;
2) The disclosure complies with all relevant laws and NZS protocols (including compliance with all continuous disclosure obligations and insider trading prohibitions), and does not place NZS in breach of any agreement;
3) No information from Board papers is to be disclosed prior to the relevant Board meeting except to the extent that the Board considers it important that a shareholder’s view should be known so that it may be expressed at the Board meeting;
4) The information is disclosed to the shareholder on a confidential basis, and the shareholder has entered into a written confidentiality agreement with NZS to keep confidential the information disclosed, and not to use that information to trade shares in NZS or to determine whether to continue to hold shares in NZS, or advise or encourage any other person to trade or hold shares in NZS;

5) Particulars of the disclosure are entered in NZS’s interests register; and

6) The disclosure will not, or will not be likely to, prejudice NZS or be contrary to NZS’s best interests.

The Director who requests the ability to disclose NZS information is responsible for ensuring and demonstrating compliance with each condition to the Board.

If a Director has disclosed any NZS information that the Board or the Chairman subsequently determines should not be used or disclosed other than by NZS, then that Director must take all reasonable steps to ensure that there is no further use or disclosure of that NZS information as a result of his or her disclosure.

2) Information requested by a major shareholder

The following types of NZS information may be requested by shareholders:

a) Financial Results

There can be circumstances where a major shareholder requires financial information from NZS for inclusion in its group accounts prior to the release of that information by NZS to the market. An example is to meet reporting deadlines where major shareholders may request draft financial information from NZS before it is finalised.

If the Board determines that it is appropriate to provide draft financial information to a major shareholder, the relevant major shareholder must acknowledge in writing that the draft information it is receiving is subject to a Board decision, and that the major shareholder will keep the information confidential until after the information has been approved for release to all shareholders and the market by NZS.

b) Other information

In other cases where an information request is received by NZS from a major shareholder, the Board will determine whether that information is material and can be released, and any conditions to its release.

It is imperative that any material information that is not publicly available and is disclosed to a major shareholder under 1b or 2 above remains confidential to ensure NZS does not breach its continuous disclosure obligations under the NZSX Listing Rules. Prior to making any such disclosure, regard should be had to NZS’s Continuous Disclosure Policy.

3) Information requested by any shareholder

Any NZS shareholder can make a written request for information held by NZS. In accordance with section 178 of the Companies Act 1993, NZS must, within 10 working days of receiving such a request from a shareholder, either:

1) Provide the information; or

2) Agree to provide the information within a specified period; or

3) Agree to provide the information within a specified period if the shareholder pays a reasonable charge to NZS (which must be specified and explained) to meet the cost of providing the information; or
4) Refuse to provide the information in accordance with the grounds for refusal in section 178(4) of the Companies Act 1993.

NZS must also provide information that it holds if required by law.

Prior to making any disclosure under section 178 of the Companies Act 1993, regard should be had to NZS's Continuous Disclosure Policy.

4) Considerations to take into account

When making a decision as to whether NZS information may be disclosed to a shareholder, the Board should ensure it considers the following:

Securities Markets Act 1988

An information insider of NZS (being a person (including NZS itself) who has material information relating to NZS that is not generally available to the market, and knows or ought reasonably to know that the information is material information, and that the information is not generally available to the market) must not:

- trade securities in NZS;
- directly or indirectly disclose inside information to another person (B) if that information insider knows or ought reasonably to know or believes that B will, or is likely to,—
  - trade securities of NZS; or
  - if B is already a holder of those securities, continue to hold them; or
  - advise or encourage someone else to trade or hold them.
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Extreme care must be taken when disclosing material information to shareholders.

The Board should cross refer to NZS's Securities Trading and Guidelines.

NZX Listing Rules

NZS is required to comply with the 'continuous disclosure' obligations set out in the NZSX Listing Rules (i.e. economically relevant material about the company known to the management of the company must be revealed to the market as soon as practicable).

Material information is information that:

- a reasonable person would expect, if it were generally available to the market, to have a material effect on the price of listed securities of a public issuer; and
- relates to particular securities, a particular public issuer, or particular public issuers, rather than securities generally or public issuers generally.

Disclosure is not required of information that is generally available to the market.

Information is generally available to the market if it:

- has been made known in a manner that would, or would be likely to, bring it to the attention of persons who commonly invest in securities, provided a reasonable period for it to be disseminated amongst those persons has expired; or
is likely to be readily obtainable (by observation, use of expertise, purchase from other persons, or any other means) to persons who commonly invest in securities; or

- consists of deductions, conclusions, or inferences made or drawn from either or both of the above two kinds of information.

**The Fundamental Rule – Listing Rule 10.1.1**

- Once a public issuer becomes aware of any material information concerning it, it is required to immediately release that material information to NZX.

- A public issuer is considered to have become aware of material information as soon as a director or executive officer of the public issuer has come into possession of the information in the course of his or her duties.

**Exceptions to the Fundamental Rule – 3 Tier Test**

Under the Listing Rules, disclosure is not required when:

- a reasonable person would not expect the information to be disclosed; and
- the information is confidential and its confidentiality is maintained; and
- one or more of the following apply:
  - the release of information would be a breach of law;
  - the information concerns an incomplete proposal or negotiation;
  - the information comprises matters of supposition or is insufficiently definite to warrant disclosure;
  - the information is generated for the internal management purposes of the issuer; or
  - the information is a trade secret.

- Also, for the purposes of the continuous disclosure obligations, a reasonable person would not expect the information to be disclosed if the release of the information would unreasonably prejudice the public issuer or provide no benefit to a person who commonly invests in securities (LR 10.1.1 footnote 3).

- Material information must be released immediately, and must be disclosed to NZX first before being disclosed to any shareholder or other party.

**Confidentiality obligations**

Some of the information that directors receive will be subject to confidentiality obligations with third parties and cannot be disclosed to any person, including a major shareholder. The Board should check where the NZS information has emanated from and whether it is subject to any obligations of confidence, before it is disclosed.