

29 May, 2012

Megan Mcluskie
NZX Limited
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Dear Ms Mcluskie

NZX Market Rules for the Main Board/Debt Market – Proposed Gender Diversity Reporting Rule

Introduction

1. The New Zealand Law Society (Law Society) welcomes the opportunity to make a submission on the proposed changes to NZX's Market Rules for the Main Board/Debt Market (the listing rules) set out in the consultation document dated 30 March 2012 (consultation document).
2. This submission focuses on the proposed addition to Rule 10.5.5 of a requirement for gender diversity disclosure.
3. The Law Society supports the addition of this requirement to the market rules.

Submission

4. The Law Society supports the proposal to amend Rule 10.5.5 of the market rules by the addition of a new paragraph and footnote requiring an issuer to include an additional disclosure in its Annual Report as to gender diversity.
5. The Law Society believes that the proposed amendment reflects current evidence that gender diversity on Boards and in senior management can have a positive impact on company performance and on productivity both at the enterprise and national level.¹
6. The Law Society is supportive of gender diversity in senior roles in the legal profession.

¹ For example in August 2011 Goldman Sachs issued a report suggesting that closing the gender gap and increasing female productivity in the workplace could boost New Zealand GDP by 10 per cent: *Closing the Gender Gap: Plenty of Potential Economic Upside*:
<http://www.eeotrust.org.nz/content/docs/information/Goldman%20Sachs%20Female%20participation.pdf>

7. For many years, New Zealand women have been graduating with law degrees in roughly equal numbers to men. Recent statistics indicate that 62 per cent of law graduates are female² and women make up 44 per cent³ of practising lawyers. However, women lawyers continue to be under-represented in senior roles in the profession, including as judges, Queen's Counsel and as partners, particularly in the large commercial law firms. In February 2012, the average number of women partners in the 10 largest commercial law firms in Auckland was 18 per cent.⁴
8. These statistics arguably represent an under-utilisation of the skills of women lawyers, as well as a loss of the educational investment in female law students.
9. The Law Society believes that there is a need for initiatives, like the NZX's diversity reporting proposal, to increase the number of women in senior commercial and corporate roles, including legal roles.
10. The Law Society recently made a submission in support of increased diversity in the judiciary as part of the Law Commission's review of the Judicature Act 1908.⁵ In our submission, we reiterated the position that we took in a submission in 2004 in relation to gender and racial balance in judicial appointments, and said that:

"These issues ... cannot, in our view, be dismissed by the simple argument that appointments should be on merit and merit only. Rather the system should give confidence that by its robustness and transparency it is able, adequately, to deliver a diversity of meritorious appointments.
11. The Law Society is supportive of the NZX proposal to require diversity reporting. We note that, while there may be additional benefits to the alternative approaches set out in the first three bullet points on page 6 of the consultation document, the Law Society believes that the approach proposed at page 5 is sound.
12. It may be that NZX could consider reviewing the efficacy of the change to Rule 10.5.5 after a period of time. Depending on the outcomes of such a review, in terms of improved gender diversity and enterprise performance, NZX might wish to consider adopting one or more of the measures to set out in the first three bullet points on page 6 of the consultation document.

² Equal Employment Opportunities Trust *Workplace Age and Gender: Trends and Implications* (2009) at 11.

³ New Zealand Law Society, *Annual Report 2010/11* at 10.

⁴ Informal research undertaken by the Auckland Women Lawyers' Association in 2012
<http://www.adls.org.nz/resources/news-details?NewsId=4555de0f-52d3-4aca-9773-cc28627cbc2d>.

⁵ Review of the Judicature Act 1908 – Towards a Consolidated Courts Act, May 2012:
http://www.lawsociety.org.nz/__data/assets/pdf_file/0005/51998/I-Review_of_Judicature_Act_1908-04_05_12.pdf

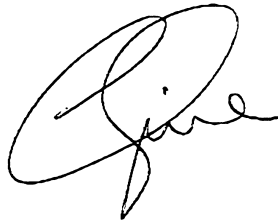
Conclusion

13. If you wish to discuss this submission further please contact the Executive Director of the New Zealand Law Society, Christine Grice: christine.grice@lawsociety.org.nz or (04) 463 2924.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Jonathan Temm', with a large, sweeping loop at the end.

Jonathan Temm
President

A handwritten signature in black ink, appearing to read 'Christine Grice', with a large, sweeping loop at the end.

Christine Grice
Executive Director