

[NZX waiver for accelerated entitlement offers](#)

NZX has released a class waiver which will reduce compliance costs for listed issuers considering an accelerated entitlement offer (AREO). The class waiver replicates the individual exemptions that previously had to be sought by all issuers in advance of an AREO. AREOs have become increasingly widely used in the market as a follow on capital raising structure. They enable an issuer and underwriter to go “off risk” in relation to the institutional component of an offering early on, while still allowing for pro rata retail participation much like a conventional rights issue, and providing for an alternative to rights trading that addresses the interests of shareholders who do not participate. The class waiver makes these easier to execute and we hope to see more issuers utilise this form of capital raising going forward. The NZX class waiver can be found [here](#).

[Clarifying the test for accessory liability](#)

The Federal Court of Australia has further clarified the test for accessory liability under the Corporations Act 2001 (Cth). The Court upheld prior authority that in order to be liable as an accessory to another’s contravention, the defendant must have intentionally participated and done so with knowledge of the essential matters comprising the contravention, and provided further guidance around these elements. This case is likely to provide guidance for New Zealand courts in respect of accessory liability under the Financial Markets Conduct Act 2013. Please click [here](#) for our more comprehensive summary of the case.

[GST now recoverable on capital raising expenses](#)

The Goods and Services Tax Act 1985 has been amended, with effect from 1 April 2017, to permit businesses to recover GST on capital-raising expenses (for example, legal and other advisory fees). Previously, there had been some uncertainty as to whether such GST was recoverable. Banks and other financial institutions that make some GST-exempt supplies will still need to apply an apportionment methodology to determine how much of the GST is recoverable.

[FMA focus on secondary market conduct](#)

The high profile cases of [Warminger](#) and [Eroad](#) illustrate that the FMA is taking an active approach to investigating and prosecuting secondary market conduct such as market manipulation and insider trading. You can see our commentary on the cases [here](#) and [here](#).

[Disclosure of financial information in an equity PDS](#)

The FMA has published draft guidance regarding the addition or substitution of non-GAAP financial measures in the selected financial information in an equity PDS, focusing on the quantity and quality of financial adjustments made by issuers. This guidance could have material implications for the ability of issuers to adjust particular line items in a PDS. The FMA’s paper can be found [here](#).

[Substantial product holder disclosure](#)

The FMA has issued a consultation paper suggesting that individual portfolio managers at investment funds may be personally required to file substantial product holder notices in respect of financial products they manage. The FMA’s paper can be found [here](#).

[NZX reviews structure of equity markets](#)

NZX has signalled that its three equity markets, NZSX, NZAX and NXT, are likely to be consolidated into one. This follows the rather lacklustre performance of NXT in particular – since its launch in June 2015, only four companies have listed on NXT.

[NZX Corporate Governance Code](#)

The new NZX Corporate Governance Code 2017, applying to all listed issuers, was published on 10 May 2017. A description of the new reporting regime and a summary of the Code can be found [here](#).

[Call scripts and other takeover communications](#)

The Takeovers Panel has clarified the application of the Takeovers Code requirement for all information sent to offerees in a Code takeover to also be provided to the Panel. Call scripts, Q&A scripts and slides for presentations at meetings with shareholders, as well as formal written communications, must all be provided to the Panel. See [here](#) for further explanation.

[Proposed changes to annual report requirements](#)

Costs associated with the distribution of annual reports to shareholders may soon be reduced. A recent Cabinet paper has proposed to provide listed entities with alternative options for sending annual reports to shareholders, including making annual reports available online. A copy of the Cabinet paper can be found [here](#).