

Legal update - What's 'NXT'? The new market

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NZX has recently obtained Financial Markets Authority (FMA) approval for its proposed new market 'NXT'. NXT has been in the works since 2009, and the FMA's approval follows significant local and international research and market consultation by NZX. No date has yet been set for NXT's launch, with NZX noting that the timing will depend on companies being ready to list, but is now seen as more likely to occur in the new year.

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Who is it designed for?

NXT was developed to fill what was seen as a gap in New Zealand's capital markets infrastructure for higher-growth companies and small to mid-sized businesses looking for an alternative option to access expansion capital with reduced complexity and to provide investors the opportunity to invest in these companies. Eligibility requirements for listing on the NXT board include that a company have:

- A market capitalisation of NZ\$10m - NZ\$100m once listed (and if raising capital on listing, which is not mandatory, is raising a minimum of NZ\$5m)
- At least 50 shareholders (with at least 25% of the shares in public hands).

How is it different from NZAX?

NXT is a new market in its own right but will also ultimately operate effectively as a replacement for the NZX's current alternative to the NZX Main Board, the NZX Alternative Market (NZAX) with no new additions to NZAX to be accepted once the NXT platform is up and running.

NZAX was also initially set-up to make it easier for smaller businesses to list but NXT reflects further development of what NZX believes is the best approach for bringing these companies to the public and the new regulatory environment under the FMA and with the Financial Markets Conduct Act in sight.

While some features of NXT will be familiar to those aware of the NZAX operating environment, the following highlights some of the key differences between the NXT market and the NZAX.

Periodic disclosure

NXT introduces a new disclosure regime, where NXT listed companies will be required to provide periodic, rather than continuous, disclosure, involving quarterly business updates to the market on agreed metrics together with immediate disclosure of certain prescribed events. Ultimately this means more frequent reporting for NXT companies but the disclosure process has been designed to make reporting more straightforward, relevant and consistent, including through use of NZX-developed templates as bases for the regular business updates.

Key operating milestones

In addition to regular financial reporting, NXT companies will forecast and report against key operating milestones and related targets in their quarterly business updates. The targets for the milestones, as well as the milestones themselves, must be reviewed annually. By contrast, NZAX companies typically prepare forecasted financial information when undertaking an IPO but are not otherwise required to provide ongoing forecasts.

Shorter rules and documentation

The NXT Market Rules are far simpler and shorter than both the NZX Main Board and the NZAX rules. Keeping up the theme of shorter is better, amongst other things the shorter NXT Market Rules provide that listing documents for NXT companies must be no more than 40 pages, considerably shorter than most current listing documentation, and shorter than the lengths contemplated for disclosure documents under the new Financial Markets Conduct regime.

Corporate governance

NZAX listed companies are not required to establish specific corporate governance policies. These requirements do, however, feature as part of the NXT platform. The framework is similar to that for the NZX Main Board, requiring NXT companies to adopt policies in relation to specified conduct, including insider trading, audit and director appointment and remuneration.

Independent directors

NXT companies will, like NZX Main Board companies, need to have at least two independent directors.

Ongoing support

Instead of simply being dropped off at the listed company pool by a sponsor, NXT companies will be required to have an NXT adviser approved by NZX in the water alongside them to provide ongoing guidance and support once listed.

Research and market making

Rather than select entities only, all NXT companies will receive a market making service to promote liquidity, and independent research on their company will be made publicly available via the NXT website.

Investors and the process of investing

Although there are no restrictions on who can invest in NXT companies, orders to buy or sell shares in them must be made through brokers as part of a process designed to ensure that investors appreciate that the risk profile of NXT companies may be different than companies on other markets.

NZX has confirmed that it is in discussions with a number of companies contemplating listing on the NXT market. The hope is that it will prove to be a much more successful, more liquid market than its NZAX predecessor.

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