



16 November 2023

**PUBLIC CENSURE OF CDL INVESTMENTS NEW ZEALAND LIMITED BY THE NZ
MARKETS DISCIPLINARY TRIBUNAL FOR BREACHES OF
NZX LISTING RULE 2.13.2(b) AND RULES 3.8.1(b) AND (d)**

In a determination of the NZ Markets Disciplinary Tribunal (*the Tribunal*) dated 3 November 2023, the Tribunal found that CDL Investments New Zealand Limited (*CDI*) breached NZX Listing Rules 2.13.2(b) and 3.8.1(b) and (d).

Under Rule 2.13.2(b), an Audit Committee must have at least three members. From February 2018 until 27 July 2020, CDI's Audit Committee had only two members, both of whom were Independent Directors. CDI's Managing Director had been the third member but was removed in February 2018 in a good faith attempt to have an Audit Committee comprised solely of Independent Directors. While well-intentioned, CDI overlooked the requirement in the Rules that the Audit Committee have at least three members. CDI identified and rectified the breach by reappointing its Managing Director to the Audit Committee on 27 July 2020. The Tribunal noted that having at least three members is an important component to ensuring a robust Audit Committee. While a breach of this nature has the potential to impact investors and the market, the seriousness of CDI's breach was reduced because the Audit Committee's two members were Independent Directors.

The NZX Corporate Governance Code sets out NZX's expectations in relation to corporate governance practices (in addition to those prescribed by the Rules). Issuers are encouraged to adopt the Code, but the Rules do not require it. This approach recognises that an Issuer's Board is best placed to determine the corporate governance practices most appropriate for its circumstances. This flexibility is subject to the Rules' requirement that investors and the market receive sufficient information about an Issuer's governance arrangements to inform their decision making. CDI did not fully disclose and explain its non-compliance with Code recommendations 2.8, 3.1, 4.2, 5.3 and 8.1 in its annual reports for the 2017 to 2022 financial years in breach of Rule 3.8.1(b) and did not include an evaluation by its Board on its performance with respect to its diversity policy in its annual reports for the 2018 to 2022 financial years in breach of Rule 3.8.1(d). Given the number of omissions over multiple reporting periods, the Tribunal considered that CDI's annual report breaches were a moderate compliance breach which had the potential to impact investors and the market.

CDI admitted the breaches at the earliest opportunity and co-operated fully with NZ RegCo's investigation. The Tribunal acknowledged that CDI had good intentions with respect to the composition of its Audit Committee, but nonetheless overlooked a key Rules requirement to have at least three members. CDI also overlooked its disclosure requirements under Rules 3.8.1(b) and (d) over multiple reporting periods.

The Tribunal ordered CDI to pay a financial penalty of \$50,000 (\$35,000 for its Audit Committee breach and \$15,000 for its annual report breaches), pay the costs of NZX and the Tribunal, and be publicly censured in the form of this announcement.

The determination of the Tribunal in this matter is attached to this announcement.