

## **WAIVERS GRANTED OR RELIED UPON DURING THE YEAR PRECEDING THE DATE 2 MONTHS BEFORE THE PUBLICATION OF ANZO'S 2009 ANNUAL REPORT**

### **Waivers granted during relevant period**

The waivers from the New Zealand Stock Market (NZSX) Listing Rules described below were granted and/or published by the NZX in respect of ANZO within the 12 month period preceding the date 2 months before the publication of ANZO's annual report for the year ended 30 June 2009 (*2009 annual report*).

In May 2009, ANZO undertook a renounceable rights issue to raise \$201 million (*the Offer*).

Haumi Company Limited (*Haumi*) and ING (New Zealand) Limited (*ING*), both being related parties of ANZO under the NZSX Listing Rules (as each unitholder holds more than 10% of the issued units in ANZO), entered into early commitment agreements in favour of First NZ Capital Securities Limited (the underwriter of the Offer), committing to take up their full pro-rata entitlement of new units under the Offer, in consideration for an early commitment fee.

On 4 May 2009, NZX granted a waiver to ANZO from the requirement in Listing Rule 9.2.1 to seek unitholder approval of the Offer and the early commitment arrangements with Haumi and ING. This waiver was granted subject to the condition that the independent directors of AMP Haumi Management Limited (formerly known as AMP Multiplex Management Limited), the manager of ANZO (*AHML*), certify to NZX that:

- the related party relationships did not influence the terms of the early commitment agreements with Haumi or ING; and
- the early commitment agreement, and fees paid, are in the best interests of unitholders not associated with Haumi or ING.

### **Other waivers relied upon during relevant period**

The following waivers from the NZSX Listing Rules were relied upon by ANZO during the 12 month period preceding the date 2 months before the publication of the 2009 annual report:

#### ***Waivers granted in connection with the original listing of ANZO***

The following waivers were granted in connection with the original listing of ANZO:

- *Listing Rule 3.1.1(a)*: Waivers to various rules as contained in Appendix 6 of the NZSX Listing Rules.
- *Listing Rule 3.3*: Waiver in respect of the appointment and rotation of directors provisions of the NZSX Listing Rules.

- *Listing Rule 3.4:* Waiver in respect of the proceedings and powers of directors provisions of the NZSX Listing Rules.
- *Listing Rule 3.5:* Waiver in respect of the directors' remuneration provisions of the NZSX Listing Rules.

The above waivers reflect ANZO's status as a unit trust (as opposed to a company). However, in its listing agreement with the NZX, AHML as issuer has acknowledged on behalf of ANZO that the Listing Rules will apply to ANZO in such manner so as to enable their spirit and intent to be achieved.

***Waivers granted in connection with pre-emptive rights arrangements***

On 19 February 2008, Haumi Company Limited (in its capacity on behalf of the general partner of "Haumi Company Limited and Company", a special partnership which had not then been formed) (*HCL*) acquired 19.9% of the units in ANZO. In addition, on that date, Haumi Development Auckland Limited (in its capacity on behalf of the general partner of "Haumi Development Auckland Limited and Company", a special partnership which had not then been formed) (*HDAL*) acquired 50% of the shares in AMP Haumi Management Limited (formerly known as AMP Multiplex Management Limited), the manager of ANZO, (*AHML*). The other 50% of the shares in AHML are held by AMP Capital Investors (New Zealand) Limited (*AMPCI*).

AMPCI and HDAL entered into a joint venture agreement in relation to the operation and management of AHML and ANZO. AMPCI, HCL and HDAL also entered into a specified rights deed (*Deed*) which sets out, among other things, the pre-emptive rights granted by HCL to AMPCI in respect of the units in ANZO held or controlled by HCL, as well as a tag-along right under which HCL may require AMPCI, in certain circumstances, to purchase all of the ANZO units held or controlled by HCL.

The special partnerships contemplated above were ultimately not formed, and ANZO understands that deeds of novation have been entered into under which HCL's and HDAL's rights and obligations are now held in their capacity as general partner on behalf of the Haumi (NZ) Limited Partnership and the Haumi Development Limited Partnership (respectively).

NZX granted the following waivers to AMP Capital in respect of the pre-emptive rights and tag-along right:

- *Listing Rule 4.5.2:* A waiver from certain content requirements in Listing Rule 4.5.2 in respect of the Restricted Transfer Notice given by AMP Capital in relation to the pre-emptive rights and tag-along right; and
- *Listing Rule 4.5.10:* A waiver from providing a restricted transfer status report, in respect of the pre-emptive rights and tag-along right,

in each case subject to the following conditions:

- AMPCI must give 15 days business days notice by way of a Restricted Transfer notice:
  - of the circumstances in which HCL would be obliged to offer ANZO units to AMPCI under the Deed;
  - of the circumstances in which AMPCI would be obliged to purchase ANZO units from HCL under the Deed;
  - that those units would be acquired at the then current market price;
  - that the acquisition of ANZO units by AMPCI from HCL would be conditional on AMPCI obtaining any necessary regulatory approvals for the acquisition; and
  - of the number of ANZO units which would be subject, initially, to the obligations imposed on HCL and AMPCI under the Deed.
- ANZO must include a summary of the joint venture arrangements between AMPCI, HDAL and HCL regarding HCL's ANZO unitholding in each yearly and half yearly report of ANZO as disclosed in the Restricted Transfer Notice as given by AMPCI.
- NZXR may revoke or review the terms of the waiver if:
  - NZX amends Section 4 of the Rules; or
  - ANZO adopts minority veto provisions in its Constitution.
- AMPCI must give notice containing the information specified in Rule 4.5.2 immediately after any notice exercising pre-emptive or tag-along rights in respect of the ANZO units is given by any party in accordance with the Deed.

***Waiver granted in connection with acquisition of ANZO units by AMP Tracker Funds***

*Listing Rule 4:* Waiver granted in respect of acquisitions of ANZO units by the AMP Investments' Tracker Fund and AMP Superannuation Tracker Fund (together the *Funds*) on certain conditions, including that the waiver shall not apply to any acquisitions by either of the Funds if the aggregate holding of the Funds exceeds (or would as a result of the acquisition exceed) 2.0% of the units in ANZO.