



NZX Regulation Decision

The Warehouse Group Limited (WHS)

Application for a waiver from – NZX Debt Market Listing
Rule 3.2.1(d)

5 May 2015



Waiver from NZX Debt Market Listing Rule 3.2.1(d)

Decision

1. On the condition set out in paragraph 2 below, and on the basis that the information provided by WHS is complete and accurate in all material respects, NZX Regulation (“**NZXR**”) grants WHS a waiver from NZX Debt Market Listing Rule (“**Rule**”) 3.2.1(d) to the extent that this Rule requires that the Trust Deed issued by WHS shall provide that a meeting of Security holders shall be called on a requisition in writing signed by holders of not less than 10% of the amount of the Securities for the time being outstanding.
2. The waiver in paragraph 1 above is provided on the condition that the Trust Deed shall provide that a meeting of Security holders shall be called on a requisition in writing signed by holders of not less than 5% of the nominal value of the Securities for the time being outstanding.
3. The material information on which this decision is based is set out in Appendix One to this decision. This waiver will not apply if that information is not, or ceases to be, full and accurate in all material respects.
4. Rule 3.2.1(d), to which this decision relates, is set out in Appendix Two.

Reasons

5. In coming to the decision to provide the waiver set out in paragraph 1 above, NZXR has considered that:
 - a. the Threshold in Rule 3.2.1(d) aligns with the Threshold prescribed under clause 3(1) of Schedule 15 to the Securities Regulations. However, the Securities Regulations were revoked on 1 December 2014, by section 5(o) of the Financial Markets (Repeals and Amendments) Act 2013. Section 120(1)(b) of the FMCA now requires that a meeting of a class of debt security holders must be called by an Issuer on the written request of holders of no less than 5% of the nominal value of the debt securities on issue in that class;
 - b. as at 1 December 2014, new regulated offers can be made under the FMCA regime;
 - c. under the Rules, and but for a waiver, Issuers who offer securities under the FMC Regime would need to provide in their trust deed a greater Threshold than the Threshold permitted by the legislation; and
 - d. the legislative change to the Threshold affords a greater level of protection to investors. As WHS is offering the Bonds under the FMC Regime, NZXR considers that it is appropriate that WHS should be able to align the Trust Deed for the Bonds with the Threshold in the FMC Regime, without breaching the Rules.

Confidentiality

6. WHS has requested that the application for a waiver from Rule 3.2.1(d) and NZXR’s decision be kept confidential until the Master Trust Deed is executed and lodged with the registrar.
7. In accordance with Footnote 1 to Rule 1.11.2, NZXR grants WHS’s request.



Appendix One

1. Warehouse Group Limited ("**WHS**") is a Listed Issuer with the Securities Quoted on the NZX Debt Market ("**NZDX**") and the NZX Main Board.
2. WHS is intending to offer and issue Fixed Rate Bonds ("**Bonds**") to existing bondholders and to New Zealand retail investors ("**Offer**"), to be listed on the NZX Debt Market. The issue date of the Bonds is 15 June 2015.
3. The Offer will be made under the Financial Markets Conduct Act 2013 ("**FMCA**").
4. The terms and conditions of the Bonds will be contained in the master trust deed between WHS and New Zealand Guardian Trust Company Limited (the "**Trustee**") dated 7 May 2015 ("**Master Trust Deed**") as modified and supplemented by a supplemental trust deed (no. 1) dated 7 May 2015 (together the "**Trust Deed**").
5. Clause 2.2 of Schedule 1 of the Master Trust Deed will set the percentage of Security holders able to requisition, in writing, a meeting of Security holders (the "**Threshold**") at not less than 5% of the nominal value of the debt securities on issue in that class.
6. Clause 2.2 reflects the change to the Threshold prescribed under the FMCA and Financial Markets Conduct Regulations 2014 (together the "**FMC Regime**"). Section 120(1)(b) of the FMCA requires that a meeting of a class of holders of a debt security must be called by the issuer on the written request of holders of the debt securities that have a combined nominal value of no less than 5% of the nominal value of the debt securities on issue in that class. This provision replaces clause 3(1) Schedule 15 of the Securities Regulations 2009 ("**Securities Regulations**"), which deemed trust deeds to contain a clause that persons holding not less than one-tenth in nominal value of the issued debt securities to which the deed relates.



Appendix Two

Rule 3.2.1 Every Trust Deed governing Debt Securities shall provide that:

...

(d) a meeting of Security holders shall be called on a requisition in writing signed by holders of not less than 10% of the amount of the Securities for the time being outstanding.

