



NZX Regulation Decision

Westpac Banking Corporation ("WBC")

Application for a waiver from NZX Debt Market

Listing Rule 7.12.1

10 July 2018



Background

1. The information on which this decision is based is set out in Appendix One. Neither the waiver nor the ruling set out below will apply if that information is not or ceases to be full and accurate in all material respects.
2. The NZX Debt Market Listing Rules to which this decision relates are set out in Appendix Two.
3. Capitalised terms that are not defined in this decision have the meanings given to them in the Rules.

Waiver from NZX Debt Market Rule 7.12.1

Decision

4. Subject to the conditions in paragraph 5 below, and on the basis that the information provided by WBC is complete and accurate in all material respects, NZXR grants WBC a waiver from Rule 7.12.1, to the extent that this Rule requires WBC to release to the market details of any acquisition of WBC Quoted Debt Securities as a result of any Liquidity Provision Activities, Trade Throughs or Securities Management Activities.
5. The waiver in paragraph 4 above is provided on the conditions that:
 - a. WBC must prominently disclose this waiver and its implications in any Offering Document relating to any future offer for issue of Quoted Debt Securities;
 - b. WBC must provide notice to NZX in accordance with Rule 7.12.1 in respect of any Quoted Debt Securities acquired as a result of any Liquidity Provision Activities, Trade Throughs, or Securities Management Activities if the underlying Quoted Debt Securities are subsequently cancelled. This notice shall be provided within one Business Day of the Quoted Debt Securities being cancelled; and
 - c. all trading in the Quoted Debt Securities by WBC is conducted in accordance with any applicable legislation.

Reasons

6. In coming to the decision to provide the waiver set out in paragraph 4 above, NZXR has considered that:
 - a. the policy intent behind Rule 7.12.1 is to ensure that the correct number of an Issuer's quoted securities on issue is known to the market. This policy is particularly important in the context of Equity Securities, as the number of Equity Securities on issue directly impacts their market price and dilutes existing shareholders' interests;
 - b. the number of Debt Securities on issue, however, is less relevant to the market price of Debt Securities. Moreover, the acquisition of Quoted Debt Securities by WBC as a result of any Liquidity Provision Activities, Trade Throughs or Securities Management Activities will not change the number of Quoted Debt Securities on issue;

- c. the waiver will only apply to the purchase of Quoted Debt Securities by WBC for any Liquidity Provision Activities, Trade Throughs or Securities Management Activities. WBC will still be required to comply with Rule 7.12.1 in respect of any Quoted Debt Securities that are issued, acquired, or redeemed by WBC in any other capacity;
- d. WBC may acquire Quoted Debt Securities multiple times in each calendar month as a result Liquidity Provision Activities, Trade Throughs or Securities Management Activities. Requiring WBC to release a 7.12.1 Notice each time WBC acquires Quoted Debt Securities on that basis would impose a disproportionate compliance burden on WBC, with little corresponding benefit to the market, as the number of Quoted Debt Securities on issue will remain unchanged as a result of these transactions;
- e. further, the volume of 7.12.1 Notices that WBC would be required to release, as a consequence of Liquidity Provision Activities, Trade Throughs or Securities Management Activities, might give an incorrect or misleading impression of WBC's trading activity in its own Quoted Debt Securities. Especially given there is no corresponding notice requirement to signify the completion of any sale of Quoted Debt Securities by WBC;
- f. The conditions ensure that any market-making and trading is conducted in accordance with all applicable laws. Applicable laws include the Financial Markets Conduct Act 2013, which prohibits market manipulation and insider trading, and apply to the market-making and trading activities of WBC (including its subsidiaries); and
- g. there is precedent for this decision.

Ruling in respect of Debt Market Rules 1.6.6 and 7.12.1

Decision

- 7. Subject to the condition in paragraph 8 below, and on the basis that the information provided by WBC is complete and accurate in all material respects, NZXR confirms that references to an "Issuer" in Listing Rule 7.12.1 do not, in the case of the Quoted Debt Securities, extend to include the WBC Subsidiaries by virtue of Listing Rule 1.6.6.
- 8. The ruling in paragraph 7 above is provided on the condition that WBC must provide notice to NZX in accordance with Rule 7.12.1 in respect of any Quoted Debt Securities acquired by WBC Subsidiaries if the underlying Quoted Debt Securities are subsequently cancelled. This notice shall be provided within one Business Day of the Quoted Debt Securities being cancelled.

Reasons

- 9. In coming to the decision to make the ruling set out in paragraph 7 above, NZXR has considered that:

- a. the acquisition of Quoted Debt Securities by the WBC Subsidiaries will not change the number of Quoted Debt Securities on issue, and therefore will not undermine the policy intent behind Rule 7.12.1;
- b. the object of Rule 7.12.1 is not frustrated or avoided by the fact that the WBC Subsidiaries are separate legal entities from WBC; and
- c. requiring the WBC Subsidiaries to release a 7.12.1 Notice each time they acquire Quoted Debt Securities would impose a disproportionate compliance burden on them, with little corresponding benefit to the market, as the number of Quoted Debt Securities on issue will remain unchanged as a result of these transactions.



Appendix One

1. Westpac Banking Corporation (**WBC**) is a Listed Issuer with Debt Securities Quoted on the NZX Debt Market.
2. WBC currently has one series of Debt Securities Quoted on the NZX Debt Market, and may make further offers of Debt Securities from time to time, which may also be Quoted on the NZX Debt Market (**Quoted Debt Securities**).
3. To encourage liquidity in the Quoted Debt Securities, WBC provides a market-making service, which involves WBC providing prices in its Quoted Debt Securities (**Liquidity Provision Activities**). Additionally, WBC has business units that purchase and sell Quoted Debt Securities on behalf of their clients (**Trade Throughs**).
4. Also, certain WBC Subsidiaries may acquire Quoted Debt Securities from time to time in the ordinary course of their business. The WBC Subsidiaries may acquire Quoted Debt Securities in their capacity as fund manager, agent on behalf of clients, or for capital management, investment or custodial purposes (**Securities Management Activities**).
5. As WBC acquires Quoted Debt Securities as a result of Liquidity Provision Activities, Trade Throughs and Securities Management Activities, WBC is required to release the form of notice contemplated by NZX Debt Market Listing Rule (**Rule**) 7.12.1 each time it acquires such Quoted Debt Securities.
6. WBC has advised NZX Regulation (**NZXR**) that it may acquire Quoted Debt Securities multiple times each calendar month, as a result of Liquidity Provision Activities, Trade Throughs and Securities Management Activities, and consequently, WBC would be required to regularly release multiple notices under Rule 7.12.1 (**7.12.1 Notice**) each month.
7. WBC has therefore sought a waiver from the requirements of Rule 7.12.1 to the extent that WBC would otherwise be required to release a 7.12.1 Notice each time it acquires Quoted Debt Securities as a result of its Liquidity Provision Activities, Trade Throughs or Securities Management Activities.
8. If, in the case of the Quoted Debt Securities, references to an "Issuer" in Rule 7.12.1 extended to WBC Subsidiaries by virtue of Rule 1.6.6, the WBC Subsidiaries would be required to release a 7.12.1 Notice each time they acquire Quoted Debt Securities in the ordinary course of their business.
9. WBC has therefore sought a ruling that references to an "Issuer" in Rule 7.12.1 do not, in the case of the Quoted Debt Securities, extend to include the WBC Subsidiaries by virtue of Listing Rule 1.6.6.

Appendix Two

Rule 1.6.6 provides:

- 1.6.6 Reference to an Issuer in the Rules shall, as the context permits, extend to include all members (other than another Listed entity or a Subsidiary thereof) of any group of companies and/or other entities of which the Issuer is the holding company, or in which the Issuer otherwise has a controlling interest, to the extent that such extension is necessary to ensure that the object of the Rules is not frustrated or avoided by reason of the separate legal personality of members of the group. In relation to the disclosure of information for this purpose the group includes any Associated Persons of the Issuer of which the Issuer has control in law or in fact, other than any such Associated Person which is another Listed entity or a Subsidiary thereof. Assessment of the materiality of any information in relation to such group shall be treated as if the group constituted one business.

Rule 7.12.1

- 7.12.1 If an Issuer issues, acquires or redeems Quoted Securities, or an Issuer with Equity Securities Quoted issues, acquires or redeems Equity Securities or Securities Convertible into Equity Securities, then the Issuer shall give to NZX for release to the market details of the issue, acquisition or redemption, including:
- (a) Class of Security and ISIN; and
 - (b) the number issued, acquired or redeemed; and
 - (c) the nominal value (if any) and issue price, acquisition price or redemption price; and
 - (d) whether payment was in cash; and
 - (e) any amount paid up (if not in full); and
 - (f) the principal terms of the Securities (other than for Quoted Securities), for example, the exercise price and exercise date in respect of an Option, or the conversion price and conversion date in respect of Convertible Securities or the ranking of the Securities in relation to other Classes of Securities; and
 - (g) the percentage of the total Class of Securities issued, acquired or redeemed; and
 - (h) the reason for the issue, acquisition or redemption; and
 - (i) the specific authority for the issue, acquisition or redemption (if any); and
 - (j) any terms or details of the issue, acquisition or redemption (such as an escrow provision); and

- (k) the total number of Securities of the Class in existence after the issue, acquisition or redemption; and
- (l) in the case of an acquisition of shares by an Issuer which is a company registered under the Companies Act 1993, whether those shares are to be held as Treasury Stock; and
- (m) the dates of issue, acquisition or redemption.

Notices required by this Rule must be given to NZX for public release forthwith after the issue, acquisition or redemption, and in respect of an acquisition effected by an Issuer through NZX's order matching market or through the order matching market of a Recognised Stock Exchange, no later than the end of the Business Day on which the acquisition took place. For the purposes of Rule 7.12.1 the sale or transfer of Treasury Stock by an Issuer shall be deemed to be an issue of Securities.

