



NZX Regulation Decision

Evolve Education Group Limited (“EVO”)

Application for waivers from NZX Main Board Rules 7.11.1
and 9.2.1

8 May 2019



Background

1. The information on which these decisions are based is set out in Appendix One to these decisions. These waivers will not apply if that information is not or ceases to be full and accurate in all material respects.
2. The Rules to which these decisions relate are set out in Appendix Two.
3. Capitalised terms which have not been defined in these decisions have the meanings given to them in the Rules.

Waiver from Listing Rule 7.11.1

Decision

4. Subject to the conditions set out in paragraph 5 below, and on the basis that the information provided by EVO is complete and accurate in all material respects, NZX Regulation (**NZXR**) grants EVO a waiver from Rule 7.11.1, to the extent that this Rule would otherwise require the allotment of New Shares to institutional shareholders in respect of subscriptions received under the Institutional Entitlement Offer to occur within five Business Days of the latest date applications may be received under the Institutional Entitlement Offer.
5. The waiver in paragraph 4 above is provided on the conditions that:
 - a. allotment of New Shares to institutional shareholders occurs six Business Days after the Closing Date for the Institutional Entitlement Offer; and
 - b. the waiver, its conditions and its implications are disclosed in the Offering Document for the Offer.

Reasons

6. In coming to the decision to provide the waiver set out in paragraph 4 above, NZXR has considered that:
 - a. the policy behind Rule 7.11.1 is to ensure that, where application monies have been submitted, subscribers obtain the benefit of their investment without undue delay;
 - b. this waiver will only affect the settlement for institutional shareholders under the Institutional Entitlement Offer. Institutional shareholders settle on a delivery versus payment basis (or on the ASX on the trading day prior to allotment) so would not be required to submit the subscription money for the relevant shares until the date the New Shares are allotted under the Institutional Entitlement Offer (or the trading day prior to the allotment for New Shares to be quoted on the ASX);
 - c. EVO has submitted, and NZXR has no reason not to accept, that there is a material risk that the share registry would be unable to complete the reconciliation exercises and other settlement procedures required to effect allotment of the New Shares to certain overseas institutional shareholders within five Business Days of the latest date applications may be received under the Institutional Entitlement Offer; and
 - d. there is precedent for this decision.



Waiver from Rule 9.2.1

Decision

7. Subject to the conditions set out in paragraph 8 below, and on the basis that the information provided by EVO is complete and accurate in all material respects, NZXR grants EVO a waiver from Rule 9.2.1 to the extent that this Rule would otherwise require prior shareholder approval for any of Chris Sacre or his Associated Persons to act as a sub-underwriter for the Offer.
8. The waiver in paragraph 7 is provided on the conditions that:
 - a. The non-conflicted Independent Directors of EVO certify, in a form acceptable to NZXR, that:
 - i. the terms of the underwriting agreement, including the underwriting fees payable, have been entered into, and negotiated, on an arm's length commercial basis; and
 - ii. EVO was not unduly influenced to enter into the underwriting agreement by Mr Sacre or any of his Associated Persons;
 - b. The Underwriters certify, in a form acceptable to NZXR, that:
 - i. Mr Sacre or any of his Associated Persons did not unduly influence the Underwriters' decision to enter into the sub-underwriting arrangements; and
 - ii. the terms of any sub-underwriting agreement with Mr Sacre or any of his Associated Persons will be negotiated on an arm's-length and commercial basis with the Underwriters; and
 - iii. there will be no material difference (other than differences which would result in the sub-underwriting arrangements to be less favourable to Mr Sacre or any of his Associated Persons) between the terms of any such sub-underwriting agreement with any other sub-underwriters who are not Associated Persons of Mr Sacre.
 - c. The waiver, its conditions and implications are disclosed in the Offering Document for the Offer.

Reasons

9. In coming to the decision to provide the waiver set out in paragraph 7 above, NZXR has considered that:
 - a. the policy behind Rule 9.2.1 is to regulate transactions where a Related Party to a Material Transaction may gain favourable consideration due to its relationship with the Issuer. NZXR may waive the requirement to obtain approval of a Material Transaction if it is satisfied that the involvement of any Related Party is plainly unlikely to have influenced the promotion of, or the decision to enter into, the transaction or its terms and conditions. NZXR is satisfied that the granting of this waiver will not offend the policy of this Rule;
 - b. if invited to act as a sub-underwriter for the Offer, Mr Sacre or his Associated Persons will participate on materially the same terms (other than differences which would result in the sub-underwriting arrangements to be less favourable to Mr Sacre or any of his Associated Persons) as all other participants (including as to the sub-underwriting fee).

The conditions in paragraph 8 provides comfort that Mr Sacre is unlikely to have influenced any decision to enter into such sub-underwriting arrangements; and

- c. there is precedent for this decision.

Confidentiality

10. EVO has requested these decisions be kept confidential until after the Offer is announced to market by EVO.
11. In accordance with Footnote 1 to Rule 1.11.2, NZXR grants EVO's request.



Appendix One

1. Evolve Education Group Limited (**EVO**) is a Listed Issuer with ordinary shares Quoted on the NZX Main Board.
2. EVO proposes to undertake a capital raising (**Offer**) by way of a pro-rata offer of new shares in EVO (**New Shares**). The Offer will be made in the form of an accelerated pro-rata entitlement offer (commonly referred to as an AREO) which will be underwritten by Canaccord Genuity (Australia) Limited and Forsyth Barr Group Limited (**Underwriters**). The Offer is to be conducted in the following stages:
 - (a) **Institutional Entitlement Offer:** An accelerated pro-rata entitlement offer at a fixed price (**Entitlement Price**) to institutional shareholders resident in New Zealand, Australia and certain overseas jurisdictions (**Eligible Institutional Shareholders**). Institutional shareholders of EVO who are not Eligible Institutional Shareholders are ineligible overseas institutional shareholders (**Ineligible Institutional Shareholders**);
 - (b) **Institutional Bookbuild:** New Shares not taken up by Eligible Institutional Shareholders, along with New Shares in respect of entitlements that would have been offered to any Ineligible Institutional Shareholders, are offered under a bookbuild to institutional investors (**Institutional Bookbuild**). If the price achieved in the Institutional Bookbuild is higher than the Entitlement Price, the excess will be shared (on a pro-rata basis) between the institutional shareholders who did not, or who were not able to, take up their entitlement;
 - (c) **Retail Entitlement Offer:** Following completion of the Institutional Bookbuild, a pro-rata offer of New Shares will be made at the same price and ratio as the Institutional Entitlement Offer to retail shareholders in New Zealand and Australia, who did not receive an offer under the Institutional Entitlement Offer (**Eligible Retail Shareholders**). Retail shareholders of EVO who are not Eligible Retail Shareholders are ineligible retail shareholders (**Ineligible Retail Shareholders**); and
 - (d) **Retail Bookbuild:** New Shares not taken up by Eligible Retail Shareholders, along with New Shares in respect of entitlements that would have been offered to any Ineligible Retail Shareholders, are offered under a bookbuild to institutional investors (**Retail Bookbuild**). If the price achieved in the Retail Bookbuild is higher than the Entitlement Price, the excess will be shared (on a pro-rata basis) between the retail shareholders who did not, or who were not able to, take up their entitlement.
3. The Institutional Entitlement Offer and Institutional Bookbuild will be conducted in accordance with the following timetable (NZST):
 - (a) Trading Halt and Institutional Entitlement Offer opens: 8 May 2019
 - (b) Institutional Entitlement Offer closes (Closing Date): 4:00pm 9 May 2019
 - (c) Institutional Bookbuild: 9 May 2019 to 10 May 2019
 - (d) Record Date: 7:00pm 10 May 2019



(e) Trading Halt Lifted: 13 May 2019

(f) Allotment and Quotation of the New Shares: 17 May 2019

Waiver from Rule 7.11.1 – Further Background

4. EVO has applied to NZX Regulation (NZXR) for a waiver from NZX Main Board Listing Rule (**Rule**) 7.11.1 as it has been advised that there would be a material risk that the share registry would be unable to complete the required reconciliation exercises and other settlement procedures required for a number of its overseas institutional shareholders to ensure allotment of the New Shares within the five Business Day timeframe required by the Rule.

Waiver from Rule 9.2.1 – Further Background

5. Mr Sacre is a Related Party of EVO with respect to any sub-underwriting arrangements, as he is a Director of EVO. The Underwriters may seek to enter into sub-underwriting arrangements with any of Mr Sacre or his Associated Persons. Regarding Mr Sacre's participation as a sub-underwriter, EVO considers that it is important that Mr Sacre be seen to be supportive of the Offer.
6. Mr Sacre and his Associated Persons' participation as a sub-underwriter will constitute a Material Transaction within the meaning of Rule 9.2.2(b) because as a related series of transactions, the Offer, the Underwriting Agreement and the sub-underwriting by Mr Sacre and his Associated Persons will have a market value in excess of 10% of EVO's AMC.
7. EVO has applied to NZXR for a waiver from Rule 9.2.1 in the event Mr Sacre or his Associated Persons participate as a sub-underwriter. This will be on terms which are no more favourable to Mr Sacre or any of his Associated Persons than other sub-underwriters.
8. Mr Sacre's participation as a sub-underwriter was only explored after the decision was made to explore the Offer and underwriting of the same.
9. Rule 9.2.1, in general, prohibits EVO from entering into a Related Party transaction without shareholder approval. EVO cannot rely on Rule 9.2.4(b) to make the Offer, or to enable Mr Sacre and his Associated Persons to participate as sub-underwriters, because the AREO structure makes a distinction between institutional and retail shareholders. The class waiver to allow for participation by Related Parties in relation to AREOs does not apply to their participation as sub-underwriters.



Appendix Two

Rule 7.11 Allotment

- 7.11.1 An Issuer making an issue of Securities Quoted or to be Quoted (other than Equity Securities issued under Rule 7.3.10) shall proceed to allotment within five Business Days after the latest date on which applications for Securities close.

Rule 9.2.1 Transactions with Related Parties

- 9.2.1 An Issuer shall not enter into a Material Transaction if a Related Party is, or is likely to become:
- (a) a direct or indirect party to the Material Transaction, or to at least one of a related series of transactions of which the Material Transaction forms part; or
 - (b) in the case of a guarantee or other transaction of the nature referred to in paragraph (d) of the definition of Material Transaction, a direct or indirect beneficiary of such guarantee or other transaction,
- unless that Material Transaction is approved by an Ordinary Resolution of the Issuer.

