



10 February 2020

ANNOUNCEMENT OF NZ MARKETS DISCIPLINARY TRIBUNAL

PUBLIC CENSURE OF GEO LIMITED FOR BREACH OF NZX MAIN BOARD LISTING RULES 10.3.2, 10.4.2 AND 10.5.1 (1 OCTOBER 2017 VERSION)

1. The NZ Markets Disciplinary Tribunal (the **Tribunal**) has approved a settlement agreement between NZX Limited (**NZX**) and Geo Limited (**GEO**) dated 21 January 2020 (the **Settlement Agreement**).

Summary

2. GEO is a listed Issuer with its ordinary shares quoted on the NZX Main Board.
3. During the period that this censure relates to, GEO was bound by the NZX Main Board Listing Rules dated 1 October 2017 (**Rules**).
4. Rule 10.3.2 requires preliminary financial announcements to be prepared in accordance with applicable Financial Reporting Standards, which include the New Zealand Equivalent to International Financial Reporting Standards (**NZ IFRS**).
5. Rule 10.4.2 requires half-year reports to comply with NZ IFRS.
6. Rule 10.5.1 requires an Issuer's financial statements to comply with applicable Financial Reporting Legislation, which includes the Financial Markets Conduct Act 2013 (**FMCA**). Section 460 of the FMCA provides that Issuers must ensure their financial statements comply with generally accepted accounting practice in New Zealand (**NZ GAAP**). NZ GAAP for NZX-listed issuers is NZ IFRS.
7. After an investigation, NZX found that GEO breached Rules 10.3.2, 10.4.2 and 10.5.1 by releasing a preliminary announcement on 1 March 2018, and an interim report on 16 March 2018 that, in NZX's view, did not comply with NZ IFRS. Without GEO admitting liability arising from the breaches, GEO accepts that NZX has found that GEO breached Rules 10.3.2, 10.4.2 and 10.5.1. GEO and NZX have agreed to a settlement in relation to NZX's findings.

Background

8. On 1 June 2016, GEO acquired InterfaceIT Pty Limited (**IIT**), an Australian company that had developed a mobile cloud-based application for managing in-field, face-to-face sales teams. The core product of IIT was known as "iKnock" and was rebranded by GEO on acquisition as "GeoSales".
9. On 12 June 2018, GEO made an announcement to the market referring to the possibility of a reduction in the carrying value in relation to GeoSales. On 25 June 2018, GEO subsequently announced that GeoSales' performance had led to a review of the carrying value of intangibles.

10. On 29 August 2018, GEO then made an announcement to the market regarding GEO's unaudited financial results for the year ending 30 June 2018. It contained an impairment of the goodwill associated with the GeoSales product that had arisen as a result of the IIT transaction:
 - a. The financial statements in the release included a write-down of intangible assets of \$4.971 million.
 - b. The summary accompanying the release recorded that a \$5.0 million impairment of goodwill associated with the GeoSales product had contributed to an \$8.7 million loss, up from a loss of \$3.6 million in the previous financial year.
 - c. GEO's chairman explained in the announcement that the impairment was the result of GEO focusing on its GeoService product, but there was now a plan to return GeoSales to growth.
11. In May 2018 and July 2018, GEO had undertaken three capital markets transactions involving the issue of ordinary shares at a value of \$6,070,778, of which approximately 43% was subscribed for by management and Board and 57% taken up by other investors. These comprised:
 - a. a placement of approximately 13 million new ordinary shares to institutional investors at 15 cents per share, raising \$2 million, in May 2018;
 - b. a subsequent 1 for 4 pro rata rights issue at 15 cents per share, announced to the market on 13 June 2018. (On 5 July 2018, GEO announced the offer had been fully subscribed, with gross proceeds raised of approximately \$1,633,628 from the issue of 10,647,364 new shares. Shares issued under the rights issue were issued and began trading on the NZX Main Board on 9 July 2018); and
 - c. the issue of 16,247,668 new ordinary shares on 18 May 2018 to entities associated with the Chairman of the Company at 15 cents per share, raising \$2,437,150 from the conversion of existing convertible notes.
12. NZX's investigation concluded that:
 - a. by the time of GEO's preliminary announcement on 1 March 2018 of its half-year results for the six months to 31 December 2017, and the release of GEO's interim report on 16 March 2018, in NZX's view the goodwill associated with GeoSales should have been impaired in these interim financial results; and
 - b. this was prior to the placements and the rights issue, and five months earlier than the 29 August 2018 announcement.
13. The reason given by GEO for not impairing the GeoSales product in its half-year results was that the relevant accounting standards only require goodwill to be tested annually or whenever there is an indication that the cash generating unit may be impaired. As part of the preparation of the 31 December 2017 interim financial statements GEO did undertake a review of the factors that could result in an indication that GeoSales should be tested for impairment. According to GEO, while it had noted a modest negative variance to budget to 31 December 2017, with an improvement in performance immediately after half year, a change in the approach to the GeoSales product by the newly appointed CEO, and projected future performance, these were not considered indicators of impairment and therefore GEO decided it was not required to carry out an impairment assessment of the goodwill associated with the GeoSales product.

14. NZX concluded that GEO's reasons for not carrying out an impairment assessment of the goodwill associated with the GeoSales product in its half-year results to 31 December 2017 are not supported by NZ IFRS. In particular, paragraph 33(b) of NZ IAS 36 states that future cash inflows or outflows expected to arise from future restructurings or from improving or enhancing an asset performance must be excluded when measuring the value in use of the asset. In NZX's view, GEO's reasons for not impairing the GeoSales product fell within the types of matters referred to in this paragraph.
15. Prior to the conclusion of its investigation, NZX referred this matter to the Financial Markets Authority (**FMA**) for its views, given the primary statutory role and mandate that the FMA has in respect of financial reporting under the FMCA. The FMA agreed with NZX's concern that GEO had inappropriately applied the accounting standards in preparing its interim financial statements for the half-year to 31 December 2017.

Determination

16. In releasing a preliminary announcement on 1 March 2018 and an interim report on 16 March 2018 that did not comply with NZ IFRS, without GEO admitting liability arising from the breaches, GEO accepts that NZX has found that GEO breached Rules 10.3.2, 10.4.2 and 10.5.1 and a penalty should be imposed against GEO.
17. The Tribunal considers that a breach of the periodic reporting requirements is a breach of a fundamental obligation. Compliance by Issuers with the periodic reporting obligations is essential in maintaining market integrity and investor confidence.
18. Accordingly, the Tribunal considers that a breach of the periodic reporting requirements to be serious and to fall within Penalty Band 3 of Procedure 9 of the Tribunal Procedures. Under Penalty Band 3, a penalty of between \$0 and \$500,000 may be imposed.
19. The Tribunal considered that there were aggravating factors in this case:
 - a. The breaches were significant because of investors' participation in placements and rights issue occurred after the breaches but prior to GEO's impairment announcement (although it is acknowledged that 43% of the value raised by GEO was subscribed by GEO's management and the board).
 - b. The breaches continued from 1 March 2018 until 29 August 2018, which the Tribunal considers to be an extended period of time. The market was left uninformed of the specific financial impact of the impairment during this period.
20. The Tribunal also considered that there were mitigating factors:
 - a. GEO cooperated with NZX's investigation, and entered into an early settlement of NZX's referral to the Tribunal.
 - b. When GEO announced the impairment on 29 August 2018, there was no change in GEO's share price.
 - c. On 12 June 2018 and 25 June 2018, GEO took steps to inform the market that an impairment of the GeoSales goodwill was a possibility.
 - d. NZX advise that GEO acted in good faith, consulted its auditors on this matter, and, at the time of the breaches in question, did not believe that it was required to impair the GeoSales goodwill in its 30 December 2017 half-year results.

- e. There was no pattern of breaches by GEO in respect of the impairment of its assets. NZX advise that GEO has a good compliance history. It has neither received an infringement notice nor been referred to the Tribunal before.
 - f. NZX advise that the issue does not appear to be recurring.
21. The Tribunal noted that the assessment of impairment is a matter of delicate commercial judgement. Outside of the required annual review, boards must exercise their own commercial judgement based on their knowledge of the Issuer's business to determine if there are indications that a cash generating unit (such as GeoSales) may be impaired and whether an impairment assessment is required.
22. GEO appears to have genuinely believed that it correctly assessed whether indications of impairment existed at the time and determined that it was not required to carry out an impairment assessment of the goodwill associated with the GeoSales product in its half-year results to 31 December 2017. The Tribunal has seen no evidence to suggest that GEO's breach was intentional or arose as a result of recklessness or negligence.

Penalties

23. NZX and GEO have agreed that:
- a. The Tribunal will issue a public censure;
 - b. GEO will pay to the NZX Discipline Fund a financial penalty of NZ\$40,000 (plus GST, if any) for the breach of Rules 10.3.2, 10.4.2 and 10.5.1;
 - c. GEO will pay the costs of the Tribunal (plus GST, if any); and
 - d. GEO will pay NZ\$30,000 (plus GST, if any) for NZX's costs.

Approval

24. The Settlement Agreement is approved by the Tribunal pursuant to NZ Markets Disciplinary Tribunal Rule 8, and as such, the Settlement Agreement is the determination of the Tribunal.

Censure

25. The Tribunal hereby censures GEO for breach of Rules 10.3.2, 10.4.2 and 10.5.1.

The Tribunal

26. The Tribunal is a disciplinary body which is independent of NZX and its subsidiaries. The Financial Markets Authority approves its members. Under the NZ Markets Disciplinary Tribunal Rules, the Tribunal determines and imposes penalties for referrals made to it by NZX in relation to the conduct of parties regulated by the NZX market rules.

ENDS