

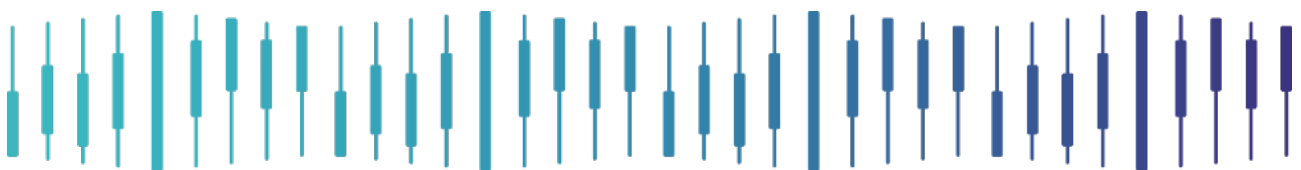
**NZ RegCo**

NZ'S LISTED  
MARKET REGULATOR

31 May 2022

# NZ RegCo Decision

Scott Technology Limited (SCT)  
Application for waiver from NZX Listing Rule 5.2.1



## Background

1. The 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.
2. The NZX Listing Rule (**Rule**) to which this decision relates is 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 Listing Rule 5.2.1

### Decision

4. Subject to the conditions set out in paragraph 5 below, and on the basis that the information provided by Scott Technology Limited (**SCT**) is complete and accurate in all material respects, NZ RegCo grants SCT a waiver from Rule 5.2.1 to the extent this Rule would otherwise require SCT to obtain the approval of shareholders to enter into the Transaction.
5. The waiver in paragraph 4 above is provided on the conditions that:
  - a. the non-interested directors of SCT certify that:
    - i) the terms of the Transaction have been entered into, and negotiated, on an arm's length commercial basis;
    - ii) SCT was not unduly influenced to enter into the Transaction by JBS Canada; and
    - iii) entry into the Transaction is in the best interests of all of SCT's shareholders; and
  - b. the waiver, its conditions and implications are disclosed in SCT's next annual report.

### Reasons

6. In coming to the decision to provide the waiver set out in paragraph 4 above, NZ RegCo has considered that:
  - a. the policy objective behind Listing Rule 5.2.1 is to ensure that a Related Party does not exercise undue influence or use personal connections to reach a favourable outcome for, or a transfer of value to, the Related Party in respect of a transaction and that shareholders are given an opportunity to review transactions where the Board may have been subject to actual or perceived influence from a Related Party. Granting this waiver will not offend the policy behind this rule. The Transaction does not give rise to the policy concerns addressed by the Rule as the nature of the relationship is not one that gives rise to a potential undue influence and transfer of value;
  - b. NZ RegCo is satisfied that SCT has not been unduly influenced due to the Related Party relationship, and that the Related Party relationship has not unduly influenced the decision to enter into, or the terms and conditions of, the Transaction as:
    - i) entry into, and the terms of, the Transaction were negotiated on an arm's length basis by SCT employees not affiliated with JBS Canada or JBS Australia; and
    - ii) JBS Canada is a separate, independent business unit to JBS Australia and JBS Canada's influence over SCT's decision to enter into the Transaction is limited to its ability, via its affiliate JBS Australia and, subsequently, the SCT directors appointed by

JBS Australia to influence, and participate in decisions of, the SCT board. SCT has advised that those JBS Australia-affiliated directors have not participated in, and will not participate in, any SCT board discussions on, or approving, the Transaction.

- c. the directors of SCT submit that entry into the Transaction is in the best interests of all of SCT's shareholders;
- d. the Transaction is within SCT's normal course of business; and
- e. there is precedent for this decision.

### **Confidentiality**

- 7. SCT requested this application be kept confidential until SCT releases an announcement relating to the Transaction.
- 8. In accordance with Rule 9.7.2, NZ RegCo granted SCT's request.

## Appendix One

1. Scott Technology Limited (**SCT**) is a Listed Issuer with securities Quoted on the NZX Main Board.
2. A SCT subsidiary (Scott Systems International Inc. (**Scott Automation**)) is proposing to enter into a transaction with JBS Food Canada ulc (**JBS Canada**), which involves Scott Automation designing, and installing at JBS Canada's Brooks plant in Alberta, a fully automated carton storage, dispensing, palletizing and automated guided vehicle (or AGV) transport solution (the Transaction). The total value of the Transaction to SCT is expected to be approximately NZ\$56 million.
3. SCT is applying for the waiver from Rule 5.2.1 as Scott Automation is caught by limb (b) of the definition of "Issuer" under the Listing Rules. As such, any transaction entered into by the Issuer's subsidiary is deemed to be entered into by the Issuer to the extent necessary to prevent the object of the Rules being frustrated or avoided by the use of a separate legal personality.
4. SCT's Average Market Capitalisation is around \$240 million and, accordingly, the Transaction will likely be of a value above 10% of SCT's Average Market Capitalisation and is therefore a Material Transaction for the purposes of Rule 5.2.1
5. JBS Canada is a direct party to the Material Transaction. JBS Canada is a Related Party of SCT because JBS Australia Pty Limited (**JBS Australia**) is the holder of a Relevant Interest in 10% or more of SCT's ordinary shares, and JBS Canada is an Associated Person of JBS Australia under limb (c) of the definition of Associated Person as they are Related Bodies Corporate, each being a direct or indirect subsidiary of JBS S.A, a company incorporated in Brazil.

# Appendix Two

## Definitions

### Associated Person

A person (**A**) is associated with, or an **Associated Person** of, another person (**B**) if: ...

- (c) A and B are Relatives or Related Bodies Corporate, ...

### Material Transaction

means a transaction, or a related series of transactions, whereby an Issuer:

- (a) buys, acquires, gains, leases (as lessor or lessee), sells or otherwise disposes of, assets having an Aggregate Net Value above 10% of the Issuer's Average Market Capitalisation, ...

### Issuer

means: ...

- (b) includes, as the context permits, all members (other than another Listed entity or that Listed entity's Subsidiary) of any group of companies or other entities of which such Issuer is the holding company or has a controlling interest, to the extent this is necessary to prevent the object of the Rules being frustrated or avoided by the use of a legal separate entity, ...

### Related Party

means a person who, at the time of a Material Transaction, or at any time within the previous six months, was: ...

- (b) the holder of a Relevant Interest in 10% or more of a Class of Equity Securities of the Issuer carrying Votes,
- (c) an Associated Person of the Issuer or any of the persons referred to in (a) or (b), except where the person becomes an Associated Person as a consequence of the Material Transaction ...

## Rule 5.2 Transactions with Related Parties

5.2.1 An Issuer must not enter into a Material Transaction if a Related Party is, or is likely to become:

- (a) A direct party to the Material Transaction, or
- (b) A beneficiary of a guarantee or other transaction which is a Material Transaction,

unless that Material Transaction is approved by an Ordinary Resolution (such resolution being subject to the voting restrictions in Rule 6.3) or conditional on such approval.