



NZX Regulation Decision

Restaurant Brands New Zealand Limited (“RBD”)

Application for waivers from NZX Main Board Listing Rules
7.3.1(a), 7.10.1, 7.10.2, 7.10.8, 7.11.1, 7.12.2 and 9.2.1

25 October 2016



Background

1. The information on which these decisions are based is set out in Appendix One to this decision. 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 that are not defined in these decisions have the meanings given to them in the Rules.

Waiver from Rule 7.3.1(a)

Decision

4. Subject to the conditions in paragraph 5 below and on the basis that the information provided by Restaurant Brands New Zealand Limited (**RBD**) is complete and accurate in all material respects, NZX Regulation (**NZXR**) grants RBD a waiver from NZX Main Board Listing Rule (**Rule**) 7.3.1(a) so that RBD is not required to obtain shareholder approval for the issue of the New Shares in connection with the Offer.
5. The waiver in paragraph 4 above is provided on the conditions that:
 - a. the issue of the New Shares is conducted in accordance with Rule 7.3.4(a) (read in conjunction with Rules 7.3.4(d) to 7.3.4(h)), except for the requirement in Rule 7.3.4(a) that the Offer is Renounceable; and
 - b. instead of the requirement in Rule 7.3.4(a) that the Offer is Renounceable RBD ensures that the Institutional Bookbuild and the Retail Bookbuild occur pursuant to the Offer Document.

Reasons

6. In coming to the decision to provide the waiver set out in paragraph 4 above, NZXR has considered that:
 - a. Rule 7.3.1(a) is designed to prevent the dilution of shareholders' interests without their prior approval. The policy of Rule 7.3.4(a) is that shareholder approval is not required where all shareholders have the same entitlement to participate in the issue because those shareholders have the opportunity to avoid dilution;
 - b. Rule 7.3.4(a) recognises that an Issuer may make a pro-rata renounceable rights issue without the prior approval of its shareholders under Rule 7.3.1(a). The issue of the New Shares under the Offer is consistent with the policy of Rule 7.3.4(a). Under the Offer, the New Shares will be offered on a pro-rata basis to Eligible Institutional Shareholders and Eligible Retail Shareholders, and they will have the opportunity to maintain their existing proportionate rights. The New Shares will not be offered to ineligible shareholders, which is consistent with the policy of Rule 7.3.4(h) for offers conducted in accordance with Rule 7.3.4(a);
 - c. the Offer may provide a return to shareholders who do not, or are unable to, exercise their entitlement, in the form of any Institutional Premium and Retail

Premium reached in the Institutional Bookbuild and Retail Bookbuild (respectively) in excess of the Entitlement Price. Accordingly, while the Offer is not strictly Renounceable in accordance with the definition in the Rules, it does fulfil the purpose of the requirement for an offer to be Renounceable;

- d. the conditions in paragraph 5(a) and (b) ensure that any exceptions to the proportionate nature of the issue must be conducted in accordance with Rules 7.3.4(d) – (h) and pursuant to the Offer Document; and
- e. there is precedent for this decision.

Waiver from Rule 7.10.1

Decision

- 7. On the basis that the information provided by RBD is complete and accurate in all material respects, NZXR grants RBD a waiver from Rule 7.10.1 to enable Eligible Institutional Shareholders to be notified of their entitlement prior to the Record Date, and to enable that notification to occur by means other than by physical letters of entitlement.

Reasons

- 8. In coming to the decision to provide the waiver set out in paragraph 7 above, NZXR has considered that:
 - a. the policy behind Rule 7.10.1 is to ensure that letters of entitlement are sent as soon as possible after the Record Date for an entitlement. This ensures that shareholders have the maximum amount of time in which to consider how to deal with their entitlement. NZXR is satisfied that the granting of this waiver will not offend this policy;
 - b. the waiver will only apply to Eligible Institutional Shareholders. NZXR accepts RBD's submission that due to the proposed structure of the Offer, RBD will need to calculate the entitlements of its Eligible Institutional Shareholders prior to the Record Date, and inform the Eligible Institutional Shareholders of their entitlement in time for them to participate in the Institutional Entitlement Offer;
 - c. Rule 7.10.1 contemplates that an Issuer will not know the identity of entitled shareholders prior to the Record Date. In this case, the Eligible Institutional Shareholders will be known prior to the Record Date. NZXR has previously considered that the policy behind Rule 7.10.1 would not be to preclude notification of entitlements prior to the Record Date when such entitlements are known;
 - d. RBD will need to notify Eligible Institutional Shareholders of their entitlement in as timely a manner as possible, which may include means other than physical letters of entitlement;
 - e. with regard to Eligible Retail Shareholders, RBD will be required to comply with Rule 7.10.1; and
 - f. there is precedent for this decision.

Waiver from Rule 7.10.2

Decision

9. Subject to the condition set out in paragraph 10 below and on the basis that the information provided by RBD is complete and accurate in all material respects, NZXR grants RBD a waiver from Rule 7.10.2 to the extent that it would otherwise require the Institutional Entitlement Offer to remain open for twelve Business Days.
10. The waiver in paragraph 9 above is provided on the condition that the announcement of the Offer and Offer Document will clearly state that a shorter than usual offer period will be available to Eligible Institutional Shareholders under the Institutional Entitlement Offer.

Reasons

11. In coming to the decision to provide the waiver set out in paragraph 9 above, NZXR has considered that:
 - a. the policy behind Rule 7.10.2 is to ensure that shareholders have sufficient time to consider, and act on, an entitlement offer;
 - b. the waiver only applies in respect of Eligible Institutional Shareholders. Eligible Institutional Shareholders are accustomed to considering offers and making investment decisions at short notice and therefore will not require the full amount of time contemplated under Rule 7.10.2;
 - c. the Retail Entitlement Offer will be open for the full twelve Business Day period as required by Rule 7.10.2;
 - d. therefore the policy behind Rule 7.10.2 will not be offended by granting this waiver; and
 - e. there is precedent for this decision.

Waiver from Rule 7.10.8

Decision

12. Subject to the condition set out in paragraph 13 below and on the basis that the information provided by RBD is complete and accurate in all material respects, NZXR grants RBD a waiver from Rule 7.10.8 to the extent that the Rule would otherwise require notification of the Offer five Business Days before the Ex Date.
13. The waiver in paragraph 12 above is provided on the condition that the Offer is notified to the market in accordance with Rule 7.10.8 no later than the Ex Date for the Offer.

Reasons

14. In coming to the decision to provide the waiver set out in paragraph 12 above, NZXR has considered that:

- a. the policy behind Rule 7.10.8 is to provide shareholders and stakeholders within the market sufficient notice of an upcoming entitlement. It also provides an opportunity for investors to trade in or out of that relevant security;
- b. NZXR has been advised that from an operational level the shortened notification period of the Record Date does not provide any issues for RBD's share registry;
- c. it is a feature of an AREO that an Issuer does not provide five Business Days prior notification of the Record Date and without waiving the Rule, RBD would be unable to undertake the Offer;
- d. NZXR has previously accepted RBD's submissions regarding the benefits of the AREO structure, as set out in paragraphs 13 and 14 in Appendix One, which compensate for the shortened advance notice period; and
- e. there is precedent for this decision.

Waiver from Rule 7.11.1

Decision

- 15. Subject to the condition set out in paragraph 16 below and on the basis that the information provided by RBD is complete and accurate in all material respects, NZXR grants RBD a waiver from Rule 7.11.1 to the extent that this Rule would otherwise require the allotment of New Shares to institutional shareholders and other institutional investors in respect of subscriptions received under the Institutional Entitlement Offer and Institutional Bookbuild to occur within five Business Days of the closing date for the Institutional Entitlement Offer and Institutional Bookbuild respectively.
- 16. The waiver in paragraph 15 above is provided on the condition that allotment of New Shares to institutional shareholders and other institutional investors occurs on the settlement date for the Institutional Entitlement Offer.

Reasons

- 17. In coming to the decision to provide the waiver set out in paragraph 15 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 effect the settlement for institutional shareholders and other institutional investors under the Institutional Entitlement Offer and Institutional Bookbuild. Institutional shareholders and other institutional investors settle on a delivery versus payment basis so would not be required to submit the subscription money for the relevant shares until the institutional settlement date. Accordingly, the institutional shareholders and other institutional investors will not be denied the benefit of this capital for any greater period than would have otherwise been the case, as a result of this waiver; and
 - c. there is precedent for this decision.

Waiver from Rule 7.12.2

Decision

18. Subject to the condition set out in paragraph 19 below, NZX grants RBD a waiver from the 10 Business Day notice requirement in Rule 7.12.2 in relation to its interim dividend.
19. The waiver in paragraph 18 above is provided on the conditions that:
- a. the Record Date for the interim dividend is no less than six Business Days after the interim dividend is announced;
 - b. the interim dividend is paid prior to the first allotment under the Offer; and
 - c. the implications of this waiver are disclosed in the announcements on 26 October 2016.

Reasons

20. In coming to the decision to provide the waiver set out in paragraph 18 above, NZXR has considered that:
- a. the purpose of Rule 7.12.2 is to ensure the market and those persons who are to receive any benefit to be paid or distributed on Quoted Securities (such as an interim dividend) are given sufficient notice ahead of that benefit;
 - b. it would not be possible to provide details of the interim dividend before the announcement of the half year results and notification of the Record Date for the interim dividend as advanced notification may signal to the market that a significant transaction was imminent;
 - c. the market will have at least one full day (being Monday, 31 October 2016) to trade RBD shares after notice of the interim dividend and completion of any possible trading halt, but before the Ex Date of the interim dividend;
 - d. a single trading day where trading can occur for investors who wish to move on or off the RBD share register in contemplation of the interim dividend is sufficient, as an active step by those on the share register is not required in order to receive the interim dividend;
 - e. RBD has confirmed with its share registry that the timing of the notice for the interim dividend will not create any practical problems;
 - f. there is commercial rationale for the timetable of the Offer that means RBD is unable to provide the required 10 Business Days' notice to market; and
 - g. there is precedent for this decision.

Waiver from Rule 9.2.1

Decision

21. Subject to the conditions set out in paragraph 22 below and on the basis that the information provided by RBD is complete and accurate in all material respects, NZXR grants RBD a waiver from Rule 9.2.1 to the extent that:

- a. any of the Related Parties or their Associated Persons participates in the Offer; and/or
- b. any of Stephen Copulos, Danny Diab or their Associated Persons act as a sub-underwriter for the Offer.

22. The waiver in paragraph 21 is provided on the conditions that:

- a. the Independent Directors of RBD, other than Ted Van Arkel, certify in a form acceptable to NZX, that:
 - (i) the terms of the Offer and the Underwriting Agreement are fair and in the best interests of RBD shareholders, other than the Related Parties or RBD shareholders that are Associated Persons of the Related Parties;
 - (ii) RBD will pay and receive fair value under the Offer and the Underwriting Agreement; and
 - (iii) none of the Related Parties will be involved in, or influence, any allocation decision in relation to the Institutional Bookbuild or the Retail Bookbuild;
- b. the issue of the New Shares is conducted in accordance with Rule 7.3.4(a) (read in conjunction with Rules 7.3.4(d) to 7.3.4(h)), except for the requirement in Rule 7.3.4(a) that the Offer is Renounceable;
- c. instead of the requirement in Rule 7.3.4(a) that the Offer is Renounceable RBD ensures that the Institutional Bookbuild and the Retail Bookbuild occur pursuant to the Offer Document;
- d. the waiver, its conditions and effects are disclosed in the Offer Document relevant to the Offer and the annual report for the year in which the Offer takes place; and
- e. the Underwriter certifies, in a form acceptable to NZX, that:
 - (i) Stephen Copulos and Danny Diab did not influence the Underwriter's decision to enter into the sub-underwriting arrangements; and
 - (ii) the terms of any sub-underwriting agreement with Stephen Copulos, Danny Diab or any of their Associated Persons will be negotiated on an arm's-length and commercial basis with the Underwriter and there will be no material difference (other than differences which would result in the sub-underwriting arrangements to be less favourable to Stephen Copulos, Danny Diab or any of their Associated Persons) between the terms of any such sub-underwriting agreement with any other sub-underwriters not related to Stephen Copulos or Danny Diab.

Reasons

23. In coming to the decision to provide the waiver set out in paragraph 21 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. NZXR is satisfied that the granting of this waiver will not offend the policy of this Rule;

- b. the participation by Related Parties or their Associated Persons in the Institutional Bookbuild or the Retail Bookbuild will be on materially the same terms (including as to price) as all other participants in those bookbuilds. Accordingly, any Related Parties or their Associated Persons will not gain favourable consideration due to their relationship with RBD;
- c. the condition in paragraph 22(a) provides comfort that the Related Parties are unlikely to have influenced the promotion of, or the decision to enter into, the transaction; and
- d. there is precedent for this decision.

Confidentiality

- 24. RBD has requested that this application and any decision be kept confidential until after the Offer is disclosed to the market by RBD.
- 25. In accordance with Footnote 1 to Rule 1.11.2, NZXR grants RBD's request.

Appendix One

1. RBD is a Listed Issuer with ordinary shares Quoted on the NZX Main Board.
2. RBD has entered into an agreement to purchase from an unrelated party all of the shares in Pacific Islands Restaurants Inc. (**PIR**) for US\$105 million (subject to various adjustments, including for cash, debt and net working capital) (**Acquisition**). The purchase agreement for the Acquisition does not contain a financing condition as the sellers of PIR would not accept a condition of this nature.
3. RBD proposes to fund the Acquisition by undertaking a capital raising (**Offer**) by way of a pro rata offer of new ordinary shares in RBD (**New Shares**). The Offer will be made in the form of an accelerated pro-rata entitlement offer (commonly referred to as an **AREO**).
4. 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 and various overseas jurisdictions (**Eligible Institutional Shareholders**). Institutional shareholders of RBD who are not Eligible Institutional Shareholders are ineligible overseas institutional shareholders (**Ineligible Overseas Institutional Shareholders**) on the grounds that it would be unduly onerous for RBD to make the Offer available to those 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 Overseas Institutional Shareholders, will be 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 (**Institutional Premium**) will be shared (on a pro rata basis) between the Eligible Institutional Shareholders who did not take up their entitlement and the Ineligible Overseas Institutional Shareholders.
 - c. **Retail Entitlement Offer:** Following completion of the Institutional Bookbuild, a pro rata offer of New Shares at the same price and ratio as the Institutional Entitlement Offer to retail shareholders in New Zealand who did not receive an offer under the Institutional Entitlement Offer (**Eligible Retail Shareholders**). Retail shareholders of RBD who are not Eligible Retail Shareholders are ineligible overseas retail shareholders (**Ineligible Overseas Retail Shareholders**) on the grounds that it would be unduly onerous for RBD to make the Offer available to those 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 Overseas 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 (**Retail Premium**) will be shared (on a pro rata basis) between the Eligible Retail Shareholders who did not take up their entitlement and the Ineligible Overseas Retail Shareholders.
5. As part of the Offer, RBD will conduct a “private placement” offer in the United States, under which a limited number of Institutional shareholders which are based in the United States, will be invited by RBD to subscribe for New Shares through the Institutional Entitlement Offer, Institutional Bookbuild and the Retail Bookbuild (**US Private**

Placement). The US Private Placement will not be managed by the Underwriter. The US Private Placement will not be a private placement in the conventional sense (i.e. it is not a separate institutional offer operating outside the Offer, and this terminology is only used to reflect the US securities law exemption which RBD will rely on in order to allow certain institutional shareholders which are based in the United States, to participate in the Institutional Entitlement Offer, the Institutional Bookbuild and the Retail Bookbuild).

6. Eligible Institutional Shareholders and Eligible Retail Shareholders will be offered New Shares under the Offer on a basis that would (if accepted by all shareholders) maintain the existing proportionate rights of each shareholder (relative to all other shareholders) to votes and distributions. New Shares in respect of entitlements that are not taken up, or not able to be taken up, by shareholders will be offered through the Institutional Bookbuild and the Retail Bookbuild, providing an opportunity for shareholders that do not, or are not eligible to, take up their entitlements to receive value for them via an Institutional Premium or Retail Premium, should either eventuate. Entitlements will not be able to be traded or sold privately by shareholders.
7. The New Shares will be of the same class and have the same rights as RBD's ordinary shares that are currently on issue and will be quoted on the NZX Main Board on their allotment.
8. The AREO structure accelerates the Institutional Entitlement Offer ahead of the Retail Entitlement Offer. Further, the clearing price under the Institutional Bookbuild may be different to the clearing price under the Retail Bookbuild.
9. The Offer will be underwritten by Macquarie Securities (NZ) Limited (the **Underwriter**), with whom RBD will enter into an underwriting agreement (**Underwriting Agreement**). The Underwriter may also enter into sub-underwriting arrangements. RBD will not be a party to any sub-underwriting agreement.
10. The Underwriter will not underwrite the 7.3% shareholding held by persons associated with Stephen Copulos (including any nominees who hold shares for Stephen Copulos (**Copulos Entities**)). The Copulos Entities will instead, at the time the Underwriting Agreement is entered, enter into a written binding commitment to take up their full pro-rata entitlement under the Offer. The Copulos Entities will not be paid a fee in return for this commitment.
11. The Offer will be conducted in accordance with the following timetable:

Date	Event
26 October 2016	<ul style="list-style-type: none"> • Announcement of Offer • Offer Document released to NZX • Opening Date for Institutional Entitlement Offer • Trading Halt begins
27 October 2016	<ul style="list-style-type: none"> • Closing date for Institutional Entitlement Offer • Ex-date
28 October 2016	<ul style="list-style-type: none"> • Institutional Bookbuild • Record date (5:00pm (NZ time)) for Institutional Entitlement Offer and Retail Entitlement Offer

31 October 2016	<ul style="list-style-type: none"> • Trading Halt ends on open of trading • Last day for mail-out of retail letters of entitlement • Retail Entitlement Offer opens
9 November 2016	<ul style="list-style-type: none"> • Settlement and allotment date for Institutional Entitlement Offer and Institutional Bookbuild
16 November 2016	<ul style="list-style-type: none"> • Closing date for Retail Entitlement Offer at 5:00pm (NZ time)
18 November 2016	<ul style="list-style-type: none"> • Trading Halt begins • Retail Bookbuild
21 November 2016	<ul style="list-style-type: none"> • Trading Halt ends on open of trading
23 November 2016	<ul style="list-style-type: none"> • Settlement and allotment date for Retail Entitlement Offer and Retail Bookbuild

12. The Offer is to be conducted pursuant to clause 19 of Schedule 1 of the Financial Markets Conduct Act 2013 (**FMCA**) and the associated regulations. An offer booklet which will contain terms of the Offer (**Offer Document**) will be prepared and, prior to the Institutional Entitlement Offer, the Institutional Bookbuild, the Retail Entitlement Offer and the Retail Bookbuild being made, a notice will be released by RBD to the NZX Main Board, in accordance with the FMCA.
13. The main benefits to RBD from adopting an AREO structure, as opposed to undertaking a traditional Renounceable rights offer, are as follows:
- as the Acquisition is not conditional on finance, the accelerated institutional component of the Offer allows RBD to raise and receive a significant portion of the capital raising proceeds (approximately 60% of the total capital being raised) within ten Business Days. RBD submit that this will substantially de-risk the Acquisition for RBD from a financing perspective, assist with the availability and pricing of the underwriting of the capital raising and will also assist RBD to mitigate the sellers' commercial concerns around execution risk and financing certainty;
 - the accelerated institutional component of the Offer means that the Underwriter has a much shorter period of exposure on that part of the Offer. This reduced exposure is important to ensuring the availability of the underwriting commitment, as both the risk and the cost associated with the underwriting commitment would be substantially reduced;
 - the underwriting commitment provides certainty to RBD as to the minimum amount to be raised from the Offer; and
 - the Underwriter has advised that its experience is that from similar entitlement offers undertaken in Australia which had an AREO structure, as well as the AREOs undertaken recently by SKYCITY Entertainment Group Limited, Precinct Properties New Zealand Limited and Kiwi Property Group Limited, the shorter timetable for the institutional component of the Offer potentially reduces the issue price discount when compared to traditional rights issues, as less market risk arises for institutions.

14. In addition to the benefits to RBD outlined above, RBD considers that proceeding with any capital raising in the form of an AREO is in the best interests of shareholders for the following reasons:
 - a. the sale of entitlements through bookbuild processes managed by the Underwriter (other than in respect of the US Private Placement which they are not managing) galvanises demand for stock from all eligible investors at one time. This can be of advantage to RBD shareholders who do not, or are not eligible to, take up their entitlement because Eligible Institutional Shareholders and other institutional investors who are not currently RBD shareholders can compete for New Shares in the Institutional Bookbuild and the Retail Bookbuild;
 - b. shareholders will not be required to pay any brokerage or incur other transaction costs under the Institutional Bookbuild and Retail Bookbuild structure in order to realise the value of their entitlements. Under a conventional Renounceable offer, shareholders selling their rights would be required to pay brokerage. For smaller shareholders, the cost of brokerage could exceed the value of their rights; and
 - c. Eligible Retail Shareholders will have the benefit of knowing the outcome of the Institutional Entitlement Offer and Institutional Bookbuild prior to deciding whether or not to take up their entitlement.
15. RBD will release its preliminary results for the half year ended 12 September 2016 and announce its interim dividend on 26 October 2016 (being the same date the Offer is announced).
16. The Offer will be made on an ex-dividend basis as:
 - a. the interim dividend relates to the earnings on the existing share capital over the previous half year and therefore RBD considers that the interim dividend should be payable on existing shares only (and not on the New Shares); and
 - b. the proposed approach avoids the need to delay the Record Date for the interim dividend (and therefore payment of the interim dividend itself) until settlement of the Retail Entitlement Offer and Retail Bookbuild.
17. To effect this in compliance with the conditions for a same class offering under clause 19 of schedule 1 of the FMCA, RBD cannot allot New Shares under the Institutional Entitlement Offer or the Institutional Bookbuild until after the interim dividend is paid. Accordingly, RBD proposes that:
 - a. the interim dividend will be announced on 26 October 2016;
 - b. the Record Date for the interim dividend will be 3 November 2016, (six Business Days after the interim dividend is announced);
 - c. the interim dividend will be paid on 8 November 2016; and
 - d. the allotment of the New Shares under the institutional component of the Offer will be made on 9 November 2016 (the first Business Day following payment of the interim dividend).

Waiver from Rule 7.10.1 – Further Background

18. The Offer has been structured so that the Record Date for the Institutional Entitlement Offer will be 5.00pm (NZ time) on the Business Day after the Institutional Entitlement Offer closes. As a result RBD will need to:
- calculate the entitlements of its Eligible Institutional Shareholders and Ineligible Institutional Shareholders prior to the Record Date; and
 - notify Eligible Institutional Shareholders of their entitlement at the same time or after the Offer Document is released to NZX (which may include means other than physical letters of entitlement).

Waiver from Rule 7.10.2 – Further Background

19. RBD considers that it is important that upfront commitments are received from Eligible Institutional Shareholders to enable RBD to obtain the benefits of the AREO structure described in paragraphs 13 and 14 above.
20. According to the proposed Offer timetable, the Offer Document will be provided to Eligible Institutional Shareholders on the day on which the Institutional Entitlement Offer is announced and opens, with those Eligible Institutional Shareholders then having the rest of that day and part of the following day to consider the Offer.

Waiver from Rule 7.10.8 – Further Background

21. The AREO structure commonly provides for the Offer to be announced to the market at the same time that the Institutional Entitlement Offer opens and current Shares in RBD are put into trading halt. This is the standard timeframe for AREO transactions, and it is one with which institutional investors in New Zealand and overseas are familiar.

Waiver from Rule 7.11.1 – Further Background

22. For the reasons set out in paragraphs 15 – 17 above, the allotment of the New Shares under the Institutional Entitlement Offer and the Institutional Bookbuild will not be able to occur until 9 November 2016, which is nine Business Days following the closing date for the Institutional Entitlement Offer and eight Business Days following the close of the Institutional Bookbuild.

Waiver from Rule 7.12.2 – Further Background

23. As set out in paragraph 17 above, the interim dividend will be announced on 26 October 2016 which is six Business Days before the Record Date for the interim dividend.
24. RBD will apply for a trading halt in order to allow the institutional component of the Offer to be conducted. This trading halt is expected to be lifted prior to market open on 31 October 2016 which would provide for at least one full trading day between announcement of the interim dividend and the Ex Date for the interim dividend.

Waiver from Rule 9.2.1 – Further Background

25. The Offer and any sub-underwriting arrangements are a related series of transactions that may constitute a Material Transaction pursuant to 9.2.2(b).
26. The Related Parties of RBD with respect to the Offer and any sub-underwriting arrangements are set out below:

Related Party	Relationship with RBD
Stephen Copulos	Director and through himself and his Associated Persons, shareholder
Danny Diab	Former director as at 22 July 2016 and through himself and his Associated Persons, shareholder
Ted Van Arkel	Independent Director and shareholder
Russel Creedy	Executive Officer and shareholder
Grant Ellis	Executive Officer and shareholder

27. The Related Parties or their Associated Persons may wish to participate in the Offer by taking up their entitlements and, if invited to do so by participating in the Institutional Bookbuild and/or the Retail Bookbuild. Further, the Underwriter may enter into sub-underwriting arrangements with any of Stephen Copulos, Danny Diab or their Associated Persons.
28. Rule 9.2.1, in general, prohibits RBD from entering into a Related Party transaction without shareholder approval.
29. RBD cannot rely on Rule 9.2.4(b) to make the Offer because the AREO structure makes a distinction between institutional and retail shareholders.

Appendix Two

Rule 7.3 Issue of New Equity Securities

7.3.1 No Issuer shall issue any Equity Securities unless:

- (a) the precise terms and conditions of the specific proposal to issue those Equity Securities have been approved (subject to Rule 7.3.3) by separate resolutions (passed by a simple majority of Votes) of holders of each Class of Quoted Equity Securities of the Issuer whose rights or entitlements could be affected by that issue, and that issue is completed within the time specified in Rule 7.3.2.

Rule 7.10 Rights Issues and Share Purchase Plan Additional Requirements

7.10.1 Letters of entitlement to Rights (whether or not Renounceable) are to be sent to holders of the Rights within five Business Days of the Record Date for the determination of the entitlement and by means that will give the holders reasonable time to deal with their Rights, whether the holders' addresses are in New Zealand or elsewhere.

7.10.2 Without limiting Rule 7.10.1, the closing date and time for applications under Rights issues (whether or not renounceable) shall not be earlier than the 12th Business Day after the day of mailing of the last of the letters of entitlement.

7.10.8 Where a Rights issue is to be made but Quotation is not sought the Issuer shall give to NZX forthwith after the decision has been made and at least 5 Business Days before the Ex Date to determine entitlements, on the form in Appendix 7, full details of the issue, including the nature, entitlement and timing of the issue of Rights and conversion, pricing, amounts payable and ranking of Securities for future benefits.

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 7.12 Announcements

7.12.2 Where any benefit is to be paid or distributed on Quoted Securities (including dividends, interest or bonus issues) or any Conversion of Securities or call on Securities is to take place, the Issuer shall give to NZX, forthwith after any Director's recommendation and at least 10 Business Days before the Record Date to determine entitlements or obligations, full details of the benefit, Conversion or call, including the information in the table below. That information shall be supplied in the form set out in Appendix 7.

Event	Information Required
Dividend	- Security description
	- ISIN
	- Total amount of dividend

Event	Information Required
	<ul style="list-style-type: none"> - Cents per share - Imputation tax credits per share (where applicable to six decimal places) - Withholding tax cents per share (where applicable to six decimal places) - Source of dividend - Payable date - Record Date - Strike price for any issue in lieu of dividend - Excluded income per share (PIE Issuers only, where applicable to six decimal places) - Foreign dividend payment credits per share (where applicable to six decimal places)
Interest	Details no less than the equivalent required above for a dividend.
Bonus Issue	Full details of the issue including timing, entitlement and tax information.
Conversions	Full details of the nature and timing of the Conversion including pricing, entitlement and conversion ratio information.
Calls	Full details of the call including the Securities affected, and payment details.

Rule 9.2 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.

9.2.2 For the purposes of Rule 9.2.1, "Material Transaction" means a transaction or a related series of transactions whereby an Issuer:

[...]

- (b) issues its own Securities or acquires its own Equity Securities having a market value in excess of 10% of the Average Market Capitalisation of that Issuer, save in the case of an issue pursuant to Rule 7.3.5 where only the market value of those Securities being issued to the Related Party or to any Employees of the Issuer are to be taken into account; or

[...]

9.2.3

For the purposes of Rule 9.2.1, “Related Party” means a person who is at the time of a Material Transaction, or was at any time within six months before a Material Transaction:

- (a) a Director or executive officer of the Issuer or any of its Subsidiaries; or
- (b) the holder of a Relevant Interest in 10% or more of a Class of Equity Securities of the Issuer carrying Votes; or
- (c) an Associated Person of the Issuer or any of the persons referred to in (a) or (b), other than a person who becomes an Associated Person as a consequence of the Material Transaction itself (or an intention or proposal to enter into the Material Transaction itself); or
- (d) a person in respect of whom there are arrangements other than the Material Transaction itself, intended to result in that person becoming a person described in (a), (b)), or (c), or of whom the attainment of such a status may reasonably be expected, other than as a consequence of the Material Transaction itself;

[...]