



# NZX Regulation Decision

Cavalier Corporation Limited (“CAV”)

Application for a waiver from NZX Main Board Listing Rule  
(Rule) 9.2.1

24 September 2018



# Waiver from NZX Main Board Listing Rule 9.2.1

## Decision

1. Subject to the conditions set out in paragraph 2 below, and on the basis that the information provided by CAV is complete and accurate in all material respects, NZX Regulation (**NZXR**) grants CAV a waiver from Rule 9.2.1, to the extent that the Rule prohibits CAV's wholly owned subsidiary, CBL, and CWS Assets from entering into the Agreements without shareholder approval.
2. The waiver in paragraph 1 above is provided on the conditions that:
  - (a) the Directors of CAV certify to NZXR that:
    - (i) the Agreements have been entered into and negotiated on an arms' length commercial basis; and
    - (ii) in their opinion, entry into the Agreements is fair and reasonable to, and in the best interests of, CAV and its shareholders.
  - (b) details of the Agreements are disclosed to the market when the Agreements are entered into; and
  - (c) the waiver, its conditions and the implications of the waiver are disclosed in CAV's annual report following the completion of the Agreements.
3. The information on which this decision is based is set out in Appendix One to this decision. This waiver will not apply if the information provided to NZXR by CAV is not, or ceases to be, full and accurate in all material respects.
4. The Rules to which this decision relates are set out in Appendix Two.
5. Capitalised terms that are not defined in this decision have the meanings given to them in the Rules.

## Reasons

6. In coming to the decision to provide the waiver set out in paragraph 1 above, NZXR considered that:
  - (a) Rule 9.2.1 seeks to regulate transactions where a Related Party to a Material Transaction may gain favourable consideration due to their relationship with the Issuer. NZXR may waive the requirement to obtain shareholder approval of a Material Transaction if it is satisfied that the Related Party has not unduly 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 behind Rule 9.2.1;
  - (b) CAV has submitted, and NZXR has no reason not to accept, that granting the waiver will not offend the policy behind Rule 9.2.1. The Buyer is not a Related Party of CAV so will not be in a position to exercise undue influence over CBL's or CWS Assets' decision to enter into the Agreements;

- (c) While SIL, ACC and DCIL are each a Related Party of CBL due to the Shareholders' Agreement, CAV has submitted, and NZXR has no reason not to accept, that they are not in a position to exercise undue influence over CBL's or CWS Assets' decision to enter into the Agreements. Further, the respective interests of SIL, ACC and DCIL are aligned with CBL and the parties are subject to substantially similar terms of the sale hence there will be no transfer of value from CBL to SIL, ACC or DCIL in respect of the Agreements;
- (d) the condition at paragraph 2(a) provides comfort that the Agreements have been entered into and negotiated on an arms' length commercial basis and are fair and reasonable to, and in the best interests of, CAV and its shareholders; and
- (e) there is precedent for this decision.

## Confidentiality

7. CAV has requested that its application, and any decision made in relation to it, remain confidential until the details of the Agreements are released to the market.
8. In accordance with Footnote 1 to Rule 1.11.2, NZXR grants CAV's request.

## Appendix One

1. Cavalier Corporation Limited (**CAV**) is a Listed Issuer with ordinary shares Quoted on the NZX Main Board.
2. CAV's wholly-owned subsidiary Cavalier Bremworth Limited (**CBL**) is a shareholder in Cavalier Wool Holdings Limited (**CWH**). CWH has three other shareholders. Their respective shareholdings in CWH are:

Company	Percentage Shareholding
Scouring Investments Limited ( <b>SIL</b> )	45.00%
CBL	27.50%
Accident Compensation Corporation ( <b>ACC</b> )	13.75%
Direct Capital Investments Limited ( <b>DCIL</b> )	13.75%

3. The business of CWH is to hold all the shares of Cavalier Woolscourers Limited (**Cavalier Woolscourers**). Cavalier Woolscourers is New Zealand's only wool scouring company, providing commission-scouring services.
4. A party (**Buyer**) has offered to enter into a Share Sale Agreement with CBL, SIL, ACC and DCIL, a Land Sale Agreement with CWS Assets Limited (**CWS Assets**), and a Scouring Agreement with CBL (collectively, the **Agreements**).
5. The Buyer is not a Related Party of CAV.

### *Share Sale Agreement*

6. The Buyer has offered to acquire all of the shares of CWH from CBL, ACC, DCIL and one third of the shares held by SIL. The purchase price is approximately \$28 million for the 70% of the shares of CWH under offer. Based on the purchase price, and the percentage of shares subject to the sale held by CBL, CBL will receive approximately \$11 million for its shares in CWH.
7. The Share Sale Agreement is captured by NZX Main Board Listing Rule (**Rule**) 9.2.1 as:
  - a) it is a Material Transaction under Listing Rule 9.2.2(a) as the purchase price to be received by CBL is in excess of 10% of the Average Market Capitalisation of CAV.
  - b) SIL, ACC and DCIL are each a Related Party of CAV under Rule 9.2.3(c). The shareholders of CWH have entered into a shareholders' agreement in relation to CWH (**Shareholders' Agreement**), and have acted jointly in relation to the sale of their respective shares in CWH, making them Associated Persons pursuant to Listing Rules 1.8.2 (c) and (d); and
  - c) SIL, ACC and DCIL are direct parties to the Material Transaction.

### *Land Sale Agreement*

8. It is proposed that CWS Assets, a company in which CBL holds 50% of the shares with the other shares owned by ACC and DCIL, sell the property it owns to the Buyer for \$3 million. The property is used by CWH in its operations is required to be sold to the Buyer contemporaneously so it can continue to be used by CWH.

### *Scouring Agreement*

9. CBL intends to enter into an agreement with CWH whereby CWH will provide wool scouring services to CBL and its subsidiaries for wool acquired directly from growers at the farm gate.
10. The Scouring Agreement is captured by Rule 9.2.1 as:
  - a) It is part of a related series of transaction of which the Material Transaction forms part under Rule 9.2.1(a);
  - b) such services are expected to cost CBL and its subsidiaries circa \$0.5 million per annum. This exceeds 1% of the Average Market Capitalisation of CAV and so is individually a Material Transaction under Rule 9.2.2(e);
  - c) CBL holds 27.50% of the shares in CWH and has also appointed one of the four directors of CWH. CBL may therefore be considered to influence a decision of CWH by virtue of this relationship. Consequently, CWH and CBL could be Associated Persons pursuant to Rule 1.8.2 making them Related Parties under Rule 9.2.3(c); and
  - d) CWH is a direct party to the Scouring Agreement (being a Material Transaction).

## Appendix Two

### Rule 9.2 Transactions with Related Parties

Rule 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 which the Material Transaction forms part;

Rule 9.2.2 For the purposes of Rule 9.2.1, “Material Transaction” means a transaction or a related series of New Supply Arrangements whereby an Issuer:

- (a) purchases or otherwise acquires, gains, leases (as lessor or lessee) or sells or otherwise disposes of, assets having an Aggregate Net Value in excess of 10% of the Average Market Capitalisation of the Issuer;

...

- (g) For the purposes of Rule 9.2.2(a), “Aggregate Net Value” means the net value of those assets calculated as the greater of the net tangible asset backing value (from the most recently published financial statements) or market value.

Rule 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:

...

- (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

### Rule 1.6.1 Interpretation

**Average Market Capitalisation** means, in relation to any transaction, the volume weighted average market capitalisation of an Issuer’s Equity Securities carrying Votes calculated from trades on the NZSX over the 20 Business Days before the earlier of the day the transaction is entered into or is announced to the market.

### Rule 1.8 Associated Persons

1.8.1 In the Rules, a person is an Associated Person of another person if the first person is associated with the other in terms of Rule 1.8.2 to Rule 1.8.7

1.8.2 A person (the “first person”) is associated with another person (the “second person”) if, in making a decision or exercising a power affecting an issuer, the first person could be influenced as a consequence of an Arrangement or relationship existing between, or involving, the first person and the second person.

1.8.3 Without limiting Rule 1.8.2, the first person is associated with the second person if:

...

(c) the first person is a Director of a company, or holds a Relevant Interest in Securities carrying more than 10% of the Votes of a company and the first person and the second person are parties to an Arrangement relating to the control of, or the control or ownership of Securities in, that company, which Arrangement affects Securities of that company carrying more than 30% of the total Votes attaching to Securities of that company; or

(d) the first person and the second person are acting jointly or in concert;