



NZX Regulation Decision

Senior Trust Retirement Village Listed Fund (NS) (“SRF”)
Application for a waiver from NZX Main Board Listing Rule
9.2.1

28 December 2017



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 SRF is complete and accurate in all material respects, NZXR grants SRF a waiver from NZX Main Board Listing Rule (**Rule**) 9.2.1, to the extent that SRF would be required to obtain unitholder approval to enter into the Transaction.
2. The waiver in paragraph 1 above is provided on the conditions that:
 - (a) the Manager certifies to NZXR that:
 - i. the Transaction has been entered into and negotiated on an arm's length commercial basis; and
 - ii. in its opinion, entry into the Transaction is fair and reasonable to, and in the best interests of, SRF and its unitholders who are not related to, or Associated Persons of, Portfolio E or the Manager;
 - (b) the waiver, its conditions, and implications are disclosed in SRF's next half-year report and annual report; and
 - (c) the waiver, its conditions, and its implications are disclosed in any Offer Document from no later than 31 January 2018 and then for the duration of the term of the Loans.
3. 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.
4. The Rules to which this decision relates are set out in Appendix Two to this decision.
5. Capitalised terms which have not been 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 has 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 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. The granting of this waiver will not offend the policy behind Rule 9.2.1;
 - (b) SRF has submitted, and NZXR has no reason not to accept, that the Related Parties are plainly unlikely to have influenced entry into or the terms of the Transaction, as:
 - i. SRF's Master Trust Deed governs entry into Related Party Transactions. The Manager, on behalf of SRF, is prohibited from entering into transactions with a Related Party, unless the transaction is on a normal commercial arm's length basis, or better from SRF's perspective. Accordingly, the Manager must be satisfied that the Transaction satisfies this criterion;



- ii. prior to completion of the Transaction, the Manager will determine that none of the Portfolio E loans are impaired, to ensure that Portfolio E does not gain favourable consideration due to its relationship with SRF or the Manager;
 - iii. the consideration to be paid by SRF to Portfolio E for the acquisition of the loans shall be no more than the total amount owing to Portfolio E under the loans on settlement date and must be an amount that the Manager would be deemed to represent an arm's length transaction permitted under section 174(a)(i) of the Financial Markets Conduct Act 2013; and
 - iv. the Manager has notified, and received consent from, SRF's statutory supervisor for the Transaction;
- (c) the certifications provided by the Manager under condition 2(a) of the waiver provide comfort that the Transaction will be negotiated, and entered into, on an arm's length commercial basis; and
- (d) there is precedent for this decision.

Confidentiality

7. SRF has requested that this application and any decision be kept confidential until an announcement of the Transaction is released to the market.
8. In accordance with Footnote 1 to Rule 1.11.2, NZXR grants SRF's request.



Appendix One

1. Senior Trust Retirement Village Listed Fund (NS) (**SRF**) is a Listed Issuer with units Quoted on the NZX Main Board.
2. SRF invests by making secured loans to retirement villages and aged care operators. SRF's manager, Senior Trust Management Limited (**Manager**), must make investment decisions on behalf of SRF in accordance with SRF's statement of investment policies and objectives, as set out in SRF's Master Trust Deed and Establishment Deed (**SRF's Deeds**).
3. SRF currently has co-lending arrangements in place with Portfolio E of the Senior Trust Retirement Village Fund (**Portfolio E**) (which is also managed by SRF's Manager). SRF was granted waivers from NZX Main Board Rule (**Rule**) 9.2 by NZX Regulation (**NZXR**) in November 2015 to allow for entry into the co-lending arrangements with Portfolio E.
4. SRF co-lends with Portfolio E to the borrowers in accordance with a security sharing deed (**the Loans**). The Loans are made on behalf of SRF by the Supervisor, on the Manager's direction.
5. The Portfolio E fund has an upcoming maturity date. Prior to that maturity, SRF is proposing to purchase all outstanding Loans owed to Portfolio E (**Portfolio E Loans**) under the co-lending arrangements, and transfer Portfolio E unitholders to SRF units should they select this option (**Transaction**).
6. This series of transactions, following confirmation that none of the Portfolio E Loans are impaired, will include:
 - (a) Portfolio E, on behalf of some of its unitholders who have selected to use their redemption proceeds from Portfolio E, will pay those proceeds towards an investment in SRF units for those holders (**Initial Transferring Unitholders**). The payment from Portfolio E will be made following payment to those Portfolio E unitholders who did not select to invest in SRF, using the remaining funds in Portfolio E's bank account.
 - (b) following the receipt of funds for the Initial Transferring Unitholders, SRF will:
 - i. issue units in SRF directly to those holders; and
 - ii. utilise those funds to purchase the Portfolio E Loans (and their corresponding security); and
 - (c) following receipt of funds from SRF at (b)(ii) above, Portfolio E will:
 - i. transfer and assign the Portfolio E Loans to SRF; and
 - ii. on behalf of its remaining unitholders who have selected to use their redemption proceeds, pay those proceeds towards an investment in SRF units for those holders (**Final Transferring Unitholders**). The purchase of these SRF units will occur following the receipt of funds for the purchase of Portfolio E Loans. SRF will issue those units to the Final Transferring Unitholders directly.
7. For the purposes of Rule 9.2.1, there is Related Party relationship because:
 - (a) Portfolio E and SRF have the same Directors and they have the same Manager;



- (b) Portfolio E and SRF are arguably acting jointly or in concert as part of their co-lending arrangements; and
 - (c) The Manager, on behalf of SRF may enter into co-lending arrangements with the manager of Portfolio E on its behalf.
8. The Transaction is considered a related series of transactions pursuant to Rule 9.2.1. Portfolio E will be a direct or indirect party to at least one of the transactions in the series. It is likely the Transaction will be a Material Transaction, exceeding 10% of SRF's Average Market Capitalisation.



Appendix Two

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.

