



NZX Regulation Decision

Pushpay Holdings Limited (PPH)

Application for a waiver from NZX Listing Rule 5.2.1

11 December 2019



Waiver from Listing Rule 5.2.1

Decision

1. Subject to the conditions set out in paragraph 2 below, and on the basis that the information provided by PPH is complete and accurate in all material respects, NZXR grants PPH a waiver from Rule 5.2.1, to the extent that this Rule would otherwise require PPH to obtain shareholder approval to enter into the CCB Acquisition.
2. The waiver in paragraph 1 above is provided on the conditions that:
 - a. The directors of PPH, other than Chris Heaslip, certify to NZX that:
 - i. the terms of the CCB Acquisition have been entered into, and negotiated, on an arm's length basis;
 - ii. PPH was not influenced to enter into the Material Transaction by Chris Heaslip;
 - iii. the entry into, and performance, of the CCB Acquisition is fair and reasonable to all PPH shareholders and is in the best interests of PPH and its shareholders;
 - iv. the decision to proceed with the CCB Acquisition and to facilitate the Heaslip Share Sale was approved by PPH directors other than Chris Heaslip; and
 - v. from the point at which PPH conceived of the Heaslip Share Sale, Chris Heaslip abstained from, and did not participate in discussion in respect of, PPH board decisions to proceed with, or relating to the terms of the CCB Acquisition and the Heaslip Share Sale.
 - b. The waiver, its conditions and implications will be disclosed in PPH's next annual report.
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. the purpose of Rule 5.2.1 is to ensure that shareholders have an opportunity to consider, and vote on, material transactions where there is, or may be a perception of, the potential for undue influence by a Related Party on an Issuer's decision to enter into a transaction or agree to its terms. The granting of this waiver will not offend the policy behind Rule 5.2.1;
 - b. PPH have submitted, and NZXR has no reason not to accept:
 - i. that Mr Heaslip was not involved in PPH's decision to explore the approach of paying the CCB Acquisition price fully in cash, with Mr Fowler then using part of that cash to acquire shares from the Heaslip Interests. Since PPH has begun to explore the Heaslip Share Sale as an alternative to a new share issue, Mr Heaslip did not

participate in PPH board discussions and decisions concerning the CCB Acquisition;

- ii. the pricing mechanism for the Heaslip Share Sale is identical to that which was already agreed in the term sheet between PPH and Mr Fowler, where it was contemplated that new PPH shares would be issued directly to Mr Fowler;
 - iii. the PPH board considers that the CCB Acquisition is in the best interests of PPH and PPH shareholders who are not associated with the Heaslip Interests. This is because the Heaslip Share Sale will ensure existing shareholders are not diluted;
 - iv. no fee, compensation, or other payment will be paid by PPH to Chris Heaslip or the Heaslip Interests in connection with the CCB Acquisition or the Heaslip Share Sale.
- c. The certifications provided by the Directors of PPH, other than Chris Heaslip, as a condition of the waiver provide comfort that the Transaction has been negotiated, and will be entered into, on an arm's length commercial basis; and
- d. There is precedent for this decision.

Confidentiality

7. PPH has requested this decision be kept confidential until the CCB Acquisition and Heaslip Share Sale is announced to the market.
8. In accordance with Rule 9.7.2, NZXR grants PPH's request.



Appendix One

1. Pushpay Holdings Limited (**PPH**) is a Listed Issuer with ordinary shares Quoted on the NZX Main Board.
2. Pushpay USA Inc, a Delaware corporation which is a wholly-owned subsidiary of PPH, intends to acquire all of the ownership interests in Church Community Builder LLC, a Wyoming limited company, from interests associated with Christopher Fowler (the **CCB Acquisition**).
3. PPH and Christopher Fowler entered into a non-binding term sheet for the CCB Acquisition, which initially contemplated a purchase price of US\$87.5 million, with US\$15 million to be satisfied by the issue of new PPH shares to Christopher Fowler (or interests associated with him) and with the balance to be paid in cash.
4. After entering into the non-binding term sheet, PPH decided that it would be preferable to pay the US\$87.5 million purchase price wholly in cash, to avoid diluting existing PPH shareholders. However, Christopher Fowler expressed an ongoing desire to acquire a shareholding in PPH. As a consequence, interests associated with Mr Fowler (the **Fowler Interests**) intend to enter into a separate agreement with interests associated with Chris Heaslip (the **Heaslip Interests**), who is a current non-executive director of PPH, under which the Fowler Interests will agree to buy for cash, and the Heaslip Interests agree to sell, US\$15 million of PPH shares (the **Heaslip Share Sale**). PPH understands that part of the purchase price for the CCB Acquisition will be used to fund the Heaslip Share Sale to the Fowler Interests.
5. The Heaslip Interests' PPH shares are subject to share transfer restrictions contained in an Escrow Deed between PPH and the Heaslip Interests dated 3 July 2019. PPH intends to release the Heaslip Interests from the share transfer restrictions to the extent necessary to enable the Heaslip Interests to give effect to the Heaslip Share Sale. At completion of the Heaslip Share Sale, the Fowler Interests will enter into a lockup deed in PPH's favour, with certain shares to be restricted from sale for six months, additional shares to be restricted from sale for twelve months, and the remainder of the shares to be restricted from sale for eighteen months.
6. NZXR considers that the CCB Acquisition and the Heaslip Share Sale are a related series of transactions for the purposes of the Material Transaction definition in the Rules. As Chris Heaslip is a Director of PPH, Mr Heaslip and the Heaslip Interests are a Related Party to PPH.
7. The purchase price of the CCB Acquisition is US\$87.5 million (approximately NZ\$136.71 million based off an approximate NZD:USD exchange rate of 1:0.64).
8. PPH's Average Market Capitalisation (**AMC**) is \$1,017,218,320 at the date of this decision.
9. Pursuant to NZX Listing Rule (**Rule**) 5.2.1, PPH's entry into the CCB Acquisition will constitute a Material Transaction with a Related Party because the CCB Acquisition's purchase price is in excess of 10% of PPH's AMC. This constitutes a Material Transaction under paragraph (a) of the Material Transaction definition in the Rules.
10. PPH sought a waiver from NZX Regulation (**NZXR**) from Rule 5.2.1 to the extent that it would otherwise be required to receive shareholder approval in order to enter into the CCB Acquisition.

Appendix Two

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

