



NZX Regulation Decision

Smartpay Holdings Limited ("SPY")

Application for a waiver from NZX Main Board
Listing Rule 5.5.1(b)

27 August 2018



Waiver from Rule 5.5.1(b)

Decision

1. Subject to the conditions in paragraph 2 below, and on the basis that the information provided by SPY is complete and accurate in all material respects, NZXR grants SPY a waiver from Rule 5.5.1(b) to the extent that this Rule requires SPY to hold its 2018 Annual Meeting in New Zealand.
2. The waiver in paragraph 1 above is provided on the conditions that:
 - a. the 2018 Meeting held by SPY is a hybrid meeting. That is, held both physically and virtually. The 2018 Meeting is to be held physically in Sydney, Australia and virtually using the Lumi Platform;
 - b. SPY is Listed on both the ASX and NZX at the date of the meeting;
 - c. the 2018 Meeting Materials are released to the market via the NZX market announcement platform and the ASX market announcement platform, and are posted on SPY's website shortly before the addresses are to be made;
 - d. SPY provides NZXR with the Notice of Meeting for NZXR's review and comment, at least 10 Business Days before the Notice of Meeting is due to be circulated to Shareholders. The Notice of Meeting must include, in a prominent position:
 - i. a clear explanation of how the 2018 Meeting is to be structured, including that there is to be a hybrid meeting;
 - ii. a clear explanation of the impact of the 2018 Meeting on New Zealand domiciled Shareholders;
 - iii. a statement that Shareholders are able to attend and participate in the 2018 Meeting either physically, virtually or through a proxy;
 - iv. a clear explanation of how Shareholders can attend and participate in the 2018 Meeting virtually including:
 - i. how Shareholders will be able to submit questions and vote online during the 2018 Meeting;
 - ii. a clear explanation of how Shareholders will be able to submit questions to SPY's Board, senior management and auditors, and vote online during the 2018 Meeting;
 - iii. a statement that Shareholders are permitted to submit questions to SPY's Board, senior management and auditors in advance of the 2018 Meeting and that all appropriate questions will be answered at the 2018 Meeting; and
 - iv. a clear explanation of how Shareholders can submit questions for SPY's Board, senior management and auditors in advance of the 2018 Meeting using email, or by mail using the section on their proxy form;



- e. Shareholders must be able to submit questions to SPY's Board, senior management and auditors, in advance of the 2018 Meeting via a proxy form and email, and during the 2018 Meeting through the Lumi Platform; and
 - f. Shareholders must be able to vote virtually during the 2018 Meeting.
- 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 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 has considered that:
 - a. the policy behind Rule 5.5.1(b) is to ensure that holders of Quoted Securities are able to participate in meetings of holders of securities for a NZX Listed Issuer. The footnote to Rule 5.5.1(b) provides that NZXR may waive the requirement of Rule 5.5.1(b) if NZXR is satisfied that Quoted Security holders generally are not likely to be prejudiced by the holding of a meeting outside of New Zealand. NZXR is satisfied the granting of this waiver will not offend the policy of Rule 5.5.1(b);
 - b. SPY has advised that its 2018 Meeting will be a hybrid meeting, using the Lumi Platform. SPY has submitted, and NZXR has no reason not to agree, that the use of the Lumi Platform will mean Shareholders residing outside of Australia are not prejudiced from attending and participating in the 2018 Meeting. The conditions of this waiver require SPY to provide sufficient information to Shareholders about how Shareholders can participate in the virtual meeting using the Lumi Platform, as well as other means;
 - c. SPY has a substantial portion of its Shareholders domiciled in Australia and also has a foreign exempt listing on the ASX. Holding the meeting in Australia as a part of a hybrid meeting, will allow Shareholders domiciled in Australia to attend the meeting, while not prejudicing New Zealand domiciled Shareholders; and
 - d. there is precedent for this waiver.

Confidentiality

- 7. SPY has requested that this application and any decision be kept confidential until SPY makes an announcement about the location and date of the 2018 Meeting.
- 8. In accordance with Footnote 1 to Rule 1.11.2 NZXR grants SPY's request.



Appendix One

1. Smartpay Holdings Limited (**SPY**) is a Listed Issuer with its ordinary shares Quoted on the NZX Main Board (**Main Board**). SPY also holds a Foreign Exempt Listing on the Australian Securities Exchange (**ASX**).
2. SPY intends to hold its general annual meeting for 2018 (**2018 Meeting**) on or about 25 September 2018.
3. The 2018 Meeting will be a hybrid meeting. A hybrid meeting means that in addition to holding a physical meeting of shareholders, a meeting will also be held virtually. SPY wishes to hold the physical aspect of the 2018 Meeting in Sydney, Australia.
4. A majority of SPY's Shareholders are based in Australia and New Zealand. As at 30 June 2018 Computershare records show that approximately 62.5% of SPY's issued share capital is held by shareholders domiciled in Australia.
5. The expansion of SPY's business in Australia is one of SPY's announced strategic goals and as at 30 June 2018, approximately 14% of SPY's employees were based in Australia, including Managing Director Bradley Gerdis.
6. SPY will conduct its 2018 Meeting using technology made available by Computershare called the Lumi AGM (the **Lumi Platform**). The Lumi Platform will allow shareholders who cannot physically travel to the 2018 Meeting, to be able to view the meeting online. The Lumi Platform will also allow shareholders to virtually vote and submit questions online during the 2018 Meeting.
7. SPY has had it confirmed from Computershare that the Lumi Platform is a robust, purpose-built platform with high availability. In the event of technological failure, Computershare captures the email addresses of virtual attendees allowing SPY to communicate with virtual attendees as to the status of any technology issues and the status of the 2018 Meeting.
8. A notice of the 2018 Meeting (the **Notice of Meeting**) will be provided to holders of SPY ordinary shares (**Shareholders**) in advance of the meeting. The Notice of Meeting will include with it a form to allow a proxy to be appointed for a Shareholder who is not able to attend the 2018 Meeting. Shareholders will be entitled to cast their votes at the 2018 Meeting via proxy. SPY will provide explanations and information required by paragraph 2(d)(iv) above by way of a link and/or reference to where Shareholders can find such information online, namely in SPY's Virtual Meeting Guide.
9. Shareholders will be entitled to submit questions in advance of the 2018 Meeting. The ability to submit questions in advance of the 2018 Meeting will be through two methods: by mail through a section on the proxy form; and by email.
10. The chairman's address and any slide presentations at the 2018 Meeting (the **Meeting Materials**) will be released to the market shortly before the time at which the addresses are made at that meeting. The Meeting Materials will be made available via an announcement on the NZX and ASX market announcement platforms and SPY's website.



11. NZX Main Board Listing Rule (**Rule**) 5.5.1(b) requires that all meetings of holders of Quoted Securities of an Issuer are held in New Zealand.
12. The footnote to Rule 5.5.1(b) allows NZX Regulation (**NZXR**) to waive the requirement of Rule 5.5.1(b) if it is satisfied that shareholders are not likely to be prejudiced by the holding of meetings of holders of securities of an NZX Listed Issuer outside of New Zealand. SPY is seeking a waiver to allow it to hold the 2018 Meeting in Sydney, Australia.



Appendix Two

Rule 5.5 General Obligation While Listed

5.5.1 An Issuer which has NZX as its Home Exchange shall at all times while it is Listed:

(b) hold all meetings of holders of Quoted Securities of the Issuer in New Zealand.

Footnote to Rule 5.5.1(b)

NZX may waive the requirement in Rule 5.5.1(b) on application in respect of particular meetings if it is satisfied that Quoted Security holders generally are not likely to be prejudiced by the holding of the meeting outside New Zealand.

