



# NZX Regulation Decision

Veritas Investments Limited (“VIL”)

Application for a waiver from NZX Main Board Listing Rule  
8.1.7

31 May 2018



## Waiver from Rule 8.1.7

### Decision

1. Subject to the conditions set out in paragraph 2 below, and on the basis that the information provided by VIL is complete and accurate in all material respects, NZX Regulation (NZXR) grants VIL a waiver from Rule 8.1.7, to the extent the Rule prohibits certain warrants to subscribe for shares to be issued by VIL from conferring the right to a change in the number of underlying Securities.
2. The waiver in paragraph 1 above is provided on the conditions that:
  - a. the change in the number of underlying Securities arises only as a result of the circumstances as described in clause 3.1(a) of the Warrant Deed dated 21 May 2018;
  - b. in the event VIL issues further shares that trigger the change in the number of underlying Securities, it also discloses to the market at that time the change to the number of underlying Securities; and
  - c. VIL disclose the waiver, with the reasons for it, at the time it releases the Notice of Meeting to the market pursuant to Rule 10.6.2.
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 Rule to which this decision relates is 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 proposed mechanism does not offend the policy of Rule 8.1.7, to ensure that Options may not be subsequently amended by the Issuer in a manner that is detrimental to the interests of the holders of the underlying Equity Securities;
  - b. the terms of the Warrants are subject to approval by a resolution of shareholders of VIL at a special meeting. The Notice of Meeting for that special meeting expressly refers to the provision of the Warrant Deed that entitles the warrant holder to a change in the number of underlying Securities; and
  - c. the directors of VIL have resolved and certified that the consideration and terms of issue of the Warrants, and shares on the exercise of the Warrants, are fair and reasonable to VIL and to all existing shareholders.

### Confidentiality

7. VIL has requested this application and any decision be kept confidential until it sends the Notice of Meeting for the special meeting of shareholders.
8. In accordance with Footnote 1 to Rule 1.11.2, NZXR grants VIL's request.



## Appendix One

1. VIL proposes to enter into a transaction with Pacific Dawn Limited (together with its related or associated entities, **Nomura**), an entity owned by the Asia-headquartered financial services group, Nomura Group, which will involve:
  - a. Nomura providing up to \$27.5 million in credit facilities to the VIL group – the majority of these proceeds will be used to refinance the group’s existing debt facilities with ANZ Bank New Zealand Limited (**ANZ**), with the remaining facilities being available for capital expenditure and future growth; and
  - b. VIL granting to Nomura, for no consideration, certain warrants to subscribe for shares to be issued by VIL (**Warrants**) which give Nomura the right to subscribe for up to 19.9% of the shares in VIL. This is an additional benefit which Nomura required in order for Nomura to agree to lend to the VIL group.
2. In accordance with Rule 7.3.1(a), the transaction is subject to the approval of VIL’s shareholders by special resolution.
3. VIL is in a difficult financial position, and if it cannot arrange new finance, it will default on its obligations to ANZ under the existing facilities. The Board has been able to arrange finance with Nomura. However, the terms of that finance reflect the difficult circumstances VIL faces.
4. One of these terms is an anti-dilution protection. If, before the Warrants are exercised, VIL makes any issue of shares or other Equity Securities (including a public offer or private placement), the warrant holder will still be entitled to 19.9% of the share capital of VIL after that issue, for no consideration (pursuant to clause 3.1(a) of the Warrant Deed). There is an exception to that provision if the share issue in question is made as consideration for a merger or acquisition, or to fund an acquisition (pursuant to clause 3.1(b)).
5. The Warrants are “Options” as defined in the NZX Main Board Listing Rules (**Rules**). Rule 8.1.7 provides that an Option must not confer the right to a change in the number of underlying securities, except if the exceptions in paragraph (a) or (b) of Rule 8.1.7 apply. The exceptions apply only to Rights issues. In the present case, if VIL makes an issue of Equity Securities in the circumstances referred to above, there will be a change in the number of underlying Securities in respect of the Warrants (because they will entitle the holder to 19.9% of the increased capital after that issue).



## Appendix Two

8.1.7. An Option must not confer the right to a change in the exercise price or number of underlying Securities, except if that Option:

- (a) was issued with the approval of holders of Quoted Equity Securities, then the exercise price or number of underlying Securities may change in accordance with the formula or provision contained in the terms of the Option if there is a Rights issue to the holders of the underlying Securities; or
- (b) was not issued with the approval of holders of Quoted Securities and there is a Rights issue to the holders of the underlying Securities, then the exercise price of that Option may be reduced according to the formula set out as follows:

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O1 = the new exercise price of the Option.

O = the Old exercise price of the Option.

E = the number of underlying Securities into which one Option is exercisable.

[Note: E is generally one unless the number has changed because of a bonus issue or capital change.]

P = the average market price per share (weighted by reference to volume) of underlying Securities during the 5 Business Days ending on the day before the Ex Date for the Rights.

S = the subscription price for a Security under the Rights issue.

D = the dividend (in the case of a trust, distribution) due but not yet paid on the existing underlying Securities (except those to be issued under the Rights Issue).

N = the number of Securities with Rights or entitlements that must be held to receive a Right to one new Security.

Provided that nothing in this Rule shall apply to any Option which was issued prior to the coming into force of this Rule or Listing of an Issuer.

