

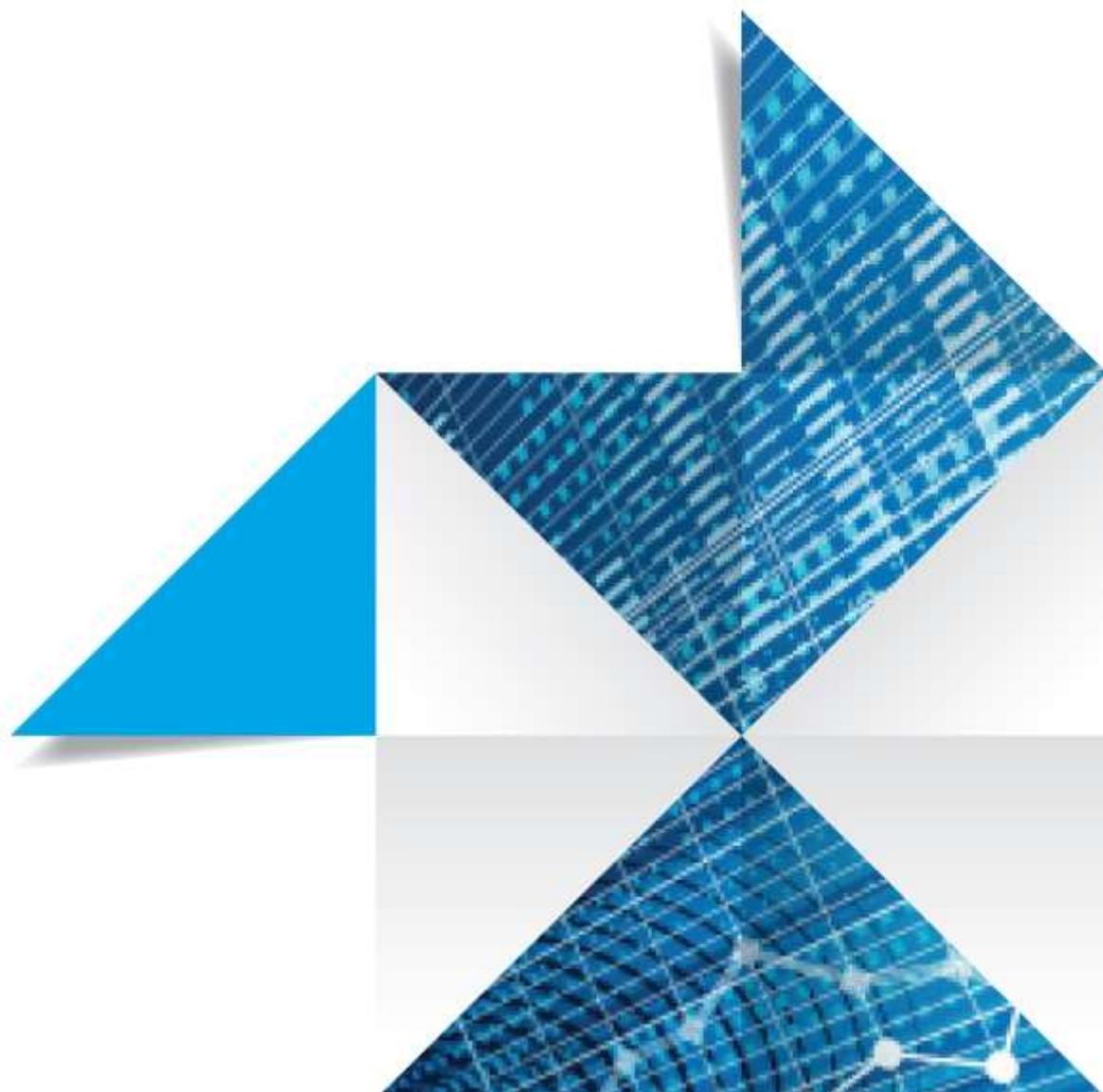


# NZX Regulation Decision

Heartland Group Holdings Limited (“HGH”)

Application for a waiver from NZX Main Board Listing Rule  
3.5.1

4 October 2018



# Waiver from Rule 3.5.1

## Decision

1. Subject to the condition set out in paragraph 2 below, and on the basis that the information provided by HGH is complete and accurate in all material respects, NZXR grants HGH a waiver from Rule 3.5.1, to the extent that this Rule requires the Directors' Remuneration Pool to be authorised by an Ordinary Resolution of HGH.
2. The waiver in paragraph 1 above is provided on the condition that any change to the initial Directors' Remuneration Pool of \$1,200,000 must be approved under Rule 3.5.1, unless Rule 3.5.1 allows for such change.
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 policy behind Rule 3.5.1 is to ensure that shareholders have oversight and governance of the Directors' remuneration. NZXR is satisfied that the granting of this waiver would not offend the policy of the Rule;
  - b. HBL obtained shareholder approval under Rule 3.5.1 to increase the remuneration payable to Heartland Group Directors to \$1,200,000 at its 2016 Annual Meeting;
  - c. In support of its application, HGH has submitted that:
    - i. HBL shareholders will not be shareholders of HGH until the Implementation Date, so will not be able to approve the Directors' Remuneration Pool in advance of HGH listing on the Main Board;
    - ii. Including a resolution to authorise the Directors' Remuneration Pool at HBL's 2018 Annual Meeting would not have satisfied the requirements of Rule 3.5.1 as it would be a resolution of HBL and not HGH; and



- iii. While NZGT could approve the initial Directors' Remuneration Pool prior to HGH listing on the Main Board, a waiver from Rule 3.5.1 would be more appropriate given that:
  - A. NZGT holds the sole share in HGH on a temporary basis and otherwise has, and will have, no connection to HBL or HGH; and
  - B. HBL shareholders – who have previously approved a fee pool of the same size for its directors – will be the shareholders of HGH going forward (other than Ineligible Foreign Holders);
- d. HBL shareholders have had oversight of the initial Directors' Remuneration Pool to be paid to Heartland Group Directors through the Scheme Booklet and the initial Directors' Remuneration Pool forms part of the Restructure, which HBL shareholders voted to approve at HBL's 2018 Annual Meeting;
- e. If HGH is to increase the remuneration paid to Directors beyond the initial Directors' Remuneration Pool of \$1,200,000, Rule 3.5.1 requires the increase be approved by HGH shareholders; and
- f. There is precedent for this decision.

## Publication

- 7. This decision will be released under the HGH ticker once HGH becomes a Listed Issuer.



## Appendix One

1. Heartland Bank Limited (**HBL**) is a Listed Issuer with ordinary shares Quoted on the NZX Main Board (**Main Board**) and medium term fixed rate notes (**HBL010s**) Quoted on the NZX Debt Market (**Debt Market**).
2. Heartland Group Holdings Limited (**HGH**) is a New Zealand registered company, incorporated on 19 July 2018. Its sole shareholder is NZGT Security Trustee Limited (**NZGT**).
3. HBL is proposing a corporate restructure (**Restructure**) of the HBL group of companies (**Heartland Group**) by way of a court approved scheme of arrangement under Part 15 of the Companies Act 1993 (**Scheme**).
4. HBL provided shareholders with a scheme booklet containing details of the Restructure (**Scheme Booklet**) on 15 August 2018, which disclosed that the initial remuneration pool to be paid to Heartland Group Directors (**Directors' Remuneration Pool**) will be equivalent to the current remuneration pool for HBL Directors of \$1,200,000.
5. The Scheme involves:
  - a. On or about 31 October 2018 (the **Implementation Date**), HBL shareholders receiving newly issued HGH shares (**Exchange Shares**) in an equal exchange for the transfer of their HBL shares to HGH. Foreign HBL shareholders whose address is in a jurisdiction outside those stated in the Scheme Booklet (**Ineligible Foreign Holders**) will receive a cash amount in exchange for their HBL shares (unless HBL is satisfied that the offer and issue of Exchange Shares in that jurisdiction would not be prohibited by law nor unduly onerous). Ineligible Foreign Holders held (at 27 July 2018) approximately 0.03% of HBL shares;
  - b. HGH redeeming the one ordinary redeemable share it currently has on issue from NZGT; and
  - c. HGH listing on the Main Board and ASX on or about 1 November 2018. HBL will delist its ordinary shares from the Main Board, but the HBL010s will continue to be Quoted on the Debt Market.
6. As a result of the Restructure, HBL shareholders (other than Ineligible Foreign Holders) will continue to hold the same interest in HBL's business as they had before the Restructure, except that that interest will now be held through HGH as a non-operating parent company.
7. HBL shareholders approved the Restructure at HBL's annual meeting on 19 September 2018 (**2018 Annual Meeting**).



8. NZX Main Board Listing Rule (**Rule**) 3.5.1 permits Issuers to set Director remuneration as either:
  - a. A monetary sum per annum payable to all Directors of the Issuer taken together (**Fee Pool**); or
  - b. A monetary sum per annum payable to any person who from time to time holds office as a Director of the Issuer.
9. In both instances, a resolution must be put to shareholders for their approval.
10. HBL shareholders approved a Fee Pool of \$1,200,000 at its annual meeting on 22 November 2016 (**2016 Annual Meeting**).



## Appendix Two

### 3.5. Directors' Remuneration

3.5.1. No remuneration shall be paid to a Director of an Issuer by that Issuer or any of its Subsidiaries in his or her capacity as a Director of the Issuer or any of its Subsidiaries unless that remuneration has been authorised by an Ordinary Resolution of the Issuer, other than remuneration paid to a Director by a Subsidiary that has Equity Securities Quoted. Each such resolution shall express Directors' remuneration as either:

- a. a monetary sum per annum payable to all Directors of the Issuer taken together; or
- b. a monetary sum per annum payable to any person who from time to time holds office as a Director of the Issuer.

Such a resolution may expressly provide that the remuneration may be payable either in part or in whole by way of an issue of Equity Securities, provided that issue occurs in compliance with Rule 7.3.8.

If remuneration is expressed in accordance with (a), then in the event of an increase in the total number of Directors of the Issuer holding office, the Directors may, without the authorisation of an Ordinary Resolution of the Issuer, increase the total remuneration by such amount as is necessary to enable the Issuer to pay to the additional Director or Directors of the Issuer remuneration not exceeding the average amount then being paid to each of the other non-Executive Directors (other than the chairperson) of the Issuer.

No resolution which increases the amount fixed pursuant to a previous resolution shall be approved at a general meeting of the Issuer unless notice of the amount of increase has been given in the notice of meeting. Nothing in this Rule 3.5.1 shall affect the remuneration of Executive Directors in their capacity as executives.

Directors' remuneration for work not in the capacity of a Director of the Issuer or a Subsidiary may be approved by the Directors without Shareholder approval, subject to Rule 9.2 (if applicable).

