

**NZ RegCo**

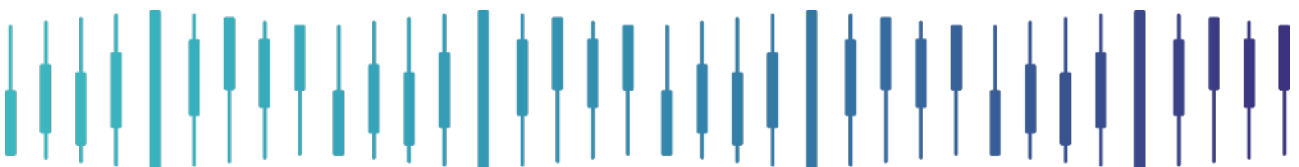
NZ'S LISTED  
MARKET REGULATOR

25 August 2022

# NZ RegCo Decision

Trade Window Holdings Limited ("TWL")

Application for waiver under NZX Listing Rule 4.2.2(b)



## Background

1. 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.
2. The Rules to which this decision relates are set out in Appendix Two to this decision.
3. Capitalised terms that are not defined in this decision have the meanings given to them in the Rules.

## Waiver from Listing Rule 4.2.2(b)

### Decision

4. Subject to the conditions set out in paragraph 5 below and, on the basis that the information provided by Trade Window Holdings Limited (**TWL**) is complete and accurate in all material aspects, NZX Regulation Limited (**NZ RegCo**) grants TWL a waiver from NZX Listing Rule (**Rule**) 4.2.2(b) to the extent this would otherwise require TWL to issue the Consideration Shares within the 12 months following shareholder approval for the allotment (**Waiver**).
5. The Waiver in paragraph 4 above is provided on the conditions that:
  - a. the Waiver, and TWL's reliance on the Waiver, is disclosed in TWL's notice of annual meeting in respect of the annual meeting of shareholders for 2022 (**Notice of Meeting**);
  - b. any shares issued as partial satisfaction of the Purchase Price as consideration for the Transaction are issued within 25 months after Completion;
  - c. the Waiver, and TWL's reliance on the Waiver, is disclosed in TWL's Annual Reports during the period TWL is reliant on the Waiver; and
  - d. the Waiver, and TWL's reliance on the Waiver is disclosed in any Offer Document that TWL publishes during the period TWL is reliant on the Waiver.
6. The material 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.
7. The Rule to which this decision relates is set out in Appendix Two.

### Reasons

8. In coming to the decision to provide the Waiver set out in paragraph 4 above, NZ RegCo has considered that:
  - a. the policy of the timeframes under Rule 4.2.2 is to ensure that Issuers do not unduly delay the issue of Equity Securities for which they have received shareholder approval;
  - b. the number of Consideration Shares to be issued is determined by an objective formula that will be set out in the Notice of Meeting;

- c. the Notice of Meeting will set out the timing for the issue of the Consideration Shares and make clear that the issue of the Tranche Three Shares will take place later than 12 months after the date of the annual meeting of shareholders for 2022 (subject to shareholder approval);
- d. the Waiver, and TWL's reliance on the Waiver, will be clear to future TWL shareholders as it will be disclosed in TWL's Annual Reports and any Offer Document published during the period TWL is reliant on the Waiver;
- e. it is common for a commercial transaction of this nature to include both contingent consideration and earn-out mechanisms designed to adjust the purchase price depending on the actual performance of the business being acquired;
- f. the timeframes agreed for the issue of the Consideration Shares are typical for this type of transaction;
- g. the agreed timeframes allow TWL's Board sufficient time to determine the achievement of the Tranche Two Revenue Target and Tranche Three Revenue Target in order to calculate the amount to be paid in part satisfaction of the Purchase Price;
- h. TWL submits, and NZ RegCo has no reason not to accept that there are no negative effects on security-holders or other stakeholders if the Waiver is granted; and
- i. there is precedent for this decision.

## Confidentiality

- 9. TWL has requested this application and any decision be kept confidential until such time as TWL releases a statement to NZX through MAP stating that the Waiver has been granted.
- 10. In accordance with Rule 9.7.2, NZ RegCo grants TWL's request.

## Appendix One

1. Trade Window Holdings Limited (**TWL**) is a Listed Issuer with ordinary shares Quoted on the NZX Main Board.
2. On 17 May 2022, TWL announced that it had entered into a conditional agreement (**Agreement**) to acquire the business and assets (**Business**) of Rfider Limited (**Vendor**) for a total purchase price of up to \$10 million comprised of ordinary shares in TWL and cash (**Purchase Price**) (**Transaction**). TWL entered into the Transaction via TradeWindow Services Limited, a wholly owned subsidiary of TWL (**Purchaser**).
3. The Agreement went unconditional on 15 July 2022 and the Transaction completed on 29 July 2022 (**Completion**).
4. The consideration for the Transaction is set to be satisfied in three tranches, as follows:
  - a. At Completion, the Purchaser paid the Vendor an initial purchase price of \$2.5 million in cash.
  - b. Subject to the Business achieving a prescribed revenue target (**Tranche Two Revenue Target**) within 12 months after Completion (**Tranche Two Period**), the Purchaser will, shortly after the end of the Tranche Two Period, pay the Vendor up to \$3.75 million by way of ordinary shares in TWL (**Tranche Two Shares**), and potentially a further cash payment to cover a shortfall between the issue price under the Agreement and the TWL share price at the relevant time the Tranche Two Shares are to be issued.
  - c. Subject to the Business achieving a prescribed revenue target (**Tranche Three Revenue Target**) within 24 months after Completion (**Tranche Three Period**), the Purchaser will, shortly after the end of the Tranche Three Period, pay the Vendor up to \$3.75 million by way of ordinary shares in TWL (**Tranche Three Shares**), and potentially a further cash payment to cover a shortfall between the issue price under the Agreement and the TWL share price at the relevant time the Tranche Three Shares are to be issued.
  - d. The Tranche Two Shares and the Tranche Three Shares are collectively referred to as the **Consideration Shares**.
5. TWL will be seeking shareholder approval by Ordinary Resolution for the issue of the Consideration Shares in accordance with Rule 4.2.1 at its upcoming AGM on 14 September 2022.
6. TWL is seeking a waiver from Rule 4.2.2(b) to the extent it would otherwise require the issue of the Tranche Three Shares to occur within the 12 months following the date on which shareholder approval was obtained (**Waiver**).

## Appendix Two

### 4.2 Shareholder approval for Issues by Ordinary Resolution

4.2.2 An issue of Equity Securities authorised under Rule 4.2.1 must be completed within:

- (a) 36 months after the passing of those resolutions, if the issue is restricted to Employees, and
  - (b) 12 months after the passing of those resolutions in all other circumstances,
- otherwise the issue cannot occur until further approval is obtained under Rule 4.2.1.