

NZ RegCo

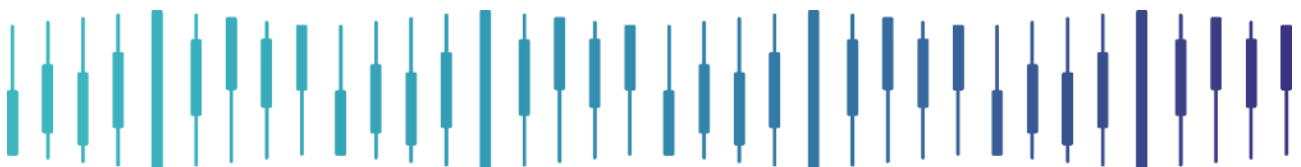
NZ'S LISTED
MARKET REGULATOR

15 November 2024

NZ RegCo Decision

Sanford Limited (“SAN”)

Application for waiver from NZX Listing Rule 7.8.5(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 NZX Listing Rules (**Rules**) to which this decision relates are set out in Appendix Two.
3. Capitalised terms that are not defined in this decision have the meanings given to them in the Rules.

Waiver from NZX Listing Rule 7.8.5(b)

Decision

4. Subject to the conditions set out in paragraph 5 below, and on the basis that the information provided by Sanford Limited (**Sanford**) is complete and accurate in all material respects, NZX Regulation Limited (**NZ RegCo**) grants Sanford a waiver from Rule 7.8.5(b) to the extent that this Rule would otherwise require Sanford's notice of meeting of shareholders to be held on Wednesday, 18 December 2024 (**2024 Notice of Meeting**) at which Sanford's shareholders will consider a resolution to approve the grant of options to Sanford's Managing Director in accordance with Rule 4.2.1 to be accompanied by an Appraisal Report (**Waiver**).
5. The waiver in paragraph 4 above is provided on the conditions that:
 - a. the current directors of Sanford who were non-interested directors of Sanford at the time of the negotiation and entry into Mr Mair's Employment Agreement certify to NZ RegCo that the terms of Mr Mair's Employment Agreement, including with respect to the grant of the Options, were set on an arm's length commercial basis; and
 - b. the Waiver, and Sanford's reliance on the Waiver, is disclosed in the 2024 Notice of Meeting.

Reasons

6. In coming to the decision to grant the Waiver set out in paragraph 4 above, NZ RegCo has considered that:
 - a. the policy behind Rule 7.8.5(b) is to ensure that security holders being asked to vote on resolutions to approve transactions to which Rule 7.8.5(b) applies receive the benefit of an independent evaluation that allows them to understand and scrutinise the merits of a transaction. This policy is not offended where the terms of an issue are simple and straightforward, have been negotiated on an arm's length basis, and are fairly and transparently disclosed;
 - b. the number of Options that may be issued is fixed at 1,800,000, giving shareholders certainty as to what they are approving;
 - c. the Options will be granted with an exercise price calculated as \$4.0063 (being the volume weighted average price of trades of Sanford's shares on the NZX over the 20 Business Days prior to 1 May 2024), multiplied by 1.259 (representing a cost of capital charge of 8% per annum compounding annually over the period from the date the Options are issued to the date on which Sanford's financial results for the year ended 30 September 2027 are released to NZX (**Vesting Date**)), less the cumulative amount of cash dividends per share paid by Sanford during the period between 1 May 2024 and the Vesting Date. The Options are therefore benchmarked to the market price of the underlying shares and shareholders can

assess the financial implications and “fairness” of the Options without an independent Appraisal Report;

- d. the need for an Appraisal Report only arises because, as Managing Director, Mr Mair is both a director and employee of Sanford and he is the sole participant in the LTI Option Plan. The proposed issue of Options to Mr Mair is part of his remuneration package negotiated under his Employment Agreement and reflects remuneration payable to him in his role as an employee of Sanford, not as a director;
- e. the 2024 Notice of Meeting sets out sufficient information to enable shareholders to understand the effect and consequences of the resolution. NZ RegCo has confirmed it has no objection to the 2024 Notice of Meeting and is satisfied that it contains sufficient information regarding the issue of the Options to enable shareholders to understand the effects of the issue;
- f. Sanford’s existing shareholders will be asked to consider the resolution to approve the issue of Options with the knowledge of the waiver sought having been granted;
- g. the certification conditions in this Waiver provide comfort that the current directors of Sanford who were non-interested directors of Sanford at the time of the negotiation and entry into Mr Mair’s Employment Agreement consider that the terms of Mr Mair’s Employment Agreement, including with respect to the grant of the Options, were set on an arm’s length commercial basis; and
- h. there is precedent for this decision.

Confidentiality

- 7. Sanford has requested this decision be kept confidential until Sanford issues its 2024 Notice of Meeting.
- 8. In accordance with Rule 9.7.2(a), NZ RegCo grants Sanford’s request.

Appendix One

1. Sanford Limited (**Sanford**) is a Listed Issuer with ordinary shares (**Shares**) quoted on the NZX Main Board.
2. Sanford has established a new option based LTI plan as part of the remuneration arrangements for its Chief Executive Officer and Managing Director, David Mair (**LTI Option Plan**). Under the LTI Option Plan, Sanford proposes to make a grant of 1,800,000 options (the **Options**) to Mr Mair in accordance with the remuneration arrangements agreed in Mr Mair's employment agreement dated 1 May 2024 (**Grant**). Mr Mair is currently the only participant in the LTI Option Plan.

Options

3. The Board proposes to make the Grant on the following terms:
 - a. **Proposed Award:** 1,800,000 Options.
 - b. **Grant Date:** 15 November 2024.
 - c. **Exercise Price:** An amount calculated as \$4.0063 (being the volume weighted average price of Sanford's shares on the NZX over the 20 Business Days prior to 1 May 2024), multiplied by 1.259 (representing a represents a cost of capital charge of 8% per annum compounding annually over the period from the date the Options are issued to the Vesting Date), less the cumulative amount of cash dividends per share paid by Sanford during the period between 1 May 2024 and the Vesting Date.
 - d. **Vesting Date:** The date on which Sanford's financial results for the year ended 30 September 2027 are released to NZX.
 - e. **Termination Date:** The date which is 20 Business Days following the date on which Sanford's financial results for the year ended 30 September 2027 are released to NZX.
 - f. **Tax Obligations:** Mr Mair is liable to pay any tax arising on exercise of his Options. In satisfaction of his tax obligations, Mr Mair may direct Sanford to facilitate a cashless (net settled exercise), pursuant to which Sanford will transfer or issue to Mr Mair such number of shares as is equal to the difference between the market value of a share in Sanford (calculated as the volume weighted average price of Sanford's shares reported on the NZX Main Board for the 5 Business Days prior to the issue or transfer of the shares) and the exercise price per Option, multiplied by the number of Options being exercised, divided by the market value in order to account for the tax arising on exercise of the Options. The tax will then be paid by Sanford on Mr Mair's behalf.

NZX Listing Rule requirements

4. As Mr Mair is the Managing Director of Sanford and is currently the only participant in the LTI Option Plan, Options cannot be issued to him under either Rule 4.6 or 4.5.1. Instead, the issue of the Options will require approval of Sanford shareholders by Ordinary Resolution under NZX Rule 4.1.1 (with the issue of shares on exercise of Options then being permitted under Rule 4.9.1(b)(i)).
5. In accordance with Rule 4.2.1, Sanford will seek shareholder approval to the issue of the Options (the **Resolution**) at its annual shareholders meeting to be held on Wednesday, 18 December 2024 (**2024 Annual Meeting**).
6. Rule 7.8.5(b) requires that a notice of meeting to consider a resolution in respect of an issue of Financial Products be accompanied by an Appraisal Report if the issue is intended, or is likely, to result in more than 50% of those Financial Products being issued to Directors or Associated

Persons of Directors. On the basis that Mr Mair is a Director of Sanford and will be the sole recipient of Options, the notice of meeting for Sanford's 2024 Annual Meeting (**2024 Notice of Meeting**) must be accompanied by an Appraisal Report.

7. Sanford is seeking a waiver from Rule 7.8.5(b) to enable Sanford to release its 2024 Notice of Meeting without an accompanying Appraisal Report.
8. Detailed information on the Resolution can be found in the 2024 Notice of Meeting.

Appendix Two

Rule 4.2.1 Shareholder approval for Issues by Ordinary Resolution

- 4.2.1 For the holders of Equity Securities to approve an issue of Equity Securities by the Issuer, the precise terms and conditions of the issue must have been approved by:
- (a) separate Ordinary Resolutions of each Class of Quoted Equity Securities whose rights or entitlements could be affected, or
 - (b) if a Class of Quoted Equity Securities were issued on terms that the holders would vote together with the holders of another Class or Classes of Equity Securities on a resolution of the nature referred to in Rule 4.2.1(a), a single resolution of all such Classes of Equity Securities voting together.

Rule 7.8 Notices of Meeting

- 7.8.5 A notice of meeting to consider a resolution of the nature referred to in Rule 7.8.4 (other than a resolution to permit an issue under Rule 4.7.1) must be accompanied by an Appraisal Report if:
- (a) the resolution is required by Rule 4.13;
 - (b) more than 50% of the Financial Products to be issued are intended or likely to be acquired by Directors or Associated Persons of Directors; or
 - (c) more than 50% of the Financial Products to be acquired or redeemed or the financial assistance to be given is intended or likely to go to Directors or Associated Persons of Directors.