



26 April 2012

**ANNOUNCEMENT OF NZ MARKETS DISCIPLINARY TRIBUNAL:**

**PUBLIC CENSURE OF HERITAGE GOLD NZ LIMITED (HGD) BY THE NZ MARKETS DISCIPLINARY TRIBUNAL FOR A BREACH OF NZSX LISTING RULES 3.3.1(c) AND 3.6.2(b)**

1. In a determination of the NZ Markets Disciplinary Tribunal (*the Tribunal*) dated 26 April 2012, the Tribunal found that HGD had breached NZSX Listing Rules 3.3.1(c) and 3.6.2(b) (*the Rules*).

**Background**

2. Rule 3.3.1(c) requires a minimum of two Independent Directors on the Board of an Issuer and Rule 3.6.2(b) requires the audit committee of an Issuer to have a minimum of three members.
3. On 6 April 2011, Mr Warwick Grigor, an Independent Director, resigned from HGD's Board. Following Mr Grigor's resignation, the HGD Board had only one member who was an Independent Director. HGD remained in breach of Rule 3.3.1(c) until 2 August 2011, when HGD announced to the market that Dr Ian Pringle had been appointed as an Independent Director of HGD.
4. From 31 March 2007 until 15 November 2011, HGD's Audit Committee was not comprised of at least three members in contravention of Rule 3.6.2(b).

**Determination**

5. The Tribunal considers a breach of the corporate governance provisions of the Rules very seriously. They are of vital importance to the integrity of the market and to give investor's confidence in the directors who are appointed to represent their interests. In addition, an appropriately comprised audit committee is critical in ensuring that an Issuer maintains a robust audit process.
6. The Tribunal accepted that HGD had not disputed the fact of the breaches and that it took active steps to rectify them prior to the case being brought before the Tribunal.
7. However, HGD had only the minimum number of Independent Directors on its Board making it imperative that the company have a succession plan in place should one of these members resign.

8. The Tribunal is very concerned about the significant period of time – approximately four and a half years – that HGD was in breach of Rule 3.6.2(b). It is fortunate that the HGD Audit Committee has remained in compliance with Rule 3.6.2(c) – having a majority of members who are Independent Directors - and that the Managing Director was generally in attendance.
9. However, being unaware of the Rules is not a satisfactory reason for non-compliance for such a significant length of time. It is beholden on all Issuers and their Directors to understand the obligations the Rules impose and to ensure compliance with them.

### **Penalties**

10. The Tribunal has made the following orders:
  - a. That a public censure of HGD in the form of this announcement be made;
  - b. That HGD pay NZX within 20 Business Days of the date of its decision:
    - i. \$10,000 for the breach of Rule 3.3.1(c); and
    - ii. \$5,000 for the breach of Rule 3.6.2(b).
11. That HGD pay NZX, within 20 Business Days of receiving an invoice from NZX, the actual costs and expenses incurred by the Tribunal and NZX in considering this matter.

### **Censure**

12. The Tribunal hereby publicly censures HGD for its breaches of NZSX Listing Rules 3.3.1(c) and 3.6.2(b).

**DATED** 26 April 2012

David Flacks, Division Chairman, NZ Markets Disciplinary Tribunal