



# smartpay investments limited

28 march 2011

investment statement for an offer of fixed returns securities



**SMARTPAY**  
LIMITED



section 1  
**important information**  
 The information in this section is required under the Securities Act 1978.

Investment decisions are very important. They often have long-term consequences.

Read all documents carefully. Ask questions. Seek advice before committing yourself.

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## section 1

# important information (continued)

The information in this section is required under the Securities Act 1978.

## 1.1 Choosing an Investment

When deciding whether to invest, consider carefully the answers to the following questions that can be found on the pages noted below:

Question	Page
What sort of investment is this?	30
Who is involved in providing it for me?	34
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In addition to the information in this document, important information can be found in the current registered prospectus for the investment. You are entitled to a copy of that prospectus on request.

## 1.2 Engaging an Investment Adviser

An investment adviser must give you a written statement that contains information about the adviser and his or her ability to give advice. You are strongly encouraged to read that document and consider the information in it when deciding whether or not to engage an adviser.

Tell the adviser what the purpose of your investment is. This is important because different investments are suitable for different purposes, and carry different levels of risk.

The written statement should contain important information about the adviser, including:

- relevant experience and qualifications, and whether dispute resolution facilities are available to you; and

- what types of investments the adviser gives advice about; and
- whether the advice is limited to investments offered by 1 or more particular financial institutions; and
- information that may be relevant to the adviser's character, including certain criminal convictions, bankruptcy, any adverse findings by a court against the adviser in a professional capacity, and whether the adviser has been expelled from, or prohibited from joining, a professional body; and
- any relationships likely to give rise to a conflict of interest.

The adviser must also tell you about fees and remuneration before giving you advice about an investment. The information about fees and remuneration must include:

- the nature and level of the fees you will be charged for receiving the advice; and
- whether the adviser will or may receive a commission or other benefit from advising you.

An investment adviser commits an offence if he or she does not provide you with the information required.

## 1.3 How to Apply

Instructions on how to apply are set out in Section 12.

## 1.4 Definitions

Capitalised terms used in this Investment Statement have defined meanings, which appear in the Glossary in section 11 on page 50 or within the relevant section of this Investment Statement in which the term is used. All references to \$ are to New Zealand dollars unless specified otherwise. All references to time in this Investment Statement are to New Zealand Time.

## 1.5 Offer in New Zealand Only

The Fixed Returns Securities are being offered to New Zealand residents and no offer is being made outside New Zealand. Accordingly, this Investment Statement does not constitute an offer of Fixed Returns Securities in any jurisdiction other than New Zealand. No action has been taken by the Issuer which would permit an offer of the Fixed Returns Securities, or possession or distribution of any offering material relating to the Fixed Returns Securities, in any country or jurisdiction (other than New Zealand) where action for that purpose is required. The Fixed Returns Securities may only be offered for sale or sold in conformity with all applicable laws and regulations in any jurisdiction in which they are offered, sold

or delivered. No person may purchase, offer, sell or distribute or deliver the Fixed Returns Securities, or have in its possession, or distribute to any person, any offering material or any documents in connection with the Fixed Returns Securities in any jurisdiction other than in compliance with all applicable laws and regulations.

By its subscription for or purchase of the Fixed Returns Securities, each Holder of the Fixed Returns Securities agrees to indemnify the Issuer, SmartPay and the Arranger and each of their respective directors, officers and employees for any loss or liability sustained or incurred by them as a result of a breach by that Holder of the above selling restrictions.

## 1.6 Important Dates

Opening Date:	28 March 2011
Closing Date:	5.00pm on 16 September 2011
Issue Date:	On a weekly basis from 28 March 2011
Expected Date of Initial Quotation and Trading on NZDX:	23 September 2011
First Divided Payment Date (payable to the original subscriber):	30 September 2011
Subsequent Dividend Payment Date:	Each 31 March, 30 June, 30 September and 31 December in each calendar year (or if that day is not a Business Day, the next Business Day).

The above dates are indicative only. Subject to applicable law, the Issuer has the right to extend or otherwise vary the Opening Date and the Closing Date. This may have a consequent effect on other dates listed above. Any change to the Closing Date will be advised by NZX announcement.

## 1.7 Listing on NZDX

Application has been made to NZX for permission to list the Fixed Returns Securities and all the requirements of NZX relating thereto that can be complied with on or before the date of distribution of this Investment Statement have been duly complied with. However, NZX accepts no responsibility for any statement in this Investment Statement.

NZX is a "registered exchange" in terms of Section 2(1) of the Securities Markets Act 1988.

## 1.8 Non-Reliance

This Investment Statement does not constitute a recommendation by the Arranger, nor any of its directors, officers, employees or agents to subscribe for, or purchase, any of the Fixed Returns Securities. The Arranger or any of its directors, officers, employees or agents does not accept any liability whatsoever for any loss arising from this Investment Statement or its contents or otherwise arising in connection with the Offer.

The Arranger has not independently verified the information contained in this Investment Statement. Each recipient of this Investment Statement acknowledges that neither the Arranger nor any of its directors, officers, employees, agents or advisers gives any warranty or representation of accuracy or reliability of this Investment Statement and they take no responsibility for this Investment Statement. None of them shall have any liability (including for negligence) for any errors or omissions in this Investment Statement, and each recipient waives all claims in this regard.

Each recipient of this Investment Statement must make such independent assessment of the financial condition and affairs of the Issuer as it considers necessary and must base its investment decision upon such independent investigations.

## 1.9 Other Important Information

SmartPay Limited ("SmartPay") is a promoter of the Offer and payments made by SmartPay to SIL will ultimately be the source of cash for the Issuer to pay dividends to investors. SIL is a wholly-owned subsidiary of SmartPay. The relationship between the Issuer and SmartPay is relevant to investors. Investors should note that in addition to the information contained in this Investment Statement, other important information about the Offer is contained in the Prospectus and other important information about SmartPay is available at [www.smartpayltd.com](http://www.smartpayltd.com) and at [www.nzx.com](http://www.nzx.com) (ticker code: SPY).

## 1.10 Independent Advice

Investors should obtain their own independent advice in relation to applying for, and holding, Fixed Returns Securities. The information (including tax information) contained in this Investment Statement is general in nature and may not apply to investors' individual circumstances.



## section 2

# summary of the main terms of the offer

### Issuer:

SmartPay Investments Limited ("SIL").

### Description:

Fixed Returns Securities (being redeemable preference shares in SIL redeemable fully in cash on the Redemption Date).

### Guarantor:

SmartPay Limited and SmartPay Transactions Limited have given a joint and several unsecured guarantee in respect of all debts and monetary obligations of the Issuer to the Holders in connection with the Fixed Returns Securities.

### Opening Date:

28 March 2011.

### Closing Date:

5.00pm on 16 September 2011 (or such earlier date as may be determined by the Issuer).

### Expected Date of Quotation on NZDX:

23 September 2011. The Fixed Returns Securities are equity securities for the purposes of the Securities Act. However, NZX has given certain rulings on, and waivers from, the Listing Rules in relation to the listing of the Fixed Returns Securities on the NZDX, including ruling for the purposes of the Listing Rules that the Fixed Returns Securities are Debt Securities and not Equity Securities, as those terms are defined in the Listing Rules. See Section 5 under the heading "NZX Rulings and Waivers" for further information.

Application has been made to NZX for permission to list the Fixed Returns Securities and all the requirements of NZX relating thereto that can be complied with on or before the date of distribution of this Investment Statement have been duly complied with. However, NZX accepts no responsibility for any statement in this Investment Statement.

### Fixed Returns Securities Allotted and Issued:

On a weekly basis from the Opening Date through to the Closing Date (with the last allotment being made within 5 Business Days of the Closing Date).

### Aggregate Principal Amount:

Up to \$6,000,000. There is no minimum amount to be raised under the Offer. There is no facility for oversubscriptions.

### Use of Proceeds:

The proceeds raised from the Offer will be lent by SIL to SmartPay Limited under the Loan Agreement. SIL is a wholly-owned direct subsidiary of SmartPay Limited. The funds advanced to SmartPay Limited under the Loan Agreement will be used by SmartPay Limited to pay the issue costs relating to the Offer and the net proceeds thereafter will be used to repay existing high-interest debt of the SmartPay Group.

As at the date of this investment statement, the SmartPay Group has \$7,039,138 of "corporate debt", being indebtedness secured over the assets and operations of the SmartPay Group. Approximately \$4,414,631 of this debt accrues interest at between 16% and 17.95% per annum and is repayable on or before 31 December 2011. It is this high-interest debt which SmartPay intends to repay out of the proceeds of the Offer of Fixed Returns Securities, with any surplus proceeds of this Offer being applied in repayment of the remaining corporate debt.

To the extent that the net funds raised pursuant to the Offer are insufficient to repay all of the existing "corporate" indebtedness by the due dates, SmartPay will need to look at alternative means of refinancing which may include extending the term for repayment of the existing facilities, negotiating new facilities with alternative funders, and / or issuing additional equity to fund the debt repayment.

### Minimum Subscription Amount:

\$5,000 with multiples of \$100 thereafter.

### Issue Price:

\$1.00 per Fixed Returns Security.

### Dividend Rate:

The Fixed Returns Securities will carry a dividend calculated at 10% per annum (gross). By way of example, it is intended there will be a cash dividend of 7.2% and an imputation credit of 2.8%,

giving rise to a total taxable dividend at the rate of 10%. While the gross Dividend Rate is fixed at 10% per annum, the net Dividend (ie, exclusive of Imputation Credits) actually paid to each Holder will depend on the amount of tax paid by the Issuer and the Imputation Credits available to it.

### Dividend Payment Dates:

31 March, 30 June, 30 September and 31 December in each year, with the first Dividend Payment Date being 30 September 2011. Payment of Dividends is subject to SIL complying with the requirements of the Companies Act at the time of declaration and payment of each Dividend.

### First Dividend Payment Date (payable to the initial subscriber):

30 September 2011 (payable in respect of the period from (and including) the Issue Date to (but excluding) 30 September 2011).

### Redemption Date:

30 September 2014 (This is the redemption date for all of the Fixed Returns Securities, whether they are allotted prior to the Closing Date or immediately after the Closing Date). The Issuer will redeem all Fixed Returns Securities on the Redemption Date.

The Issuer also has the right to redeem (in whole or in part) the Fixed Returns Securities at any time prior to the Redemption Date by providing at least 45 days' notice to the holders of Fixed Returns Securities. Any full or partial redemption will take place on a Dividend Payment Date (or, if the relevant Dividend Payment Date is not a Business Day, on the next following Business Day).

A Holder has no right to elect to redeem the Fixed Returns Securities prior to the Redemption Date.

### How will Dividends be Funded?

Interest payable by SmartPay Limited to SIL under the Loan Agreement will be the source of cash for SIL to pay Dividends to investors. The most likely reason for the directors of SIL not declaring a Dividend would be the failure of SmartPay Limited to meet an interest payment under the Loan Agreement. For further information regarding the risks associated with an investment in

Fixed Returns Securities, refer to the heading "What are my risks?" in Section 9 on page 36.

### Equity Risk:

The Fixed Returns Securities are equity securities issued by SIL. As such, Dividends may only be paid if cash is available for payment of such Dividends and if there are no regulatory or other impediments to declaration of a Dividend.

### Ranking:

The Dividends payable on the Fixed Returns Securities rank after all creditors of, and in priority to the ordinary shareholders of, SIL. On a liquidation of SIL, a Holder will have a right to participate in all of the surplus assets of SIL after all creditors have been repaid, in priority to, and to the exclusion of, holders of ordinary shares in SIL but the Holders shall only participate in surplus assets up to an amount equal to the Redemption Amount of all Fixed Returns Securities plus any declared but unpaid Dividends.

Under the terms of the Constitution of SIL, the consent of the Holders of Fixed Returns Securities by Extraordinary Resolution is required to permit SIL to borrow monies, to grant any security over its assets, or to issue any securities ranking in priority to the Fixed Returns Securities.

SIL is permitted under the terms of its Constitution to issue additional redeemable preference shares with the same rights and privileges as the Fixed Returns Securities without any requirement to obtain the consent of the Holders of the Fixed Returns Securities.

SIL does not have any creditors as at the date of this investment statement.

As at 28 February 2011 the SmartPay Group had indebtedness of approximately \$19.6 million and unsecured trade creditors of approximately \$2.6 million. Of the total indebtedness of the SmartPay Group as at 28 February 2011 approximately \$7 million was "corporate" debt secured over the business and assets of certain members of the SmartPay Group and approximately \$12.6 million was secured over the future revenue streams under discounted subscription/rental contracts. The SmartPay Group discounts subscription/rental contracts from time to time to provide

# summary of the main terms of the offer

(continued)

it with funding for its ongoing business and operations. During the six months ended 30 September 2010 the SmartPay Group received \$7.479 million from financing activities of which approximately \$5 million was from the discounting of subscription/rental contracts.

## Security:

While the obligations of SIL to the Holders of Fixed Returns Securities are unsecured, SmartPay's obligations to SIL under the Loan Agreement are guaranteed by SmartPay Transactions Limited ("STL") and STL has granted SIL a first-ranking security interest in all of its present and future assets as security for the performance by STL of its obligations under this guarantee.

As at the date of this document, STL's only assets are the STANDS Software (being specialised proprietary software developed by the SmartPay Group) and the servers on which such software is located. STL purchased the STANDS Software and servers from Software International Limited (another member of the SmartPay Group) on 25 March 2011 for \$4,283,881. Please refer to Section 7.7 for information regarding the valuation of the STANDS Software.

It should be noted that under the terms of the General Security Agreement granted by STL in favour of SIL, STL has the ability to enter into escrow agreements with customers and escrow agents with respect to all or part of the STANDS Software pursuant to which the STANDS Software (or the relevant part thereof) will be placed with an escrow agent and released to the customer upon the happening of certain events. Further details regarding the ability of STL to enter into escrow agreements with respect to the STANDS Software are set out in Sections 7.6 and 7.7

## Covenants:

There are no financial covenants applicable to the Fixed Returns Securities. The Fixed Returns Securities will be immediately redeemable in full if there is an Event of Default (refer to Section 9.1 for a list of the Events of Default).

## What Do You Need To Do?

If you wish to subscribe for Fixed Returns Securities, you should read this Investment Statement relating to this Offer of Fixed Returns Securities in full. Once you have read and understood the terms of the Offer contained within it, fill out the Application Form attached at Section 12 (in accordance with its instructions) and return the completed Application Form with your cheque to Computershare Investor Services Limited, Level 2, 159 Hurstmere Road, Takapuna, North Shore City 0622, Private Bag 92119, Auckland Mail Centre, Auckland 1142. Completed Application Forms and cheques must be received at the address above before 5.00pm on 16 September 2011. Alternatively, you may lodge your completed Application Form and cheque with any Primary Market Participant in time for it to be forwarded to Computershare Investor Services Limited before 5.00pm on 16 September 2011. The offer will close earlier if the Issuer determines that a sufficient level of subscriptions has been obtained prior to 5.00pm on 16 September 2011.

The Issuer may, at its discretion, treat any Application Form as valid, even if it does not comply with the requirements above or is otherwise irregular. An Application Form may be treated by the Issuer as a valid application whether or not it is received before the Closing Date. By signing the Application Form, an applicant irrevocably offers to subscribe for the Fixed Returns Securities on the terms set out in this Investment Statement and the Application Form, notwithstanding any changes to the Closing Date or other dates which the Issuer is entitled to change.

## Important Document

If you are in any doubt as to how to deal with this Investment Statement, please immediately contact an NZX Primary Market Participant, an accountant, or a financial adviser.

## Comparison To Debt Securities Like Bonds Or Notes

While the Fixed Returns Securities are equity securities, they are similar in several respects to fixed rate bonds or other debt securities. It is intended that Holders of Fixed Returns Securities will receive a fixed rate return quarterly and repayment (in full) of their initial investment on the Redemption Date.

# letter from the chairman



Dear Investor,

I am pleased to welcome you to an opportunity to subscribe for up to 6,000,000 Fixed Returns Securities (being redeemable preference shares) in SmartPay Investments Limited ("SIL").

SIL is a special purpose company in the SmartPay Group, formed to issue the Fixed Returns Securities. SIL will apply to be a Listed PIE for the purposes of the Portfolio Investment Entity savings and investment regime which may provide additional advantage for some investors if Listed PIE status is obtained.

SIL will rely on the ongoing financial performance of SmartPay Limited and the SmartPay Group in order to meet its obligations to investors with respect to the Fixed Returns Securities.

The last 18 months has been an exciting time for SmartPay and its management team.

The acquisition of the ProvencoCadmus operations and assets consolidated SmartPay's position as a leader in the merchant payment solution industry in New Zealand. The acquisition meant that SmartPay has a wide range of services and products to support merchants and retailers in the merchant payment solutions industry.

As a result of the acquisition, SmartPay has a presence in the Eastern seaboard of Australia. Over time, SmartPay will expand its business operations in Australia. The pace of growth and ultimate size of the Australian operations will depend on SmartPay's success in seizing opportunities in Australia.

SmartPay's management has experience in supplying merchant payment solutions products and services in Australia and in Asia (including Malaysia, Singapore and India) and will look to leverage its overseas experience to seek opportunities in Australia.

Integral to the long-term interests of the SmartPay Group is having an appropriate capital and debt structure on its balance sheet to generate value for shareholders. For the SmartPay Group, an appropriate capital structure means increasing its equity to debt ratio and having its shareholders funds supported by a cost-effective debt structure (both in terms of cost and duration) in order to achieve optimal returns for its shareholders. To date, SmartPay's debt has largely been sourced for short periods and at high interest rates.

To that end, the SmartPay Group (through SIL) is offering Fixed Returns Securities pursuant to this investment statement in order to achieve a more appropriate debt structure to suit its needs, by increasing its equity while obtaining lower interest rates.

**"The last 18 months has been an exciting time for SmartPay and its management team."**

The proceeds from the Fixed Returns Securities shall be used to refinance interest bearing debts incurred by the SmartPay Group in connection with the ProvencoCadmus acquisition at a more optimal cost of funding to SmartPay whilst providing an attractive rate of return to investors subscribing for Fixed Returns Securities.

This investment statement contains details of the Offer of Fixed Returns Securities and the risks involved in undertaking an investment of this nature. Please read it and see your financial adviser for advice about the details of this investment.

It is my privilege, on behalf of the Board of Directors of SmartPay to invite you to consider this offer for Fixed Returns Securities.

Yours sincerely,

Wayne Johnson  
Chairman  
SmartPay Limited



section 4

## profile of the smartpay group

### 4.1 Background

For the purposes of the Securities Regulations, SmartPay Investments Limited is the Issuer and is the only member of the issuing group in relation to the Fixed Returns Securities. However, as the obligations of the Issuer are guaranteed by SmartPay and the sole income of the Issuer is derived from the interest payable by SmartPay under the Loan Agreement, the information in this section of the Investment Statement relates to the SmartPay Group as opposed to solely to the Issuer. No subsidiary of the Issuer guarantees the obligations of the Issuer in respect of the Fixed Returns Securities.

### 4.2 SmartPay

SmartPay Limited ("SmartPay") is the holding company of the SmartPay Group and is the parent company of the Issuer, SmartPay Investments Limited. SmartPay is a listed company on the NZSX (NZX: SPY).

The SmartPay Group is the industry leader in the merchant payment solutions sector in New Zealand with an integrated business model covering the supply of equipment, designing and supporting proprietary operating software for the various merchant services provided by the SmartPay Group, servicing the equipment and related hardware with a nationwide after sales customer service and help-desk facility, and providing its equipment and services to merchants through rental and/or leasing contracts.

To consumers, the most visible part of the merchant payment solutions sector is the EFTPOS terminals, which have now become a ubiquitous tool in the retail and service sectors in New Zealand.

SmartPay is the largest supplier of EFTPOS terminals in New Zealand with a nationwide network of support centres to service its merchant base.

SmartPay's terminals can be found in over 20,000 outlets including well-known Kiwi icons like PaperPlus stores, Northern region New World and Pak'nSave supermarkets, Mitre 10 and Air New Zealand as well as international retail brands like Pizza Hut, Starbucks and KFC outlets.

In addition to these high profile outlets, SmartPay's terminals are installed in a diverse range of businesses including corner dairies, dental clinics, schools and restaurants.

Apart from supplying EFTPOS terminals, SmartPay, as an integrated merchant services provider, also provides a range of products and services in the Australasian market to support merchants and retailers in their businesses to increase revenues, reduce costs and/or enhance their operational environment.

#### These products and services include:

- Internet payments gateway;
- Telecommunications such as Wi-Fi, voice over IP and broadband;
- Marketing media such as in-store radio and digital signage;
- Value added services including prepaid mobile phone top up, gift cards, loyalty programmes and third party card processing.

The merchant payment solutions industry was stimulated by the introduction of EFTPOS in New Zealand in the 1980s. Significantly, New Zealanders have been early adopters of this technology with Paymark processing 2 million EFTPOS transactions in New Zealand every day<sup>1</sup>.

There are currently over 100,000 EFTPOS terminals in the New Zealand market<sup>2</sup> and SmartPay estimates that the replacement and new installation market is between 15,000 and 25,000 units per annum. 2011 will also see a major migration to a new chip card based standard. Coinciding with the Rugby World Cup in September/October 2011, banks in New Zealand require all EFTPOS terminals to be upgraded to comply with the latest security encryption standards as well as the chip card technology by 1 June 2011. As at the date of this investment statement there are over 25,000 terminals which still need to be upgraded to meet international security standards before 1 June 2011.

In August 2009 SmartPay gained significantly more scale when it bought the payments division of competitor Provenco Cadmus. The acquisition included intellectual property, manufacturing capability, customer bases and an Australian payments business.

In Australia, the SmartPay Group has a base of over 8,000 terminals via its bank relationships and 4,500 terminals with taxi operators, with the Live Group (a payment solutions provider) signing a commitment in July 2010 to extend its contract for a further period of 4 years. SmartPay has also entered into a relationship agreement with Generate Group, a POS systems provider to clubs and the hospitality sector throughout Australia.

The PAX EFTPOS terminal range supplied by the SmartPay Group has received security approval from the Australian Payments Clearing Association and the terminals have been certified for use by one of the main trading banks in Australia. SmartPay intends to seek certification for its products from other Australian banks during 2011. This platform will allow the SmartPay Group's Australian team to further expand its merchant base by launching many of the products that have been successful in New Zealand.

### 4.3 General

For further information on the SmartPay Group please go to [www.smartpayltd.com](http://www.smartpayltd.com). In addition, in accordance with its continuous disclosure obligations under the NZSX Listing Rules, all material announcements concerning the SmartPay Group are released to NZX and are available for viewing at [www.nzx.com](http://www.nzx.com) (ticker code: SPY).

<sup>1</sup> Source – "Retailers shut out of EFTPOS network", New Zealand Herald, 15 March 2011    <sup>2</sup> Source – Paymark website ([www.paymark.co.nz](http://www.paymark.co.nz))



## section 5 the offer

### 5.1 Introduction

The Issuer intends to offer up to \$6 million of Fixed Returns Securities to the public for subscription pursuant to the terms in this Investment Statement. The Issuer has been incorporated solely for the purposes of making this Offer of Fixed Returns Securities. The only business of the Issuer will be the making of the Offer of Fixed Returns Securities, lending the proceeds of the Offer to SmartPay Limited under the Loan Agreement and making payment of Dividends on, and redemptions of, Fixed Returns Securities as well as certain other limited functions set out in the Constitution.

The Fixed Returns Securities are redeemable preference shares issued by the Issuer which will be redeemed fully in cash on the Redemption Date.

Income under the Fixed Returns Securities will be in the form of Dividends in the hands of the holders of Fixed Returns Securities. The Issuer will be able to pay Dividends in respect of the Fixed Returns Securities only to the extent that SmartPay makes payment of interest to the Issuer under the Loan Agreement.

The Fixed Returns Securities are being offered to New Zealand resident investors at an issue price of \$1.00 per Fixed Returns Security.

This Investment Statement contains important information and should be read in its entirety.

The purpose of the "Answers to Important Questions" section (Section 9 of this Investment Statement), is to provide certain key information that is likely to assist a prudent but non-expert person to decide whether or not to acquire Fixed Returns Securities under this Offer. However, investors should note that other important information about the Fixed Returns Securities and the Offer is available in the remainder of this Investment Statement, in the Prospectus, and in the terms of the Loan Agreement, the Guarantee Deed Poll, the STL Guarantee, the General Security Agreement, the Administration Agreement, and the Constitution.

Copies of terms of the Loan Agreement, the Guarantee Deed Poll, the STL Guarantee, the General Security Agreement, the Administration Agreement and the Constitution can be obtained by investors free of charge by contacting:

**SmartPay Investments Limited**  
182-190 Wairau Road, Glenfield, Auckland 0627  
PO Box 100490, North Shore Mail Centre, Auckland 0745  
**Telephone: 0800 873 863**

Information regarding the Loan Agreement, the STL Guarantee, and the General Security Agreement is set out in Section 7. The terms of the Guarantee Deed Poll are set out in Section 8 and the material provisions of the Constitution relating to the terms and conditions of the Fixed Returns Securities are summarised in Section 9 under the heading "What sort of Investment is this?".

### 5.2 Use of Proceeds

The Issuer will lend the proceeds of the issue of Fixed Returns Securities to SmartPay on the terms set out in the Loan Agreement. The terms of the Loan Agreement are described under the heading "Terms of the Loan to SmartPay" in Section 7. The proceeds will be used by SmartPay to pay the costs of the Offer and to repay indebtedness of the SmartPay Group.

As at the date of this investment statement, the SmartPay Group has \$7,039,138 of "corporate debt", being indebtedness secured over the assets and operations of the SmartPay Group. Approximately \$4,414,631 of the debt accrues interest at between 16% and 17.95% per annum and is repayable on or before 31 December 2011. It is this high-interest debt which SmartPay intends to repay out of the proceeds of the Offer of Fixed Returns Securities, with any surplus proceeds of this Offer being applied in repayment of the remaining corporate debt.

To the extent that the net funds raised pursuant to the Offer are insufficient to repay all of the existing "corporate" indebtedness by the due dates, SmartPay will need to look at alternative means of refinancing which may include extending the term for repayment of the existing facilities, negotiating new facilities with alternative funders, and / or issuing additional equity to fund the debt repayment.

### 5.3 Opening Date and Closing Date

The Opening Date for the Offer of Fixed Returns Securities is 28 March 2011. The Closing Date for applications is 5.00pm on 16 September 2011 or such earlier or later date as the Issuer may determine.

### 5.4 Dividends

Except in respect of the first Dividend Period, Dividend income is payable to Holders as at the Record Date immediately preceding the relevant Dividend Payment Date, in equal quarterly instalments in arrears on 31 March, 30 June, 30 September and 31 December of each calendar year (or, if that day is not a Business Day, on the next Business Day).

## section 5

# the offer (continued)

The first Dividend Payment Date is 30 September 2011. The Dividend Amount payable with respect to the first Dividend Period shall be paid to the initial subscriber regardless of whether or not they dispose of the Fixed Returns Securities before the first Dividend Payment Date. The first Dividend Amount shall be for the period from (and including) the Issue Date through to (but excluding) the first Dividend Payment Date.

For further information regarding Dividends please refer to the information provided under the heading “What sort of Investment is this?” in Section 9.

### 5.5 Portfolio Investment Entity (PIE)

It is intended that the Issuer will be a Listed PIE for New Zealand income tax purposes. If the Issuer is a Listed PIE, Holders who are natural persons and Holders who are trustees (other than trustees of a unit trust) will not be required to include Dividends in their income tax return. Refer to Section 6 for more details.

In order for the Issuer to qualify for Listed PIE status then (amongst certain other requirements, including approval by the Inland Revenue Department) either (a) there will need to be at least 100 Holders of Fixed Returns Securities, or (b) the Fixed Returns Securities will need to be listed for trading on a recognised exchange in New Zealand.

### 5.6 Imputation Credits

Dividends are expected to be fully imputed. The Dividends will have imputation credits attached of 28:72 of the Dividend Amount (assuming a corporate tax rate of 28%).

If the Issuer is a Listed PIE for New Zealand tax purposes, any failure to attach Imputation Credits will not affect the amount of New Zealand income tax payable by a Holder of Fixed Returns Securities unless that Holder has a marginal New Zealand income tax rate lower than the New Zealand corporate income tax rate.

### 5.7 Redemption

The Fixed Returns Securities are redeemable in full on the Redemption Date. Redemption is subject to the Issuer having sufficient profits, proceeds from the repayment of the Loan by SmartPay, or proceeds of a new issue of shares made for the purposes of the redemption.

For further information regarding redemption of the Fixed Returns Securities please refer to the information provided under the heading “What sort of Investment is this?” in Section 9.

### 5.8 Applications

Applications must be for a minimum of 5,000 Fixed Returns Securities (\$5,000) and thereafter in increments of 100 Fixed Returns Securities (\$100). The Issuer may refuse all or part of any application without giving a reason.

The Issue Price must be paid in full on application. Cheques must be made payable to “SmartPay Investments Limited Offer”, must be crossed “Not transferable” and must be for immediate value. Cheques must be drawn on a New Zealand bank. If a cheque is dishonoured, the Issuer may cancel any Fixed Returns Securities allotted or pursue any other remedies available to it at law. No interest will be paid on the amounts of any dishonoured cheques.

If the Issuer accepts an application in part, the balance of the application money will be refunded within five Business Days of the Issue Date, by direct credit to a specified bank account. If an Application Form is not accepted by the Issuer, any application monies received with that application will be refunded to the applicant within five Business Days, by returning the relevant cheque unbanked or by direct credit to the bank account specified by the applicant on the Application Form. If no bank account is specified, the application monies will be refunded by cheque to the address provided in the Application Form.

No interest will be paid on money refunded or in respect of applications not accepted by the Issuer.

Full details as to how to make an application for Fixed Returns Securities are set out in Section 12.

### 5.9 Guarantee

The Issuer’s obligations with respect to the payment of the Dividends on the Fixed Returns Securities and the redemption of the Fixed Returns Securities are guaranteed on a joint and several basis by SmartPay Limited (the parent company of the Issuer) and SmartPay Transactions Limited (a subsidiary of SmartPay). This guarantee is given directly to the holders of Fixed Returns Securities and is enforceable by them against SmartPay and STL. The ordinary shares in SmartPay are listed for trading on the main board of NZSX (NZX:SPY).

The guarantee from SmartPay and STL is unsecured and therefore any call on the assets of SmartPay or STL under the guarantee will be subject to any security interests granted by SmartPay or STL (as applicable) over its assets and undertakings. Refer to Section 8 for the terms of the Guarantee.

### 5.10 Security for Fixed Returns Securities

Even though the Guarantee referred to in paragraph 5.9 above is unsecured and is subject to the qualifications contained in that paragraph, the Issuer (and therefore, indirectly, the Holders of the Fixed Returns Securities) will have the benefit of the following:

- a. SmartPay’s obligations to the Issuer under the Loan Agreement are guaranteed by STL by virtue of the STL Guarantee. STL has granted the Issuer a first-ranking general security agreement over all of the assets and undertakings of STL as security for the performance by STL of its obligations under the STL Guarantee.
- b. The Constitution of the Issuer provides that immediately following an event of default under the Loan Agreement the Board of the Issuer is to take all steps necessary to enforce its rights under the General Security Agreement and to appoint a receiver to STL. In accordance with a standard receivership, a receiver appointed to STL by the Issuer will manage or sell the assets of STL to realise funds for the Issuer. Funds received by the Issuer by virtue of such receivership will be available to meet the Issuer’s obligations to the Holders with respect to the Fixed Returns Securities.

As at the date of this Investment Statement, STL’s only asset is the STANDS Software which is specialised proprietary software developed by the SmartPay Group. STL also owns the servers on which the STANDS Software is located. The STANDS Software is used to interconnect to the EFTPOS network and process and/or deliver transactions for products and services provided by the SmartPay Group to a number of its merchants and retailers.

The STANDS Software is currently fully operational and is used by the SmartPay Group to switch and deliver tens of thousands of transactions every day.

The STANDS Software is an EFTPOS transaction processing software solution. It incorporates intelligent transaction switching, routing, and message formatting capabilities for both inward

transactions from a number of sources and outward or upstream authentication. The STANDS Software is geared for quick and easy processing to allow for high volume handling capabilities (STANDS Software processed 29,491,758 transactions in the year ended 31 December 2010). The two primary components of the STANDS Software are an EFT message router function and an EFT message processor function. The EFT message router function incorporates a simple text based rule system that enables identification of each transaction and its source so that the transaction data can be switched / routed accordingly. The EFT message processor function is able to change the complex formatting of the incoming message so that the message can be passed to an upstream host / processor in a totally different message format. The STANDS Software is located on two main servers and one back-up server, all of which are owned by STL.

The basic operation of the STANDS Software is depicted in the diagram on the following page.

Not every EFTPOS terminal supplied by the SmartPay Group is linked to the STANDS Software as it depends on the services required by a particular merchant. The terminals which are linked to the STANDS Software are those which accept and process value-added services such as mobile phone top-up, Flybuys, Bartercard, etc. In addition, EFTPOS terminals supplied to certain corporate customers of the SmartPay Group are linked to the STANDS Software so that the SmartPay Group can provide such customers with transaction processing services and reporting information over and above the simple processing of an EFTPOS payment transaction. As at 31 December 2010 there were approximately 8000 EFTPOS terminals in use which were linked to the STANDS Software, being approximately half of the total EFTPOS terminals supplied by the SmartPay Group under lease or subscription contracts as at that date. It is anticipated that the number of EFTPOS terminals linked to the STANDS Software will increase in the future, particularly as additional EFTPOS installations are made by the SmartPay Group with taxi company customers in both New Zealand and Australia. The EFTPOS terminals that are “linked” to the STANDS Software are pre-programmed to “speak” only to the STANDS Software with respect to the processing of transactions. In other words, the data relating to each transaction undertaken via a “linked” EFTPOS terminal is automatically sent over the network to the STANDS Software. While the relevant “linked” EFTPOS terminals can be reprogrammed en-masse using the STANDS Software, they can only otherwise be reprogrammed on a terminal by terminal



section 5  
**the offer** (continued)

**NETWORKS**



GPRS EFTPOS



NZ Digital Eftpos Systems EFTPOS



UDP EFTPOS



TCP/IP EFTPOS



Other Private Eftpos Devices

# S.T.A.N.D.S SWITCH

## Logging System Control Configuration

Message Processor

Message Router

Message Processor

Message Router

Message Processor

Message Router

Message Processor

Message Router

Message Processor

Message Router

**APPLICATION SYSTEMS**



SmartPay Database Application Server



E-Card Database Application Server



Paymark Application Server



Up-Stream Customer Authorisation

basis. Therefore, while it is possible to reprogramme a “linked” terminal so that it no longer directs transaction data to the STANDS Software this would be a costly and time consuming exercise.

It should be noted that under the terms of the General Security Agreement STL has the ability to enter into escrow agreements with customers and escrow agents with respect to all or part of the STANDS Software pursuant to which the STANDS Software (or the relevant part thereof) will be placed with an escrow agent and released to the customer upon the happening of certain events. Further details regarding the ability of STL to enter into escrow agreements with respect to the STANDS Software are set out in Sections 7.6 and 7.7.

Further details of the STL Guarantee and the security provided by STL in support of the STL Guarantee are included under the headings “Terms of the STL Guarantee” and “Terms of the General Security Agreement” in Sections 7.5 and 7.6 on page 24.

### 5.11 Allotment of Fixed Returns Securities

Allotments of Fixed Returns Securities will occur on a weekly basis from the Opening Date, with the last such allotment occurring within 5 Business Days of the Closing Date.

The Fixed Returns Securities will be allotted and issued on a ‘first come first served’ basis.

If, on the Closing Date, the Issuer has received applications for more than 6,000,000 Fixed Returns Securities, the Issuer reserves the right to:

- a. Reject applications for Fixed Returns Securities which have not then been issued; and / or
- b. Scale back applications for Fixed Returns Securities which have not then been issued to a minimum of 5,000 Fixed Returns Securities and thereafter multiples of 100 Fixed Returns Securities, and accordingly only accept and allot part of the Fixed Returns Securities applied for.

The Issuer will refund the balance of any moneys received (without interest) to the applicant within 10 Business Days of the Closing Date.

The Registrar will advise successful applicants of the allotment of Fixed Returns Securities to them as soon as possible after allotment.

### 5.12 NZX Rulings and Waivers

NZX has ruled for the purposes of the Listing Rules that the Fixed Returns Securities are Debt Securities and are not Equity Securities, as those terms are defined in the Listing Rules. The effect of this ruling is that the Issuer is not required to comply, in respect of the Fixed Returns Securities, with the provisions of the Listing Rules (including those set out in Appendix 5 of the Listing Rules) applying to Equity Securities.

NZX has also ruled that Listing Rule 7.12.4 applies to routine payments by the Issuer of Dividends on the Fixed Returns Securities. The effect of this ruling is that no announcement under Listing Rule 7.12.2 is required to be made for routine Dividend payments being made to investors.

NZX has provided a waiver from Listing Rule 11.1.1 in respect of certain of the restrictions on transfers of Fixed Returns Securities. The effect of this waiver is to enable the minimum amount invested in Fixed Returns Securities, and the minimum holding of Fixed Returns Securities (as defined in Appendix 2 of the Listing Rules), to be 5,000 Fixed Returns Securities.

NZX has also provided a waiver from Listing Rule 11.1.1 in respect of the inclusion of provisions in the Constitution restricting the transfer of Fixed Returns Securities. The effect of this approval is that the Issuer is permitted to incorporate provisions in the Constitution relating to Investor Interest Size Limits, in particular clause 6.15(b) of the Constitution.

The Issuer has been given a Non-Standard designation by NZX as a consequence of the Constitution incorporating provisions relating to investor interest size limits.

### 5.13 Underwriting

The Offer is not underwritten.

### 5.14 Further Issues of Redeemable Preference Shares

The Issuer may issue further redeemable preference shares which rank equally with the Fixed Returns Securities on the same terms and conditions as the Fixed Returns Securities (subject to the tax, PIE and Listed PIE status of the Issuer being maintained). Such an issue is deemed not to be an action affecting the rights attaching to the Fixed Returns Securities and shall give no rights to Holders to participate in the issue of any such further redeemable preference shares.



## section 6

## tax information

### 6.1 General

The following statements relate only to New Zealand tax and are of a general nature. The statements are based on tax legislation and interpretations of tax legislation current at the date of this Investment Statement. The statements are not intended to deal with all relevant considerations or possible cases. No other taxation considerations are discussed. Prospective investors should seek their own taxation advice in relation to their own taxation position.

### 6.2 New Zealand Resident Holders

The Issuer will assume that Holders are New Zealand tax residents unless it is satisfied to the contrary and will act accordingly. Any liability for taxation is the responsibility of the Holder. Statements regarding taxation in this section apply only to the position of New Zealand resident Holders. Persons resident in countries other than New Zealand should seek their own taxation advice before investing.

### 6.3 Portfolio Investment Entity (PIE) / Listed PIE

It is intended that the Issuer will be a Listed PIE. The information in this section 6.3 and in section 6.4 below is prepared on the assumption that the Issuer will be a Listed PIE. If for any reason the Issuer does not become a Listed PIE or its status as a Listed PIE is lost then the tax treatment will differ from that outlined in this section 6.3 and in section 6.4 below.

A Listed PIE is taxed at the corporate tax rate of 28% and is required to attach imputation credits to dividends to the extent imputation credits are available.

The key relevant benefit of investing in the Issuer as a Listed PIE is the tax savings for investors whose tax rate is above the corporate tax rate when a dividend is paid (investors in the 30% and 33% tax brackets). Natural person investors and investors who are trustees (other than trustees of a unit trust) do not need to include dividends from a Listed PIE in their tax return, though they may choose to do so. Therefore no further tax is imposed on distributions from a Listed PIE. The value of this tax benefit may change over time by reference to the tax rate and tax bracket applicable to the investor at the relevant time.

For illustrative purposes, assuming a gross return (that is, cash plus imputation credits) on the Fixed Returns Securities of 10% per annum, a holder on a 33% marginal tax rate (the highest marginal tax rate which currently applies) would need to receive a gross return of 10.75% per annum from a similar investment that is not a Listed PIE in order to receive the same after-tax return as the Fixed Returns Securities are expected to provide.

Assuming (as is expected) that dividends are fully imputed, holders in tax brackets below the corporate tax rate should treat the Dividend income received as they would any other dividend from a company that is not a Listed PIE and therefore should be indifferent between the Issuer being a Listed PIE or not. To the extent that the dividend is not fully imputed, it will be excluded income for all Holders.

- i. **Natural Person Holders:**  
If the Issuer is a Listed PIE, Holders who are natural persons

can treat the Dividend income received as excluded income. This means such Holders are not required to include the Dividend income in their income tax returns. Holders whose tax rate is above the corporate tax rate when income is paid (Holders in the 30% and 33% tax brackets) may benefit by treating the Dividend income received as excluded income as no further tax is payable on the Dividend income received under the Fixed Returns Securities.

Holders in tax brackets below the corporate tax rate can elect to include the Dividend income received in their income tax return. This means the excess imputation credits received from the Issuer can be offset against other taxable income. To the extent the imputation credits can be offset against other taxable income, Holders receive the same net return whether or not the Issuer is a Listed PIE.

- ii. **Corporate Investors (Including Trustees of a Unit Trust):**  
Corporate Holders are required to include the Dividend income from the Fixed Returns Securities in their tax return, except to the extent it is not fully imputed. No further tax is payable on the Dividend income. A corporate Holder will use the imputation credits attached to the Dividend income from the Issuer in the usual way.
- iii. **Trustee Investors (Including Trustees of Family Trusts but excluding Trustees of a Unit Trust):**  
Trustees will need to consider whether to include the Dividend income in the trust tax return or not. If they do

not include the Dividend income in either the trust's tax return or the beneficiaries' tax return(s), the maximum tax paid on the Dividend income is 28%. If they do include it in their respective tax returns, the Dividend income will be either trustee income or beneficiary income. If the Dividend income is trustee income, the trustee will have to pay additional tax in respect of it, since trustee income is taxable at a rate of 33%. If the income is beneficiary income, the Dividend income will be included in the beneficiary's income tax return, along with their share of the trust's imputation credits. The Dividend income will be taxed at the beneficiary's marginal tax rate.

- iv. **Treatment of Tax Deductible Expenses:**  
Holders will need to determine whether any expenses incurred by them in investing in Fixed Returns Securities are deductible for tax purposes. Under current law, if the expenses are deductible for tax purposes Holders can claim the expenses in their tax return even if the Dividend is not included in their tax return. This is because the Dividend is treated as "excluded income", rather than "exempt income".
- v. **Resident Withholding Tax:**  
Dividends paid by a Listed PIE are now specifically excluded from the resident withholding tax ("RWT") regime, meaning that no RWT is required to be deducted from Dividends paid on the Fixed Returns Securities for so long as the Issuer is a Listed PIE.

## section 6

# tax information (continued)

### 6.4 Example of Tax Calculation

The tax treatment of Dividend income paid on the Fixed Returns Securities for income tax purposes is illustrated by the following example.

This example assumes that the Holder (a New Zealand resident for tax purposes) owns \$5,000 worth of Fixed Returns Securities (5,000 Fixed Returns Securities at \$1.00). The Dividend income is assumed to be 7.2% cash and 2.8% imputation credits. It is also assumed the current tax law prevails, the Issuer is a Listed PIE and the Holder is able to fully utilise the imputation credits attached. The calculation for the highest tax bracket has been based on a 33% marginal tax rate (being the current highest marginal tax rate).

On this basis the Holder's Dividend statements for one year for the four combined quarterly Dividend payments would read:

Gross Dividend:	\$500.00
Imputation Credits attached:	\$140.00
Cash Dividend paid:	\$360.00

Note the figures for the first year may be slightly different given that the period from the Issue Date to the first Dividend Payment Date may be longer or shorter than a quarter depending on when the Holder is allotted and issued Fixed Returns Securities.

For a Holder on a 33% marginal tax rate, the impact on that Holder's annual tax calculation would be, assuming the Dividend income is not included in the Holder's tax return:

Taxable Dividend income:	0
Tax @ 33%:	0
Less Imputation Credits:	0
Net tax to pay in respect of Dividend:	Nil

A Holder on a 33% marginal tax rate in an income year pays no additional tax with respect to the Dividend income received under the Fixed Returns Securities. The after-tax return is the same return as the Holder would have received from investing in a similar non-PIE investment paying pre-tax interest or a gross dividend of approximately 10% per annum. The value of this tax benefit (and the other tax benefits and after-tax returns referred to in this Section 6.4) may change over time by reference to the tax rate and tax bracket applicable to the investor at the relevant time.

For a Holder on a 30% marginal tax rate, the impact on that Holder's annual tax calculation would be, assuming the dividend income is not included in the Holder's tax return:

Taxable Dividend income:	0
Tax @ 30%:	0
Less Imputation Credits:	0
Net tax to pay in respect of Dividend:	Nil

A Holder on a 30% marginal tax rate in an income year pays no additional tax with respect to the Dividend. The after-tax return is the same return as the Holder would have received from investing in a similar non-PIE investment paying pre-tax interest or a gross dividend of approximately 10.29% per annum.

For a Holder on a 17.5% marginal tax rate, the impact on that Holder's annual tax calculation would be, assuming the Dividend income is included in the Holder's tax return:

Taxable Dividend income:	\$500.00
Tax @ 17.5%:	\$87.50
Less Imputation Credits:	\$140.00
Excess Imputation Credits/tax credit:	\$52.50

The excess imputation credits of \$52.50 can be used to reduce the Holder's income tax liability (derived from other income sources) if the Holder has other taxable income that income year. Where the excess imputation credits can be used in full in that income year, the effective after-tax return from the Fixed Returns Securities is 8.25% per annum.

For a Holder on a 10.5% marginal tax rate, the impact on that Holder's annual tax calculation would be, assuming the dividend income is included in the Holder's tax return:

Taxable Dividend income:	\$500.00
Tax @ 10.5%:	\$52.50
Less Imputation Credits:	\$140.00
Excess Imputation Credits/tax credit:	\$87.50

The excess imputation credits of \$87.50 can be used to reduce the Holder's income tax liability (derived from other income sources) if the Holder has other taxable income that income year. Where the excess imputation credits can be used in full in that income year, the effective after-tax return from the Dividend income is \$447.50 or 8.95% per annum. The after-tax return is the same return as the Holder would have received from investing in a similar non-PIE investment paying pre-tax interest or a gross dividend of 10% per annum.

Imputation credits which are not used in an income year may be carried forward and may be available for credit against liabilities in future income years.

### 6.5 Sale of the Fixed Returns Securities

Amounts derived by Holders from the sale of Fixed Returns Securities should not be included in gross income for New Zealand tax purposes except in certain circumstances, including where:

- The Holder is in the business of dealing in equity securities;
- The Holder acquired the Fixed Returns Securities with the purpose of resale; or
- The Holder sold the Fixed Returns Securities pursuant to a profit making undertaking or scheme.

Whether a Holder will be required to include amounts derived from the sale of Fixed Returns Securities in their gross income will depend on the particular facts and circumstances that apply to each Holder. Holders should seek their own taxation advice in relation to their own taxation position in respect of a sale of, and all other aspects of holding, the Fixed Returns Securities.

### 6.6 Non-Resident Holders

For a Holder who is a non-tax resident of New Zealand, any non-resident withholding tax required by law to be deducted, will be deducted from the Dividends (i.e. there will be no gross-up). The Issuer will not pay any supplementary dividends.

### 6.7 Effect of Not Obtaining, or Losing, Listed PIE Status

In order to qualify as a Listed PIE there are certain criteria the Issuer must meet, including restrictions on the percentage holdings Holders can have. In the event Listed PIE status is not obtained or is lost, all Holders will be taxed on Dividend income at their marginal tax rate, with a credit for any imputation credits attached. The Issuer will inform Holders if Listed PIE Status is not obtained or is lost. No compensation will be made to Holders in the event Listed PIE status is not obtained or is lost.

If Listed PIE Status is gained and subsequently lost within 12 months of the date from which the Issuer first obtained Listed PIE Status, the Issuer will be treated as if it never had Listed PIE Status.



## section 7

# transaction structure

### 7.1 Structure of Transaction

This section contains a description of the structure of the transaction involving the issue of the Fixed Returns Securities. It is a brief summary only of the relevant documents. The Glossary in Section 11 contains definitions of the terms used in this summary. The full terms of the transaction are recorded in the following documents, when read together:

- Constitution;
- Loan Agreement;
- Guarantee Deed Poll;
- STL Guarantee; and
- General Security Agreement.

Copies of these documents may be obtained by investors free of charge by contacting SmartPay Investments Limited at 182-190 Wairau Road, Glenfield, Auckland, by writing to SmartPay Investments Limited at PO Box 100490, North Shore Mail Centre, North Shore 0745 or by telephoning SmartPay Investments Limited on 0800 873 863. Copies of these documents are also filed (on the Issuer's file as part of the Prospectus filing) on a public register which may be inspected at the Companies Office, Business and Registries Branch, Ministry of Economic Development on its website [www.companies.govt.nz](http://www.companies.govt.nz). Where documents are not available on the website, a request for the documents can be made by telephoning the Companies Office business centre on 0508 266 726.

### 7.2 Steps in the Transaction

The principal features of the transaction are:

1. The Issuer is offering and intends to issue the Fixed Returns Securities to New Zealand residents. It is intended that the Issuer will be a Listed PIE for New Zealand income tax purposes.
2. The Issuer intends to lend the proceeds of the issue of the Fixed Returns Securities to SmartPay pursuant to the Loan Agreement. SmartPay will use the amount advanced under

the Loan Agreement to pay the costs of the Offer and for the purposes of reducing high-interest indebtedness of the SmartPay Group. The terms of the Loan are outlined under the heading "Terms of Loan to SmartPay" below.

3. The Issuer's obligations to each Holder with respect to the payment of Dividends and the redemption of the Fixed Returns Securities are guaranteed (on an unsecured basis) by SmartPay and STL. The terms of the guarantee are set out in Section 8.
4. In turn, SmartPay's obligations to the Issuer under the Loan Agreement are guaranteed by SmartPay Transactions Limited ("STL"), a wholly-owned subsidiary of SmartPay. STL has executed a general security agreement in favour of the Issuer pursuant to which it has granted the Issuer a first-ranking security over all of the assets and undertakings of STL as security for the obligations of STL under the guarantee. The sole assets of STL are the STANDS Software (refer to Section 5 for further details) and the servers on which the STANDS Software is located. It is important to note that this guarantee and general security agreement are given in favour of the Issuer. This guarantee and general security agreement are not enforceable by the Holders.

### 7.3 Terms of Loan to SmartPay

The Issuer intends to lend to SmartPay the proceeds of the issue of the Fixed Returns Securities. The full terms of the Loan are recorded in the Loan Agreement, a copy of which may be obtained in the manner specified under the heading "Structure of Transaction" above. The important terms of the Loan are:

- a. Interest is payable at 10% per annum in equal quarterly instalments (except in respect of the first interest period) in arrears, with such interest being payable on each Dividend Payment Date (or if any such day is not a Business Day, on the next Business Day). The first date on which interest is payable under the Loan Agreement is 30 September 2011, being the first Dividend Payment Date. There are no

conditions attached to any payment of interest under the Loan Agreement;

- b. As a further separate and independent obligation, SmartPay agrees to:
  - i. meet all expenses associated with the making of the Offer of Fixed Returns Securities; and
  - ii. reimburse the Issuer for all out-of-pocket expenses incurred by the Issuer in connection with maintaining in existence the Fixed Returns Securities (including obtaining and maintaining Listed PIE status);
- c. The Loan is repayable in full on the Redemption Date. SmartPay is able to make early repayment of the Loan (whether in part or in full) by giving not less than 10 Business Days notice in writing to the Issuer. Any such early repayment received by the Issuer will be applied solely to redeem (in part or in full) Fixed Returns Securities;
- d. The Loan (together with accrued but unpaid interest) will be repayable immediately in full (whether or not prior to the Redemption Date) if an event of default (as defined in the Loan Agreement) occurs. An event of default includes:
  - Non Payment: SmartPay fails to pay within ten (10) Business Days of its due date any amount of the Loan or interest thereon; or
  - Breach of Other Obligations: SmartPay fails to perform or comply with any of its other obligations under the Loan Agreement and, in the case of a failure that is capable of remedy, that failure is not remedied within 14 days of the date that SmartPay first became aware of it; or
  - Breach of Warranty: Any representations, warranty, or statement by SmartPay in or in connection with the Loan Agreement is not true, accurate, or complied with in all material respects, or is or proves to have been untrue, inaccurate, or not complied with in any material respect

when made or repeated or deemed to have been made or repeated; or

- Insolvency:
  - i. An encumbrancer takes possession, or a trustee, receiver, receiver and manager, administrator, inspector under any companies or securities legislation, or similar official, is appointed in respect of SmartPay, or the whole or any material part of its assets; or
  - ii. A statutory manager is appointed, or any recommendation in that regard is made by the Securities Commission under the Corporations (Investigation and Management) Act 1989 in respect of SmartPay or SmartPay is declared at risk pursuant to the provisions of that Act; or
  - iii. SmartPay has a liquidator appointed (other than for the purpose of, and followed by, an amalgamation or solvent reconstruction) or is declared or becomes insolvent, is unable to pay its debts when they fall due, or enters into dealings with, or for the benefit of, its creditors with a view to avoiding, or in expectation of, insolvency, or makes a general assignment or arrangement, compromise, or composition with or for the benefit of its creditors; or
- Enforcement: A distress attachment, execution, or other legal process for an amount of or in excess of \$50,000 in aggregate is levied or enforced on or against any of SmartPay's property and is not discharged or stayed within 14 days; or
- Dissolution: SmartPay ceases to carry on all or substantially all of its business or operations, or an application or order is made, or a resolution is passed for the dissolution of SmartPay, except for the purpose of and followed by a reconstruction or reorganisation (not involving or arising out of insolvency) on terms approved by the Issuer before that step is taken; or

## section 7

# transaction structure (continued)

- Amalgamation:  
The board of SmartPay passes any resolution not previously approved by the Issuer for or in contemplation of any amalgamation with or involving any company then existing or yet to be formed.
- e. SmartPay has not granted any security to the Issuer in connection with the performance by SmartPay of its obligations under the Loan Agreement.

## 7.4 Terms of the Guarantee Deed Poll

Under the Guarantee Deed Poll each of SmartPay and STL unconditionally and irrevocably guarantees to each Holder the due and punctual payment by the Issuer of all Dividends in connection with the Fixed Returns Securities and the payment of all amounts owed to each Holder upon redemption of the Fixed Returns Securities. The Guarantee Deed Poll is given for the benefit of, and is enforceable directly against SmartPay and STL by, each Holder of Fixed Returns Securities.

The full terms of the Guarantee Deed Poll are set out in Section 8.

## 7.5 Terms of the STL Guarantee

STL, a subsidiary of SmartPay, has executed the STL Guarantee pursuant to which it guarantees the due payment of the principal, all interest thereon, and all other moneys payable by SmartPay to the Issuer under the Loan Agreement. The obligations of STL with respect to the STL Guarantee are secured by a first-ranking general security interest in all of the present and after-acquired assets and undertakings of STL (being, as at the date of this Investment Statement, the STANDS Software and the servers on which the STANDS Software is located). For further information on this security refer to the section headed "Terms of the General Security Agreement" below.

The STL Guarantee and the General Security Agreement are given in favour of the Issuer. They are not enforceable directly by the Holders.

## 7.6 Terms of the General Security Agreement

Under the General Security Agreement STL has granted the Issuer a first-ranking security interest in all of the present and after-acquired assets and undertakings of STL as security for the performance by STL of its obligations under the STL Guarantee. A financing

statement was registered against STL on the Personal Property Securities Register on 25 March 2011 with respect to the security interest created under the General Security Agreement. Under the General Security Agreement STL has given a number of covenants in favour of the Issuer including covenants:

- Not to do (or omit to do) any act, matter or thing which could reasonably be expected to have a material adverse effect on the value of the STANDS Software.
- Not to create or permit the creation of or existence of any other security interest over or affecting the STANDS Software.
- Not to dispose or permit the disposal of its interest in the STANDS Software.

Notwithstanding the foregoing the General Security Agreement expressly entitles STL to:

- a. Enter into the Transaction Processing Agreement and transaction processing agreements with third parties on such terms as STL thinks fit;
- b. Enter into escrow agreements with customers and escrow agents with respect to all or part of the STANDS Software pursuant to which the STANDS Software (or the relevant part thereof) will be placed with an escrow agent, provided that under the terms of such agreement the escrowed materials will only be released to the customer if STL or the relevant member of the SmartPay Group suffers an insolvency event and STL or the relevant member of the SmartPay Group (or a receiver appointed with respect to STL or the relevant member of the SmartPay Group) fails to provide the contracted transaction processing services for a period of three days or more following the occurrence of the insolvency event;
- c. Lend funds received by STL for transaction processing services to any member of the SmartPay Group; and
- d. Declare and pay dividends.

These actions will not constitute a breach of the General Security Agreement.

In addition to the foregoing, the escrow agreement in connection with TaxiCharge New Zealand Limited (as described in Section 7.7 below) is expressly permitted under the General Security Agreement.

## 7.7 Valuation of the STANDS Software

STL purchased the STANDS Software for \$4,283,881 from Software International Limited (a wholly-owned subsidiary of SmartPay) on 25 March 2011. The purchase price was left outstanding as an unsecured intercompany debt owing by STL to Software International Limited. The book value of the STANDS Software had previously been written down to zero on the books of Software International Limited over a number of years.

As part of the process to transfer the STANDS Software to STL, the Board of SmartPay conducted an internal assessment of the values to be assigned to those assets.

Based on committed new terminal sales and using management's projected growth of the business, the assessed valuation of the STANDS Software is \$4,283,881 using a 6 year net present value calculation methodology. The valuation is based upon revenue derived from transactions routed and/or switched using the STANDS Software. It is assumed that the STANDS Software is unique and non-replicable except at considerable cost and lead-in time (refer below). SmartPay's management reviewed existing sales from key customers in New Zealand and Australia and made certain assumptions of their growth rates over the term of the projections. In addition, management took into account potential areas of growth based on the leads and enquiries presently pursued by its sales team.

SmartPay considered it appropriate to use a 6 year period for the net present value calculation as it currently depreciates its software over a useful life period of between three and eight years. The 6 year period utilised in the valuation is well within this range. In addition, SmartPay took account of the fact that the core STANDS Software has been in existence for almost 10 years and it therefore has a history of longevity.

As at the date of this investment statement, the average monthly number of transactions generated from the STANDS Software is approximately 2.46 million per month, and in the valuation model the number of transactions generated from the STANDS Software is projected to rise to 3.76 million per month over the 6-year projection period at an average annual growth rate of 10.85% per annum. A transaction fee is charged for each transaction using the STANDS Software which means that the projected increases in income is based on the expected increases in the volume of transactions using the STANDS Software over the term of the

projections. The transaction fees charged by the SmartPay Group vary from customer to customer.

The valuation of \$4,283,881 is derived by applying a nominated discount rate (see below) to the expected income for each year within the projection period. The valuation of \$4,283,881 does not include any terminal value for the STANDS Software. SmartPay's management believes that the STANDS Software will still have longevity beyond the six year projection period, however they have not taken this into account in their valuation process.

A discount rate of 11% has been adopted as the nominated discount rate in the valuation model. The nominated discount rate is what SmartPay has determined to be its weighted average cost of capital. In determining the weighted average cost of capital, it should be noted that since the "corporate debt" referred to in Section 5.2, the SmartPay Group has secured further funding at a lower rate of 8.25% and currently expects to continue to secure funding at lower rates than previously as its business performance and proposition strengthen. It should also be noted that the discount rate adopted by SmartPay for impairment testing of goodwill in its audited financial statements for the year ended 31 March 2010 was 13.2%. In light of the improved business performance of the SmartPay Group since 1 April 2010 SmartPay considers that a discount rate of 11% is a more appropriate discount rate to use in valuing the STANDS Software and it intends to use a discount rate of 11% in assessing goodwill impairment in respect of the current financial year.

Annual operating costs of \$289,230, inflating at 2% per annum, have been included in the valuation; these costs comprise \$55,200 of hosting charges, \$16,000 for replacement of servers (based on replacement every three years), \$99,950 for software support, and \$118,080 of network charges. The transaction fees are also assumed to inflate at the rate of 2% per annum over the six year projection period.

The valuation is post-tax. Tax is assumed to be 28% over the six year period.

There is an escrow agreement in favour of TaxiCharge New Zealand Limited where the rights to certain parts of the STANDS Software will be released to TaxiCharge in the event that STL suffers an insolvency event. STL intends to amend the escrow agreement to ensure that no such rights will be transferred in the event of a receiver of STL continuing to provide the requisite

## section 7

# transaction structure (continued)

services. There is no guarantee that TaxiCharge will agree to this amendment but STL is confident that this will be done as the objective of the escrow agreement is to secure continuity of services to TaxiCharge. TaxiCharge New Zealand Limited transactions represent approximately 9% of the total number of transactions and approximately 15% of the total projected transaction processing fee revenue, over the 6 year forecast period.

The value realised from any future holding or sale of the STANDS Software will ultimately depend on the actual earnings generated over the projected time horizon by the STANDS Software which means that the actual values of those assets may differ materially from the values determined through the valuation process outlined above.

There are other reasons why the actual values of the STANDS Software may differ materially from the values assigned by the SmartPay Group. These reasons include, but are not limited to, the use of different discount rates, the adoption of a different time horizon for the projections, different valuation methodologies used, different expectations of the useful economic life of the STANDS Software, and the availability of buyers for the STANDS Software and the prices those buyers are prepared to pay to acquire the STANDS Software.

### Cross Reference on the Valuation of STANDS Software

As a cross-reference, SmartPay has undertaken an alternative approach to valuing the STANDS Software.

The alternative approach is to determine the replacement value of the hardware and software comprising the STANDS Software.

SmartPay has estimated that the personnel cost and time using today's current market salary rates to develop the STANDS Software would be approximately \$2.1 million.

The STANDS Software has been developed and enhanced with SmartPay's customers over a period of 10 years, so building a replacement and valuing that replacement is difficult. In calculating the replacement value SmartPay has used a previous, audited internal valuation as a benchmark.

There is also the issue of interest/opportunity cost to the \$2.1m required to build the STANDS Software. SmartPay estimates this to be at another \$1million (assuming an interest/holding cost of \$100,000 per annum).

Given that the bulk of the costs in the replacement value methodology are labour input and software design and

programming, SmartPay considers that the appropriate valuation methodology is the DCF model which, as recorded above, gives an assessed value of \$4,283,881.

### 7.8 Transaction Processing Agreement

Contemporaneously with the purchase of the STANDS Software, STL entered into a Transaction Processing Agreement dated 25 March 2011 pursuant to which it agreed to provide transaction switching / processing services to the relevant members of the SmartPay Group utilising the STANDS Software.

The key terms of the Transaction Processing Agreement are set out below:

#### Term:

The Transaction Processing Agreement will be for an initial term of 10 years with the right for SmartPay to renew for a further term of 10 years.

#### Exclusivity:

The transaction switching / processing rights will be non-exclusive and STL is free to enter into transaction processing agreements with third parties on such terms as it thinks fit.

#### Fees:

Each SmartPay entity will pay STL a fee of 3.11 cents (plus GST) per transaction switched/processed and delivered for such entity (or its customers) using the STANDS Software. The fees are payable quarterly in arrears to STL. The contracted fee of 3.11 cents (plus GST) is essentially the weighted average of the fees paid by the underlying customers to the SmartPay Group.

#### Non-Competition:

The SmartPay Group has agreed not to use any third party transaction delivery / processing software or services where the transaction delivery / processing can be performed by STL using the STANDS Software. In addition, the SmartPay Group has agreed not to alter or adapt the software in any "live" EFTPOS terminal (being a terminal already distributed and in service) for the purpose of re-routing transactions away from the STANDS Software.

#### Upgrades:

The SmartPay Group will be responsible for developing any software upgrades for the STANDS Software at STL's cost and any such upgrades will be the property of STL.

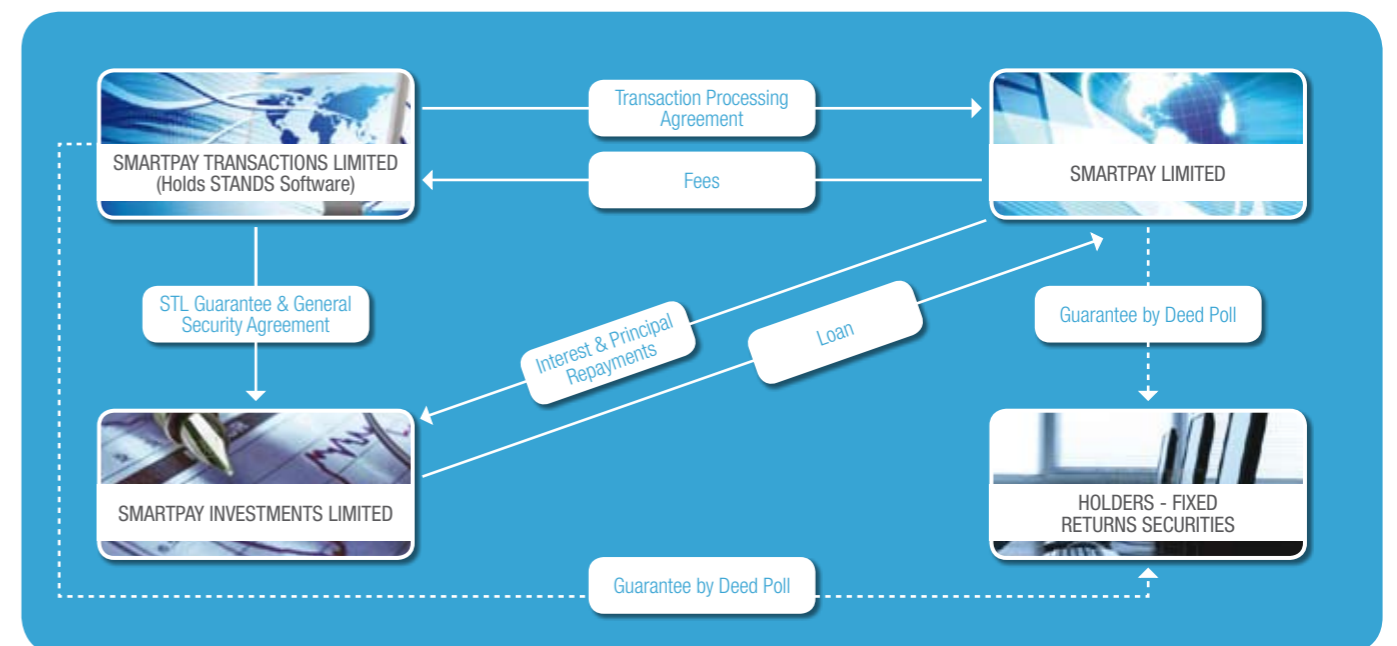
#### Termination:

The Transaction Processing Agreement will automatically terminate upon an event of default under the Loan Agreement and from such time all rights of the SmartPay Group to process / deliver EFTPOS transactions using the STANDS Software shall come to an end.

### 7.9 Access to the Security

There is no security granted directly to the Holders in connection with the Fixed Returns Securities. The Holders have the benefit of the joint and several Guarantee given by SmartPay and STL but the obligations of SmartPay and STL with respect to the Guarantee are unsecured and, therefore, any call by the Holders on the assets of SmartPay or STL under the Guarantee will be subject to any security interests granted by SmartPay or STL (as applicable) over its assets and undertakings. In addition, the Holders will rank equally with other unsecured creditors of SmartPay or STL (as applicable) as regards any claim under the Guarantee.

The security interest granted by STL under the General Security Agreement is granted in favour of the Issuer and secures the performance of STL's obligations under the STL Guarantee, being the guarantee given by STL to the Issuer with respect to SmartPay's obligations under the Loan Agreement. The security interest granted to the Issuer under the General Security Agreement is a first-ranking security interest in all present and after-acquired assets and undertakings of STL. As at the date of this Investment Statement, the only assets of STL are the STANDS Software and the servers on which the STANDS Software is located (refer to Section 5 for information regarding these assets). The guarantees granted in favour of the Holders by STL and SmartPay and the STL Guarantee and General Security Agreement granted in favour of the Issuer are depicted in the diagram below:



The Constitution of the Issuer provides that immediately following an event of default under the Loan Agreement the Board of the Issuer is to immediately take all steps necessary to enforce its rights under the General Security Agreement and to appoint a receiver to STL. The funds realised by the receiver from selling the assets of STL (being the STANDS Software and the servers on which the STANDS Software are located) or operating the business of STL, in each case net of all associated costs and expenses and the fees of the receiver, will be remitted to the Issuer in the normal course of the receivership and will be available to meet the obligations of the Issuer to the Holders with respect to the Fixed Returns Securities.

## section 8

# terms of guarantee

The terms of the Guarantee are contained in a deed poll guarantee made by each of SmartPay and STL in favour of each Holder of Fixed Returns Securities. Set out below are the provisions of the deed poll guarantee.

## 1 Definitions

**Definitions:** In this deed poll:

**“Business Day”** means any day (other than a Saturday or Sunday) on which banks are open for the transaction of general banking business in Auckland and Wellington;

**“Extraordinary Resolution”** has the meaning given to it in the Terms;

**“Fixed Returns Security”** means a redeemable preference share in the capital of the Issuer which is issued on the Terms;

**“Guaranteed Moneys”** means, in respect of a Holder, all debts and monetary liabilities of the Issuer to that Holder in connection with the Fixed Returns Securities;

**“Guarantor”** means each of SmartPay Limited (company number 304625) and SmartPay Transactions Limited (company number 3262008), acting jointly and severally;

**“Holder”** means, at any time, a person who is recorded in the Register as a holder of a Fixed Returns Security at that time other than the Guarantor or any Subsidiary of the Guarantor;

**“Issuer”** means SmartPay Investments Limited (company number 3261869);

**“NZDX”** means the New Zealand market for debt securities operated by NZX Limited;

**“Offer Documents”** means the prospectus and the investment statement, each dated on or about the date of this deed, relating to the Fixed Returns Securities;

**“Register”** means the Issuer’s register of members in respect of the Fixed Returns Securities;

**“Registrar”** means, at any time, the person who at that time maintains the Register on behalf of the Issuer, being as at the date of this deed poll Computershare Investor Services Limited of Level 2, 159 Hurstmere Road, Takapuna, North Shore City, New Zealand;

**“Settlement System”** means the Clearing House, the Depository, and the facilities and systems used by CHO (New Zealand Clearing Limited), or CDO (New Zealand Depository Limited) to effect the clearing and settlement of transactions, including the Clearing House System and the Depository System;

**“Statement”** means a statement issued via the Settlement System;

**“Subsidiary”** means a subsidiary as defined in section 5 of the Companies Act 1993;

**“Terms”** means the terms and conditions of the Fixed Returns Securities as set out in clause 6 of the constitution of the Issuer.

## 2 Guarantee and Ranking

- a. The Guarantor unconditionally and irrevocably guarantees to each Holder the due and punctual payment of the Guaranteed Moneys to that Holder.
- b. The Guarantor confirms that any Guaranteed Moneys owing by the Guarantor rank pari passu with all other unsecured and unsubordinated obligations of the Guarantor other than obligations mandatorily preferred by law.

## 3 Payment

- a. If the Guaranteed Moneys are not paid when due, the Guarantor must immediately on demand from a Holder which complies with sub-clause (b) below pay to that Holder the Guaranteed Moneys in New Zealand dollars.
- b. A demand under sub-clause (a) above must, unless the Guarantor otherwise agrees in writing, be accompanied by a duly executed transfer form in respect of the Fixed Returns Securities to which the demand relates, and may be made at any time and from time to time.

## 4 Payments and Representations

- a. **Payments:**  
The Guarantor may make payment of the Guaranteed Moneys to a Holder who has made a demand in accordance with clause 3:
  - i. By cheque sent by post to the address of the Holder as shown in the Register, or the case of joint Holders, to the address shown in the Register as the address of the joint Holder named in the Register; or
  - ii. Into the bank account of the Holder as shown in the Register,  
and posting to such address or payment into such account shall discharge absolutely the obligation of the Guarantor under this deed poll to that Holder.
- b. **Representations:**  
Each Holder shall be deemed to have represented and warranted in favour of the Guarantor on the date of any demand made by that Holder pursuant to this deed poll and the date on which the Holder’s Fixed Returns Securities are transferred to the Guarantor that it is the legal and beneficial owner of all of the Fixed Returns Securities registered in that Holder’s name in the Register.

## 5 Continuing Obligations

The guarantee contained in this deed is a continuing obligation of the Guarantor, despite any settlement of account or the occurrence of any other thing and remains in full force and effect until all Guaranteed Moneys have been paid in full.

## 6 Unconditional Obligations

The obligations of the Guarantor under this deed poll are principal obligations and are not released, discharged, or otherwise affected by anything which but for this provision might have that effect.

## 7 Joint and Several Guarantee

If there is more than one person named as Guarantor in this deed, the term “Guarantor” means and refers to each of them individually and all of them together unless the context otherwise requires, and the obligations and agreements on the part of the Guarantor contained in this deed binds them jointly and severally.

## 8 Holder May Enforce

Each Holder may enforce this Deed against a Guarantor without first taking any steps or proceedings, or exercising any right which the Holder may have, under or in respect of the Fixed Returns Securities or the Terms.

## 9 Reinstatement

If any payment received or recovered by any Holder under this deed is avoided by, or is required to be repaid under, any applicable law then:

- a. That payment will be deemed not to have discharged or affected the liability or obligations in respect of which that payment was made; and
- b. The Holder and the Guarantor will, to the maximum extent permitted by law, be deemed to be returned to the position in which each would have been, and will be entitled to exercise all rights which each would have had, if that payment had not been received or recovered.

## 10 Representations and Warranties

Each Guarantor represents and warrants to the Holders that, as at the date of this deed:

- a. It is duly incorporated with limited liability and validly existing under the laws of New Zealand;
- b. Neither the signing and delivery of this deed nor the performance of any of the obligations contemplated in it will:

- i. Contravene or constitute a default under any provision contained in any agreement, instrument, law, judgment, order, licence, permit, or consent by which it, or any of its assets, is bound or affected; or
- ii. Cause any limitation on it or the power of its directors (whether imposed by or contained in any document which contains or establishes its constitution or in any law, order, judgment, agreement, instrument, or otherwise) to be exceeded;
- c. This deed constitutes its legal, valid, binding, and enforceable obligations; and
- d. No governmental consent or approval and no registration of this deed is required by applicable law to ensure the validity or enforceability in New Zealand of the liabilities and obligations of it, or the rights of the Holders under this deed.

## 11 General

- a. **Notices:**
  - i. Any notice or other communication by a Holder to the Guarantor under this deed must be in legible writing and in English and sent to the Registrar.
  - ii. Any notice or other communication by the Guarantor to a Holder in respect of this deed must be in legible writing and in English and sent to the address of that Holder recorded in the Register on the date which is 10 Business Days prior to the date of such notice or communication. In the case of joint Holders, a notice given to the Holder whose name stands first in the Register shall be deemed to have been given to all joint Holders.
- b. **Amendments:**  
This deed may be amended with the approval of the Holders of Fixed Returns Securities by Extraordinary Resolution. Any such amendment will be binding on the Guarantor and each Holder.
- c. **Governing Law and Jurisdiction:**
  - i. This deed is governed by the laws of New Zealand.
  - ii. The Guarantor submits to the exclusive jurisdiction of the courts of New Zealand in respect of all disputes regarding this deed.
- d. **Certificate Conclusive:**  
Any certificate setting out the names, addresses, and/or bank accounts of Holders given by the Registrar to the Guarantor is conclusive of those matters and the Guarantor is entitled to rely on the certificate without any further enquiry on its part.



section 9

## answers to important questions

### 9.1 What sort of Investment is this?

The securities offered are Fixed Returns Securities which are redeemable preference shares in SmartPay Investments Limited. The principal terms of the Fixed Returns Securities are set out in the Constitution of the Issuer, a copy of which can be obtained in the manner set out under the heading “What other Information can I obtain about this Investment?” on page 43.

### Dividends

Except in respect of the first Dividend Period, Dividend income is payable to Holders as at the Record Date immediately preceding the relevant Dividend Payment Date, in equal quarterly instalments in arrears on 31 March, 30 June, 30 September and 31 December of each calendar year (or, if that day is not a Business Day, on the next Business Day).

The first Dividend Payment Date is 30 September 2011. The Dividend Amount payable with respect to the first Dividend Period shall be paid to the initial subscriber regardless of whether or not they dispose of the Fixed Returns Securities before the first Dividend Payment Date. The first Dividend Amount shall be for the period from (and including) the Issue Date through to (but excluding) the first Dividend Payment Date.

The payment of Dividends is subject to the Issuer receiving the full interest payments from SmartPay under the Loan Agreement and the Issuer satisfying the requirements of the Companies Act with respect to the payment of dividends. The timing and quantum of interest payments and principal repayments to be made by SmartPay to the Issuer under the Loan Agreement are matched to the Issuer’s obligations with respect to the payment of Dividends and redemption of the Fixed Returns Securities.

The Issuer intends to pay a fully imputed, fixed rate, dividend quarterly in arrears on the Fixed Returns Securities. The gross (i.e. including Imputation Credits) Dividend Rate is set at 10% per annum. The Dividend payable on each Fixed Returns Security is calculated in accordance with the following formulae:

- a. in respect of the first Dividend Period:  

$$\text{Issue Price} \times \text{Dividend Rate} \times A/365 \times (1-t)$$
- b. in respect of a Dividend Period other than the first Dividend Period:  

$$\frac{\text{Issue Price} \times \text{Dividend Rate}}{4} \times (1-t)$$

Where:

“t” is the weighted average basic rate of New Zealand income tax applicable to the Issuer during the period ending on the relevant Dividend Payment Date; and

“A” is the number of days from (and including) the Issue Date to (but excluding) 30 September 2011.

The Issuer may make any deduction or withholding on account of tax or on any other account from Dividend payments which the Issuer is required by law to make. The Issuer is not required to make any additional payment to Holders as a consequence of making any deduction or withholding on account of tax or on any other account from Dividend payments. Deductions of non-resident or resident withholding tax will be made at the maximum rates from time to time applicable unless the person entitled to the sum provides evidence satisfactory to the Issuer or the Registrar that a lesser rate is applicable.

All sums payable by the Issuer in respect of Fixed Returns Securities may be paid:

- a. **Cheque:**  
By cheque crossed “not transferrable”, sent through the post to the registered address of the relevant Holder; or
- b. **Direct Credit:**  
By direct bank credit to such bank account in New Zealand as the Holder or joint Holders may in writing direct prior to the relevant Record Date.

If several persons are entered in the Register as joint Holders then the payment to any one of such persons of amounts payable in respect of those Fixed Returns Securities shall be an effective discharge of the Issuer’s obligations (to the extent of such payment) as if the payee was the sole Holder.

### Fixed Term

The Fixed Returns Securities are redeemable in full on the Redemption Date. Redemption is subject to the Issuer having sufficient profits, proceeds from the repayment of the Loan by SmartPay, or proceeds of a new issue of shares made for the purposes of the redemption.

The Issuer shall have the right to redeem (in whole or in part) the Fixed Returns Securities at any time prior to the Redemption Date by providing at least 45 days’ notice to the holders of Fixed Returns Securities. Any full or partial early redemption shall take place on a Dividend Payment Date (or, if the relevant Dividend Payment Date is not a Business Day, on the next following Business Day).



## section 9

# answers to important questions (continued)

Fixed Returns Securities shall be redeemed prior to the Redemption Date in an Event of Default. The following are Events of Default under the Constitution which will trigger a requirement for the Issuer to redeem all of the Fixed Returns Securities in full:

**a. Non-Payment of Redemption Amount:**

The Issuer fails to pay any part of the Redemption Amount of any Fixed Returns Security on its due date (or within two Business Days after its due date where non-payment on its due date has arisen solely by reason of a technical, computer, or similar error outside the control of the Issuer); or

**b. Non-Payment of Dividend:**

The Issuer fails to pay any Dividend or other amount due and payable on a Fixed Returns Security (other than payment of the kind referred to at (a) above) within ten Business Days after its due date; or

**c. Cessation of Business or Dissolution:**

The Issuer, SmartPay, or SmartPay Transactions Limited (“STL”) ceases to carry on all or substantially all of its business or operations, or an application or an order is made, or a resolution is passed, for the dissolution of the Issuer, SmartPay, or STL except, in each case for the purpose of, and followed by, an amalgamation or solvent reconstruction; or

**d. Receiver etc:**

An encumbrancer takes possession, or a trustee, receiver, receiver and manager, administrator, inspector under any companies or securities legislation, or similar official, is appointed in respect of the Issuer, SmartPay, STL or the whole or any material part of their respective assets; or

**e. Statutory Management:**

A statutory manager is appointed, or any recommendation in that regard is made by the Securities Commission under the Corporations (Investigation and Management) Act 1989 in respect of the Issuer, SmartPay, or STL or any of them is declared at risk pursuant to the provisions of that Act; or

**f. Insolvency:**

The Issuer, SmartPay, or STL has a liquidator appointed (other than for the purpose of, and followed by, an amalgamation or solvent reconstruction) or is declared or becomes insolvent, is unable to pay its debts when they

fall due, or enters into dealings with, or for the benefit of, its creditors with a view to avoiding, or in expectation of, insolvency, or makes a general assignment or an arrangement, compromise, or composition with or for the benefit of its creditors; or

**g. Loan Agreement:**

SmartPay fails to make any payment due to the Issuer under the Loan Agreement within ten Business Days after its due date;

**h. SmartPay Group:**

The Issuer ceases to be a wholly-owned Subsidiary of SmartPay or a member of the SmartPay Group.

Other than the circumstances outlined above, holders of Fixed Returns Securities shall have no right to request for early redemption.

### Voting

Holders of Fixed Returns Securities have no rights to receive notice of, attend, participate in or vote at meetings of shareholders of the Issuer, except in respect of:

- Matters which relate to the rights, privileges, limitations and conditions attaching to the Fixed Returns Securities;
- Matters relating to the commencement of the liquidation of the Issuer in certain circumstances; and
- Matters relating to the Loan Agreement, the General Security Agreement, and the STL Guarantee in certain circumstances,

as each of these is set out in more detail in the Constitution of the Issuer.

The Board may at any time convene a meeting of Holders to consider such matters as it thinks fit. The Board shall convene a meeting of Holders if requested in writing by Holder(s) holding not less than 10% of the Fixed Returns Securities then in issue.

### Rights in Liquidation

On a liquidation of the Issuer, a Holder will have a right to participate in all of the surplus assets of the Issuer after all creditors of the Issuer have been repaid, in priority to, and to the exclusion of, the holders of other classes of shares of the Issuer (including any

ordinary shares), other than shares expressed to rank equally in a liquidation of the Issuer with the claims of Holders, but the Holders shall only participate in surplus assets up to an amount equal to the Redemption Amount of all Fixed Returns Securities plus any declared but unpaid Dividends.

### Transfer

The Fixed Returns Securities are transferable to other persons without restriction, subject only to compliance with relevant laws, applicable Listing Rules, the existence and continuation of an active trading market and the Constitution. The Constitution provides that subject to section 84 of the Companies Act (which imposes certain procedural requirements on a board), the Directors may refuse to register a transfer of any Fixed Returns Security if:

- The Issuer has a lien on the Fixed Returns Security;
- Registration of the transfer (together with registration of any further transfer or transfers then held by the Issuer and awaiting registration) would result in less than 5,000 Fixed Returns Securities standing in the name of either the transferor or the transferee, provided that this will not prevent a Holder transferring all of his, her or its Fixed Returns Securities and thereby ceasing to be a Holder;
- The transferee fails to produce such evidence as the Issuer or the Registrar may reasonably require to determine whether, if such transfer was registered, it would result in any Holder (after applying section HM 15 of the Tax Act) exceeding the Investor Interest Size Limits (refer below); or
- Registration of the transfer (together with registration of any further transfer or transfers then held by the Issuer and awaiting registration) would result in any Holder (after applying section HM 15 of the Tax Act) exceeding the Investor Interest Size Limits (refer below),

provided that the Directors resolve to exercise their power under this clause within 30 Business Days after receipt of the relevant transfer and notice of the resolution is sent to the transferor and to the transferee within five Business Days of the resolution being passed by the Directors.

In order for the Issuer to retain its PIE status and qualify as a Listed PIE it is important to ensure that the Investor Interest Size Limits are not breached. In essence this means that no person (except

for persons who are referred to in section HM 21(3) of the Tax Act, essentially PIEs, certain “PIE-like” entities and certain New Zealand government or quasi-government funds (“Specified Person”)) may hold more than 20% of the Fixed Returns Securities, and no Specified Person may hold 40% or more of the Fixed Return Securities. For these purposes, if a person holds 5% or more of the Fixed Returns Securities, the person’s shareholding includes shares that are held by Associates (as defined in section YB 1 of the Tax Act) who hold 5% or more of the Fixed Returns Securities.

### Issue of Further Tranches

The Issuer may issue further redeemable preference shares which rank equally with the Fixed Returns Securities on the same terms and conditions as the Fixed Returns Securities (subject to the Listed PIE status of SIL being maintained). Such an issue is deemed not to be an action affecting the rights attaching to the Fixed Returns Securities and shall give no rights to Holders to participate in the issue of any such further redeemable preference shares.

### Limitations on business

In accordance with the Constitution of the Issuer the only business or activity which the Issuer may carry on is to:

- Issue and maintain in existence redeemable preference shares (including the Fixed Returns Securities), including listing (and maintaining a listing of) those shares on any stock or securities exchange in New Zealand or elsewhere;
- Issue additional ordinary shares to SmartPay for the purpose of funding the ongoing expenses incurred by the Issuer in connection with the issue of, and maintaining the issue of, redeemable preference shares;
- Advance the proceeds of redeemable preference shares to SmartPay, or a Related Company of SmartPay pursuant to one or more loan agreements;
- Enter into the Administration Agreement, the Loan Agreement, the STL Guarantee and the General Security Agreement (and any other administration agreements, loan agreements, guarantee agreements and / or general security agreements in connection with the issue of redeemable preference shares);
- Enforce and / or exercise its rights under the agreements referred to at (d) above;

## section 9

# answers to important questions (continued)

- f. Do all other things reasonably incidental to the activities referred to in paragraphs (a) to (e) above and the Constitution.

The Issuer has no power to:

- g. Carry on any other business or activity; or
- h. Apply amounts received by way of interest on, or repayment of, the loans referred to in paragraph (c) for any purpose other than in payments to the Holders of the redeemable preference shares (including Fixed Returns Securities), meeting costs and expenses incurred in connection with the issuance and maintenance in existence of redeemable preference shares and making income and other tax payments to the New Zealand Inland Revenue Department.

The provisions of the Constitution (as outlined above) may only be altered with the approval of Holders by Extraordinary Resolution.

The above is a simplified and general description of some of the rights and obligations of Holders. The full terms of the Fixed Returns Securities are set out in clause 6 of the Constitution of the Issuer.

## 9.2 Who is involved in providing it for me?

The Issuer of the Fixed Returns Securities is SmartPay Investments Limited. The address of the Issuer is:

**SmartPay Investments Limited**  
182-190 Wairau Road, Glenfield  
North Shore City 0627

The directors of the Issuer and their addresses are:

**Ian Charles Bailey** (Managing Director)  
3 Minnehaha Avenue, Takapuna, Auckland

**Gregor John Barclay**  
31B Aldred Road, Remuera, Auckland

**John Albert Nimmo** (Independent Director)  
7 Ballin Street, Ellerslie, Auckland

**Wayne Noel Johnson** (Chairman and Independent Director)  
2/19 Somerset Street, Mosman, NSW 2088, Australia

SmartPay and each of its directors are promoters of the Fixed Returns Securities offered under the Offer. The registered office of SmartPay is:

**SmartPay Limited**  
182-190 Wairau Road, Glenfield  
North Shore City 0627

The directors of SmartPay are the same as the directors of the Issuer (the contact details for whom are set out above).

### Activities

The principal activities carried on by the Issuer are those of issuing the Fixed Returns Securities under the Offer, making loans to SmartPay from the proceeds of the issue of Fixed Returns Securities, receiving interest on, or repayment of, the loans, paying dividends to holders of the Fixed Returns Securities, paying costs and expenses in connection with the issue of the Fixed Returns Securities, paying other operating expenses and income and other tax payments, holding associated assets, such as cash balances with SmartPay and current tax, and activities related to securing and maintaining status as a Listed PIE. The Issuer has not carried on any business or activity other than activities in relation to this Offer as outlined in this Investment Statement since its incorporation. SmartPay Limited and SmartPay Transactions Limited have given a joint and several unsecured guarantee in respect of the obligations of the Issuer. The full terms of this guarantee are set out in Section 8.

## 9.3 How much do I pay?

### Applications

Applications for Fixed Returns Securities must be made on the Application Form contained in Section 12 of this Investment Statement. Applications for Fixed Returns Securities must be received by the Issuer by the Closing Date. The Issue Price for the Fixed Returns Securities is \$1.00 per Fixed Returns Security, which must be paid in full by applicants at the time of application. Payments and applications are to be sent to Computershare Investor Services Limited:

**By post:**  
Computershare Investor Services Limited  
Private Bag 92119, Auckland Mail Centre, Auckland 1142

**By hand:**  
Computershare Investor Services Limited  
Level 2, 159 Hurstmere Road, Takapuna, North Shore City 0622.

Applications for Fixed Returns Securities may also be lodged with any Primary Market Participant or any other channel approved by NZX. Applications must be sent or delivered in time to enable the application to be forwarded to Computershare Investor Services Limited for receipt prior to the Closing Date.

### Minimum and Maximum Application Amounts

Applications must be for a minimum amount of 5,000 Fixed Returns Securities (\$5,000) and thereafter in increments of 100 Fixed Returns Securities (\$100).

The maximum number of Fixed Returns Securities that applicants can apply for is limited by the Investor Interest Size Limits so as to ensure that SIL can obtain and retain PIE status and qualify as a Listed PIE.

Accordingly, no person (except for persons who are referred to in section HM 21(3) of the Tax Act, essentially PIEs, certain "PIE-like" entities and certain New Zealand government or quasi-government funds ("Specified Persons")) may subscribe for, or hold, more than 20% of the Fixed Returns Securities that are issued, and no Specified Person may subscribe for, or hold, 40% or more of the Fixed Returns Securities that are issued. For these purposes, if an applicant's subscribed amount, or holding of Fixed Returns Securities, is or would be 5% or more of the Fixed Returns Securities that are issued, the person's shareholding includes shares that are held by Associates (as defined in Section YB 1 of the Tax Act) who subscribe for, or hold, 5% or more of the Fixed Returns Securities that are issued.

## 9.4 What are the Charges?

Investors are not required to pay any charges to the Issuer or the Registrar in relation to the Offer.

All expenses and brokerage fees in respect of the initial application for Fixed Returns Securities by applicants will be paid by SmartPay. SmartPay will pay brokerage or charges that it agrees with the Arranger or Primary Market Participants, but will not pay brokerage or charges the Arranger or Primary Market Participants may, in addition, charge their clients.

SmartPay has agreed to pay a retainer of \$30,000 to the Arranger in connection with the Offer and has agreed to pay the Arranger a fee of 2.5% of all funds raised under the Offer. In addition, SmartPay proposes to pay brokerage at the rate of 2% of the

face value of the Fixed Returns Securities to brokers and financial planners on the issue of Fixed Returns Securities to applicants referred to the Issuer by those brokers and financial planners.

A fee or commission may be charged if Fixed Returns Securities are purchased or sold on the secondary market. Neither the Issuer nor SmartPay takes any responsibility for the pricing actions of secondary market participants (including any financial adviser through whom a Holder may purchase or sell Fixed Returns Securities), and any fee or commission is to be directly negotiated between the Holder and the relevant secondary market participant.

## 9.5 What returns will I get?

### Returns

Holders will receive Dividends paid by the Issuer as outlined in paragraph 9.1 above under the heading "Dividends". Holders may also benefit from an increase (if any) in the market price of their Fixed Returns Securities if they sell them. The market price of Fixed Returns Securities may also decline, and Holders may receive less than the Issue Price they paid for their Fixed Returns Securities.

The return to Holders will be a combination of:

- Dividends paid on the Fixed Returns Securities;
- The price the Holder receives if the Holder chooses to sell the Holder's Fixed Returns Securities; or
- In the event of the liquidation of the Issuer, amounts which may be paid out of the surplus assets of the Issuer after all creditors of the Issuer have been repaid.

The payment of Dividends is subject to the Issuer receiving the full interest payments from SmartPay under the Loan Agreement and the Issuer satisfying the requirements of the Companies Act with respect to the payment of dividends and, accordingly, it is not possible to quantify at the date of this Investment Statement the exact amount of returns Holders will receive and, therefore, no specific return is promised to, or enforceable by, subscribers. If Dividends on the Fixed Returns Securities are paid, they will be paid in arrears on 31 March, 30 June, 30 September and 31 December of each calendar year (or, if that day is not a Business Day, on the next Business Day). The first Dividend Payment Date is 30 September 2011. The Issuer is the person legally liable to pay any Dividends on the Fixed Returns Securities.

## section 9

# answers to important questions (continued)

The Issuer will be taxed on any income it receives at the corporate tax rate. To the extent tax is paid, Imputation Credits will be attached to Dividends paid to Holders. Wherever possible, the Dividends paid by the Issuer will be fully imputed (that is, Imputation Credits will be validly attached to the Dividends so that the imputation ratio of the Dividend is the maximum imputation ratio permitted by law). In addition, in some cases gains on the sale of Fixed Returns Securities may be taxable to investors. Further information relating to tax is set out in Section 6. Investors should obtain their own tax advice regarding this Offer, and in respect of subscribing for, and holding, Fixed Returns Securities.

## Guarantee of Fixed Returns Securities

The payment obligations of the Issuer in connection with Fixed Returns Securities are guaranteed by SmartPay Limited and SmartPay Transactions Limited on a joint and several basis. The obligations of each of SmartPay and STL with respect to the Guarantee are unlimited and their obligations under the Guarantee are unconditional. Each of SmartPay and STL are related companies of the Issuer as SmartPay is the holding company of the Issuer and STL is a subsidiary of SmartPay.

The obligations of SmartPay and STL under the Guarantee are unsecured.

The full terms of the Guarantee are set out in Section 8.

## 9.6 What are my risks?

### Risks

There are a number of risks associated with an investment in the Fixed Returns Securities which may affect a Holder's ability to receive the returns described above (Section 9.5 "What returns will I get?") and / or recover the amount invested in the Fixed Returns Securities. Some of the risks are associated with the terms and conditions of the Fixed Returns Securities and other risks relate to the creditworthiness and profitability of SmartPay, the Issuer and the SmartPay Group. These risks include the risks summarised below:

The following are seen as risk factors for investors as subscribers for Fixed Returns Securities:

- The investor may not receive timely, or any, Dividend payments on the Fixed Returns Securities; or
- Investors may not recoup all or any of their initial investment.

These circumstances could arise for a number of reasons including if:

- The price at which investors are able to sell their Fixed Returns Securities is less than the price they have paid for them due to interest rate movements, market perception that the Dividends paid no longer accurately reflects the risk of investing in the Issuer or other reasons;
- Investors are unable to sell their Fixed Returns Securities because of a lack of demand;
- SmartPay or the Issuer became insolvent or otherwise are unable to pay their debts;
- The financial or operational performance of SmartPay and/or the Issuer is worse than expected;
- The Issuer is not able to redeem the Fixed Returns Securities on the Redemption Date;
- The Fixed Returns Securities are redeemed before 30 September 2014; and/or
- There is a change in company tax rates or individual income tax rates.

The ability of the Issuer to make ongoing quarterly payments of Dividends and repay the Redemption Amount on the Redemption Date of the Fixed Returns Securities is dependent on the general financial well-being of the SmartPay Group and its business. The Issuer's sources of income are the interest on the loan to SmartPay, being the parent company of the SmartPay Group.

There are several risk factors associated with the financial well-being of the SmartPay Group and its business, namely:

### General Risks

- General Risks:** General market and business risk results from the fact that there are economic or worldwide phenomena, which threaten all businesses. Certain risks will affect most, if not all, businesses. Fluctuations in global interest rates, exchange rates, world economic growth, and changes in commodity prices are all examples of general market risks which would impact both the financial markets as well as businesses operating in the "real" economy.

The economic uncertainties facing the global economy as well as domestic influences may affect the sector the SmartPay Group operates in in a manner or to an extent which has not been foreseen by the SmartPay Group. For instance, deterioration in the New Zealand economy may affect the payments to be received by the SmartPay Group for the sale or rental of its products and services. In addition, a worsening economy may mean that the SmartPay Group may have to reduce pricing on its products and/or services with corresponding lesser margins resulting in SmartPay being unable to pay interest or make principal repayments to the Issuer under the Loan Agreement.

Adverse effects being experienced in the global economy arising out of events in the credit markets and financial services industry have impacted the global trading environment and also resulted in a global liquidity crisis. As with other businesses, a continuation of the credit and liquidity crisis could impact the business of the SmartPay Group. The scope of the current global liquidity crisis cannot be predicted and it is not possible to assess with any certainty any additional impact that the crisis has on the funding, operations and activities of the SmartPay Group. A sustained continuation and/or escalation of the current global liquidity crisis could adversely impact the business and operations of the SmartPay Group.

- Interest Rate Risks:** Any potential increase in interest rates may have an adverse impact on SmartPay's financial position in that it may reduce the demand for SmartPay's product and service offerings as the economy slows down as a result of interest rate pressures. In addition, the SmartPay Group is exposed to movements in interest rates where funds are borrowed at a floating interest rate and where fixed rate debt is being refinanced. SmartPay Group is a significant user of debt which increases the sensitivity of interest rate movements on its cash flows and net earnings position.
- Competition Risks:** SmartPay Group operates in the telecommunications industry. There are a number of telecommunications companies with significant technological know-how and financial resources. If one or more of these companies begins to compete directly with

the SmartPay Group in its core product and service offerings, the SmartPay Group's revenue, margins and profitability may be adversely impacted. This in turn would adversely impact on SmartPay's ability to make the contracted interest and principal repayments to the Issuer under the Loan Agreement.

- Taxation:**

Any change to tax law or the rate of company income tax has the potential to affect Holders' returns under the Fixed Returns Securities. Changes to tax law or the rates of income tax applying to individuals and/or trusts similarly will impact after-tax Holder returns.

### Company-Specific Risks

- Growth Strategy:** The future profitability of the SmartPay Group will depend largely on its ability to continue to provide ongoing service and support to its customers and to re-sign customers as their current subscription agreements expire. If the projected take up of the product and service offering is not achieved then the SmartPay Group may not be able to meet its overall growth targets which could, in turn, adversely affect the profitability of SmartPay and the SmartPay Group. The SmartPay Group's sales team has a programme of targeting existing customers prior to expiry of their current contract in order to maximise the success of re-signs. In addition, the sales team is constantly targeting new SME and corporate customers to grow the customer base. In order to further drive sales the SmartPay Group is constantly developing innovative and unique service offerings to differentiate itself from its competitors.
- Mobile Top-Up:** SmartPay Group currently deals with both Telecom and Vodafone for the supply of mobile pre-pay "top up PINS" for on-sale to its merchant base. In the event that SmartPay Group ceases to deal with either or both of these suppliers or their terms of trade vary materially, there will be material variations to the level of revenue generated by SmartPay Group with a possible adverse impact on its operating margins and level of profitability. This, in turn, could adversely impact the ability of SmartPay Group to make the contracted interest and principal repayments to the Issuer under the Loan Agreement.

## section 9

# answers to important questions (continued)

The mobile top up market is competitive with relatively tight margins that are subject to regular review and negotiation with the major suppliers.

**c. Industry Risks / Ongoing Product Development:**

The SmartPay Group provides integrated electronic services to a wide range of merchants and retailers and also operates in the telecommunication backroom support services sector. The industries in which the SmartPay Group operates are constantly evolving with the development and introduction of new technology and the introduction of new applications of existing technologies. In these sectors the SmartPay Group faces possible competition from other companies offering competing products and services but may also be affected by any downturn in demand for such products and services generally. If new or cheaper merchant payment technology support solutions are developed by SmartPay's competitors, there is a risk that the products and services developed by the SmartPay Group may become obsolescent. Increased competition in the merchant payment technology solutions market may develop, resulting in a negative impact on profit margins.

The SmartPay Group is constantly seeking ways to improve its product offering to mitigate risk from competition and obsolescence.

**d. Software Failure Risk:**

The SmartPay Group may not achieve projected sales targets due to software failure that cannot be resolved in a timely fashion due to circumstances and/or changes outside the control of the SmartPay Group or issues in relation to quality of the manufactured product which may occur due to manufacturing and/or design requiring a recall and/or redesign of product. A major product recall could cost a significant amount of money and could lead to negative publicity resulting in a loss of existing and/or prospective customers and an adverse impact on future sales.

**e. STANDS Risk**

The Issuer holds a first-ranking general security interest over the present and after-acquired assets of STL. As at the date of this investment statement the only assets of STL are the STANDS Software and the servers on which the STANDS Software is located. The STANDS Software was

acquired by STL for \$4,283,881 from Software International Limited on 25 March 2011. The purchase price was left outstanding as an unsecured intercompany debt owing from STL to Software International Limited. The value of the security over the STANDS Software is not so much in the value of the physical asset and resale value of the software itself, but rather in the fact that certain services provided via the relevant EFTPOS terminals are linked to the STANDS Software and rely on continued access to the STANDS Software to operate in the manner in which they currently operate. The value of this security and the amount of money that may be realised by the Issuer if it exercises its rights with respect to this security will depend on a number of factors including:

- i. The number of EFTPOS terminals linked to the STANDS Software and the number of transactions switched / routed using the STANDS Software at the time of enforcing the security;
- ii. The ease with which the transactions switched / routed using the STANDS Software can be routed through and delivered by an alternative switch and / or using alternative software over which the Issuer does not hold security;
- iii. The number of third parties who have been granted rights to use the STANDS Software and the terms of such arrangements, in particular any escrow arrangements entered into with respect to the STANDS Software. Under the terms of the General Security Agreement STL is permitted to enter into escrow agreements with customers and escrow agents with respect to all or part of the STANDS Software pursuant to which the STANDS Software (or the relevant part thereof) will be placed with an escrow agent, provided that under the terms of any such agreement the escrowed materials will only be released to the customer if STL or the relevant member of the SmartPay Group suffers an insolvency event and STL or the relevant member of the SmartPay Group (or a receiver appointed with respect to STL or the relevant member of the SmartPay Group) fails to provide the contracted transaction processing services for a period of three days or more following the occurrence of the insolvency

event. As at the date of this investment statement the only escrow arrangements in place with respect to the STANDS Software are those relating to TaxiCharge New Zealand Limited as described on page 25;

- iv. Whether SmartPay can successfully negotiate an amendment to the existing escrow agreement with TaxiCharge New Zealand Limited in the manner stated on page 25. If SmartPay is unable to negotiate an amendment the terms of the existing escrow agreement will prevail which provide for the escrowed software to be released to TaxiCharge New Zealand Limited upon an insolvency event occurring. The transaction processing fees received from TaxiCharge New Zealand Limited account for approximately 9% of the projected fee revenue used to value the STANDS Software for the purposes of the transfer from Software International Limited to STL (refer to page 26); and
  - v. The STANDS Software remaining current and up-to-date and not being made obsolescent as a result of technological advances (whether developed by the SmartPay Group or third parties).
- f. Customer Credit Risk**
- The SmartPay Group is party to rental or subscription contracts with merchants and retailers for a range of products and services provided by the SmartPay Group. In the event of wide-spread default by merchants and retailers under these contracts, SmartPay's financial position would deteriorate due to an increase of bad debts or recourse back to the SmartPay Group arising from these defaults. To a certain extent these risks are minimised by the SmartPay Group entering into rental or subscription agreements with a wide range of merchants and retailers throughout New Zealand.
- g. Refinancing of existing interest-bearing liabilities**
- The SmartPay Group has relatively high levels of debt and there is a risk that the SmartPay Group does not generate sufficient cash to cover the outstanding debt service obligations which may force the SmartPay Group to default on their debt obligations, refinance a portion of their debt or obtain additional funding on terms that are not as favourable. The SmartPay Group has existing interest-

bearing liabilities which will need to be rolled over or refinanced over the next 12 months. Given the uncertainty and volatility in the financial markets there may be a risk that the SmartPay Group may not be able to roll over or refinance these liabilities or such roll-over or refinancing may only be able to be carried out on terms which may be detrimental to SmartPay's financial position. Failure to refinance or roll over existing facilities may result in existing lenders taking enforcement action and exercising rights under securities granted by the SmartPay Group.

**h. Fundamental Uncertainty clause**

There are references to a fundamental uncertainty in the auditors' report (to the audited financial statements of the SmartPay Group for the year ended 31 March 2010) in relation to SmartPay as a going concern (resulting from uncertainty as to SmartPay's ability to refinance \$12.7 million of loans which were due for repayment prior to 31st March 2011). Approximately \$7.7m of the loans referred to related to "corporate debt", being indebtedness secured over the assets and operations of the SmartPay Group whereas the balance was debt which is fully amortised from the future rental stream revenue under discounted subscription agreements.

Since 1 April 2010 SmartPay has repaid approximately \$2m of the "corporate debt" which was due for repayment on or before 31 March 2011. The balance has been refinanced, with approximately \$4.4 million now due for repayment on or before 31 December 2011 and the balance due for repayment in February 2013.

We recommend that you read the auditors' report to the financial statements for the year ended 31 March 2010.

**i. Working Capital Funding**

The SmartPay Group regularly discounts its EFTPOS and other services rental contracts to raise funding for its operational commitments, working capital requirements and to service its interest bearing liabilities. Given the uncertainty and volatility with the financial markets, there may be a risk that the SmartPay Group is unable to discount the necessary number of rental contracts to procure sufficient funds to meet its ongoing commitments. Failure to raise the requisite level of funding in such manner

## section 9

# answers to important questions (continued)

would affect the SmartPay Group's ability to meet its revenue and/or earnings targets as indicated in its public earnings guidance and, if SmartPay is unable to raise funds to meet its operational and interest commitments, may result in lenders taking enforcement action and enforcing rights under securities granted by the SmartPay Group.

SmartPay keeps its contract discounting facilities under constant review and negotiates new facilities and funding limits on an ongoing basis. While SmartPay cannot predict with certainty whether it will secure the requisite facilities and limits going forward, as at the date of this Investment Statement the Board of SmartPay is not aware of any reason (outside of external factors applicable to the economy and financial system in general) which would be likely to materially adversely impact SmartPay's ability to access the requisite funding lines.

As at the date of this Investment Statement the SmartPay Group has indebtedness of approximately \$13 million which is secured against the future revenue streams under customer contracts. This indebtedness is self-funding in that the future revenue from the customer contracts will repay the indebtedness in full over the term of the contracts.

**j. Dependence on Key Personnel**

SmartPay Group relies on its senior management team and several key consultants to implement its growth strategy. The departure of any key personnel may affect or delay the implementation of SmartPay Group's growth strategy and otherwise materially adversely impact on SmartPay Group's performance. SmartPay has taken steps to retain these key personnel through market-driven remuneration packages. In addition, SmartPay Group has initiated a policy of "cross training" or "multi skilling" in a number of its key business units to ensure a smooth succession process in the future.

**k. Regulatory Risk**

As a technology business with operations in New Zealand, SmartPay is exposed to government regulatory policies that could have a direct or indirect bearing on its business operations or product and service offerings. Any unanticipated or sudden changes in the regulatory environment may affect the SmartPay Group's ability to meet its business objectives.

**l. PIE Status**

There is a risk that the after-tax returns for Holders whose marginal income tax rates are greater than the corporate income tax rate, may be reduced if the Issuer does not secure status as a Listed PIE or ceases to be a Listed PIE. In the event that Listed PIE status is not obtained or is lost, all Holders will be taxed at their marginal tax rate, with a credit for any imputation credits attached to Dividends paid.

**m. Capital Risk**

If the Issuer is liquidated, the Issue Price of the Fixed Returns Securities is required to be repaid to Holders by the Issuer, along with any Dividends accrued since the last Dividend Payment Date. The ability of the Issuer to make any such payments in full will depend on SmartPay making payments to the Issuer under the Loan Agreement. Accordingly, there is a risk that a Holder could receive less than the Issue Price of the Fixed Returns Securities on a liquidation of the Issuer.

In the event of a liquidation of the Issuer, the claims of any creditors of the Issuer would rank ahead of the claims of Holders at law (however, other than Inland Revenue Department with respect to any unpaid tax liabilities, it is not anticipated that there will be any creditors of the Issuer). The claims of Holders would rank equally amongst themselves and ahead of the ordinary shareholders of the Issuer.

**n. Supply Chain risk**

As at the date of this Investment Statement, the SmartPay Group relies on two key suppliers for its EFTPOS terminals one of which is based in New Zealand and one of which is in China. There is a significant lead-in time (12 months or more) to introduce new versions of terminal products into the New Zealand market as such new versions of terminals need to go through rigorous certification processes. If for any reason SmartPay could no longer purchase EFTPOS terminals from one or both of its two main suppliers then, in order to ensure continuity for its business, it would either need to re-commence its own manufacturing operations or source certified terminals/products from other suppliers. The SmartPay Group is confident that it would be able to find acceptable replacement suppliers in due course but there may be a risk that the SmartPay Group may not be able to achieve its revenue and earnings targets should there be delays in securing replacement supplies in time to meet customer demand.

## Forward Looking Statements

Certain statements in this Investment Statement constitute forward-looking statements. Such forward-looking statements involve known and unknown risks, uncertainties, and other factors which may cause the actual results, performance, and achievements of the Issuer or the SmartPay Group, or industry results, to be materially different from any projected or anticipated results, performance, or achievements expressed or implied by such forward-looking statements. Factors affecting the performance and financial viability of the Issuer and SmartPay include, among other things, the general economic and business conditions affecting all businesses globally or in New Zealand, as well as those specific factors affecting the industry the SmartPay Group operates in. In addition, there will be company-specific issues affecting the performance and financial well-being of the Issuer and the SmartPay Group as a whole.

Given these uncertainties, prospective investors are cautioned not to place undue reliance on such forward-looking statements and to note the limitations of these forward-looking statements in the manner described above. In addition, under no circumstances should the inclusion of such forward-looking statements in this Investment Statement be regarded as a representation or warranty by the Issuer, SmartPay or any other person with respect to the achievement of the results set out in such statements, or that the underlying assumptions used will in fact be the case. Each of the Issuer and SmartPay disclaims any responsibility to update any such risk factors or publicly announce the result of any revisions to any of the forward-looking statements contained in this Investment Statement to reflect future developments or events, other than where it is required to do so by the Securities Act, the Securities Regulations, or the NZX Listing Rules.

Factors that could cause such differences include, but are not limited to, those discussed in this section.

## Consequences of Insolvency

There is no obligation on Holders to pay further amounts on the insolvency of the Issuer. The Issuer is a limited liability company and, accordingly, Holders are not required to pay money to any person as a result of the insolvency of the Issuer.

On a liquidation of the Issuer, a Holder will have a right to participate in all of the surplus assets of the Issuer after all creditors of the Issuer have been repaid, in priority to, and to the exclusion of,

the holders of other classes of shares of the Issuer (including any ordinary shares), other than shares expressed to rank equally in a liquidation of the Issuer with the claims of Holders.

## 9.7 Can the investment be altered?

The full terms of the Offer are set out in this Investment Statement and in the Prospectus. Those terms and the terms and conditions on which applicants may apply for the Fixed Returns Securities may be altered by an amendment to this Investment Statement and Prospectus by the Issuer. Details of any such amendment to the Prospectus must be filed with the Companies Office. These terms are described under the headings "What sort of investment is this?" and "How much do I pay?" in this section of the Investment Statement.

The rights attaching to the Fixed Returns Securities are governed by the Constitution. The Constitution (and any rights or privileges attaching to Fixed Returns Securities) may only be altered with the approval of:

- the Board;
- a special resolution of the holders of the ordinary shares in the Issuer; and
- an Extraordinary Resolution of the Holders (where the alteration relates to the rights, privileges, limitations and conditions attaching to the Fixed Returns Securities).

Section 117 of the Companies Act restricts the Issuer from taking any action that affects the rights attached to Fixed Returns Securities unless that action has been approved by a Special Resolution of shareholders whose rights are affected by the action. However, the issue of further shares ranking equally with the Fixed Returns Securities on the same terms and conditions as the Fixed Returns Securities (subject to the Listed PIE status of the Issuer being maintained) is deemed not to be an action affecting the rights attaching to the Fixed Returns Securities.

Subject to the below, the terms of the Loan Agreement, the STL Guarantee, the Administration Agreement, and the General Security Agreement may only be altered in accordance with the terms of those documents and with the consent of the Holders by way of Extraordinary Resolution.

In certain circumstances alterations may be made to the terms of the Loan Agreement, the STL Guarantee, the Administration

## section 9

# answers to important questions (continued)

Agreement, and the General Security Agreement without the consent of the Holders. These circumstances are set out in the Constitution and include where the alteration is:

- a. Of a minor, formal, administrative, or technical nature; or
- b. To correct a manifest error; or
- c. To comply with the requirements or a modification of the requirements of any applicable law or of the Listing Rules; or
- d. Necessary for the purpose of obtaining or maintaining a quotation of the Fixed Returns Securities on the NZDX; or
- e. Not, or are not likely to become, materially prejudicial to the interests of Holders generally.

## 9.8 How do I cash in my investment?

### Early Termination

The Fixed Returns Securities have a fixed term. Accordingly, the ways in which a Holder can realise that Holder's investment is to sell the Fixed Returns Securities or the Fixed Returns Securities will be redeemed on the Redemption Date.

Subject to the comments below, the Fixed Returns Securities are tradeable without restriction subject only to compliance with relevant laws, applicable Listing Rules, the Constitution and the existence and continuation of an active trading market.

In order for the Issuer to obtain and retain its PIE status and qualify as a Listed PIE, there are limitations on a person's holding of Fixed Returns Securities, which potentially may affect the tradeability of the Fixed Returns Securities. In particular, no person (except for persons who are referred to in section HM 21(3) of the Tax Act, essentially PIEs, certain "PIE-like" entities and certain New Zealand government or quasi-government funds ("Specified Persons")) may hold more than 20% of the Fixed Returns Securities, and no Specified Person may hold 40% or more of the Fixed Returns Securities. For these purposes, if a person holds 5% or more of the Fixed Returns Securities, the person's shareholding includes shares that are held by Associates (as defined in section YB 1 of the Tax Act) who hold 5% or more of the Fixed Returns Securities.

No charges are payable to the Issuer for any sale of Fixed Returns Securities. However, normal brokerage may be payable by a Holder to the Primary Market Participant acting on the sale.

### Early Redemption

The Issuer has the right to redeem (whether in whole or in part) the Fixed Returns Securities prior to the Redemption Date by providing at least 45 day's notice to the holders of Fixed Returns Securities. Any full or partial early redemption shall take place on a Dividend Payment Date (or, if the relevant Dividend Payment Date is not a Business Day, on the next following Business Day).

### Right to Sell Securities

Application has been made to NZX for permission to list the Fixed Returns Securities. All requirements of NZX relating to the listing that can be complied with on or before the date of this Investment Statement have been duly complied with. However, NZX accepts no responsibility for any statement in this Investment Statement.

As this is the initial issue of Fixed Returns Securities by the Issuer, there is currently no established market for the Fixed Returns Securities. Nevertheless, if the application to list the Fixed Returns Securities on the NZDX is successful the directors of the Issuer are of the opinion that a secondary market for the Fixed Returns Securities may develop over time. However, no assurances can be given that this will occur and a lack of frequent trading may make it difficult for Holders to sell their Fixed Returns Securities if they want to.

## 9.9 Who do I contact with inquiries about my investment?

Questions about an investment in Fixed Returns Securities should be directed to your investment advisor or another financial advisor or broker in the first instance. You can also make enquiries about Fixed Returns Securities direct to any Primary Market Participant, or to the Issuer at the address below.

### SmartPay Investments Limited

182-190 Wairau Road, Glenfield, Auckland 0627  
PO Box 100490, North Shore Mail Centre, Auckland 0745  
**Telephone: 0800 873 863**

## 9.10 Is there anyone to whom I can complain if I have problems with the Investment?

Complaints about the Fixed Returns Securities can be directed to:

### SmartPay Investments Limited

182-190 Wairau Road, Glenfield, Auckland 0627  
PO Box 100490, North Shore Mail Centre, Auckland 0745  
**Telephone: 0800 873 863**

At the date of this Investment Statement there is no ombudsman to whom complaints about the Fixed Returns Securities can be made.

## 9.11 What other information can I obtain about this Investment?

### Prospectus

Other information about the Fixed Returns Securities and the Issuer is contained or referred to in the Prospectus (and in the financial statements of the Issuer once these are produced). Information concerning the SmartPay Group is contained or referred to in the latest annual report and half-yearly unaudited financial statements for the SmartPay Group.

The Prospectus and other documents relating to the Issuer (including the Constitution and the material contracts of the Issuer referred to in the Prospectus) may be inspected without fee during normal business hours at:

### SmartPay Investments Limited

182-190 Wairau Road, Glenfield, Auckland 0627

These documents, together with the financial statements of the Issuer that are registered (from time to time) under the Financial Reporting Act 1993 (along with all documents that are required to be registered with those statements and other documents), are also filed on a public register which may be inspected at the Companies Office, Business and Registries Branch, Ministry of Economic Development on its website [www.companies.govt.nz](http://www.companies.govt.nz).

Where documents are not available on the website, a request for the documents can be made by telephoning the Companies Office business centre on 0508 266 726.

### Annual and Other Information

The Issuer (or the Administrator on the Issuer's behalf) will provide (or will procure the Registrar to provide) to Holders quarterly statements detailing Dividends paid on, and Imputation Credits attached to, the Fixed Returns Securities together with details of any deductions, withholdings and other amounts made, paid or payable by the Issuer on account of taxes. Once the Fixed Returns Securities have been listed on the NZDX, the Issuer will also be required to make yearly and half-yearly financial announcements to NZX, and such other announcements as are required by the Companies Act and the Listing Rules from time to time. Holders

will be sent annual and half-yearly reports of the Issuer and the SmartPay Group if a Holder elects to receive them and so notifies the Issuer or the Registrar.

### On-Request Information

Holders can obtain copies of the Prospectus, the financial statements referred to in the Prospectus and the following documents from the Issuer free of charge on request by contacting SmartPay Investments Limited at the address given under the heading "Who do I contact with enquiries about my investment?":

- a. The most recent published financial statements of the Issuer (as and when the same are required to be prepared);
- b. The Constitution;
- c. The Guarantee;
- d. The Loan Agreement;
- e. The Administration Agreement;
- f. The STL Guarantee; and
- g. The General Security Agreement.

Copies of any of the documents referred to above will be sent within five Business Days of the Issuer receiving a request.

Holders can obtain further information about SmartPay and the SmartPay Group at [www.smartpayltd.com](http://www.smartpayltd.com) and financial statements, and other information about SmartPay can be inspected at the Companies Office, Business and Registries Branch, Ministry of Economic Development on its website [www.companies.govt.nz](http://www.companies.govt.nz). Where documents are not available on the website, a request for the documents can be made by telephoning the Companies Office business centre on 0508 266 726.



## section 10

## summary historical financial information for the smartpay group

This Section 10 contains a summary of the statements of financial performance and statements of financial position for the SmartPay Group for the 5 financial years ended 31st December 2005 and 31st March 2007 to 31st March 2010 and for the 6 month period ended 30 September 2010. This financial information for SmartPay Group has been included as SmartPay Limited has provided an unsecured guarantee of the Issuer's obligations and the ability of the Issuer to meet its obligations to Holders with respect to the Fixed Returns Securities depends to a material extent on the financial performance of the SmartPay Group.

## GROUP SUMMARY FINANCIAL STATEMENTS

SMARTPAY LIMITED FOR THE YEAR ENDED	30 SEP '10 \$000	31 MAR '10 \$000	31 MAR '09 \$000	31 MAR '08 \$000	31 MAR '07 \$000	31 DEC '05 \$000
	6 MTHS UNAUDITED		RESTATED			
<b>statement of comprehensive income</b>						
Revenue	21,711	39,388	35,462	41,268	34,353	1,221
Cost of sales	(12,742)	(28,319)	(33,030)	(39,350)	(32,991)	-
<b>Gross (profit)/loss</b>	<b>8,969</b>	<b>11,069</b>	<b>2,432</b>	<b>1,918</b>	<b>1,362</b>	<b>1,221</b>
Administration, marketing, employee and other expenses	(7,233)	(9,035)	(4,201)	(3,644)	(2,091)	(2,611)
<b>EBITDA</b>	<b>1,736</b>	<b>2,034</b>	<b>(1,769)</b>	<b>(1,726)</b>	<b>(729)</b>	<b>(1,390)</b>
Depreciation and amortisation	(1,950)	(2,279)	(1,042)	(642)	(363)	(47)
Finance costs	(1,946)	(2,409)	(680)	(301)	(242)	(9)
Interest and other income	1	6	14	8	24	249
Goodwill impairment	-	-	(419)	-	-	-
Loss on investment	-	-	(70)	-	-	-
Associate earnings	-	-	-	25	7	-
<b>Profit/(loss) before tax</b>	<b>(2,159)</b>	<b>(2,648)</b>	<b>(3,966)</b>	<b>(2,636)</b>	<b>(1,303)</b>	<b>(1,197)</b>
Tax benefit/(expense)	190	2	1,094	60	(189)	-
<b>Profit/(loss) for the year from discontinued operations</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>(1,207)</b>
<b>Profit/(loss) for the year from continuing operations of owners</b>	<b>(1,969)</b>	<b>(2,646)</b>	<b>(2,872)</b>	<b>(2,576)</b>	<b>(1,492)</b>	<b>10</b>
Comprehensive income/(expense)	(14)	-	-	-	-	-
<b>Total comprehensive income of owners</b>	<b>(1,983)</b>	<b>(2,646)</b>	<b>(2,872)</b>	<b>(2,576)</b>	<b>(1,492)</b>	<b>(1,197)</b>

## section 10

# summary historical financial information for the smartpay group (continued)

## GROUP SUMMARY FINANCIAL STATEMENTS

SMARTPAY LIMITED FOR THE YEAR ENDED	30 SEP '10 \$000	31 MAR '10 \$000	31 MAR '09 \$000	31 MAR '08 \$000	31 MAR '07 \$000	31 DEC '05 \$000
	6 MTHS UNAUDITED		RESTATED			
<b>statement of changes in equity</b>						
Comprehensive income of owners	(1,983)	(2,646)	(2,872)	(2,576)	(1,492)	(1,197)
Share options recognised for value received	-	1,033	-	-	3,465	-
Reverse acquisition	-	-	-	(43)	-	-
Contributions from owners recognised directly in equity	2,370	4,228	3,871	4,330	2,454	66
Costs of equity	(109)	-	-	-	-	-
<b>Net increase/(decrease) in cash equivalents</b>	<b>278</b>	<b>2,615</b>	<b>999</b>	<b>1,711</b>	<b>4,427</b>	<b>(1,131)</b>
Opening equity	9,359	6,744	5,745	4,034	(393)	4,291
<b>Closing equity</b>	<b>9,637</b>	<b>9,359</b>	<b>6,744</b>	<b>5,745</b>	<b>4,034</b>	<b>3,160</b>

## statement of financial position

Current assets	15,371	10,770	2,475	2,851	4,145	1,530
Non-current assets	23,893	21,070	11,769	11,675	6,089	1,850
<b>Total assets</b>	<b>39,264</b>	<b>31,840</b>	<b>14,244</b>	<b>14,526</b>	<b>10,234</b>	<b>3,380</b>
Current liabilities	(23,305)	(20,963)	(6,232)	(5,435)	(5,036)	(220)
Non-current liabilities	(6,322)	(1,518)	(1,268)	(3,346)	(1,164)	-
Equity	(9,637)	(9,359)	(6,744)	(5,745)	(4,034)	(3,160)
<b>Total liabilities and equity</b>	<b>(39,264)</b>	<b>(31,840)</b>	<b>(14,244)</b>	<b>(14,526)</b>	<b>(10,234)</b>	<b>(3,380)</b>

## GROUP SUMMARY FINANCIAL STATEMENTS

SMARTPAY LIMITED FOR THE YEAR ENDED	30 SEP '10 \$000	31 MAR '10 \$000	31 MAR '09 \$000	31 MAR '08 \$000	31 MAR '07 \$000	31 DEC '05 \$000
	6 MTHS UNAUDITED		RESTATED			
<b>summary statements of cash flows</b>						
<b>Net cash inflow/(outflows) from:</b>						
Operating activities	(7,482)	(3,729)	(2,543)	(316)	(272)	(91)
Investing activities	(539)	(7,495)	(2,008)	(1,274)	563	(39)
Financing activities	7,479	12,068	3,725	1,987	262	-
<b>Net increase/(decrease) in cash equivalents</b>	<b>(542)</b>	<b>844</b>	<b>(826)</b>	<b>397</b>	<b>553</b>	<b>(130)</b>
Opening cash equivalents	900	56	882	485	(68)	1,480
<b>Closing cash equivalents</b>	<b>358</b>	<b>900</b>	<b>56</b>	<b>882</b>	<b>485</b>	<b>1,350</b>
Authorised for issue by the Board on	30 Jun '10	29 May '09	09 Jun '08	27 Jul '07	31 Jan '06	

## accounting policy changes

Accounting policy changes which occurred:	none	-	-	none	-	none
Reduction in loss resulting from change in policy for revenue recognition from rental contracts (see note 9 in 2010 annual report)	-	2,017	547	-	-	-
Change balance date from 31 Dec to 31 Mar	-	-	-	-	yes	-
Adoption of NZ IFRS for the first time	-	-	-	-	yes	-
Material impact of adopting NZ IFRS	-	-	-	-	none	-



## section 10

# summary historical financial information for the smartpay group (continued)

## GROUP SUMMARY FINANCIAL STATEMENTS

SMARTPAY LIMITED FOR THE YEAR ENDED	30 SEP '10 \$000	31 MAR '10 \$000	31 MAR '09 \$000	31 MAR '08 \$000	31 MAR '07 \$000	31 DEC '05 \$000
	6 MONTHS UNAUDITED		RESTATE			
<small>(detailed disclosures following adoption of NZ IFRS can be found in Note 25 of the 2007 Annual Report)</small>						
<b>Contingent liabilities</b>						
Guarantee of lease	-	-	-	-	-	yes
Guarantees to Telecom and Vodafone	-	600	600	600	-	-
<b>Commitments</b>						
Operating lease commitments	-	265	62	342	274	-
<b>Related party transactions</b>						
Management and consulting fees to directors	382	200	148	-	193	-
Related party loan from a shareholder	-	573	503	895	710	-
Intercompany management fees received	-	-	-	-	-	600
Intercompany interest received	-	-	-	-	-	138
Legal services provided by Claymore Law	-	261	171	180	-	-
Intercompany purchases from Cadmus	-	-	-	1,172	-	-
Finance provided by MIPS	-	-	-	-	-	-
Financial Services	-	-	104	-	-	-
MIPS Financial Services acquired from a director	-	16	-	-	-	-
Merchant IP Services earnout settled	-	-	yes	-	-	-
Loans by parent to subsidiaries	-	9,938	6,336	-	-	-
Loan to subsidiary from Riverhorse Holdings	-	38	-	-	-	-
Consulting fees paid to shareholders	-	451	-	-	-	-
Consulting fees paid to staff	-	338	-	-	-	-
<b>Subsequent Events</b>						
New share issue	yes	yes	yes	yes	-	-
Reduction in company tax rate to 28%	-	yes	-	-	-	-
Takeover between Cube and SmartPay	-	-	-	yes	-	-
Renounceable rights issue announced	-	-	-	yes	-	-
Introduction of a share purchase plan for existing shareholders	-	yes	-	-	-	-

## SmartPay Limited

### Notes to the summary financial statements:

These consolidated summary financial statements have been prepared in compliance with FRS-43.

The information provided in these summary financial statements has been extracted from the audited full financial statements of SmartPay Limited with the following exceptions:

On 16 May 2006, SmartPay Limited (previously Cube Capital Limited) was subject to a reverse takeover by SmartPay NZ Limited. The summary accounts for the year ended 31 December 2005 were extracted from the audited financial statements of Cube Capital Limited. The summary accounts for the year taken from the annual report ended 31 March 2007 are for 12 months.

For the 6 month period ended 30 September 2010, the information has been taken from unaudited interim financial statements.

The full financial statements of SmartPay Limited were prepared in accordance with NZ GAAP. The full financial statements for 2007 and subsequent years were prepared in accordance with NZ IFRS and contain an explicit and unreserved statement of compliance with International Financial Reporting Standards.

Presentation currency is NZD for each period.

SmartPay Limited is a profit-oriented entity.

Audit reports for SmartPay Limited, for each year, were unqualified. There were no explanatory paragraphs in any such audit opinion other than that relating to the fundamental uncertainty referred to below.

A fundamental uncertainty existed at 31 March 2010. Finance facilities in place at 31 March 2010 were due for repayment before 31 March 2011 and the audit report for the year ended 31 March 2010, in an emphasis of matter paragraph, draws attention to the material uncertainty created by the need to refinance. The financial statements were prepared on a going concern basis.

The summary financial statements cannot be expected to provide as complete an understanding of the Group's financial position and performance as the full financial statements. Full financial statements have been filed with the Ministry of Economic Development. Copies can be accessed from the Ministry's website and are also available on request from SmartPay Limited.

## section 11

## glossary

In this Investment Statement headings are for convenience only and do not affect the interpretation of this Investment Statement, and, unless the context requires otherwise:

- a. Other words and phrases have the meaning (if any) given to them in the Companies Act;
- b. Words importing the singular include the plural and vice versa;
- c. A reference to a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and vice versa;
- d. A reference to a Section is a reference to a section of this Investment Statement;
- e. A reference to any statute or regulation includes all statutes or regulations amending, varying, consolidating or replacing it and a reference to a statute includes all regulations or orders in council issued under that statute;
- f. A reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- g. A reference to any person includes any form of entity and their respective successors, assignees and representatives; and

**“Administration Agreement”** means the agreement entitled “Administration Agreement” made between the Issuer and SmartPay New Zealand Limited and dated 25 March 2011.

**“Application Form”** means the application form for Fixed Returns Securities attached at Section 12 to this Investment Statement.

**“Arranger”** means FE Securities Limited.

**“Business Day”** means any day (other than a Saturday or Sunday) on which registered banks are open for general banking business in Auckland and Wellington.

**“Board”** means the board of directors of the Issuer and, where applicable, has the meaning set out in section 127 of the Companies Act.

**“Closing Date”** 5.00pm on 16 September 2011, or such other time and date as the Issuer may select.

**“Companies Act”** means the Companies Act 1993.

**“Constitution”** means the current constitution of the Issuer.

**“Director”** means a director of the Issuer.

**“Dividend”** has the meaning given to it in the Constitution.

**“Dividend Amount”** has the meaning given to it in the Constitution.

**“Dividend Payment Date”** means, for each Fixed Returns Security, each 31 March, 30 June, 30 September and 31 December while that Fixed Returns Security is outstanding provided that:

- a. The first Dividend Payment Date shall be 30 September 2011;
- b. The last Dividend Payment Date shall be the Redemption Date for that Fixed Return Security.

**“Dividend Period”** means each period commencing on (and including) a Dividend Payment Date and ending on (but excluding) the next Dividend Payment Date provided that the first Dividend Period shall be the period commencing on (and including) the Issue Date and ending on (but excluding) 30 September 2011.

**“Dividend Rate”** means 10% per annum (gross).

**“Event of Default”** has the meaning given to it in the Constitution.

**“Extraordinary Resolution”** means a resolution passed at a meeting of Holders duly convened and held by a majority consisting of not less than three-quarters of the votes cast on that resolution or, if a poll is required, by not less than three-quarters of the votes cast on the poll.

**“Fixed Returns Security”** means a redeemable preference share in the capital of the Issuer which is issued on the Terms and offered pursuant to this Investment Statement.

**“General Security Agreement”** means the agreement entitled “General Security Agreement” entered into by the Issuer and STL on 25 March 2011 pursuant to which STL is to grant the Issuer a first-ranking security interest in all of the assets and undertakings of STL as security for the obligations of STL to the Issuer under the STL Guarantee.

**“Guarantee”** and **“Guarantee Deed Poll”** means the deed poll joint and several guarantee given by each of SmartPay and STL in favour of the Holders as set out in Section 8 of this Investment Statement.

**“Guarantor”** means each of SmartPay and STL.

**“Holder”** means the person who is entered in the Register as the holder for the time being of a Fixed Returns Security in the capital of the Issuer.

**“Imputation Credit”** means an imputation credit as defined in section YA 1 of the Tax Act.

**“Issuer”** and **“SIL”** means SmartPay Investments Limited (company number 3261869).

**“Issue Date”** means, in respect of a Fixed Return Security, the date on which that Fixed Returns Security is allotted and issued.

**“Issue Price”** means \$1.00 in respect of each Fixed Returns Security.

**“Listed PIE”** has the meaning given to that term in Section YA 1 of the Tax Act.

**“Listing Rules”** and **“NZX Listing Rules”** means the listing rules of NZX.

**“Loan”** means the loan to be made by the Issuer to SmartPay pursuant to the Loan Agreement.

**“Loan Agreement”** means the agreement entitled “Loan Agreement” made between the Issuer and SmartPay and dated 25 March 2011 and includes any other loan agreement between the Issuer and SmartPay entered into after that date.

**“NZSX”** means the main board equity market operated by NZX.

**“NZX”** means NZX Limited.

**“NZX Participant Rules”** means NZX Participant Rules made by NZX from time to time.

**“Offer”** means the Offer of the Fixed Returns Securities made pursuant to this Investment Statement and the Prospectus.

**“Opening Date”** means 28 March 2011, or such other date as the Issuer may select.

**“PIE”** has the meaning given to that term in Section YA 1 of the Tax Act.

**“Primary Market Participant”** has the same meaning in the NZX Participant Rules.

**“Promoter”** means SmartPay Limited.

**“Prospectus”** means the prospectus dated 28 March 2011 relating to the offer of Fixed Returns Securities by the Issuer.

**“Record Date”** means, in respect of a Dividend Payment Date, the date which is 10 days prior to such Dividend Payment Date, or if that date is not a Business Day, the preceding Business Day.

**“Redemption Amount”** means, in respect of each Fixed Returns Security, \$1.00.

**“Redemption Date”** means 30 September 2014 or such earlier date on which the relevant Fixed Returns Security is to be redeemed in accordance with this Constitution.

**“Register”** means the register of holders of Fixed Returns Securities maintained by the Registrar.

**“Registrar”** means Computershare Investor Services Limited or any other person appointed as Registrar by the Issuer from time to time.

**“Registered Address”** in respect of a Holder means the address of that Holder for the time being recorded in the Register.

**“Related Company”** has the meaning given to that term in section 2(3) of the Companies Act, and for the purposes of that definition, the expression “company” includes a body corporate.

**“Securities Act”** means the Securities Act 1978.

**“Securities Regulations”** means the Securities Regulations 2009.

**“Settlement System”** means the Clearing House, the Depository, and the facilities and systems used by CHO (New Zealand Clearing Limited), or CDO (New Zealand Depository Limited) to effect the clearing and settlement of transactions, including the Clearing House System and the Depository System.

**“SmartPay”** means SmartPay Limited (company number 304625).

**“SmartPay Group”** means SmartPay and each of its Subsidiaries.

**“Special Resolution”** means a resolution approved by a majority of 75% of the votes of those shareholders entitled to vote and voting on the issue.

**“Specified Date”** has the meaning given to it in the Securities Regulations.

**“STANDS Software”** means the transaction switching/delivery proprietary software developed by the SmartPay Group and owned by STL which, amongst other things, receives EFTPOS transaction data from certain EFTPOS terminals supplied by the SmartPay Group and encrypts and delivers such data to the relevant servers and application software in order to enable EFTPOS transactions and other data to be processed.

**“Statement”** means a statement issued via the Settlement System.

**“STL”** means SmartPay Transactions Limited (company number 3262008).

**“STL Guarantee”** means the deed of indemnity and guarantee entered into between STL and the Issuer and dated 25 March 2011, pursuant to which STL has guaranteed the obligations of SmartPay to the Issuer under the Loan Agreement.

**“Subsidiary”** has the meaning given to that term in section 5 of the Companies Act.

**“Tax Act”** means the Income Tax Act 2007.

**“Terms”** means the terms and conditions of the Fixed Returns Securities as set out in clause 6 of the Constitution.

**“Transaction Processing Agreement”** means the transaction processing agreement entered into between STL and certain members of the SmartPay Group and dated 25 March 2011, pursuant to which STL has agreed to switch and deliver EFTPOS transactions using the STANDS Software.



## section 12 application instructions

### Complete Details

- Insert your title, full name(s), address and telephone numbers.
- Applications must be in the name(s) of natural persons, companies or other legal entities.
- Applications by a minor, trust, fund, estate, or partnership, club or other unincorporated body cannot be accepted unless they are made in the individual name(s) of the person(s) who is (are) the legal guardian(s), trustee(s), proprietor(s), partner(s) or office bearer(s) (as appropriate).
- Insert your IRD number.
- An application for Fixed Returns Securities must be for a minimum of 5,000 Fixed Returns Securities (\$5,000) and in multiples of 100 Fixed Returns Securities (\$100) thereafter, with the maximum application amount being no greater than 20% of the number of Fixed Returns Securities on offer, unless you are a person who is referred to in section HM 21(3) of the Tax Act, in which case the maximum application amount is less than 40% of the number of Fixed Returns Securities on offer.
- Insert the New Zealand bank account into which you wish dividend payments to be deposited.

### Signing

- Read the Application Form carefully and sign (and date) the form.
- The form must be signed by the applicant(s) personally, or by two directors of the company (or one director if there is only one director), or (in either case) by an attorney.
- If the Application Form is signed by an attorney, an original or certified copy of the relevant Power of Attorney must be lodged with the Application Form (originals will be returned). The attorney must complete the certificate of non-revocation below.
- If the Application Form is signed by an agent, an original or certified copy of the relevant Agency Agreement must be lodged with the Application Form (originals will be returned). The agent must complete the certificate of non-revocation below.
- Joint applicants must each sign the Application Form.

### Payment

- Payment of the total application amount in full must accompany the Application Form.
- Payment must be made in New Zealand dollars for immediate value (not post-dated), with a cheque drawn on a New Zealand bank.
- Cheques must be made out in favour of "SmartPay Investments Limited Offer", and crossed "Not Transferable".
- Direct credit payment will only be accepted up until 5.00pm NZ time on 14 September 2011 (two days prior to the Closing Date). Please provide the date payment was made on the front of the form. Your CSN and surname must be quoted on the payment advice.

### Closing Date

- 5.00 pm on 16 September 2011 (or any earlier or later Closing Date advised by NZX announcement).

### Delivery

- Applications cannot be revoked or withdrawn.
- When completed, the Application Form, together with the appropriate payment, should be mailed or delivered to Computershare Investor Services Limited, Level 2, 159 Hurstmere Road, Takapuna, Private Bag 92119, Auckland Mail Centre, Auckland 1142, or forwarded to any Primary Market Participant.
- Application Forms which are sent to a Primary Market Participant must be sent in time to enable the Application Form to be forwarded to Computershare Investor Services Limited for receipt by the Closing Date. Applicants should remember that the Closing Date may be changed at the sole discretion of the Issuer. Changes will be advised by NZX announcement.
- The Issuer may accept or reject any application without giving any reason. The Issuer may refuse to accept applications it receives after the Closing Date or which are for less than the minimum amount.

## SMARTPAY INVESTMENTS LIMITED

### Application Form for Fixed Returns Securities

This Application Form is issued with the Investment Statement dated 28 March 2011, issued by SmartPay Investments Limited. Completed Application Forms together with payment of the application monies payable in respect of the Fixed Returns Securities subscribed for must be returned to Computershare Investor Services Limited (Private Bag 92119, Auckland Mail Centre, Auckland 1142) or any Primary Market Participant.

BROKER'S STAMP

ADVISER CODE

#### 1. Applicant(s) to complete (use block letters please)

Please enter name(s) in full (including all first names):

Title	Legal First Name(s)	Legal Family Name

Corporate Name	
----------------	--

IRD Number							
------------	--	--	--	--	--	--	--

Postal Address (including postcode)
-------------------------------------


Home Ph	Work Ph	Fax
---------	---------	-----

Email (optional)
------------------

#### 2. Application - Important

- Cheques should be made payable to "SmartPay Investments Limited Offer" and crossed "Not Transferable". Cheques must not be post dated.
- SmartPay Investments Limited may accept or reject all or part of this application without giving any reason. SmartPay Investments Limited may refuse to accept applications received by it after 5.00 pm on 16 September 2011 (or any earlier or later Closing Date advised by NZX announcement).
- The minimum investment amount is 5,000 Fixed Returns Securities (\$5,000) and in multiples of 100 Fixed Returns Securities (\$100) thereafter.

Principal Amount of Fixed Returns Securities applied for:	Method of payment (tick one)
\$	<input type="checkbox"/> Cheque attached for: \$ _____
	<input type="checkbox"/> Payment by direct credit (to the account specified below) for: \$ _____

#### Payment by direct credit is to be made to:

Computershare Investor Services – Trust Account  
ANZ National Bank Limited – Takapuna Branch  
Bank account number: 01-0274-0117695-01

Date of direct credit payment: \_\_\_\_\_ (dd/mm/yy) and I have quoted my CSN in the 'particulars' field and surname in the 'reference' field in the bank payment advice.

**NB: Payments by direct credit must be made no later than 14 September 2011, being two days prior to the Closing Date.**

#### 3. Dividend Payment Instruction

Payment of dividend will only be made to a New Zealand bank account.

My nominated New Zealand bank account is:

Account Name(s):											
Bank			Branch						Account Number		Suffix

**4. Computershare Investor Services Limited Shareholder Number or Common Shareholder Number**

If you currently have a Computershare Shareholder Number or Common Shareholder Number (CSN) please insert it here:

**5. Annual Report**

Tick this box if you DO wish to receive copies of SmartPay Investments Limited's annual and half-yearly reports each year. Note that if you do not tick this box, as a shareholder of SmartPay Investments Limited you will still receive a section 209 Notice under the Companies Act 1993, which will include advice on how a copy of the annual and half-yearly reports can be obtained by electronic means. Note that you may also request that Computershare Investor Services send you a copy of those reports from time to time.

**6. Information**

The information in this Application Form is provided to enable SmartPay Investments Limited, its related companies and FE Securities Limited and the Registrar to process your application, and to administer your investment. By signing this Application Form you authorise SmartPay Investments Limited to disclose information to its related companies and to SmartPay Limited ("SmartPay") and its related companies and FE Securities Limited and the Registrar to use or disclose the information provided in this Application Form in situations where SmartPay Investments Limited, SmartPay, any of their related companies or FE Securities Limited or the Registrar are required or permitted to do so by any applicable law or by a governmental, judicial or regulatory entity or authority in any jurisdiction, and in connection with the promotion of any other investment opportunities by SmartPay Investments Limited, SmartPay or any of their related companies or FE Securities Limited. If you are an individual, under the Privacy Act 1993, you have the right to access and correct any of your personal information.

**7. Signature(s) of Applicant(s)**

I/We hereby apply for the Fixed Returns Securities as set out above (or any lesser amount that may be issued to me/us) on the terms and conditions set out in the Investment Statement dated 28 March 2011 and the Application Form, and acknowledge that I/we are legally bound by any decision of SmartPay Investments Limited to allot the Fixed Returns Securities applied for (or any lesser amount that may be issued to me/us).

I/We consent to becoming the holder of all Fixed Returns Securities issued to me/us pursuant to the Offer.

I/We declare that all details and statements made by me/us in the Application Form are complete and accurate.

I/We certify that, where information is provided by me/us in this form about another person, I am/we are authorised by such person to disclose the information to you and to give authorisation.

In the case of joint applications, the joint applicants agree that, unless otherwise expressly indicated in this Application Form, the Fixed Returns Securities will be held jointly as joint tenants.

I/We have taken this Application Form from the Investment Statement, which I/we have read.

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

Signature of Applicant \_\_\_\_\_ Date \_\_\_\_\_

<p>Complete this section if you are acting on behalf of someone for whom you hold Power of Attorney.</p> <p><b>CERTIFICATE OF NON-REVOCAION OF POWER OF ATTORNEY</b></p> <p>I, .....(Name of Attorney)</p> <p>of .....(Address and Occupation of Attorney)</p> <p>certify:</p> <p>1. That by a deed dated .....(Name of donor)</p> <p>of .....(Address donor)</p> <p>appointed me its/his/her attorney.</p> <p>2. That I have not received notice of any event revoking the power of attorney.</p> <p>Signed at.....this .....day of ..... 2011</p> <p>Signature of Attorney.....</p>	<p>Complete this section if you are acting as agent for someone.</p> <p><b>CERTIFICATE OF NON-REVOCAION OF AGENT</b></p> <p>I, .....(Name of Agent)</p> <p>of .....(Address and Occupation of Agent)</p> <p>certify:</p> <p>1. That by an agency agreement dated .....(Name of Appointer)</p> <p>of .....(Address of Appointer)</p> <p>appointed me its/his/her Agent on the terms and conditions set out in the Agency Agreement.</p> <p>2. That I have not received notice of any event revoking that appointment.</p> <p>Signed at.....this .....day of ..... 2011</p> <p>Signature of Agent.....</p>
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section 13

# smartpay directory

## Issuer

SmartPay Investments Limited

Directors of SmartPay Investments Limited

Ian Charles Bailey

Gregor John Barclay

John Albert Nimmo

Wayne Noel Johnson

Registered office of SmartPay Investments Limited

182-190 Wairau Road, Glenfield, Auckland

## Promoter

SmartPay Limited

Directors of SmartPay Limited

Ian Charles Bailey

Gregor John Barclay

John Albert Nimmo

Wayne Noel Johnson

Registered office of SmartPay Limited

182-190 Wairau Road, Glenfield, Auckland

## Arranger

FE Securities Limited

Level 8, 92 Albert Street, Auckland

PO Box 106 624, Auckland Central

## Legal Advisers to the Issuer

Claymore Partners Limited

Level 2, 63 Fort Street, Auckland

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## Auditors

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## Registrar

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