



NZX Regulation Decision

AFT Pharmaceuticals Limited (“AFT”)

Waiver from NZX Main Board Listing Rule 5.2.3

20 December 2017



Waiver from Rule 5.2.3

Decision

1. Subject to the conditions set out in paragraph 2 below, and on the basis that the information provided by AFT is complete and accurate in all material respects, NZXR grants AFT a waiver from Rule 5.2.3 in respect of its Shares for a period of 12 months to the extent this Rule requires AFT to have at least 25% of its Shares held by Members of the Public holding at least a Minimum Holding.
2. The waiver in paragraph 1 above is provided on the conditions that:
 - a. NZXR receives an undertaking from the AF Trust that it will not increase its holding of Shares during the term of the waiver, otherwise than as a result of an allotment pursuant to an offer or issue of Shares that is made pro-rata to all AFT shareholders;
 - b. at least 10% of the Shares are held by more than 500 Members of the Public, with each Member of the Public holding at least a Minimum Holding;
 - c. AFT clearly and prominently discloses this waiver, its conditions, and its implications in AFT's half year and annual reports, and in any Offer Documents relating to any offer of shares undertaken by AFT, during the period of the waiver;
 - d. AFT consistently monitors the total number of Members of the Public holding Shares and the percentage of Shares held by Members of the Public holding at least a Minimum Holding;
 - e. AFT notifies NZXR as soon as practicable if there is any material reduction to the total number of Members of the Public holding at least a Minimum Holding of Shares, and/or the percentage of Shares held by Members of the Public holding at least a Minimum Holding;
 - f. AFT provides NZXR with a written quarterly update of the total number of Members of the Public holding Shares holding at least a Minimum Holding and the percentage of Shares held by Members of the Public holding at least a Minimum Holding. The quarterly updates are from the date the waiver is granted, for the period of the waiver. The updates are to be provided to NZXR within ten business days of the end of each quarter; and
 - g. AFT provides NZXR, with the second quarterly update provided under paragraph 2(f), an update on the proposed initiatives AFT intends to undertake to materially increase the percentage of Shares held by Members of the Public before the expiry of the waiver.
3. The information on which this decision is based is set out in Appendix One to this decision. This waiver will not apply if that information is not or ceases to be full and accurate in all material respects.
4. The Rule to which this decision relates is set out in Appendix Two to this decision.
5. Capitalised terms that are not defined in the decision have the meanings given to them in the Rules.



Reasons

6. In coming to the decision to provide the waiver set out in paragraph 1 above, NZXR has considered that:
 - a. the purpose of Rule 5.2.3 is to promote a liquid market which is important to ensure efficient price setting and to enable shareholders to trade. Since listing on 22 December 2015, the number of Members of the Public holding at least a minimum holding in Shares has increased;
 - b. the 2016 Waiver and its implications were disclosed in AFT's half year and annual reports for its 2017 financial year, and in all offer documents relating to the offer of shares. As such, investors have continued to apply for and trade Shares on a fully informed basis as to the spread of the Shares;
 - c. all of the Shares that were subject to the Escrow Arrangements at the time of the 2016 Waiver have now been released from escrow, so that they are free to be traded. This significantly increases the quantity of Shares that are able to be held by Members of the Public;
 - d. the condition in paragraph 2(c) above will provide access to information about this waiver and its implications for those wishing to trade in, or accept any offer of, shares during the period of this waiver;
 - e. the conditions contained in paragraphs 2(d), (e) and (f) above, require AFT to monitor the spread of Shares and to provide information that will allow NZXR to monitor any material changes in AFT's spread of Shares, over the period of the waiver;
 - f. the condition in paragraph 2(g) ensures AFT actively considers its spread of Shares held by Members of the Public and ensuring that it endeavours to meet its spread requirements under the Rules;
 - g. NZXR will have the opportunity to reconsider the waiver in 12 months. Should the percentage of Shares held by Members of the Public holding at least a Minimum Holding drop below 10%, NZXR will have the opportunity to reconsider this waiver; and
 - h. there is precedent for this decision.



Appendix One

1. AFT Pharmaceuticals Limited (**AFT**) is a Listed Issuer with ordinary shares (**Shares**) Quoted on the NZX Main Board.
2. On 21 December 2015, NZXR granted AFT a waiver from the requirements of NZX Main Board Listing Rule (**Rules**) 5.2.3 in respect of its Shares for a period of 12 months from Quotation (**Original Waiver**). A summary of the Original Waiver and its implications were included in the Offering Document for the initial public offering of Shares (the **IPO**).
3. On 21 December 2016, NZXR granted AFT a further waiver from the requirements of Rule 5.2.3 in respect of its Shares for a period of 12 months, expiring 21 December 2017 (**2016 Waiver**).
4. As at 28 November 2017, there were 912 Members of the Public, holding approximately 11.7% of Shares on issue. AFT, therefore, does not meet the requirement that 25% of its Shares are held by Members of the Public as per Rule 5.2.3. AFT has sought a waiver in respect of this element of the Rule.
5. The Atkinson Family Trust (**AF Trust**) and funds managed by entities related to CRG, a US-based investment management firm (the **CRG Funds**), are the principal shareholders of AFT. As at 30 November 2017, the AF Trust and CRG Funds together hold 88.3% of the Shares.
6. In connection with the IPO, the AF Trust, the CRG Funds and a number of directors and senior managers of AFT were party to escrow agreements with AFT (together the **Escrow Arrangements**), which prevented those persons from trading their Shares for the term of those agreements, that expired on 25 May 2017. As a result of the release of these Shares from escrow, an additional 71.98% (70,046,535) of the Shares, are freely tradeable on the NZX Main Board since the 2016 Waiver was granted.



Appendix Two

Rule 5.2.3

5.2.3 A Class of Securities will generally not be considered for Quotation on the NZSX or NZDX unless those Securities are held by at least 500 Members of the Public holding at least 25% of the number of Securities of that Class issued, with each Member of the Public holding at least a Minimum Holding, and those requirements are maintained, or NZX is otherwise satisfied that the Issuer will maintain a spread of Security holders which is sufficient to ensure that there is a sufficiently liquid market in the Class of Securities.

