

20 January, 2020

Ms A Sinniah
Senior Adviser, Listings Compliance
ASX Limited
Level 40
152 St Georges Terrace
PERTH WA 6000

By email: ListingsCompliancePerth@asx.com.au

Dear Ms Sinniah

I refer to your letter dated 16 January 2020 titled "HeraMED Limited (HMD) Aware Query" (Your Letter).

In response to the questions outlined in Your Letter, and using the same paragraph numbering as used in that letter, HMD responds as follows:

- 1. Noting HMD received and responded to an ASX price and volume query on 14 November 2019 and the FDA Clearance Announcement was released on 18 November 2019 (in close proximity to the Response to ASX Price and Volume Query), does HMD consider the FDA Clearance to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

Yes.

- 2. If the answer to question 1 is "no", please advise the basis for that view.**

Not applicable.

- 3. When did HMD first become aware of the FDA Clearance?**

HMD first became aware (as that term is defined in Paragraph G. of Your Letter) of receipt of the FDA Clearance at 9:05 a.m. (Israel time) on Friday, 15 November 2019, which was, at that time of year, the equivalent of 6:05 p.m. (AEDT) on Friday, 15 November 2019.

- 4. If the answer to question 1 is "yes" and HMD first became aware of the FDA Clearance before 18 November 2019, did HMD make any announcement prior to the 18 November 2019 which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time and why it was not disclosed in the Response to ASX Price and Volume Query, commenting specifically on when you believe HMD was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps HMD took to ensure that the information was released promptly and without delay.**

As noted in response to question 3 above, HMD first became aware of the FDA Clearance at 9:05 a.m. (Israel time) - being 6:05 p.m. (AEDT) - on 15 November 2019. Immediately upon receipt of the FDA Clearance at that time, the Board of HMD commenced the drafting and approval of an ASX announcement to disclose that occurrence. As noted in Paragraph E of Your Letter, HMD issued the announcement in regard to the FDA clearance, at 8.57 a.m. (AEDT) on 18 November, 2019, which disclosure occurred before the market first opened after HMD first became aware of the issue of the FDA clearance.

- 5. Please confirm that HMD is complying with the Listing Rules and, in particular, Listing Rule 3.1.**

HMD confirms that it is complying with the Listing Rules and, in particular, Listing Rule 3.1.

6. Please confirm that HMD's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of HMD with delegated authority from the board to respond to ASX on disclosure matters.

HMD confirms that its response to the questions stated above has been authorised and approved in accordance with its continuous disclosure policy of HMD or otherwise by the HMD Board or an officer of HMD with delegated authority from the HMD Board to respond to ASX on disclosure matters.

Yours sincerely



Stephen Buckley
Company Secretary
HeraMED Limited

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16 January 2020

Mr Stephen Buckley
Company Secretary

By email:

Dear Mr Buckley

HeraMED Limited ('HMD'): Aware Query

ASX refers to the following:

- A. The price movement of HMD's securities from a close of \$0.145 on Wednesday 13 November 2019 to an intraday high of \$0.22 on Thursday 14 November 2019. There was also an increase in the volume of trades conducted between 13 November and 14 November 2019.
- B. HMD's announcement entitled "Response to ASX Price and Volume Query" lodged on the ASX Market Announcements Platform and released at 03:24 PM AEDT on 14 November 2019 (the 'Announcement'), disclosing that HMD were not aware of any reason for the increase in price and volume on 14 November 2019. The Announcement also disclosed that the other explanation that HMD may have had for the increase in price and volume was due to a manifestly incorrect typographical error which referred to HMD as being a "...\$13 billion capped Aussie junior" in an article released on the Next Tech Stock website ('Next Tech Stock Typographical Error').
- C. On 15 November 2019 at 12.33 AM AEDT, HMD requested a trading halt pending a response to a follow up by the ASX on the Response to ASX Price and Volume Query.
- D. HMD's announcement entitled "Retraction of Statements – Next Tech Stock Article" lodged on the ASX Market Announcements Platform and released at 5:03 PM AEDT on 15 November 2019 retracting the Next Tech Stock Typographical Error and reference to HMD revenue projections in the article which HMD acknowledged there was no reasonable basis for ("Retraction Announcement").
- E. HMD's announcement entitled "HeraMED receives FDA 510(k) Clearance for HeraBEAT Device" lodged on the ASX Market Announcements Platform and released at 8:57 AM AEDT on 18 November 2019 ("FDA Clearance Announcement") disclosing that HMD received 510(k) clearance from the US Food and Drug Administration for the HeraBEAT US foetal ultrasonic heart rate monitor ("FDA Clearance").
- F. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.
- G. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:
"an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information."
- H. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

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“3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:

3.1A.1 One or more of the following applies:

- It would be a breach of a law to disclose the information;
- The information concerns an incomplete proposal or negotiation;
- The information comprises matters of supposition or is insufficiently definite to warrant disclosure;
- The information is generated for the internal management purposes of the entity; or
- The information is a trade secret; and

3.1A.2 The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and

3.1A.3 A reasonable person would not expect the information to be disclosed.”

- I. ASX’s policy position on the concept of “confidentiality”, which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

“Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule.”

Request for Information

Having regard to the above, ASX asks HMD to respond separately to each of the following questions and requests for information:

1. Noting HMD received and responded to an ASX price and volume query on 14 November 2019 and the FDA Clearance Announcement was released on 18 November 2019 (in close proximity to the Response to ASX Price and Volume Query), does HMD consider the FDA Clearance to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is “no”, please advise the basis for that view.
3. When did HMD first become aware of the FDA Clearance?
4. If the answer to question 1 is “yes” and HMD first became aware of the FDA Clearance before 18 November 2019, did HMD make any announcement prior to the 18 November 2019 which disclosed the information? If so, please provide details. If not, please explain why this information was not released to the market at an earlier time and why it was not disclosed in the Response to ASX Price and Volume Query, commenting specifically on when you believe HMD was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps HMD took to ensure that the information was released promptly and without delay.
5. Please confirm that HMD is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that HMD’s responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of HMD with delegated authority from the board to respond to ASX on disclosure matters.

When and where to send your response

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **5:00 PM AWST Monday, 20 January 2020**.

You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, HMD's obligation is to disclose the information "immediately". This may require the information to be disclosed before the deadline set out in the previous paragraph and may require HMD to request a trading halt immediately.

If you wish to request a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted.

You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

ASX reserves the right to release a copy of this letter and your response on the ASX Market Announcements Platform under Listing Rule 18.7A. Accordingly, your response should be in a form suitable for release to the market.

Your response should be sent to me by e-mail at ListingsCompliancePerth@asx.com.au. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

Listing Rules 3.1 and 3.1A

In responding to this letter, you should have regard to HMD's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*. It should be noted that HMD's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

Suspension

If you are unable to respond to this letter by the time specified above ASX will likely suspend trading in HMD's securities under Listing Rule 17.3.

Enquiries

If you have any queries or concerns about any of the above, please contact me immediately.

Regards

Anjuli Sinniah
Senior Adviser, Listings Compliance (Perth)