

## Securities Act (Neuren Pharmaceuticals Limited) Exemption Notice 2013

Pursuant to section 70B of the Securities Act 1978, the Financial Markets Authority gives the following notice (to which is appended a statement of reasons of the Financial Markets Authority).

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### Notice

- Title**  
This notice is the Securities Act (Neuren Pharmaceuticals Limited) Exemption Notice 2013.
- Commencement**  
This notice comes into force on 19 September 2013.
- Revocation**  
This notice is revoked on the close of 30 September 2017.
- Interpretation**
  - (1) In this notice, unless the context otherwise requires:  
**Act** means the Securities Act 1978  
**ASX** means ASX Limited as incorporated in Australia

**Corporations Act** means the Corporations Act 2001 of the Commonwealth of Australia

**custodian** means a holder of securities of the same class as the specified securities—

- (a) that:
  - (i) is a trustee corporation or a nominee company; and
  - (ii) holds those securities by reason only of acting for another person in the ordinary course of business of that trustee corporation or nominee company; or
- (b) that holds those securities by reason only that the person is a bare trustee of a trust to which the securities are subject

**Neuren** means Neuren Pharmaceuticals Limited

**private placement** means the placement of securities of the same class as the specified securities by means of an offer in respect of which offer documents are not required to be disclosed to investors under the Corporations Act pursuant to either or both of subsections (8) and (11) of section 708 of that Act

**Regulations** means the Securities Regulations 2009

**share purchase plan** means a share purchase plan that complies with clause 5

**specified securities** means equity securities that are to be:

- (a) issued by Neuren under a share purchase plan to existing holders of securities issued by Neuren; and
- (b) listed on a securities market operated by ASX

**subscription price** means the subscription price for the specified securities.

- (2) References in this notice to dollar amounts are amounts denominated in Australian Dollars.
- (3) Any term or expression that is defined in the Act or the Regulations and used, but not defined, in this notice has the same meaning as in the Act or the Regulations.

## **5 Requirements for share purchase plan**

- (1) For the purposes of this notice, a share purchase plan must comply with the following requirements:
  - (a) the right to subscribe for the specified securities must be offered to all security holders holding securities of the same class as the specified securities, except a security holder in a jurisdiction outside New Zealand who is excluded by Neuren to avoid a risk of breaching the law in that jurisdiction; and
  - (b) the right to subscribe for the specified securities must be offered on the same terms and conditions to all the security holders to whom the offer is made; and

- (c) the right to subscribe for the specified securities must not be renounceable; and
  - (d) the specified securities issued under the share purchase plan to security holders of the same class must enjoy the same rights:
    - (i) as each other; and
    - (ii) as the securities that qualify a security holder to subscribe for the specified securities; and
  - (e) the subscription price must be equal to or less than the lower of the following:
    - (i) the average end of day market price of securities of the same class as the specified securities during a period specified in the share purchase plan that falls within the period of 30 days immediately before either:
      - A the date of the offer to subscribe for the specified securities; or
      - B the date of the issue of the specified securities; and
    - (ii) the lowest price paid by investors in a private placement (if the offer under the share purchase plan is made at the same time as, or within 30 days after, a private placement); and
  - (f) the subscription price must be fixed before allotment of the specified securities; and
  - (g) the subscription price must be disclosed in accordance with clause 9(2) before allotment of the specified securities; and
  - (h) in any 12-month period, the total issue price of the specified securities issued to a security holder must not be more than A\$15,000.
- (2) Despite subclause (1)(h), Neuren may issue to a custodian in any 12-month period specified securities the total issue price of which is more than A\$15,000 if:
- (a) the custodian certifies the following in writing to Neuren:
    - (i) that the custodian holds securities of the same class as the specified securities directly or indirectly as a custodian for beneficial owners; and
    - (ii) the number of those beneficial owners; and
    - (iii) in respect of each of the beneficial owners, how many specified securities the beneficial owner, or its agent, has instructed the custodian to accept on behalf of that beneficial owner; and

- (iv) that the custodian undertakes not to accept on behalf of any of those beneficial owners for which it acts directly or indirectly as a custodian, in any 12-month period, specified securities in Neuren, the total issue price of which is more than A\$15,000; and
- (b) Neuren is reasonably satisfied that in any 12-month period the total issue price of the specified securities issued to any beneficial owner is not more than A\$15,000, whether those specified securities are issued:
  - (i) through a custodian; or
  - (ii) if the beneficial owner is also a security holder, in the beneficial owner's own right as a security holder.

**6 Exemptions from sections 37 and 37A of Act and Regulations (except regulation 23)**

Neuren and every person acting on its behalf are exempted from sections 37 and 37A of the Act and the Regulations (except regulation 23) in respect of the specified securities.

**7 Exemptions do not apply if trading in any securities of Neuren has been suspended for 5 trading days or more within previous 12 months**

Clause 6 does not apply in respect of any securities of Neuren if, at any time within the 12-month period before the offer is first made under the share purchase plan, trading in any securities of Neuren on a securities market operated by ASX has been suspended for a total period of 5 trading days or more (whether the trading has been suspended on 1 or more occasions).

**8 Exemptions do not apply if Neuren is subject to determination that is in force under Corporations Act or certain exemptions under the Corporations Act applied within the previous 12 months**

Clause 6 does not apply in respect of any securities of Neuren if at the time of the offer:

- (a) a determination under any of section 708AA(3), 708A(2), 1012DAA(3), or 1012DA(2) of the Corporations Act is in force in relation to Neuren; or
- (b) an exemption under section 111AS or 111AT of the Corporations Act covered Neuren, or any person as director or auditor of Neuren, during the 12-month period before the day on which the offer is made.

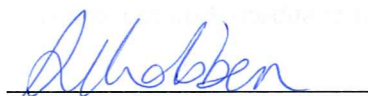
**9 Conditions of exemptions**

- (1) The exemptions in clause 6 are subject to the condition that a person who subscribes for specified securities must, before subscribing, have received a document that:

- (a) is signed by each of the directors of Neuren or his or her agent authorised in writing; and
  - (b) contains the offer to subscribe for specified securities; and
  - (c) describes the procedure for fixing the subscription price; and
  - (d) specifies the subscription price if the subscription price was fixed before the document is sent to the person; and
  - (e) states when the subscription price was or will be fixed; and
  - (f) describes when and how payment of subscription moneys is to be made; and
  - (g) describes the relationship between the subscription price and the market price of the specified securities; and
  - (h) warns that the market price of the specified securities may change between the date of the offer and the date when the specified securities are allotted, and describes the effect this would have on the price or value of the specified securities that a subscriber would receive; and
  - (i) states that a subscriber may obtain from Neuren, free of charge, Neuren's most recent annual report and financial statements.
- (2) The exemptions in clause 6 are subject to the condition that:
- (a) in the case of the subscription price being fixed before the document referred to in subclause (1) is sent, Neuren must, as soon as practicable after the document is sent, supply to ASX a statement that complies with subclause (3) for the purpose of that statement being made available to participants in the securities market operated by ASX on which the specified securities are listed; or
  - (b) in any other case, Neuren must, as soon as practicable after the subscription price has been fixed, supply to ASX a statement that complies with subclause (3) for the purpose of that statement being made available to participants in the securities market operated by ASX on which the specified securities are listed.
- (3) For the purposes of subclause (2), the statement must:
- (a) specify the subscription price; and
  - (b) be signed by each of the directors of Neuren or his or her agent authorised in writing; and
  - (c) certify that when the subscription price was fixed Neuren had no information not publicly available that would, or would be likely to, have a material effect on the market price of the specified securities if the information were publicly available.

- (4) The exemptions in clause 6 are subject to the condition that Neuren must not allot the specified securities if, when the subscription price was fixed, Neuren had information not publicly available that would, or would be likely to, have a material effect on the market price of the specified securities if the information were publicly available.

Dated at Wellington this 13<sup>th</sup> day of September 2013.



Simone Robbers  
Head of Primary Regulatory Operations  
Financial Markets Authority

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### Statement of Reasons

This notice, which grants exemptions on substantially the same terms as the Securities Act (Neuren Pharmaceuticals Limited) Exemption Notice 2006, comes into force on 19 September 2013 and is revoked on the close of 30 September 2017.

This notice applies to the offer of specified securities by Neuren Pharmaceuticals Limited (**Neuren**) under a share purchase plan. It exempts Neuren, subject to conditions, from sections 37 and 37A of the Securities Act 1978 (**Act**) and from the Securities Regulations 2009 (**Regulations**) (other than regulation 23).

The Financial Markets Authority, after satisfying itself as to the matters set out in section 70B(2) of the Act, considers it appropriate to grant the exemptions because:

- The exemption exempts Neuren from the prospectus and investment statement requirements of the Act for shares offered under a share purchase plan (**Plan**) to existing shareholders. The exemptions recognise that existing shareholders of Neuren, a New Zealand company listed on the ASX, will have access to key relevant information about Neuren including continuous and periodic disclosure required under the Australian Corporations Act 2001 and the ASX listing rules. Accordingly, the exemption requires a more limited disclosure by way of an offer document, signed by Neuren's directors, that contains details of the Plan and certain other important information.
- The exemption will allow Neuren to undertake limited fund raising from its existing New Zealand shareholders. The exemptions will reduce compliance costs for Neuren and allow Neuren's shareholders to purchase shares in Neuren at a discounted price.

- Neuren is not seeking an exemption from regulation 23 of the Regulations and, accordingly, will be obliged to ensure that its advertising in relation to the Plan is not likely to deceive, mislead or confuse with regard to any particular that is material to the offer of the Shares under the Plan.
  - The exemptions are limited in the amount that can be raised from a shareholder in any 12-month period (A\$15,000), so that any significant fundraising from existing shareholders will require full offer documents.
  - The exemptions do not apply if Neuren's shares were suspended from trading on the ASX for a total of 5 or more trading days in the preceding 12 months or there is a determination or exemption in respect of Neuren under the Australian Corporations Act 2001 that would prevent Neuren from offering shares under the Plan to its Australian shareholders in reliance on an Australian class exemption for share purchase plans.
  - The exemptions are not broader than reasonably necessary to address the matters that gave rise to them and, in these circumstances, the exemptions will not cause significant detriment to Neuren's existing shareholders.
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