



30 March 2017

Mr Sebastian Bednarczyk  
ASX Compliance Pty Ltd  
Level 40, Central Park  
152-158 St George's Terrace  
Perth WA 6000

By email: [sebastian.bednarczyk@asx.com.au](mailto:sebastian.bednarczyk@asx.com.au) and [tradinghaltspert@asx.com.au](mailto:tradinghaltspert@asx.com.au)

Dear Sebastian,

**RE: CRESO PHARMA LIMITED ("entity")**

We refer to your letter dated 28 March 2017 and respond to your questions as follows:

- 1. Does the Entity consider the Capital Raising 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.**

Not applicable

- 3. When did the Entity first become aware of the Capital Raising? In answering this question, please detail the date and time that the Entity first became aware of the Capital Raising or part thereof.**

Following the close of trading on ASX (approximately 1:20pm WST) on 22 March 2017 (Creso shares closing at a price \$0.825), the board of directors received an offer in respect of a potential sophisticated and institutional capital raising. Following receipt of the offer, the board of directors began discussions as to the acceptance of the offer and whether the terms were acceptable to the Company.

- 4. If the answer to question 1 is "yes" and the Entity first became aware of the Capital Raising before lodging the Announcement, did the Entity make any announcement prior to the relevant date which disclosed the Capital Raising? If so, please provide details. If not, please explain why the Capital Raising was not announced to the market at an earlier time, commenting specifically on when you believe the Entity was obliged to release information relating to the Capital Raising under Listing Rules 3.1 and 3.1A and what steps the Entity took to ensure that the Capital Raising information was released promptly and without delay.**

The Company went into trading halt before trading opened on 23 March 2017 requesting that the trading halt remain in place until the release of an announcement by the Company expected to be 27 March 2017.

The Company had not previously made any announcement regarding the Capital Raising.



The directors consider that the trading halt was requested promptly and without delay following proper consideration and discussion by the Board of the items referred to in Item 3 above and the Company's agreed course of action. As Creso requested a trading halt before the market for Creso shares re-opened, there was no time between the circumstances discussed at Item 3 and the trading halt being requested that Creso shares were able to be traded on ASX.

On 27 March 2017, prior to the opening of the ASX market, the Company made the relevant announcement regarding the Capital Raising and came out of trading halt.

In context, the board had conducted discussions with parties in the investment community over the previous months regarding raising additional funding for the Company however no firm capital raising offer received had been acceptable to the board.

The board believe that the announcement made by the Company on 22 March 2017 regarding the Company's expansion into the Latin American market to be the catalyst for the offer of the Capital Raising on terms acceptable to the Company.

Having formed the view that the board was willing to undertake the Capital Raising, the Board considered that it was appropriate that the Company be placed back into trading halt (before to market open on 23 March 2017) to enable the Capital Raising to be completed such that the Company could then announce the completion of the Capital Raising in accordance with its continue disclosure obligations. The Board did not consider and does not consider that it was in a position to be able to announce to the ASX accurate terms of the Capital Raising prior to the market opening on 24 March 2017, and therefore the only option available to the Company to ensure compliance with its obligations was to request the ASX place the Company into trading halt until such time as an announcement regarding the Capital Raising could be made.

**5. Please confirm that the Entity is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.**

Creso Pharma Limited is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.

**6. Please confirm that the Entity'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 Entity with delegated authority from the board to respond to ASX on disclosure matters.**

Creso Pharma's board of directors has authorised and approved the responses to the questions above.

**By Order of the Board**

Sarah Smith  
**Company Secretary**  
**Creso Pharma Limited**



28 March 2017

Ms Sarah Smith  
Creso Pharma Limited  
4/11 Ventnor Avenue  
WEST PERTH WA 6005

*By Email*

Dear Ms Smith

**CRESO PHARMA LIMITED (THE “ENTITY”) – ASX AWARE QUERY**

ASX Limited (“ASX”) refers to the following:

1. The closing price of the Entity’s securities of \$0.70 on Friday, 17 March 2017.
2. The Entity’s announcement released on MAP on 20 March 2017 at 6:28 am AWST requesting that the Entity’s securities to be placed in a trading halt pending a sales and distribution update.
3. The Entity’s announcement entitled “Creso Pharma signs commercial agreement in Brazil as part of expansion into Latin American market” lodged on the ASX Market Announcements Platform (“MAP”) on 22 March 2017, disclosing that the Entity had signed a binding letter of intent with Sin Solutions for the marketing, sale and distribution of the Company’s products in Brazil.
4. A change in the price of the Entity’s securities on Wednesday, 22 March 2017 from an opening price of \$0.90 to a closing price of \$0.825, reaching an intra-day high of \$0.93.
5. The Entity’s announcement released on MAP on 23 March 2017 at 6:21 am AWST requesting that the Entity’s securities to be placed in a trading halt pending an announcement in relation to a proposed capital raising.
6. The Entity’s announcement (“Announcement”) entitled “Creso Pharma announces heavily oversubscribed placement and share purchase plan” lodged on MAP at 05:58 am AWST and released at 9:50 am AWST on Monday, 27 March 2017, disclosing an \$8 million placement to institutional and professional investors and a \$1 million share purchase plan both with an issue price of \$0.69 per share (together, the “Capital Raising”).
7. A change in the price of the Entity’s securities on Monday, 27 March 2017 from an opening price of \$0.825 to a closing price of \$0.815.
8. Listing Rule 3.1, which requires a listed entity to give ASX immediately 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.
9. The definition of “aware” in Chapter 19 of the Listing Rules. This definition 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.”*

Additionally, you should refer to section 4.4 in Guidance Note 8 *“When does an entity become aware of information”*.

10. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

*“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.”*

11. 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.”*

Having regard to the above, we ask that you answer the following questions in a format suitable for release to the market in accordance with Listing Rule 18.7A:

1. Does the Entity consider the Capital Raising 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.
3. When did the Entity first become aware of the Capital Raising? In answering this question, please detail the date and time that the Entity first became aware of the Capital Raising or part thereof.

4. If the answer to question 1 is “yes” and the Entity first became aware of the Capital Raising before lodging the Announcement, did the Entity make any announcement prior to the relevant date which disclosed the Capital Raising? If so, please provide details. If not, please explain why the Capital Raising was not announced to the market at an earlier time, commenting specifically on when you believe the Entity was obliged to release information relating to the Capital Raising under Listing Rules 3.1 and 3.1A and what steps the Entity took to ensure that the Capital Raising information was released promptly and without delay.
5. Please confirm that the Entity is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that the Entity’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 Entity 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, and in accordance with, Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by not later than **3:00pm AWST on Thursday, 30 March 2017**. If we do not have your response by then, ASX will have no choice but to consider suspending trading in the Entity’s securities under Listing Rule 17.3.

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, the Entity’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.

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 [tradinghaltsp Perth@asx.com.au](mailto:tradinghaltsp Perth@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 Rule 3.1**

Listing Rule 3.1 requires a listed entity to give ASX immediately 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. Exceptions to this requirement are set out in Listing Rule 3.1A.

The obligation of the Entity to disclose information under Listing Rules 3.1 and 3.1A is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

In responding to this letter, you should have regard to the Entity’s obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure: Listing Rules 3.1 – 3.1B*.

### **Trading halt**

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in the Entity's securities under Listing Rule 17.1.

If you wish 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 may 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*.

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

Yours sincerely

*[Sent electronically without signature]*

Sebastian Bednarczyk  
**Senior Adviser, Listings Compliance (Perth)**