



Australian Securities Exchange  
Level 40, Central Park  
152-158 St George's Terrace  
Perth WA 6000

By email: [ListingsCompliancePerth@asx.com.au](mailto:ListingsCompliancePerth@asx.com.au)

Dear Vanessa,

**Response to Aware Query**

MyFiziq Limited ("Company") refers to ASX's Aware Query letter dated 6 October 2020 and provides the following responses to the specific queries set out in that letter.

1. Yes.
2. Not applicable.
3. The Company became aware of the Information on 29 September 2020, after it was already in trading halt, when it received an executed counterpart of the final Agreement from Nexus-Vita by email at 8.26pm, and the third party to the Agreement, Nuralogix executed and returned its counterpart of the Agreement at 10:23pm that same night. Please refer to detailed chronology below. All references to dates and times are references to AWST and all references to times are approximate.

The Company commenced discussions with Nexus-Vita Pte Ltd ("Nexus-Vita") on or around 11 August 2020 relating to the integration of the CompleteScan platform into all of Nexus-Vita's verticals, in anticipation of the Company entering into a reseller agreement with Nuralogix Corporation ("Nuralogix") in relation to the CompleteScan platform (announced on 28 August 2020).

Discussions progressed from 11 August 2020 to the production of a first draft binding agreement ("Agreement") to grant Nexus-Vita the right to use and sell the CompleteScan platform and related intellectual property and to integrate this into their own platform/technology. The Agreement was negotiated on arms' length terms.

Following a series of discussions and a period of due diligence by the parties, a final draft version of the Agreement was provided to the Company on 29 September 2020. The Agreement was still under discussion and remained incomplete at the time the Company requested a trading halt at 12:59pm on 29 September 2020. The Company requested that it be placed in a trading halt promptly after Nexus-Vita confirmed by telephone that its board had approved execution of the Agreement by Nexus-Vita and that it would be emailed to the Company later that day.

The Company received an executed counterpart of the Agreement from Nexus-Vita by email at 8.26pm, while the Company was in a trading halt, on 29 September 2020, and the third party to the Agreement, Nuralogix executed and returned its counterpart of the Agreement at 10:23pm that night.



Following receipt of the executed counterparts of the Agreement from Nexus-Vita and Nuralogix on the night of 29 September 2020, during the course of Wednesday, 30 September 2020, the Company completed its final review of the executed counterparts to confirm that they were consistent with the agreed position before the Company's Board:

- considered the Agreement and approved it for execution by the Company; and
- considered the Company's draft ASX announcement in relation to the Agreement and approved it for release to the market.

The Company executed the Agreement at 4:31pm on 30 September 2020, at which time the ASX was already closed for trading on that day.

The Company lodged its ASX announcement in relation to the Agreement with ASX at 6:00am on Thursday, 1 October 2020. ASX did not release the Company's announcement on the ASX Market Announcements Platform ("MAP"). On 1 October 2020, the Company requested that its securities be suspended, pending the release of the announcement. Between 1 and 2 October 2020, the ASX issued a series of questions to the Company, which the Company promptly responded to.

On Friday, 2 October 2020 at 3:42pm the Company provided an updated market announcement in response to the final questions received from the ASX. On the morning of Monday, 5 October 2020 at 6:58am, the Company provided an updated draft announcement to the ASX and later that day at 2:32pm, the ASX confirmed by email that it had no further comments and requested that the Company finalise the announcement for release, after which the Company's securities would be reinstated to quotation.

The Company considers that confidentiality was maintained at all times in relation to its incomplete discussions with the Nexus-Vita prior to the Company announcement the Agreement to the market, including at the time it requested a trading halt.

4. As per the detailed chronology set out in the response to question 3 above, at no stage did MYQ make any announcement prior to the release of the Announcement. The Announcement could not have been made to the market at an earlier time, as the executed Agreement was not received from the counterparties until the night of 29 September 2020, and the Company and its Board then required time on 30 September 2020 to complete their final review of the Agreement and approve its execution. Once the Agreement had been approved and executed by the Company after market on 30 September 2020, the Company sought to immediately release its announcement pre-market on 1 October 2020. As noted in the response to question 3 above, the Company was already in trading halt at the time it became aware of the Information. The Company considers that its request for a trading halt was made at the appropriate time once it had become reasonably certain that the Agreement would be executed by Nexus-Vita.
5. Yes, the Company confirms that it is in compliance with the Listing Rules and, in particular, Listing Rule 3.1.
6. Yes, the Company confirms that the response as outlined above has been authorised and approved in accordance with its continuous disclosure policy and is released by the Company Secretary following delegated authority from the board.

**ASX Announcement**  
**8<sup>th</sup> October 2020**



Should you require any further clarification please do not hesitate to contact the undersigned.

Yours sincerely

A handwritten signature in dark grey ink, appearing to be "S. Richards".

Steven Richards

**Company Secretary/  
Chief Financial Officer**



6 October 2020

Reference: ODIN25573

Mr Steven Richards  
Company Secretary  
MyFiziq Limited  
Suite 8, 7 The Esplanade  
Mt Pleasant, Western Australia 6153

By email: [steven.richards@myfiziq.com](mailto:steven.richards@myfiziq.com)

Dear Mr Richards

**MyFiziq Limited ('MYQ'): Aware Query**

ASX refers to the following:

- A. The increase in the price of MYQ's securities from a low of \$1.150 at the close of trade on Monday, 28 September 2020 to an intraday high of \$1.330 on Tuesday, 29 September 2020 representing a 15.65% increase.
- B. The significant increase in the volume of MYQ's securities traded on Tuesday, 29 September 2020.
- C. MYQ's request for a trading halt dated Tuesday, 29 September 2020 in order for MYQ to announce a material commercial agreement with sales channel partner.
- D. MYQ's announcement entitled "*MYQ Signs Agreement with Nexus-Vita with USD\$3.5m Guarantee*" lodged on the ASX Market Announcements Platform and released at 9:29:58 AM AEST on 6 October 2020 (the 'Announcement'), disclosing, amongst other things, that MYQ had entered into a binding term sheet with Nexus Vita Pte Ltd ('Nexus-Vita') to integrate MYQ's CompleteScan platform into all of Nexus-Vita's verticals, commencing with an initial integration into Nexus-Vita's pre-emptive health platform for a total consideration of USD\$3,588,00 per annum (the 'Information').
- E. The increase in the price of MYQ's securities from a low of \$1.320 at the close of trade on Tuesday 29 September 2020 to an intraday high of \$1.500 on Tuesday 6 October 2020 at the time of writing, representing an increase of 13.64%.
- 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.

*"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 MYQ to respond separately to each of the following questions and requests for information:

1. Noting the increase in MYQ's securities on Tuesday 6 October 2020, does MYQ consider the Information 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, commenting specifically on the fact that MYQ marked the Announcement as sensitive, requested a trading halt of its securities in order to announce the Information and the increase in the price of MYQ's securities on Tuesday 6 October 2020 upon release of the Announcement.
3. When did MYQ first become aware of the Information?
4. If the answer to question 1 is "yes" and MYQ first became aware of the Information before the release of the Announcement, did MYQ make any announcement prior to the release of the Announcement 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, commenting specifically on when you believe MYQ was obliged to release the information under Listing Rules 3.1 and 3.1A and what steps MYQ took to ensure that the information was released promptly and without delay.
5. Please confirm that MYQ is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that MYQ'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 MYQ 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 **9:00 AM AWST Friday, 9 October 2020**. You should note that if the information

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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, MYQ'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 MYQ to request a trading halt immediately.

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.

### **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 MYQ'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 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*.

### **Suspension**

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

### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to MYQ'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 MYQ'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.

### **Release of correspondence between ASX and entity**

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A.

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## Questions

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

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**Vanessa Nevjestic**  
Adviser, Listings Compliance (Perth)