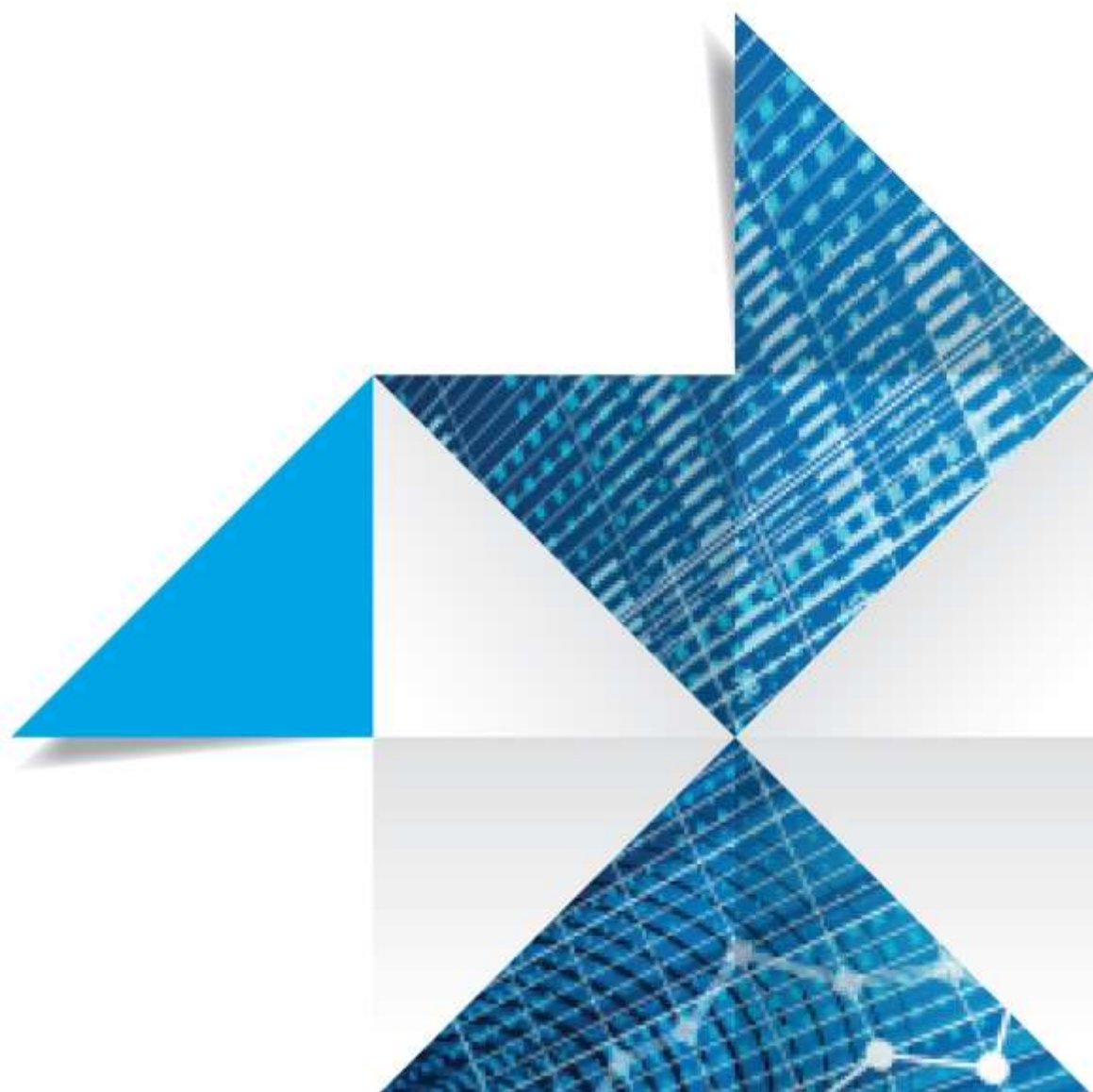




# NZX Regulation Decision

Fisher & Paykel Healthcare Corporation Limited (FPH)  
Application for a waiver from NZX Listing Rule 3.13.1

6 August 2019



# Waiver from NZX Listing Rule 3.13.1

## Decision

1. Subject to the conditions in paragraph 2 below and on the basis that the information provided by Fisher & Paykel Healthcare Corporation Limited (**FPH**) is complete and accurate in all material respects, NZX Regulation (**NZXR**) grants FPH a waiver from NZX Listing Rule (**Rule**) 3.13.1 to the extent this rule prohibits FPH from aggregating issuances of FPH shares under its employee share purchase schemes (as that term is defined in the Financial Markets Conduct Act 2013) (**Plans**) over a 10 business day period for the purposes of notifications under this rule.
2. The waiver in paragraph 1 above is provided on the conditions that:
  - a. FPH discloses under Rule 3.13.1, in a format agreed from time to time with NZXR, the issue of any FPH shares under the Plans within 10 Business Days of that issue;
  - b. the waiver does not apply to a material issue of FPH shares under the Plans. For the purposes of this waiver, a material issue of FPH shares under the Plans is defined as 0.030% of the aggregate number of FPH shares on issue before the relevant issue under the Plans (a “**Material Issue**”); and
  - c. FPH discloses, directly before, or at the same time as, any disclosure of a Material Issue, any issues of FPH shares under the Plans that have in reliance on this waiver not yet been disclosed under Rule 3.13.1.
3. The material 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 Rules to which this decision relates are set out in Appendix Three.
5. Capitalised terms that are not defined in this 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. FPH currently releases notifications under Rule 3.13.1 (and before transitioning to the Listing Rules in effect from 1 January 2019, under Listing Rule 7.12.1 of the NZX Main Board/Debt Market Listing Rules in effect from 1 October 2017) multiple times a month. A high volume of notifications under this rule means that notifications which do have a dilutive effect on the value of FPH's shares may not be highlighted to the market. For instance, in the 12 months ended 31 December 2018, FPH undertook over one hundred share issuances, of which only two (which related to share issuances under the FPH dividend reinvestment plan) did not relate to issuances under the Plans. Only five of the issuances under the Plans consisted of the issue of more than 0.010% of

the aggregate number of FPH shares then on issue, and none consisted of the issue of more than 0.030%. Accordingly, the volume of information required to be released by this rule may cause confusion to investors, which is contrary to its intended purpose;

- b. By announcing the issue of any FPH shares under the Plans using the format as agreed with NZXR from time to time (being the format outlined in Appendix Two as at the date of this decision), it will be clear to the market the number of FPH shares on issue and the date of each issue;
- c. The proposed time period for disclosure is consistent with other relevant notification requirements in respect of share issuances under New Zealand law, being:
  - i. the notification requirement on FPH pursuant to section 43 of the Companies Act 1993, which requires FPH to notify the Registrar of Companies of any issue of shares by FPH within 10 working days of such issue; and
  - ii. the notification requirement on directors and senior managers pursuant to section 297(2)(a) of the Financial Markets Conduct Act 2013, which requires directors and senior managers of FPH to notify FPH, NZX and ASX of any acquisition or disposal of a relevant interest in FPH shares within 20 working days after the acquisition or disposal.
- d. The conditions in paragraph 2 above will ensure that FPH's shareholders and the market remain promptly informed of:
  - i. any new share issuances by FPH made otherwise than under the Plans (e.g. under the FPH dividend reinvestment plan); and
  - ii. any new share issuances by FPH under the Plans that are a Material Issue.
- e. In light of sub-paragraphs (a) to (d) above, the administrative burden to FPH of making repetitive disclosures of small issuances of shares as frequently as would otherwise be required in the absence of a waiver from Rule 3.13.1 would be unduly onerous and likely outweighs any benefit of the immediate disclosure of such issuances.



## Appendix One

1. FPH is a Listed Issuer with Securities Quoted on the NZX Main Board.
2. FPH operates various Plans that involve the grant or issue of options, share rights and shares to selected FPH employees. The Plans include:
  - a. the Fisher & Paykel Healthcare 2003 Share Option Plan;
  - b. the Fisher & Paykel Healthcare 2019 Share Option Plan;
  - c. the Fisher & Paykel Healthcare (North America) 2003 Share Option Plan;
  - d. the Fisher & Paykel Healthcare Performance Share Rights Plan;
  - e. the Fisher & Paykel Healthcare 2019 Performance Share Rights Plan;
  - f. the Fisher & Paykel Healthcare Employee Share Rights Plan;
  - g. the Fisher & Paykel Healthcare Employee Share Purchase Scheme;
  - h. the Fisher & Paykel Healthcare Australian Employee Share Scheme; and
  - i. the Fisher & Paykel Healthcare Employee Stock Purchase Plan.
3. In the 12 months ended 31 December 2018:
  - a. FPH issued FPH shares under the Plans on 101 separate occasions, issuing a total of 1,492,937 FPH shares under the Plans during that period (equating, in aggregate, to 0.260% of the total number of FPH shares on issue as at 31 December 2018);
  - b. FPH made 101 notifications under listing rule 7.12.1 of the NZX Main Board/Debt Market Listing Rules in effect from 1 October 2017 ("**Old Rule 7.12.1**") in respect of the FPH shares issued under the Plans described above; and
  - c. FPH issued FPH shares on only two other occasions during that period, in both instances under the FPH dividend reinvestment plan (in respect of the FY18 final dividend and FY19 interim dividend). In accordance with the Listing Rules, FPH also filed notifications under Old Rule 7.12.1 in respect of those issuances.



## Appendix Two

[DATE]

### Issue of ordinary shares

This notice is given under NZX Listing Rule 3.13.1 and relates to the issue of ordinary shares in Fisher & Paykel Healthcare Corporation Limited ("FPH") under [ ].

This notice is given in reliance on a waiver from NZX Listing Rule 3.13.1 granted by NZX on [date] 2019 that allows FPH, subject to certain conditions, to disclose the issue of FPH shares under FPH's employee share purchase schemes within 10 business days of issue.

Section 1: issuer information	
Name of issuer	Fisher & Paykel Healthcare Corporation Limited
NZX ticker code	FPH
Class of Financial Product	
ISIN	
Section 2: capital change details	
Number of issuances to which this notice relates	
Number issued/acquired/redeemed	(1) (2) ...
Nominal value (if any)	
Issue/acquisition/redemption/price	(1) (2) ...
Nature of the payment (for example, cash or other consideration)	Not applicable
Amount paid up (if not in full)	
Percentage of total class of Financial Products issued/acquired/redeemed/ (calculated on the number of Financial Products of the Class, excluding any Treasury Stock, in existence)	(1) (2) ...
For an issue of Convertible Financial Products or Options, the principal terms of Conversion (for example the Conversion price and Conversion date and the ranking of the Financial Product in relation to other Classes of Financial	

Product) or the Option (for example, the exercise price and exercise date)	
Reason for issue/acquisition/redemption and specific authority for issue/acquisition/redemption/ (the reason for change must be identified here)	(1) (2) ...
Total number of Financial Products of the Class after the issues/acquisitions/redemptions/Conversions (excluding Treasury Stock) and the total number of Financial Products of the Class held as Treasury Stock after the issues/acquisitions/redemptions.	(1) (2) ...  Total number of [Financial Products/ordinary shares] on issue as at the date of this notice after the issues/acquisitions/redemptions disclosed in this notice:
In the case of an acquisition of shares, whether those shares are to be held as treasury stock	
Specific authority for the issue, acquisition, or redemption, including a reference to the rule pursuant to which the issue, acquisition, or redemption is made	
Terms or details of the issue, acquisition, or redemption (for example: restrictions, escrow arrangements)	
Date of issue/acquisition/redemption	(1) (2) ...
<b>Section 3: authority for this announcement</b>	
Name of person authorised to make this announcement	
Contact phone number	
Contact email address	
Date of release via MAP	



## Appendix Three

### Rule 3.13 Issues, acquisitions and redemption of capital

3.13.1 If an Issuer issues acquired or redeems:

- (a) Quoted Financial Products, or
- (b) Financial Products Convertible into Quoted Equity Securities or Options to acquire Quoted Equity Securities,

the Issuer must, subject to Rule 3.13.3, provide for release through MAP in prescribed form (as applicable) details of:

- (c) the Class of Financial Product and ISIN,
- (d) the number of Financial Products issued, acquired or redeemed,
- (e) the nominal value (if any) and the issue, acquisition or redemption price,
- (f) whether payment was in cash,
- (g) any amount paid up (if not in full),
- (h) for an issue of Convertible Financial Products or Options, the principal terms of Conversion (for example, the conversion price and conversion date and the ranking of the Financial Product in relation to other Classes of Financial Product) or the Option (for example, the exercise price and exercise date),
- (i) the percentage of the total Class of Financial Product issued, acquired or redeemed (calculated on the number of Financial Products of the Class, excluding any Treasury Stock, in existence immediately prior to the issue, acquisition or redemption),
- (j) the reason for the issue, acquisition or redemption,
- (k) the specific authority for the issue, acquisition or redemption (if any),
- (l) any terms or details of the issue, acquisition or redemption (such as an escrow provision),
- (m) the total number of Financial Products of the Class in existence after the issue, acquisition or redemption (excluding Treasury Stock) and the total number of Financial Products of the Class held as Treasury Stock after the issue, acquisition or redemption,
- (n) in the case of an acquisition of Equity Securities by an Issuer which is a company registered under the Companies Act 1993, whether those Equity Securities are to be held as Treasury Stock, and
- (o) the date of issue, acquisition or redemption.



Subject to the Rule 3.13.2, notices are required by this Rule must be realised through MAP within one Business Day after the issue, acquisition or redemption. For the purpose of this Rule, the sale or transfer of Treasury Stock by an Issuer is deemed to be an issue of Financial Products.

