

# Notice of Annual General Meeting

## 4D pharma plc

*(Incorporated and registered in England and Wales with registered number 08840579)*

Notice is hereby given that the Annual General Meeting of 4D pharma plc will be held at the Gridiron Building, 1 Pancras Square, London N1C 4AG on 23 May 2016 at 2 p.m. for the purpose of considering and, if thought fit, passing the following resolutions, of which resolutions 1 to 5 will be proposed as ordinary resolutions and resolutions 6 and 7 will be proposed as special resolutions.

### Ordinary resolutions

- 1 That the Company's Annual Report and audited financial statements, and the reports of the directors and auditor, for the year ended 31 December 2015, now laid before this meeting, be and are hereby approved.
- 2 That Duncan Peyton, who retires by rotation, be and is hereby re-elected as a director of the Company.
- 3 That RSM UK Audit LLP be and is hereby re-appointed as auditor of the Company, to hold office until the conclusion of the next general meeting at which accounts are laid before the Company.
- 4 That the directors be and they are hereby authorised to agree the remuneration of the auditor.
- 5 That, in accordance with section 551 of the Companies Act 2006:
  - 5.1 the directors be and they are hereby generally and unconditionally authorised to exercise all the powers of the Company to allot equity securities (as defined in section 560 of the Companies Act 2006) up to an aggregate nominal value of £54,048 (approximately one-third of the Company's issued share capital at the date of this notice); and
  - 5.2 in addition to the authority granted pursuant to subparagraph 5.1, the directors be and they are hereby generally and unconditionally authorised to exercise all the powers of the Company to allot equity securities up to an aggregate nominal value of £54,048 (approximately one-third of the Company's issued share capital at the date of this notice) in connection with a rights issue offered to holders of equity securities and other persons who are entitled to participate, in proportion (as nearly as may be) to their then holdings of equity securities (or, as appropriate, the numbers of such securities which such other persons are for those purposes deemed to hold), subject only to such exclusions or other arrangements as the directors may feel necessary or expedient to deal with treasury shares, fractional entitlements or legal or practical problems under the laws of, or the requirements of any recognised regulatory body of, or any stock exchange in, any territory,

provided that both such authorities shall (unless previously revoked, varied or renewed) expire on the earlier of the date of the next Annual General Meeting of the Company and 23 August 2017, save that, in respect of either authority, the Company may before such expiry make an offer or agreement which would or might require equity securities to be allotted after such expiry and the directors may allot equity securities in pursuance of such an offer or agreement as if the authority conferred hereby had not expired.

These authorities are in substitution for any and all authorities previously conferred upon the directors for the purposes of section 551 of the Companies Act 2006, without prejudice to any allotments made pursuant to the terms of such authorities.

# Notice of Annual General Meeting continued

## Special resolutions

- 6 That, conditionally upon the passing of resolution 5 above, in accordance with sections 570 and 573 of the Companies Act 2006, the directors be and they are hereby given power to allot equity securities (as defined in section 560 of the Companies Act 2006) pursuant to the authority conferred by resolution 5 above, and to sell treasury shares, as if section 561 of the Companies Act 2006 did not apply to such allotment or sale, provided that this power shall be limited to:
- 6.1 the allotment or sale of equity securities for cash in connection with or pursuant to an offer to the holders of equity securities and other persons entitled to participate, in proportion (as nearly as may be) to their then holdings of equity securities (or, as appropriate, the numbers of such securities which such other persons are for those purposes deemed to hold), subject only to such exclusions or other arrangements as the directors may feel necessary or expedient to deal with treasury shares, fractional entitlements or legal or practical problems under the laws of, or the requirements of any recognised regulatory body of, or any stock exchange in, any territory; and
- 6.2 the allotment or sale of equity securities (otherwise than pursuant to subparagraph 6.1) for cash up to a maximum nominal value of £16,215 (approximately 10% of the Company's issued share capital at the date of this notice),

and shall (unless previously revoked, varied or renewed) expire on the earlier of the date of the next Annual General Meeting of the Company and 23 August 2017, save that the Company may before such expiry make an offer or agreement which would or might require equity securities to be allotted or sold after such expiry and the directors may allot or sell equity securities in pursuance of such an offer or agreement as if the power conferred hereby had not expired.

- 7 That the Company be and is hereby generally authorised pursuant to section 701 of the Companies Act 2006 to make market purchases (as defined in section 693(4) of the Companies Act 2006) of its ordinary shares of 0.25 pence provided that:
- 7.1 the Company does not purchase more than 9,722,236 ordinary shares of 0.25 pence (approximately 14.99% of the Company's issued share capital at the date of this notice);
- 7.2 the Company does not pay for any such ordinary share less than its nominal value at the time of purchase; and
- 7.3 the Company does not pay for any such ordinary share more than 5% above the average of the closing mid-market price for ordinary shares of 0.25 pence for the five business days immediately preceding the date on which the Company agrees to buy the shares concerned, based on the share prices published in the Daily Official List of the London Stock Exchange or the AIM supplement thereto.

The authority conferred by this resolution shall (unless previously revoked, varied or renewed) expire on the earlier of the date of the next Annual General Meeting of the Company and 23 August 2017, save that the Company may before such expiry make a contract to purchase shares which will or may be executed wholly or partly after the expiry of such authority, and may make a purchase of shares in pursuance of any such contract, as if such authority had not expired.

By order of the Board

**Laurence Dale**  
**Company Secretary**  
Registered office  
Third Floor  
9 Bond Court  
Leeds LS1 2JZ

18 April 2016

# Notes to the Notice of Annual General Meeting

1. A member entitled to attend and vote at the meeting is also entitled to appoint one or more proxies of their own choice to exercise all or any of their rights to attend, speak and vote on their behalf at the meeting. A member can only appoint a proxy using the procedures set out in these notes and the notes to the accompanying form of proxy.
2. A member may appoint more than one proxy in relation to the meeting provided that each proxy is appointed to exercise the rights attached to a different share or shares held by that member. A member may not appoint more than one proxy to exercise rights attached to any one share. The proxy need not be a member of the Company, but must attend the meeting to represent the member. Please refer to the notes to the form of proxy for further information on appointing a proxy, including how to appoint multiple proxies.
3. In the absence of instructions, the person appointed proxy may vote or abstain from voting as he/she thinks fit on the specified resolutions and, unless otherwise instructed, may also vote or abstain from voting on any other matter (including amendments to the resolutions) which may properly come before the meeting.
4. In the case of joint holders of a share, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders. For this purpose, seniority is determined by the order in which the names of the holders stand in the Company's register of members in respect of the joint holding.
5. Any corporation which is a member can appoint one or more corporate representative who may exercise on its behalf all of its powers as a member, provided that each representative is appointed to exercise the rights attached to a different share or shares held by the member.
6. Pursuant to regulation 41 of the Uncertificated Securities Regulations 2001 (as amended), the Company specifies that only those members registered on the register of members at 6.00 p.m. on 19 May 2016 (the "Specified Time") (or if the meeting is adjourned to a time more than 48 hours after the Specified Time, taking no account of any part of a day that is not a working day, by 6.00 p.m. on the day which is two working days prior to the time of the adjourned meeting) shall be entitled to attend and vote thereat in respect of the number of shares registered in their name at that time. If the meeting is adjourned to a time not more than 48 hours after the Specified Time (taking no account of any part of a day that is not a working day), that time will also apply for the purposes of determining the entitlement of members to attend and vote (and for the purposes of determining the number of votes they may cast) at the adjourned meeting. Changes to the register after the relevant deadline shall be disregarded in determining rights to attend and vote.

## **Appointment of proxy using hard copy proxy form**

7. Members may appoint a proxy or proxies by completing and returning a form of proxy by post to the offices of the Company's registrar using the accompanying reply-paid envelope; or in an envelope addressed to Capita Asset Services, PXS, 34 Beckenham Road, Beckenham, Kent BR3 4TU; or by delivering a form of proxy by hand to such address during normal business hours. In the case of a member which is a corporation, the proxy form must be executed under its common seal or signed on its behalf by a duly authorised officer or an attorney. Any power of attorney or any other authority under which the proxy form is signed (or a copy of such power of authority certified in accordance with the Powers of Attorney Act 1971) must be included with the proxy form. Any such power of attorney or other authority cannot be submitted electronically.
8. To be effective, the appointment of a proxy, or the amendment to the instructions given for a previously appointed proxy, must be received by the Company's registrar by the method outlined in note 7 above no later than 2 p.m. on 19 May 2016. If you submit more than one valid proxy appointment, the appointment received last before the latest time for the receipt of proxies will take precedence.

## **Appointment of proxy using CREST electronic proxy appointment service**

9. CREST members who wish to appoint a proxy or proxies by utilising the CREST electronic proxy appointment service may do so for the meeting and any adjournment(s) of it by using the procedures described in the CREST Manual (available from [www.euroclear.com/site/public/EUI](http://www.euroclear.com/site/public/EUI)). CREST Personal Members or other CREST sponsored members, and those CREST members who have appointed a voting service provider(s), should refer to their CREST sponsor or voting service provider(s), who will be able to take the appropriate action on their behalf.
10. In order for a proxy appointment made by means of CREST to be valid, the appropriate CREST message (a "CREST Proxy Instruction") must be properly authenticated in accordance with Euroclear UK & Ireland Limited's ("EUI's") specifications and must contain the information required for such instructions, as described in the CREST Manual. The message must be transmitted so as to be received by the issuer's agent (ID: RA10) by the latest time(s) for receipt of proxy appointments specified in this notice. For this purpose, the time of receipt will be taken to be the time (as determined by the timestamp applied to the message by the CREST Applications Host) from which the issuer's agent is able to retrieve the message by enquiry to CREST in the manner prescribed by CREST.

## Notes to the notice of Annual General Meeting continued

### Appointment of proxy using CREST electronic proxy appointment service continued

11. CREST members and, where applicable, their CREST sponsors or voting service providers should note that EUI does not make available special procedures in CREST for any particular messages. Normal system timings and limitations will therefore apply in relation to the input of CREST Proxy Instructions. It is the responsibility of the CREST member concerned to take (or, if the CREST member is a CREST personal member or sponsored member or has appointed (a) voting service provider(s), to procure that his CREST sponsor or voting service provider(s) take(s) such action as shall be necessary to ensure that a message is transmitted by means of the CREST system by any particular time. In this connection, CREST members and, where applicable, their CREST sponsors or voting service providers are referred, in particular, to those sections of the CREST Manual concerning practical limitations of the CREST system and timings.
12. The Company may treat as invalid a CREST Proxy Instruction in the circumstances set out in Regulation 35(5)(a) of the Uncertificated Securities Regulations 2001.

### Termination of proxy appointments

13. Completion and return of the form of proxy will not preclude a member from attending and voting in person at the meeting.
14. In order to terminate the authority of a proxy, you will need to inform the Company by sending a signed hard copy notice clearly stating your intention to revoke such appointment to the Company's registrar. To be effective, the notice of termination must be received by the Company's registrar by the method outlined in note 7 above no later than 2 p.m. on 20 May 2016.

### Voting rights

15. As at 18 April 2016, being the latest practicable date prior to the printing of this notice, the Company's issued capital consisted of 64,858,150 ordinary shares carrying one vote each. Therefore, the total voting rights in the Company as at 18 April 2016 are 64,858,150.

### Communications

16. This notice, together with information about the total number of shares in the Company in respect of which members are entitled to exercise voting rights at the meeting as at 18 April 2016, being the latest practicable date prior to the printing of this notice, will be available on the Company's website, [www.4dpharmapl.com](http://www.4dpharmapl.com).
17. Except as provided above, members who have general queries about the Annual General Meeting should contact Laurence Dale (0113 895 0130; Third Floor, 9 Bond Court, Leeds LS1 2JZ). No other methods of communication will be accepted. Any electronic address provided either in this notice or in any related documents (including the form of proxy) may not be used to communicate with the Company for any purposes other than those expressly stated.

### Documents available for inspection

18. There are available for inspection at the registered office of the Company during usual business hours on any weekday (public holidays excepted), and there will be available for inspection at the place of the meeting from at least 15 minutes prior to and until the conclusion of the meeting:
  - copies of the service contracts of Executive directors of the Company; and
  - copies of the letters of appointment of the non-executive directors of the Company.

# Explanatory Notes to the Notice of Annual General Meeting

These explanatory notes give further information in relation to the resolutions listed in the enclosed notice of the Company's Annual General Meeting.

## **Resolution 1 – Receipt of accounts**

The directors must lay the Company's accounts, the Directors' Report and the Auditor's Report before the shareholders at a general meeting. This is a legal requirement after the directors have approved the accounts and the Directors' Report, and the auditor has prepared its report.

## **Resolution 2 – Re-election of Duncan Peyton**

In accordance with the Company's articles of association, all directors of the Company who have been appointed since the Company's last Annual General Meeting, and all other directors on a regular basis as set out in the Company's articles of association, seek election (or re-election as the case may be) by the shareholders.

Duncan Peyton, retiring by rotation, offers himself for re-election, in accordance with the Company's articles of association. Details of his CV are on page 6 of the Company's Annual Report.

## **Resolution 3 – Re-election of RSM UK Audit LLP as auditor**

The Board of directors, on the recommendation of its Audit and Risk Committee, recommends the re-election of RSM UK Audit LLP as auditor, to hold office until the next general meeting at which accounts are laid.

## **Resolution 4 – Remuneration of the auditor**

This resolution authorises the directors to agree the remuneration of the auditor.

## **Resolution 5 – Authority to allot shares**

The purpose of resolution 5 is to renew the directors' power to allot shares. Section 551 of the Companies Act 2006 provides that the directors may not allot new shares (other than for employee share schemes) without shareholder authority.

Accordingly, resolution 5 will be proposed as an ordinary resolution to authorise the directors (pursuant to section 551 of the Companies Act 2006):

- (i) to allot ordinary shares of 0.25 pence each in the capital of the Company up to a maximum nominal amount of £54,048, being approximately one-third of the nominal value of the ordinary shares in issue on 18 April 2016; and
- (ii) in addition to the authority described above, to allot ordinary shares of 0.25 pence each in the capital of the Company up to a maximum nominal amount of £54,048 pursuant to a rights issue in respect of which all shareholders are entitled to participate as nearly as possible in proportion to their holding of shares in the Company at the time.

This authority (unless previously revoked, varied or renewed) will expire on the earlier of the date of the next Annual General Meeting of the Company or 15 months after the date of the passing of the resolution. The directors will exercise the authority to allot only when satisfied that it is in the interests of the Company to do so. The directors have no present intention of allotting further shares.

Were the Company to use the relevant authorities and:

- the number of shares in issue increased, in aggregate, by more than one-third; and
- (as regards their use as a part of a rights issue) the proceeds of the relevant rights issue exceeded one-third (or the relevant specific proportion) of the pre-issue market capitalisation,

then those members of the Board wishing to remain in office would stand for re-election at the next Annual General Meeting.

# Explanatory notes to the notice of Annual General Meeting

continued

## **Resolution 6 – Disapplication of pre-emption rights**

Section 561 of the Companies Act 2006 confers on shareholders' rights of pre-emption in respect of the allotment of "equity securities" which are, or are to be, paid up in cash, otherwise than by way of allotment to employees under an employees' share scheme. The provisions of section 561 apply to the ordinary shares of 0.25 pence each of the Company, to the extent that they are not disapplied pursuant to section 570 of the Companies Act 2006. This provision also covers the sale of treasury shares (should the Company elect to hold any) for cash.

It is proposed that the disapplication of these statutory pre-emption rights be approved, as a special resolution, to give the directors power to allot shares without the application of these statutory pre-emption rights, first, in relation to rights issues and, second, in relation to the issue of ordinary shares of 0.25 pence each in the capital of the Company for cash up to a maximum aggregate nominal amount of £16,215 (representing approximately 10% of the nominal value of the ordinary shares in issue on 18 April 2016).

This authority (unless previously revoked, varied or renewed) will expire on the earlier of the date of the next Annual General Meeting of the Company or 15 months after the date of the passing of the resolution.

The directors have no present intention of exercising the authority; in accordance with the National Association of Pension Funds' Corporate Governance Policy and Voting Guidelines for Smaller Companies, they are seeking the authority so as to be able to raise funds at short notice, where appropriate, from the issue of new share capital for the purpose of taking advantage of investment opportunities that may arise.

## **Resolution 7 – Purchase by the Company of its own shares**

The purpose of resolution 7 is to obtain the authority for the Company to make market purchases of its ordinary shares. Under the Companies Act 2006 such an authority must first be sanctioned by an ordinary resolution of the Company in general meeting, but current institutional shareholder voting guidelines require that any such authority should be sanctioned by special resolution.

Accordingly, resolution 7 will be proposed as a special resolution to authorise the Company to purchase a maximum of 9,722,236 ordinary shares (equal to approximately 14.99% of the ordinary shares in issue on 18 April 2016) on AIM at a price per share of not less than 0.25 pence, and not more than 5% above the average of the middle market quotations for ordinary shares of the Company for the five business days immediately preceding the day of purchase. In order to maximise the benefit to be derived by the Company, it would be the directors' intention that any purchases should be made at as low a price (within the limits specified in resolution 7) as they considered reasonably obtainable.

This authority (unless previously revoked, varied or renewed) will expire on the earlier of the date of the next Annual General Meeting of the Company or 15 months after the date of the passing of the resolution.

Pursuant to the Companies Act 2006, the Company can hold the shares which have been repurchased as treasury shares and either resell them for cash, cancel them (either immediately or at a point in the future) or use them for the purposes of its employee share schemes. The directors believe that it is desirable for the Company to have this choice and therefore currently envisage holding any shares purchased under this authority as treasury shares. Holding the repurchased shares as treasury shares will give the Company the ability to resell or transfer them in the future, and so provide the Company with additional flexibility in the management of its capital base. No dividends will be paid on, and no voting rights will be exercised in respect of, treasury shares.

Shares will only be repurchased if the directors consider such purchases to be in the best interests of shareholders generally and that they can be expected to result in an increase in earnings per share. The authority will only be used after careful consideration, taking into account market conditions prevailing at the time, other investment opportunities and the overall financial position of the Company. Shares held as treasury shares will not automatically be cancelled and will not be taken into account in future calculations of earnings per share (unless they are subsequently resold or transferred out of treasury).

If any shares repurchased by the Company are held in treasury and used for the purposes of its employee share schemes, while so required under institutional shareholder voting guidelines, the Company will count those shares towards the limits on the number of new shares which may be issued under such schemes.

Purchases will not be made to the extent that they may affect the eligibility of the Company for continued admission to AIM and it is not the directors' current intention that the Company should stand in the market for any particular year or until any specified number of shares has been acquired.

The purchase of shares by the Company pursuant to these proposals will be a market purchase and thus made through AIM. This means that any shareholder selling shares, even if those shares are subsequently acquired by the Company, will not be subject to different tax considerations from those normally applying to a sale of shares in the market provided that the purchase by the Company is made exclusively through a market maker acting as principal. In that event, for shareholders who held their shares as an investment, the sale proceeds will normally be treated as capital and the normal capital gains tax rules will apply to those sale shares. There will normally be no liability to tax on income unless the shareholder's disposal is by way of trade.