



Biotech Daily

Thursday June 25, 2009

Daily news on ASX-listed biotechnology companies

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MARKET REPORT

The Australian stock market climbed 1.29 percent on Thursday June 25, 2009 with the S&P ASX 200 index up 49.0 points to 3,856.0 points.

Fourteen of the Biotech Daily Top 40 stocks were up, 12 fell, 12 traded unchanged and two were untraded.

Phylogica was best for the second day in a row, up one cent or 20 percent to six cents with 26,100 shares traded, followed by Antisense up 8.1 percent to four cents.

Circadian climbed 5.7 percent; Cytopia and Pharmaxis were up more than four percent; Labtech, Prana, Progen and Starpharma were up more than three percent; Cochlear rose 2.9 percent; Cellestis and Clinuvel were up more than one percent; with Acrux, Chemgenex, CSL and Sirtex up by less than one percent.

Tissue Therapies led the falls, down 1.5 cents or 8.8 percent to 15.5 cents with 60,000 shares traded, followed by Genetic Technologies down eight percent to 4.6 cents.

Benitec and Novogen lost more than seven percent; Genera fell 6.5 percent; both Living Cell and Universal Biosensors were down 5.26 percent; Bionomics fell 4.2 percent; Biota and Phosphagenics were down more than three percent; Arana and Polartechnics were down more than one percent; with Resmed down 0.2 percent.

EDITORIAL: CORPORATE REGULATION

Biotech Daily believes the regulation – or lack of regulation - of Australian listed companies needs a dramatic overhaul. The system has failed. The material below has been sent to Finance Minister Lindsay Tanner and the Minister for Corporate Law, Chris Bowen.

ASIC & ASX

The roles of the ASX and ASIC need to be totally reappraised. Neither organization is effective in policing the corporate sector. Despite a few high profile cases intended to salve the anger of its elected masters, ASIC is as anti-transparency as the companies it prosecutes. It is frustrating to report wrong-doing to ASIC only to be told the organization can't comment on cases - until the public relations cycle suits it. ASIC is behaving like a bad police force, pretending to solve crime when nothing is being done. If the organization is actually doing work then it should be able to say so.

The primary criticism from former investigators is the lack of funding. It is an old political confidence trick, that one inherits a powerful regulator and then merely fails to fund operational staff. The Australian Government says it has increased funding to ASIC, but there has been no increase in transparency or prosecutions. There needs to be a review of the qualifications and ability of investigating staff to ensure that sufficient people capable of tracking corporate crime are on the payroll.

As for the ASX, it is a developed world joke that the broking houses' collective, earning income on every single share trade, is the regulator of the broking houses and their trades. This is a conflict of interest. A new regulator is required.

The ASX attempts to monitor/police its member companies, but claims it is powerless to do so. It wastes resources tracking directors of innocent companies who are a day late with their Directors Interest Appendix 3X, 3Y and 3Z statements, but lets crooks operate without let or hindrance. Recently, the ASX asked a dead director and company secretary why he didn't file his final Appendix 3Z statement.

THE LISTING RULES

The Listing Rules are best described by Captain Barbossa (Geoffrey Rush) in *Pirates of the Caribbean*, referring to the Pirates Code, as "more guidelines, than your actual regulations".

The most basic concept of the listing rules, namely what is 'material' is not defined, nor – according to the ASX - has it ever been tested in court. Listing Rule 3.1 on transparency effectively says matters are material if they are of the nature of a dozen examples, but only if they are material; which is why we have headlines reading 'ASX in Wonderland'. The same is the case for 'fair and reasonable'.

If there is no definition of what is 'material' nor 'fair and reasonable' then how is anyone to know what is required? In any case the 'guideline' of material affecting profit expectations by more than 15 percent is a furphy. CSL does not need to say it has won a \$10 million Government grant, because that amount is immaterial to a \$20 billion company. But not to taxpayers and investors and not to companies whose market capitalization is \$5 million!

ASX & ADMINISTRATORS

In the current case of the administration of Ventracor, it has been demonstrated that the ASX is powerless to enforce its own guidelines when faced with a single obstinate accountant. Ventracor was placed into voluntary administration with Ferrier Hodgson. Ventracor is (at the time of writing, still) a publicly listed company. The sale of all of its assets would by any measure be considered 'material'. But Ferrier Hodgson has told Ventracor shareholders nothing. It has posted several notices on its own website, but none have been posted to the ASX.

Again, the ASX says it is powerless to do any more than 'have a word' with Ferrier Hodgson, whose primary duty is to creditors, not shareholders. However, as the body legally responsible for Ventracor, the administrators should be held to be legally responsible to at least inform Ventracor shareholders of their actions. This can be fixed with a simple amendment to existing legislation requiring administrators to keep shareholders informed of any decision that could impact on their holdings or the remnants thereof. It would be better to revisit the entire Corporations Act and ASX Listing Rules.

ASX AND DATA PROVISION

The ASX also fails – through sloth – to inform shareholders of a most essential piece of company data – the correct market capitalization of a company.

Biotech Daily first raised this matter in 2004 and despite promises from the then head of the communications department, nothing has been done.

There are two distinct and easily-solved problems, but instead of dealing with the issues, the ASX simply does nothing.

SHARES IN ESCROW

Shares held in escrow are withheld from trading for a variety of reasons. However they have the full legal power to vote in general meetings and partake in rights issues and are worth the same as a tradeable share. This was demonstrated last month when Nanosonics released 97 million escrowed shares instantly doubling its ASX reported market capitalization. The correct figure should have been available all the time.

It is the bane of small companies that the ASX cannot be bothered publishing correct data. The ASX promised that at the next computer update, then expected at the end of 2005, the computer system would be updated to include shares in escrow to give the correct and complete market capitalization of a company. An investor using data from the ASX will find many smaller companies with an incorrect market capitalization due to this ASX failure. It discriminates against the younger, smaller companies, because most older companies don't have shares in escrow.

FOREIGN HOLDINGS

In one of the best pieces of dissembling I have ever heard, the present head of ASX communications told Biotech Daily that it was not the ASX's responsibility to count shares held and traded off-shore.

Hence Resmed, according to the ASX, has a market capitalization of just \$700 million, when the real figure is \$3.5 billion. Peplin and Psivida are discounted by about 50% by the ASX, which claims to be incapable of doing what some companies themselves do and publish a real-time total market capitalization.

The ASX's job is to ensure an orderly market place, but it does not seem capable of publishing accurately the most important data. It is often out of date with lists of directors and other data. Resolving this data problem is not difficult. The companies with offshore trading can report their total holdings to the ASX in equivalence to Australian shares and the ASX can provide the market capitalization.

The ASX needs a lesson in transparency and equity.

TRANSPARENCY

Finally, the present legal framework allows every unsavory and/or criminal operator to hide behind the concept of 'nominee' companies. If one reads the Top 20 shareholders of a company in its annual report – that is, who owns and runs the company – more often than not one learns nothing because the major shareholders are hidden under 'National Nominees', 'Commonwealth Custodians', 'Merrill Lynch Nominees' and other such mysterious entities. Apparently it is a system encouraged by the nominee companies to provide them with both large accounts (and account-keeping fees) and to provide power over the listed companies in whom they maintain the collective holding.

It is the precise opposite of transparency and I have heard no reasonable argument in support of this system. If Al Capone holds 22% of the Helpful Taxation Tips Co, with Edward Kelly (19%) and Ronald Biggs (15%) but they all hide under Honest Nominees (56%) then most investors might think the company benign, when it is not.

One company director said he needed to hide his holdings to prevent the Australian Taxation Office and his wife knowing how much he was worth. I think this is the main use of nominee companies. The paper trail from publicly-listed companies should be open and transparent and where there are related parties, the investors should be compelled to link them. A substantial shareholder notice for Cogstate (BD: May 29, 2009) from the Myer Family was exemplary in its openness. If the Myer Family can do it, anyone can.

The same needs to be the case with daily share transactions. Who needs to hide their identity unless there is something underhanded? Until recently brokers were able to tell which broking house was selling and buying and could even determine some buyers. In the interests of transparency the ASX shut down the one mechanism which could explain some unusual trading.

Ordinary shareholders have enough difficulty understanding the machinations of our 2000 listed companies, without the alleged gatekeeper, the ASX, further obfuscating important data and information.

The ASX should be entirely relieved of any role in regulation and a proper regulatory regime established along with an information system designed to benefit ordinary investors and not just "the big end of town". Anything less is a discriminatory disservice to all investors.

These proposed changes would be good for business and good for investors. Everyone benefits from transparency and equal treatment.

David Langsam
Editor, Biotech Daily

BIONOMICS

Bionomics has begun a phase I trial of anti-anxiety drug, BNC210 at the Royal Adelaide Hospital evaluating the safety, tolerability and the pharmacokinetics of BNC210.

Bionomics said the preclinical profile of BNC210 indicated it was fast-acting and lacked the side-effects seen with current anxiety treatments with the same or greater therapeutic benefit.

The 28-patient phase I clinical trial will be conducted in seven groups of four healthy male volunteers each at the Pain and Anaesthesia Research Clinic within the Royal Adelaide Hospital and is expected to be completed by the end of 2009.

The company said it might increase the number of participants per cohort if additional safety data was required.

Bionomics said the primary objective of the double-blind, placebo-controlled, ascending single oral dose trial was to evaluate the safety, tolerability and the pharmacokinetics of BNC210 and a secondary objective was the preliminary evaluation of central nervous system effect.

Bionomics said the secondary objectives to determine the effects of BNC210 would be through the use of Bond and Lader visual analogue scales, which it said was an accepted psychometric methodology by which patients record their perception of their current state, rating neurological and psychiatric symptoms.

The company said the results would enable identification of an appropriate dose range for subsequent clinical studies.

Bionomics chief executive officer Dr Deborah Rathjen said the BNC210 anti-anxiety drug trial was the company's second drug candidate along with BNC105 for cancer.

"Anxiety is a significant market and represents around \$US15 billion revenue per year in the global pharmaceutical sector and yet current treatments do not service patients very effectively," Dr Rathjen said.

"We are excited by the prospect that BNC210 may represent an advance in the treatment of both acute and chronic forms of anxiety," Dr Rathjen said.

Bionomics said the "potent anxiolytic activity of BNC210 and lack of side effects [was] identified in extensive preclinical studies across a broad range of models".

The company said that current anxiety treatments, such as benzodiazepines like Valium and selective serotonin reuptake inhibitors or SSRIs such as Prozac, had side effects associated with their use.

Bionomics said benzodiazepines offer acute relief to people suffering from anxiety but have sedative, cognitive and motor impairing side effects.

The company said that their protracted use could result in tolerance and addiction.

Bionomics said SSRIs exhibited slow onset of action over two to four weeks and were associated with side effects such as early agitation, gastric disturbances and sexual dysfunction which precluded their use for the long-term management of anxiety disorders.

The company said the principal investigator was the University of Adelaide's Prof Paul Rolan a professor of clinical pharmacology and a co-founder of the Pain and Anaesthesia Research Clinic.

Approval was granted by the research ethics committee of the Royal Adelaide Hospital in May 2009 and notification given to the Drug and Safety Evaluation Branch of the Therapeutic Goods Administration.

The trial design is in accordance with the principles of the International Conference on Harmonization, standards of conduct for clinical trials that are essentially uniform for all the major regulatory agencies world-wide, including the US Food and Drug Administration. Bionomics fell one cent or 4.17 percent to 23 cents.

FERMISCAN, POLARTECHNICS

Fermiscan corporate strategist Leon Carr and others have accepted Polartechnics takeover offer giving the bidder a substantial shareholding of 30,222,510 shares (21.06%). Rellcain Pty Ltd said on June 16, 2009 it had transferred 28,557,827 shares (19.9%) to Polartechnics under the three Polartechnics-for-two Fermiscan shares takeover offer. A further 1,664,683 acceptances have been received by the bidder. Rellcain's pre-bid acceptance agreement was signed by Leon Phillip Carr as sole director. Fermiscan fell 0.2 cents or 2.02 percent to 9.7 cents. Polartechnics fell 0.1 cents or 1.1 percent to 9.1 cents.

PRIMA BIOMED

Prima says it will postpone three resolutions issuing options to directors Ata Gokyildirim, Dr Richard Hammel, Martin Rogers or their nominees.

Prima said that "following shareholder feedback" on the explanatory statement for the general meeting scheduled for June 26, 2009 "to allow sufficient time to distribute additional information for shareholders consideration" (BD: May 22, 2009).

"Shareholder correspondence has highlighted that, given the significant share price volatility, the details in the explanatory statement could be enhanced by updating the valuation model in the explanatory statement to include the spot price as close to the meeting date as possible," Prima said.

Prima said that votes already received related to the three resolutions will be disregarded pending a new proxy form.

The timing of the resumed meeting will be advised shortly. Shareholders will have additional details mailed to them.

Prima said the other six resolutions would be considered at the June 26, 2009 meeting.

Prima climbed 0.4 cents or 7.69 percent to 5.6 cents with 7.4 million shares traded.

PHARMAUST

Gerald and Gillian Van Blommestein have increased their substantial shareholding in Pharmaust from 25,487,435 shares (10.01%) to 28,805,269 shares (11.31%).

Pharmaust chief executive officer Sam Wright said the Van Blommesteins were long term investors in the company.

Pharmaust fell half a cent or 20 percent to two cents.

ROCKEBY BIOMED

Dr Sze Wee Tan has resigned as Rockeby's managing director and chief executive officer effective from July 18, 2009.

Dr Tan was managing director when the Singapore-based company first listed on the ASX in December 2003.

No explanation was provided for Dr Tan's departure, nor any mention of a search for a replacement.

Rockeby was untraded at 3.7 cents.

[BIO-MELBOURNE NETWORK](#)

The Bio-Melbourne Network says the “upside to the global financial crisis ... is a flood of talented experienced potential employees in the market”.

The Bio-Melbourne Network said its July 14, 2009 Bio-Breakfast would examine how to attract and retain talented staff.

The Network said many cash-strapped companies were interested options other than remuneration to differentiate themselves and make them the “biotech company of choice”. Hare Group chief executive officer Simon Hare will discuss the issues around attracting and retaining the right people.

Mr Hare will focus on employee incentive schemes, remuneration structures, what works and what doesn't work.

The Walter and Eliza Hall Institute's business development manager Dr Julian Clark will present a case study on inventorship and intern schemes based on his experience.

The presentations will be followed by a panel discussion and question and answer session with Brooker Consulting's Jeremy Wurm and employment consultant Janine Pickering.

The July 14, 2009 Bio-Breakfast will be held in the Supper Room, Melbourne Town Hall, Swanston St, Melbourne. Registration from 7:15am with presentations at 8am.

For further information go to www.biomelbourne.org , email npitcher@biomelbourne.org or call Nicole Pitcher on 03 9650 8800