



ASX/Media RELEASE

11 June 2008

Lodgement of Court Order Approving US Reincorporation

Boston, MA and Perth, Australia (11 June 2008) - pSivida Limited (ASX: PSD, NASDAQ: PSDV, FSE: PSI) announced that a copy of the Order of the Federal Court of Australia approving the Scheme of Arrangement for the Company's reincorporation in the United States was today lodged with the Australian Securities and Investments Commission. This is done in accordance with Listing Rule 7.19.1.

A copy of the Order appears on the next page.

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About pSivida Limited

pSivida is a global drug delivery company committed to the biomedical sector and the development of drug delivery products. Retisert® is FDA approved for the treatment of uveitis. Vitrasert® is FDA approved for the treatment of AIDS-related CMV Retinitis. Bausch & Lomb owns the trademarks Vitrasert® and Retisert®. pSivida has licensed the technologies underlying both of these products to Bausch & Lomb. The technology underlying Medidur™ for diabetic macular edema is licensed to Alimera Sciences and is in Phase III clinical trials. pSivida has a worldwide collaborative research and license agreement with Pfizer Inc. for other ophthalmic applications of the Medidur™ technology (excluding FA).

pSivida owns the rights to develop and commercialize a modified form of silicon (porosified or nano-structured silicon) known as BioSilicon™, which has applications in drug delivery, wound healing, orthopedics, and tissue engineering. The most advanced BioSilicon™ product, BrachySil™, delivers a therapeutic, P32 directly to solid tumors and is presently in Phase II clinical trials for the treatment of pancreatic cancer.

pSivida's intellectual property portfolio consists of 68 patent families, 118 granted patents, including patents accepted for issuance and 275 patent applications. pSivida conducts its operations from Boston in the United States, Malvern in the United Kingdom and Perth in Australia.

pSivida is listed on NASDAQ (**PSDV**), the Australian Stock Exchange (**PSD**) and on the Frankfurt Stock Exchange (**PSI**). pSivida is a founding member of the NASDAQ Health Care Index and the Merrill Lynch Nanotechnology Index.

SAFE HARBOR STATEMENTS UNDER THE PRIVATE SECURITIES LITIGATION REFORM ACT OF 1995: Various statements made in this release are forward-looking and involve a number of risks and uncertainties. All statements that address activities, events or developments that we intend, expect or believe may occur in the future are forward-looking statements. The following are some of the factors that could cause actual results to differ materially from the forward-looking statements: the scheme of arrangement for reincorporation of the company, including whether or not it is implemented; the achievement of milestones and other contingent contractual payment events; failure to prove efficacy for BrachySil; inability to raise capital; continued losses and lack of profitability; inability to develop or obtain regulatory approval for new products; inability to protect intellectual property or infringement of others' intellectual property; inability to obtain partners to develop and market products; termination of license agreements; competition; inability to pay any registration penalties; costs of international business operations; manufacturing problems; insufficient third-party reimbursement for products; failure to retain key personnel; product liability; inability to manage change; failure to comply with laws; failure to achieve and maintain effective internal control over financial reporting; amortization or impairment of intangibles; issues relating to

Australian incorporation; potential delisting from ASX or NASDAQ; possible dilution through exercise of outstanding warrants and stock options or future stock issuances; potential restrictions from capital raises; possible influence by Pfizer; and other factors that may be described in our filings with the Securities and Exchange Commission. Given these uncertainties, readers are cautioned not to place undue reliance on such forward-looking statements. We do not undertake to publicly update or revise our forward-looking statements even if experience or future changes make it clear that any projected results expressed or implied in such statements will not be realized.

IN THE FEDERAL COURT OF AUSTRALIA)
NEW SOUTH WALES DISTRICT REGISTRY)

No NSD 538 of 2008

IN THE MATTER OF PSIVIDA LIMITED ABN 78 009 232 026

PSIVIDA LIMITED
ABN 78 009 232 026
Plaintiff

NEW PSIVIDA, INC. (now PSIVIDA CORP)
ARBN 130 843 177
Defendant

ORDER

Coram: Jacobson J
Date of orders: 10 June 2008
Where made: Sydney



Capitalised terms in these Orders have the same meaning as in the explanatory statement (**Information Memorandum**) approved by this Honourable Court on 1 May 2008.

THE COURT ORDERS that:

1. Pursuant to sections 411(4)(b) and 411(6) of the *Corporations Act 2001* (Cth) (the **Act**), the scheme of arrangement between pSivida Limited ABN 78 009 232 026 (**pSivida**) and the holders of ordinary shares in pSivida, in the form annexed hereto and marked "A", be approved.
2. Pursuant to sections 413(1)(a) and 413(2) of the Act, all the property and liabilities of pSivida including:
 - (a) all Options; and

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(b) shares in Subsidiaries held by pSivida,

be transferred to pSivida Corp. ARBN 130 843 177 (**New pSivida**), so that the property is transferred to, and vests in, New pSivida, and the liabilities are transferred to, and become the liabilities of, New pSivida, with effect from midnight on the day on which all the Shares in pSivida on issue at the Record Date are transferred to New pSivida in accordance with the Scheme (**Transfer Date**).

3. Pursuant to section 413(1)(d) of the Act, following the transfer of the whole of the undertaking of pSivida and of the property and liabilities of pSivida to New pSivida, pSivida be deregistered by the Australian Securities and Investments Commission without a winding up, with effect from midnight on the business day after the Transfer Date.
4. Pursuant to section 413(1)(g) of the Act, the Rules of the pSivida Limited Employee Share Option Plan, exhibited at Tab 2 of Exhibit PA2 to the second affidavit of Paul Ashton sworn on 6 June 2008 in these proceedings, be amended so that:
 - (a) the definition of "Company" in clause 15 is deleted and is replaced with the words, "Company means pSivida Corp ARBN 130 843 177"; and
 - (b) the definition of "Share" in Clause 15 is deleted and is replaced with the words, "Share means 1 fully paid CHESS Depository Interest in respect of common stock in the Company".
5. Pursuant to section 413(1)(g) of the Act, in contracts to which pSivida is a party, any references to pSivida are to be read as references to New pSivida.
6. Pursuant to section 411(12) of the Act, pSivida be exempted from compliance with section 411(11) of the Act.
7. These Orders be entered forthwith.



3.

Date that entry is stamped: 10 June 2008



"A"

**Scheme
pursuant to sections 411
and 413 of the Corporations
Act**

pSivida Limited
ABN 78 009 232 026

Each Scheme Participant



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Reference
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Scheme

DATE

PARTIES

pSivida Limited
ABN 78 009 232 026 (Company)

Each **Scheme Participant**

RECITALS

- A. The Company is a public company registered in Western Australia and is a company limited by shares.
- B. As at the date of the Scheme Booklet, 730,518,775 Shares in the Company were on issue.
- C. New pSivida, Inc. (**pSivida**) is a company incorporated under the laws of Delaware, United States of America.
- D. The Company proposes to undertake a corporate reconstruction under which pSivida will acquire all the issued shares in the Company and all the assets and liabilities of the Company by order of the Court (**Scheme**).
- E. The Company proposes to implement this Scheme under Part 5.1 of the Corporations Act as follows:
- (1) the transfer of all the issued shares in the Company by order of the Court to pSivida;
 - (2) the issue by pSivida of:
 - (i) CDIs to all Eligible Scheme Participants other than the ADS Depository;
 - (ii) pSivida Shares to the ADS Depository for distribution to holders of pSivida ADSs; and
 - (iii) CDIs to the Nominee for sale and distribution of the proceeds, net of any brokerage, taxes and other costs of sale, to Ineligible Foreign Shareholders;
 - (3) the transfer of all the assets and liabilities of the Company (including the Options and also the shares in Subsidiaries held by the Company) by order of the Court to pSivida under sections 413(1)(a) and 413(2) of the Corporations Act; and
 - (4) following the transfer of all the assets and liabilities from the Company to pSivida, the deregistration of the Company without a winding up by order of the Court under section 413(1)(d) of the Corporations Act.
- F. The Company and pSivida have entered into the Implementation Agreement, which sets out the terms on which the parties have agreed to implement this Scheme.
- G. pSivida has entered into the Deed Poll for the purpose of covenanting in favour of Scheme Participants to provide the consideration to the Scheme Participants under this Scheme, to comply with its obligations under the Implementation Agreement and to do all things necessary or expedient on its part to implement the Scheme.



OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 Definitions

The following definitions apply in this document.

Certificate of Incorporation and Bylaws means the constituent documents of pSivida.

CHES means the clearing house electronic sub-register system of share transfers operated by ASX Settlement and Transfer Corporation Pty Limited.

Company means pSivida Limited (ABN 78 009 232 026), a public company registered in Western Australia and is a company limited by shares.

Effective Date means the date on which this Scheme becomes Effective.

Implementation Agreement means the Implementation Agreement dated [*date*] between the Company and pSivida relating to the implementation of the Scheme and related transactions.

Marketable Parcel has the meaning given to that term in the ASX Market Rules.

pSivida means New pSivida, Inc., a company incorporated in Delaware, United States of America.

Tax File Number means the tax file number issued to a person by the Australian Taxation Office or, in the case of non-Australian residents, a number or identification issued for taxation purposes by the equivalent governmental agency of that resident's country.

1.2 Further definitions and construction

Except as terms are otherwise defined herein or as the context otherwise requires, clauses 1.1 and 1.2 of the Implementation Agreement apply to this document as if set out in full in this document.

2. CONDITIONS

2.1 Conditions precedent

This Scheme is conditional on each of the following conditions precedent:

- (a) all of the conditions set out in clause 3.1 of the Implementation Agreement, have been satisfied or waived in accordance with the terms of the Implementation Agreement before 8.00 am on the Second Court Date;
- (b) as at the Second Court Date, neither the Implementation Agreement nor the Deed Poll has been terminated;
- (c) the Scheme has been approved in accordance with section 411(4)(a) of the Corporations Act at the Scheme Meeting; and
- (d) the Scheme has been approved by the Court pursuant to section 411(4)(b) and 413(1) of the Corporations Act by the End Date.



2.2 Satisfaction of Conditions

The Company and Scheme Participants will not have any rights or obligations under clause 4 of this document unless and until the conditions precedent in clause 2.1 of this document are satisfied.

3. LODGEMENT

On or before the fourth Business Day following approval of the Scheme by the Court in accordance with section 411(4)(b) and 413(1) of the Corporations Act, the Company will lodge with ASIC an office copy of the Court order under section 411(10) of the Corporations Act approving this Scheme. The Court order is taken to have effect on and from the time and date specified in that order.

4. IMPLEMENTATION

4.1 Scheme steps

Subject to the conditions precedent in clause 2.1 being satisfied, on the Implementation Date the Scheme will be implemented as follows:

- (a) all the Shares on issue at the Record Date will be transferred by order of the Court to pSivida;
- (b) pSivida must issue the following Scheme Consideration in accordance with the terms of the Deed Poll:
 - (i) in respect of Shares held by Eligible Scheme Participants on the Record Date:
 - (A) issue to all Eligible Scheme Participants other than the ADS Depository one CDI for every 50 Shares held by them as at the Record Date; and
 - (B) issue to the ADS Depository for distribution to all holders of Company ADSs one pSivida Share for every 50 Shares underlying the ADSs held by them as at the Record Date,

with any fractional entitlements to be dealt with in accordance with clause 4.2 below; and
 - (ii) in respect of Shares held by Ineligible Foreign Shareholders on the Record Date, issue to the Nominee, for sale on behalf of the Ineligible Foreign Shareholders under clause 4.3, one CDI for every 50 Shares held by the Ineligible Foreign Shareholders as at the Record Date, with any fractional entitlements to be dealt with in accordance with clause 4.2 below,

and each Scheme Participant agrees in favour of the Company that he or she will accept such CDIs and pSivida Shares or, in the case of Ineligible Foreign Shareholders, the Scheme consideration set forth in clause 4.1(b)(ii);

- (c) all the assets and liabilities of the Company (including the Options and also the shares in Subsidiaries held by the Company) will be transferred by order of the Court to pSivida, so that the assets are transferred to, and vest in, pSivida, and the liabilities are transferred to, and become the liabilities of, pSivida under sections 413(1) and 413(2) of the Corporations Act; and



- (d) following the transfer of assets and liabilities from the Company to pSivida, the Company will be deregistered without a winding up by order of the Court under section 413(1)(d) of the Corporations Act.

4.2 Fractional entitlements

- (a) For the purposes of calculating the number of CDIs or pSivida Shares to be issued to an Eligible Scheme Participant or to the Nominee on behalf of an Ineligible Foreign Shareholder, where there is a fractional entitlement to CDIs or pSivida Shares, the number of CDIs or pSivida Shares issued to such Eligible Scheme Participant or the Nominee will be rounded down to the nearest whole number of CDIs or pSivida Shares after aggregating all holdings of the relevant Scheme Participant, with the fractional entitlement to the Scheme Consideration to be paid out in cash by pSivida to such Scheme Participant.
- (b) The cash value of the fractional entitlements to be paid out in accordance with clause 4.2(a) will be calculated using the closing price for trading of the CDIs on the ASX on the Record Date.

4.3 Ineligible Foreign Shareholders

If clause 4.1(b)(ii) applies, pSivida will procure that the Nominee as soon as practicable:

- (a) in the ordinary course of trading on ASX, sells for the benefit of the Ineligible Foreign Shareholders all CDIs issued to the Nominee under clause 4.1(b)(ii);
- (b) accounts to each Ineligible Foreign Shareholder for the net proceeds of sale of the CDIs issued to the Nominee in respect of that Ineligible Foreign Shareholder's entitlement under clause 4.1(b)(ii) (but calculated on an averaged basis so that all Ineligible Foreign Shareholders receive the same price per CDI, subject to rounding to the nearest whole cent) after deduction of any applicable brokerage, taxes and charges; and
- (c) remits the net proceeds of the sale of the CDI's under paragraph (a) to the Ineligible Foreign Shareholders in full satisfaction of the Ineligible Foreign Shareholders' rights to receive the Scheme Consideration. The net proceeds must be sent by mail to the Ineligible Foreign Shareholders' addresses as shown in the Share Register by cheque in Australian currency.

4.4 Joint holders

In the case of Shares held by Scheme Participants on the Record Date in joint names:

- (a) any cheque required to be paid in respect of the relevant Shares will be payable to the joint holders and will be forwarded to the holder whose name appears first in the Share Register on the Record Date; and
- (b) any holding statements or transmittal letters for CDIs or pSivida Shares which are to be issued in respect of the relevant Shares will be issued in the names of the joint holders and forwarded to the holder whose name appears first in the Share Register on the Record Date.

5. IMPLEMENTATION AGREEMENT

The Company and pSivida have agreed, by executing the Implementation Agreement, to implement the terms of the Scheme and to perform their respective obligations under the Scheme.



6. DEED POLL

pSivida has entered into the Deed Poll in favour of Scheme Participants pursuant to which it has covenanted to cause to be provided or remitted to each Scheme Participant the Scheme Consideration due to such Scheme Participant in accordance with clause 4.1 of the Implementation Agreement.

7. DEALINGS IN SHARES

- (a) For the purpose of establishing who are Scheme Participants, dealings in Shares will only be recognised if:
- (i) in the case of dealings of the type to be affected using CHESSE, the transferee is registered in the Share Register as the holder of the relevant Shares by 10.00 pm on the Record Date; and
 - (ii) in all other cases, if registrable transmission applications or transfers in respect of those dealings are received on or before 10.00 pm on the Record Date at the place where the Share Register is kept.
- (b) The Company must register registrable transmission applications or transfers of the type referred to in paragraph (a)(ii), provided that nothing in this paragraph requires the Company to register a transfer that would result in a Shareholder holding a parcel of Shares that is less than a Marketable Parcel.
- (c) The Company will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Shares received after 10.00 pm on the Record Date.
- (d) For the purpose of determining entitlements to the consideration to be provided under this Scheme, the Company will, until that consideration has been provided, maintain the Share Register in accordance with the foregoing provisions of this clause 7 and the Share Register in this form will solely determine entitlements to that consideration.
- (e) The Company must procure that on the Record Date, details of the names, registered addresses and holdings of Shares of every Scheme Participant as shown in the Share Register at the Record Date are available to pSivida in such form as pSivida may reasonably require.
- (f) Subject to implementation occurring under this Scheme, as from 10.00 pm on the Record Date, all share certificates and holding statements for the Shares held at 10.00 pm on the Record Date will cease to have effect as documents of title, and each entry currently on the Share Register at that time in respect of Shares will cease to have any effect other than as evidence of entitlement to the consideration required to be provided under this Scheme.

8. GENERAL PROVISIONS

8.1 Alterations and conditions

If the Court proposes to approve this Scheme subject to any alterations or conditions, the Company by its legal counsel may consent on behalf of all persons concerned to any alterations or conditions to which pSivida has consented.



8.2 Warranties by Scheme Participants

Each Scheme Participant is deemed to have warranted to pSivida that:

- (a) all of his or her Shares (including any rights and entitlements attaching to those Shares) transferred to pSivida under the Scheme will, on the Implementation Date, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, whether legal or otherwise; and
- (b) he or she has full power and capacity to sell and to transfer his or her Shares (including any rights and entitlements attaching to those Shares) to pSivida under the Scheme.

8.3 Covenants by Scheme Participants

- (a) Each Scheme Participant:
 - (i) consents to the Company doing all things necessary or incidental to the implementation of this Scheme; and
 - (ii) agrees to be bound by the terms of the Certificate of Incorporation and Bylaws in respect of CDIs and/or pSivida Shares issued to him or her pursuant to this Scheme.
- (b) Each Scheme Participant, without the need for any further act, irrevocably appoints the Company and all of its directors and officers (jointly and severally) as his or her attorney and agent for the purpose of executing any document necessary to give effect to the Scheme.

8.4 Registration of CDIs and New pSivida Shares

- (a) The obligations of the Company to procure pSivida to issue pSivida Shares under clause 4 of this document will be satisfied by pSivida, on the Implementation Date, procuring the entry in the shareholder register maintained by pSivida, of each person who is to receive pSivida Shares under those provisions.
- (b) After the satisfaction of the Company obligations in paragraph (a) above, and within 5 Business Days after the Implementation Date, the Company will procure pSivida to also issue holding statements or transmittal letters (as the case may be) for such pSivida Shares in the name of such persons, and procure the dispatch of such holding statements or transmittal letters to the addresses as shown in the Share Register for such persons.
- (c) The obligations of the Company to procure pSivida to issue CDIs under clause 4 of this Scheme will be satisfied by pSivida, on the Implementation Date, procuring the entry in the shareholder register maintained by pSivida of the Depository as depository to hold the pSivida Shares underlying those CDIs,
- (d) After the satisfaction of the obligations of the Company in paragraph (c) above, within 5 Business Day after the Implementation Date, the Company will procure pSivida to:
 - (i) issue holding statements or transmittal letters (as the case may be) for such pSivida Shares in the name of the Depository, and procure the dispatch of such holding statements or transmittal letters to the Depository;
 - (ii) record in the CDI Register each person who is to receive CDIs under clause 4; and



- (iii) dispatch to each person who is to receive CDIs under clause 4 a holding statement in the name of that person representing the number of CDIs to be issued to that person.

8.5 Communications

- (a) Where a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to the Company, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at the Company's registered office or at its Share Registry.
- (b) Except for a Scheme Participant's Tax File Number, any instruction or notification between a Scheme Participant and the Company relating to Shares at the Record Date (including any instruction relating to payment of dividends or to communications from the Company) will from the Implementation Date be deemed to be a similar instruction or notification to pSivida (except where the performance of such instruction or notification by pSivida would not be permitted under applicable law) in respect of CDIs or pSivida Shares issued to the Scheme Participant, until that instruction or notification is revoked or amended in writing and addressed to pSivida.

8.6 Further assurances

The Company will execute all documents and do all acts and things necessary for the implementation and performance of its obligations under the Scheme.

8.7 Governing law

The proper law of this document is the law of the State of New South Wales.

