

**UNITED STATES**  
**SECURITIES AND EXCHANGE COMMISSION**  
 WASHINGTON, D.C. 20549

**FORM F-3**  
**REGISTRATION STATEMENT**  
*UNDER THE SECURITIES ACT OF 1933*

**Mesoblast Limited**

(Exact name of registrant as specified in its charter)

**Not Applicable**

(Translation of registrant's name into English)

**Australia**

(State or other jurisdiction of incorporation or organization)

**Not Applicable**

(I.R.S. Employer Identification Number)

**Level 38, 55 Collins Street**  
**Melbourne, VIC 3000**  
**Australia**  
**Tel: +61 3 9639 6036**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Mesoblast, Inc.**  
**505 Fifth Avenue, Third Floor**  
**New York, NY 10017**  
**Tel: (212) 880 2060**

(Name, address, including zip code, and telephone number, including area code, of agent for service)

*Copies to:*

**Andrew S. Reilly**  
**Baker & McKenzie**  
**50 Bridge Street, Level 27**  
**Sydney, NSW 2000, Australia**  
**Tel: +61 2 9225 0200**  
**Fax: +61 2 9225 1595**

**Marc R. Paul**  
**Baker & McKenzie LLP**  
**815 Connecticut Avenue, N.W.**  
**Washington, DC 20006**  
**Tel: (202) 452-7000**  
**Fax: (202) 416-7035**

**Approximate date of commencement of proposed sale to the public:** From time to time after the effective date of this Registration Statement as determined in light of market conditions.

If the only securities being registered on this Form are being offered pursuant to dividend or interest reinvestment plans, please check the following box.

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933, check the following box.

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a post-effective amendment filed pursuant to Rule 462(e) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering.

If this Form is a registration statement pursuant to General Instruction I.C. or a post-effective amendment thereto that shall become effective upon filing with the Commission pursuant to Rule 462(e) under the Securities Act, check the following box.

If this Form is a post-effective amendment to a registration statement filed pursuant to General Instruction I.C. filed to register additional securities or additional classes of securities pursuant to Rule 413(b) under the Securities Act, check the following box.

**CALCULATION OF REGISTRATION FEE**

Title of each class of securities to be registered	Amount to be registered	Proposed maximum aggregate price per unit	Proposed maximum aggregate offering price(2)	Amount of registration fee(3)
Ordinary shares, no par value per share, in the form of American Depositary Shares(1)			\$180,000,000	\$ 20,862

(1) American Depositary Shares (as evidenced by American Depositary Receipts, each representing five ordinary shares) have been registered on a separate registration statement on Form F-6 filed on October 9, 2015 (File No. 333-207378).

(2) The registrant is hereby registering an indeterminate number of the securities of the registrant as may from time to time be offered at unspecified prices. The maximum aggregate offering price of all securities covered by this Registration Statement will not exceed \$180,000,000. The registrant has estimated the proposed maximum aggregate offering price solely for the purpose of calculating the registration fee pursuant to Rule 457(o) under the Securities Act of 1933, as amended (the "Securities Act"). The securities registered hereunder include securities that may be purchased by underwriters to cover over-allotments, if any.

(3) Calculated pursuant to Rule 457(o) under the Securities Act.

**The registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act or until the Registration Statement shall become effective on such date as the Securities and Exchange Commission, acting pursuant to Section 8(a), may determine.**

**The information in this prospectus is not complete and may be changed. We may not sell these securities until the registration statement that we have filed with the Securities and Exchange Commission is declared effective. This prospectus is not an offer to sell these securities and we are not soliciting offers to buy these securities in any state where the offer or sale is not permitted.**

**Subject to Completion, dated July 10, 2017.**

Prospectus



## **Mesoblast Limited**

**\$180,000,000**

### **American Depositary Shares representing Ordinary Shares**

---

We may offer our ordinary shares in the form of American Depositary Shares, or ADSs, from time to time in one or more offerings in such amounts, at prices and on terms to be determined at or prior to the time of the offering. This prospectus describes the general manner in which the ADS may be offered using this prospectus. We will provide specific terms and offering prices of the ADSs in supplements to this prospectus. Any supplement to this prospectus may also add, update or change information contained in this prospectus. You should read this prospectus and the accompanying prospectus supplements carefully before you invest in the ADSs. Each ADS represents five ordinary shares.

We may offer the ADSs through underwriting syndicates managed or co-managed by one or more underwriters or dealers, through agents or directly to investors, on a continuous or delayed basis. The supplement to this prospectus for each offering of ADSs will describe in detail the plan of distribution for that offering. For general information about the distribution of the ADSs, you should refer to the section entitled "Plan of Distribution." The net proceeds we expect to receive from such sale will also be set forth in a supplement to this prospectus.

The ADSs are listed on the Nasdaq Global Select Market under the symbol "MESO". Our ordinary shares are listed on the Australian Securities Exchange under the symbol "MSB".

---

**Investing in our ADSs involves a high degree of risk. See "Risk Factors" beginning on page 7 of this prospectus and under similar headings in any amendment or supplement to this prospectus or as updated by any subsequent filing with the Securities and Exchange Commission that is incorporated by reference herein.**

**Neither the Securities and Exchange Commission nor any state securities commission has approved or disapproved of these securities or determined if this prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

**The date of this prospectus is \_\_\_\_\_, 2017**

## TABLE OF CONTENTS

<a href="#">ABOUT THIS PROSPECTUS</a>	3
<a href="#">CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS</a>	4
<a href="#">PROSPECTUS SUMMARY</a>	6
<a href="#">RISK FACTORS</a>	7
<a href="#">USE OF PROCEEDS</a>	7
<a href="#">CAPITALIZATION</a>	7
<a href="#">PRICE HISTORY OF AMERICAN DEPOSITARY SHARES AND ORDINARY SHARES</a>	8
<a href="#">DESCRIPTION OF SHARE CAPITAL</a>	10
<a href="#">DESCRIPTION OF AMERICAN DEPOSITARY SHARES</a>	17
<a href="#">PLAN OF DISTRIBUTION</a>	26
<a href="#">EXPENSES</a>	28
<a href="#">LEGAL MATTERS</a>	28
<a href="#">EXPERTS</a>	28
<a href="#">ENFORCEABILITY OF CIVIL LIABILITIES</a>	28
<a href="#">INFORMATION INCORPORATED BY REFERENCE</a>	29
<a href="#">WHERE YOU CAN FIND MORE INFORMATION</a>	29
<a href="#">DISCLOSURE OF SEC'S POSITION ON INDEMNIFICATION FOR SECURITIES ACT LIABILITY</a>	30

**You should rely only on the information provided by this prospectus, any prospectus supplement and any information incorporated by reference. We have not authorized anyone else to provide you with different or additional information or to make any representations other than those contained in or incorporated by reference to this prospectus or any accompanying prospectus supplement.**

**We have not taken any action to permit a public offering of the ADSs outside the United States or to permit the possession or distribution of this prospectus outside the United States. Persons outside the United States who come into possession of this prospectus must observe any restrictions relating to the offering of the ADSs and the distribution of this prospectus outside of the United States. This prospectus is not an offer to sell, or solicitation of an offer to buy, any securities in any circumstances under which the offer of solicitation is unlawful.**

## ABOUT THIS PROSPECTUS

This prospectus is part of a registration statement on Form F-3 that we filed with the Securities and Exchange Commission, or the SEC, using a “shelf” registration process. Under this process, we may, from time to time, sell the ADSs in one or more offerings up to a total aggregate amount of \$180,000,000.

This prospectus provides you with a general description of the ADSs that we may offer. Each time we sell the ADSs, we will provide a prospectus supplement that will contain specific information about the terms of the offering. The prospectus supplement may also add, update or change information contained in this prospectus, and may also contain information about any material federal income tax considerations relating to the ADSs. You should read both this prospectus and any prospectus supplement, together with additional information described below under the heading “Where You Can Find More Information,” before purchasing any of the ADSs. This prospectus does not contain all of the information included in the registration statement. For a more complete understanding of the offering of the ADSs, you should refer to the registration statement, including the exhibits. You may access the registration statement, exhibits and other reports we file with the SEC on the SEC’s website. More information regarding how you can access this and other information is included under the heading “Where You Can Find More Information” below.

The information in this prospectus is accurate as of the date on the front cover of this prospectus, and the information in any free writing prospectus that we may provide you in connection with this offering is accurate only as of the date of that free writing prospectus. Neither the delivery of this prospectus nor the sale of any securities means that information contained in this prospectus is correct after the date of this prospectus or as of any other date. To the extent there is any conflict between the information contained in this prospectus and the prospectus supplement, you should rely on the information in the prospectus supplement, provided that if any statement in one of these documents is inconsistent with a statement in another document having a later date, the statement in the document having the later date modifies or supersedes the earlier statement. Any information incorporated by reference is only accurate as of the date of the document incorporated by reference.

Unless otherwise indicated or the context implies otherwise:

- “ADSs” refers to our American depositary shares, each of which represents five ordinary shares, and “ADRs” refers to the American depositary receipts that evidence our ADSs;
- “ASX” refers to the Australian Securities Exchange, where our ordinary shares are listed;
- “A\$” or “Australian dollars” refers to the legal currency of Australia;
- “IFRS” refers to the International Financial Reporting Standards as issued by the International Accounting Standards Board, or IASB; and
- “Mesoblast,” “we,” “us” or “our” refer to Mesoblast Limited, an Australian corporation (Australian Business Number 68 109 431 870), and its subsidiaries.

All references to “\$”, “US\$” and “U.S. dollar” in this prospectus refer to United States dollars. Except as otherwise stated, all monetary amounts in this prospectus are presented in United States dollars. Unless otherwise indicated, the consolidated financial statements and related notes included, or incorporated by reference, in this prospectus have been prepared in accordance with Australian Accounting Standards and also comply with IFRS, which differs in certain significant respects from Generally Accepted Accounting Principles in the United States. Our fiscal year ends on June 30 of each year. References to “fiscal 2016” means the 12-month period ended June 30, 2016 and other fiscal years are referred to in a corresponding manner.

We own or have rights to trademarks and trade names that we use in connection with the operation of our business, including our corporate name, logos, product names and website names. Other trademarks and trade names appearing in this prospectus and the documents incorporated by reference are the property of their respective owners. Solely for your convenience, some of the trademarks and trade names referred to in this prospectus and the documents incorporated by reference are listed without the ® and TM symbols, but we will assert, to the fullest extent under applicable law, our rights to our trademarks and trade names.

## CAUTIONARY NOTE REGARDING FORWARD-LOOKING STATEMENTS

Certain statements in this prospectus, any prospectus supplement, any free writing prospectus and in the documents incorporated by reference may constitute forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, as amended, or the Securities Act, and Section 21E of the Securities Exchange Act of 1934, as amended, or the Exchange Act. We intend such forward-looking statements to be covered by the safe harbor provisions for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995. The forward-looking statements relate to future events or our future financial performance and involve known and unknown risks, uncertainties and other factors that may cause our actual results, levels of activity, performance or achievements to differ materially from any future results, levels of activity, performance or achievements expressed or implied by these forward-looking statements.

Words such as, but not limited to, “believe,” “expect,” “anticipate,” “estimate,” “intend,” “plan,” “targets,” “likely,” “will,” “would,” “could,” and similar expressions or phrases identify forward-looking statements. We have based these forward-looking statements largely on our current expectations and future events and financial trends that we believe may affect our financial condition, results of operation, business strategy and financial needs. Forward-looking statements include, but are not limited to, statements about:

- the initiation, timing, progress and results of our preclinical and clinical studies, and our research and development programs;
- our ability to advance product candidates into, enroll and successfully complete, clinical studies, including multi-national clinical trials;
- our ability to advance our manufacturing capabilities;
- the timing or likelihood of regulatory filings and approvals, manufacturing activities and product marketing activities, if any;
- the commercialization of our product candidates, if approved;
- regulatory or public perceptions and market acceptance surrounding the use of stem-cell based therapies;
- the potential for our product candidates, if any are approved, to be withdrawn from the market due to patient adverse events or deaths;
- the potential benefits of strategic collaboration agreements and our ability to enter into and maintain established strategic collaborations;
- our ability to establish and maintain intellectual property on our product candidates and our ability to successfully defend these in cases of alleged infringement;
- the scope of protection we are able to establish and maintain for intellectual property rights covering our product candidates and technology;
- estimates of our expenses, future revenues, capital requirements and our needs for additional financing;
- our financial performance;
- developments relating to our competitors and our industry;
- the pricing and reimbursement of our product candidates, if approved; and
- other risks and uncertainties, including those listed under the caption “Risk Factors” in our Annual Report on Form 20-F, and our other reports and filings we make with the SEC from time to time.

You should read thoroughly this prospectus, any prospectus supplement, any free writing prospectus and in the documents incorporated by reference with the understanding that our actual future results may be materially different from and/or worse than what we expect. We qualify all of our forward-looking statements by these cautionary statements. Other sections of this prospectus and in the documents incorporated by reference include additional factors which could adversely impact our business and financial performance. Moreover, we operate in an evolving environment. New risk factors emerge from time to time and it is not possible for our management to predict all risk factors, nor can we assess the impact of all factors on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements.

This prospectus and documents incorporated by reference may contain third-party data relating to the biopharmaceutical market that includes projections based on a number of assumptions. The biopharmaceutical market may not grow at the rates projected by market data, or at all. The failure of this market to grow at the projected rates may have a material adverse effect on our business and the

market price of our ADSs. Furthermore, if any one or more of the assumptions underlying the market data turns out to be incorrect, actual results may differ from the projections based on these assumptions. You should not place undue reliance on these forward-looking statements.

You should not rely upon forward-looking statements as predictions of future events. The forward-looking statements made in this prospectus relate only to events or information as of the date on which the statements are made in this prospectus (or, in the case of a document incorporated by reference, the date on which the statements are made in such document). We undertake no obligation to update or revise any forward-looking statements, whether as a result of new information, future events or otherwise.

## PROSPECTUS SUMMARY

*This summary highlights selected information from this prospectus or incorporated by reference in this prospectus, and does not contain all of the information that you need to consider in making your investment decision. You should carefully read the entire prospectus, including the risks of investing in our ADSs discussed under the heading "Risk Factors" and under similar headings in the other documents that are incorporated by reference into this prospectus. You should also carefully read the information incorporated by reference into this prospectus, including our financial statements, and the exhibits to the registration statement of which this prospectus is a part.*

### Overview

We are a global leader in developing innovative cellular medicines. We have leveraged our proprietary technology platform, which is based on specialized cells known as mesenchymal lineage adult stem cells, or MLCs, to establish a broad portfolio of late-stage product candidates.

Our allogeneic or "off-the-shelf" product candidates target advanced stages of diseases with high, unmet medical needs including cardiovascular diseases, immunologic and inflammatory conditions, orthopedic disorders, and oncology and hematology conditions. We also have a promising emerging pipeline of products for follow-on indications.

Each product candidate has distinct technical characteristics, target indications, individual reimbursement strategy, separate commercialization potential, and unique partnering opportunities.

We have prioritized our therapeutic programs into tiers based on stage of development, largest market opportunities and nearest term revenue potential. Tier 1 programs represent our lead programs where we focus the majority of our time and resources. Tier 2 programs are continually evaluated, and we may advance these programs into Tier 1 depending on merit of clinical data generated, market opportunity or collaboration opportunity.

We have three Tier 1 Phase 3 clinical trials actively recruiting in the United States, including MPC-150-IM for chronic heart failure, MPC-06-ID for chronic low back pain, and MSC-100-IV for acute graft versus host disease in children. We have another Tier 1 product candidate, MPC-300-IV for immune mediated diseases, which has been evaluated in Phase 2 trials in biologic refractory rheumatoid arthritis, and also diabetic kidney disease and type 2 diabetes. Our licensee in Japan, JCR Pharmaceuticals Co. Ltd, has launched the first allogeneic cell-based product in Japan on February 24, 2016, for the treatment of acute graft versus host disease. Our Tier 2 lead product candidates are being developed for the treatment of acute cardiac ischemia and for the treatment of Crohn's disease, among other indications.

### Corporate Information

Mesoblast Limited was incorporated in June 2004 in Australia under the Corporations Act. In December 2004 we completed an initial public offering of our ordinary shares in Australia and our shares have since been listed on the ASX under the symbol "MSB." In November 2015 we completed an initial public offering of ADSs in the United States and our ADSs have since been listed on the NASDAQ Global Select Market, or NASDAQ, under the symbol "MESO". JPMorgan Chase Bank N.A. acts as the depositary for our ADSs, each of which represents five ordinary shares.

Our principal executive offices are located at Level 38, 55 Collins Street, Melbourne, Victoria 3000, Australia. Our telephone number at this address is +61 3 9639 6036. Our website is [www.mesoblast.com](http://www.mesoblast.com). Information contained on our website is not part of this prospectus. Our agent for service of process in the United States is our subsidiary Mesoblast, Inc., located at 505 Fifth Avenue, Third Floor, New York, NY 10017.

## **RISK FACTORS**

Investing in the ADSs involves a high degree of risk. You should carefully consider the risks described under “Risk Factors” in our Annual Report on Form 20-F for fiscal 2016 and in our Current Report on Form 6-K for the three and nine months ended March 31, 2017 filed with the SEC, and all other information contained in or incorporated by reference in this prospectus and any prospectus supplement or related free writing prospectus before deciding whether to purchase any of our ADSs. If any of those risks actually occurs, our business, financial condition and results of operations could be materially and adversely affected. In that event, the trading price of our ADSs could decline, and you may lose part or all of your investment.

Such risks are not exclusive. We may face additional risks that are presently unknown to us or that we believe to be immaterial as of the date of this prospectus. Known and unknown risks and uncertainties may significantly impact and impair our business operations.

## **USE OF PROCEEDS**

Unless otherwise indicated in an accompanying prospectus supplement, we intend to use the net proceeds from the sale of the securities under this prospectus for general corporate purposes. We may also use a portion of the net proceeds to acquire or invest in businesses, products and technologies that we own or that are complementary to our own. Pending these uses, we intend to invest our net proceeds from this offering primarily in investment grade, interest-bearing instruments. As of the date of this prospectus, we cannot specify with certainty all of the particular uses for the net proceeds we may have upon completion of an offering or offerings. Accordingly, we will retain broad discretion over the use of these proceeds.

## **CAPITALIZATION**

A prospectus supplement or report on Form 6-K incorporated by reference into the registration statement of which this prospectus forms a part will include information on our consolidated capitalization.

**PRICE HISTORY OF AMERICAN DEPOSITARY SHARES AND ORDINARY SHARES**

**The NASDAQ Stock Market**

Since November 2015, our ordinary shares in the form of ADSs have been trading on NASDAQ under the symbol “MESO.” The following table sets forth the high and low market prices for our ADSs reported on NASDAQ for the periods indicated in U.S. dollars.

	<u>US\$ High</u>	<u>US\$ Low</u>
<b>Annual:</b>		
<i>Fiscal year ended</i>		
June 30, 2016	15.56	3.50
June 30, 2017	12.50	3.90
<b>Quarterly:</b>		
<i>Fiscal year ended June 30, 2016</i>		
First quarter ended September 30, 2015	15.56	10.27
Second quarter ended December 31, 2015	13.00	4.50
Third quarter ended March 31, 2016	10.89	4.26
Fourth quarter ended June 30, 2016	9.79	3.50
<i>Fiscal year ending June 30, 2017</i>		
First quarter ended September 30, 2016	6.57	3.90
Second quarter ended December 31, 2016	5.90	4.01
Third quarter ending March 31, 2017	9.78	5.28
Fourth quarter ended June 30, 2017	12.50	7.55
<b>Most recent six months:</b>		
Month ended January 31, 2017	6.33	5.28
Month ended February 28, 2017	6.59	5.39
Month ended March 31, 2017	9.78	6.43
Month ended April 30, 2017	12.50	8.84
Month ended May 31, 2017	12.02	7.60
Month ended June 30, 2017	9.64	7.55

## Australian Securities Exchange

Since December 2004, our ordinary shares have been listed in Australia on the ASX trading under the symbol “MSB”. The following table sets forth the high and low market prices for our ordinary shares reported on the ASX for the periods indicated in Australian dollars.

	<u>AS High</u>	<u>AS Low</u>
<b>Annual:</b>		
<i>Fiscal year ended</i>		
June 30, 2013	7.49	4.22
June 30, 2014	6.80	4.18
June 30, 2015	5.88	3.17
June 30, 2016	4.06	1.01
June 30, 2017	3.44	1.03
<b>Quarterly:</b>		
<i>Fiscal year ended June 30, 2016</i>		
First quarter ended September 30, 2015	4.06	2.91
Second quarter ended December 31, 2015	3.50	1.35
Third quarter ended March 31, 2016	3.03	1.14
Fourth quarter ended June 30, 2016	2.70	1.01
<i>Fiscal year ending June 30, 2017</i>		
First quarter ended September 30, 2016	1.925	1.025
Second quarter ended December 31, 2016	1.545	1.07
Third quarter ended March 31, 2017	2.50	1.43
Fourth quarter ended June 30, 2017	3.44	1.93
<b>Most recent six months:</b>		
Month ended January 31, 2017	1.815	1.43
Month ended February 28, 2017	1.705	1.425
Month ended March 31, 2017	2.50	1.633
Month ended April 30, 2017	3.44	2.28
Month ended May 31, 2017	3.23	1.955
Month ended June 30, 2017	2.25	1.93

In connection with Mesoblast’s initial public offering in the United States, we requested a suspension of trading of our ordinary shares on the ASX from October 30, 2015 through November 15, 2015.

## DESCRIPTION OF SHARE CAPITAL

### General

We are a public company limited by shares registered under the Corporations Act by the Australian Securities and Investments Commission, or ASIC. Our corporate affairs are principally governed by our Constitution, the Corporations Act, the ASX Listing Rules and NASDAQ Marketplace Rules. Our ordinary shares trade on the ASX and our ADSs trade on the NASDAQ Global Select Market.

The Australian law applicable to our Constitution is not significantly different than a U.S. company's charter documents except we do not have the concept of, or a limit on, our authorized share capital, the concept of par value is not recognized under Australian law and as further discussed under "—Our Constitution."

Subject to restrictions on the issue of securities in our Constitution, the Corporations Act and the ASX Listing Rules and any other applicable law, we may at any time issue ordinary shares and grant options or warrants on any terms, with the rights and restrictions and for the consideration that our board of directors determines.

The rights and restrictions attaching to ordinary shares are derived through a combination of our Constitution, the common law applicable to Australia, the ASX Listing Rules, the Corporations Act and other applicable law. A general summary of some of the rights and restrictions attaching to our ordinary shares is set forth below. Each shareholder is entitled to receive notice of, and to be present, vote and speak at, general meetings.

### Changes to Our Share Capital

As of June 30, 2017, we had (i) 428,221,398 fully paid ordinary shares outstanding and (ii) employee options outstanding to purchase 22,200,246 of our ordinary shares at a weighted average exercise price of A\$3.29.

Since July 1, 2013, the following changes have been made to our ordinary share capital:

- In October 2013, we issued 70,164 ordinary shares as consideration for the acquisition of certain assets from Provasculon, Inc. Consideration per share was A\$5.96.
- In December 2013, we issued 2,948,729 ordinary shares to Osiris Therapeutics, Inc. as consideration for taking delivery of the assigned and other assets pursuant to the purchase agreement for the acquisition of the entire culture expanded mesenchymal stem cell assets of Osiris Therapeutics, Inc. Consideration per share was A\$5.69.
- In April 2015, we issued 15,298,837 ordinary shares to Celgene Corporation. Consideration per share was A\$3.82.
- In November 2015, we issued 42,675,295 ordinary shares (in the form of ADSs) in an initial public offering in the United States. Consideration received was US\$68.3 million, before deducting underwriting discounts and commissions.
- In February 2016, we issued 1,277,210 ordinary shares to Robert Sackstein as consideration for the license of certain intellectual property assets relating to proprietary cell targeting technology. Consideration per share was A\$1.62.
- In August 2016, we issued 280,911 ordinary shares to Robert Sackstein as consideration for consulting services. Consideration per share was A\$1.14.
- In January 2017, we issued 20,044,771 ordinary shares to Mallinckrodt Pharmaceuticals at a price of A\$1.4761 per share.
- In March 2017, we issued 26,250,000 ordinary shares to various institutional investors at a price of A\$2.00 per share.

In addition, during the past three fiscal years, we issued the following fully-paid ordinary shares upon exercise of employee options:

- 1,043,798 ordinary shares in fiscal 2015;
- 422,903 ordinary shares in fiscal 2016; and
- 272,579 ordinary shares in fiscal 2017.

## **Our Constitution**

Our Constitution is similar in nature to the bylaws of a U.S. corporation. It does not provide for or prescribe any specific objectives or purposes of Mesoblast. Our Constitution is subject to the terms of the ASX Listing Rules and the Corporations Act. It may be modified or repealed and replaced by special resolution passed at a meeting of shareholders, which is a resolution passed by at least 75% of the votes cast by shareholders (including proxies and representatives of shareholders) entitled to vote on the resolution.

Under Australian law, a company has the legal capacity and powers of an individual both within and outside Australia. The material provisions of our Constitution are summarized below. This summary is not intended to be complete nor to constitute a definitive statement of the rights and liabilities of our shareholders. Our Constitution is incorporated by reference as an exhibit to the registration statement of which this prospectus forms a part.

## **Directors**

### ***Interested Directors***

Except as permitted by the Corporations Act and the ASX Listing Rules, a director must not vote in respect of any contract or arrangement in which the director has any direct or indirect material personal interest or any lesser interest according to our Constitution. Such director must not be counted in a quorum, must not vote on the matter and must not be present at the meeting while the matter is being considered.

Pursuant to our Constitution, a director is liable to us for any profits derived with regard to any matter in which the director has a material interest unless the director:

- declares the director's interest in the matter as soon as practicable after the relevant facts come to the director's knowledge; and
- does not contravene our Constitution or the Corporations Act in relation to the matter.

Unless a relevant exception applies, the Corporations Act requires our directors to provide disclosure of certain interests and prohibits directors of companies listed on the ASX from voting on matters in which they have a material personal interest and from being present at the meeting while the matter is being considered. In addition, unless a relevant exception applies, the Corporations Act and the ASX Listing Rules require shareholder approval of any provision of financial benefits (including the issue by us of ordinary shares and other securities) to our directors, including entities controlled by them and certain members of their families.

### ***Borrowing Powers Exercisable by Directors***

Pursuant to our Constitution, our business is managed by our board of directors. Our board of directors has the power to raise or borrow money, and incur liens on or grant a security interest in any of our property or business or any uncalled portion of any partly paid shares, and may issue debentures or give any other security for any of our debts, liabilities or obligations or of any other person, in each case, in the manner and on terms it deems fit.

### ***Election, Removal and Retirement of Directors***

We may appoint or remove any director by resolution passed in the general meeting of shareholders. Additionally, our directors are elected to serve three-year terms in a manner similar to a "staggered" board of directors under Delaware law. At every annual general meeting, one-third of the previously elected directors or, if their number is not a multiple of three then the number nearest to but not exceeding one-third, must retire from office and are eligible for re-election. Additionally, no director except the Managing Director (currently designated as our chief executive officer, Silviu Itescu) may hold office for a period in excess of three years, or beyond the third annual general meeting following the director's last election, whichever is the longer, without submitting himself or herself for re-election.

A director who is appointed during the year by the other directors only holds office until the next general meeting at which time the director may stand for election by shareholders at that meeting.

In addition, provisions of the Corporations Act apply where at least 25% of the votes cast on a resolution to adopt our remuneration report (which resolution must be proposed each year at our annual general meeting) are against the adoption of the report at two successive annual general meetings. Where these provisions apply, a resolution must be put to a vote at the second annual general meeting to the effect that a further meeting, or a spill meeting, take place within 90 days. At the spill meeting, the directors in office when

the remuneration report was considered at the second annual general meeting (other than the Managing Director) cease to hold office and resolutions to appoint directors (which may involve re-appointing the former directors) are put to a vote.

Voting restrictions apply in relation to the resolutions to adopt our remuneration report and to propose a spill meeting. These restrictions apply to our key management personnel and their closely related parties. See “Rights and Restrictions on Classes of Shares—Voting Rights” below.

Pursuant to our Constitution, no person is eligible to be elected as a director unless a notice of the director’s candidature is given to us at least 35 business days (30 business days for a meeting shareholders have requested directors to call) before the meeting. This restriction does not apply to a retiring director or to the election of a director previously appointed by the directors during the year.

### ***Share Qualifications***

There are currently no requirements for directors to own our ordinary shares in order to qualify as directors.

### **Rights and Restrictions on Classes of Shares**

Subject to the Corporations Act and the ASX Listing Rules, the rights attaching to our ordinary shares are detailed in our Constitution. Our Constitution provides that any of our ordinary shares may be issued with preferred, deferred or other special rights, whether in relation to dividends, voting, return of share capital, payment of calls or otherwise as our board of directors may determine from time to time. Subject to the Corporations Act, the ASX Listing Rules and any rights and restrictions attached to a class of shares, we may issue further ordinary shares on such terms and conditions as our board of directors resolve. Currently, our outstanding ordinary share capital consists of only one class of ordinary shares.

### ***Dividend Rights***

Our board of directors may from time to time determine to pay dividends to shareholders. All unclaimed dividends may be invested or otherwise made use of by our board of directors for our benefit until claimed or otherwise disposed of in accordance with our Constitution.

### ***Voting Rights***

Under our Constitution, any resolution to be considered at a meeting of the shareholders shall be decided on a show of hands unless a poll is demanded by the shareholders at or before the declaration of the result of the show of hands. A poll may be demanded by the chairman of the meeting; by at least five shareholders present and having the right to vote on at the meeting; any shareholder or shareholders representing at least 5% of the votes that may be cast on the resolution on a poll; or any shareholder or shareholders holding our shares conferring a right to vote at the meeting on which an aggregate sum has been paid up equal to not less than 5% of the total sum paid up on all the shares conferring that right. On a show of hands, each shareholder entitled to vote at the meeting has one vote regardless of the number of ordinary shares held by such shareholder. If voting takes place on a poll, rather than a show of hands, each shareholder entitled to vote has one vote for each ordinary share held and a fractional vote for each ordinary share that is not fully paid, such fraction being equivalent to the proportion of the amount that has been paid to such date on that ordinary share.

Under Australian law, an ordinary resolution is passed on a show of hands if it is approved by a simple majority (more than 50%) of the votes cast by shareholders present (in person or by proxy) and entitled to vote. If a poll is demanded, an ordinary resolution is passed if it is approved by holders representing a simple majority of the total voting rights of shareholders present (in person or by proxy) who (being entitled to vote) vote on the resolution. Special resolutions require the affirmative vote of not less than 75% of the votes cast by shareholders present (in person or by proxy) at the meeting.

Pursuant to our Constitution, each shareholder entitled to attend and vote at a meeting may attend and vote in person or by proxy or attorney and by representative. Shareholders may not vote electronically. Under Australian law, shareholders of a public listed company are not permitted to approve corporate matters by written consent. Our Constitution does not provide for cumulative voting.

Note that ADS holders may not directly vote at a meeting of the shareholders but may instruct the depositary to vote the number of deposited ordinary shares their ADSs represent. Under voting by a show of hands, multiple “yes” votes by ADS holders will only count as one “yes” vote and will be negated by a single “no” vote, unless a poll is demanded.

There are a number of circumstances where the Corporations Act or the ASX Listing Rules prohibit or restrict certain shareholders or certain classes of shareholders from voting. For example, key management personnel whose remuneration details are included

elsewhere in this prospectus are prohibited from voting on the resolution that must be proposed at each annual general meeting to adopt our remuneration report, as well as any resolution to propose a spill meeting. An exception applies to exercising a directed proxy which indicates how the proxy is to vote on the proposed resolution on behalf of someone other than the key management personnel or their closely related parties; or that person is chair of the meeting and votes an undirected proxy where the shareholder expressly authorizes the chair to exercise that power. Key management personnel and their closely related parties are also prohibited from voting undirected proxies on remuneration related resolutions. A similar exception to that described above applies if the proxy is the chair of the meeting.

#### ***Right to Share in Our Profits***

Subject to the Corporations Act and pursuant to our Constitution, prior to our liquidation, our shareholders are entitled to participate in our profits only by payment of dividends. Our board of directors may from time to time determine to pay dividends to the shareholders; however, no dividend is payable except in accordance with the thresholds set out in the Corporations Act.

#### ***Rights to Share in the Surplus in the Event of Liquidation***

Our Constitution provides for the right of shareholders to participate in a surplus in the event of our liquidation.

#### ***Redemption Provisions***

There are no redemption provisions in our Constitution in relation to ordinary shares. Under our Constitution and subject to the Corporations Act, any preference shares may be issued on the terms that they are, or may at our option or at the option of the holder be, liable to be redeemed.

#### ***Sinking Fund Provisions***

Our Constitution allows our directors to, at their discretion, set aside any sums they think proper out of our profits as reserves, which may be applied for any proper purpose.

#### ***Liability for Further Capital Calls***

According to our Constitution, our board of directors may make any calls from time to time upon shareholders in respect of all monies unpaid on partly paid shares respectively held by them, subject to the terms upon which any of the partly paid shares have been issued. Each shareholder is liable to pay the amount of each call in the manner, at the time and at the place specified by our board of directors. Calls may be made payable by installment.

#### ***Provisions Discriminating Against Holders of a Substantial Number of Shares***

There are no provisions under our Constitution discriminating against any existing or prospective holders of a substantial number of our ordinary shares.

#### ***Variation or Cancellation of Share Rights***

The rights attached to shares in a class of shares may only be varied or cancelled by a special resolution of shareholders, together with either:

- a special resolution passed at a separate meeting of members holding shares in the class; or
- the written consent of members with at least 75% of the votes in the class.

#### ***General Meetings of Shareholders***

General meetings of shareholders may be called by our board of directors or, under the Corporations Act, by a single director. Except as permitted under the Corporations Act, shareholders may not convene a meeting. Under the Corporations Act, shareholders with at least 5% of the votes that may be cast at a general meeting may call and arrange to hold a general meeting. The Corporations Act requires the directors to call and arrange to hold a general meeting on the request of shareholders with at least 5% of the votes that may be cast at a general meeting. Notice of the proposed meeting of our shareholders is required at least 28 days prior to such meeting under the Corporations Act.

### **Quorum for General Meetings of Shareholders**

No business shall be transacted at any general meeting unless a quorum is present at the time when the meeting proceeds to business. Under our Constitution, the presence, in person or by proxy, attorney or representative, of five shareholders constitutes a quorum, or if we have less than five shareholders, then the shareholders present at a meeting constitute a quorum. If a quorum is not present within 15 minutes after the time appointed for the meeting, the meeting must be either dissolved if it was summoned by shareholders or adjourned in any other case. A meeting adjourned for lack of a quorum is adjourned to the same day in the following week at the same time and place, unless otherwise decided by our directors. The reconvened meeting is dissolved if a quorum is not present within 15 minutes after the time appointed for the meeting.

### **Foreign Ownership Regulation**

There are no limitations on the rights to own securities imposed by our Constitution. However, acquisitions and proposed acquisitions of shares in Australian companies may be subject to review and approval by the Australian Federal Treasurer under the Foreign Acquisitions and Takeovers Act 1975, or the FATA, which generally applies to acquisitions or proposed acquisitions:

- by a foreign person (as defined in the FATA) or associated foreign persons that would result in such persons having an interest in 20% or more of the issued shares of, or control of 20% or more of the voting power in, an Australian company; and
- by non-associated foreign persons that would result in such foreign person having an interest in 40% or more of the issued shares of, or control of 40% or more of the voting power in, an Australian company.

In addition, foreign government investors are generally required to obtain approval to acquire an interest in an Australian company regardless of the percentage interest acquired.

The Australian Federal Treasurer may prevent a proposed acquisition in the above categories or impose conditions on such acquisition if the Treasurer is satisfied that the acquisition would be contrary to the national interest. If a foreign person acquires shares or an interest in shares in an Australian company in contravention of the FATA, the Australian Federal Treasurer may order the divestiture of such person's shares or interest in shares in Mesoblast. The Australian Federal Treasurer may order divestiture pursuant to the FATA if he determines that the acquisition has resulted in that foreign person, either alone or together with other non-associated or associated foreign persons, controlling Mesoblast and that such control is contrary to the national interest.

### **Ownership Threshold**

There are no provisions in our Constitution that require a shareholder to disclose ownership above a certain threshold. The Corporations Act, however, requires a substantial shareholder to notify us and the ASX once a 5% interest in our ordinary shares is obtained. Further, once a shareholder has (alone or together with associates) a 5% or greater interest in us, such shareholder must notify us and the ASX of any increase or decrease of 1% or more in its interest in our ordinary shares. Following our initial public offering in the United States, our shareholders are also subject to disclosure requirements under U.S. securities laws.

### **Issues of Shares and Change in Capital**

Subject to our Constitution, the Corporations Act, the ASX Listing Rules and any other applicable law, we may at any time issue shares and grant options or warrants on any terms, with preferred, deferred or other special rights and restrictions and for the consideration and other terms that the directors determine. Our power to issue shares includes the power to issue bonus shares (for which no consideration is payable to Mesoblast), preference shares and partly paid shares.

Subject to the requirements of our Constitution, the Corporations Act, the ASX Listing Rules and any other applicable law, including relevant shareholder approvals, we may consolidate or divide our share capital into a smaller or larger number by resolution, reduce our share capital (provided that the reduction is fair and reasonable to our shareholders as a whole, does not materially prejudice our ability to pay creditors and obtains the necessary shareholder approval) or buy back our ordinary shares including under an equal access buy-back or on a selective basis.

### **Change of Control**

Takeovers of listed Australian public companies, such as Mesoblast, are regulated by the Corporations Act, which prohibits the acquisition of a "relevant interest" in issued voting shares in a listed company if the acquisition will lead to that person's or someone else's voting power in Mesoblast increasing from 20% or below to more than 20% or increasing from a starting point that is above 20% and below 90%, subject to a range of exceptions.

Generally, a person will have a relevant interest in securities if the person:

- is the holder of the securities;
- has power to exercise, or control the exercise of, a right to vote attached to the securities; or
- has the power to dispose of, or control the exercise of a power to dispose of, the securities (including any indirect or direct power or control).

If, at a particular time, a person has a relevant interest in issued securities and the person:

- has entered or enters into an agreement with another person with respect to the securities;
- has given or gives another person an enforceable right, or has been or is given an enforceable right by another person, in relation to the securities; or
- has granted or grants an option to, or has been or is granted an option by, another person with respect to the securities, and the other person would have a relevant interest in the securities if the agreement were performed, the right enforced or the option exercised;

then, the other person is taken to already have a relevant interest in the securities.

There are a number of exceptions to the above prohibition on acquiring a relevant interest in issued voting shares above 20%. In general terms, some of the more significant exceptions include:

- when the acquisition results from the acceptance of an offer under a formal takeover bid;
- when the acquisition is conducted on market by or on behalf of the bidder under a takeover bid and the acquisition occurs during the bid period;
- when shareholders of Mesoblast approve an acquisition that would otherwise breach the prohibition, by resolution passed at general meeting;
- an acquisition by a person if, throughout the six months before the acquisition, that person or any other person has had voting power in Mesoblast of at least 19% and, as a result of the acquisition, none of the relevant persons would have voting power in Mesoblast more than three percentage points higher than they had six months before the acquisition;
- as a result of a rights issue;
- as a result of dividend reinvestment schemes;
- as a result of certain underwriting arrangements;
- through operation of law;
- an acquisition that arises through the acquisition of a relevant interest in another company listed on the ASX, certain other Australian financial markets or a foreign stock exchange approved in writing by ASIC;
- arising from an auction of forfeited shares; or
- arising through a compromise, arrangement, liquidation or buy-back.

A formal takeover bid may either be a bid for all securities in the bid class or a fixed proportion of such securities, with each holder of bid class securities receiving a bid for that proportion of their holding. Under our Constitution, a proportionate takeover bid must first be approved by resolution of our shareholders in a general meeting before it may proceed.

Breaches of the takeovers provisions of the Corporations Act are criminal offenses. In addition, ASIC and, on application by ASIC or an interested party, such as a shareholder, the Australian Takeovers Panel have a wide range of powers relating to breaches of takeover provisions, including the ability to make orders canceling contracts, freezing transfers of, and rights (including voting rights) attached to, securities, and forcing a party to dispose of securities including by vesting the securities in ASIC for sale. There are certain defenses to breaches of the takeover provisions provided in the Corporations Act.

#### **Access to and Inspection of Documents**

Inspection of our records is governed by the Corporations Act. Any member of the public has the right to inspect or obtain copies of our share registers on the payment of a prescribed fee. Shareholders are not required to pay a fee for inspection of our share registers

or minute books of the meetings of shareholders. Other corporate records, including minutes of directors' meetings, financial records and other documents, are not open for inspection by shareholders. Where a shareholder is acting in good faith and an inspection is deemed to be made for a proper purpose, a shareholder may apply to the court to make an order for inspection of our books.

## DESCRIPTION OF AMERICAN DEPOSITARY SHARES

### American Depositary Receipts

JPMorgan Chase Bank, N.A., as depositary, will register and deliver ADSs. Each ADS represents an ownership interest in five ordinary shares deposited with a custodian, as agent of the depositary, under the deposit agreement among ourselves, the depositary and ADS holders. Each ADS will also represent any securities, cash or other property deposited with the depositary but which they have not distributed directly to you. Unless certificated American Depositary Receipts, or ADRs, are specifically requested by you, all ADSs will be issued on the books of our depositary in book-entry form and periodic statements will be mailed to you which reflect your ownership interest in such ADSs. The depositary's office is located at 4 New York Plaza, Floor 12, New York, New York, 10004.

You may hold ADSs either directly or indirectly through your broker or other financial institution. If you hold ADSs directly, by having an ADS registered in your name on the books of the depositary, you are an ADR holder. This description assumes you hold your ADSs directly. If you hold the ADSs through your broker or financial institution nominee, you must rely on the procedures of such broker or financial institution to assert the rights of an ADR holder described in this section. You should consult with your broker or financial institution to find out what those procedures are.

As an ADR holder, we will not treat you as a shareholder of ours and you will not have any shareholder rights. Australian law governs shareholder rights. Because the depositary or its nominee will be the shareholder of record for the ordinary shares represented by all outstanding ADSs, shareholder rights rest with such record holder. Your rights are those of an ADR holder. Such rights derive from the terms of the deposit agreement to be entered into among us, the depositary and all registered holders from time to time of ADSs issued under the deposit agreement. The obligations of the depositary and its agents are also set out in the deposit agreement. Because the depositary or its nominee will actually be the registered owner of the ordinary shares, you must rely on it to exercise the rights of a shareholder on your behalf. The deposit agreement and the ADSs are governed by New York law. Under the deposit agreement, as an ADR holder, you agree that any legal suit, action or proceeding against or involving us or the depositary, arising out of or based upon the deposit agreement or transactions contemplated thereby, may only be instituted in a state or federal court in New York, New York, and you irrevocably waive any objection which you may have to the laying of venue of any such proceeding and irrevocably submit to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

The following is a summary of what we believe to be the material terms of the deposit agreement. Notwithstanding this, because it is a summary, it may not contain all the information that you may otherwise deem important. For more complete information, you should read the entire deposit agreement and the form of ADR which contains the terms of your ADSs. You can read a copy of the deposit agreement which is filed as an exhibit to the registration statement of which this prospectus forms a part. You may also obtain a copy of the deposit agreement at the SEC's Public Reference Room which is located at 100 F Street, NE, Washington, DC 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-732-0330. You may also find the registration statement and the attached deposit agreement on the SEC's website at <http://www.sec.gov>.

### Ordinary Share Dividends and Other Distributions

#### *How will I receive dividends and other distributions on the ordinary shares underlying my ADSs?*

We may make various types of distributions with respect to our securities. The depositary has agreed that, to the extent practicable, it will pay to you the cash dividends or other distributions it or the custodian receives on ordinary shares or other deposited securities, after converting any cash received into U.S. dollars (if it determines such conversion may be made on a reasonable basis) and, in all cases, making any necessary deductions provided for in the deposit agreement. The depositary may utilize a division, branch or affiliate of JPMorgan Chase Bank, N.A., to direct, manage and/or execute any public and/or private sale of securities under the deposit agreement. Such division, branch and/or affiliate may charge the depositary a fee in connection with such sales, which fee is considered an expense of the depositary. You will receive these distributions in proportion to the number of underlying securities that your ADSs represent.

Except as stated below, the depositary will deliver such distributions to ADR holders in proportion to their interests in the following manner:

- *Cash.* The depositary will distribute any U.S. dollars available to it resulting from a cash dividend or other cash distribution or the net proceeds of sales of any other distribution or portion thereof (to the extent applicable), on an averaged or other practicable basis, subject to (i) appropriate adjustments for taxes withheld, (ii) such distribution being impermissible or impracticable with respect to certain registered ADR holders, and (iii) deduction of the depositary's and/or its agents' expenses in (1) converting any foreign currency to U.S. dollars to the extent that it determines that such conversion may be made on a reasonable basis, (2) transferring foreign currency or U.S. dollars to the United States by such means as the depositary may determine to the extent that it determines that such transfer may be made on a reasonable basis, (3) obtaining any approval or license of any governmental authority required for such conversion or transfer, which is obtainable at a

reasonable cost and within a reasonable time and (4) making any sale by public or private means in any commercially reasonable manner. *If exchange rates fluctuate during a time when the depositary cannot convert a foreign currency, you may lose some or all of the value of the distribution.*

- *Ordinary shares.* In the case of a distribution in ordinary shares, the depositary will issue additional ADRs to evidence the number of ADSs representing such ordinary shares. Only whole ADSs will be issued. Any ordinary shares which would result in fractional ADSs will be sold and the net proceeds will be distributed in the same manner as cash to the ADR holders entitled thereto.
- *Rights to receive additional ordinary shares.* In the case of a distribution of rights to subscribe for additional ordinary shares or other rights, if we timely provide evidence satisfactory to the depositary that it may lawfully distribute such rights, the depositary will distribute warrants or other instruments in the discretion of the depositary representing such rights. However, if we do not timely furnish such evidence, the depositary may:
  - sell such rights if practicable and distribute the net proceeds in the same manner as cash to the ADR holders entitled thereto; or
  - if it is not practicable to sell such rights by reason of the non-transferability of the rights, limited markets therefor, their short duration or otherwise, do nothing and allow such rights to lapse, in which case ADR holders will receive nothing and the rights may lapse.
- *Other Distributions.* In the case of a distribution of securities or property other than those described above, the depositary may either (i) distribute such securities or property in any manner it deems equitable and practicable or (ii) to the extent the depositary deems distribution of such securities or property not to be equitable and practicable, sell such securities or property and distribute any net proceeds in the same way it distributes cash.
- *Elective Distributions.* In the case of a dividend payable at the election of our shareholders in cash or in additional ordinary shares, we will notify the depositary at least 30 days prior to the proposed distribution stating whether or not we wish such elective distribution to be made available to ADR holders. The depositary shall make such elective distribution available to ADR holders only if (i) we shall have timely requested that the elective distribution is available to ADR holders, (ii) the depositary shall have determined that such distribution is reasonably practicable and (iii) the depositary shall have received satisfactory documentation and opinions within the terms of the deposit agreement. If the above conditions are not satisfied, the depositary shall, to the extent permitted by law, distribute to the ADR holders, on the basis of the same determination as is made in the local market in respect of the ordinary shares for which no election is made, either (i) cash or (ii) additional ADSs representing such additional ordinary shares. If the above conditions are satisfied, the depositary shall establish procedures to enable ADR holders to elect the receipt of the proposed dividend in cash or in additional ADSs. There can be no assurance that ADR holders generally, or any ADR holder in particular, will be given the opportunity to receive elective distributions on the same terms and conditions as the holders of ordinary shares.

If the depositary determines in its discretion that any distribution described above is not practicable with respect to any specific registered ADR holder, the depositary may, after consultation with us if practicable, choose any method of distribution that it deems practicable for such ADR holder, including the distribution of foreign currency, securities or property, or it may retain such items, without paying interest on or investing them, on behalf of the ADR holder as deposited securities, in which case the ADSs will also represent the retained items.

Any U.S. dollars will be distributed by checks drawn on a bank in the United States for whole dollars and cents. Fractional cents will be withheld without liability and dealt with by the depositary in accordance with its then current practices.

*The depositary is not responsible if it decides that it is unlawful or not reasonably practicable to make a distribution available to any ADR holders. There can be no assurance that the depositary will be able to convert any currency at a specified exchange rate or sell any property, rights, ordinary shares or other securities at a specified price, nor that any of such transactions can be completed within a specified time period. For further information about the general sale and/or purchase of securities see <https://www.adr.com>.*

## **Deposit, Withdrawal and Cancellation**

### ***How does the depositary issue ADSs?***

The depositary will issue ADSs if you or your broker deposit ordinary shares or evidence of rights to receive ordinary shares with the custodian and pay the fees and expenses owing to the depositary in connection with such issuance. In the case of the ADSs to be issued under this prospectus, we will arrange with the underwriters named herein to deposit such ordinary shares.

Ordinary shares deposited in the future with the custodian must be accompanied by certain delivery documentation and shall, at the time of such deposit, be registered in the name of JPMorgan Chase Bank, N.A., as depository for the benefit of holders of ADRs or in such other name as the depository shall direct.

The custodian will hold all deposited ordinary shares (including those being deposited by or on our behalf in connection with the offering to which this prospectus relates) for the account of the depository. ADR holders thus have no direct ownership interest in the ordinary shares and only have such rights as are contained in the deposit agreement. The custodian will also hold any additional securities, property and cash received on or in substitution for the deposited ordinary shares. The deposited ordinary shares and any such additional items are referred to as "deposited securities".

Upon each deposit of ordinary shares, receipt of related delivery documentation and compliance with the other provisions of the deposit agreement, including the payment of the fees and charges of the depository and any taxes or other fees or charges owing, the depository will issue an ADR or ADRs in the name or upon the order of the person entitled thereto evidencing the number of ADSs to which such person is entitled. All of the ADSs issued will, unless specifically requested to the contrary, be part of the depository's direct registration system, and a registered holder will receive periodic statements from the depository which will show the number of ADSs registered in such holder's name. An ADR holder can request that the ADSs not be held through the depository's direct registration system and that a certificated ADR be issued.

#### ***How do ADR holders cancel an ADS and obtain deposited securities?***

When you turn in your ADR certificate at the depository's office, or when you provide proper instructions and documentation in the case of direct registration ADSs, the depository will, upon payment of certain applicable fees, charges and taxes, deliver the underlying ordinary shares to you or upon your written order. At your risk, expense and request, the depository may deliver deposited securities at such other place as you may request.

The depository may only restrict the withdrawal of deposited securities in connection with:

- temporary delays caused by closing our transfer books or those of the depository or the deposit of ordinary shares in connection with voting at a shareholders' meeting, or the payment of dividends;
- the payment of fees, taxes and similar charges; or
- compliance with any U.S. or foreign laws or governmental regulations relating to the ADRs or to the withdrawal of deposited securities.

This right of withdrawal may not be limited by any other provision of the deposit agreement.

#### **Record Dates**

The depository may, after consultation with us if practicable, fix record dates for the determination of the registered ADR holders who will be entitled (or obligated, as the case may be):

- to receive any distribution on or in respect of ordinary shares;
- to give instructions for the exercise of voting rights at a meeting of holders of ordinary shares;
- to pay the fee assessed by the depository for administration of the ADR program and for any expenses as provided for in the ADR; or
- to receive any notice or to act in respect of other matters,

all subject to the provisions of the deposit agreement.

#### **Voting Rights**

##### ***How do I vote?***

If you are an ADR holder and the depository asks you to provide it with voting instructions, you may instruct the depository how to exercise the voting rights for the ordinary shares which underlie your ADSs. As soon as practicable after receiving notice of any meeting or solicitation of consents or proxies from us, the depository will distribute to the registered ADR holders a notice stating such information as is contained in the voting materials received by the depository and describing how you may instruct the depository to exercise the voting rights for the ordinary shares which underlie your ADSs, including instructions for giving a discretionary proxy to a

person designated by us. For instructions to be valid, the depositary must receive them in the manner, and on or before the date specified. The depositary will try, as far as is practical, subject to the provisions of and governing the underlying ordinary shares or other deposited securities, to vote or to have its agents vote the ordinary shares or other deposited securities as you instruct. The depositary will only vote or attempt to vote as you instruct. Holders are strongly encouraged to forward their voting instructions to the depositary as soon as possible. Voting instructions will not be deemed to be received until such time as the ADR department responsible for proxies and voting has received such instructions notwithstanding that such instructions may have been physically received by the depositary prior to such time. The depositary will not itself exercise any voting discretion. Furthermore, neither the depositary nor its agents are responsible for any failure to carry out any voting instructions, for the manner in which any vote is cast or for the effect of any vote. Notwithstanding anything contained in the deposit agreement or any ADR, the depositary may, to the extent not prohibited by law or regulations, or by the requirements of the stock exchange on which the ADSs are listed, in lieu of distribution of the materials provided to the depositary in connection with any meeting of, or solicitation of consents or proxies from, holders of deposited securities, distribute to the registered holders of ADRs a notice that provides such holders with, or otherwise publicizes to such holders, instructions on how to retrieve such materials or receive such materials upon request (i.e., by reference to a website containing the materials for retrieval or a contact for requesting copies of the materials).

There is no guarantee that you will receive voting materials in time to instruct the depositary to vote and it is possible that you, or persons who hold their ADSs through brokers, dealers or other third parties, will not have the opportunity to exercise a right to vote.

## **Reports and Other Communications**

### ***Will ADR holders be able to view our reports?***

The depositary will make available for inspection by ADR holders at the offices of the depositary and the custodian and a designated transfer office the deposit agreement, the provisions of or governing deposited securities, and any written communications from us which are both received by the custodian or its nominee as a holder of deposited securities and made generally available to the holders of deposited securities.

Additionally, if we make any written communications generally available to holders of our ordinary shares, and we furnish copies thereof (or English translations or summaries) to the depositary, it will distribute the same to registered ADR holders.

## **Fees and Expenses**

### ***What fees and expenses will I be responsible for paying?***

The depositary may charge each person to whom ADSs are issued, including, without limitation, issuances against deposits of ordinary shares, issuances in respect of ordinary share distributions, rights and other distributions, issuances pursuant to a stock dividend or stock split declared by us or issuances pursuant to a merger, exchange of securities or any other transaction or event affecting the ADSs or deposited securities, and each person surrendering ADSs for withdrawal of deposited securities or whose ADRs are cancelled or reduced for any other reason, US\$5.00 or less for each 100 ADSs (or any portion thereof) issued, delivered, reduced, cancelled or surrendered, as the case may be. The depositary may sell (by public or private sale) sufficient securities and property received in respect of an ordinary share distribution, rights and/or other distribution prior to such deposit to pay such charge.

The following additional charges shall be incurred by the ADR holders, by any party depositing or withdrawing ordinary shares or by any party surrendering ADSs or to whom ADSs are issued (including, without limitation, issuance pursuant to a stock dividend or stock split declared by us or an exchange of stock regarding the ADSs or the deposited securities or a distribution of ADSs), whichever is applicable:

- a fee of US\$1.50 per ADR or ADRs for transfers of certificated or direct registration ADRs;
- a fee of up to US\$0.05 per ADS for any cash distribution made pursuant to the deposit agreement;
- a fee of up to US\$0.05 per ADS per calendar year (or portion thereof) for services performed by the depositary in administering the ADRs (which fee may be charged on a periodic basis during each calendar year and shall be assessed against holders of ADRs as of the record date or record dates set by the depositary during each calendar year and shall be payable in the manner described in the next succeeding provision);
- a fee for the reimbursement of such fees, charges and expenses as are incurred by the depositary and/or any of its agents (including, without limitation, the custodian and expenses incurred on behalf of holders in connection with compliance with foreign exchange control regulations or any law or regulation relating to foreign investment) in connection with the servicing of the ordinary shares or other deposited securities, the sale of securities (including, without limitation, deposited securities), the delivery of deposited securities or otherwise in connection with the depositary's or its custodian's

compliance with applicable law, rule or regulation (which fees and charges shall be assessed on a proportionate basis against holders as of the record date or dates set by the depositary and shall be payable at the sole discretion of the depositary by billing such holders or by deducting such charge from one or more cash dividends or other cash distributions);

- a fee for the distribution of securities (or the sale of securities in connection with a distribution), such fee being in an amount equal to the US\$0.05 per ADS issuance fee for the execution and delivery of ADSs which would have been charged as a result of the deposit of such securities (treating all such securities as if they were ordinary shares) but which securities or the net cash proceeds from the sale thereof are instead distributed by the depositary to those holders entitled thereto;
- stock transfer or other taxes and other governmental charges;
- cable, telex and facsimile transmission and delivery charges incurred at your request in connection with the deposit or delivery of ordinary shares;
- transfer or registration fees for the registration of transfer of deposited securities on any applicable register in connection with the deposit or withdrawal of deposited securities;
- in connection with the conversion of foreign currency into U.S. dollars, JPMorgan Chase Bank, N.A. shall deduct out of such foreign currency the fees, expenses and other charges charged by it and/or its agent (which may be a division, branch or affiliate) so appointed in connection with such conversion; and
- fees of any division, branch or affiliate of the depositary utilized by the depositary to direct, manage and/or execute any public and/or private sale of securities under the deposit agreement.

JPMorgan Chase Bank, N.A. and/or its agent may act as principal for such conversion of foreign currency. For further details see <https://www.adr.com>.

We will pay all other charges and expenses of the depositary and any agent of the depositary (except the custodian) pursuant to agreements from time to time between us and the depositary. The charges described above may be amended from time to time by agreement between us and the depositary.

Our depositary has agreed to reimburse us for certain expenses we incur that are related to establishment and maintenance of the ADR program upon such terms and conditions as we and the depositary may agree from time to time. The depositary may make available to us a set amount or a portion of the depositary fees charged in respect of the ADR program or otherwise upon such terms and conditions as we and the depositary may agree from time to time. The depositary collects its fees for issuance and cancellation of ADSs directly from investors depositing ordinary shares or surrendering ADSs for the purpose of withdrawal or from intermediaries acting for them. The depositary collects fees for making distributions to investors by deducting those fees from the amounts distributed or by selling a portion of distributable property to pay the fees. The depositary may collect its annual fee for depositary services by deduction from cash distributions, or by directly billing investors, or by charging the book-entry system accounts of participants acting for them. The depositary will generally set off the amounts owing from distributions made to holders of ADSs. If, however, no distribution exists and payment owing is not timely received by the depositary, the depositary may refuse to provide any further services to holders that have not paid those fees and expenses owing until such fees and expenses have been paid. At the discretion of the depositary, all fees and charges owing under the deposit agreement are due in advance and/or when declared owing by the depositary.

The fees and charges you may be required to pay may vary over time and may be changed by us and by the depositary. You will receive prior notice of the increase in any such fees and charges.

#### **Payment of Taxes**

ADR holders must pay any tax or other governmental charge payable by the custodian or the depositary on any ADS or ADR, deposited security or distribution. If an ADR holder owes any tax or other governmental charge, the depositary may (i) deduct the amount thereof from any cash distributions, or (ii) sell deposited securities (by public or private sale) and deduct the amount owing from the net proceeds of such sale. In either case the ADR holder remains liable for any shortfall. Additionally, if any taxes or other governmental charges (including any penalties and/or interest) shall become payable by or on behalf of the custodian or the depositary with respect to any ADR, any deposited securities represented by the ADSs evidenced thereby or any distribution thereon, such tax or other governmental charge shall be paid by the holder thereof to the depositary and by holding or having held an ADR the holder and all prior holders thereof, jointly and severally, agree to indemnify, defend and save harmless each of the depositary and its agents in respect thereof. If any tax or governmental charge is unpaid, the depositary may also refuse to effect any registration, registration of transfer, split-up or combination of deposited securities or withdrawal of deposited securities until such payment is made. If any tax or governmental charge is required to be withheld on any cash distribution, the depositary may deduct the amount required to be withheld from any cash distribution or, in the case of a non-cash distribution, sell the distributed property or securities (by public or private sale)

to pay such taxes and distribute any remaining net proceeds or the balance of any such property after deduction of such taxes to the ADR holders entitled thereto.

By holding an ADR or an interest therein, you will be agreeing to indemnify us, the depository, its custodian and any of our or their respective officers, directors, employees, agents and affiliates against, and hold each of them harmless from, any claims by any governmental authority with respect to taxes, additions to tax, penalties or interest arising out of any refund of taxes, reduced rate of withholding at source or other tax benefit obtained.

### **Reclassifications, Recapitalizations and Mergers**

If we take certain actions that affect the deposited securities, including (i) split-up, consolidation, cancellation or other reclassification of deposited securities or (ii) any distributions of ordinary shares or other property not made to holders of ADRs or (iii) any recapitalization, reorganization, merger, consolidation, liquidation, receivership, bankruptcy or sale of all or substantially all of our assets, then the depository may choose to, and shall if reasonably requested by us:

- amend the form of ADR;
- distribute additional or amended ADRs;
- distribute cash, securities or other property it has received in connection with such actions;
- sell any securities or property received and distribute the proceeds as cash; or
- none of the above.

If the depository does not choose any of the above options, any of the cash, securities or other property it receives will constitute part of the deposited securities and each ADS will then represent a proportionate interest in such property.

### **Amendment and Termination**

#### ***How may the deposit agreement be amended?***

We may agree with the depository to amend the deposit agreement and the ADSs without your consent for any reason. ADR holders must be given at least 30 days notice of any amendment that imposes or increases any fees or charges (other than stock transfer or other taxes and other governmental charges, transfer or registration fees, cable, telex or facsimile transmission costs, delivery costs or other such expenses), or otherwise prejudices any substantial existing right of ADR holders. Such notice need not describe in detail the specific amendments effectuated thereby, but must identify to ADR holders a means to access the text of such amendment. If an ADR holder continues to hold an ADR or ADRs after being so notified, such ADR holder is deemed to agree to such amendment and to be bound by the deposit agreement as so amended. Notwithstanding the foregoing, if any governmental body or regulatory body should adopt new laws, rules or regulations which would require amendment or supplement of the deposit agreement or the form of ADR to ensure compliance therewith, we and the depository may amend or supplement the deposit agreement and the ADR at any time in accordance with such changed laws, rules or regulations, which amendment or supplement may take effect before a notice is given or within any other period of time as required for compliance. No amendment, however, will impair your right to surrender your ADSs and receive the underlying securities, except in order to comply with mandatory provisions of applicable law.

#### ***How may the deposit agreement be terminated?***

The depository may, and shall at our written direction, terminate the deposit agreement and the ADRs by mailing notice of such termination to the registered holders of ADRs at least 30 days prior to the date fixed in such notice for such termination; provided, however, if the depository shall have (i) resigned as depository under the deposit agreement, notice of such termination by the depository shall not be provided to registered holders unless a successor depository shall not be operating under the deposit agreement within 45 days of the date of such resignation, and (ii) been removed as depository under the deposit agreement, notice of such termination by the depository shall not be provided to registered holders of ADRs unless a successor depository shall not be operating under the deposit agreement on the 90<sup>th</sup> day after our notice of removal was first provided to the depository. After termination, the depository's only responsibility will be (i) to deliver deposited securities to ADR holders who surrender their ADRs, and (ii) to hold or sell distributions received on deposited securities. As soon as practicable after the expiration of six months from the termination date, the depository will sell the deposited securities which remain and hold the net proceeds of such sales (as long as it may lawfully do so), without liability for interest, in trust for the ADR holders who have not yet surrendered their ADRs. After making such sale, the depository shall have no obligations except to account for such proceeds and other cash.

## Limitations on Obligations and Liability to ADR holders

### *Limits on our obligations and the obligations of the depositary; limits on liability to ADR holders and holders of ADSs*

Prior to the issue, registration, registration of transfer, split-up, combination, or cancellation of any ADRs, or the delivery of any distribution in respect thereof, and from time to time in the case of the production of proofs as described below, we or the depositary or its custodian may require:

- payment with respect thereto of (i) any stock transfer or other tax or other governmental charge, (ii) any stock transfer or registration fees in effect for the registration of transfers of ordinary shares or other deposited securities upon any applicable register and (iii) any applicable fees and expenses described in the deposit agreement;
- the production of proof satisfactory to it of (i) the identity of any signatory and genuineness of any signature and (ii) such other information, including without limitation, information as to citizenship, residence, exchange control approval, beneficial ownership of any securities, compliance with applicable law, regulations, provisions of or governing deposited securities and terms of the deposit agreement and the ADRs, as it may deem necessary or proper; and
- compliance with such regulations as the depositary may establish consistent with the deposit agreement.

The issuance of ADRs, the acceptance of deposits of ordinary shares, the registration, registration of transfer, split-up or combination of ADRs or the withdrawal of ordinary shares, may be suspended, generally or in particular instances, when the ADR register or any register for deposited securities is closed or when any such action is deemed advisable by the depositary; provided that the ability to withdraw ordinary shares may only be limited under the following circumstances: (i) temporary delays caused by closing transfer books of the depositary or our transfer books or the deposit of ordinary shares in connection with voting at a shareholders' meeting, or the payment of dividends, (ii) the payment of fees, taxes, and similar charges, and (iii) compliance with any laws or governmental regulations relating to ADRs or to the withdrawal of deposited securities.

The deposit agreement expressly limits the obligations and liability of the depositary, ourselves and our respective agents, provided, however, that no such disclaimer of liability under the Securities Act is intended by any of the limitations of liabilities provisions of the deposit agreement. The deposit agreement it provides that neither we nor the depositary nor any such agent will be liable if:

- any present or future law, rule, regulation, fiat, order or decree of the United States, Australia or any other country, or of any governmental or regulatory authority or securities exchange or market or automated quotation system, the provisions of or governing any deposited securities, any present or future provision of our charter, any act of God, war, terrorism, nationalization or other circumstance beyond our, the depositary's or our respective agents' control shall prevent or delay, or shall cause any of them to be subject to any civil or criminal penalty in connection with, any act which the deposit agreement or the ADRs provide shall be done or performed by us, the depositary or our respective agents (including, without limitation, voting);
- it exercises or fails to exercise discretion under the deposit agreement or the ADR including, without limitation, any failure to determine that any distribution or action may be lawful or reasonably practicable;
- it performs its obligations under the deposit agreement and ADRs without gross negligence or willful misconduct;
- it takes any action or refrains from taking any action in reliance upon the advice of or information from legal counsel, accountants, any person presenting ordinary shares for deposit, any registered holder of ADRs, or any other person believed by it to be competent to give such advice or information; or
- it relies upon any written notice, request, direction, instruction or document believed by it to be genuine and to have been signed, presented or given by the proper party or parties.

Neither the depositary nor its agents have any obligation to appear in, prosecute or defend any action, suit or other proceeding in respect of any deposited securities or the ADRs. We and our agents shall only be obligated to appear in, prosecute or defend any action, suit or other proceeding in respect of any deposited securities or the ADRs, which in our opinion may involve us in expense or liability, if indemnity satisfactory to us against all expense (including fees and disbursements of counsel) and liability is furnished as often as may be required. The depositary and its agents may fully respond to any and all demands or requests for information maintained by or on its behalf in connection with the deposit agreement, any registered holder or holders of ADRs, any ADRs or otherwise related to the deposit agreement or ADRs to the extent such information is requested or required by or pursuant to any lawful authority, including without limitation laws, rules, regulations, administrative or judicial process, banking, securities or other regulators. The depositary shall not be liable for the acts or omissions made by, or the insolvency of, any securities depositary, clearing agency or settlement system. Furthermore, the depositary shall not be responsible for, and shall incur no liability in connection with or arising from, the insolvency of any custodian that is not a branch or affiliate of JPMorgan Chase Bank, N.A. Notwithstanding anything to the contrary contained in the

deposit agreement or any ADRs, the depository shall not be responsible for, and shall incur no liability in connection with or arising from, any act or omission to act on the part of the custodian except to the extent that the (i) custodian committed fraud or willful misconduct in the provision of custodial services to the depository or (ii) failed to use reasonable care in the provision of custodial services to the depository as determined in accordance with the standards prevailing in the jurisdiction in which the custodian is located. The depository shall not have any liability for the price received in connection with any sale of securities, the timing thereof or any delay in action or omission to act nor shall it be responsible for any error or delay in action, omission to act, default or negligence on the part of the party so retained in connection with any such sale or proposed sale.

The depository has no obligation to inform ADR holders or other holders of an interest in any ADSs about the requirements of Australian law, rules or regulations or any changes therein or thereto.

Additionally, none of us, the depository or the custodian shall be liable for the failure by any registered holder of ADRs or beneficial owner therein to obtain the benefits of credits on the basis of non-U.S. tax paid against such holder's or beneficial owner's income tax liability. Neither we nor the depository shall incur any liability for any tax consequences that may be incurred by holders or beneficial owners on account of their ownership of ADRs or ADSs.

Neither the depository nor its agents will be responsible for any failure to carry out any instructions to vote any of the deposited securities, for the manner in which any such vote is cast or for the effect of any such vote. The depository may rely upon instructions from us or its counsel in respect of any approval or license required for any currency conversion, transfer or distribution. The depository shall not incur any liability for the content of any information submitted to it by us or on our behalf for distribution to ADR holders or for any inaccuracy of any translation thereof, for any investment risk associated with acquiring an interest in the deposited securities, for the validity or worth of the deposited securities, for the credit-worthiness of any third party, for allowing any rights to lapse upon the terms of the deposit agreement or for the failure or timeliness of any notice from us. The depository shall not be liable for any acts or omissions made by a successor depository whether in connection with a previous act or omission of the depository or in connection with any matter arising wholly after the removal or resignation of the depository, provided that in connection with the issue out of which such potential liability arises the depository performed its obligations without negligence while it acted as depository. Neither us, nor the depository nor any of their respective agents shall be liable to registered holders of ADRs or beneficial owners of interests in ADSs for any indirect, special, punitive or consequential damages or lost profits, in each case of any form incurred by any person or entity, whether or not foreseeable and regardless of the type of action in which such a claim may be brought.

In the deposit agreement each party thereto (including, for avoidance of doubt, each holder and beneficial owner and/or holder of interests in ADRs and/or ADSs) irrevocably waives, to the fullest extent permitted by applicable law, any right it may have to a trial by jury in any suit, action or proceeding against the depository and/or us directly or indirectly arising out of or relating to the ordinary shares or other deposited securities, the ADSs or the ADRs, the deposit agreement or any transaction contemplated therein, or the breach thereof (whether based on contract, tort, common law or any other theory).

The depository and its agents may own and deal in any class of our securities and in ADSs.

#### **Disclosure of Interest in ADSs**

To the extent that the provisions of or governing any deposited securities may require disclosure of or impose limits on beneficial or other ownership of deposited securities, other ordinary shares and other securities and may provide for blocking transfer, voting or other rights to enforce such disclosure or limits, you agree to comply with all such disclosure requirements and ownership limitations and to comply with any reasonable instructions we may provide in respect thereof. We reserve the right to instruct you to deliver your ADSs for cancellation and withdrawal of the deposited securities so as to permit us to deal with you directly as a holder of ordinary shares and, by holding an ADS or an interest therein, you will be agreeing to comply with such instructions.

#### **Books of Depository**

The depository or its agent will maintain a register for the registration, registration of transfer, combination and split-up of ADRs, which register shall include the depository's direct registration system. Registered holders of ADRs may inspect such records at the depository's office at all reasonable times for the purpose of communicating with other holders in the interest of the business of our company or a matter relating to the deposit agreement. Such register may be closed from time to time, when deemed expedient by the depository or, in the case of the issuance portion of the ADR Register, when reasonably requested by us to enable us to comply with applicable law.

The depository will maintain facilities for the delivery and receipt of ADRs.

### **Pre-release of ADSs**

In its capacity as depositary, the depositary shall not lend ordinary shares or ADSs; provided, however, that the depositary may (i) issue ADSs prior to the receipt of ordinary shares and (ii) deliver ordinary shares prior to the receipt of ADSs for withdrawal of deposited securities, including ADSs which were issued under (i) above but for which ordinary shares may not have been received (each such transaction a “pre-release”). The depositary may receive ADSs in lieu of ordinary shares under (i) above (which ADSs will promptly be canceled by the depositary upon receipt by the depositary) and receive ordinary shares in lieu of ADSs under (ii) above. Each such pre-release will be subject to a written agreement whereby the person or entity (the “applicant”) to whom ADSs or ordinary shares are to be delivered (a) represents that at the time of the pre-release the applicant or its customer owns the ordinary shares or ADSs that are to be delivered by the applicant under such pre-release, (b) agrees to indicate the depositary as owner of such ordinary shares or ADSs in its records and to hold such ordinary shares or ADSs in trust for the depositary until such ordinary shares or ADSs are delivered to the depositary or the custodian, (c) unconditionally guarantees to deliver to the depositary or the custodian, as applicable, such ordinary shares or ADSs, and (d) agrees to any additional restrictions or requirements that the depositary deems appropriate. Each such pre-release will be at all times fully collateralized with cash, U.S. government securities or such other collateral as the depositary deems appropriate, terminable by the depositary on not more than five (5) business days’ notice and subject to such further indemnities and credit regulations as the depositary deems appropriate. The depositary will normally limit the number of ADSs and ordinary shares involved in such pre-release at any one time to thirty percent (30%) of the ADSs outstanding (without giving effect to ADSs outstanding under (i) above), provided, however, that the depositary reserves the right to change or disregard such limit from time to time as it deems appropriate. The depositary may also set limits with respect to the number of ADSs and ordinary shares involved in pre-release with any one person on a case-by-case basis as it deems appropriate. The depositary may retain for its own account any compensation received by it in conjunction with the foregoing. Collateral provided in connection with pre-release transactions, but not the earnings thereon, shall be held for the benefit of the ADR holders (other than the applicant).

### **Appointment**

In the deposit agreement, each registered holder of ADRs and each person holding an interest in ADSs, upon acceptance of any ADSs (or any interest therein) issued in accordance with the terms and conditions of the deposit agreement will be deemed for all purposes to:

- be a party to and bound by the terms of the deposit agreement and the applicable ADR or ADRs, and
- appoint the depositary its attorney-in-fact, with full power to delegate, to act on its behalf and to take any and all actions contemplated in the deposit agreement and the applicable ADR or ADRs, to adopt any and all procedures necessary to comply with applicable laws and to take such action as the depositary in its sole discretion may deem necessary or appropriate to carry out the purposes of the deposit agreement and the applicable ADR and ADRs, the taking of such actions to be the conclusive determinant of the necessity and appropriateness thereof.

### **Governing Law**

The deposit agreement and the ADRs shall be governed by and construed in accordance with the laws of the State of New York. In the deposit agreement, we have submitted to the jurisdiction of the courts of the State of New York and appointed an agent for service of process on our behalf. Notwithstanding the foregoing, any action based on the deposit agreement may be instituted by the depositary in any competent court in Australia and/or the United States.

By holding an ADS or an interest therein, registered holders of ADRs and owners of ADSs each irrevocably agree that any legal suit, action or proceeding against or involving us or the depositary, arising out of or based upon the deposit agreement or the transactions contemplated thereby, may only be instituted in a state or federal court in New York, New York, and each irrevocably waives any objection which it may have to the laying of venue of any such proceeding, and irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding.

## PLAN OF DISTRIBUTION

We may sell the ADSs in any one or more of the following ways from time to time:

- to or through underwriters;
- to or through dealers;
- to our shareholders under a rights entitlement offering;
- through agents; or
- directly to purchasers, including our affiliates.

The prospectus supplement relating to a particular offering of the ADSs will set forth the terms of such offering, including:

- the name or names of any underwriters, dealers or agents and the amounts of securities underwritten or purchased by each of them;
- the purchase price of the offered ADSs and the proceeds to us from such sale;
- any underwriting discounts and commissions or agency fees and other items constituting underwriters' or agents' compensation;
- the initial offering price; and
- any discounts or concessions to be allowed or reallocated or paid to dealers.

Any initial offering prices, discounts or concessions allowed or reallocated or paid to dealers may be changed from time to time. In compliance with the guidelines of the Financial Industry Regulatory Authority, Inc., or FINRA, the maximum commission or discount to be received by any FINRA member or independent broker dealer may not exceed 8% of the aggregate value of the securities offered pursuant to this prospectus.

The distribution of the ADSs may be effected from time to time in one or more transactions at a fixed price or prices, which may be changed, at market prices prevailing at the time of sale, at prices related to the prevailing market prices or at negotiated prices. All ADSs would be listed on Nasdaq.

If the ADS are sold by means of an underwritten offering, we will execute an underwriting agreement with an underwriter or underwriters, and the names of the specific managing underwriter or underwriters, as well as any other underwriters, and the terms of the transaction, including commissions, discounts and any other compensation of the underwriters and dealers, if any, will be set forth in the prospectus supplement which will be used by the underwriters to sell the securities. If underwriters are utilized in the sale of the ADSs, the ADSs will be acquired by the underwriters for their own account and may be resold from time to time in one or more transactions, including negotiated transactions, at fixed public offering prices or at varying prices determined by the underwriters at the time of sale.

Our ADSs may be offered to the public either through underwriting syndicates represented by managing underwriters or directly by the managing underwriters. If any underwriter or underwriters are utilized in the sale of the securities, unless otherwise indicated in the prospectus supplement, the underwriting agreement will provide that the obligations of the underwriters are subject to conditions precedent and that the underwriters with respect to a sale of securities will be obligated to purchase all of those securities if they purchase any of those ADSs.

We may grant to the underwriters options to purchase additional ADSs to cover over-allotments, if any, at the public offering price with additional underwriting discounts or commissions. If we grant any over-allotment option, the terms of any over-allotment option will be set forth in the prospectus supplement relating to those securities.

If a dealer is utilized in the sale of ADSs in respect of which this prospectus is delivered, we will sell those ADSs to the dealer as principal. The dealer may then resell those securities to the public at varying prices to be determined by the dealer at the time of resale. Any reselling dealer may be deemed to be an underwriter, as the term is defined in the Securities Act of the securities so offered and sold. The name of the dealer and the terms of the transaction will be set forth in the related prospectus supplement.

Offers to purchase ADSs may be solicited by agents designated by us from time to time. Any agent involved in the offer or sale of the ADSs in respect of which this prospectus is delivered will be named, and any commissions payable by us to the agent will be set forth, in the applicable prospectus supplement. Unless otherwise indicated in the prospectus supplement, any agent will be acting on a

reasonable best efforts basis for the period of its appointment. Any agent may be deemed to be an underwriter, as that term is defined in the Securities Act of the ADSs so offered and sold.

Offers to purchase ADSs may be solicited directly by us and the sale of those ADSs may be made by us directly to institutional investors or others, who may be deemed to be underwriters within the meaning of the Securities Act with respect to any resale of those ADSs. The terms of any sales of this type will be described in the related prospectus supplement.

If so indicated in the prospectus supplement, we will authorize underwriters or other persons acting as our agents to solicit offers by institutions to purchase ADSs from us pursuant to contracts providing for payments and delivery on a future date. Institutions with which contracts of this type may be made include commercial and savings banks, insurance companies, pension funds, investment companies, educational and charitable institutions and others, but in all cases those institutions must be approved by us. The obligations of any purchaser under any contract of this type will be subject to the condition that the purchase of the ADSs shall not at the time of delivery be prohibited under the laws of the jurisdiction to which the purchaser is subject. The underwriters and other persons acting as our agents will not have any responsibility in respect of the validity or performance of those contracts.

One or more firms, referred to as “remarketing firms,” may also offer or sell the ADSs, if the prospectus supplement so indicates, in connection with a remarketing arrangement upon their purchase. Remarketing firms will act as principals for their own accounts or as our agents. These remarketing firms will offer or sell the ADSs in accordance with a redemption or repayment pursuant to the terms of the ADSs. The prospectus supplement will identify any remarketing firm and the terms of its agreement, if any, with us or any of our subsidiaries and will describe the remarketing firm’s compensation. Remarketing firms may be deemed to be underwriters in connection with the ADSs they remarket.

Disclosure in the prospectus supplement of our use of delayed delivery contracts will include the commission that underwriters and agents soliciting purchases of the ADSs under delayed contracts will be entitled to receive in addition to the date when we will demand payment and delivery of the ADSs under the delayed delivery contracts. These delayed delivery contracts will be subject only to the conditions that we describe in the prospectus supplement.

In connection with the offering of ADSs, persons participating in the offering, such as any underwriters, may purchase and sell ADSs in the open market. These transactions may include over-allotment and stabilizing transactions and purchases to cover syndicate short positions created in connection with the offering. Stabilizing transactions consist of bids or purchases for the purpose of preventing or retarding a decline in the market price of the ADSs, and syndicate short positions involve the sale by underwriters of a greater number of ADSs than they are required to purchase from any issuer in the offering. Underwriters also may impose a penalty bid, whereby selling concessions allowed to syndicate members or other broker-dealers in respect of the ADSs sold in the offering for their account may be reclaimed by the syndicate if the ADSs are repurchased by the syndicate in stabilizing or covering transactions. These activities may stabilize, maintain or otherwise affect the market price of the ADSs, which may be higher than the price that might prevail in the open market, and these activities, if commenced, may be discontinued at any time.

Underwriters, dealers, agents and remarketing firms may be entitled under relevant agreements entered into with us to indemnification by us against certain civil liabilities, including liabilities under the Securities Act that may arise from any untrue statement or alleged untrue statement of a material fact or any omission or alleged omission to state a material fact in this prospectus, any supplement or amendment hereto, or in the registration statement of which this prospectus forms a part, or to contribution with respect to payments which the agents, underwriters or dealers may be required to make.

If ADSs are sold by means of a rights entitlement offering, the prospectus supplement will set forth the terms and conditions of any such rights entitlement offering, including the manner in which it will be conducted and details on how our shareholders can participate in any such offering. A rights entitlement offering conducted under applicable Australian rules and regulations is a pro rata offering of ordinary shares to all eligible shareholders, as at a specified future record date. Under applicable ASX Listing Rules, shareholder approval is not required for a pro rata rights entitlement offering.

## EXPENSES

Set forth below is an itemization of the estimated expenses to be incurred in connection with the issuance and distribution of the ADSs registered under this registration statement. The amounts in the table below are estimates, with the exception of the SEC registration fee. These estimates do not include expenses related to offerings of particular securities. Each prospectus supplement describing an offering of ADSs will provide estimated expenses related to the ADSs offered under that prospectus supplement.

SEC registration fee	\$	20,862
Legal fees and expenses		30,000
Accounting fees and expenses		38,750
Printing, publishing and filing expenses		1,500
Other miscellaneous fees and expenses		1,050
Total	\$	<u>92,162</u>

## LEGAL MATTERS

The validity of the ADSs and certain other legal matters will be passed upon for us by Baker & McKenzie, our Australian counsel.

## EXPERTS

The financial statements incorporated in this Prospectus by reference to the Annual Report on Form 20-F for the year ended June 30, 2016 have been so incorporated in reliance on the report of PricewaterhouseCoopers, an independent registered public accounting firm, given on the authority of said firm as experts in auditing and accounting. The offices of PricewaterhouseCoopers are located at 2 Riverside Quay, Southbank, Victoria, 3006, Australia.

## ENFORCEABILITY OF CIVIL LIABILITIES

We are a public limited company incorporated under the laws of Australia. Certain of our directors are non-residents of the United States and all or substantially all of their assets are located outside the United States. As a result, it may not be possible for you to:

- effect service of process within the United States upon our non-U.S. resident directors or on us;
- enforce in U.S. courts judgments obtained against our non-U.S. resident directors or us in the U.S. courts in any action, including actions under the civil liability provisions of U.S. securities laws;
- enforce in U.S. courts judgments obtained against our non-U.S. resident directors or us in courts of jurisdictions outside the United States in any action, including actions under the civil liability provisions of U.S. securities laws; or
- bring an original action in an Australian court to enforce liabilities against our non-U.S. resident directors or us based solely upon U.S. securities laws.

You may also have difficulties enforcing in courts outside the United States judgments that are obtained in U.S. courts against any of our non-U.S. resident directors or us, including actions under the civil liability provisions of the U.S. securities laws.

With that noted, there are no treaties between Australia and the United States that would affect the recognition or enforcement of foreign judgments in Australia. We also note that investors may be able to bring an original action in an Australian court against us to enforce liabilities based in part upon U.S. federal securities laws.

We have appointed Mesoblast, Inc., as our agent to receive service of process with respect to any action brought against us in the U.S. District Court for the Southern District of New York under the federal securities laws of the United States or any action brought against us in the Supreme Court of the State of New York in the County of New York under the securities laws of the State of New York.

## INFORMATION INCORPORATED BY REFERENCE

The SEC allows us to “incorporate by reference” the information into this document prior to the completion of this offering. This means that we can disclose important information to you by referring you to another document that we have filed separately with the SEC. The information incorporated by reference is considered a part of this prospectus and you should read that information carefully. Certain information in this prospectus supersedes information incorporated by reference that we filed with the SEC prior to the date of this prospectus. Certain information that we file later with the SEC will automatically update and supersede the information in this prospectus. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus. We incorporate by reference into this prospectus and the registration statement of which it is a part the following documents, including any amendments to such filings:

- our Annual Report on Form 20-F for fiscal 2016, filed with the SEC on August 25, 2016; and
- our Current Report on Form 6-K (excluding Exhibits 99.1 and 99.2), furnished to the SEC on May 25, 2017, relating to our three and nine months ended March 31, 2017;
- any annual report on Form 20-F filed with the SEC after the date of this prospectus; and
- any other report on Form 6-K submitted to the SEC after the date of this prospectus and prior to the termination of this offering of the ADSs, but only to the extent that the report expressly states that we incorporate such report by reference in to this prospectus.

We have not authorized anyone else to provide you with additional or different information to the information included in and incorporated by reference to this prospectus and any prospectus supplement. You should rely only on the information provided by and incorporated by reference to this prospectus and any prospectus supplement.

Upon written or oral request, we shall provide without charge to each person to whom a copy of this prospectus is delivered a copy of any or all of the documents that are incorporated by reference to this prospectus but not delivered with this prospectus. You may request a copy of these filings by contacting us at Mesoblast Limited, Level 38, 55 Collins Street, Melbourne, VIC 3000, Australia; Attention: Company Secretary; telephone +61 3 9639 6036.

## WHERE YOU CAN FIND MORE INFORMATION

We are subject to periodic reporting and other informational requirements of the Exchange Act as applicable to foreign private issuers. We also have a registration statement on Form F-3 filed with the SEC, including relevant exhibits, under the Securities Act with respect to the ADSs that may offered by this prospectus. This prospectus, which constitutes a part of the registration statement, does not contain all of the information set forth in the registration statement or the exhibits. As this prospectus does not contain all of the information contained in the registration statement, you should read the registration statement and its exhibits for further information with respect to us and our securities. All information we file with the SEC is available through the SEC’s Electronic Data Gathering, Analysis and Retrieval system, which may be accessed through the SEC’s website at [www.sec.gov](http://www.sec.gov). Information filed with the SEC may also be inspected and copied at the SEC’s Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. You may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-732-0330. You can request copies of these documents upon payment of a duplicating fee, by writing to the SEC. Please visit the SEC’s website at [www.sec.gov](http://www.sec.gov) for further information on the SEC’s Public Reference Room.

Our Annual Report on Form 20-F for fiscal 2016 has been filed with the SEC and an Annual Report on Form-20-F for subsequent years will be due within four months following the fiscal year end.

We are not required to disclose certain other information that is required from U.S. domestic issuers. As a foreign private issuer, we are exempt under the Exchange Act from, among other things, the rules prescribing the furnishing and content of proxy statements, and our executive officers, directors and principal shareholders are exempt from the reporting and short-swing profit recovery provisions contained in Section 16 of the Exchange Act and Regulation FD (Fair Disclosure), which was adopted to ensure that select groups of investors are not privy to specific information about an issuer before other investors.

We are, however, still subject to the anti-fraud and anti-manipulation rules of the SEC, such as Rule 10b-5. Since many of the disclosure obligations required of us as a foreign private issuer are different than those required by companies filing as a domestic issuer, our shareholders, potential shareholders and the investing public in general should not expect to receive information about us in the same amount and at the same time as information is received from, or provided by, companies filing as a domestic issuer. We are liable for violations of the rules and regulations of the SEC that apply to us as a foreign private issuer.

We will also be subject to the informational requirements of the ASX. Our public filings with the ASX are electronically available from the ASX website ([www.asx.com.au](http://www.asx.com.au)).

Only the specific documents incorporated by reference above, or incorporated by reference in any prospectus supplement, are to be deemed incorporated by reference into this prospectus and the registration statement of which it is a part. No information available on or through our website, or any other website reference herein, shall be deemed incorporated by reference into this prospectus.

#### **DISCLOSURE OF SEC'S POSITION ON INDEMNIFICATION FOR SECURITIES ACT LIABILITY**

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers or controlling persons of Mesoblast, we have been advised that, in the opinion of the SEC, such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable.



**Mesoblast Limited**

**\$180,000,000**

**American Depositary Shares representing Ordinary Shares**

---

**Prospectus**

---

\_\_\_\_\_, 2017

No dealer, salesperson or any other person is authorized to give any information or make any representations in connection with this offering other than those contained in this prospectus and, if given or made, the information or representations must not be relied upon as having been authorized by us. This prospectus does not constitute an offer to sell or a solicitation of an offer to buy any security other than the securities offered by this prospectus, or an offer to sell or a solicitation of an offer to buy any securities by anyone in any jurisdiction in which the offer or solicitation is not authorized or is unlawful.

---

**PART II**  
**INFORMATION NOT REQUIRED IN THE PROSPECTUS**

**Item 8. Indemnification of Directors and Officers.**

*Australian law.* Australian law provides that a company or a related body corporate of the company may provide for indemnification of officers and directors, except to the extent of any of the following liabilities incurred as an officer or director of the company:

- a liability owed to the company or a related body corporate of the company;
- a liability for a pecuniary penalty order made under section 1317G or a compensation order under section 961M, 1317H, 1317HA or 1317HB of the Australian Corporations Act 2001 (“Corporations Act”);
- a liability that is owed to someone other than the company or a related body corporate of the company and did not arise out of conduct in good faith; or
- legal costs incurred in defending an action for a liability incurred as an officer or director of the company if the costs are incurred:
  - in defending or resisting proceedings in which the officer or director is found to have a liability for which they cannot be indemnified as set out above;
  - in defending or resisting criminal proceedings in which the officer or director is found guilty;
  - in defending or resisting proceedings brought by the Australian Securities & Investments Commission or a liquidator for a court order if the grounds for making the order are found by the court to have been established (except costs incurred in responding to actions taken by the Australian Securities & Investments Commission or a liquidator as part of an investigation before commencing proceedings for a court order); or
  - in connection with proceedings for relief to the officer or a director under the Corporations Act, in which the court denies the relief.

*Constitution.* Our Constitution provides, except to the extent prohibited by the law and the Corporations Act, for the indemnification of every person who is or has been an officer or a director of the company against liability incurred by that person as an officer or director. This includes any liability incurred by that person in their capacity as an officer or director of a subsidiary of Mesoblast that does not arise out of conduct involving a lack of good faith or conduct known to the other person to be unlawful. The indemnity also applies to the extent permitted by the Corporations Act to costs and expenses incurred by the person in defending proceedings, whether civil or criminal, in which the courts grant relief to the person under the Corporations Act.

*Indemnification Agreements.* Pursuant to Deeds of Access, Insurance and Indemnity, we have agreed to indemnify our directors against certain liabilities and expenses incurred by such persons in connection with claims made by reason of their being such a director.

*SEC Position.* Insofar as indemnification for liabilities arising under the Securities Act of 1933, as amended (“Securities Act”) may be permitted to directors, officers or persons controlling us pursuant to the foregoing provisions, we have been informed that in the opinion of the Securities and Exchange Commission (“SEC”), such indemnification is against public policy as expressed in the Securities Act and is therefore unenforceable.

## Item 9. Exhibits.

Exhibit Number	Description
1.1	Form of Underwriting Agreement*
3.1	Constitution of Mesoblast Limited (incorporated by reference from Exhibit 3.2 of Mesoblast's Registration Statement on Form F-1 (No. 333-207719) filed on November 2, 2015)
4.1	Form of Deposit Agreement between Mesoblast Limited and JPMorgan Chase Bank, N.A., as depositary, and Holders of the American Depositary Receipts (incorporated by reference to the Registration Statement on Form F-6 (No. 333-207378) filed with the Commission on October 9, 2015)
4.2	Form of American Depositary Receipt evidencing American Depositary Shares (included in Exhibit 4.1)
5.1	Opinion of Baker & McKenzie
23.1	Consent of Baker & McKenzie (included in Exhibit 5.1)
23.2	Consent of PricewaterhouseCoopers, independent registered public accounting firm.
24.1	Power of Attorney (contained on the signature page to this registration statement)

\* To be filed as an amendment or as an exhibit to a report filed pursuant to the Exchange Act and incorporated by reference herein.

## Item 10. Undertakings.

The undersigned registrant hereby undertakes:

(1) To file, during any period in which offers or sales are being made, a post-effective amendment to this registration statement:

(i) To include any prospectus required by Section 10(a)(3) of the Securities Act;

(ii) To reflect in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement. Notwithstanding the foregoing, any increase or decrease in volume of securities offered (if the total dollar value of securities offered would not exceed that which was registered) and any deviation from the low or high end of the estimated maximum offering range may be reflected in the form of prospectus filed with the Commission pursuant to Rule 424(b) if, in the aggregate, the changes in volume and price represent no more than a 20 percent change in the maximum aggregate offering price set forth in the "Calculation of Registration Fee" table in the effective registration statement;

(iii) To include any material information with respect to the plan of distribution not previously disclosed in the registration statement or any material change to such information in the registration statement; provided, however, that paragraphs (i), (ii) and (iii) of this section do not apply if the information required to be included in a post-effective amendment by those paragraphs is contained in reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934, as amended ("Exchange Act") that are incorporated by reference in the registration statement, or is contained in a form of prospectus filed pursuant to Rule 424(b) that is part of the registration statement.

(2) That, for the purpose of determining any liability under the Securities Act, each such post-effective amendment shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

(3) To remove from registration by means of a post-effective amendment any of the securities being registered which remain unsold at the termination of the offering.

(4) To file a post-effective amendment to the registration statement to include any financial statements required by Item 8.A. of Form 20-F at the start of any delayed offering or throughout a continuous offering. Financial statements and information otherwise required by Section 10(a)(3) of the Act need not be furnished, provided that the registrant includes in the prospectus, by means of a post-effective amendment, financial statements required pursuant to this paragraph (a)(4) and other information necessary to ensure that all other information in the prospectus is at least as current as the date of those financial statements. Notwithstanding the foregoing, a post-effective amendment need not be filed to include financial statements and information required by Section 10(a)(3) of the Act or Item 8.A. of Form 20-F if such financial statements and information are contained in periodic reports filed with or furnished to the Commission by the registrant pursuant to Section 13 or Section 15(d) of the Securities Exchange Act of 1934 that are incorporated by reference in the registration statement.

(5) That, for the purpose of determining liability under the Securities Act to any purchaser:

(i) Each prospectus filed by the registrant pursuant to Rule 424(b)(3) shall be deemed to be part of the registration statement as of the date the filed prospectus was deemed part of and included in the registration statement.

(ii) Each prospectus required to be filed pursuant to Rule 424(b)(2), (b)(5), or (b)(7) as part of a registration in reliance on Rule 430B relating to an offering made pursuant to Rule 415(a)(1)(i), (vii), or (x) for the purpose of providing the information required by Section 10(a) of the Securities Act shall be deemed to be part of and included in the registration statement as of the earlier of the date such form of prospectus is first used after effectiveness or the date of the first contract of sale of securities in the offering described in the prospectus. As provided in Rule 430B, for liability purposes of the issuer and any person that is at that date an underwriter, such date shall be deemed to be a new effective date of the registration statement relating to the securities in the registration statement to which that prospectus relates, and the offering of such Securities at that time shall be deemed to be the initial bona fide offering thereof. *Provided, however*, that no statement made in a registration statement or prospectus that is part of the registration statement or made in a document incorporated or deemed incorporated by reference into the registration statement or prospectus that is part of the registration statement will, as to a purchaser with a time of contract of sale prior to such effective date, supersede or modify any statement that was made in the registration statement or prospectus that was part of the registration statement or made in any such document immediately prior to such effective date.

(6) That, for the purpose of determining liability of the registrant under the Securities Act to any purchaser in the initial distribution of the securities, the undersigned registrant undertakes that in a primary offering of securities of the undersigned registrant pursuant to this registration statement, regardless of the underwriting method used to sell the securities to the purchaser, if the securities are offered or sold to such purchaser by means of any of the following communications, the undersigned registrant will be a seller to the purchaser and will be considered to offer or sell such securities to such purchaser:

(i) Any preliminary prospectus or prospectus of the undersigned registrant relating to the offering required to be filed pursuant to Rule 424;

(ii) Any free writing prospectus relating to the offering prepared by or on behalf of the undersigned registrant or used or referred to by the undersigned registrant;

(iii) The portion of any other free writing prospectus relating to the offering containing material information about the undersigned registrant or its securities provided by or on behalf of the undersigned registrant; and

(iv) Any other communication that is an offer in the offering made by the undersigned registrant to the purchaser.

The undersigned registrant hereby undertakes that, for purposes of determining any liability under the Securities Act, each filing of the registrant's annual report pursuant to Section 13(a) or Section 15(d) of the Exchange Act (and, where applicable, each filing of an employee benefit plan's annual report pursuant to Section 15(d) of the Exchange Act) that is incorporated by reference in the registration statement shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

Insofar as indemnification for liabilities arising under the Securities Act may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Securities Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Securities Act and will be governed by the final adjudication of such issue.

The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.



## POWER OF ATTORNEY

KNOW ALL PERSONS BY THESE PRESENTS, that each individual whose signature appears below hereby constitutes and appoints Brian Jamieson, Dr. Silviu Itescu, and Peter Howard, and each of them (with full power to act alone), as his or her true and lawful attorneys-in-fact and agents, with full power of substitution, for him or her and in his or her name, place and stead, in any and all capacities, in connection with this registration statement, including to sign file in the name and on behalf of the undersigned as director or officer of the registrant any and all amendments or supplements (including any and all prospectus supplements, stickers and post effective amendments) to this registration statement, with all exhibits thereto and other documents in connection therewith, with the Securities and Exchange Commission and any applicable securities exchange, securities self-regulatory body or other regulatory authority, granting unto said attorneys-in-fact and agents, and each of them (with full power to act alone), full power and authority to do and perform each and every act and things requisite or necessary to be done in and about the premises, as fully to all intents and purposes as he or she might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents or any of them, or his, her or their substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this registration statement has been signed by the following persons on behalf of the registrant and in the capacities and on the dates indicated:

<u>Signature</u>	<u>Title</u>	<u>Date</u>
<u>/s/ Brian Jamieson</u> Brian Jamieson	Chairman of the Board of Directors	July 10, 2017
<u>/s/ Silviu Itescu</u> Silviu Itescu	Managing Director and Chief Executive Officer (principal executive officer)	July 10, 2017
<u>/s/ Paul Hodgkinson</u> Paul Hodgkinson	Chief Financial Officer (principal financial and accounting officer)	July 10, 2017
<u>/s/ William Burns</u> William Burns	Director	July 10, 2017
<u>/s/ Donal O'Dwyer</u> Donal O'Dwyer	Director	July 10, 2017
<u>/s/ Eric Rose</u> Eric Rose	Director	July 10, 2017
<u>/s/ Ben-Zion Weiner</u> Ben-Zion Weiner	Director	July 10, 2017
<u>/s/ Michael Spooner</u> Michael Spooner	Director	July 10, 2017

**SIGNATURE OF AUTHORIZED REPRESENTATIVE OF THE REGISTRANT**

Pursuant to the Securities Act of 1933, the undersigned, the duly authorized representative in the United States of Mesoblast Limited, has signed this registration statement in New York, New York on July 10, 2017.

Authorized U.S. Representative

**Mesoblast, Inc.**

By: /s/ Michael Schuster

Name: Michael Schuster

Title: Head of Pharma Partnering

## EXHIBIT INDEX

Exhibit Number	Description
1.1	Form of Underwriting Agreement*
3.1	Constitution of Mesoblast Limited (incorporated by reference from Exhibit 3.2 of Mesoblast's Registration Statement on Form F-1 (No. 333-207719) filed on November 2, 2015)
4.1	Form of Deposit Agreement between Mesoblast Limited and JPMorgan Chase Bank, N.A., as depositary, and Holders of the American Depositary Receipts (incorporated by reference to the Registration Statement on Form F-6 (No. 333-207378) filed with the Commission on October 9, 2015)
4.2	Form of American Depositary Receipt evidencing American Depositary Shares (included in Exhibit 4.1)
5.1	Opinion of Baker & McKenzie
23.1	Consent of Baker & McKenzie (included in Exhibit 5.1)
23.2	Consent of PricewaterhouseCoopers, independent registered public accounting firm.
24.1	Power of Attorney (contained on the signature page to this registration statement)

\* To be filed as an amendment or as an exhibit to a report filed pursuant to the Exchange Act and incorporated by reference herein.



**Baker & McKenzie**  
Level 27 AMP Centre  
50 Bridge Street  
Sydney, NSW 2000  
Australia

Tel: +61 2 9225 0200  
Fax: +61 2 9225 1595  
www.bakermckenzie.com

July 10, 2017

Mesoblast Limited  
Level 38  
55 Collins Street  
Melbourne, VIC 3000  
Australia

Re: **Registration Statement on Form F-3 of Mesoblast Limited**

Ladies and Gentlemen:

We have acted as Australian counsel to Mesoblast Limited, an Australian corporation (the "Company"), in connection with its filing of a registration statement on Form F-3 (the "Registration Statement") under the U.S. Securities Act of 1933, as amended (the "Securities Act"), with the U.S. Securities and Exchange Commission (the "Commission").

The Registration Statement relates to the proposed offer, issue and sale by the Company from time to time, pursuant to Rule 415 of the General Rules and Regulations promulgated under the Securities Act, of up to an aggregate amount of \$180,000,000 of the Company's American Depositary Shares (the "ADSs"), each representing 5 ordinary shares of the Company (the "Shares"), as evidenced by American Depositary Receipts.

For the purposes of this opinion, we have examined and relied upon copies of the following documents:

- (a) the Registration Statement;
- (b) a draft of the prospectus contained in the Registration Statement; and
- (c) the Company's Constitution.

We have also examined and relied upon a certificate, dated the date hereof, of the Company Secretary of the Company certifying the accuracy and completeness of the Constitution of the Company and resolutions of the Board of Directors of the Company relating to the Registration Statement. We have also examined such other documents and made such enquiries as to questions of law as we have deemed relevant and necessary in order to render the opinions set forth below.

In such examination, we have assumed (a) the genuineness of all signatures; (b) the authenticity of all documents submitted to us as originals; (c) the conformity to original documents of all documents submitted to us as copies (certified or otherwise); (d) the authenticity of the originals of such copies; (e) all information contained in all documents reviewed by us is true and correct; (f) that resolutions of the Board of Directors of the Company that we have relied upon for the purposes of this letter

---

opinion have not been and will not be varied or revoked after the date of this letter and that the meetings of the Board of Directors of the Company at which the resolutions were considered were properly convened, all Directors who attended and voted were entitled to do so, the resolutions were properly passed, and the Directors have performed their duties properly and all provisions relating to the declaration of Directors' interests or the power of interested Directors were duly observed; (g) the accuracy of any searches obtained from the Australian Securities and Investments Commission in relation to the Company; (h) each natural person signing any document reviewed by us had the legal capacity to do so and to perform his or her obligations thereunder; and (i) each person signing in a representative capacity any document reviewed by us had authority to sign in such capacity.

Our opinion is subject to (i) the Registration Statement, and any amendments thereto (including all necessary post-effective amendments), becoming effective under the Securities Act (and on the assumption that it will remain effective at the time of issuance of any ADSs thereunder); (ii) an appropriate prospectus supplement with respect to the offering of the ADSs (if applicable) being prepared, delivered and timely filed with the Commission in compliance with the Securities Act and the applicable rules and regulations thereunder; (iii) the ADSs to be sold pursuant to the applicable prospectus supplement being duly authorized by each of the Board of Directors and, where applicable, the Company's shareholders; (iv) the agreed upon consideration being received for the issue of the ADSs; (v) the aggregate offering price of all ADSs not exceeding \$180,000,000; (vi) if in an underwritten offering, a definitive purchase, underwriting or similar agreement with respect to any ADSs will be duly authorized and validly executed and delivered by the Company and the other parties thereto; and (vii) the terms of the issuance and sale of the ADSs being in conformity with the Company's Constitution, the Australian Corporations Act 2001 (the "Corporations Act") and the listing rules of the Australian Securities Exchange, and in the manner stated in the Registration Statement and the applicable prospectus supplement, so as not to violate any applicable law or result in a default under or breach of any agreement or instrument binding upon the Company, and so as to comply with any requirement or restriction imposed by any court or governmental body having jurisdiction over the Company.

Based upon and subject to the foregoing, we are of the opinion that:

- (a) the Company is duly incorporated and validly existing under the laws of the Australia in good standing (as such term is not defined under the Corporations Act, meaning solely that there are no current orders for the winding up of, or appointment of a receiver or liquidator for the Company or any notice of its proposed deregistration);
- (b) the issue of the Shares has been duly authorized; and
- (c) when issued and paid for as contemplated by the prospectus and any prospectus supplement, the Shares represented by ADSs will be legally issued, fully paid and non-assessable (for the purpose of this opinion, the term "non-assessable", when used to describe the liability of a person as the registered holder of ordinary shares has no clear meaning under the laws of the Commonwealth of Australia, so we have assumed those words to mean that holders of such ordinary shares, having fully paid all amounts due on such ordinary shares, are under no personal liability to contribute to the assets and liabilities of the Company in their capacities purely as holders of such ordinary shares).

The opinions expressed above are limited to the laws of the Commonwealth of Australia and we do not express any opinion as to the effect of any other laws, in particular as to whether an agreement which is governed by a law other than such laws is valid and binding. This opinion letter is limited to the matters stated herein; no opinion may be inferred beyond the matters expressly stated.



This opinion letter will be deemed to have been delivered as of the date of effectiveness of the Registration Statement and will speak as of such date.

We hereby consent to the use of our opinion as herein set forth as an exhibit to the Registration Statement and to the use of our name under the caption "Legal Matters" in the prospectus forming a part of the Registration Statement. In giving this consent, we do not admit that we come within the category of persons whose consent is required under Section 7 of the U.S. Securities Act or the rules and regulations of the Commission promulgated thereunder.

This letter is given only on behalf of Baker & McKenzie, an Australian partnership and not on behalf of any other member firm of Baker & McKenzie International. In this letter, "we", "us", "our" and like expressions should be construed accordingly.

Very truly yours,

/s/ Baker & McKenzie

---

Baker & McKenzie

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We hereby consent to the incorporation by reference in this Registration Statement on Form F-3 of our report dated August 24, 2016 relating to the financial statements, which appears in Mesoblast Limited's Annual Report on Form 20-F for the year ended June 30, 2016. We also consent to the reference to us under the heading "Experts" in such Registration Statement.

/s/ PricewaterhouseCoopers  
Melbourne, Australia  
July 10, 2017