



5 May 2022

ASX Compliance Pty Ltd  
Attn: Vanessa Nevjestic  
Adviser, Listings Compliance  
Level 40, Central Park,  
152-158 St George's Terrace  
PERTH WA 6000

By Email: [vanessa.nevjestic@asx.com.au](mailto:vanessa.nevjestic@asx.com.au); [ListingsCompliancePerth@asx.com.au](mailto:ListingsCompliancePerth@asx.com.au)

Dear Vanessa

### **Splitit Payments Ltd: Aware Query**

We refer to your letter addressed to Splitit Payments Ltd (**Splitit**) dated 29 April 2022 (**Your Letter**) and provide the following responses (using the corresponding numbering as set out in Your Letter):

- 1. Does SPT consider the Information in the Quarterly Report to be information that a reasonable person would expect to have a material effect on the price or value of its securities?**

No. Splitit does not consider the Information in the Quarterly Report to be information that a reasonable person would expect to have a material effect on the price or value of its securities.

- 2. If the answer to question 1 is “no”, please advise the basis for that view and comment specifically on the First Price and Volume Movement and Second Price and Volume Movement, respectively.**

Splitit's quarterly activities report and Appendix 4C for the quarter ending 31 March 2022 (**Q1 Quarterly Results**) disclosed growth which was broadly in line with growth delivered in recent past quarters and consistent with the expectations of the sell-side analyst covering Splitit, which is deemed to be reflective of the broader markets' expectations<sup>1</sup>. As such, the Company does not believe the Q1 Quarterly Results contains information that a reasonable person would expect to have a material effect on the price or value of securities.

As set out in Splitit's letter dated 27 April 2022 in response to ASX's Price Query Letter (**Price Query Response**), Splitit is not aware of any non-public information that may explain the First Price and Volume Movement.

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<sup>1</sup> Section 7.3 of ASX Guidance Note 8.



In addition to the release of Splitit's Q1 Quarterly Results on MAP at 8:31AM AEST on 28 April 2022, the following announcements were also released in accordance with ASX Listing Rule 3.13.3 prior to the start of the Annual General Meeting (**AGM**) at 9:00AM AEST on 28 April 2022:

- Chair AGM Address, released on MAP at 8:47AM AEST on 28 April 2022; and
- CEO AGM Presentation, released on MAP at 8:51AM AEST on 28 April 2022,

(collectively, the **AGM Announcements**).

Splitit believes that the following matters may have led to the Second Price and Volume Movement:

a) *Approval of AGM resolutions*

Splitit's Notice of AGM dated 24 March 2022 disclosed the potential benefits to Splitit if the proposed resolutions were approved at the AGM, in particular:

- i. improved prospects for US expansion and more favourable financing terms<sup>2</sup>; and
- ii. increased authority to raise capital via the issue of new equity, enhancing Splitit's ability to invest in, and accelerate, its growth if the appropriate opportunities arise,

(together, **Potential Benefits**).

During the AGM, the proxies disclosed to attendees indicated that the relevant resolutions would pass.

Following completion of the AGM, Splitit's 'Results of 2022 Annual General Meeting' (**AGM Results**) was released on MAP at 11:06AM AEST on 28 April 2022 which show that the relevant resolutions were approved by an overwhelming majority of shareholders.

As a result of the approvals, the prospects of Splitit realising the Potential Benefits improved. Splitit considers that it is more likely that this information explains the Second Price and Volume Movement than the Information in the Q1 Quarterly Results.

b) *AGM CEO Presentation*

Splitit's new CEO, Nandan Sheth, gave his first presentation to investors at the AGM, reiterating his optimism for the Company's business, and outlining his strategy for growth. These matters are also covered in the CEO AGM Presentation, released on MAP at 8:51AM AEST on 28 April 2022. While no new information was disclosed in the CEO AGM Presentation, the CEO AGM Presentation also presented Splitit's customer offering and growth strategy in fresh terms.

Splitit believes that, after almost 6 months without a permanent CEO in place, gaining insight into the new CEO's assessment of Splitit's potential may have influenced investors to trade in Splitit's shares.

Other than as set out above, Splitit is not aware of any information that may explain the Second Price and Volume Movement.

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<sup>2</sup> Please see section 8.1 of the Explanatory Memorandum of the Notice of AGM for further context.



**3. When did SPT first become aware of the Information, or any part thereof?**

The Information comprises analyses of certain performance metrics from Q1 2022 compared with prior periods (ie. year on year or quarter on quarter). Splitit became aware of the Information at approximately 9:00am AEST on 8 April 2022 after the relevant analysis could be conducted upon the underlying data becoming available in Splitit's internal reporting systems after the end of Q1 2022. As noted in the response to question 2 above, Splitit did not, and still does not, consider this Information to be information that a reasonable person would expect to have a material effect on the price or value of Splitit's securities.

**4. If the Information, or any part thereof, were known to SPT before the Relevant Date, why did SPT not make any announcement prior to the Relevant Date which disclosed that Information? In answering this question, please explain why the Information was not released to the market at an earlier time, commenting specifically on:**

**4.1 when you believe SPT was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps SPT took to ensure that the Information was released promptly and without delay; and**

Given Splitit considered that there was no price sensitive information within the Q1 Quarterly Results, there was no obligation to disclose the Information under ASX Listing Rule 3.1 at all. Even if a reasonable investor would expect the Information to have a material effect on the price or value of Splitit's securities (which Splitit denies), the Information was generated for internal management purposes and remained subject to confidentiality obligations. Further, given the Information did not materially deviate from the market's expectations, a reasonable person would not expect the Information to be immediately disclosed under ASX Listing Rule 3.1.

Splitit requires the release of quarterly activities reports to be approved by certain Directors before the Chair is authorised to approve the quarterly activities report for release to the ASX. In accordance with ASX Guidance Note 23, Splitit lodged the Q1 Quarterly Results with the ASX at 8:31AM AEST on 28 April 2022 after receiving the requisite approvals at 9:56PM AEST on 27 April 2022.<sup>3</sup>

**4.2 SPT's responses as stated in the Price Query Response in which it advised in response to question 3 of the Price Query Response that, at the time of the First Price and Volume Movement, "Splitit is not aware of any information that may explain the recent trading in its securities".**

Splitit's response to the ASX Price Query on 27 April 2022 was accurate. At the time of the First Price and Volume Movement Splitit did not, and still does not, consider that a reasonable person would expect the Information to have a material effect on the price or value of its securities. The Company is not aware of any information that may explain the First Price and Volume Movement.

**5. Please confirm that SPT is complying with the Listing Rules and, in particular, Listing Rule 3.1.**

Splitit considers that all material price-sensitive information has been announced in accordance with ASX Listing Rule 3.1 and Splitit is otherwise in compliance with the Listing Rules.

<sup>3</sup> ASX would generally expect an entity's quarterly activity and quarterly cash flow reports to be approved by its board as set out in footnote 16 of ASX Guidance Note 23 Quarterly Report.



6. Please confirm that SPT's responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of SPT with delegated authority from the board to respond to ASX on disclosure matters.

Splitit's responses above have been authorized by an officer with delegated authority from the board to respond to ASX on disclosure matters.

Yours faithfully

  
Charly Duffy  
Company Secretary  
Splitit Payments Ltd



29 April 2022

Reference: ODIN50053

Ms Charly Duffy  
Company Secretary  
Splitit Payments Ltd  
Level 42 Rialto South Tower  
525 Collins Street  
Melbourne, Victoria 3000

By email: charly@cdplus.com.au

Dear Ms Duffy

**Splitit Payments Ltd ('SPT'): Aware Query**

ASX refers to the following:

- A. The increase in the price of SPT's securities from a low of A\$0.190 at the close of trade on 26 April 2022 to an intra-day high of A\$0.260 and a closing price of A\$0.210 on 27 April 2022 and the significant increase in the volume of SPT's securities traded on 27 April 2022 (together, the 'First Price and Volume Movement').
- B. SPT's letter dated 27 April 2022 in response to ASX's Price Query Letter dated 27 April 2022 released on the ASX Market Announcements Platform ('MAP') at 1:49 PM AEST on 27 April 2022 (together, the 'Price Query Response'), which sets out the following:

1. *Is SPT aware of any information concerning it that has not been announced to the market which, if known by some in the market, could explain the recent trading in its securities?*

*No.*

2. *If the answer to question 1 is "yes":*

- a. *Is SPT relying on Listing Rule 3.1A not to announce that information under Listing Rule 3.1? Please note that the recent trading in SPT's securities would suggest to ASX that such information may have ceased to be confidential and therefore SPT may no longer be able to rely on Listing Rule 3.1A. Accordingly, if the answer to this question is "yes", you need to contact us immediately to discuss the situation.*

*N/A*

- b. *Can an announcement be made immediately? Please note, if the answer to this question is "no", you need to contact us immediately to discuss requesting a trading halt (see below).*

*N/A*

- c. *c. If an announcement cannot be made immediately, why not and when is it expected that an announcement will be made?*

*N/A*

3. *If the answer to question 1 is "no", is there any other explanation that SPT may have for the recent trading in its securities?*

*Splitit is not aware of any information that may explain the recent trading in its securities.*

4. *Please confirm that SPT is complying with the Listing Rules and, in particular, Listing Rule 3.1.*

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*Splitit considers that all material price-sensitive information has been announced in accordance with ASX Listing Rule 3.1 and Splitit is otherwise in compliance with the Listing Rules.*

5. *Please confirm that SPT's responses to the questions above have been authorised and approved under its published continuous disclosure policy or otherwise by its board or an officer of SPT with delegated authority from the board to respond to ASX on disclosure matters.*

*Splitit's responses above have been authorized by an officer with delegated authority from the board to respond to ASX on disclosure matters."*

- C. SPT's quarterly activities and cash flow reports for the quarter ended 31 March 2022 entitled "Q1 FY22 Quarterly Report & Appendix 4C - Refreshed growth strategy to become the infrastructure layer of BNPL" released on MAP at 8:31 AM AEST on 28 April 2022 (the 'Relevant Date') (the 'Quarterly Report'), disclosing amongst other things, that:

- (i) SPT's merchant sales volume ('MSV') of US\$101 million were up 23% year-on-year ('YoY') after a standout Q4 FY2021 for the Company;
- (ii) SPT's 12-month active merchants increased 43% YoY to 1.3K;
- (iii) SPT's net cash movement had improved by 73% compared to previous quarter; and
- (iv) The quarter's revenue was US\$2.6 million, reflecting a 6% increase YoY noting that the MSV growth was higher than the revenue growth due to a greater contribution within the funded portfolio from shorter dated loans

the 'Information'.

- D. The further increase in the price of SPT's securities from a low of A\$0.210 at the close of trade on 27 April 2022 to an intra-day high of A\$0.325 on 28 April 2022 subsequent to the release of the Quarterly Report (representing a 54.76% increase) and the increase in volumes traded on 28 April 2022 (together, the 'Second Price and Volume Movement').

- E. Listing Rule 3.1, which requires a listed entity to immediately give ASX any information concerning it that a reasonable person would expect to have a material effect on the price or value of the entity's securities.

- F. The definition of "aware" in Chapter 19 of the Listing Rules, which states that:

*"an entity becomes aware of information if, and as soon as, an officer of the entity (or, in the case of a trust, an officer of the responsible entity) has, or ought reasonably to have, come into possession of the information in the course of the performance of their duties as an officer of that entity" and section 4.4 in Guidance Note 8 Continuous Disclosure: Listing Rules 3.1 – 3.1B "When does an entity become aware of information."*

- G. Listing Rule 3.1A, which sets out exceptions from the requirement to make immediate disclosure, provided that each of the following are satisfied.

*"3.1A Listing rule 3.1 does not apply to particular information while each of the following is satisfied in relation to the information:*

*3.1A.1 One or more of the following applies:*

- *It would be a breach of a law to disclose the information;*
- *The information concerns an incomplete proposal or negotiation;*
- *The information comprises matters of supposition or is insufficiently definite to warrant disclosure;*
- *The information is generated for the internal management purposes of the entity; or*

- *The information is a trade secret; and*
- 3.1A.2 *The information is confidential and ASX has not formed the view that the information has ceased to be confidential; and*
- 3.1A.3 *A reasonable person would not expect the information to be disclosed.”*

H. ASX’s policy position on the concept of “confidentiality”, which is detailed in section 5.8 of Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. In particular, the Guidance Note states that:

*“Whether information has the quality of being confidential is a question of fact, not one of the intention or desire of the listed entity. Accordingly, even though an entity may consider information to be confidential and its disclosure to be a breach of confidence, if it is in fact disclosed by those who know it, then it ceases to be confidential information for the purposes of this rule.”*

### **Request for information**

Having regard to the above, ASX asks SPT to respond separately to each of the following questions and requests for information:

1. Does SPT consider the Information in the Quarterly Report to be information that a reasonable person would expect to have a material effect on the price or value of its securities?
2. If the answer to question 1 is “no”, please advise the basis for that view and comment specifically on the First Price and Volume Movement and Second Price and Volume Movement, respectively.
3. When did SPT first become aware of the Information, or any part thereof?
4. If the Information, or any part thereof, were known to SPT before the Relevant Date, why did SPT not make any announcement prior to the Relevant Date which disclosed that Information? In answering this question, please explain why the Information was not released to the market at an earlier time, commenting specifically on:
  - 4.1 when you believe SPT was obliged to release the Information under Listing Rules 3.1 and 3.1A and what steps SPT took to ensure that the Information was released promptly and without delay; and
  - 4.2 SPT’s responses as stated in the Price Query Response in which it advised in response to question 3 of the Price Query Response that, at the time of the First Price and Volume Movement, *“Splitit is not aware of any information that may explain the recent trading in its securities”*.
5. Please confirm that SPT is complying with the Listing Rules and, in particular, Listing Rule 3.1.
6. Please confirm that SPT’s responses to the questions above have been authorised and approved in accordance with its published continuous disclosure policy or otherwise by its board or an officer of SPT with delegated authority from the board to respond to ASX on disclosure matters.

### **When and where to send your response**

This request is made under Listing Rule 18.7. Your response is required as soon as reasonably possible and, in any event, by no later than **9:00 AM AWST Wednesday, 4 May 2022**. You should note that if the information requested by this letter is information required to be given to ASX under Listing Rule 3.1 and it does not fall within the exceptions mentioned in Listing Rule 3.1A, SPT’s obligation is to disclose the information ‘immediately’. This may require the information to be disclosed before the deadline set out in the previous paragraph and may require SPT to request a trading halt immediately.

Your response should be sent to me by e-mail at **ListingsCompliancePerth@asx.com.au**. It should not be sent directly to the ASX Market Announcements Office. This is to allow me to review your response to confirm that it

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is in a form appropriate for release to the market, before it is published on the ASX Market Announcements Platform.

### **Trading halt**

If you are unable to respond to this letter by the time specified above, you should discuss with us whether it is appropriate to request a trading halt in SPT's securities under Listing Rule 17.1. If you wish a trading halt, you must tell us:

- the reasons for the trading halt;
- how long you want the trading halt to last;
- the event you expect to happen that will end the trading halt;
- that you are not aware of any reason why the trading halt should not be granted; and
- any other information necessary to inform the market about the trading halt, or that we ask for.

We require the request for a trading halt to be in writing. The trading halt cannot extend past the commencement of normal trading on the second day after the day on which it is granted. You can find further information about trading halts in Guidance Note 16 *Trading Halts & Voluntary Suspensions*.

### **Suspension**

If you are unable to respond to this letter by the time specified above, ASX will likely suspend trading in SPT's securities under Listing Rule 17.3.

### **Listing Rules 3.1 and 3.1A**

In responding to this letter, you should have regard to SPT's obligations under Listing Rules 3.1 and 3.1A and also to Guidance Note 8 *Continuous Disclosure*: Listing Rules 3.1 – 3.1B. It should be noted that SPT's obligation to disclose information under Listing Rule 3.1 is not confined to, nor is it necessarily satisfied by, answering the questions set out in this letter.

### **Release of correspondence between ASX and entity**

We reserve the right to release a copy of this letter, your reply and any other related correspondence between us to the market under listing rule 18.7A.

### **Questions**

If you have any questions in relation to the above, please do not hesitate to contact me.

Yours sincerely

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**Vanessa Nevjestic**  
Adviser, Listings Compliance (Perth)