28 June 2022

ASX Limited
PO Box H224
Australia Square NSW 1215

Attention: Kevin Lewis

By email: Kevin.Lewis@asx.com.au

Dear Mr Lewis

**Enhancing the ASX Investment Products Offering**

The Australian Financial Markets Association (AFMA) welcomes the opportunity to comment on Enhancing the ASX Investment Products Offering consultation paper.

AFMA supports increased consistency and competitive neutrality between products with adjustments appropriate for product differences. AFMA notes that ASX must strike a balance that ensures investors are well informed but also that structures are not overburdened with excessive requirements.

Please find attached our responses to selected questions from the consultation paper.

Yours sincerely

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**Responses to consultation questions**

> **Question 2.2.1:** Would you have any concerns if ASX were to combine the ASX AQUA Rules and Warrant Rules into a single rule book governing non-listed Investment Products? If so, what are they and how might they be addressed?

As long as retail protections are maintained, AFMA broadly supports ASX's proposed revisions to the Investment Products Offering framework specifically regarding the combination of the AQUA Rules and Warrant Rules into a single rule book governing non-listed Investment Products.

For rule changes requiring participant system changes, appropriate notice for implementation and testing would be required.

> **Question 2.2.2:** If the ASX AQUA Rules and Warrant Rules are combined into a single rule book governing non-listed Investment Products, would you have any concerns if ASX were to make Warrants a sub-category of ETSPs? If so, what are those concerns?

As long as protections for retail investors remain strong AFMA raises no objections.

> **Question 2.2.3:** Do you see any benefit or value in maintaining the name "AQUA" as part of the ASX Investment Product rule framework? Does it have any currency with investors?

AFMA understands AQUA has limited currency with retail investors.

> **Question 2.3.1:** Do you support the proposed new definition of "financial investment entity" set out in the consultation paper. If not, why not and how would you define this term?

AFMA is supportive of the proposal.

> **Question 2.4.1:** Should REITs and IFs be formally recognised in the Listing Rules as separate categories of listed investment vehicles? If not, why not?

No response.

> **Question 2.4.2:** Do you support the proposed new definitions of "real estate investment entity" and "infrastructure investment entity" set out in the consultation paper. If not, why not and how would you define these terms?

AFMA supports the proposal but notes that REIT is a globally recognised term.

> **Question 2.5.1:** Do you support the proposed new definition of "collective investment entity" set out in the consultation paper. If not, why not and how would you define this term?

AFMA supports the proposal.

> **Question 2.5.2:** Are there other types of entities, apart from LICs, LITs, REITs and IFs, that should be formally recognised in the Listing Rules as separate categories of collective investment entities so that some or all of the specific Listing Rules that are proposed to apply collectively to LICs, LITs, REITS and IFs also apply to them?

AFMA is not aware of any.

> **Question 2.6.1:** Do you think that the terms "LIC" and "LIT" have a particular connotation for retail investors? If so, what is that connotation and what ramifications does that have for the definition of "investment entity" in the Listing Rules?

Retail investors are quite accustomed to the terms 'LIC' and 'LIT'. The main attribute that retail investors understand is that they are close ended and can trade away from NTA.

> **Question 2.6.2:** If the current rule framework for investment entities in the Listing Rules is retained, should the definition of "investment entity" be narrower and more specific about the types of securities and derivatives in which the entity can invest? If so, what types of securities and derivatives should LICs and LITs be limited to investing in? Alternatively, should the definition of "investment entity" be broader and allow the entity to invest in a wider class of financial assets than just securities or derivatives? If so, what additional classes of financial assets should LICs and LITs be allowed to invest in?

AFMA supports a flexible framework that adapts appropriately over time, however, we decline to provide granular comment on this matter.

> **Question 2.6.3:** If the current rule framework for investment entities in the Listing Rules is retained, should there be any constraints on the ability of a LIC or LIT to invest in securities in an unlisted company or in OTC derivatives, given the capacity that opens for them to invest in any class of underlying asset? If so, what should those constraints be? If not, why not?

As a general principle LICs and LITs should maintain investment flexibility. Investment by LICs and LITs in listed companies can similarly have OTC and unlisted asset exposures. Whether unlisted products and OTC products are appropriate for the LIC or LIT holders is dependent on a number of factors.

> **Question 2.6.4:** If the current rule framework for investment entities in the Listing Rules is retained, should the definition of "investment entity" continue to exclude an entity that has an objective of exercising control over or managing any entity, or the business of any entity, in which it invests? If so, why? If not, why not?

The exercise of control distinction separates investment entities from listed businesses, which similarly own assets which they control.

> **Question 2.6.5:** If your answer to Question 2.6.4 is "yes", what consequence do you think should follow if a LIC or LIT enters into, or seeks to enter into, a transaction that will allow it to exercise control over or manage any entity, or the business of any entity, in which it invests? Should this be prohibited? Or should it be permitted if the entity obtains approval from its shareholders/unitholders?

Most investments confer at least voting rights in companies, so acquiring the potential to exercise some control might set a low bar for the distinction between investment entities and more general conglomerate type businesses.

> **Question 2.6.6:** If your answer to Question 2.6.4 is "yes", how do you think ASX should address a situation where an investment entity generally does not have the objective of exercising control over or managing any entity, or the business of any entity, in which it invests but feels that it needs to do so in a particular case, in the interests of its investors, because the entity or business is being poorly managed? Should this be permitted if the entity obtains approval from its shareholders/unitholders or should ASX consider granting a waiver to allow this to occur where it is satisfied that this is a "one-off" and temporary situation?

Protecting the interests of the investors must be the key aim, and their interests should not be damaged in pursuit of this protection. We defer to others on the best way to ensure these interests are protected but note that the voice of those the structures intend to protect must be relevant.

> **Question 2.6.7:** If your answer to Question 2.6.4 is "yes", to address the concerns in the text, would you support expanding the second limb of the definition of "investment entity" so that it reads: "*Its objectives do not include **(alone or together with others)** exercising control over or managing any entity, or the business of any entity, in which it invests*"?

AFMA notes that LICs and LITs should be able to take over other investment firms with an intent to manage and or control.

> **Question 2.6.8:** As an alternative to precluding an investment entity from having an objective of exercising control over or managing an entity or its business, would it be better for the Listing Rules to limit the percentage holding an investment entity and its associates can have in any one entity. If so, what percentage would you suggest? If not, why not?

Percentage limits may not be sufficient to achieve the desired objective.

> **Question 2.6.9:** As an alternative to, or in addition to, the suggestion in the previous question, would it be better for the Listing Rules to limit the percentage of funds that an investment entity can invest in any one entity, thereby ensuring

that it has a portfolio of different investments? If so, what percentage would you suggest? If not, why not?

This approach could inadvertently constrain the investment approach and success of the LIC or LIT in a way that might not be justified given the aim.

**Question 2.6.10:** If the current rule framework for investment entities in the Listing Rules is retained, to address the concerns in the text, should the definition of "investment entity" be broadened so that it captures any entity which has been advised by ASX that it is an investment entity for the purposes of the Listing Rules?

While we note the gaming risk, we would seek to understand more how conglomerate firms could avoid be inadvertently captured.

**Question 2.6.11:** If the current rule framework for investment entities in the Listing Rules is retained, are there any other improvements that could be made to the existing definition of "investment entity" in the Listing Rules? If so, what are they?

No response.

**Question 3.2.1:** Should the list of Approved Issuers of AQUA Products and Warrants be expanded to include entities that are prudentially regulated by an overseas regulator equivalent to APRA? If not, why not?

AFMA supports this proposal.

**Question 3.2.2:** Are there any other types of issuers who should be added to the list of Approved Issuers for AQUA Products and Warrants? If so, what are they and why should they be added to the list of Approved Issuers for AQUA Products and Warrants?

No response.

**Question 3.3.1:** Do you agree with ASX's proposed changes to the exclusions in AQUA Rule 10A.3.3(d) so that they only apply to securities in a financial investment entity, real estate investment entity or infrastructure investment entity that is quoted on the ASX market under the ASX Listing Rules rather than the AQUA Rules. If not, why not?

AFMA supports this proposal.

**Question 3.3.2:** Do you think that an AQUA Product issuer should be precluded from having a controlling interest in the issuer of an underlying instrument in its portfolio? If not, why not? If so, do you think that AQUA Rule 10A.3.3(d) is

sufficiently clear in this regard? If not, how would you re-word that rule to cover the point?

No response.

**Question 3.4.1:** Do you have any views about hybrid structures, where a listed issuer that is also approved as an AQUA Product issuer simultaneously issues one class of securities that is a Listed Investment Product subject to the Listing Rules and another class of securities that is an AQUA Product subject to the AQUA Rules? What do you see as the advantages and disadvantages of these hybrid structures? Do you see any particular risks associated with, or have any other concerns about, these hybrid structures that you would like to see addressed in any re-write of the Listing Rules and the AQUA Rules?

AFMA does not object to this proposal as long as suitable structure are used, costs appropriately apportioned and investors understand the differences in the listings.

**Question 4.2.1:** Is having an NTA (after deducting the costs of fund raising) of $15 million a suitable threshold for admission as a LIC or LIT? Should it be higher? If so, what should it be?

No response.

**Question 4.2.2:** Is having an NTA (after deducting the costs of fund raising) of $4 million a suitable threshold for admission as a REIT or IF? Should it be higher? If so, what should it be?

No response.

**Question 4.2.3:** If in your response to Question 2.5.2 you have identified other types of collective investment product issuers, apart from LICs, LITs, REITs and IFs, that should be formally recognised in the Listing Rules as separate categories of listed investment vehicles, is having an NTA (after deducting the costs of fund raising) of $4 million a suitable threshold for admission as such a vehicle? Should it be higher? If so, what should it be?

N/A.

**Question 4.2.4:** Do you agree with ASX's conclusion that it is not necessary to impose a minimum subscription or fund size requirement for AQUA Products or Warrants to be admitted to quotation under the AQUA Rules or Warrant Rules, given the liquidity support obligations that apply to those products? If not, why not and what minimum subscription or fund size would you suggest?

While minimum fund size is less relevant for AQUA products, this does increase the risk of the creation of funds to test the market, failure to achieve scale for these funds leading to closure could impact retail investors.

**Question 4.2.5:** Do you think that ASX should have the power to order the issuer of an AQUA Product or Warrant to conduct an orderly wind down of the product and also for ASX to suspend quotation of the product while the orderly wind-down is undertaken if, in ASX's opinion, there is not sufficient investor interest in the product to warrant its continued quotation? If so, what considerations do you think ASX should take into account in exercising that power? If not, why not?

No response.

**Question 4.3.1:** Should REITs and IFs be excluded from the "commitments test", in the same way that LICs and LITs are?

AFMA supports measures to avoid 'cash box' promotion.

**Question 4.3.2:** If in your response to Question 2.5.2 you have identified other types of collective investment product issuers, apart from LICs, LITs, REITs and IFs, that should be formally recognised in the Listing Rules as separate categories of listed investment vehicles, should those product issuers also be excluded from the "commitments test", in the same way that LICs and LITs are?

N/A.

**Question 4.4.1:** Should entities seeking admission to the official list as an issuer of a Listed Investment Product have to satisfy an admission condition that they hold all required licenses under Chapter 7 of the Corporations Act and, once they are admitted, under a continuing obligation to satisfy that condition for as long as they have any Listed Investment Products on issue? If not, why not?

No response.

**Question 4.5.1:** Should entities seeking admission to the official list as an issuer of a Listed Investment Product have to satisfy an admission condition that they have adequate facilities, systems, processes, procedures, personnel, expertise, financial resources and contractual arrangements with third parties to perform their obligations as such an issuer and, once they are admitted, under a continuing obligation to satisfy that condition for as long as they have any Listed Investment Products on issue? If not, why not?

AFMA supports increased consistency in the rules.

**Question 5.2.1:** Are there any other naming constraints or requirements, apart from those set out in the text, that should apply to AQUA Products or Warrants generally or to specific types of AQUA Products or Warrants? If so, what are they?

No response.

**Question 5.3.1:** Do you support the introduction of a rule for Listed Investment Products that the name of the product must not, in ASX's opinion, be capable of misleading retail investors as to the nature, features or risks of the product? If not, why not?

AFMA supports names not being misleading for retail investors.

**Question 5.3.2:** Do you support the introduction of a rule for Listed Investment Products that if the issuer proposes to change the name of the product, it must first seek approval from ASX to the new name? If not, why not?

AFMA supports names not being misleading for retail investors.

**Question 5.3.3:** Should issuers of Listed Investment Products be prohibited under the Listing Rules from describing themselves as an "Exchange Traded Fund" or "ETF"? If not, why not??

ETF has a particular meaning with investors that may not be consistent with the structure of Listed Investment Products. AFMA supports names not being misleading for retail investors.

**Question 5.3.4: If your answer to question** 5.3.3 is 'no', should LICs and LITs be subject to a Listing Rule requiring them to comply with similar naming requirements as those set out by ASIC in INFO 230? If not, why not?

N/A.

**Question 5.3.5:** Are there any other naming constraints or requirements that should apply to Listed Investment Products generally or to specific types of Listed Investment Products? If so, what are they?

AFMA supports requiring names to be accurate, not misleading, and appropriate for the underlying investment and whether the investment is open or closed ended.

**Question 6.2.1:** For greater certainty, should the term "investment mandate" be defined in the AQUA Rules? If so, would you be happy with a definition that simply incorporates the two components mentioned in section 6.2 of the consultation paper (ie investment objective and investment strategy)? If not, how would you define the term "investment mandate"?

AFMA does not object to the proposal.

**Question 6.2.2:** Should the AQUA Rules impose any constraints on an ETF, ETMF, or ETSP that takes the form of a Collective Investment Product from changing its

investment mandate (such as a requirement for a certain period of notice before the change is made)? If so, what should those constraints be? If not, why not?

Constraints should ensure retail investors should have sufficient notice of changes in mandate.

**Question 6.2.3:** Should the AQUA Rules require an ETF, ETMF, or ETSP that takes the form of a Collective Investment Product to advise the market immediately if it materially breaches its investment mandate? If not, why not?

Consistent with our response to 6.2.2, investors in the fund should be informed immediately of material breaches.

**Question 6.2.4:** Should the AQUA Rules require an ETF, ETMF, or ETSP that takes the form of a Collective Investment Product to confirm in its annual report whether it has materially complied with its investment mandate for the financial year and, if it hasn't, to disclose any material departures from that mandate? If not, why not? If so, should that statement be audited or otherwise verified by an independent third party?

AFMA supports annual reports making sensible disclosures in this regard.

**Question 6.3.1:** Should the Listing Rules require an entity applying for admission as a LIC or LIT to satisfy an admission condition that it have an investment mandate which is acceptable to ASX and which is set out in its listing prospectus or PDS. If not, why not? If so, how should the term "investment mandate" be defined in the Listing Rules? Would the two-part definition mentioned in section 6.2 of this consultation paper incorporating investment objective and investment strategy be appropriate?

No response.

**Question 6.3.2:** Should the Listing Rules impose any constraints on a LIC or LIT from changing its investment mandate (such as a requirement for a certain period of notice before the change is made or that the mandate can only be changed with the approval of its security holders)? If so, what should those constraints be? If not, why not?

If the listing rules impose constraints on investment mandate changes then retail investors should have notice of minor changes and approval of major changes.

**Question 6.3.3:** Should the Listing Rules require a LIC or LIT to advise the market immediately if it materially breaches its investment mandate? If not, why not?

AFMA supports investors being informed of material breaches.

**Question 6.3.4:** Should the Listing Rules require a LIC or LIT to confirm in its annual report whether it has materially complied with its investment mandate for the financial year and, if it hasn't, to disclose any material departures from that mandate? If not, why not? If so, should that statement be audited or otherwise verified by an independent third party?

AFMA supports annual reports making sensible disclosures in this regard.

**Question 6.3.5:** Should REITs and IFs also be subject to similar requirements regarding investment mandates as those suggested above for LICs and LITs? If not, why not? If so, why and do those requirements need any customisation to deal with the different attributes of REITs and IFs compared to LICs and LITs?

No response.

**Question 7.2.1:** Do you support including in the list of acceptable underlying instruments for AQUA Products any financial product that, in ASX's opinion, is subject to a reliable and transparent pricing framework? If not, why not?

No response.

**Question 7.2.2:** Are there any other financial products or indices that you consider should be added to the list of acceptable underlying instruments for AQUA Products? If so, please provide details and explain the reasons why.

No response.

**Question 7.2.3:** Are there any products currently included in the list of acceptable underlying instruments for AQUA Products that you consider should be excluded? If so, please provide details and explain the reasons why.

No response.

**Question 7.3.1:** Should the Warrant Rules be amended to limit the acceptable underlying instruments for Warrants to the same types of underlying instruments as are acceptable for AQUA Products? If not, why not?

No response.

**Question 7.3.2:** Are there any other types of products that should be added to the list of acceptable underlying instruments for Warrants?

No response.

**Question 7.4.1:** Do you agree that it is not necessary to proscribe the types of underlying assets in which LICs, LITs, REITs and IFs can invest under the Listing Rules beyond what is inherent in the proposed definitions of "financial investment entity", "real estate investment entity" and "infrastructure investment entity" in sections 2.3 and 2.4 of this paper? If not, why not?

AFMA agrees the categories should be flexible within the mandate.

**Question 7.5.1:** Do you support the rule changes being considered by ASX to deal with feeder funds? If not why not? Are there any other issues with feeder funds that you would like to see addressed in any re-write of the Listing Rules or AQUA Rules?

AFMA supports ASX rules ensuring retail investors are appropriately protected in relation to feeder funds.

**Question 7.6.1:** Should the list of acceptable counterparties to an OTC derivative entered into by an AQUA Product issuer be extended to include other types of institutions apart from ADIs, or entities guaranteed by ADIs, in Australia, France, Germany, the Netherlands, Switzerland, the UK or the US? If so, what other types of institutions should be included? If not, why not?

No response.

**Question 7.6.2:** Should the list of acceptable assets that can be received by an AQUA Product issuer by way of collateral under an OTC derivative be extended to include other types of assets apart from securities that are constituents of the S&P/ASX 200 index, cash, Australian government debentures or bonds, or the underlying instrument for the AQUA Product? If so, what other types of assets should be included? If not, why not?

No response.

**Question 7.6.3:** Should there be similar constraints on the types of assets that can be received by an AQUA Product issuer by way of collateral under a securities lending arrangement or prime brokerage agreement? If so, why? If not, why not?

No response.

**Question 7.6.4:** Are there any other issues with the provisions in the AQUA Rules regulating the use of OTC derivatives that you would like to see addressed in any re-write of the AQUA Rules? If so, please provide details and explain the reasons why.

No response.

**Question 7.7.1:** Do you support the introduction of provisions into the AQUA Rules to recognise that from time to time an AQUA Product issuer may hold ancillary liquid assets or incidental investments that are not directly related to achieving its investment objective? If so, how would you frame those rules? If not, why not?

AFMA supports this proposal subject to appropriate disclosure to investors or inclusion in mandate.

**Question 7.7.2:** Do you think there should be a limit on the amount (eg a maximum percentage of the underlying fund) that an AQUA Product issuer can hold in the form of ancillary liquid assets? If so, what should that limit be? If not, why not?

Subject to investment mandate.

**Question 7.7.3:** Do you think there should be a limit on the time that an AQUA Product issuer can hold incidental non-complying investments before they are replaced by investments consistent with its investment mandate? If so, what should that limit be? If not, why not?

Subject to investment mandate.

**Question 8.2.1:** Do you support replacing the requirement for LICs and LITs to disclose in their annual report a list of all of their investments, with a requirement that they instead disclose this information on a quarterly basis by no later than the end of the month after quarter end? If so, why? If not, why not?

No response.

**Question 8.2.2:** Do you have any thoughts on the guidance that ASX should give to the market on the level of detail that should be included in periodic disclosures by LICs and LITs of their investment portfolio? If so, please tell us.

Guidance can help consistency with reporting standards. We note sensitivity around derivatives disclosure and would welcome further dialogue on this point, AFMA has made comment to the Government on appropriate disclosure in relation to derivatives in relation to superannuation portfolio holdings disclosure.

**Question 8.2.3:** Do you agree with ASX's position that REITs and IFs should not be subject to any additional portfolio disclosure requirements and should be treated on the same footing as other (non-investment) listed entities in this regard? If not, why not?

No response.

**Question 8.3.1:** Would you support shortening the period that an ETP with internal market making arrangements can delay disclosing its portfolio from up to 2 months after quarter end to one month after quarter end? If so, why? If not, why not?

No response.

**Question 8.3.2:** Do you support the introduction of an AQUA Rule requiring an ETF, ETMF, or ETSP that takes the form of a Collective Investment Product to disclose the level 1, level 2 and level 3 inputs it uses to value its investments in accordance with Australian Accounting Standard AASB 13 *Fair Value Measurement* (or its equivalent overseas) in its annual financial statements. If not, why not?

No response.

**Question 9.2.1:** Should the Listing Rules require a listed entity (including, but not limited to, a LIC, LIT, REIT or IF) to immediately disclose to ASX the material terms of any new management agreement it enters into and also any material variation to an existing management agreement? If not, why not?

No response.

**Question 9.2.2:** Should the requirement for LICs and LITs to include in their annual report a summary of any management agreement that they have entered into be extended to all listed entities, including REITs and IFs? If not, why not?

No response.

**Question 9.2.3:** Should the constraints imposed by Listing Rule 15.6 on the terms LICs and LITs must include in any management agreement they enter into be extended to all listed entities, including REITs and IFs? If not, why not?

No response.

**Question 9.3.1:** Do you agree that the AQUA Rules should require an AQUA Product issuer to immediately disclose to ASX the material terms of any new management agreement it enters into and also any material variation to an existing management agreement? If not, why not?

AFMA supports this proposal.

**Question 9.3.2:** Do you agree that the AQUA Rules should require an AQUA Product issuer to include in its annual report a summary of any management agreement that it has entered into? If not, why not?

AFMA supports this proposal.

**Question 10.2.1:** Since most LITs, REITs and IFs are already required to comply with the enhanced fees and costs disclosure requirements set out in Part 7.9 Division 4C and Schedule 10 of the Corporations Regulations, would there be benefits in requiring LICs to present the same information about management fees and costs (at a company level rather than an individual investor level) in their annual report? If not, why not?

No response.

**Question 10.2.2:** Are there any difficulties that you can foresee in applying the enhanced fees and costs disclosure requirements to LICs? If so, what are they and how could they be addressed?

No response.

**Question 10.2.3:** If you do not support the application of the enhanced fees and costs disclosure requirements to LICs, what information would you have them report about management fees and costs in their annual report?

No response.

**Question 11.2.1:** Do you support changing the requirement that LICs and LITs presently have under the Listing Rules to report their NTA backing on a monthly basis with requirements that:
(a) regardless of when they do it, whenever they formally calculate an NTA backing, they must give the NTA backing and the "as at" date it was calculated to ASX for publication on the Listed Investment Products and AQUA Products information page on the ASX website and also publish it on the issuer's own website, and
(b) they publish on MAP their NTA backing on a quarterly basis, by no later than one month after quarter end?
If not, why not?

AFMA supports the proposal as NTA is a critical metric for investors in relation to LICs and LITs.

**Question 11.2.2:** Do you agree with the definition of "NTA backing" in the Listing Rules? If not, how would you amend it? In particular:
(a) Do you see merit in including examples of the intangible assets captured by the variable "I" in the definition and, if so, what would you include in those

examples (commenting specifically on whether you would, or would not, include deferred tax assets and prepayments as "intangible assets" for these purposes)?
(b) In the case of lease right of use assets, do you agree with the policy position taken by ASX in other contexts that for the purposes of determining a Listed Investment Product's NTA backing under the Listing Rules, the lease right of use asset should be treated as tangible if the underlying asset being leased is tangible and intangible if the underlying asset being leased is intangible?
(c) Do you think the variable "L" in the definition adequately addresses taxation issues (including the different tax treatment of companies and trusts and how deferred tax liabilities should be accounted for)?
(d) Do you think the variable "N" in the definition adequately deals with partly paid securities?
(e) Do you also have a view on whether options should be counted in "N" if they are in the money at the relevant calculation date?

No response.

**Question 11.2.3:** Do you support REITs and IFs being required to include in their annual report the NTA backing of their quoted securities at the beginning and end of the reporting period and an explanation of any change therein over that period, similar to what is currently required of LICs and LITs? If not, why not?

No response.

**Question 11.2.4:** Do you support LICs, LITs, REITs and IFs being required to include in their annual report their TSR for different nominated periods? If so, how would you define "TSR" and for what periods do you think they should report their TSR? If not, why not?

AFMA does not support this proposal.

**Question 11.2.5:** Should a LIC, LIT, REIT or IF that has as its investment objective replicating or exceeding the return on a particular index or benchmark be required to include in its annual report a comparison of its performance against that index or benchmark over the reporting period? If so, how should it go about making that comparison? If not, why not?

If an investment entity has benchmarked itself to a particular reference then there could be benefit in reporting on performance relative to this reference.

**Question 11.2.6:** Are there any other performance metrics that you think LICs, LITs, REITs and IFs should be required to report to their investors? If yes, what are those metrics and where and with what frequency should those metrics be published?

Any distributions should also be included in periodic reporting.

**Question 11.3.1:** Do you agree that ETSPs that take the form of a Collective Investment Product should be required to disclose their NAV on a daily basis? If not, why not?

AFMA supports this in the interest of consistent treatment with ETFs and ETMFs.

**Question 11.3.2:** Do you support the proposed amendment to the AQUA Rules requiring ETFs and ETMFs (and, if you have answered Question 11.3.1 in the affirmative, those ETSPs that take the form of Collective Investment Products) to give their NAV and the "as at" date it was calculated to ASX for publication on the Listed Investment Products and AQUA Products information page on the ASX website, as well as publish it on the issuer's own website? If not, why not?

AFMA supports this proposal to better inform investors.

**Question 11.3.3:** Do you think the term "NAV" should be defined in the AQUA Rules? If so, how would you define it? Are there any elements of the definition of "NTA backing" in the Listing Rules that you think ought to be incorporated in the definition of "NAV" in the AQUA Rules? If so, please explain.

AFMA supports consistent use of NAV. Common definitions should assist this outcome.

**Question 11.3.4:** Do you support ETFs, ETMFs, and ETSPs that take the form of Collective Investment Products being required to include in their annual report the NAV per share/unit of their quoted securities at the beginning and end of the reporting period and an explanation of any change therein over that period? If not, why not?

Generally, annual reporting of NAV per share/unit is supported.

**Question 11.3.5:** Do you support ETFs, ETMFs, and ETSPs that take the form of Collective Investment Products being required to include in their annual report their TSR for different nominated periods? If so, how would you define "TSR" and for what periods do you think they should report their TSR? If not, why not?

AFMA does not view this as being necessary given the complexities in actual returns.

**Question 11.3.6:** Should an ETF, ETMF, or ETSP that takes the form of a Collective Investment Product which has as its investment objective replicating or exceeding the return on a particular index or other benchmark be required to include in its annual report a comparison of its performance against that index or benchmark over the reporting period? If so, how should it go about making that comparison? If not, why not?

If Exchange Traded products benchmark themselves to a particular reference then there may be benefit in reporting on their outcomes on a periodic basis.

**Question 11.3.7:** Are there any other performance metrics that you think ETFs, ETMFs, or ETSPs that take the form of a Collective Investment Product should be required to report to their investors? If yes, what are those metrics and where and with what frequency should those metrics be published?

Any distributions should also be included in periodic reporting.

**Question 11.4.1:** Do you support ASX introducing a new Listing Rule and AQUA Rule mandating the use of FSC Standard 6 for all ASX listed or quoted Collective Investment Products to calculate their TSR? If not, why not?

AFMA supports the promotion rather than mandating of industry standards.

**Question 11.4.2:** Are there any difficulties that you can foresee in applying FSC Standard 6 to LICs or ETFs? If so, what are they and how could they be addressed?

No response.

**Question 11.4.3:** If you don't support mandating the use of FSC Standard 6 for all ASX listed or quoted Collective Investment Products to calculate their TSR, what standard would you recommend?

N/A.

**Question 12.2.1:** Are there any issues with the existing liquidity support arrangements for AQUA Products that you would like to see addressed in any re-write of the AQUA Rules?

No response.

**Question 12.3.1:** Are there any issues with the existing liquidity support arrangements for Warrants that you would like to see addressed in any re-write of the Warrant Rules?

No response.

**Question 12.4.1:** Do you think that it might assist the share/unit price of a LIC/LIT to track its NTA backing more closely if the LIC/LIT were to publish an indicative NTA backing to the market during market hours that is independently calculated and frequently updated? If so, why? If not, why not?

Where it can be done accurately (this may not be possible for all investment backings) additional independently calculated data could assist inform the market.

**Question 12.4.2:** As a fall-back, do you think that it might assist the share/unit price of a LIC/LIT to track its NTA backing more closely if the LIC/LIT were to

publish an independently calculated end-of-day indicative NTA backing to the market prior to the commencement of trading on the next trading day? If so, why? If not, why not?

See answer to 12.4.1.

**Question 12.4.3:** Noting that there will be some LICs/LITs with asset portfolios that are net readily valued on a frequent basis or for which an iNAV may not necessarily be all that accurate, if your answer to question 12.4.1 or 12.4.2 is "yes", how would you go about identifying those LICs/LITs that would benefit from publishing more frequent information about their iNAV and encouraging them to do so?

N/A.

**Question 12.4.4:** Short of allowing LICs and LITs to have treasury stock, are there any changes that could be made to the laws in Australia regulating buy-backs that might assist LICs and LITs to better address the propensity for their securities to trade at a discount to the NTA backing? If so, what are they and how would they help?

No response.

**Question 12.4.5:** Are there any other measures that could be implemented to address the propensity for the securities of a LIC or LIT to trade at a discount to the NTA backing? What are they and how would they help?

No response.

**Question 12.5.1:** Do you have any views about hybrid structures where an AQUA Product has dual on-market/off-market entry and exit mechanisms? What do you see as the advantages and disadvantages of these hybrid structures? Do you see any particular risks associated with, or have any other concerns about, these hybrid structures that you would like to see addressed in any re-write of the AQUA Rules?

Costs to investors need to be carefully and fairly apportioned.

**Question 13.X.X**

No response.

**Question 14.2.1:** Do you support there being an information page on the ASX website for the Collective Investment Products traded on ASX and the Listing

Rules and AQUA Rules being amended to facilitate the capture of the information needed to populate that page?

AFMA supports this proposal.

**Question 14.2.2:** How often do you think an ETF, ETMF, or ETSP that takes the form of a Collective Investment Product should be obliged to update information about the total number of shares/units it has on issue: quarterly, monthly, weekly or daily?

No response.

**Question 14.2.3:** Are there any additional documents or information that could be published on the proposed information page on the ASX website for the Collective Investment Products traded on ASX that may assist issuers in complying with their DDO. For example, would it be helpful to issuers if their Target Market Determination could be published on that website? Should there be a rule making this mandatory?

No response.

**Question 14.3.1:** Do you support there being an information page on the ASX website for the Derivative Investment Products traded on ASX and the AQUA Rules and the Warrant Rules being amended to facilitate the capture of the information needed to populate that page?

AFMA supports this proposal.

**Question 14.4.1:** Do you support the AQUA Rules being amended to require ETFs, ETMFs, and ETSPs that take the form of Collective Investment Products to publish on MAP and on the issuer's website on a quarterly basis the amount and value of units they have issued and redeemed that quarter? If not, why not?

AFMA supports this proposal.

**Question 14.5.1:** Do you see benefit in an STP service for AQUA Product issuers that would allow them to use a smart online form to provide and publish on MAP more comprehensive information about their dividends and distributions and are you supportive of the proposed changes to the AQUA Rules to facilitate that service?

AFMA supports this proposal.

**Question 14.6.1:** Are there any additional data points about investors that could usefully be captured through the CHESS settlement system that would help issuers of Listed Investment Products or AQUA Products to better perform their back office processes? If so, what are those data points and how do they assist issuers in performing their back office processes?

AFMA is concerned that proper privacy protections for information usage need to be in place before data can be used by issuers.