

Common true to label considerations

The Table below summarises common examples of matters that ASX may take into consideration when considering whether or not the trading name of a product is generally true to label.

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1 Investment style	<p>The investment style of an AQUA Product will usually be classified as either “index-tracking” or “actively managed”. INFO 230 requires clear distinction between these investment styles in the application of the “Active” Secondary Label (defined below) for all actively managed AQUA Products. Index-tracking funds and actively managed funds generally use different words and phrases to explain the style of investment objective they seek to achieve. AQUA Product Issuers must not use language which has the effect of inducing investors to incorrectly conclude the investment style of the AQUA Product is “index-tracking” where it is “actively managed” (and vice versa).</p> <p>Words and phrases that are typically unique to index/benchmark-tracking strategies include:</p> <ul style="list-style-type: none">• the name of the index provider¹ (e.g. S&P, MSCI, CRSP, Solactive, FTSE),• the name of the index (e.g. S&P/ASX 200, S&P 500),• the name of the benchmark (e.g. gold, silver, bitcoin),• “smart-beta” <p>Words and phrases unique to actively managed strategies include:</p> <ul style="list-style-type: none">• “absolute return”,• “benchmark-unaware”• “outperform”• “active” <p>Words and phrases attributed to both actively managed, and index-tracking styles include:</p> <ul style="list-style-type: none">• factors (such as “quality”, “value”, “minimum volatility”),• sectors (e.g. “global food production”, “semiconductors”, “healthcare”, “lithium and battery technology”),• “responsible investing” (e.g. “environmental”, “green”, “net-zero”, “sustainability”)².
2 Asset class	<p>A very common method of classification of both listed and unlisted investment products is the asset class in which the investment product invests. Given asset class diversification is a common investment strategy among investors, financial planners, and other asset allocators, this practice is sensible, understandable and consistent with ASIC’s expectations that AQUA Products are generally ‘true to label’.</p> <p>Generally speaking investment products are classified into one of the following broad asset classes:</p> <ul style="list-style-type: none">▪ Equities,▪ Fixed Income,▪ Commodities,▪ Currencies,▪ Alternatives, or

¹ Where a third party’s name is included in an ETP’s name ASX will assume that the entity has obtained the appropriate permissions have been given to the AQUA Product Issuer for the purposes of the inclusion of the third party’s name.

² See ASIC Information Sheet 271: How to avoid greenwashing when offering or promoting sustainability-related products

- Mixed / Multi Assets (or asset allocation)

Example: “Equity”

The AQUA Rules prohibit investment by AQUA Products into unlisted equity³, which may in some instances be referred to as “private equity”. For the purposes of ASX’s consideration of acceptable equity-focused AQUA Products, references to equities are taken to mean ordinary shares⁴, preference shares, subordinate class shares⁵ and some hybrid securities⁶ issued by companies admitted to trading on ASX⁷ and other acceptable securities exchanges⁸.

ASX has queried AQUA Products who use the phrase “equity” in their names where:

- the AQUA Product can invest a substantial proportion of its NAV in cash (e.g., greater than 50%), and
- the AQUA Product intends to hold a material proportion of its NAV in money market instruments or fixed income assets (e.g., greater than 20%).

ASX recognises that the investment mandates of AQUA Products can be diverse, meaning ASX does not have an aversion to allowing a broad, diverse range of AQUA Products to the market, including those that seek to mitigate some risks of a certain asset class by holding material proportions of other assets with generally uncorrelated returns. However AQUA Products that use the phrase “equity” in their names must invest in assets that are predominantly equities. This position follows for all other AQUA Products that specifically call out an asset class in the AQUA Product name.

Example: “Fixed Income”

“Fixed Income” refers to those types of securities that pay investors a coupon or other form of cash flow until their maturity date, at which point the principal amount invested is repaid to the holder. For the purposes of the AQUA Rules, fixed income securities may include:

- listed securities, debentures, bonds or other Financial Products⁹,
- debentures or bonds included in a specified index or issued by a government, semi-government or entity listed on an acceptable exchange¹⁰, or
- an Eligible Debt Portfolio¹¹.

Specific words or phrases that have raised further consideration from ASX for fixed income AQUA Products are:

- the use of the phrase “short”, as it is intended to apply to fixed income assets with shorter duration to expiry (i.e. short term), as opposed to “short” meaning inversely correlated to a benchmark, and

³ See Rules 10A.3.3 (c)(i) which restricts investment of AQUA Products to “securities admitted to trading”, (d)(iv) which states that the AQUA Product cannot be a unit in a private equity fund, and (d)(vi) which states that the AQUA Product must be linked to Underlying Instruments that have sufficient information available to the market on an on-going basis in order to value them.

⁴ Ordinary shares may be called “common stock” in certain jurisdictions.

⁵ For example, “class B shares” for which voting rights are not attached to the share, or significantly reduced voting rights to the corresponding “class A share”.

⁶ Hybrid securities may be considered equity if the terms of the security give it an equity-like character as opposed to a fixed income-like character.

⁷ See Rule 10A.3.3 (c)(i)(A)

⁸ See Rules 10A.3.3 (c)(i)(B) and (C).

⁹ See Rule 10A.3.3 (c)(i)

¹⁰ See Rule 10A.3.3 (c)(ii)

¹¹ See Rule 10A.3.3 (c)(iii).

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- the use of the phrase “duration hedged”, as it is intended to apply to fixed income strategies that use interest rate derivatives to hedge duration risk from a portfolio.

Example: “Cash”

The use of phrases such as “cash”, “cash enhanced” and “cash plus” in AQUA Product names must be consistent with ASIC guidance from time to time.

ASIC, implementing IOSCO guidance from 2012, recommend that money market funds avoid using these phrases (including the phrase “money market fund”) where they do not meet the following definition:

“Money market funds may generally be defined as investment funds that seek to preserve capital and provide daily liquidity, while offering returns in line with money market rates.”¹²

ASX has queried fund managers seeking to quote “cash ETFs” where their investments into cash or cash equivalent holdings¹³ include clear “cash-like” investments such as:

- ‘at-call’ cash accounts,
- term deposits, and
- negotiable certificates of deposit,

are complemented by other investments that offer returns that may deviate from that of money market rates, i.e.

- government issued commercial paper and treasury notes,
- semi-government issued commercial paper (i.e. secured and unsecured notes),
- corporate issued commercial paper (i.e. secured and unsecured notes),
- corporate issued floating rate notes,
- corporate issued fixed rate notes

Example: Commodities

Another example is a gold ETF whose investment objective seeks “to give investors the performance of the gold price”, and the way that it achieves that objective is by buying gold futures. ASX would consider this AQUA Product’s investment mandate to be made up of:

- investment objective: tracking the performance of the spot price of gold, and
- investment strategy: buying gold futures and rolling each expiring futures contract into another near month contract.

In this example, the use of derivatives to achieve an ETF’s investment objective may be necessary because of the difficulty in holding a physical asset like gold (and follows for most other physical assets such as silver, wheat, crude oil or baskets of commodities). Considering the investment objective and investment strategy distinctly allows ASX to make a determination about whether

¹² ASIC Report 324: Money market funds (December 2012), See Recommendations 1 and 3 from Table 1: Summary of IOSCO’s policy recommendations for regulation of money market funds, <https://download.asic.gov.au/media/1344140/rep324-published-20-December-2012.pdf>

¹³ Rule 10A.3.3 (c)(iv): commodities or currencies where ASX is satisfied that:

- (A) the prices at which such commodities or currencies are bought or sold are available to market users in a timely manner; or
- (B) there is a regulated derivatives market which controls price discovery for the commodity or currency in question

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	<p><i>the AQUA Product's investment strategy is acceptable by factoring in the reasons why complex instruments might be considered preferable to another method in a particular case.</i></p> <p><i>Other reasons for the use of certain derivative instruments might include:</i></p> <ul style="list-style-type: none"> • <i>to address cross-jurisdictional tax issues,</i> • <i>managing inefficiencies associated with replicating the inverse or leveraged performance of a benchmark using another investment strategy (e.g., using short or long futures versus a prime broking arrangement), or</i> • <i>to enable an ETF to more closely track the performance of a benchmark rather than holding the physical assets.</i> <p><i>The use of OTC Derivatives by ETFs is restricted by certain Rules¹⁴ and the use of all derivatives is informed by ASIC guidance¹⁵. ASX expects all Issuers who propose using derivatives in their AQUA Products to consider whether a Secondary Label (defined below) is required within the ETF's name. The use of derivatives by AQUA Products is considered in more detail in Annexure B to Guidance Note 17.</i></p>
3 Geographic Exposure	Geographic or regional exposures should be clearly defined and accurately implemented.
4 Sector Exposure	Sector exposures must be considered carefully to ensure that products are not created exclusively to capitalise on trends forsaking the ability to achieve meaningful exposure to the actual sector.
5 ESG, Sustainable and Ethical Investing	ESG, Sustainable and Ethical Investing takes into account non-financial factors in order to make investment decisions. Because this is a significant difference to all other investment strategies, ASIC has provided specific guidance for all funds marketing themselves as "ESG", "Sustainable", and "Ethical" ¹⁶ . AQUA Product Issuers should satisfy themselves that they comply with this guidance and provide appropriate evidence to ASX before seeking to quote an AQUA Product that takes these factors into account.

¹⁴ See ASX Operating Rule Schedule 10A.4.6 and accompanying Procedures and ASX Operating Rule 7100: OTC Derivatives Based ETF

¹⁵ See ASIC Regulatory Guide 240: Hedge Funds and ASIC Information Sheet 230: Exchange traded products

¹⁶ See ASIC Information Sheet 271: How to avoid greenwashing when offering or promoting sustainability-related products