

# ATTACHMENT A - ASX OPERATING RULE AMENDMENTS

## SECTION 4 EXECUTION, QUOTE DISPLAY AND REPORTING SERVICES

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### Requirements for Warrants and AQUA Products

- [2120] Specific rules in relation to the quotation and trading of Warrants are set out in Schedule 10. All Warrant-Issuers and Market Participants are required to comply with that Schedule and ASX has the powers specified in that Schedule.
- [2121] Specific rules in relation to ~~the quotation and trading of~~ AQUA Products are set out in Schedule 10A. These requirements apply in relation to ~~both~~ AQUA Products admitted to Trading Status, ~~and~~ AQUA Products admitted to the AQUA Quote Display Board and AQUA Products admitted for settlement through the Managed Fund Settlement Service, unless otherwise indicated. All AQUA Product Issuers and Market Participants are required to comply with that Schedule and ASX has the powers specified in that Schedule.

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### MANAGED FUND SETTLEMENT SERVICE

- [4650] If a Trading Participant wishes to use the Managed Fund Settlement Service in order to enter into a transaction in a Managed Fund Product it will contact the relevant AQUA Product Issuer or their designated agent by any form of communication acceptable to the parties. Any agreement arising from that communication must be able to be verified.
- [4651] A transaction referred to in [4650] will be binding from the time that the parties to the transaction agree to the terms of the transaction and will be settled at the time set out in the Procedures.
- [4652] Prior to submitting through the Managed Fund Settlement Service any application for Managed Fund Products, a Trading Participant must give the client a current version of the Product Disclosure Statement specified by date required to be given in connection with the issue of the Managed Fund Products to a person as a retail client under the Corporations Act.
- Notes:*
- (1) The Trading Participant must give the documents to the client at or before the time that any application is made for the issue of Managed Fund Products.
- (2) A Trading Participant that seeks to transact Managed Fund Products based on client instructions received through an online broking interface may give the documents to the client by making the documents available to the person in a way that complies with Corporations Regulations 7.9.02A and 7.9.02B.
- [4653] If an application for the issue of Managed Fund Products is received through an intermediary (that is, not direct from the client), the Trading Participant must have received from the intermediary a representation that the Product Disclosure Statement referred to

in Rule [4652] has been given to the client and the representation specifies the date of the Product Disclosure Statement.

[4654] A Trading Participant must give a representation to the participant of the Approved Settlement Facility responsible for settling the transaction (Settlement Participant) that:

(a) the Trading Participant gave the Product Disclosure Statement referred to in Rule [4652] to the client prior to submitting the application for Managed Fund Products and the representation must include the date of the Product Disclosure Statement; and

(b) the requirements of Part 2 of the Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth) have been satisfied in relation to the client.

However, this requirement does not apply if the Trading Participant is the same entity as the Settlement Participant.

[4655] A Trading Participant who wishes to enter into a transaction in a Managed Fund Product using the Managed Fund Settlement Service must also comply with the requirements set out in the Procedures that relate to the form and content of information provided to the client on whose behalf the transaction is to be entered into and any other obligations in relation to the client.

[4656] Rule 3002 does not apply to transactions in Managed Fund Products using the Managed Fund Settlement Service.

**Purpose of Amendment:** These amendments are required to facilitate the introduction of the Managed Funds Settlement Service.

The introduction of Rules [4652] to [4655] is to ensure that Trading Participants observe certain format, content and functional requirements in the design of client interfaces (whether online or manual) for capturing orders from clients.

## SECTION 7 DEFINITIONS AND INTERPRETATION

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### DEFINITIONS

[7100] In these Rules and in the Procedures, unless the context otherwise requires:

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"**Cash Market Product**" means a Quoted Product, a Warrant admitted to trading status in accordance with Rule [2120] an AQUA Product admitted ~~to Trading Status or to the AQUA Quote Display Board~~ in accordance with Rule [2121] and Schedule 10A, a Government Bond Depository Interest admitted to Trading Status in accordance with Rule [2122], a Financial Product offered through ASX BookBuild and any other product that ASX authorises for trading on a Trading Platform and determines to be a Cash Market Product.

"**Managed Fund Settlement Service**" means the settlement service called mFund provided by ASX Settlement in respect of Managed Fund Products.

**Purpose of Amendment:** This amendment is a consequence of the substantive amendments to facilitate the introduction of the Managed Funds Settlement Service.

## SCHEDULE 10A            AQUA PRODUCTS AND THE AQUA TRADING MARKET

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### 10A.1    AQUA PRODUCT RULES

#### 10A.1.1 AQUA Product Rules

This schedule 10A applies to AQUA Products and the trading of AQUA Products. Rules [4600] to [4621] apply to the AQUA Quote Display Board. Rules [4650] to [4656] apply to the Managed Fund Settlement Service.

#### 10A.1.2 No Guarantee of Viability

The approval of an AQUA Product Issuer or admission of an AQUA Product Series to Trading Status ~~or~~ to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service does not imply any guarantee or warranty by ASX as to the viability of the AQUA Product Issuer.

#### 10A.1.3 Obligations of AQUA Product Issuer

- (a)     The obligations of AQUA Product Issuers who have agreed to be bound by these Rules under Schedule 10A and Rules [4600] to [4621] and [4650] to [4656] are owed to ASX.
- (b)     If an AQUA Product Issuer is a Market Participant it will in addition, in that capacity, be bound by these Rules in accordance with Rule [6001].

**Purpose of Amendment:** These amendments are a consequence of the substantive amendments to facilitate the introduction of the Managed Fund Settlement Service

### 10A.2    AQUA PRODUCT ISSUERS

#### 10A.2.1 Approval of AQUA Product Issuer

In order to be approved as an AQUA Product Issuer, an applicant for approval as an AQUA Product Issuer must:

- (1)     hold all relevant licence authorisations under Chapter 7 of the Corporations Act for the purpose of the conduct of their business as an AQUA Product Issuer under Schedule 10A and Rules [4600] to [4621] and [4650] to [4656], as applicable (but only to the extent that such licence authorisation is required by that Act);
- (2)     confirm to ASX that it has facilities, expertise, procedures, personnel and financial resources which are adequate for the performance by the applicant of its obligations as an AQUA Product Issuer;

- (3) agree in writing to be bound by the Rules, and conditions imposed pursuant to the Rules; and
- (4) an AQUA Product Issuer which issues Issuer Market Risk Products must be one of the following:
  - (a) an entity, which is prudentially regulated as specified in the Procedures;
  - (b) a government;
  - (c) an entity which:
    - (i) holds an Australian Financial Services Licence or a licence in another jurisdiction which makes it subject to adequate supervision of capital standards;
    - (ii) has a long term debt rating of investment grade or its equivalent by a rating agency acceptable to ASX;
    - (iii) has net tangible assets which in the opinion of ASX are sufficient to support the proposed issue; and
    - (iv) is acceptable to ASX;
  - (d) an entity which has a Guarantor which meets the criteria in paragraph (4)(a), (4)(b) or 4(c); or
  - (e) any other person or entity accepted by ASX, whose decision will be final.
- (5) an AQUA Product Issuer which issues AQUA Products other than Issuer Market Risk Products must be one of the following:
  - (a) an entity which meets one of the criteria in paragraph (4) above;
  - (b) an entity which is a responsible entity of a managed investment scheme registered under the Corporations Act;
  - (c) an entity which is admitted to the Official List of ASX; or
  - (d) any other person or entity accepted by ASX, whose decision will be final.

Upon approval as an AQUA Product Issuer, an AQUA Product Issuer must continue to satisfy the above requirements while its approval as an AQUA Product Issuer remains in force. The suspension or cessation of an AQUA Product Issuer's approval for any reason does not affect any obligations of an AQUA Product Issuer arising while that approval was in force.

### **10A.2.2 Guarantors**

All guarantees provided by a Guarantor pursuant to Rule 10A.2.1 must be unconditional and irrevocable and in favour of the AQUA Product Holder. Government guarantees will be acknowledged to ASX in writing by the Treasurer of that government.

### **10A.2.3 ASX has discretion regarding approval of AQUA Product Issuers**

The following requirements apply to the approval of AQUA Product Issuers:

- (a) ASX has absolute discretion as to whether to approve an AQUA Product Issuer;
- (b) approval may be granted on such conditions as ASX thinks appropriate and AQUA Product Issuers must comply with such conditions at all times;
- (c) ASX may suspend or revoke any such approval if in the absolute discretion of ASX, ASX is of the opinion or reasonably suspects that an AQUA Product Issuer may become unable or unwilling, or in any respect fails, to comply with Schedule 10A or Rules [4600] to [4621] or [4650] to [4656]; and
- (d) ASX may grant, suspend or revoke approval without giving any reason including, without limiting the generality of the foregoing and subject to no less than one months notice being given, where an AQUA Product Issuer has no AQUA Product Series admitted to Trading Status, ~~or~~ admitted to the AQUA Quote Display Board or admitted for settlement through the Managed Fund Settlement Service either currently or within the previous twelve months.

**Purpose of Amendment:** These amendments are a consequence of the substantive amendments to facilitate the introduction of the Managed Fund Settlement Service.

## 10A.3 ADMISSION OF AQUA PRODUCTS

### 10A.3.1 ASX's discretion regarding admission of AQUA Products

The following provisions apply to the admission of AQUA Product Series to Trading Status, ~~or~~ to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service:

- (a) an AQUA Product Issuer must indicate whether they seek admission of an AQUA Product to Trading Status, ~~or~~ to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service;
- (b) an AQUA Product shall not be available for trading on ASX unless and until the relevant AQUA Product Series has been admitted to Trading Status by ASX;
- (c) an AQUA Product may not be:
  - (i) advertised on the AQUA Quote Display Board unless and until the relevant AQUA Product Series has been admitted to the AQUA Quote Display Board by ASX; ~~or~~
  - (ii) available for settlement through Managed Fund Settlement Service until it has been admitted for settlement;
- (d) without affecting the generality of sub-paragraph (e) an approved AQUA Product Issuer seeking the admission of an AQUA Product Series must satisfy ASX that it continues to satisfy the requirements of Rule 10A.2;
- (e) admission of AQUA Products is in ASX's absolute discretion. ASX may admit AQUA Products to Trading Status, ~~or~~ to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service on any conditions it considers appropriate and the AQUA Product Issuer must comply with such conditions. ASX may grant or refuse admission to Trading Status, ~~or~~ to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service without giving any reasons; and

- (f) ASX may suspend or revoke any such admission if, in the absolute discretion of ASX, ASX is of the opinion or reasonably suspects that the AQUA Product Issuer may become unable or unwilling, or in any respect fails, to comply with this Schedule 10A or Rules [4600] to [4621] or [4650] to [4656].

### 10A.3.2 Requirement for specific AQUA Product Series

Admission to Trading Status, ~~or~~ to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service will be for a specific AQUA Product Series with a title and description sufficient to be distinguishable from other AQUA Product Series already admitted to Trading Status, ~~or~~ to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service.

### 10A.3.3 Requirements for admission

Admission to Trading Status, ~~or~~ to the Quote Display Board or for settlement through the Managed Fund Settlement Service will only be granted to AQUA Products if all the following requirements are satisfied:

- (a) the AQUA Product Issuer has completed and given to ASX a form of application for admission set out in the Procedures;
- (b) ASX has no objection to the Financial Product including the investment mandate or other constituent documents (in the case of Managed Fund Products and ETF Securities) or the Terms of Issue (in the case of Structured Products);
- (c) the capital value or distributions of the Financial Product must be linked to Underlying Instruments which are:
- (i) securities, debentures, bonds or financial products mentioned in s764A(1)(ba) of the Corporations Act that relate to a managed investment scheme regulated under the laws of another jurisdiction, traded on an exchange which is a member of the World Federation of Exchanges or Federation of European Securities Exchanges;
  - (ii) debentures or bonds which are included in an index specified in the Procedures.  

Note: Indices specified in the Procedures are those considered to be widely regarded by industry, including being widely regarded as having robust and transparent eligibility criteria and governance arrangements as well as robust and transparent methodology for constructing and maintaining the index.
  - (iii) debentures or bonds which are issued by a government or by an entity of a type specified in the Procedures and in respect of which ASX is satisfied that Relevant Authorised Participants and AQUA Market Makers have sufficient information available in a timely manner to enable them to reliably determine prices at which the debentures or bonds are bought or sold;
  - (iv) commodities or currencies in respect of which ASX is satisfied that prices at which such commodities or currencies are bought or sold are available to market users in a timely manner or for which there is a regulated derivatives market which controls price discovery; and
  - (v) indices over any of the Underlying Instruments listed in paragraphs (c)(i) to (c)(iv).

Note: Indices over products in (ii) and (iii) are expected to be those considered to be widely regarded by industry, including being widely regarded as having robust and transparent eligibility criteria and governance arrangements as well as robust and transparent methodology for constructing and maintaining the index.

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- (d) the Financial Product is not:
  - (i) a security in a listed investment company;
  - (ii) a unit in a real estate investment trust (REIT) or similar fund;
  - (iii) a unit in an infrastructure trust or fund;
  - (iv) a unit in a non-portfolio strategic investment vehicle (such as a private equity fund);
  - (v) a Financial Product where the issuer has a significant influence over the price or value of the Underlying Instrument(s);
  - (vi) a Financial Product for which, in ASX's opinion, there is insufficient information available to the market on an ongoing basis regarding the price or value of the Underlying Instrument(s);
  - (vii) a Financial Product where the Underlying Instruments are shares in an unlisted company, artworks or other collectibles, wine or other assets where the price or value of the Underlying Instruments is not set by a transparent mechanism;
  - (viii) units in a Managed Fund Product for which the net asset value are not disclosed daily (in the case of admission Trading Status) or at least quarterly (in the case of admission to the AQUA Quote Display Board);
  - (ix) a Financial Product priced by reference to an index where the level of that index is not publicly available or reported on a regular basis;
  - (x) any other the Financial Products to which ASX considers the listing mechanism and continuous disclosure regime in the ASX Listing Rules should apply;
- (e) the AQUA Product Issuer is approved by ASX under Rule 10A.2;
- (f) the AQUA Product Issuer has prepared and given to ASX a disclosure document that complies with the Corporations Act or evidence of an exemption from the disclosure requirements under the Corporations Act;
- (g) in relation to Structured Products, the AQUA Product Series is within the issue limits set out in Rule 10A.5.1;
- (h) in relation to Financial Products to be settled through the Managed Fund Settlement Service, they must be Managed Fund Products which are issued by or provided pursuant to a "simple managed investment scheme" (as defined in the Corporations Regulations) in relation to which the issuer provides disclosure in the form of a shorter PDS in accordance with Part 7.9 Division 4, Subdivision 4.2C of the Corporations Regulations;



- (i) the AQUA Product Issuer has satisfied any other conditions that ASX may impose in relation to disclosure.

Paragraphs (c) and (d) do not apply to products to be settled through the Managed Fund Settlement Service. AQUA Products that are settled through the Managed Fund Settlement Service are not quoted on a financial market.

Where a draft disclosure document is given under paragraph (f) trading of AQUA Products, ~~or~~ advertising of prices on the AQUA Quote Display Board or application for any AQUA Products to be settled through the Managed Fund Settlement Service must not commence until the final disclosure document has been given to ASX.

#### **10A.3.4 Additional requirements for admission to Trading Status**

In the case of Managed Fund Products, Trading Status will only be granted if:

- (a) the Managed Fund is an open ended scheme, being a scheme which continuously issues and redeems Financial Products based on the net asset value of the Managed Fund; and
- (b) the constitution of the Managed Fund provides that off market redemption facilities will operate daily.

This rule does not apply to products admitted only to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service.

#### **10A.3.5 Authorisation to use index**

Unless otherwise determined by ASX, in the case of AQUA Products for which the underlying investment is an index which is subject to ownership held by a party other than the AQUA Product Issuer, the AQUA Product Issuer must submit with its application, written authorisation from the owner to use that index for the purposes of that issue of AQUA Products.

#### **10A.3.6 Market making requirement**

There are no initial spread or market making requirements for AQUA Products admitted only to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service.

An AQUA Product Issuer must with respect to each AQUA Product or AQUA Product Series admitted to Trading Status either:

- (a) on an ongoing basis ensure a reasonable Bid and volume is maintained in the market for each AQUA Product Series for the period set out in the Procedures except in Permitted Circumstances; or
- (b) have in place other arrangements which meet the requirements set out in the Procedures and, in the opinion of ASX, provide a mechanism for sufficient liquidity in the AQUA Product Series.

However, the requirements above will cease to apply if the AQUA Product has, and continues to have, a spread of at least 1000 AQUA Product Holders and a net asset value of at least the amount specified in the Procedures.

In this Rule **Permitted Circumstances** means where:

- (c) the Underlying Instrument or the underlying hedge instrument of an AQUA Product Series (where relevant) is placed in Pre-Open Session State or is subject to a suspension or trading halt or is otherwise unavailable for trading;
- (d) the AQUA Product Series is subject to a suspension or trading halt or is placed in Pre-Open Session State or is otherwise unavailable for trading;
- (e) the theoretical value of the AQUA Product Series is below the relevant minimum price step of the Trading Platform (e.g. \$0.001);
- (f) the AQUA Product Issuer has advised the market that it (or its AQUA Product Market Making Agent) would breach laws, regulatory rules or similar constraints either in Australia or a relevant foreign jurisdiction by fulfilling its market making obligations, provided that:
  - (i) where appropriate, it will endeavour to obtain any necessary regulatory relief that will enable it to continue to make a market in that AQUA Product Series; and
  - (ii) it will advise the market upon being able to continue to make a market in that AQUA Product Series;
- (g) the AQUA Product Issuer has advised the market by such time as set out in the Procedures that it (or its appointed AQUA Product Market Making Agent) continues to experience an interruption to its normal operating environment that substantially prevents the timely and accurate entry of market making orders into the Trading Platform;
- (h) any other circumstances set out in the Procedures and notified to the Commission.

### 10A.3.7 Fees

The AQUA Product Issuer must pay to ASX fees in connection with the admission to Trading Status, ~~or~~ Quote Display Board or for settlement through the Managed Fund Settlement Service as determined by ASX from time to time.

**Purpose of Amendment:** This Rule sets out among other things the requirements for the characteristics of underlying instruments of AQUA financial products. This amendment is designed to ensure that those requirements do not apply to products settled through the Managed Fund Settlement Service.

Transactions which are settled through the Managed Fund Settlement Service are primary market transactions rather than transactions which result from secondary trading.

The requirements relating to underlying instruments in this Rule were designed for AQUA Products admitted to the AQUA Trading Market, which facilitates the secondary trading in AQUA financial products. They support price discovery activities that are relevant in a Trading Market. As the Managed Fund Settlement Service does not provide a price discovery mechanism, these rules are not relevant.

In addition, 10A.3.3(h) has been added following discussions with ASIC to restrict the products that can be settled through the Managed Fund Settlement Service to simple managed investment schemes.

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#### 10A.4.2 Disclosure requirements for Managed Fund Products

An AQUA Product Issuer that issues Managed Fund Products must disclose:

- (a) information about the net asset value of the Underlying Instruments for the Managed Fund daily (in the case of Managed Fund Products admitted to Trading Status) or at least quarterly (in the case of Managed Fund Products admitted to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service);
- (b) information about redemptions from the Managed Fund;
- (c) information about dividends or distributions paid in relation to the Managed Fund;
- (d) any other information which is required to be disclosed to ASIC under section 675 of the Corporations Act; ~~and~~
- (e) any other information that would be required to be disclosed to ASX under section 323DA of the Corporations Act if the Managed Fund Product were admitted under the ASX Listing Rules; and
- (f) in respect of Managed Fund Products that are settled through the Managed Fund Settlement Service, any other information that the AQUA Product Issuer is required to disclose or make available to investors generally, or prospective investors, in the Managed Fund Product under the Corporations Act or otherwise (including, without limitation, Product Disclosure Statements, Supplementary Product Disclosure Statements, notices issued under section 1017B of the Corporations Act, information disclosed on a fund basis in periodic statements issued under section 1017D of the Corporations Act and periodic financial or other reports prepared for disclosure to investors in accordance with statutory requirements);

in the time and manner specified in the Procedures.

**Purpose of Amendment:** The purpose of new paragraph 10A.4.2(f), in conjunction with the related Procedure, is to ensure that information released by an AQUA Product Issuer via ASX's Market Announcements Platform in accordance with these operating rules, comprises a complete record of all information that the issuer of a Managed Fund Product that is settled through the Managed Fund Settlement Service is required to disclose or make available to (prospective) investors generally. Stated another way, the purpose of the amendment is to mitigate the risk that information released by an issuer via ASX's Market Announcements Platform comprises an incomplete record of the information that the issuer is required to disclose to investors. It is not the purpose of this amendment to enlarge the ambit of information which AMFS issuers must disclose to investors beyond the existing requirements of the Corporations Act and these operating rules. We have confined this amendment to only those products settled through the Managed Fund Settlement Service so as not to prejudice the consultation process which is currently underway on this topic in parallel with the AMFS project. We will address this issue with ASIC once the results of that consultation are available.

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#### **10A.4.3 Additional disclosure requirements for actively managed Managed Fund Products**

If a Managed Fund Product is actively managed and the AQUA Product Issuer's management activities cause the last reported net asset value to move by more than ten percent, the AQUA Product Issuer must immediately disclose its net asset value to ASX.

[This rule does not apply to products admitted only for settlement through the Managed Fund Settlement Service.](#)

**Purpose of Amendment:** This Rule requires disclosure where an Issuer's activities cause a managed fund's net asset value ("NAV") to move by more than 10%. This amendment is designed to ensure that it does not apply to the Managed Fund Settlement Service. The Rule was intended to ensure that the secondary trading of the fund's units on the AQUA Trading Market accurately tracked its NAV. It is not necessary for financial products settled through the Managed Fund Settlement Service as there is no secondary trading.

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#### **10A.4.5 Managed Funds Service additional requirements**

[An AQUA Product Issuer that issues Managed Fund Products which are settled through the Managed Fund Settlement Service must:](#)

[\(a\) not issue Managed Fund Products to a client without confirmation through the Managed Fund Settlement Service through messages received by the participant of the Approved Settlement Facility responsible for settling the transaction \(Settlement Participant\) that the current version of the relevant disclosure documents \(identified by date\) have been given to the client. However, this does not apply if the AQUA Product Issuer is not required to comply with section 1016A of the Corporations Act in relation to the issue of those Managed Fund Products;](#)

[\(b\) contact clients, within 5 business days of the issuance, to:](#)

(i) confirm in writing the issuance of Managed Fund Products, and

(ii) inform clients that they should have received the current version of the relevant disclosure documents (and specify the date of those documents) and if they have not, they should contact the AQUA Product Issuer to obtain a copy of the disclosure documents free of charge.;

(c) notify ASX within 10 business days in accordance with the Procedures of all situations where an investor in a Managed Fund has indicated to the AQUA Product Issuer that a current version of all disclosure documents required to be given to a person as a retail client under the Corporations Act were not given to the investor; and

(d) retain for 7 years:

(i) records to demonstrate that it has complied with paragraph (b) above;

(ii) an electronic copy of all applications it receives through the Managed Fund Settlement Service; and

(iii) any request for a disclosure document received from a client in response to the information provided to clients under clause (b) above.

**Purpose of Amendment:** The purpose of new paragraph Rule 10A.6.6 is to ensure that ASX can collect information about instances of Trading Participants' failure to provide disclosure documents in accordance with Rule [4652].

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## **10A.8 SUSPENSION OF TRADING BY ASX**

### **10A.8.1 Suspension of trading by ASX**

ASX reserves the right to halt or suspend trading of any AQUA Product whenever ASX deems such action appropriate having regard to Rule [6120] or if the AQUA Product Issuer or Guarantor has failed to comply with their obligations under Schedule 10A or Rules [4600] to [4621] or [4650] to [4656] or 10B or the constituent documents (in the case of Managed Fund Products or ETFs) or Terms of Issue (in the case of Structured Products).

**Purpose of Amendment:** These amendments are a consequence of the substantive amendments to facilitate the introduction of the Managed Fund Settlement Service