

Response to ASX Consultation Paper

Enhancing the ASX Investment Products Offering (26 April 2022)



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Date: [05/07/2022]

[Not Confidential]

Consultation Question	Our Response
2.2 Some threshold rule issues - Why three separate rule books?	
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?	Answer:
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?	Answer:
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?	Answer:

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Consultation Question	Our Response
2.3 Some threshold rule issues - The treatment of LICs and LITs under the Listing Rules	
<p>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?</p>	<p>Answer: Maintain the clause “Its activities or the principal part of its activities consist of investing (directly or through a child entity) in listed or unlisted securities or derivatives”.</p> <p>LIC/LITs should also be subject to additional different admission requirements and reporting requirements over ETFs and ETMs under the Listing Rules and compared to other (non-investment) entities.</p> <p>Also see below on asset exposure and definitions.</p>
2.4 Some threshold rule issues - The treatment of REITs and IFs under the Listing Rules	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
2.5 Some threshold rule issues - Towards a more aligned rule framework for Investment Products	
<p>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?</p>	<p>Answer: Yes</p>
<p>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?</p>	<p>Answer:</p>

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2.6 Some threshold rule issues - Issues with the current definition of “investment entity” in the Listing Rules	
<p>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?</p>	<p>Answer: The “closed-end” structure of LIC/LITs removes redemption risk to meet the withdrawal demands of investors, which allows for a stable pool of capital and an opportunity to investment in illiquid assets. LIC/LITs cannot be redeemed at the underlying face value and so the share/unit price may deviate significantly from the underlying NTA, particularly during times of distress.</p>
<p>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?</p>	<p>Answer: Given the structural advantage, many specialist LIC/LITs are broadening asset exposures to include private equity, real estate and tangibles. There are no LIC/LITs mandated to invest in crypto-currencies. Adding this association runs the risk of worsening market discounts. LIC/LITs with less volatile underlying investments have tended to be better received on the secondary market and incurred less pressure at the Management/Board level with regard to governance and going concern.</p>
<p>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?</p>	<p>Answer: No, vehicle transparency should eliminate any uncertainties. This is actually a benefit over other investment entities with embedded market marking arrangements that may be unable to allocate in such a fashion.</p>
<p>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?</p>	<p>Answer:</p>

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<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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: <i>“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”</i>?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>

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<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>3.2 Approved issuers - Approved issuers of AQUA Products and Warrants</p>	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>

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3.3 Approved issuers - Financial products excluded from being AQUA Products	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
3.4 Approved issuers - Hybrid Listed/AQUA Product structures	
<p>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?</p>	<p>Answer:</p>
4.2 Admission requirements and processes - Minimum fund size	
<p>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?</p>	<p>Answer: Unsuitable, a higher NTA can reduce the indirect effects of fixed costs, improve the trading experience for investors in the secondary mark (i.e. premium/discount) and draw attraction from brokers and researchers. \$50m could be a suitable threshold.</p>

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<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>4.3 Admission requirements and processes - Commitments</p>	
<p>Question 4.3.1: Should REITs and IFs be excluded from the “commitments test”, in the same way that LICs and LITs are?</p>	<p>Answer:</p>

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<p>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?</p>	<p>Answer:</p>
<p>4.4 Admission requirements and processes - Required licences</p>	
<p>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?</p>	<p>Answer:</p>
<p>4.5 Admission requirements and processes - Adequate facilities and resources</p>	
<p>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?</p>	<p>Answer:</p>
<p>5.2 Product names - Naming requirements for AQUA Products and Warrants</p>	
<p>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?</p>	<p>Answer:</p>

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5.3 Product names - Naming requirements for Listed Investment Products	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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??</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
6.2 Investment mandates - Investment mandates for AQUA Products	
<p>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”?</p>	<p>Answer:</p>

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<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>6.3 Investment mandates - Investment mandates for Listed Investment Products</p>	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>

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<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>7.2 Permitted investments - Acceptable underlying instruments for AQUA Products</p>	
<p>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?</p>	<p>Answer:</p>
<p>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.</p>	<p>Answer:</p>
<p>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.</p>	<p>Answer:</p>
<p>7.3 Permitted investments - Acceptable underlying instruments for Warrants</p>	
<p>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?</p>	<p>Answer:</p>

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Consultation Question	Our Response
<p>Question 7.3.2: Are there any other types of products that should be added to the list of acceptable underlying instruments for Warrants?</p>	<p>Answer:</p>
<p>7.4 Permitted investments - Acceptable underlying instruments for Listed Investment Products</p>	
<p>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?</p>	<p>Answer:</p>
<p>7.5 Permitted investments - Feeder-fund structures</p>	
<p>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?</p>	<p>Answer:</p>
<p>7.6 Permitted investments - The use of derivatives</p>	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>

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<p>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?</p>	<p>Answer:</p>
<p>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.</p>	<p>Answer:</p>
<p>7.7 Permitted investments - Ancillary liquid assets and incidental investments</p>	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>

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8.2 Portfolio disclosure - Listed Investment Product portfolio disclosure requirements	
<p>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?</p>	<p>Answer: No, this should be at discretion of the manager/issuer depending on the investment mandate. LIC/LITs holding stocks with low ownership and greater information asymmetry could experience liquidity shocks and performance deterioration, further exacerbated by the higher relative fees charged on these products.</p> <p>This degrades the intellectual property and disincentivises more boutique managers from entering or remaining in the sector with a closed pool of capital.</p> <p>Could also result in front running returns and trades, which could be potentially beneficial for sector premiums, but also runs the risk of inducing additional volatility into the sector if portfolio turnover is high and decisions are made on out-of-date historical holdings.</p>
<p>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.</p>	<p>Answer: Regular asset backing disclosures should still be provided and in a timely manner as a tool for evaluating the economic substance of the Company/Trust versus the constituent holdings (which do not necessarily need to be disclosed in this single value update).</p>
<p>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?</p>	<p>Answer:</p>
8.3 Portfolio disclosure - AQUA Product portfolio disclosure requirements	
<p>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?</p>	<p>Answer:</p>

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<p>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 <i>Fair Value Measurement</i> (or its equivalent overseas) in its annual financial statements. If not, why not?</p>	<p>Answer:</p>
<p>9.2 Management agreements - Listed Investment Product management agreements</p>	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>9.3 Management agreements - AQUA Product management agreements</p>	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>

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10.2 Management fees and costs - LIC management fees and costs	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
11.2 Performance reporting - Listed Investment Product performance reporting requirements	
<p>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:</p> <p>(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</p> <p>(b) they publish on MAP their NTA backing on a quarterly basis, by no later than one month after quarter end?</p> <p>If not, why not?</p>	<p>Answer: No, this would be a backwards step in reducing the visibility over LIC/LITs, particularly during periods of market distress. Many Companies and Trusts have taken the initiative to disclose their asset backing on a more frequent basis (e.g. weekly and daily).</p> <p>Extending the requirement to a quarterly basis could add for extreme time delays between Companies and Trusts within the sector, also potentially pushing some to happily comply with a lesser minimum transparency standard.</p> <p>Given the fixed quota of share/units, investors routinely compare the prevailing share/unit price to the asset backing value in determining premiums and discounts on the secondary market. Diluting this ability could dampen the already thin volumes and liquidity if a determination cannot be made by researchers and investors.</p>

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Consultation Question	Our Response
<p>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:</p> <p>(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)?</p> <p>(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?</p> <p>(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)?</p> <p>(d) Do you think the variable “N” in the definition adequately deals with partly paid securities?</p> <p>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?</p>	<p>Answer: The net asset backing of an investment entity should be determined in accordance with accepted accounting standards and principles and exclude any current and deferred tax provisions/assets relating to the entity’s income tax.</p> <p>As retail investors subscribe to LICs for the benefit of dividend smoothing and the attaching imputation credits (i.e. cash return for retirees), there should be footnote disclosures to detail the franking account balance per share that is not currently recognised as a “tangible”. This value is not necessarily realisable on wind-up, so it would be more appropriate to exclude the value from the headline net asset backing and detail the amount separately.</p> <p>As the timing of current and deferred tax liabilities can differ depending on the tax regime and cash payment dates of an entity, LICs should also look to disclose the most appropriate combination of net current/deferred tax liability/benefits for which the entity will generate an equivalent franking credit when paid, depending on portfolio turnover and how likely and frequently these liabilities are to fall due. A broad after all tax number is not necessarily needed across the board seeing as accounts are prepared under a going concern basis, so a single asset backing should instead be disclosed with the aforementioned pieces of information to be included separately.</p> <p>A single net asset backing could prevent confusion and self-perpetuating discounts depending on the current recognition of current and deferred tax liabilities and assets versus this basis. The treatment would allow for performance calculations similar to indexes and Trusts which do not incur tax drag.</p>
<p>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?</p>	<p>Answer:</p>

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Consultation Question	Our Response
<p>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?</p>	<p>Answer: Supportive of disclosing performance and risk measures for evaluation, but TSR is not an applicable or most appropriate measure for all investment mandates.</p> <p>‘Traditional’ relative return funds aim to outperform a target benchmark (excess return), where an absolute return fund seeks to deliver positive returns through-the-cycle irrespective of broader market conditions and generally with lower volatility. In this instance, it could be more appropriate to look at performance capture in up, down and all markets; or drawdowns.</p> <p>TSR should therefore not be used across the board in annual reports due to the presence of a wide differences between mandates. Investors could draw incorrect conclusions as a result.</p>
<p>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?</p>	<p>Answer: Yes, this is a fair means of assessment given the relative performance objective. Performance should be disclosed net of expenses, fees and the impact of capital management initiatives, include the reinvestment of net distributions and add back the tax paid/received month on month; calculated as the geometric average return over that 12 month period (in the case of annual reports).</p> <p>This makes for a fair comparison among tax structures and against indexes.</p> <p>The requirement should also be standardised and required across the monthly investment updates that LIC/LITs provide to the market.</p>
<p>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?</p>	<p>Answer:</p>

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Consultation Question	Our Response
11.3 Performance reporting - AQUA Product performance reporting requirements	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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.</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>

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Consultation Question	Our Response
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>11.4 Performance reporting - A possible uniform reporting standard</p>	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>
<p>12.2 Liquidity support - AQUA Product liquidity support requirements</p>	
<p>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?</p>	<p>Answer:</p>

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Consultation Question	Our Response
12.3 Liquidity support - Warrant liquidity support requirements	
<p>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?</p>	<p>Answer:</p>
12.4 Liquidity support - Listed Investment Product liquidity support requirements	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer: No, as noted in the following question, there’s disparity in the availability and timeliness of indicative net asset backings across the sector depending on the level of assets held. Applying this methodology could disadvantage those LIC/LITs that already trade a persistent and substantial discounts through additional disparity.</p>
<p>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?</p>	<p>Answer:</p>

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Consultation Question	Our Response
<p>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?</p>	<p>Answer: No, while repurchasing below net asset backing on the secondary market is accretive per share, there is no guarantee that capital management alone will resolve the discount. If the only effect on share price from the repurchase announcement is due to shares being repurchased at a discount, the market price should increase to the level that causes the percentage discount after the shares are repurchased to be the same as before the repurchase announcement. Any additional effect on the share price from the announcement would result in a change in the market price to more (less) than the capture alone and cause a decrease (increase) in the percentage discount. So this is all about signalling and positive portfolio performance.</p>
<p>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?</p>	<p>Answer:</p>
<p>12.5 Liquidity support - AQUA Products with dual on-market/off-market entry and exit mechanisms</p>	
<p>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?</p>	<p>Answer:</p>
<p>13.2 The mFund Settlement Service - The funds that qualify for admission to the mFund Settlement Service</p>	
<p>Question 13.2.1: Do you support amending the AQUA Rules to allow any Unlisted Managed Fund that is registered as a managed investment scheme in Australia to be admitted to settlement via the mFund Settlement Service? If not, why not?</p>	<p>Answer:</p>

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Consultation Question	Our Response
<p>Question 13.2.2: Do you support amending the AQUA Rules to allow any entity that qualifies to be an Approved Issuer of AQUA Products and can lawfully offer its shares or units to retail investors in Australia to be admitted to settlement via the mFund Settlement Service? If not, why not?</p>	<p>Answer:</p>
<p>Question 13.2.3: Are there additional things ASX could or should require of mFunds or brokers transacting in mFunds for their clients, over and above the protective measures mentioned in sections 13.3 and 13.4 of this consultation paper, to reduce the risk of retail clients not understanding that mFund units are not traded on ASX or the different settlement cycles that apply to mFunds compared to products that are traded on ASX?</p>	<p>Answer:</p>
<p>Question 13.2.4: Are there additional things ASX could or should do itself (for example, with the disclosures and disclaimers on the ASX mFund website) to reduce the risk of retail clients not understanding that mFund units are not traded on ASX or the different settlement cycles that apply to mFunds compared to products that are traded on ASX?</p>	<p>Answer:</p>
<p>13.3 The mFund Settlement Service - The obligations of mFunds</p>	
<p>Question 13.3.1: Are there any particular mFund obligations mentioned in section 13.3 of the consultation paper that you view as unnecessary or unduly onerous on mFunds? Please explain your view and put forward any suggestions you may have to reduce the burden of these requirements without compromising investor protections?</p>	<p>Answer:</p>
<p>13.4 The mFund Settlement Service - The obligations of brokers transacting in mFunds</p>	
<p>Question 13.4.1: Are there any particular obligations imposed on ASX trading participants entering into transactions for their clients in mFunds mentioned in section 13.4 of this consultation paper that you view as unnecessary or unduly onerous on those participants? Please explain your view and put forward any suggestions you may have to reduce the burden of these requirements without compromising investor protections.</p>	<p>Answer:</p>

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Consultation Question	Our Response
13.5 The mFund Settlement Service - mFund profiles	
Question 13.5.1: Do you support the AQUA Rules being amended to require an mFund to provide a Fund Profile to ASX and to keep it up to date? If not, why not?	Answer:
Question 13.5.2: What additional information do you think could be usefully captured in an mFund’s Fund Profile?	Answer:
13.6 The mFund Settlement Service - Information about an mFund’s NAV	
Question 13.6.1: Do you see benefit in an STP service for mFunds that would allow them to upload their NAV and the “as at” date at which it was calculated directly onto the mFund information page on the ASX mFund website and are you supportive of the proposed changes to the AQUA Rules to facilitate that service?	Answer:
13.7 The mFund Settlement Service - Information about an mFund’s issues and redemptions	
Question 13.7.1: Do you support the proposed amendments to the AQUA Rules to require an mFund to publish on MAP and on the mFund issuer’s website on a quarterly basis the amount and value of units it has issued or redeemed that quarter? If not, why not?	Answer:
Question 13.7.2: Do you see benefit in an STP service for mFunds that would allow them to upload their issue and redemption prices and the respective “as at” dates for which they were determined directly onto the mFund information page on the ASX mFund website and are you supportive of the proposed changes to the AQUA Rules to facilitate that service?	Answer:

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Consultation Question	Our Response
13.8 The mFund Settlement Service - Information about an mFund's total units on issue	
<p>Question 13.8.1: Do you see benefit in an STP service for mFunds that would allow them to upload the total number of units they have on issue directly onto the mFund information page on the ASX mFund website and are you supportive of the proposed changes to the AQUA Rules to facilitate that service?</p>	<p>Answer:</p>
<p>Question 13.8.2: How often do you think an mFund should be obliged to update information about the total number of units it has on issue: quarterly, monthly, weekly or daily?</p>	<p>Answer:</p>
13.9 The mFund Settlement Service - Information about an mFund's distributions	
<p>Question 13.9.1: Do you see benefit in an STP service for mFunds 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?</p>	<p>Answer:</p>
13.10 The mFund Settlement Service - DDO information	
<p>Question 13.10.1: Are there any additional documents or information that could be published on the ASX mFund website that may assist mFunds in complying with their DDO? For example, would it be helpful to mFunds if their Target Market Determination could be published on that website? Should there be a rule making this mandatory?</p>	<p>Answer:</p>
13.11 The mFund Settlement Service - Collection of additional investor information	
<p>Question 13.11.1: Are there any additional data points about investors that could usefully be captured through the mFund Settlement Service that would help mFunds to better perform their back office processes? If so, what are those data points and how do they assist mFunds in performing their back office processes?</p>	<p>Answer:</p>

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Consultation Question	Our Response
13.12 The mFund Settlement Service - Transfers of units in mFunds	
<p>Question 13.12.1: Do you see benefit in the replacement CHES settlement system having the functionality to process transfers of mFund units? How much use do you think this functionality would receive in practice?</p>	<p>Answer:</p>
13.13 The mFund Settlement Service - A wholesale mFund service?	
<p>Question 13.13.1: Do you see benefit in ASX developing a parallel settlement service to the mFund Settlement service designed specifically for wholesale investors? If so, what features do you think that parallel service should have to attract Unlisted Managed Funds and wholesale investors to the service?</p>	<p>Answer:</p>
13.14 The mFund Settlement Service - Extending mFund to a broader class of financial products?	
<p>Question 13.14.1: Do you see benefit in ASX developing an mFund-style settlement service for other financial products that are traditionally provided on an OTC basis? What products do you think might usefully benefit from such a service? What features do you think that service should have to attract both product issuers and investors to the service?</p>	<p>Answer:</p>
14.2 Better information for investors about Investment Products - Information to be captured on Collective Investment Products	
<p>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?</p>	<p>Answer:</p>
<p>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?</p>	<p>Answer:</p>

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Consultation Question	Our Response
<p>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?</p>	<p>Answer:</p>
<p>14.3 Better information for investors about Investment Products - Information to be captured on Derivative Investment Products</p>	
<p>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?</p>	<p>Answer:</p>
<p>14.4 Better information for investors about Investment Products - Information about AQUA Product issues and redemptions</p>	
<p>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?</p>	<p>Answer:</p>
<p>14.5 Better information for investors about Investment Products - Information about AQUA Product dividends and distributions</p>	
<p>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?</p>	<p>Answer:</p>

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Consultation Question	Our Response
14.6 Better information for investors about Investment Products - Collection of additional investor information	
<p>Question 14.6.1: Are there any additional data points about investors that could usefully be captured through the CHESSE 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?</p>	<p>Answer:</p>
15.2 Miscellaneous issues - The AQUA Quote Display Board	
<p>Question 15.2.1: Were you aware of the existence of the QDB?</p>	<p>Answer:</p>
<p>Question 15.2.2: Do you consider that the QDB serves any useful purpose in relation to AQUA Products? Should ASX retain the current QDB service for AQUA Products or scrap it?</p>	<p>Answer:</p>
<p>Question 15.2.3: Are there any improvements that ASX could make to the QDB that might make it more likely to be used by AQUA Product issuers?</p>	<p>Answer:</p>
<p>Question 15.2.4: If the QDB could be extended to other financial products apart from AQUA Products and the capacity to quote prices could be made available to all participants and not just participants representing AQUA Product issuers, would the QDB be a service of interest to you? How might you see yourself using that service?</p>	<p>Answer:</p>
15.3 Miscellaneous issues - Admission application forms and processes	
<p>Question 15.3.1: Have you had any recent experience of applying to be admitted to the ASX official list as a LIC, LIT, REIT or IF? If so, do you have any suggestions on how the application forms and processes for the admission of LICs, LITs, REITS and IFs to the official list could be improved?</p>	<p>Answer:</p>

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<p>Question 15.3.2: Have you had any recent experience for applying for the quotation of AQUA Products using the upgraded application forms and processes that ASX introduced in 2019? If so, do you have any suggestions on how the upgraded application forms and processes for AQUA Products could be improved?</p>	<p>Answer:</p>
<p>Question 15.3.3: Have you had any recent experience of applying for the quotation of Warrants? If so, do you have any suggestions on how the application forms and processes for the admission of Warrants to quotation could be improved?</p>	<p>Answer:</p>
<p>Question 15.3.4: Do you have any other suggestions on systems or process enhancements that ASX could make to assist Warrant issuers with the ongoing maintenance and refreshing of data related to Warrants?</p>	<p>Answer:</p>
<p>15.4 Miscellaneous issues - Any other issues with ASX's Investment Product rules</p>	
<p>Question 15.4.1: Are there any other issues that you would like to see addressed in any re-write of the Listing Rules applicable to LICs, LITs, REITs and IFs, or the AQUA Rules or Warrant Rules?</p>	<p>Answer:</p>