Response to ASX Consultation Paper
Enhancing the ASX Investment Products Offering (26 April 2022)

Name: **LISTED INVESTMENT COMPANIES & TRUSTS ASSOCIATION LTD**

The Listed Investment Companies & Trusts Association is a non-profit industry association representing over 80% (by market capitalisation) of the listed investment entities on ASX and their 700,000 shareholders.

Date: **24 Jun 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:**

Consultation Question	Our Response
2.3 Some threshold rule issues - The treatment of LICs and LITs under the Listing Rules	
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?	**Answer:** **We support the objective of improving the categorisation and definition of investment entities.** **However we note that the proposed definition of financial investment entities [FIEs] currently excludes, but should also include:** (a) An FIE that itself invests in or controls the management of another FIE (b) An investment entity that holds one or more businesses over which it seeks to exercise control (This would include a private equity investment fund, a diverse investment fund that also holds one or more investments in businesses over which it exercises control or even an investment entity that owns its own separate investment management subsidiary that provides services to itself and/or others.) (c) An investment entity investing in a single financial product **We would contend that the defining characteristic of an investment product:** (i) Does NOT relate to whether or not they "manage or control a business"; (ii) Does NOT relate to whether they invest in a single security or a portfolio of securities or businesses; (iii) DOES relate to whether their primary objective: a. IS to generate an investment return b. Rather than to produce a good or provide a service Accordingly we recommend using a definition along the following lines: **A Financial Investment Entity is an entity whose primary objective relates to the generation of an investment return rather than the production or sale of a good or provision of a service.** To ensure that this definition dovetails correctly with the REIT and IF definitions, we would further suggest that these be defined along the following lines: • **A Real Estate Investment Entity, is an entity that primarily invests in direct real estate investments;**

Consultation Question	Our Response
	• **An Infrastructure Entity, is an entity that primarily invests in direct infrastructure assets.** It should be noted that definitions of this type: • Would include as a financial investment entity an investment product that holds **property securities or infrastructure securities** to generate return from those asset classes. • Would include as a financial investment entity a **product holding mortgages** to generate return • Would include as a financial investment entity **a private equity product holding direct investments in businesses** to generate an investment return (but would exclude industrial conglomerate holding-companies, that own operating subsidiaries producing goods or services). • Would treat as **REITs or Infrastructure Funds**, entities that own direct real estate assets and infrastructure and provide goods or services through the lease or development of property or the receipt of fees for the use of infrastructure; **Should ASX consider it more appropriate to apply REIT/Infrastructure type rules to Private Equity Investment (PEI) entities** the definitions could be adjusted to specifically exclude PEI from the Financial Investment Entity definition but include them as a separate PEI class in their own right, similar to REITs and IFs.

Consultation Question	Our Response
2.4 Some threshold rule issues - The treatment of REITs and IFs under the Listing Rules	
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?	**Answer:**
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?	**Answer: Refer to our response at 2.3.1, as the definition of these entities must dovetail with the FEI definition.**
2.5 Some threshold rule issues - Towards a more aligned rule framework for Investment Products	
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?	**Answer: Yes**
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?	**Answer: As noted at 2.3.1 we contend that certain additional investment products be included within the core definition of Financial Investment Entities.**

Consultation Question	Our Response
2.6 Some threshold rule issues - Issues with the current definition of "investment entity" in the Listing Rules	
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?	**Answer: Yes. Consideration should be given to retaining "Listed Investment Companies" and "Listed Investment Trusts" as primary category names, as these names are accurate descriptors of the entities and informative for investors.** **(a) It is important to clearly identify the tax structure through the naming regime, by differentiating companies and trusts.** **There is a significant differential in tax structure** between a Trust (untaxed) and a Company (taxed), which impacts on the nature of the returns received by an investor, on the calculation of asset backing and the calculation of performance. **There are also differences in governance (such as the ability for investors to vote and appoint directors) which may also be important to investors.** Because these differences are material, it should be evident from the manner in which the entities are named, grouped and characterised. **The terms "Limited" for a company and "Fund" or "Trust" for a Trust highlight this distinction within the name of the entity. However it would still make sense to have category names for these two different entity types.** **(b) The term "Listed" has historically highlighted that an entity is closed-end, which is an important feature for investors.** Accordingly it would appear to be useful for investors to retain the term "Listed" or some equivalent in the categorisation of the entities to differentiate closed-end investments from open-end ETFs and mFunds. **(c) The ongoing use of the terms "Listed Investment Companies" and "Listed Investment Trusts" as primary categories provides a simple means of categorisation, and may be more informative than "Financial Investment Entities".** Were the terms "LIC" and "LIT" not used, ASX would need to sub-categorise FIEs into "Companies" and "Trusts", and would need to consider how the closed-end nature of the entities may be conveyed within the category name, to distinguish the entities from open-end funds.

Consultation Question	Our Response
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?	**Answer: Our response at 2.3.1 seeks to address this.**
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?	**Answer: No.** Asset classes, asset types, security types and investor demand are continuously changing. It is neither feasible nor useful (for capital markets or for investors) to have listing rules limiting or otherwise specifying the type of investments that should be held by investment entities. If ASX was specific as to asset or security types in its definition it would have to continuously expand and contract the listing as asset or security types emerged or changed, and this would seem to be a pointless exercise.
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?	**Answer: No.** Our response at 2.3.1 addresses why control or management should not be a defining characteristic of investment entities.

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

Consultation Question	Our Response
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?	**Answer: As our response at 2.3.1 suggests, control or management is not an appropriate defining characteristic of an investment entity.** **An investment entity may well (and for good reason) seek to exercise control or management of its investments in order to get the best outcome for its investors.** Examples include active participation in voting the securities held, or contributing to or participating in the management and decision making of a business held as an investment, private equity investment funds whose business is involvement in management and investment entities who also engage in managing other investment entities or who are involved in taking control of another investment entity. Limitations on percentage holdings are not a good solution to the core problem (of an inappropriate definition), and could have many adverse consequences for investors and would also impinge on the basic operation of capital markets.
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?	**Answer: No. An investment entity can still be an investment entity even if it has as few as 1, 2 or 3 investments, in which cases such investments would make up very large proportions of the entity.** Examples include (a) private equity funds, that may only ever hold few investments, that exercise control over them and that change them periodically or (b) specialist asset, or asset class, funds that provide exposure to a narrow asset type (such as an Australian listed entity that invests solely in a single foreign investment fund, or invests solely in a very small group of currencies, or invests in a specific industry sector with only a small number of securities in it).

Consultation Question	Our Response
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?	**Answer: Yes. This is a good cover-all clause, that should be retained whatever the new core definition.** **There will always be entities that do not exactly fit to any one definition. This type of clause allows ASX to look at the circumstances of a borderline entity and to form a judgment that is most correct.**
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?	**Answer:** Our response at 2.3.1 suggests a better approach.
3.2 Approved issuers - Approved issuers of AQUA Products and Warrants	
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?	**Answer:**
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?	**Answer:**
3.3 Approved issuers - Financial products excluded from being AQUA Products	
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?	**Answer:**

Consultation Question	Our Response
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?	**Answer:**
3.4 Approved issuers - Hybrid Listed/AQUA Product structures	
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?	**Answer:**

Consultation Question	Our Response
4.2 Admission requirements and processes - Minimum fund size	
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?	**Answer: It may be appropriate for this minimum to now be raised to $20m or $25m.** There may be many differing commercial structures that result in a wide range of viable minimum initial fund sizes. (Small funds may still be viable where subsidised by a sponsor). The minimum size should at least accommodate some spread of shareholders and be sufficient in size to prove viability as a public investment fund. We also recognise the importance of funds being able to launch at a small initial size prior to achieving further growth. Our suggestion of $20m-$25m would appear to accommodate a moderate spread of shareholders, based on assumptions around average holding size.
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?	**Answer:**
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?	**Answer:**

Consultation Question	Our Response
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?	**Answer:**
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?	**Answer:**
4.3 Admission requirements and processes - Commitments	
Question 4.3.1: Should REITs and IFs be excluded from the "commitments test", in the same way that LICs and LITs are?	**Answer:**
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?	**Answer:**

Consultation Question	Our Response
4.4 Admission requirements and processes - Required licences	
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?	**Answer: We agree that entities and their service providers should meet all licensing requirements placed on them by the Corporations Act and Regulations.** **The Corporations Act and Regulations themselves specify the persons to whom licensing requirements apply, and all such persons are already required to comply with that law.** **Accordingly, we note that a separate listing rule will not (and should not) change the existing licensing obligations on entities and their managers.** **Importantly, should ASX seek to include such a requirement, the wording will need to be carefully reviewed and refined to more appropriately reflect the licensing concepts within the Corporations Act & Regulations, and to prevent conflict with those obligations.** In particular the proposal would need to reflect the following points: (i) The Corporations Act and Regulations carefully define the roles of, and rules that apply to, the varying parties involved in the operation of an investment product. In many instances (but not all) it will be service providers of an investment product that must be licensed, not the investment product itself. **Hence any licensing condition should accommodate the situation where licenses are held by those service providers, not the entity.** (ii) Further we note the structural difference that listed investment companies are prudentially controlled by Boards of the investment entity itself (and are governed by the comprehensive ASX compliance and corporate governance requirements applicable and suited to shareholder appointed boards and listed companies). This is structurally different from a Trust that is prudentially controlled by a licensed Responsible Entity (that is not the investment entity), and subject to compliance requirements suited specifically to Responsible Entities providing services to external funds. While each structure provides a high level of accountability and investor protection, they are structurally different and necessarily adopt differentiated compliance regimes. **The licensing condition should not inadvertently conflict with this distinction.**

Consultation Question	Our Response
4.5 Admission requirements and processes - Adequate facilities and resources	
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?	**Answer: Yes, however the requirement for products (or their managers) to be appropriately AFS licensed already requires this. Accordingly ASX may wish to consider whether a reiteration of this requirement is needed.** The Corporations Act and Regulations already require AFS licensees to have adequate systems and resources at all times, and require this to be regularly reviewed. ASX may wish to consider whether a separate rule is necessary, or whether this is adequately covered through the AFS licensing and compliance regime, and the general requirement (or ASX's requirement) for products to satisfy their AFS Licensing requirements.
5.2 Product names - Naming requirements for AQUA Products and Warrants	
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?	**Answer:**

Consultation Question	Our Response
5.3 Product names - Naming requirements for Listed Investment Products	
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?	**Answer: Yes**
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?	**Answer: Yes**
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??	**Answer: Yes**

Consultation Question	Our Response
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?	**Answer: We agree with the use of a general guideline on naming, but disagree with the use of INFO230.** **ASX would need to develop a separate naming protocol or have INFO 230 revised to accommodate the categorisation of listed entities that ASX is developing including LICs and LITs.** **In considering this we endorse policies that prevent names being misleading, that denote the fundamental structure of the entity (such as Ltd, Trust, Fund or ETF) but do not believe naming protocols should be overly cumbersome nor overly specific.** • INFO230 in its current form does not cater for a suitable naming protocol for LICs and LITs, nor consider the categorisation proposed by ASX, nor use terminology that is applicable to listed entities. • There are extremely well-known LICs and LITs that have traded for many decades under names that are not more product specific. We are not aware of any material or systemic complaints or concerns from investors on the issue of their naming (this provides good evidence to suggest that so long as the name is not purposefully misleading then more specific descriptors are unnecessary).
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?	**Answer: Taxed and untaxed entities should be clearly identified as such.** This is currently achieved through the legal naming distinction that already exists between companies ("Ltd") and Trusts ("Funds" or "Trusts"). **The term "Listed" which refers to the listed, closed end nature of certain investment entities should not be used as a description of traded, open-end products.** The listed, closed-end nature of entities is an important characteristic for investors. While the term "Listed" does not usually form part of the name, we consider it important that the term not be misused by non-listed, open-end entities.

Consultation Question	Our Response
6.2 Investment mandates - Investment mandates for AQUA Products	
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"?	**Answer:**
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?	**Answer:**
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?	**Answer:**

Consultation Question	Our Response
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?	**Answer:**

Consultation Question	Our Response
6.3 Investment mandates - Investment mandates for Listed Investment Products	
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?	**Answer: We agree with the broad intent of a requirement for entities to regularly approve and transparently display their primary investment characteristics.** **Rather than a multitude of rules separately covering facts, strategy, agreements, costs, and performance, we see benefits in consolidating these requirements along the following lines.** A. Listed investment entities could be required to prepare a **Statement of Investment Features** that contains items that are material to understanding the primary features and performance of the product. The Statement should necessarily cover: (a) The investments, objectives and strategy (b) Primary risks and warnings (c) Fees & Costs (d) Management structure (& key terms if applicable) (e) Past Performance B. The Statement must be prepared in a manner that is **useful, clear and concise.** C. The Statement must be **approved annually** by the entity, or whenever a material change is intended. **D.** Material changes to investment objectives, strategy, costs or management structure or terms must be **notified to investors or approved by investors in advance.** E. The Statement would be included in the entity's **Annual Report and made available on its website.** **Our recommendation has particularly sought to take account of the following general points:** **(a) ASX requirements should as far as possible dovetail with ASIC's requirements,** while catering for the specific characteristics of exchange traded and listed products.

Consultation Question	Our Response
	(b) We strongly believe that product information is most useful for investors and advisers if it is concise, material and meaningful, and believe this should be a cornerstone objective underpinning any enhanced requirements. (In contrast, the provision of multiple, complicated and lengthy disclosures is not easily read, digested or understood by investors (who are seeking to compare and contrast features of multiple products), and will tend to obfuscate materially important information amidst less important items. We would contend that summaries of significant information should not extend for more than 3 A4 pages). **(c) The proposed solution is similar to that adopted within the UCITS Directive**, which is a detailed framework designed to harmonise disclosures for investment funds sold to retail investors throughout the European Union. **With regard to the specific questions around an "Investment Mandate":** **(a)** We have some concern that the term "Investment Mandate" may not be the most accurate description of what is required, and is not a defined term utilised within the Corporations Act and Regulations. The Corporations Act & Regulations broadly require an issuer to explain their Investment Product Assets, Objective and Strategy (within a Product Disclosure Statement). We have suggested the broader requirement within our proposal above.

Consultation Question	Our Response
Question 6.3.2: Should the Listing Rules impose any constraints on a LIC or LIT from changing its investment mandate (such as a requirement for a certain period of notice before the change is made or that the mandate can only be changed with the approval of its security holders)? If so, what should those constraints be? If not, why not?	**Answer:** Our response on this question has been expressed in relation to our suggestions in 6.3.1 above. **(1) We suggest the appropriate requirement would be for material changes to be advised to holders in advance OR subsequent to approval by holders.** This would be consistent with the regulation of managed investment schemes. **(2) We do not believe security holder approval should be mandatorily required** for the reasons that: a. This would be inconsistent with the requirements for other investment products b. Changes to investment strategy and objectives often require detailed consideration by appropriately qualified people and timely implementation, and accordingly may be best addressed by Boards, Responsible Entities and their advisers in many instances. c. Were unitholder approvals required for such change Boards and Trustees could be prevented from making timely changes to strategy in the best interest of investors (and potentially having to continue operating with a value-destructive strategy) while a voting process was undertaken (an exercise which in some circumstances can result in months or years of extended dispute and debate).
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?	**Answer:** As we have noted in 6.3.1 and 6.3.2 above, (and based on our suggestion of a broader Statement of Investment Features) **we contend that a more appropriate and constructive methodology is for material changes to be advised to holders in advance.** **The concept of a breach notification rule would appear to be incongruent** with the nature of "Investment Features", which are a description of product characteristics rather than a set of boundaries.

Consultation Question	Our Response
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?	**Answer:** As we have noted in 6.3.1, 6.3.2 and 6.3.3 above, (and based on our suggestion of a broader Statement of Investment Features) **we contend that:** **(a) a more appropriate and constructive methodology is for material changes to be advised to holders in advance (than post-change breach notification); and** **(b) the concept of a "breach" would appear to be incongruent** with the nature of "Investment Features", which are a description of product characteristics rather than a set of boundaries; and **(c) the Statement of Investment Features would be annually approved and included in the Annual Report** **The underlying issue that ASX seeks to address here, could be more properly described as the requirement for the entity, or its service providers to operate in accordance with their AFS licensing obligations.** These AFSL obligations are extensive and dictate the compliance controls, framework and audit required of the manager of an investment product. We caution against creating a duplicate and potentially conflicting rule in addition to this, which could result in the same items being audited multiple times for the same purpose. **ASX's objective would appear to best satisfied, and to harmonise with AFSL regulation, by a requirement (as ASX have implied at 4.4.1):** (i) for entities to annually confirm that they (or their managers) have continued to meet their obligations under their AFSL (or if not, note this); (ii) and to guide that material breaches of AFSL by the entity or its service providers would be expected to be reported under Continuous Disclosure.

Consultation Question	Our Response
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?	**Answer:**
7.2 Permitted investments - Acceptable underlying instruments for AQUA Products	
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?	**Answer:**
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.	**Answer:**

Consultation Question	Our Response
Question 7.2.3: Are there any products currently included in the list of acceptable underlying instruments for AQUA Products that you consider should be excluded? If so, please provide details and explain the reasons why.	**Answer:**
7.3 Permitted investments - Acceptable underlying instruments for Warrants	
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?	**Answer:**
Question 7.3.2: Are there any other types of products that should be added to the list of acceptable underlying instruments for Warrants?	**Answer:**

Consultation Question	Our Response
7.4 Permitted investments - Acceptable underlying instruments for Listed Investment Products	
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?	**Answer: We cannot see any sound reason why the ASX should attempt to judge and limit the underlying assets of an investment entity.** The merit of an investment asset and its suitability for investors must necessarily be determined by investors and their advisers, not ASX. Should ASX attempt to be specific as to the asset types that may be held by an investment entity, this would necessitate ASX entering into a continuous process of assessing, judging and changing its asset inclusions and exclusions within the definition. This exercise would not appear to serve a valid purpose.
7.5 Permitted investments - Feeder-fund structures	
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?	**Answer:** Yes, subject to our prior comments on the proposed rules.

Consultation Question	Our Response
7.6 Permitted investments - The use of derivatives	
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?	**Answer:**
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?	**Answer:**

Consultation Question	Our Response
Question 7.6.3: Should there be similar constraints on the types of assets that can be received by an AQUA Product issuer by way of collateral under a securities lending arrangement or prime brokerage agreement? If so, why? If not, why not?	**Answer:**
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.	**Answer:**
7.7 Permitted investments - Ancillary liquid assets and incidental investments	
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?	**Answer:**

Consultation Question	Our Response
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?	**Answer:**
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?	**Answer:**

Consultation Question	Our Response
8.2 Portfolio disclosure - Listed Investment Product portfolio disclosure requirements	
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?	**Answer: No. The mere provision of greater volumes of information does not improve its usefulness, and in many cases is a far poorer solution for investors than the provision of a lower volume of more timely and more useful information.** **We would support the provision of suitably useful summarised portfolio information on a timely basis.** The provision of *full portfolio holdings* primarily serves the purpose of illustrating the generalised diversity and management style of the investment entity, a purpose which is satisfied by the **annual provision** of that information. (We disagree with ASX's contention that this disclosure is not useful). The provision of the *most material constituents or sectoral exposures* of a portfolio on a more regular and timely basis serves the purpose of illustrating how the entity is currently positioned. This purpose could be satisfied by the **quarterly provision** of top 10 or 20 holdings, holdings above a certain percentage threshold, or sectoral exposures, with such information provided within a relatively short time frame (such as 1-2 weeks post quarter-end). These disclosure should be prepared on an effective exposure basis and include disclosure of short positions where those are in the top 10 or 20 exposures. **The provision of full portfolio holdings on a quarterly, delayed basis is unlikely to be more useful for investors** The provision of all *low materiality holdings* on a regular basis (such as quarterly, delayed by one or two months) is unlikely to be materially useful to investors, and **has the adverse impact of obfuscating the more material items**. For example, in a diversified portfolio with 100 separate investments, there will be many smaller investments which individually have weightings far lower than 1%. Frequent reporting of the specific details of such small investments is **unlikely to serve a realistically useful purpose for an investor**.

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.	**Answer: Yes.** **As noted in 8.2.1 above, we do not agree with the provision of excessive detail on a regular basis, as we do not believe it is realistically useful to the vast majority of investors.** The mere provision of greater volumes of information does not improve its usefulness, and in many cases is a far poorer solution for investors than the provision of a lower volume of more timely but useful information. Accordingly we consider: **(a) The provision of summarised or more material portfolio information on a frequent and timely basis is a far more efficient and useful objective.** As noted above we would consider it better for entities to provide a brief summary of their most material exposures, or sectoral exposures, or (recognising that the asset types held by investment entities differs) "a summary that suitably explains the company's investments along the dimensions that are most relevant to understanding its operations". Such summary information could be provided on a more timely basis such as within 1-2 weeks of quarter end. (b) **We reiterate our point at 8.2.1 above. The provision of all other *less material holdings* on a regular basis (such as quarterly, delayed by one or two months) is unlikely to be materially useful to investors, and has the adverse impact of obfuscating the more material items**. For example, in a diversified portfolio with 100 separate investments, there will be many smaller investments which individually have weightings far lower than 1%. Frequent reporting of the specific details of such small investments is **unlikely to serve a realistically useful purpose for an investor**. **(c) The provision of the extremely detailed information on derivatives and valuation techniques (on a delayed basis) is far too much detail to be materially or realistically useful to vast majority of investors.** **The information proposed for derivatives consists of type, number, expiry and strike price.** It is highly unlikely that any investor would spend time reviewing or using this information in detail, particularly in diversified portfolios where individual positions are unlikely to be material, and when it is recognised that the positions are highly likely to have expired or changed by the date of release.

Consultation Question	Our Response
	The information proposed on valuation includes detailing methodologies and valuation inputs at each quarter Methodologies and valuation input categorisation are mostly identical for assets within an asset class, further the method and categories almost never change over time for broad groupings of assets. This information is background in nature and suitable for annual disclosure within financial statements. (For eg, for most Australian equity funds, every investment is valued at traded market values, and that almost never changes). It is also preferred that the framework for these financial statement disclosures continue to be based on the accounting standard requirements rather than the ASX issuing separate guidance.
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?	**Answer:**
8.3 Portfolio disclosure - AQUA Product portfolio disclosure requirements	
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?	**Answer:**

Consultation Question	Our Response
Question 8.3.2: Do you support the introduction of an AQUA Rule requiring an ETF, ETMF, or ETSP that takes the form of a Collective Investment Product to disclose the level 1, level 2 and level 3 inputs it uses to value its investments in accordance with Australian Accounting Standard AASB 13 *Fair Value Measurement* (or its equivalent overseas) in its annual financial statements. If not, why not?	**Answer:**
9.2 Management agreements - Listed Investment Product management agreements	
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?	**Answer: We agree with the intent of 9.2.1, and illustrate how this would be addressed through the overarching methodology we have proposed at 6.3.1.** **At 6.3.1-3 we have contended that:** (a) A single Statement of Investment Features would be a preferred disclosure solution; (b) Such a Statement would include (in addition to other items) the material terms of the management structure; and (c) Material changes to the Statement (which would include a material change to the terms of a management agreement) would be notified to investors in advance (ie. It would be disclosed to ASX) **We note that this suggested solution would appear to fully satisfy ASX's intent at 9.2.1, without a further rule needing to be developed.**

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

Consultation Question	Our Response
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?	**Answer:**
10.2 Management fees and costs - LIC management fees and costs	
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?	**Answer:** We agree with the broad intent of providing a suitable level of cost disclosure, however we do not believe that Sched 10 as written can be efficiently translated to exchange traded products. **(a) Sched 10 is predominantly designed to show fees deducted from individual investor accounts. The majority of wording, calculation and disclosure techniques are suited to that structure. They are not fully suited to exchange traded instruments.** One example, is the Sched 10 periodic requirement to show dollar costs deducted from an investor account in a year. (This is not easily determined, nor easily interpreted by investors for exchange traded products where investor accounts do not exist, where investor shareholdings may change many times across a year and accordingly where the denominator on which the costs are to be compared is continuously changing). [Instead a dollars per-share or percentage calculation would be far more meaningful for an investor]. A second example is that Sched 10 disclosures typically result in several pages of disclosures just for fees and costs. We strongly contend that this represents an excess of information compared to the objective of providing investors with a useful, readable and concise Statement of Investment Features. We have suggested that to be meaningfully useable, readable and digestible to an investor, the entire Statement of Investment Features should be no more than 2-3 pages, in which Fees & Costs are but one of several elements. **(b) While broadly aligned with Sched 10 concepts, we contend that a more appropriate and meaningful fee disclosure structure for exchange traded instruments should be developed and applied to LICs and LITs. It would be open for ASIC to consider adjusting Sched 10 to recognise or accommodate this more suitable disclosure for exchange traded entities.**

Consultation Question	Our Response
	(c) Our recommendations for a meaningful fee disclosure for LICs (and LITs) would be: (i) For the agreed Cost Disclosure to appear in the Statement of Investment Features (we have proposed in 6.3.1) in the Annual Report (ii) For Costs to be disclosed on a Per Share or Unit basis in dollar terms and as a percentage of the weighted monthly net asset backing (before all tax), under the categories Management Costs, Performance Fees, Transaction Costs (iii) For Costs to be disclosed without a reduction in cost for the tax benefit associated with costs (ie a before tax basis, that ensures comparability across taxed and untaxed entities) (iv) For the expense of company tax paid by an entity to be excluded from the definition of "Cost". (v) For Costs to exclude costs of capital raising, but otherwise be determined in a manner consistent with Sched 10
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?	**Answer: Yes. See our answer to 10.2.1 above**
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?	**Answer: See our answer to 10.2.1 above.**

Consultation Question	Our Response
11.2 Performance reporting - Listed Investment Product performance reporting requirements	
Question 11.2.1: Do you support changing the requirement that LICs and LITs presently have under the Listing Rules to report their NTA backing on a monthly basis with requirements that: (a) regardless of when they do it, whenever they formally calculate an NTA backing, they must give the NTA backing and the "as at" date it was calculated to ASX for publication on the Listed Investment Products and AQUA Products information page on the ASX website and also publish it on the issuer's own website, and (b) they publish on MAP their NTA backing on a quarterly basis, by no later than one month after quarter end? If not, why not?	**Answer:** **(a) We believe that the mandatory release of a <u>monthly</u> (hard, fully verified) Net Asset Value [NAV] remains essential, and that this should be submitted at least within 2 weeks of month-end.** Because NAVs are also used for the purpose of consistent and accurate Performance Calculations, we believe that investment entities must continue to submit a fully verified NAV on a monthly basis. [Consistent with our recommendations in 11.2.2 on how NAV is defined, the provision of pre-tax NAVs on a regular basis allows LIC investors to compare performance of LICs with the pre-tax return of other investments such as LITs or unlisted funds.] A quarterly (fully verified NAV) is insufficient for accurate performance calculation purposes. We agree with the release of this item on MAP, and the publication of this item on the Listed Products information page. **(b) We agree with allowing entities to submit more frequent NAVs to the Listed Products information page.** **(c) We believe that it would be constructive to adopt a framework that differentiates between and accommodates both "Hard" (fully verified) NAVs and "Indicative" (Estimated) NAVs** **(i) Fully-verified "hard" NAVs would be those NAVs produced and authorised as the result of complete accounting processes.** Fully-verified "hard" NAVs are useful for accurate performance calculations and complete periodic verification of NAV**, but require the greater time of preparation.** The process of receiving relevant information, accounting, preparing and checking NAV at a high level of detail for listed investment products is not instantaneous. This is for the reason that most listed investment products inherently have assets and liabilities other than a tradeable, market valued portfolio of investments. For example, LICs and LITs may have non-investment based payables, receivables, tax obligations, borrowings, leases or other investments. Some may be internally managed, some may have investments with delayed

Consultation Question	Our Response
	pricing. Accounting processes around these items are more complex and time consuming than the automated update of investment market prices. **(ii) Indicative (estimated) NAVs utilise faster methods of preparation to determine a NAV that is materially correct and capable of faster release** Indicative or estimated NAVs are capable of faster preparation and release, and are a useful guide to investors seeking to transact, however these cannot be considered as accurate as a fully verified "Hard NAV". We believe investors would value the guidance provided by the timely release of indicative NAVs. **(iii) If both "hard" and "indicative" NAVs were to be recognised, Issuers would need an appropriate level of legal reassurance that they would not be liable for differences between indicative and hard NAVs.** The absence of such protection would discourage the submission of indicative NAVs. **(d) In considering the usefulness of "hard" and "indicative" NAVs for investors it should be recognised that prices agreed by buyers and sellers in the open market for any entity are continuously changing. There is no one "correct" price or value, and NAV is only ever a guide:** (i) Open-market pricing involves buyers and sellers agreeing on a price between themselves. Prices will vary as the result of differing opinions of value, outlook, supply and demand and may ebb and flow towards and away from NAV for extended periods of time. Investors in LICs and LITs (the same as investors in any listed share whether BHP, CSL or CBA) will tend to adopt strategies suited to these inherent characteristics of open market pricing. For example, investors may seek to buy or sell progressively over time, to average out variations in price, they may invest for the long term, they may seek to anticipate how and when prices may be favourable for them, or they may seek to transact when they see a favourable opportunity. **It follows that in the context of open-market priced stocks such as LICs and LITs (as well as REITS and IFs) the NAV is only ever a guide for investors.** (ii) For LICs, the payment of tax occurs periodically, and not evenly from day to day. This results in uneven movements in NAV.

Consultation Question	Our Response
	Notwithstanding these payments, as we describe in 11.2.2 below, the "fair value" of a LIC most properly includes franking credits (for which an investor ultimately receives value). Accordingly investors may correctly choose to (and should theoretically) look beyond the vagaries of fluctuations in NAV caused by tax payments. **Once again, this highlights that NAVs are best considered an approximate guide to value, they do not necessarily represent every investors' interpretation of fair value.**
Question 11.2.2: Do you agree with the definition of "NTA backing" in the Listing Rules? If not, how would you amend it? In particular: (a) Do you see merit in including examples of the intangible assets captured by the variable "I" in the definition and, if so, what would you include in those examples (commenting specifically on whether you would, or would not, include deferred tax assets and prepayments as "intangible assets" for these purposes)? (b) In the case of lease right of use assets, do you agree with the policy position taken by ASX in other contexts that for the purposes of determining a Listed Investment Product's NTA backing under the Listing Rules, the lease right of use asset should be treated as tangible	**Answer: No** **(a) Tangibility** **ASX should <u>not</u> adopt a definition of asset backing that is adjusted for tangibility.** **We believe investment entities should disclose Net Asset Backing, based on Net Assets calculated in accordance with accounting standards (subject to our further comments on taxation below) .** (i) This is consistent with the disclosure of Net Asset Backing for all mainstream investment entities including ETFs and unlisted managed funds, and aligns with the rationale that Net Asset Backing should be the best representation of "fair value" for buyers and sellers. (ii) There are exceptionally detailed rules and considerations prescribed in global Accounting Standards as to how and when assets (whether tangible or intangible) are brought to account. ASX should not attempt to duplicate or impose a parallel set of rules on which assets are included or excluded. (iii) This stance also reflects the fact that valuable, albeit intangible assets, are completely relevant to the fair value of the investor's share. (iv) Exclusion of intangibles from NAV would fail to take account of changes in the value of intangibles in the calculation of performance. **(b) Dividends**

Consultation Question	Our Response
if the underlying asset being leased is tangible and intangible if the underlying asset being leased is intangible? (c) Do you think the variable "L" in the definition adequately addresses taxation issues (including the different tax treatment of companies and trusts and how deferred tax liabilities should be accounted for)? (d) Do you think the variable "N" in the definition adequately deals with partly paid securities? 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?	**We contend that there is no need for the ASX to specify that liabilities should include dividend provisions.** There are detailed rules and considerations prescribed in global Accounting Standards as to how and when dividends are brought to account. ASX should not attempt to duplicate or impose a parallel set of rules on which these liabilities should be brought to account. **(c) Taxation and asset backing** **(i) The primary purpose of Net Asset Backing disclosures are to provide investors with a measure of "fair value". "Fair Value" of a tax paying investment entity, such as a LIC, consists of net assets (excluding tax liabilities or tax assets) plus franking credits** This is most simply understood by recognising: • that investors in a LIC receive franking credits for tax paid by the LIC (when income is distributed to them as a franked dividend); • that a franking credit received by an investor has value as a tax offset; and • that if a future tax liability is applied to reduce the net asset backing of the LIC, an equivalent future franking credit would need to be taken into account, with the consequence that "fair value" of the LIC would not change. **(ii) Accordingly, based on the rationale at (i) above we contend that net asset backing should certainly exclude all tax assets and tax liabilities.** This stance would also be consistent with the reporting of asset backing by unlisted managed funds and ETFs which determine asset backing without deducting tax liabilities on taxable gains or taxable income. In this regard we note that a key objective of these changes is to create comparability. **(iii) While the rationale at (i) above suggests that franking credits should also be included in asset backing to properly reflect fair value – we do not recommend this at this time.**

Consultation Question	Our Response
	This stance is consistent with current accounting practices which do not bring franking credits to account as assets. However it would be possible for entities to provide supplementary details on franking credits either on an optional basis or where this was considered material. **(d) Taxation – Performance** **(i) Net asset backing also serves the purpose of providing a data series through which investment performance of the entity can be calculated and compared to other entities and benchmarks.** **(ii) Net asset backing must necessarily be calculated on a basis that excludes tax assets and tax liabilities to be capable of use in the calculation of investment performance.** Utilisation of a net asset backing (excluding all tax liabilities and assets) in performance calculations would be consistent with, and allows comparison against all common indexes, which are entirely before tax, and allows comparison between taxed and untaxed entities, and amongst taxed entities themselves. [If net asset backing is calculated after tax liabilities and tax assets it cannot be used to calculate performance on a reliable or comparable basis amongst taxed or untaxed entities or against before tax indexes, unless franking credit accruals are also included.] **(iii) To allow an accurate calculation of before tax investment performance, tax paying investment entities such as LICs would also need to disclose the amount of tax that has reduced their net asset backing (being net asset backing excluding tax liabilities and tax assets).** A LIC's net asset backing (excluding tax assets and tax liabilities) will be reduced by the physical payment or receipt of tax. Accordingly to correctly calculate before tax performance account must be taken of any tax payments or receipts that have reduced or increased asset backing in the period. If this is done performance can be calculated from the data elements of (a) net asset backing (excluding tax assets and liabilities) (b) dividends to shareholders and (c) tax payments or receipts. **(e) We agree with the proposed treatment of partly paid shares**

Consultation Question	Our Response
	(f) Options We note the potential for options to move in and out of the money on a repeated basis over their life. If a protocol was adopted requiring NAV to be adjusted for in-the-money options, this would result in options being repeatedly included and excluded from NAV calculations an outcome which can create confusion for investors. This may also impinge on the calculation of high frequency NAVs as proposed by ASX. **It may be better to require the separate noting of outstanding option details, and for entities to periodically (eg quarterly) disclose the dilution value as a separate item.**
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?	**Answer:**

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?	**Answer:** No. **(a) The calculation of performance based on share prices (as per the definition of TSR) should not be the primary measure of investment entity performance.** **(i) Share prices are determined by buyers and sellers, not the entity itself. Accordingly performance based on share price does not accurately reflect how the entity itself has performed.** Instead, it represents a combination of how the entity itself has performed, and how shareholders have interacted between themselves in buying and selling shares. The potential for TSR to be a misleading reflection on the entity performance is large. For example: (a) strong underlying performance of an entity (based on returns generated on assets) could be displayed as "poor performance" using TSR, purely due to a stock moving from an excessive premium back to a more attractive price closer to asset backing; (b) poor underlying performance of an entity (based on returns generated on assets) could be displayed as "good performance" using TSR, purely due to a stock moving from a small discount to a premium (c) sector wide upswings or downswings in premiums or discounts due to economic change, government policy or an asset class moving in or out of favour could dominate TSR measurements, despite these influences being entirely outside the control of management and regardless of the quality of the actual performance of the fund in generating a return on its assets. **(ii) Because TSR is based on LIC/LIT "price" not underlying asset performance, it promotes and encourages an investor focus on price fluctuations and speculation.** We contend it is clearly not appropriate to promote price speculation as a sound, or primary method of investing for the public. Instead the primary method of measurement should be the far more fundamentally important issue for investors – the generation of return on the underlying assets. **(iii) For tax paying entities such as LICs, performance calculations based on share price (such as TSR) are inaccurate representations of both shareholder outcomes and company performance (due to the influence of tax – unless tax is properly accounted for)**

Further - such performance is not comparable against before tax indexes, nor comparable against untaxed entities.

Tax paying entities such as LICs, pay company tax on their unfranked income and gains, but provide investors with a credit for that tax paid through the distribution of franked dividends. Performance calculations based on share price and dividends (such as TSR) do not take account of the influence of tax paid and the consequent value accruing to investors through tax credits, and thus materially understate performance of the company relative to untaxed entities and before tax indexes.

There are methods through which TSR could be adjusted to take account of tax:

i. Adding franking credits back into the calculation of performance - however such returns are still not directly comparable to returns of untaxed entities and before tax indexes which do not take account of the franking credits they receive on some parts of their income; OR

ii. Adding back the amount by which tax has reduced/increased LIC asset backing (as we have explained and outlined in 11.2.2 above). This would produce a before tax return comparable to indexes and untaxed entities

(b) We contend that a better primary measure of entity level performance is one based on asset backing (excluding tax obligations as we have outlined in the earlier parts of our response), as this reflects the entity's performance on matters under its control, and is comparable to before tax indexes and untaxed entities.

(c) We recognise that performance based on share price (TSR) can provide a <u>supplementary</u> level of information for investors.

It represents a combination of entity level actions as well as the external influence of buyers and sellers on entity share prices.

However for TSR to be accurate and meaningful for investors and comparable across taxed and untaxed investment entities it would necessarily need to include franking credits or include an add-back for tax deducted (the merits of each are explained in (a) (iii) above).

Specific guidance would be needed to ensure a consistent approach is taken on key elements of methodology such as dividend reinvestment assumptions and the approach to tax described above.

Consultation Question	Our Response
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?	**Answer: Yes, so long as the method of determining entity performance is compiled on a like-for-like comparable basis to the index.** We refer to our prior comments on the methods that must be adopted to correctly adjust for tax paid by LICs, and on the merits of NAV and TSR methodologies. With regard to comparability, entity performance calculations on TSR or NAV are after all costs of structural operation and implementation, whereas benchmark returns take no account of operating or implementation costs. This is a significant differential which is often ignored when comparisons are made to benchmark, resulting in the overstating of benchmark returns relative to the true outcome that could be achieved by an investor investing in an equivalent index product. To achieve true comparability on a like-for-like basis product performance should be compared on a before costs basis against indexes, and separately the costs of operation compared across entities. We recognise that the before/after cost consideration is a common issue globally. Nevertheless it requires some consideration before instituting any requirements on comparisons to benchmark.
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?	**Answer:** We note our response at 11.2.4 above contending that before tax asset backing performance is the more accurate primary method of displaying entity level performance.

Consultation Question	Our Response
11.3 Performance reporting - AQUA Product performance reporting requirements	
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?	**Answer:**
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?	**Answer:**
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.	**Answer:**

Consultation Question	Our Response
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?	**Answer:**
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?	**Answer:**

Consultation Question	Our Response
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?	**Answer:**
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?	**Answer:**

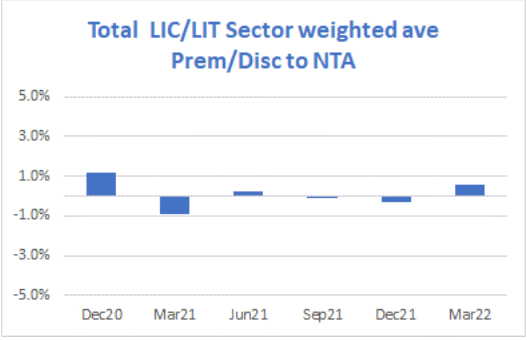
Consultation Question	Our Response
11.4 Performance reporting - A possible uniform reporting standard	
Question 11.4.1: Do you support ASX introducing a new Listing Rule and AQUA Rule mandating the use of FSC Standard 6 for all ASX listed or quoted Collective Investment Products to calculate their TSR? If not, why not?	**Answer: We broadly agree with the standardisation of methods of calculation.** **However a separate standard applicable to listed entities would need to be developed.** Any standard applied to listed entities would need to address the material issues associated with company tax we have noted above relating to share price and asset backing performance calculations and comparability. As noted in 11.2.4 above, TSR is not the most appropriate measure of performance and is likely to be an inaccurate and misleading measure in many, if not the majority of cases, and could only be used with the adjustments for tax we have explained in our prior responses above. The detailed terminology and methodology in FSC Standard 6 relates to unlisted entities which process deposits and withdrawals at specific prices, accordingly the terminology and methodology **is not transferrable to listed entities, and a separate standard would need to be developed.**
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?	**Answer:** Yes. See our answer at 11.4.1. above
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?	**Answer:** See our answer at 11.4.1. above

Consultation Question	Our Response
12.2 Liquidity support - AQUA Product liquidity support requirements	
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?	**Answer:**
12.3 Liquidity support - Warrant liquidity support requirements	
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?	**Answer:**
12.4 Liquidity support - Listed Investment Product liquidity support requirements	
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?	**Answer:** **(1) The provision of intra-day asset backing could theoretically provide a useful guide for investors, however it is subject to some important practical considerations.** (a) **Cost** to investors must justify the benefit (b) **Because many entities may have assets and liabilities other than a market-valued portfolio, there may be technical complexities in achieving this objective, due to the more complex accounting necessitated.** Notwithstanding this, it would be worth considering whether there may be acceptable methods of dealing with this (eg through agreed methodologies). More complex entities include listed investment entities that pay tax, are internally managed or which hold non-tradeable assets. (c) **The asset backing would be indicative**, not precise (as it wouldn't include intra day transactions) (d) **There would need to be a methodology to differentiate between or harmonise estimated and hard NAVs**

Consultation Question	Our Response
	(e) **The asset backing must be calculated on a basis that is before all tax** assets and liabilities (as explained elsewhere in our response) (f) The payment or receipt of tax by a LIC may produce erratic short term fluctuations in asset backing, despite the true fair value of the LIC not changing (This occurs because franking credits are not currently included in asset backing, despite investors receiving value for these). **(2) Notwithstanding our support for such an initiative, all parties should recognise that while the provision of frequent NAV guidance may assist investors, it will not necessarily guarantee that share prices trade at asset backing, as the inherent nature of open market pricing involves buyers and sellers agreeing to trade at prices that differ from any one assessment of value.** **The fundamental nature of open market pricing on ASX ,where prices are agreed between buyers and sellers is that share prices of all closed-end listed entities, whether BHP, CSL, a LIC or a LIT:** • **may vary from any one determination of intrinsic value; and** • **will vary continuously within a day or across time (even where the underlying businesses of BHP, CSL, the LIC or LIT have not changed).** **This reflects:** (a) The rational judgments of different investors each of whom may assess "fair value" on a basis that differs from any one determination of intrinsic value (ie investors may have differing opinions on outlook, risk and value of the underlying businesses held by, or the corporate structures of, a listed entity) (b) The inherent process through which all closed-end listed entities (whether BHP, CSL or a LIC or LIT) match the volume of buyers and sellers minute by minute across each day of trade. It is this fundamental process that allows shareholders to increase or decrease their investment without the listed entity having to increase or decrease its capital (and its underlying assets). **The implications of this process are that investors in listed shares (whether BHP, CSL, a LIC or a LIT) should recognise:** (i) that prices may be cheap or expensive relative to any one perception of fair value, for days, months or years;

Consultation Question	Our Response
	(ii) that within a market there will be favoured stocks that frequently trade expensively and deep value stocks that more often than not trade cheaply (iii) to force, or expect, all LICs/LITs to trade near asset backing may be an inappropriate objective that conflicts with the inherent functioning of the open-market system – commensurate with expecting all other shares (such BHP, CSL etc) to trade at a single Price Earnings Ratio.
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?	**Answer: The provision of start of day asset backing could theoretically provide a useful guide for investors.** **However it is subject to all the same practical considerations that we have noted in 12.4.2 above.**
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?	**Answer: As we have outlined in 11.2.1 above,** we **would contend that a mandatory periodic submission for all entities (eg monthly by a specified date) coupled with optional more frequent submissions (of estimated NAVs) would be appropriate.** This flexibility would allow entities to adopt the frequency that is most suited to their assets and structure, while providing a competitive incentive for more frequent submission where investors see a material benefit from the frequency. Where there was both a genuine material commercial benefit to investors from more frequent submissions, and entities held portfolios suited to and capable of frequent pricing, we contend that those entities would voluntarily make more frequent submissions to capture that commercial benefit.

Consultation Question	Our Response
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?	**Answer:** **We take the opportunity to reiterate that an allowance for investment entities to hold treasury stock (within certain limits) can be an effective mechanism and is used successfully in the UK listed investment company market since 2003.** As this mechanism has operated successfully in the UK for nearly 20 years there is good evidence to suggest similar functionality could be adopted in Australia. In the UK shares held in treasury are still officially issued capital, however the rights of the shares to vote or receive dividends are suspended. Suitable controls can include limiting the amount of treasury stock that may be held, the time over which the stock can be held, and limiting this capability to investment entities. **We do not believe that the use of treasury stock in this way to assist in the control of price relativity to a known asset backing (ie a specific attribute of investment entities) constitutes market manipulation to the disadvantage of investors.** The entire premise behind liquidity management of listed investment products is based upon the broad concept that the achievement of price relativity to asset backing is both legal and beneficial for investors, and **in this regard is no different to an on-market buyback, a process which is already legal and frequently used in Australia**.

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?	**Answer:** **(a) We disagree with the generalised statement "the propensity for LICs and LITs to trade at a discount to asset backing" and consider it important to highlight that this generalisation is not necessarily factually correct.** **That aside, we do recognise that some LICs or LITs within the industry may find themselves trading regularly at a (non-fundamentally justified) discount. and agree that methodologies to prevent this can be of benefit.** ***The LIC/LIT industry premium/discount is close to NAV*** The weighted average premium/discount across the LIC/LIT industry is frequently around Nil. The total LIC/LIT sector weighted average premium/(discount) for the last six quarters has been between (1%) and +1%, and a premium for 50% of that time. [Source Bell Potter summary of LIC/LIT premiums/discounts Dec 20-Mar 22]  The net premium/discount across the LIC/LIT market will ebb and flow over time based on economic conditions and based on the relative attraction of the asset classes in which these entities invest, with stocks trading cheaply in weak markets and more expensively in bullish markets – once again similar to all ASX shares. ***However, subject to allowing closed-end entities to function as such, initiatives to resolve excessive and unjustified discounts within specific LICs/LITs could be of benefit*** While there may be specifically justified and rational reasons for discounts (as we describe below), we highlight that unjustified discounts can perpetuate themselves for the mere reason that a buyer who expects a stock to trade at a discount in the future necessarily may demand the same discount today.

(b) **We disagree with the expectation that LICs and LITs should always trade at asset backing. and consider it important to understand that there will be many times when divergences of price from asset backing are a rational part of normal market operation.**

As with the broad sharemarket, the LIC/LIT market should always be expected to contain a blend of cheap, fair and expensive stocks.

(i) **Open market pricing for all shares (whether BHP, CSL, LICs or LITs) recognises there is no one correct assessment of value, that buyers and sellers may seek to take account of a broad range of relevant factors when agreeing price, that those factors may differ from investor to investor, that price is never fixed and will be continuously changing.**

(ii) **Fixed capital entities such as shares (whether BHP, CSL, LICs or LITs) use fluctuations in price to match up buyers and sellers (and are designed to allow the entity to maintain a stable capital and assets with the objective of facilitating long term investment strategies).**

In contrast, open-end funds must repeatedly buy and sell assets to accommodate investor inflows and outflows (at a cost to investors) as the means of allowing those investors to enter or exit at asset backing.

These are two different mechanisms, suited to slightly differing objectives. We should respect those differing objectives and be careful in interfering with the mechanism that allows them to meet those objectives.

(iii) **For the reasons noted at (i) and (ii) above, there will be listed shares in any sharemarket that trade more or less cheaply or expensively for extended periods of time and by large amounts.**

On some occasions all shares, or shares within particular industry sectors, may trade exceptionally cheaply relative to intrinsic value.

Smaller capitalisation shares (whether operating businesses, LICs or LITs) have historically had a tendency to trade at more extreme levels than larger capitalisation shares.

Typically a normal stock market will see stocks trading at price earnings ratios between 7 and 35, with an average of 15. That is, “normal” share markets contain operating businesses trading at 50% Price Earnings discounts to the market average.

(iv) **The opportunity and risk of buying or selling shares cheaply or expensively, for there to be a material range between cheap and expensive stocks, and for those variations in price to ebb and flow over time is the inherent structural nature of share markets.**

We should not expect that to be otherwise.

(c) As with any other ASX listed share, normal market mechanisms exist to resolve situations where shares trade excessively cheaply.

Market mechanisms include:

- **The normal ebb and flow of cyclical factors:** Normal cyclical factors have the ability to cause shares to trade more or less cheaply or expensively over an extended period of months or years, but ultimately change. Examples include the economic attraction of an asset class, the cyclicality of an investment management style or the ebb and flow of risks and threats;
- **Increased investor interest as the result of a discounted share price**: This is the basic functioning of open market pricing on share markets. Pricing differentials between more or less favoured stocks progressively attract investors to cheaper stocks and discourage investors from more expensive stocks over time;
- **Entity actions to remediate an operational or structural detractor**: (eg lowering costs, enhancing strategy, enhancing personnel, enhancing distribution);
- **Entity initiated corporate actions such as buy-backs or capital returns**;
- **Third party corporate actions** such as takeovers or mergers.

(d) We consider it important that sufficient time be allowed for normal market mechanisms to operate

Fixed capital entities are created to suit the provision of stable long term capital and within reason should be allowed to operate as such.

Fixed capital entities are one of the few vehicles within an economy suited to providing stable long term capital to fund longer term investments and longer term investment strategies or to facilitate and support the maintenance of long term investment teams.

This is not only important economically, but can provide patient investors with the benefits of the typically higher returns commanded by longer term investment commitments, access to asset classes that only large investors typically get access to, and the significant benefit for investors of encouraging investment managers to adopt long

term investment strategies and to develop long term, experienced investment teams. [Short term investment strategies and transient investment teams are not desirable characteristics for investors].

The significant benefits of this can be seen from Australia's existing LIC industry.

- The LIC industry contains some of Australia's largest, most cost efficient and longest lasting investment vehicles accessible by Australian investors. (The oldest LIC has been in continuous operation for 99 years. The largest LIC exceeds $10bn. Several LICs have operating costs of only 0.15%.)
- Yet we note that almost all these LICs have traded at larger discounts for extended periods at some points in their history. If these LICs had not been afforded the opportunity of continued operation, hundreds of thousands of Australian investors would have been denied the benefits of the reliability of these well-managed examples, and these entities would not have developed into the robust entities they are today.

(e) Notwithstanding the points above, and subject to allowing sufficient time for normal market mechanisms to operate, we agree that actions to encourage the resolution of "unjustified discounts" (ie persistent or excessive discounts) can be beneficial.

Our suggestions are as follows:

A. Enhance Asset Backing Availability (We note that ASX is proposing to adopt rules encouraging this)

(i) NAVs to be submitted and made available via a centralised data system, and that data made available through common data distribution solutions [We note that ASX appear to be contemplating this through their iNAV commentary].

(ii) Hard Monthly NAVs to be lodged within 10 business days of month-end

(iii) Estimated NAVs may be lodged more frequently if this is considered commercially of benefit to investors. (For eg, weekly within 1 day or daily if desired). The optionality is designed to accommodate entities with assets that are more or less suited to valuation and calculation at differing frequencies.

(iv) Issuers to be exempt from liability for estimated NAVs, unless negligent

B. Actions to prevent persistent, unjustified and excessive discounts

Our recommendation seeks to break the negative feedback loop that can occur when buyers demand a discount to compensate them for the risk of a future discount, by providing periodic opportunities for

investors to achieve a guaranteed relativity to asset backing (in a manner that does not undermine the basic functioning of a fixed-capital structure).

(i) **Treasury Stock** - As we have noted at 12.4.4 above:

a. allowing listed investment entities to periodically acquire and **hold treasury stock** is a proven method operating successfully in the UK listed investment market that encourages entities to take an active approach to capital management;

b. the use of treasury stock to assist in maintaining relativity of share price to NAV does not constitute market manipulation to the detriment of investors, in the same way that on-market share buybacks or other forms of liquidity management do not constitute market manipulation.

(ii) Capital Management Plans & Best Practice Guidance

a. The ASX could consider requiring listed investment entities that traded at an excessive discount for an extended period (for example, more than 15% for 90% or more of an 18 month period), or new listings (for example, for the first 18 months of operation) to put in place a formal capital management plan.

b. ASX could supplement this by providing Best Practice Guidance on the matters that could be considered in the plan.

We consider a "Plan" and "Guidance" more appropriate than any blunt rule, as it recognises that entities require sufficient flexibility to formulate decisions suited to the assets they hold and the economic conditions of the time, in order to act in the best interests of all investors (not just those seeking to exit).

c. Guidance could suggest that entities should consider solutions such as:

i. The use of periodic On or Off market buybacks close to NAV for percentages of capital (eg 10%, 20%). [Buybacks close to NAV have been used in markets such as the UK, and are more effective than buy-backs at heavy discounts].

ii. The cessation of DRPs and SPPs

iii. The use of Treasury stock acquisitions (if allowed)

iv. The use of more material measures should excessive discounts continue for an extended period of time. These could include changes to management, mergers, larger buybacks or winding up.

Consultation Question	Our Response
12.5 Liquidity support - AQUA Products with dual on-market/off-market entry and exit mechanisms	
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?	**Answer:**
13.2 The mFund Settlement Service - The funds that qualify for admission to the mFund Settlement Service	
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?	**Answer:**

Consultation Question	Our Response
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?	**Answer:**
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 retails 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?	**Answer:**

Consultation Question	Our Response
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 retails 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?	**Answer:**
13.3 The mFund Settlement Service - The obligations of mFunds	
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?	**Answer:**

Consultation Question	Our Response
13.4 The mFund Settlement Service - The obligations of brokers transacting in mFunds	
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.	**Answer:**
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:**

Consultation Question	Our Response
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:**

Consultation Question	Our Response
13.8 The mFund Settlement Service - Information about an mFund's total units on issue	
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?	**Answer:**
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?	**Answer:**
13.9 The mFund Settlement Service - Information about an mFund's distributions	
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?	**Answer:**

Consultation Question	Our Response
13.10 The mFund Settlement Service - DDO information	
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?	**Answer:**
13.11 The mFund Settlement Service - Collection of additional investor information	
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?	**Answer:**

Consultation Question	Our Response
13.12 The mFund Settlement Service - Transfers of units in mFunds	
Question 13.12.1: Do you see benefit in the replacement CHESS settlement system having the functionality to process transfers of mFund units? How much use do you think this functionality would receive in practice?	**Answer:**
13.13 The mFund Settlement Service - A wholesale mFund service?	
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?	**Answer:**

Consultation Question	Our Response
13.14 The mFund Settlement Service - Extending mFund to a broader class of financial products?	
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?	**Answer:**
14.2 Better information for investors about Investment Products - Information to be captured on Collective Investment Products	
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?	**Answer:**
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?	**Answer:**

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

Consultation Question	Our Response
14.4 Better information for investors about Investment Products - Information about AQUA Product issues and redemptions	
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?	**Answer:**
14.5 Better information for investors about Investment Products - Information about AQUA Product dividends and distributions	
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?	**Answer:**

Consultation Question	Our Response
14.6 Better information for investors about Investment Products - Collection of additional investor information	
Question 14.6.1: Are there any additional data points about investors that could usefully be captured through the CHESS settlement system that would help issuers of Listed Investment Products or AQUA Products to better perform their back office processes? If so, what are those data points and how do they assist issuers in performing their back office processes?	**Answer:**
15.2 Miscellaneous issues - The AQUA Quote Display Board	
Question 15.2.1: Were you aware of the existence of the QDB?	**Answer:**
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?	**Answer:**
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?	**Answer:**

Consultation Question	Our Response
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?	**Answer:**
15.3 Miscellaneous issues - Admission application forms and processes	
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?	**Answer:**
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?	**Answer:**

Consultation Question	Our Response
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?	**Answer:**
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?	**Answer:**
15.4 Miscellaneous issues - Any other issues with ASX's Investment Product rules	
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?	**Answer:**