

# PROPOSED AMENDMENTS TO ASX OPERATING RULES

## SECTION 3 TRADING RULES

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### ETF Special Trades

[3310] A Trading Participant may effect an ETF Special Trade, either by acting as Principal or agent, by buying or selling an ETF Portfolio where:

- (a) the other party is either the issuer of ETF Securities or its agent;
- (b) if the Trading Participant is selling an ETF Portfolio, the Trading Participant has applied for the issue of ETF Securities and the sale is required as part of the subscription process; and
- (c) if the Trading Participant is buying an ETF Portfolio, the Trading Participant has requested a redemption of the ETF Securities and the purchase is required as part of the redemption process.

Where a Trading Participant effects an ETF Special Trade it must follow the steps specified in the Procedures.

[3311] An ETF Special Trade which is notified to ASX in accordance with the Procedure to Rule [3310] is not reportable to ASX and does not constitute a 'reportable transaction' for the purposes of National Guarantee Fund cover.

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## SECTION 7 DEFINITIONS AND INTERPRETATION

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### DEFINITIONS

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

... "ETF" means a collective investment:

- (a) that is either a:
  - (i) [managed investment scheme which is a registered managed investment scheme under section 601EB of the Corporations Act](#);
  - (ii) scheme which ASIC has exempted from the [se](#) registration requirements; or
  - (iii) foreign company which:
    - (A) has the economic features of a managed investment scheme, namely:
      - a. investors contribute money or money's worth to acquire rights to benefits produced by the collective investment;
      - b. contributions of investors are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for investors holding Financial Products [issued](#) in the collective investment; and
      - c. investors holding Financial Products issued in the collective investment do not have day to day control over the operation of the collective investment; and
    - (B) is a type of body specified in the Procedures~~:-~~
- (b) listed on ASX or [whose ETF Securities are admitted to Trading Status under Rule \[2121\]](#);
- (c) with power and approval to continuously issue [and redeem](#) and have quoted on ASX ETF Securities;
- (d) which allows applications for and redemptions of ETF Securities in the primary market, in-specie or in cash (or a combination of both) [on a daily basis](#); and
- (e) for which the price of the Underlying Instrument(s) is continuously disclosed or can be immediately ascertained.

*Note: For the purposes of paragraph (c) above, ETF Securities issued by the ETF will need to be Financial Products which can be dealt with on the Market (see Rule 2000) and be Division 4 financial products as defined in Regulation 7.11.03 of the Corporations Regulations in order to be capable of being CS Approved Products.*

[For the purposes of paragraph \(d\) above, there may be circumstances where applications for and redemptions of ETF Securities are suspended for specific reasons or for short periods of time.](#)

[For the purposes of paragraph \(e\) above, the basis on which an AQUA Product Issuer of an ETF whose full portfolio holdings are not disclosed daily may satisfy the](#)

requirement that the price of the Underlying Instruments is continually disclosed or can be immediately ascertained may include, for example:

- publishing a creation/redemption basket which closely reflects the ETF's Underlying Instruments on a daily basis;
- relying on material portfolio information ("MPI") disclosure; or
- if the AQUA Product Issuer is relying on an internal market making arrangement in relation to the ETF, disclosing the iNAV for the ETF, which should be disseminated as frequently as practicable, given the nature of the ETF, and should be the AQUA Product Issuer's best estimate of the value of each ETF Security issued by the ETF throughout the Trading Day,

in accordance with ASIC guidance regarding admission requirements for exchange traded products.

Amended 13/05/15, xxxxxx

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"ETF Special Trade" means a trade in ETF Securities effected under Rule [3310].

...

"iNAV" means the publically disseminated, intraday indicative net asset value of an AQUA Product.

...

"Managed Fund" means a collective investment ~~that is:~~

(a) that is either a:

- (~~a~~i) managed investment scheme which is a registered managed investment scheme ~~pursuant to s~~ under section 601EB of the Corporations Act;
- (~~b~~ii) scheme which ASIC has exempted from these registration requirements; or
- (~~c~~iii) foreign company which:
  - (~~A~~i) has the economic features of a managed investment scheme, namely:
    - (~~a~~A) investors contribute money or money's worth to acquire rights to benefits produced by the collective investment;
    - (~~b~~B) contributions of investors are to be pooled, or used in a common enterprise, to produce financial benefits, or benefits consisting of rights or interests in property, for investors holding Financial Products issued in the collective investment; and
    - (~~c~~C) investors holding Financial Products issued in the collective investment do not have day to day control over the operation of the collective investment; and
  - (~~B~~ii) is a type of body specified in the Procedures; and

(b) whose Managed Fund Products are admitted to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service.

Amended 13/05/15, xxxxxx

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**"OTC Derivative"** means a derivative that is not an exchange traded and centrally cleared derivative, but does not include a derivative designed solely to hedge currency risk on assets held by the ETF or Managed Fund which constitute the Underlying Instrument.

Introduced 13/05/15

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**"OTC Derivatives Based Managed Fund"** means a Managed Fund [admitted to the AQUA Quote Display Board](#) which aims to replicate the performance of the Underlying Instrument through the use of one or more OTC Derivatives (except to an immaterial extent).

*Note: For the purposes of this definition, any fees and taxes associated with the OTC Derivative are to be disregarded.*

*For the purposes of determining whether OTC Derivatives are used by the Managed Fund to a material or immaterial extent to replicate the performance of the Underlying Instrument:*

- *where the Managed Fund relies on OTC Derivatives (disregarding any OTC Derivative Collateral held) to account (in aggregate) for more than 5% of the net asset value of the Managed Fund, the OTC Derivatives will generally be considered to be used by the Managed Fund to a material extent;*
- *where an OTC Derivative Counterparty has the ability to exercise a substantial degree of control in regards to the assets that may be held by the Managed Fund the OTC Derivatives will be generally considered to be used by the Managed Fund to a material extent;*
- *derivatives which are designed solely to hedge currency risk on assets held by the Managed Fund which constitute the Underlying Instrument will generally be disregarded in determining materiality of OTC Derivatives used by the Managed Fund.*

Introduced 13/05/15

**"OTC Derivatives Based Managed Fund Product"** means a Managed Fund Product issued by or provided pursuant to an OTC Derivatives Based Managed Fund.

Introduced 13/05/15

**"OTC Derivative Collateral"** has the meaning given in Rule [10A.54.26(c)].

Introduced 13/05/15

**"OTC Derivative Counterparty"** means the counterparty to an OTC Derivative.

Introduced 13/05/15

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**"Reliable Pricing Framework"** means a framework for pricing the Underlying Instruments of an ETF or [Structured Product](#) ~~Managed Fund~~ that consists of either:

- (a) an entity that is widely regarded as providing reliable and independent pricing for the relevant asset class of Underlying Instruments and is specified in the Procedures; or

- (b) a trading platform that is subject to a regulatory framework, specified in the Procedures, that covers pricing quality and transparency.

Introduced 22/09/21, amended ~~XXXXXX~~

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**"Structured Product"** means a Security or Derivative:

- (a) which gives the holder financial exposure to the performance of one or more Underlying Instruments;
- (b) the value of which is linked to the performance of those Underlying Instruments; ~~and~~
- (c) whereby investors do not have day to day control over the operation of the entity which issues or provides the Security or Derivative; and
- (d) that is admitted to Trading Status,  
but does not include an ETF Security.

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

Schedule 10A describes, and sets out specifications in respect of, AQUA Products that are:

(a) ETF Securities or Structured Products and the admission and trading of those products on ASX's market;

(b) Managed Fund Products, and the admission of those products to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service.

AQUA Products are ~~Managed Fund Products~~, ETF Securities, or Structured Products, or Managed Fund Products as defined in Rule [7100].

### 10A.1 AQUA PRODUCT RULES

#### 10A.1.1 AQUA Product Rules

This ~~S~~chedule 10A applies to AQUA Products, including and the admission and trading of ETF Securities and Structured Products and the admission of AQUA Managed Fund Products to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service. Rules [4600] to [4621] apply to the AQUA Quote Display Board. Rules [4650] to [4656] apply to the Managed Fund Settlement Service.

Amended 21/03/14, ~~xxxxxx~~

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

The approval of an AQUA Product Issuer or admission of an AQUA Product Series to Trading Status, to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service does not imply any guarantee or warranty by ASX as to the viability of the AQUA Product Issuer or of the AQUA Product Series. To the extent permitted by law ASX disclaims all liability for the performance by an AQUA Product Issuer of its obligations in respect of an AQUA Product Series admitted to Trading Status, to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service, or the performance of an AQUA Product Series.

Amended 21/03/14, 27/06/16

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

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

Amended 21/03/14

### 10A.2 AQUA PRODUCT ISSUERS

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

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

- (1) hold all relevant licence authorisations under Chapter 7 of the Corporations Act for the purpose of the conduct of their business as an AQUA Product

- Issuer -under Schedule 10A and Rules [4600] to [4621] and [4650] to [4656], as applicable (but only to the extent that such licence authorisation is required by that Act);
- (2) satisfy ASX that it has adequate facilities, systems, processes, procedures, personnel, expertise, financial resources and contractual arrangements with third parties to perform its obligations as an AQUA Product Issuer;
  - (3) agree in writing to be bound by the Rules, and conditions imposed pursuant to the Rules; ~~and~~
  - (4) if it issues Issuer Market Risk Products must be one of the following:
    - (a) an entity, which is prudentially regulated as specified in the Procedures;
    - (b) a government, government body or instrumentality that has a guarantee by the relevant government Treasury authority covering the payments due by the proposed AQUA Product Issuer;
    - (c) an entity which:
      - (i) holds an Australian Financial Services Licence or a licence in another jurisdiction which makes it subject to adequate supervision of capital standards;
      - (ii) in ASX's opinion has a low long term credit risk;
      - (iii) has net tangible assets which in the opinion of ASX are sufficient to support the proposed issue; and
      - (iv) is acceptable to ASX;
    - (d) an entity which has a Guarantor which meets the criteria in paragraph (4)(a), (4)(b) or 4(c); or
    - (e) any other person or entity accepted by ASX, whose decision will be final; ~~and~~
  - (5) if it issues AQUA Products other than Issuer Market Risk Products, be one of the following:
    - (a) an entity which meets one of the criteria in paragraph (4) above;
    - (b) an entity which is a responsible entity of a managed investment scheme registered under the Corporations Act;
    - (ba) an entity which operates a managed investment scheme which ASIC has exempted from the registration requirements;
    - (bb) an entity which is a foreign company which satisfies the criteria in:
      - (i) paragraph (a)(iii) of the ETF definition; or
      - (ii) paragraph ~~(e)~~(a)(iii) of the Managed Fund definition in Rule [7100];
    - (c) an entity which is admitted to the Official List of ASX;
    - (ca) an entity which proposes to issue an AQUA Product Series of Fully Covered AQUA Products and is acceptable to ASX; or
    - (d) any other person or entity accepted by ASX, whose decision will be final.

Upon approval as an AQUA Product Issuer, an AQUA Product Issuer must continue to satisfy the above requirements while its approval as an AQUA Product Issuer remains in force and must immediately notify ASX in writing if any of the above requirements is no longer met. The suspension or cessation of an AQUA Product

Issuer's approval for any reason does not affect any obligations of an AQUA Product Issuer arising while that approval was in force.

Amended 21/03/14, 13/05/15, 27/06/16, 22/09/21, XXXXXX

### 10A.2.2 Guarantors

All guarantees provided by a Guarantor pursuant to Rule 10A.2.1 must be unconditional and irrevocable and in favour of the AQUA Product Holder.

Amended 27/06/16

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

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

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

Amended 21/03/14, 27/06/16, XXXXXX

### 10A.2.4 Notification obligations

An AQUA Product Issuer must notify ASX of the matters set out in the Procedures in the time and manner set out in the Procedures.

Introduced 01/07/19

## 10A.3 ADMISSION OF AQUA PRODUCTS

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

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

- (a) an AQUA Product Issuer must indicate whether they seek admission of an AQUA Product to Trading Status, to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service;
- (b) an AQUA Product shall not be available for trading on ASX unless and until the relevant AQUA Product Series has been admitted to Trading Status by ASX;
- (c) an AQUA Product may not be:
  - (i) advertised on the AQUA Quote Display Board unless and until the relevant AQUA Product Series has been admitted to the AQUA Quote Display Board by ASX, or



- (ii) available for settlement through Managed Fund Settlement Service until it has been admitted for settlement;
- (ca) where an AQUA Product Issuer seeks to convert the quotation on ASX under the Listing Rules of a class of securities issued by the AQUA Product Issuer to admission as an AQUA Product Series to Trading Status, the AQUA Product Issuer must have obtained the approval of holders of those securities for such conversion in the manner specified in the Procedures;
- (d) without affecting the generality of sub-paragraph (e) an approved AQUA Product Issuer seeking the admission of an AQUA Product Series must satisfy ASX that it continues to satisfy the requirements of Rule 10A.2;
- (e) admission of AQUA Products is in ASX's absolute discretion. ASX may admit AQUA Products to Trading Status, to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service on any conditions it considers appropriate and the AQUA Product Issuer must comply with such conditions. ASX may grant or refuse admission to Trading Status, to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service without giving any reasons;
- (f) ASX may suspend or revoke any such admission if, in the absolute discretion of ASX, ASX is of the opinion or reasonably suspects that the AQUA Product Issuer may become unable or unwilling, or in any respect fails, to comply with this Schedule 10A or Rules [4600] to [4621] or [4650] to [4656] ; and
- (g) ASX may revoke any such admission at the request of the AQUA Product Issuer. ASX may require the AQUA Product Issuer to establish the authority of the person making the request. ASX is not required to act on the AQUA Product Issuer's request, or may require conditions to be satisfied before it will act on the request.

Amended 21/03/14, 13/05/15

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

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

Amended 21/03/14

### 10A.3.3 Requirements for admission

A Financial Product will only be admitted to Trading Status, to the [AQUA](#) Quote Display Board or for settlement through the Managed Fund Settlement Service as an AQUA Product if all the following requirements are satisfied:

- (a) the AQUA Product Issuer has completed and given to ASX an application for admission in the form specified by ASX from time to time;
- (aa) ASX is satisfied that the AQUA Product Issuer has adequate facilities, systems, processes, procedures, personnel, expertise, financial resources and contractual arrangements with third parties to perform its obligations in relation to the AQUA Product;
- (b) ASX has no objection to the Financial Product including the investment mandate or other constituent documents (in the case of Managed Fund Products and ETF Securities) or the Terms of Issue (in the case of Structured Products);

- (c) the capital value or distributions of the Financial Product must be linked to Underlying Instruments which are:
- (i) securities, derivatives, debentures, bonds or other Financial Products that are admitted to trading on:
    - (A) the Market;
    - (B) a Non-ASX Market that is specified in the Procedures; or
    - (C) any other Non-ASX Market where ASX is satisfied that:
      - (i) the Non-ASX Market is subject to regulation that is at least equivalent to the regulation of a market operator licenced under section 795B(1) of the Corporations Act; and
      - (ii) the Underlying Instrument is subject to substantially equivalent disclosure requirements to those which would apply if the Underlying Instrument were admitted to trading on the Market;
- Note: To avoid doubt, a Crypto-asset that is a security, derivative, debenture, bond or other Financial Product and that meets the requirements of sub-paragraph (i) above may be admitted as an Approved AQUA Product under that sub-paragraph rather than as an Eligible Crypto-asset under sub-paragraph (v) below.*
- (ii) debentures, bonds, deposit products or Money Market Instruments that are:
    - (A) included in an index specified in the Procedures; or
    - (B) issued or guaranteed by a government or by an entity of a type specified in the Procedures and in respect of which ASX is satisfied that Relevant Authorised Participants and AQUA Market Makers have sufficient information available in a timely manner to enable them to reliably determine prices at which the debentures, bonds, deposit products or Money Market Instruments are bought or sold;
  - (iii) an Eligible Debt Portfolio;
  - (iv) commodities or currencies where ASX is satisfied that:
    - (A) the prices at which such commodities or currencies are bought or sold are available to market users in a timely manner; or
    - (B) there is a regulated derivatives market which controls price discovery for the commodity or currency in question; and
  - (v) Eligible Crypto-assets; and
  - (vi) indices over any of the Underlying Instruments listed in paragraphs (c)(i) to (c)(v) where ASX is satisfied that the index in question is widely regarded as having robust and transparent eligibility criteria, governance arrangements and methodologies for constructing and maintaining the index.
- (d) the Financial Product is not:
- (i) a security in a listed investment company;
  - (ii) a unit in a real estate investment trust (REIT) or similar fund;
  - (iii) a unit in an infrastructure trust or fund;

- (iv) a unit in a non-portfolio strategic investment vehicle (such as a private equity fund);
  - (v) a Financial Product where the issuer has a significant influence over the price or value of the Underlying Instrument(s);
  - (vi) a Financial Product for which, in ASX's opinion, there is insufficient information available to the market on an ongoing basis regarding the price or value of the Underlying Instrument(s);
  - (vii) a Financial Product where the Underlying Instruments are shares in an unlisted company, artworks or other collectibles, wine or other assets where the price or value of the Underlying Instruments is not set by a transparent mechanism;
  - (viii) units or shares in an [ETF](#) or Managed Fund ~~Product~~ for which the net asset value ~~is~~ are not disclosed daily (in the case of [ETF Securities](#) ~~admitted~~ ~~ssion~~ to Trading Status) or at least quarterly (in the case of [Managed Fund Products](#) ~~admitted~~ ~~ssion~~ to the AQUA Quote Display Board);
  - (ix) a Financial Product priced by reference to an index where the level of that index is not publicly available or reported on a regular basis; [or](#)
  - (x) any other the Financial Products to which ASX considers the listing mechanism and continuous disclosure regime in the Listing Rules should apply;
- (e) the AQUA Product Issuer is approved by ASX under Rule 10A.2;
- (f) (i) in relation to admission to Trading Status, the AQUA Product Issuer has prepared and given to ASX a disclosure document that complies with the Corporations Act;
- (ii) in relation to admission to the AQUA Quote Display Board, the AQUA Product Issuer has prepared and given to ASX a disclosure document that complies with the Corporations Act or evidence of an exemption from the disclosure requirements under the Corporations Act; or
- Note: Where under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act, an AQUA Product Issuer is not subject to disclosure requirements under Chapter 6D or Part 7.9 of the Corporations Act but is required under the terms of that exemption to lodge with ASIC (or an overseas regulatory authority) a disclosure document in the form required under Chapter 6D or Part 7.9 of the Corporations Act (or similar product disclosure information) that is made publicly available by ASIC or the overseas authority, such disclosure document must be provided to ASX for the purposes of Rule 10A.3.3(f).*
- (iii) in relation to admission for settlement through the Managed Fund Settlement Service, the AQUA Product Issuer has prepared and given to ASX the Product Disclosure Statement or, if there is one or more Supplementary Product Disclosure Statements, a document which combines the Product Disclosure Statement and all Supplementary Product Disclosure Statement(s) with the most recent Supplementary Product Disclosure Statement at the front (known as the 'Combined Product Disclosure Statement');
- (g) in relation to Structured Products, the AQUA Product Series is within the issue limits set out in Rule 10A.5.[3\(c\)4](#);

- (h) in relation to Financial Products to be settled through the Managed Fund Settlement Service, they must be Managed Fund Products which are issued by or provided pursuant to a Managed Fund that is:
- (i) a “simple managed investment scheme” (as defined in the Corporations Regulations) in relation to which the issuer provides disclosure in the form of a shorter PDS in accordance with Part 7.9 Division 4, Subdivision 4.2C of the Corporations Regulations; or
  - (ii) a managed investment scheme that is a registered managed investment scheme pursuant to 601EB of the Corporations Act and that satisfies the following requirements:
    - (A) the price of units in the Managed Fund is determined and published on a daily basis;
    - (B) redemption of the Managed Fund Products generally occurs within ten (10) Business Days of the AQUA Product Issuer receiving a redemption request from an investor;
    - (C) in the two (2) years prior to the date that ASX receives the application for admission for settlement through the Managed Fund Settlement Service, the AQUA Product Issuer has not suspended or cancelled investors’ rights to withdraw from the Managed Fund on the basis that the Managed Fund is not liquid (as defined in s 601KA of the Corporations Act); and
    - (D) the Managed Fund invests at least eighty (80) percent of its assets:
      - (I) in money in an account or on deposit with a bank on the basis that the money is available for withdrawal immediately during the bank’s normal business hours or at the end of a fixed-term period that does not exceed three (3) months; or
      - (II) under one or more arrangements by which the AQUA Product Issuer for the Managed Fund can reasonably expect to realise the investment, at the market value, within ten (10) days;
  - (i) the AQUA Product Issuer has satisfied any other conditions that ASX may impose in relation to disclosure.

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

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

Amended 09/01/12, 21/03/14, 13/05/15, 27/06/16, 06/02/17, 22/09/21, 30/05/22. ~~XXXXXX~~

#### 10A.3.4 Additional requirements for admission to Trading Status – ~~[Deleted]~~

**Drafting Note: Refer to paragraphs (c) and (d) of the definition of “ETF” in Rule [7100] (as proposed to be amended) for equivalent requirements.**

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

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

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

Amended 21/03/14, 13/05/15 Deleted XX/XX/XX

### 10A.3.5 Authorisation to use index

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

### 10A.3.6 Market making requirement

Unless ASX determines otherwise, an AQUA Product Issuer must with respect to each AQUA Product or AQUA Product Series admitted to Trading Status either:

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

The requirements above do not apply to AQUA Products admitted only to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service.

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

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

environment that substantially prevents the timely and accurate entry of market making orders into the Trading Platform;

- (h) any other circumstances set out in the Procedures and notified to the Commission.

Amended 21/03/14, 01/07/19

### 10A.3.7 Fees

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

Amended 21/03/14, ~~xx/xx/xx~~

## 10A.4 ~~MANAGED FUND PRODUCTS AND ETF SECURITIES~~ [DISCLOSURE REQUIREMENTS FOR AQUA PRODUCTS](#)

**Drafting Note: The movement of Rules in sections 10A.4, 10A.4A and 10A.5 is not shown in tracking unless the content of existing Rules is proposed to be split.**

### 10A.4.1 Investment Mandate – [\[Deleted\]](#)

~~Deleted~~ ~~xx/xx/xx~~

**Drafting Note: AQUA Rules regarding investment mandates have been moved below as follows:**

- for ETFs and ETMFs: see proposed Rule 10A.5.1(b) below
- for mFund and AQDB: see proposed Rule 10A.5.4(a) below

### 10A.4.14 Disclosure requirements for ETFs

An AQUA Product Issuer that issues ETF Securities must disclose:

- (a) information about the net asset value of the ETF [daily](#);
- (b) information about dividends or distributions paid in relation to the ETF;
- ~~(c)~~~~ba~~ where the Underlying Instrument is an index, information in relation to the index;
- ~~(d)~~~~bb~~ information about the regulatory differences between Financial Products that are quoted under the Listing Rules and AQUA Products that are quoted under these Rules;
- ~~(e)~~~~bc~~ any distribution or dividend statements (or distribution or dividend information) that are made available or provided to holders of the ETF Securities;
- ~~(f)~~~~bd~~ (i) [the total number of ETF Securities on issue](#);
- (ii) [the total number and value of ETF Securities issued in respect of the ETF](#);
- (iii) [the total number and value of ETF Securities redeemed in respect of the ETF](#); and
- (iv) [the difference between the amounts specified in Rules 10A.4.1\(f\)\(ii\) and \(iii\) above](#).
- ~~(g)~~~~ce~~ any other information which:

- (i) is required to be disclosed to ASIC under section 675 of the Corporations Act; or
- (ii) would be required to be disclosed to ASIC under section 675 of the Corporations Act if the ETF (relevantly, in the case of an ETF that is a scheme, the undertaking to which the ETF Securities relate, or in the case of an ETF that is a foreign company, the foreign company) were an unlisted disclosing entity and the ETF Securities were ED securities of the ETF, unless a similar disclosure is made by the AQUA Product Issuer under Rule 10A.4.14(h~~ea~~) below under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act;

*Note: Rule 10A.4.14(e~~g~~)(ii) requires disclosure to ASX even if the ETF Securities are not ED securities, on the basis that they are to be treated as if they were ED securities of the ETF and such ETF was an unlisted disclosing entity for the purposes of the continuous disclosure requirements under section 675 of the Corporations Act. To the extent however that the AQUA Product Issuer is required to make a similar disclosure to ASIC or overseas regulatory authority in respect of the ETF under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act, a similar disclosure made by the AQUA Product Issuer under Rule 10A.4.14(c~~ah~~) will obviate the need to make such disclosure under Rule 10A.4.14(e~~g~~)(ii).*

*Rule 10A.4.41(e~~g~~)(ii) does not require that the ETF be treated as a disclosing entity for the purposes of other requirements which apply under the Corporations Act to a disclosing entity.*

- (h~~ea~~) in respect of an ETF (relevantly, in the case of an ETF that is a scheme, the undertaking to which the ETF Securities relate, or in the case of an ETF that is a foreign company, the foreign company) which is not an unlisted disclosing entity subject to the disclosure requirements under section 675 or section 1017B of the Corporations Act, any other information specified under section 675 or section 1017B of the Corporations Act (or similar information) that the AQUA Product Issuer is required to disclose to ASIC or overseas regulatory authority in respect of the ETF under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act, where that information is made publicly available by ASIC or the overseas regulatory authority (as applicable);
- (i~~e~~) any other information that would be required to be disclosed to ASX under section 323DA of the Corporations Act if the ETF were admitted under the Listing Rules;
- (j~~e~~) any other information that the AQUA Product Issuer is required to disclose or make available to investors generally, or prospective investors, in the ETF Security under the Corporations Act or otherwise (including, without limitation, Product Disclosure Statements, Supplementary Product Disclosure Statements, Prospectuses, Supplementary Prospectuses, notices issued under section 1017B of the Corporations Act, information disclosed on a fund basis in periodic statements issued under section 1017D of the Corporations Act and periodic financial or other reports prepared for disclosure to investors in accordance with statutory requirements (as applicable));
- (k~~f~~) any other periodic financial reports (including financial reports, directors reports and auditors reports) that the AQUA Product Issuer is required to

lodge with ASIC under the Corporations Act in respect of the ETF where those financial reports are made publicly available by ASIC; and

- (lg) in respect of an ETF (relevantly, in the case of an ETF that is a scheme, the undertaking to which the ETF Securities relate, or in the case of an ETF that is a foreign company, the foreign company) which is not an unlisted disclosing entity to which Chapter 2M of the Corporations Act applies, any other periodic financial reports (including financial reports, directors reports and auditors reports) specified under Chapter 2M or section 989B (or similar financial reports), that the AQUA Product Issuer is required to lodge with ASIC or an overseas regulatory authority in respect of the ETF:
- (i) under the Corporations Act or overseas statutory requirements; or
  - (ii) under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act,

where those financial reports are made publicly available by ASIC or the overseas regulatory authority (as applicable),

in the time and manner specified in the Procedures.

*Note: Rules 10A.4.14(kf) and 10A.4.14(lg) would not require disclosure of a financial service licensee's own financial statements under section 989B of the Corporations Act (or international equivalent) where the ETF Security does not involve a holder obtaining securities in the AQUA Product Issuer (e.g. it would not require disclosure of the financial statements under section 989B (or international equivalent) of an AQUA Product Issuer which is a Responsible Entity for the ETF).*

Amended 13/05/15, 27/06/16 ~~XXXXXX~~

#### 10A.4.23 Additional disclosure requirements for actively managed AQUA Managed Fund Products

If an ETF or a Managed Fund Product that issues Managed Fund Products admitted to the AQUA Quote Display Board is actively managed and the AQUA Product Issuer's management activities cause the last reported net asset value to move by more than ten percent, the AQUA Product Issuer must immediately disclose its net asset value to ASX.

~~This rule does not apply to products admitted only for settlement through the Managed Fund Settlement Service.~~

Amended ~~XXXXXX~~

#### 10A.4.36 Additional disclosure requirements for OTC Derivatives Based ETFs and OTC Derivatives Based Managed Funds

**Drafting Note: AQUA Rules regarding additional requirements currently set out in Rule 10A.4.6(a), (b), (c) and (e) (replicated in proposed Rule 10A.4.3 below) have been moved as follows:**

- **for ETFs, ETMFs and AQDB products: see proposed Rules 10A.5.2(a), (b), (c) and (d) below.**

An AQUA Product Issuer that issues, distributes or makes available OTC Derivatives Based ETF Securities or OTC Derivatives Based Managed Fund Products must ensure that it discloses:

- (a) ~~the aggregate exposure of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund to all OTC Derivative Counterparties is managed by the AQUA Product Issuer in the manner specified in the Procedures so that it does not exceed a maximum of 10% of the net asset~~



~~value of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund;~~

- ~~(b) — each OTC Derivative Counterparty is one of the following:~~
- ~~(i) — an Authorised Deposit Taking Institution;~~
  - ~~(ii) — a Foreign ADI;~~
  - ~~(iii) — a foreign entity subject to an equivalent form of prudential regulation to the Banking Act 1959 in a jurisdiction specified in the Procedures; or~~
  - ~~(iv) — an entity for which an unconditional guarantee has been provided by an entity set out in (i)-(iii) above in favour of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund in the event of the failure of the entity to fulfil its obligations under the OTC Derivative;~~
- ~~(c) — the assets which may be obtained by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund as collateral under an OTC Derivative (“OTC Derivative Collateral”) are:~~
- ~~(i) — specified in the disclosure document for the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund; and~~
  - ~~(ii) — either:~~
    - ~~(A) — Securities which are constituents of the S&P/ASX 200 index;~~
    - ~~(B) — cash;~~
    - ~~(C) — Australian government debentures or bonds; or~~
    - ~~(D) — assets set out in Rule 10A.3.3(c)(i) to (v) which are consistent with the investment objective for the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund and meet the requirements specified in the Procedures; and~~
  - ~~(d) — it discloses:~~
    - ~~(a) the aggregate exposure of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund to all OTC Derivative Counterparties as a percentage of the net asset value of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund;~~
    - ~~(b) the value of assets held by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund (excluding the value of the OTC Derivative but including any OTC Derivative Collateral obtained under the OTC Derivative) as a percentage of the net asset value of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund; and~~
    - ~~(c) any other information specified in the Procedures,~~
- ~~in the time and manner specified in the Procedures; and~~
- ~~(e) — the OTC Derivative Collateral obtained by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund is held beneficially by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund and legal title in those assets is held by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund (or otherwise on its behalf pursuant to arrangements which entitle the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund to call for immediate delivery of those assets or sale of those assets and delivery of the proceeds of sale).~~
- ~~The constituent documents for the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund may not permit the AQUA Product Issuer to have recourse to holders of Financial Products issued by or provided pursuant to the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund.~~

Rule 10A.4.36 does not apply to products to be settled through the Managed Fund Settlement Service.

[Note: Rule 10A.5.2\(a\) contains additional disclosure obligations if the circumstances specified in that Rule apply.](#)

Introduced 13/05/15, Amended 01/07/19, ~~XX/XX/XX~~

#### **10A.4.45-8 Disclosure requirements for Structured Products**

An AQUA Product Issuer that issues Structured Products must disclose:

- (a) where the Underlying Instrument is an index, information in relation to the index;
- (b) information about the regulatory differences between Financial Products that are quoted under the Listing Rules and AQUA Products that are quoted under these Rules;
- (c) any distribution or dividend statements (or other distribution or dividend information) that are made available or provided to holders of the Structured Product;
- (d) in respect of Structured Products which represent an interest in a managed investment scheme or securities in the AQUA Product Issuer, any other information which:
  - (i) is required to be disclosed to ASIC under section 675 of the Corporations Act; or
  - (ii) would be required to be disclosed to ASIC under section 675 of the Corporations Act if the managed investment scheme (relevantly, the undertaking to which the Structured Products relate) or AQUA Product Issuer (as applicable) were a disclosing entity and the Structured Products were ED securities of the managed investment scheme or AQUA Product Issuer (as applicable), unless a similar disclosure is made by the managed investment scheme or AQUA Product Issuer (as applicable) under Rule 10A.4.45-8(eda) below under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act;

*Note: Rule 10A.5-84.4(d)(ii) requires disclosure to ASX even if the Structured Products are not ED securities, on the basis that they are to be treated as if they were ED securities of the managed investment scheme (in the case of Structured Products which represent an interest in a scheme) or AQUA Product Issuer (in the case of Structured Products which represent securities in the AQUA Product Issuer) and such managed investment scheme or AQUA Product Issuer (as applicable) was a disclosing entity for the purposes of the continuous disclosure requirements under section 675 of the Corporations Act. To the extent however that the AQUA Product Issuer is required to make a similar disclosure to ASIC or overseas regulatory authority in respect of such managed investment scheme or AQUA Product Issuer (as applicable) under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act, a similar disclosure made by the AQUA Product Issuer under Rule 10A.4.45-84(eda) will obviate the need to make such disclosure under Rule 10A.4.45-8(d)(ii).*

*Rule 10A.4.45-8(d)(ii) does not require that the managed investment scheme or AQUA Product Issuer (as applicable) be treated as a disclosing entity for the purposes of other requirements which apply under the Corporations Act to a disclosing entity.*

- (eda) in respect of Structured Products which represent an interest in a managed investment scheme or securities in the AQUA Product Issuer where the managed investment scheme (relevantly, the undertaking to which the Structured Products relate) or the AQUA Product Issuer (as applicable) is not an unlisted disclosing entity subject to the disclosure requirements under section 675 or section 1017B of the Corporations Act, any other information specified under section 675 or section 1017B of the Corporations Act (or similar information) that the AQUA Product Issuer is required to disclose to ASIC or overseas regulatory authority in respect of such managed investment scheme or AQUA Product Issuer (as applicable) under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act, where that information is made publicly available by ASIC or the overseas regulatory authority (as applicable);
- (fe) any other information in respect of Structured Products which represent an interest in a managed investment scheme or securities in the AQUA Product Issuer that would be required to be disclosed to ASX under section 323DA of the Corporations Act if the AQUA Product Issuer were admitted under the Listing Rules; and
- (gf) any other information that the AQUA Product Issuer is required to disclose or make available to investors generally, or prospective investors, in respect of the Structured Product under the Corporations Act or otherwise (including, without limitation, Product Disclosure Statements, Supplementary Product Disclosure Statements, Prospectuses, Supplementary Prospectuses, notices issued under section 1017B of the Corporations Act, information disclosed on a fund basis in periodic statements issued under section 1017D of the Corporations Act and periodic financial or other reports prepared for disclosure to investors in accordance with statutory requirements (as applicable));

in the time and manner specified in the Procedures.

Introduced 13/05/15 Amended 27/06/16\_XXXXXX

#### 10A.4.52 Disclosure requirements for Managed Fund Products

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

- (a) information about the net asset value of the Managed Fund ~~daily (in the case of Managed Fund Products admitted to Trading Status) or at least quarterly (in the case of Managed Fund Products admitted to the AQUA Quote Display Board or for settlement through the Managed Fund Settlement Service);~~
- (b) information about redemptions from the Managed Fund;
- (c) information about dividends or distributions paid in relation to the Managed Fund;
- (ca) ~~[deleted]~~  
~~where the Underlying Instrument is an index, information in relation to the index (other than where the Managed Fund Products are admitted only to the AQUA Quote Display Board);~~
- (cb) information about the regulatory differences between Financial Products that are quoted under the Listing Rules and AQUA Products that are quoted under these Rules;

- (cc) any distribution or dividend statements (or distribution or dividend information) that are made available or provided to holders of the Managed Fund Product;
- (cd) ~~the total number of Managed Fund Products on issue (other than where the Managed Fund Products are admitted only to the AQUA Quote Display Board);~~
- (d) any other information which:
- (i) is required to be disclosed to ASIC under section 675 of the Corporations Act; or
  - (ii) would be required to be disclosed to ASIC under section 675 of the Corporations Act if the Managed Fund (relevantly, in the case of a Managed Fund that is a scheme, the undertaking to which the Managed Fund Products relate, or in the case of a Managed Fund that is a foreign company, the foreign company) were an unlisted disclosing entity and the Managed Fund Products were ED securities of the Managed Fund, unless a similar disclosure is made by the AQUA Product Issuer under Rule 10A.4.52(da) below under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act;
- Note: Rule 10A.4.52(d)(ii) requires disclosure to ASX even if the Managed Fund Products are not ED securities, on the basis that they are to be treated as if they were ED securities of the Managed Fund and such Managed Fund was an unlisted disclosing entity for the purposes of the continuous disclosure requirements under section 675 of the Corporations Act. To the extent however that the AQUA Product Issuer is required to make a similar disclosure to ASIC or overseas regulatory authority in respect of the Managed Fund under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act, a similar disclosure made by the AQUA Product Issuer under Rule 10A.4.52(da) will obviate the need to make such disclosure under Rule 10A.4.52(d)(ii).*
- Rule 10A.4.52(d)(ii) does not require that the Managed Fund be treated as a disclosing entity for the purposes of other requirements which apply under the Corporations Act to a disclosing entity.*
- (da) in respect of a Managed Fund (relevantly, in the case of a Managed Fund that is a scheme, the undertaking to which the Managed Fund Products relate, or in the case of a Managed Fund that is a foreign company, the foreign company) which is not an unlisted disclosing entity subject to the disclosure requirements under section 675 or section 1017B of the Corporations Act, any other information specified under section 675 or section 1017B of the Corporations Act (or similar information) that the AQUA Product Issuer is required to disclose to ASIC or overseas regulatory authority in respect of the Managed Fund under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act, where that information is made publicly available by ASIC or the overseas regulatory authority (as applicable);
- (e) any other information that would be required to be disclosed to ASX under section 323DA of the Corporations Act if the Managed Fund were admitted under the Listing Rules;

- (f) any other information that the AQUA Product Issuer is required to disclose or make available to investors generally, or prospective investors, in the Managed Fund Product under the Corporations Act or otherwise (including, without limitation, Product Disclosure Statements, Supplementary Product Disclosure Statements, Prospectus, Supplementary Prospectuses, notices issued under section 1017B of the Corporations Act, information disclosed on a fund basis in periodic statements issued under section 1017D of the Corporations Act and periodic financial or other reports prepared for disclosure to investors in accordance with statutory requirements (as applicable));
- (g) any other periodic financial reports (including financial reports, directors reports and auditors reports) that the AQUA Product Issuer is required to lodge with ASIC under the Corporations Act in respect of the Managed Fund where those financial reports are made publicly available by ASIC;
- (h) in respect of a Managed Fund (relevantly, in the case of a Managed Fund that is a scheme, the undertaking to which the Managed Fund Products relate, or in the case of a Managed Fund that is a foreign company, the foreign company) which is not an unlisted disclosing entity to which Chapter 2M of the Corporations Act applies, any other periodic financial reports (including financial reports, directors reports and auditors reports) specified under Chapter 2M or section 989B (or similar financial reports), that the AQUA Product Issuer is required to lodge with ASIC or an overseas regulatory authority in respect of the Managed Fund:
- (i) under the Corporations Act or overseas statutory requirements; or
  - (ii) under the terms of an exemption from the Corporations Act requirements provided under an ASIC exemption or Chapter 8 of the Corporations Act,

where those financial reports are made publicly available by ASIC or the overseas regulatory authority (as applicable),

in the time and manner specified in the Procedures; and

- (i) in respect of a Managed Fund Product to be settled through the Managed Fund Settlement Service, if a new Supplementary Product Disclosure Statement is issued the AQUA Product Issuer must provide an updated Combined Product Disclosure Statement to ASX before that new Supplementary Product Disclosure Statement takes effect.

Paragraphs (ca) – (cd), (d)(ii), (da), (g) and (h) do not apply to products to be settled through the Managed Fund Settlement Service.

*Note: Rules 10A.4.52(g) and 10A.4.52(h) would not require disclosure of a financial service licensee's own financial statements under s989B of the Corporations Act (or international equivalent) where the Managed Fund Product does not involve a holder obtaining securities in the AQUA Product Issuer (e.g. it would not require disclosure of the financial statements under s989B (or international equivalent) of an AQUA Product Issuer which is a Responsible Entity for the Managed Fund).*

Amended 21/03/14, 13/05/15, 06/02/17. ~~XXXXXX~~

## 10A.4A NAMING AND INDEX SELECTION REQUIREMENTS – ~~[Deleted]~~

### 10A.4A.1 Naming requirements – ~~[Deleted]~~

Introduced 13/05/15 – Amended 01/07/19 ~~[Deleted]~~ ~~XXXXXX~~

### 10A.4A.2 Index selection requirements – ~~[Deleted]~~

Introduced 13/05/15 – Amended 01/07/19 ~~[Deleted]~~ ~~XXXXXX~~

## 10A.5 ~~STRUCTURED PRODUCTS~~ ADDITIONAL REQUIREMENTS FOR AQUA PRODUCTS

**Drafting Note: The movement of Rules in sections 10A.4, 10A.4A and 10A.5 is not shown in tracking unless the content of existing Rules is proposed to be split.**

### 10A.5.1 Requirements for ETFs

#### Naming requirements

- (a) The name of an ~~AQUA Product~~ ETF must comply with the naming requirements set out in the Procedures.

~~Rule 10A.4A.1 does not apply to products to be settled through the Managed Fund Settlement Service.~~

Note: For ETF Securities that were admitted to Trading Status prior to 15 April 2024, refer to Rule 10A.11.4.

#### Investment mandate

- (b) ~~Managed Funds and ETFs are~~ An ETF is required to have an investment mandate or similar document in relation to each AQUA Product Series which sets out the investment approach of the AQUA Product Issuer. The investment mandate or similar document must meet the requirements of ASX as set out in the Procedures.

#### **Index Selection requirements**

- (c) If an ETF ~~AQUA Product~~ has an index as its Underlying Instrument, the index must comply with the requirements set out in the Procedures.

~~Rule 10A.4A.2 does not apply to products to be settled through the Managed Fund Settlement Service.~~

### 10A.5.2-6 **Additional requirements for OTC Derivatives Based ETFs and OTC Derivatives Based Managed Funds**

**Drafting Note: AQUA rules regarding disclosures currently set out in Rule 10A.4.6(d) (replicated in proposed Rule 10A.5.2(d) below) have been moved as follows:**

- **for ETFs, ETMFs and AQDB products: see proposed Rules 10A.4.3(a), (b) and (c) above**

An AQUA Product Issuer that issues, distributes or makes available OTC Derivatives Based ETF Securities or OTC Derivatives Based Managed Fund Products must ensure that:

- (a) the aggregate exposure of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund to all OTC Derivative Counterparties is managed by the AQUA Product Issuer in the manner specified in the Procedures so that it does not exceed a maximum of 10% of the net asset value of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund;
- (b) each OTC Derivative Counterparty is one of the following:
- an Authorised Deposit-Taking Institution;
  - a Foreign ADI;

- (iii) a foreign entity subject to an equivalent form of prudential regulation to the Banking Act 1959 in a jurisdiction specified in the Procedures; or
  - (iv) an entity for which an unconditional guarantee has been provided by an entity set out in (i)-(iii) above in favour of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund in the event of the failure of the entity to fulfil its obligations under the OTC Derivative;
- (c) the assets which may be obtained by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund as collateral under an OTC Derivative (“OTC Derivative Collateral”) are:
- (i) specified in the disclosure document for the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund; and
  - (ii) either:
    - (A) Securities which are constituents of the S&P/ASX 200 index;
    - (B) cash;
    - (C) Australian government debentures or bonds; or
    - (D) assets set out in Rule 10A.3.3(c)(i) to (v) which are consistent with the investment objective for the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund and meet the requirements specified in the Procedures; and

~~(d) it discloses:~~

- ~~(i) the aggregate exposure of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund to all OTC Derivative Counterparties as a percentage of the net asset value of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund;~~
- ~~(ii) the value of assets held by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund (excluding the value of the OTC Derivative but including any OTC Derivative Collateral obtained under the OTC Derivative) as a percentage of the net asset value of the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund; and~~
- ~~(iii) any other information specified in the Procedures,~~

~~in the time and manner specified in the Procedures; and~~

- (ed) the OTC Derivative Collateral obtained by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund is held beneficially by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund and legal title in those assets is held by the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund (or otherwise on its behalf pursuant to arrangements which entitle the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund to call for immediate delivery of those assets or sale of those assets and delivery of the proceeds of sale).

The constituent documents for the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund may not permit the AQUA Product Issuer to have recourse to holders of Financial Products issued by or provided pursuant to the OTC Derivatives Based ETF or OTC Derivatives Based Managed Fund.

Rule 10A.5.24.6 does not apply to products to be settled through the Managed Fund Settlement Service.

Introduced 13/05/15, [Amended](#) 01/07/19 ~~XXXXXX~~

### 10A.5.3 Requirements for Structured Products

#### Naming requirements

- (a) The name of ~~an AQUA Product~~ a Structured Product must comply with the naming requirements set out in the Procedures.

~~Rule 10A.4A.1 does not apply to products to be settled through the Managed Fund Settlement Service.~~

Note: For Structured Products that were admitted to Trading Status prior to 15 April 2024, refer to Rule 10A.11.4.

#### Index Selection requirements

- (b) If ~~an AQUA Product~~ a Structured Product has an index as its Underlying Instrument, the index must comply with the requirements set out in the Procedures.

~~Rule 10A.4A.2 does not apply to products to be settled through the Managed Fund Settlement Service.~~

#### ~~10A.5.1~~ **Issue limits**

- (c) This Rule 10A.5.~~13~~(c) relates to AQUA Products which are Structured Products and in relation to which the settlement obligations under the Terms of Issue are in the first instance completed by the transfer of Cash Market Products of an ASX Listed Entity to the AQUA Product Holders. A proposed issue of such AQUA Products will not be admitted to Trading Status ~~or to the AQUA Quote Display Board~~, where, at the time of the proposed issue of the AQUA Products, either or both of the following apply:

- (a.i) the number of Equity Securities which may be acquired or be required to be acquired pursuant to the exercise of AQUA Products at any time prior to and inclusive of the expiry date of the proposed issue of AQUA Products, whether under the proposed issue or any existing issue of AQUA Products or Warrants, would exceed 50% of the class of Cash Market Product, or such lesser percentage set by ASX; and
- (b.ii) the number of Equity Securities which may be acquired or be required to be acquired pursuant to the exercise of AQUA Products or Warrants that expire during the 14 day period immediately before or after the expiry date of the proposed issue of AQUA Products, would exceed 20% of the class of Cash Market Product or such lesser percentage set by ASX.

These tests will be applied separately to put AQUA Products and Warrants and call AQUA Products and Warrants.

#### ~~10A.5.2~~ **Terms of Issue**

- (d) AQUA Products which are Structured Products are required to have Terms of Issue unless ASX specifies otherwise. The Terms of Issue must:

- (a) include appropriate provisions for the adjustment of the exercise rights of the Structured Products in appropriate circumstances, including, without limitation:
- (iA) where the Structured Products are linked to Cash Market Products of a Listed Entity, adjustments for reductions in capital, bonus issues, rights issues and capital restructurings; and



- (#B) where the Structured Products are linked to an index, the modification and discontinuance of the index; and
- (bii) meet any other requirements specified in the Procedures or otherwise specified by ASX.

#### **~~10A.5.3~~ Amendment of expiry date, prohibition on amendment to Terms of Issue**

- (ea) The expiry date of a Structured Product can be amended:
  - (i) if the Terms of Issue state that the expiry date can be amended in the event of an extraordinary event, and such an event occurs; or
  - (ii) if the Terms of Issue otherwise permit the expiry date to be extended and this extension does not materially prejudice the interests of AQUA Product Holders;
 but cannot be amended in any other circumstances.
- (fb) No other Terms of Issue can be amended except as permitted by Rules ~~10A.5.4 or~~ 10A.5.35(h) or (i).
- (ge) Where Terms of Issue entitle an AQUA Product Issuer to act or refrain from acting with the consent of ASX, ASX may grant or refuse to grant consent in its absolute discretion.

Amended 13/05/15

#### **~~10A.5.4~~ Amendment of Terms of Issue by approval**

- (h) If provided for in the Terms of Issue, the Terms of Issue can be amended with the approval of 75% of votes cast by those AQUA Product Holders who vote on a proposed resolution. Votes cast by the AQUA Product Issuer or its associates must be disregarded. Voting must be in accordance with the following:
  - (ai) voting rights in respect of Structured Products will be on a one for one basis;
  - (bii) an AQUA Product Holder will be entitled to vote on any proposed resolution; and
  - (eiii) in circumstances where an AQUA Product Issuer proposes to hold a meeting, it must provide each AQUA Product Holder, by the time set out in the Procedures:
    - (iA) written notice of the meeting; and
    - (#B) proxy forms by which an AQUA Product Holder can appoint a person to attend the meeting and vote on its behalf. Such proxy forms must be blank so far as the person primarily to be appointed as proxy is concerned.

#### **~~10A.5.5~~ Other Amendment of Terms of Issue**

- (i) If provided for in the Terms of Issue, the Terms of Issue can be amended:
  - (ai) if the amendment is necessary in the opinion of the AQUA Product Issuer to comply with any statutory or other requirements of law or any requirement of ASX;
  - (bii) to rectify any defect, manifest error or ambiguity in the Terms of Issue where the amendment does not materially prejudice the interests of AQUA Product Holders;

- (~~ei~~iii) to permit transfers by a method other than as set out in the Terms of Issue;
- (~~di~~iv) in the case of an adjustment or an extraordinary event, as defined in the Terms of Issue; or
- (~~ei~~v) where, in the reasonable opinion of the AQUA Product Issuer, the amendment does not materially prejudice the interests of AQUA Product Holders.

Amended 13/05/15

#### ~~10A.5.6 Underlying Instrument is Approved Short Sale Product – [Deleted]~~

~~Deleted 13/05/15~~

#### ~~10A.5.7~~ Notification to ASX

- (i) Where an amendment has been made to the Terms of Issue (including an amendment of expiry date or other amendment of Terms of Issue under Rules 10A.5.3(~~e~~), (~~f~~), (~~g~~), (~~h~~) or (~~i~~), ~~10A.5.4~~ or ~~10A.5.5~~), ASX should be notified of such amendment by the time set out in the Procedures.

Introduced 13/05/15, Amended XX/XX/23

#### ~~10A.5.4~~ 4.5 Requirements for Managed Funds ~~Service additional requirements~~ Products

##### Investment mandate

- (a) ~~Managed Funds and ETFs are~~ A Managed Fund is required to have an investment mandate or similar document in relation to each AQUA Product Series which sets out the investment approach of the AQUA Product Issuer. The investment mandate or similar document must meet the requirements of ASX as set out in the Procedures.

##### Index Selection requirements

- (b) If ~~an AQUA Product~~ a Managed Fund Product admitted to the AQUA Quote Display Board has an index as its Underlying Instrument, the index must comply with the requirements set out in the Procedures.

~~Rule 10A.4A.2 does not apply to products to be settled through the Managed Fund Settlement Service.~~

##### Additional requirements

- (c) An AQUA Product Issuer that issues Managed Fund Products which are settled through the Managed Fund Settlement Service must:
  - (~~a~~i) not issue Managed Fund Products to a client without confirmation through the Managed Fund Settlement Service through messages received by the participant of the Approved Settlement Facility responsible for settling the transaction (Settlement Participant) that a copy of the most recent Product Disclosure Statement or Combined Product Disclosure Statement (as applicable), has been given to the client. The messages must include the date of the Product Disclosure Statement or Combined Product Disclosure (as applicable). However, this does not apply if the AQUA Product Issuer is not required to comply with section 1016A of the Corporations Act in relation to the issue of those Managed Fund Products;
  - (~~b~~ii) contact clients, within 5 business days of the issuance, to:

- (A~~i~~) confirm in writing the issuance of Managed Fund Products, and
- (B~~ii~~) inform clients that they should have received a copy of the most recent Product Disclosure Statement or Combined Product Disclosure Statement (as applicable) (and specify the date of the Product Disclosure Statement and each Supplementary Product Disclosure Statement) and if they have not, they should contact the AQUA Product Issuer to obtain a copy of the disclosure documents free of charge;
- (iii~~e~~) notify ASX within 10 business days in accordance with the Procedures of all situations where an investor in a Managed Fund has indicated to the AQUA Product Issuer that a copy of the documents referred to in [paragraph \(i~~b~~\)\(B~~ii~~\)](#) above were not given to the investor;
- (iv~~d~~) retain for 7 years:
  - (i~~A~~) records to demonstrate that it has complied with paragraph (i~~b~~) above;
  - (ii~~B~~) an electronic copy of all applications it receives through the Managed Fund Settlement Service; and
  - (C~~iii~~) any request for a disclosure document received from a client in response to the information provided to clients under clause (i~~b~~) above; and
- (v~~e~~) not issue Managed Fund Products to a client in respect of a request made through the Managed Fund Settlement Service where:
  - (A~~i~~) the Managed Fund is not liquid (as defined in section 601KA of the Corporations Act); and
  - (B~~ii~~) the AQUA Product Issuer does not allow a member to withdraw from the Managed Fund while the Managed Fund is not liquid pursuant to the Managed Fund's constitution and/or the Corporations Act.

[Paragraph \(b\) does not apply to Managed Fund Products to be settled through the Managed Fund Settlement Service.](#)

[Paragraph \(c\) does not apply to Managed Fund Products admitted to the AQUA Quote Display Board.](#)

Introduced 21/03/14 Amended 06/02/17. [XXXXXX](#)

## 10A.5A FULLY COVERED AQUA PRODUCTS

### 10A.5A.1 Fully Covered AQUA Products

The AQUA Product Issuer of a Fully Covered AQUA Product must ensure that:

- (a) the Underlying Instruments (or other Financial Products of equivalent value) held in the Cover Arrangement are only dealt with in accordance with the terms of the Cover Arrangement;
- (b) an audit of compliance with paragraph (a) is undertaken annually by a registered company auditor; and
- (c) all audit reports pursuant to paragraph (b) are lodged with ASX by the time specified in the Procedures.

Introduced 13/05/15

## **10A.6 AQUA PRODUCT ISSUER REPORTS**

### **10A.6.1 Information concerning AQUA Product Issuers and Guarantors**

An AQUA Product Issuer and any Guarantor must upon request by ASX provide forthwith to ASX any explanations and/or information concerning itself or any of its subsidiaries or of any proposed action or omission to act the lack of disclosure of which may lead to the establishment of a false market in AQUA Products issued by the relevant AQUA Product Issuer or which would be likely to materially affect the price of those AQUA Products.

### **10A.6.2 Information in relation to AQUA Products in a specified AQUA Product Series**

If requested by ASX, an AQUA Product Issuer must provide any information in relation to AQUA Products in a specified AQUA Product Series as required by ASX. This information must be provided in a form acceptable to ASX and must be provided within the time set out in the Procedures.

### **10A.6.3 False market in AQUA Products**

An AQUA Product Issuer and any Guarantor must notify ASX immediately of any information concerning itself or of any of its subsidiaries or any action, omission to act, or proposed action or omission to act, the non-disclosure of which may lead to the establishment of a false market in AQUA Products issued by the relevant AQUA Product Issuer or which would be likely to materially affect the price of those AQUA Products.

Amended 13/05/15

### **10A.6.4 Documentation forwarded to ASX**

All documentation forwarded to ASX by or on behalf of an AQUA Product Issuer, and Guarantor (if applicable), whether provided in support of an application or in compliance with the Rules for the time being or otherwise, will become and remain the property of ASX which may, in its absolute discretion, copy any or all of such documentation and forward such copies to the public, the media, or any other interested party. Private correspondence, including draft documents lodged with ASX for approval, and marked "not for public release" will only be released to the public, the media, or any other interested party where ASX has formed the opinion that the information should be released and has given notice to the AQUA Product Issuer to that effect.

### **10A.6.5 Amended, supplementary and replacement disclosure documents**

Where an AQUA Product Issuer has given to ASX a disclosure document in respect of an AQUA Product under Rule 10A.3.3(f), the AQUA Product Issuer must:

- (a) promptly give to ASX any amended, supplementary or replacement disclosure document which it prepares and proposes to issue in respect of those AQUA Products; and
- (b) when it issues the amended, supplementary or replacement disclosure document promptly announce to the market that fact and where a copy of the document may be obtained by investors.

Amended 01/07/19

### **10A.6.6 Annual report (Structured Products)**

Subject to Rule 10A.6.9, an AQUA Product Issuer that issues Structured Products and Guarantor (if applicable) must lodge its annual report with ASX by the time set out in the Procedures.

Introduced 13/05/15

**10A.6.7 Statement of assets, liabilities and equity (Structured Products)**

- (a) Subject to Rule 10A.6.9, an AQUA Product Issuer that issues Structured Products without a Guarantor must lodge with ASX by the time set out in the Procedures a statement of assets, liabilities and shareholders' equity of the AQUA Product Issuer, together with such notes as a person would reasonably require to make an informed assessment of the ability of the AQUA Product Issuer to meet its obligations under the Terms of Issue of the Structured Product. This is not required in respect of Fully Covered AQUA Products.
- (b) Subject to Rule 10A.6.9, an AQUA Product Issuer that issues Structured Products with a Guarantor that:
- (i) is a Related Body Corporate of the AQUA Product Issuer, must lodge with ASX by the time set out in the Procedures, a statement of assets, liabilities and shareholders' equity of the Guarantor, together with such notes as a person would reasonably require to make an informed assessment of the ability of the Guarantor to meet its obligations under the Terms of Issue of the Structured Product or guarantee in favour of the AQUA Product Holder (as applicable);
  - (ii) is not a Related Body Corporate of the AQUA Product Issuer, must lodge with ASX by the time set out in the Procedures, a statement of assets, liabilities and shareholders' equity of the AQUA Product Issuer and a statement of assets, liabilities and shareholders' equity of the Guarantor, together with such notes as a person would reasonably require to make an informed assessment of the ability of the AQUA Product Issuer and the Guarantor to meet their obligations under the Terms of Issue of the Structured Product or guarantee in favour of the AQUA Product Holder (as applicable).

This is not required in respect of Fully Covered AQUA Products.

Introduced 13/05/15

**10A.6.8 Current annual report**

An AQUA Product Issuer that issues Structured Products must, on request, make available to AQUA Product Holders a copy of the current annual report of the AQUA Product Issuer.

Introduced 13/05/15

**10A.6.9 Exemption from AQUA Product Issuer reports (Structured Products)**

AQUA Product Issuers and Guarantors (if applicable) are not required to comply with Rules 10A.6.6, 10A.6.7 and 10A.6.8 if, in ASX's opinion, equivalent information has been provided to ASX in accordance with the Listing Rules or otherwise in the circumstances set out in the Procedures.

Introduced 13/05/15

**10A.7 TRANSFERS AND REGISTERS****10A.7.1 Transfer of AQUA Products**

The transfer of an AQUA Product must comply with Part 7.11 of the Corporations Act and be effected in accordance with the Clearing Rules and the Settlement Rules.

Amended 27/06/16

**10A.7.2 Comply with Clearing Rules and Settlement Rules**

AQUA Products must be CS Approved Products. The AQUA Product Issuer must, in respect of the AQUA Products, comply with the Clearing Rules and the Settlement Rules to the extent they apply to AQUA Products

Amended 27/06/16

**10A.7.3 Issuer Sponsored Subregister**

If the AQUA Product Issuer establishes an “Issuer Sponsored Subregister” (as that term is defined in the Settlement Rules) in respect of an AQUA Product Series, the AQUA Product Issuer must comply with the relevant Listing Rules (Chapter 8) in relation to “Issuer Sponsored Subregisters”, as if the AQUA Product Issuer were a company referred to in those Listing Rules.

**10A.7.4 Register of AQUA Product Holders**

The AQUA Product Issuer must arrange for the establishment and maintenance of a Register of AQUA Product Holders which complies with the Corporations Act requirements for shares or units in a registered scheme.

**10A.7.5 Comply with the Listing Rules**

The AQUA Product Issuer must comply with the Listing Rules in relation to providing holding statements, the transfer and transmission of AQUA Products, and the establishment and maintenance of a Register of AQUA Product Holders as if the AQUA Products were shares in a listed entity.

Amended 04/03/13

**10A.7.6 Transfer between Australian Registers – [Deleted]**

Deleted 27/06/16

**10A.7.7 Transfer between Australian Register and Register maintained outside Australia – [Deleted]**

Deleted 27/06/16

**10A.7.8 Offices open on week days**

An AQUA Product Issuer must ensure that offices at which transfers of AQUA Products are to be lodged for registration are open on all week days other than gazetted bank holidays or public holidays in the State or Territory in which the office is located and any other day which ASX will declare and publish as not a Business Day.

**10A.8 SUSPENSION OF TRADING BY ASX****10A.8.1 Suspension of trading by ASX**

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

Amended 21/03/14. ~~XXXXXX~~

## 10A.9 INDEMNITY

### 10A.9.1 Indemnity

An AQUA Product Issuer and Guarantor indemnifies ASX against any claim arising from, or in relation to, an AQUA Product issued by that AQUA Product Issuer including, without limitation, any claim in relation to any disclosure document, supplementary disclosure document, or any other disclosure by the AQUA Product Issuer or any failure by the AQUA Product Issuer or any Guarantor to comply with its obligations under the Rules, a guarantee provided pursuant to the Rules, the Terms of Issue, the Corporations Act or other laws.

Amended 27/06/16

## 10A.10 COMPLIANCE WITH MARKET MAKING REQUIREMENTS

### 10A.10.1 Definitions

**“AQUA Products Committee”** means an AQUA Products Committee established under this Rule 10A.10.

**“AQUA Products Panel”** means an AQUA Products Panel constituted under this Rule 10A.10.

**“AQUA Products Market Maker”** means an AQUA Product Issuer performing an AQUA Product Market Making function under Schedule 10A of the Rules.

**“AQUA Product Market Maker Bid”** means a Bid and/or volume made for the purposes of Rule 10A.3.6.

**“AQUA Product Market Making”** means the provisions of market making in accordance with Rule 10A.3.6.

**“AQUA Product Market Making Agent”** means a Trading Participant appointed by an AQUA Product Issuer to perform AQUA Product Market Making as agent of the AQUA Product Issuer and registered for that purpose with ASX.

### 10A.10.2 AQUA Products Panel

The following provisions apply to the constitution of an AQUA Products Panel:

- (a) ASX may appoint persons to an AQUA Products Panel for the purpose of allowing the constitution by selected members of the AQUA Products Panel of an AQUA Products Committee as required from time to time.
- (b) Subject to this Rule 10A.10 more than one AQUA Products Committee may be constituted from the AQUA Products Panel at any one time whether or not constituted by some or all of the same members of another AQUA Products Committee.
- (c) Persons appointed to the AQUA Products Panel may include directors or employees of ASX, or a Related Body Corporate of ASX, directors or employees of AQUA Product Issuers or Market Participants and such other persons as ASX thinks fit.

### 10A.10.3 Maintenance of Reasonable Bid and Volume and AQUA Products Committee

The following provisions apply in relation to the obligation of AQUA Product Issuers to maintain a Bid and volume under Rule 10A.3.6 (where applicable):

- (a) When requested by ASX, an AQUA Product Issuer must within the time set out in the Procedures or such further period as ASX may allow, provide

details of how it determined the Bid value and volume for the purpose of Rule 10A.3.6.

- (b) Where ASX receives the details referred to in paragraph (a) or had not received such details within the required time it may (or may not) in its absolute discretion:
  - (i) form a view that an AQUA Product Market Maker Bid is contrary to Rule 10A.3.6; or
  - (ii) refer an AQUA Product Market Maker Bid to an AQUA Products Committee if ASX considers that the AQUA Product Market Maker Bid may be contrary to Rule 10A.3.6.
- (c) For the purposes of paragraph (b) ASX may constitute an AQUA Product Committee for the purposes of advising ASX on the reasonableness of an AQUA Product Market Maker Bid for the purposes of Rule 10A.3.6.
- (d) In considering an AQUA Product Market Maker Bid, the AQUA Products Committee may:
  - (i) make any enquiries which it considers relevant to the AQUA Product Market Maker Bid;
  - (ii) seek information (orally or in writing) from the AQUA Product Issuer;
  - (iii) determine the manner in which the AQUA Product Market Maker Bid will be considered.
- (e) The AQUA Products Committee may make any recommendation to ASX it considers appropriate in relation to the reasonableness of the AQUA Product Market Maker Bid.
- (f) The AQUA Products Committee must use reasonable endeavours to make its recommendations under the Rules as quickly as possible and, if practicable, on the Trading Day on which the AQUA Product Market Maker Bid was referred to it under the Rules.
- (g) In relation to an AQUA Product Market Maker Bid, after the AQUA Products Committee gives ASX its advice, or where ASX forms its own view that an AQUA Product Market Maker Bid is contrary to Rule 10A.3.6, ASX may or may not, in its discretion, take any action (or refrain from taking action) and give any directions it considers appropriate having regard to Rule [6120] including, without limitation, doing any or all of the following:
  - (i) release an announcement to the market to the effect that the AQUA Product Issuer failed to maintain an AQUA Product Market Maker Bid in accordance with Rule 10A.3.6;
  - (ii) issue a warning letter to the AQUA Product Issuer;
  - (iii) notify the AQUA Product Issuer that ASX will take the AQUA Product Issuer's failure to maintain an AQUA Product Market Making Bid in accordance with Rule 10A.3.6 into account when considering future applications for admission of new AQUA Product Series to Trading Status;
  - (iv) suspend trading in the AQUA Product Series; or
  - (v) determine that future AQUA Product Series issued by that AQUA Product Issuer may not be admitted to Trading Status for a specified period of time not exceeding 12 months.
- (h) Subject to paragraph (k) before making a decision under 10A.10.3(g) ASX must give an AQUA Product Issuer an opportunity to make submissions to ASX orally or in writing with respect to any proposed action by ASX.



- (i) Subject to the right of appeal to an Appeal Tribunal in accordance with the provisions of the ASX Enforcement and Appeals Rulebook the exercise by ASX of its powers under this Rule is final and binding on the AQUA Product Issuer involved.
- (j) Subject to paragraph (k) ASX must not take any action to implement any decision under Rule 10A.10.3(g) until the period for making an appeal has expired, or where there is an appeal, the appeal has been determined.
- (k) ASX may implement and announce a decision to suspend trading in an AQUA Product Series pursuant to Rule 10A.10.3(g) before giving the AQUA Product Issuer an opportunity to make submissions, before the expiry of the period for making an appeal, or before an appeal is determined, if ASX considers it appropriate having regard to Rule [6120] to do so.
- (l) Nothing in this Rule 10A.10 affects, or derogates from, the exercise by ASX of any other power in these Rules.

Amended 27/06/16

#### **10A.10.4 Appeals**

An AQUA Product Issuer may appeal to an Appeal Tribunal in accordance with the provisions of the ASX Enforcement and Appeals Rulebook a decision by ASX under Rule 10A.10.3(g).

#### **10A.10.5 General provisions relating to AQUA Products Committees**

AQUA Products Committees (referred to in this Rule 10A.10.5 as a committee) are to be constituted as set out below:

- (a) ASX may constitute such committees by appointing at least 3 members (or such higher odd number as it sees fit) of the AQUA Products Panel to such committee.
- (b) At least one member of any such committee must be an agent or employee of ASX or a Related Body Corporate of ASX.
- (c) No person who has an interest in the matter being considered by a committee may be appointed to, or take part in the deliberations of a committee. The fact a member or proposed member of a committee is an employee or agent of ASX, or a Related Body Corporate of ASX, will not be regarded as an interest.
- (d) Committee members may be appointed on such terms as ASX considers appropriate.
- (e) A committee may at any meeting appoint a chairperson for the purposes of the meeting.
- (f) A committee may hold meetings in such a manner as it sees fit.
- (g) The decision of a committee will be determined by simple majority vote of the committee members. Each member has and must exercise a deliberative vote. The chairperson has a deliberative but not a casting vote.
- (h) A committee may conduct proceedings without all members of the committee involved in the proceedings being in the physical presence of each other, provided that all members involved in the proceedings are able to participate in discussion.

**10A.10.6 Limitation of liability and indemnity**

ASX indemnifies each member of an AQUA Products Committee and each officer of ASX and each person acting for or on behalf of ASX against any liability arising in or in connection with the determination of an AQUA Products Committee, other than any liability that by law would attach to the member, officer or person in respect of any negligence, default, breach of duty or breach of trust of which the member, officer or person may be guilty in relation to ASX.

Amended 13/05/15

**10A.10.7 Indemnity for certain legal proceedings**

Notwithstanding anything contained in Rule 10A.10.6 ASX indemnifies each member of an AQUA Products Committee and each officer of ASX and each person acting for or on behalf of ASX against any liability incurred by the member, officer or person in defending any proceedings whether civil or criminal, in which judgement is given in favour of the member, officer or person or in which the member, officer or person is acquitted or in connection with any application in relation to any such proceedings in which relief is granted under the Corporations Act to the member, officer or person by any court of competent jurisdiction.

**10A.10.8 Appointment of AQUA Product Market Making Agents**

The following provisions apply in relation to an AQUA Product Issuer that has appointed a Trading Participant to perform AQUA Product Market Making functions.

- (a) Where an AQUA Product Issuer is not a Trading Participant or does not wish to directly make a market in all or some AQUA Product Series it must appoint a Trading Participant or Trading Participants as its AQUA Product Market Making Agent(s).
- (b) A Trading Participant appointed by an AQUA Product Issuer as its AQUA Product Market Making Agent must be registered with ASX as the Market Making Agent of the AQUA Product Issuer in accordance with the Procedures.
- (c) Notwithstanding the appointment of a Trading Participant as its AQUA Product Market Making Agent an AQUA Product Issuer is at all times responsible for the performance of its AQUA Product Market Making obligations for the relevant AQUA Product Series.

**10A.11 TRANSITIONAL ARRANGEMENTS****10A.11.1 Definitions**

“Old ASX Rules” means the ASX Operating Rules in force before the Transition Date.

“Existing Exchange Traded Product” means an AQUA Product that, immediately before the Transition Date, was admitted by ASX to Trading Status under Schedule 10A of the Old ASX Rules, and includes an AQUA Product admitted to Trading Status as an ETF Security, Managed Fund Product or Structured Product under Schedule 10A of the Old ASX Rules but:

- (a) its admission or trading in that product has been suspended under Rule 10A.3.1(f) or Rule 10A.8.1; or
- (b) the approval of the AQUA Product Issuer of that AQUA Product has been suspended under Rule 10A.2.3(c).

“Migration Period” means the period of 12 months commencing on the Transition Date.

“Transition Date” means 15 April 2024.

“Transition Product” means an AQUA Product that, immediately before the Transition Date, was admitted by ASX to Trading Status as a Managed Fund Product under Schedule 10A of the Old ASX Rules, and includes an AQUA Product admitted to Trading Status as a Managed Fund Product under Schedule 10A of the Old ASX Rules but:

- (a) its admission or trading in that product has been suspended under Rule 10A.3.1(f) or Rule 10A.8.1; or
- (b) the approval of the AQUA Product Issuer of that Managed Fund Product has been suspended under Rule 10A.2.3(c).

### **10A.11.2 Transition Products**

From the Transition Date:

- (a) each Transition Product is deemed to be admitted to Trading Status as an ETF Security under these Rules and subject to the same conditions to which such admission was subject (if any);
- (b) to the extent applicable under these Rules, any information or documentation (including applications or agreements) provided by an existing AQUA Product Issuer or existing Guarantor in respect of a Transition Product prior to the Transition Date pursuant to or referring to the Old ASX Rules is deemed to be information or documentation provided pursuant to or referring to these Rules;
- (c) to the extent applicable under these Rules, any determinations made by ASX in respect of a Transition Product prior to the Transition Date pursuant to the Old Rules are deemed to be determinations made by ASX pursuant to these Rules; and
- (d) Rule [2121] and this Schedule 10A apply to AQUA Product Issuers and Guarantors in respect of a Transition Product on the basis of Rule 10A.11.2(a), (b) and (c) as applicable.

### **10A.11.3 Existing Rules and Obligations in respect of Transition Products**

Nothing in these Rules affects any accrued rights which ASX or any other person has against an existing AQUA Product Issuer or existing Guarantor or any other person under the Old ASX Rules or any accrued obligations which an existing AQUA Product Issuer or existing Guarantor or any other person has under the Old Rules to ASX or to any other person in respect of a Transition Product. Without limiting this Rule, following the Transition Date:

- (a) ASX will continue to have jurisdiction in respect of any existing AQUA Product Issuer or existing Guarantor concerning any conduct or failure prior to the Transition Date in respect of a Transition Product;
- (b) Each existing AQUA Product Issuer or existing Guarantor or any other person continues to be bound by any warranty, undertaking or indemnity given prior to the Transition Date by such person under the Old ASX Rules to ASX or any other person in respect of a Transition Product; and

(c) The Old ASX Rules continue to apply in respect of any existing AQUA Product Issuer or existing Guarantor and any other person to the extent required to give effect to this Rule [10A.11.3] in respect of a Transition Product.

**10A.11.4 Effective date of naming requirements for Existing Exchange Traded Products**

The requirements in Rule 10A.5.1(a) and Rule 10A.5.3(a) (as applicable) do not apply to Existing Exchange Traded Products until the first Trading Day after the end of the Migration Period.