



ASIC
Australian Securities &
Investments Commission

Exchange traded products: Admission guidelines

This information sheet (INFO 230) is for licensed Australian exchanges that admit exchange traded products (ETPs), including certain managed funds, exchange traded funds (ETFs) and structured products. It sets out good practices to help ensure that admission and monitoring standards for ETPs continue to support fair, orderly and transparent markets, particularly in the context of ETPs that have unique or novel features.

These admission guidelines, which largely reflect current market practice, cover:

- › [approving ETP issuers](#)
- › [underlying assets](#)
- › [disclosure of portfolio holdings](#)
- › [liquidity provision and market making](#)
- › [securities lending](#)
- › [ongoing supervision of ETPs and issuers](#)
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Note that some of the good practices outlined in this information sheet may need to change over time as the market continues to grow and innovate. As this document changes, licensed Australian exchanges may need to adjust their operating rules accordingly.

Approving ETP issuers

For each new product application received, irrespective of whether an issuer has previously issued other products, licensed exchanges need to assess whether the issuer is able to fulfil its obligations (see below) in relation to that product. As gatekeepers for Australian financial markets, licensed exchanges have responsibility to set, and monitor continuing compliance with, admission requirements for ETP issuers to ensure, to the extent that it is reasonably practicable to do so, their ETP market is fair, orderly and transparent. In doing so, licensed exchanges should assess whether an issuer has adequate expertise, procedures, risk management, and human, technological and financial resources for the ongoing quotation of a particular product. This includes:

- confirming that the issuer holds and complies with all relevant licence authorisations and obligations under Chapter 7 of the Corporations Act 2001 (Corporations Act), including the relevant financial requirements
- reviewing the issuer's business, including:
 - the countries it operates in
 - information about funds managed (including over-the-counter (OTC) and exchange traded, number of ETPs, value of funds under management, number of investors), and
 - information about the parent company, such as its financial position and experience with ETPs
- confirming that the issuer has:
 - registry, portfolio calculation agent, market-making and custodian agreements in place with third-party service providers, and that these arrangements include appropriate information barriers where required. If the issuer seeks to perform any of these functions itself, it should have the resources, systems and controls necessary to enable it to reliably do so and in a manner that adequately manages conflicts
 - appropriate technology systems in place, and

- internal policies, procedures, systems and controls established, particularly related to information barriers where required, for both it and their third-party service providers
- assessing the skills and experience of key personnel (including the CEO, CFO, CIO, portfolio manager), number of staff and identity of third-party providers like investment managers
- reviewing the financial position of the issuer to verify that its financial resources are sufficient to support the product on admission and on an ongoing basis. The licensed exchange should have rules requiring the issuer to notify it if this situation changes, and
- assessing the level of exposure and any counterparty risk that a product with derivative exposure (both OTC and exchange traded) may contain or an issuer is exposed to.

While this information sheet seeks to provide guidance around certain novel or unique features of ETPs recently admitted to quotation, there will undoubtedly be other novel features or products (not currently captured) as the market continues to evolve. If a new ETP application has unique or new attributes for the Australian market, licensed exchanges should make a detailed assessment of these features and their application against the current regulatory framework, including ASIC guidance that may be relevant to issuers of ETPs. They should then discuss the application with ASIC before making an admission decision.

Underlying assets

Pricing of underlying assets

Licensed exchanges should be satisfied that the underlying assets of ETPs have robust and transparent pricing mechanisms. This supports market liquidity and gives retail investors confidence that they can transact in the ETP units at a price at, or closely resembling, the net asset value (NAV) of the underlying investment portfolio.

Where products have more complex or less liquid constituents, licensed exchanges should be satisfied and be able to demonstrate that there is a robust and transparent pricing mechanism in a range of market conditions, including those with a degree of market stress. If this pricing mechanism is compromised then the price may not be correct, leading to a lack of confidence in pricing which undermines orderly trading in the product. We would also expect licensed exchanges to consider whether any additional retail investor protections are appropriate where the underlying assets are considered illiquid, high risk or complex.

Where the underlying securities are fixed income instruments (e.g. debentures and bonds), they should generally be constituents of an index that is widely regarded by industry as having robust and transparent governance arrangements (such as the eligibility criteria for inclusion and transparent methodology for construction and maintenance of the index). Licensed exchanges should also be satisfied that the authorised participants in these products have access to sufficient information to reliably (and in a timely manner) determine the price at which the relevant debentures or bonds can be bought or sold.

Licensed exchanges should also consider the robustness and transparency of the index (where the ETP relies on an index), particularly in the case of a related party index provider. Licensed exchanges should verify where necessary that their arrangements with the benchmark/index administrator comply with recognised benchmark selection principles such as the International Organization of Securities Commissions (IOSCO) [Principals for financial benchmarks](#) (PDF 388 KB), the [EU Benchmarks Regulation](#) or other internationally recognised benchmark selection principles for any index relied on by the ETP. These principles relate to governance, quality of the benchmark and methodology, and accountability.

Derivatives

Issuers of ETPs with underlying holdings including derivatives should satisfy the licensed exchange that they are able to reliably measure the value of these derivative positions daily on a mark-to-market basis.

Where an issuer seeks to admit a product with a strategy that would rely on the use of derivatives (both exchange traded and OTC) on an ongoing basis for more than an immaterial extent (i.e. total notional value of more than 5% of the ETP's NAV but excluding derivatives used solely to hedge foreign exchange risk, other than in exceptional circumstances), the licensed exchange should impose regular disclosure obligations (at least monthly) to the market in relation to the total percentage of notional derivative exposure to the ETP's NAV.

Where an issuer intends to rely on using derivatives with total notional value of less than 5% of the ETP's NAV, the licensed exchange should have rules in place requiring the issuer to notify the market as soon as practicable when exceptional circumstances occur resulting in the use of derivatives with total notional value exceeding 5% of the ETP's NAV.

Where an issuer seeks to admit a product with a strategy that would rely on the use of OTC derivatives on an ongoing basis for more than an immaterial extent (other than in exceptional circumstances), the licensed exchange should impose additional requirements on the issuer in relation to:

- acceptable counterparties
- acceptable collateral
- direct access to collateral in the event of a counterparty default, and
- regular disclosure obligations (at least monthly) to the market in relation to:
 - the maximum percentage of OTC derivative exposure relative to the ETP's NAV on a mark-to-market basis
 - breakdown of collateral by security type, country, sector, currency and credit rating, and
 - swap costs.

This disclosure should include any reduction in the NAV of the ETP attributable to discounting the OTC derivative, reflecting any concerns the issuer has around the ability to recover the value of the OTC derivative.

Crypto-assets

Licensed exchanges may determine that crypto-assets can be permissible underlying assets for ETPs admitted to their market. Given the unique characteristics and risks of crypto-assets, we expect market operators to carefully assess, on an individual basis, whether it is appropriate for a particular crypto-asset to be a permissible underlying asset for ETPs admitted to their market. In conducting this assessment for crypto-assets that are not financial products, we expect market operators to be satisfied that:

- there is a high level of institutional support and acceptance of the crypto-asset being used for investment purposes
- reputable and experienced service providers (including custodians, fund administrators, market makers and index providers) are available and willing to support ETPs that invest in, or provide exposure to, the crypto-asset
- there is a mature spot market for the crypto-asset
- there is a regulated futures market for trading derivatives linked to the crypto-asset, and
- robust and transparent pricing mechanisms for the crypto-asset are available, both throughout the trading day and to strike a NAV price (see Pricing below).

These factors are intended to help support the maintenance of a fair, orderly and transparent market by ensuring that only crypto-assets that are sufficiently well regarded, capable of being supported within the ETP structure, and less susceptible to price manipulation may be permissible underlying assets.

In relation to assessing a high level of institutional support and acceptance, we suggest that the presence of the following may be relevant considerations for market operators:

- ETPs that hold the crypto-asset in comparable jurisdictions
- listed companies that deal in, or provide services in connection to, that crypto-asset in Australia or comparable jurisdictions
- large and well-regarded traditional financial institutions, in Australia or comparable jurisdictions, that provide services in relation to that crypto-asset to institutional clients, and
- unlisted investment products available to retail investors in Australia (e.g. registered managed investment schemes) that hold the crypto-asset and have a proven track record of operations consistent with the crypto-asset being able to meet the requirements for being held by an ETP.

In relation to assessing a mature spot market, we suggest a holistic assessment of the state of the spot market for the crypto-asset and its ability to support ETPs, considering factors such as:

- the number of major platforms dealing in the crypto-asset
- the value and frequency of trading activity across platforms
- the level of trading fees and bid–offer spreads
- the diversity of buyers and sellers
- the extent to which trading activity takes place on platforms that have policies and procedures to promote fair, orderly and transparent trading activity and address manipulation and other market integrity risks, and
- the effectiveness of arbitrage activity between major platforms and consistency of pricing across major platforms.

In relation to the presence of a regulated futures market, the standard of regulation we refer to is that of a licensed derivatives market which is required to maintain a fair, orderly and transparent market for trading in crypto-asset futures. For overseas markets in comparable jurisdictions, there should be standards that achieve equivalent regulatory outcomes. The futures market should be subject to oversight by a body empowered by law to supervise it.

Note 1: As at October 2021, bitcoin (BTC) and ether (ETH) appear likely to satisfy all five factors identified above to determine appropriate underlying assets for an ETP. We expect the range of non-financial product crypto-assets that can satisfy these factors will expand over time.

Note 2: The crypto-asset, bitcoin, and the network it trades on are both referred to by the same term. For clarity we use the term 'bitcoin' with a lower case 'b' to refer to the crypto-asset.

For crypto-assets that are also financial products, licensed exchanges may determine that a particular crypto-asset is a permissible underlying asset on the basis that the relevant class of financial product is a permissible underlying asset. The licensed exchange must still be satisfied that the crypto-asset is an acceptable underlying asset for ETPs admitted to its market and is consistent with maintaining a fair, orderly and transparent market.

Categorisation

For crypto-assets that are not financial products, it is good practice for licensed exchanges to establish a separate category of permissible underlying asset for these crypto-assets and use this as the basis to assess the ETP for admission – for example, by way of an 'eligible crypto-asset' category. This category could be defined by reference to the five factors above, or it could set out the specific crypto-assets which are considered to satisfy the factors.

In respect of crypto-assets that are also financial products, licensed exchanges should rely on the relevant class of financial product being a permissible underlying asset as the basis to assess the ETP for admission.

Pricing

There are unique challenges when pricing crypto-assets. To achieve a robust and transparent pricing mechanism for non-financial product crypto-assets, we consider it is good practice for market operators to verify that:

- the basis of the pricing mechanism for crypto-assets held by an ETP is a benchmark price or index published by a widely regarded provider that:
 - reflects a substantial proportion of trading activity in the relevant pair(s), in a representative and unbiased manner
 - is designed to be resistant to manipulation
 - complies with recognised benchmark selection principles such as the IOSCO [Principles for financial benchmarks](#) (PDF 388 KB), the [EU Benchmarks Regulation](#), or other internationally recognised benchmark selection principles
- pricing mechanisms which rely on a single crypto-asset spot market are avoided.

For crypto-assets that are also financial products, market operators should be satisfied that there is a pricing mechanism for those crypto-assets which is as robust and transparent as those used by non-crypto-assets of that class of financial product.

Admission and monitoring standards

For all crypto-asset ETPs, we expect market operators to be satisfied that the structure and operation of the product appropriately account for the unique characteristics and risks of crypto-assets. We expect market operators to consider the good practices for crypto-asset investment products set out in [Information Sheet 225 Crypto-assets](#) (INFO 225) and verify, as part of the admission process, that the structure and operation of the product seeking admission are consistent with the good practices outlined in INFO 225. It is also good practice that market operators periodically assess whether admitted crypto-asset ETPs are maintaining an appropriate structure and operation.

Disclosure of portfolio holdings

We expect that licensed exchanges will generally require ETFs and managed funds to publish, on a daily basis, the full portfolio of the ETP's holdings (or a creation/redemption basket which should generally closely reflect the portfolio of the ETP's holdings) along with the NAV per unit at the end of the trading day.

This portfolio transparency provides market makers and authorised participants with the ability to create and redeem units in the ETP to maintain liquidity. When there is increased demand relative to supply, the authorised participants apply to the issuer for units (called creation units) which can be settled by delivering a basket of securities or cash. Redemptions occur through a similar process. This process provides an arbitrage mechanism to help bring the value of the units back in line with the NAV under normal market conditions.

This portfolio holdings disclosure also allows retail investors and other market participants to assess the price of the units relative to the NAV.

If an issuer is relying on the equal treatment relief in [Class Order \[CO 13/721\]](#) when providing information to authorised participants, it must publicly disclose its portfolio holdings or creation/redemption baskets before the start of the trading day after the day on which the disclosure was made to authorised participants and provide an indicative NAV (iNAV) regularly (at least every 15 minutes) throughout the trading day.

Where an iNAV is provided, it is important that licensed exchanges are satisfied that it is calculated through systems that can be independently verified or by an independent third party with reasonably reliable and robust systems. The iNAV should be updated to reflect live market prices for underlying assets that are traded during Australian trading hours. Where the assets underlying the ETP are not traded during Australian trading hours, the iNAV could be based on the closing price adjusted for foreign exchange movements, with an additional adjustment for after-hours trading conditions where appropriate (e.g. by looking at moves in derivative markets, if they provide a reasonable proxy). In some circumstances, licensed exchanges may form the view that investors' interests are better served by not requiring the publication of an iNAV where it is unable to consistently and accurately reflect the ETP's fair value. The issuer should be expected to monitor the iNAV during local trading hours.

Delayed disclosure of portfolio holdings

In very limited circumstances, issuers may disclose full portfolio holdings on a delayed basis, rather than on a daily basis.

Internal market making

One such circumstance is when an issuer is relying on an internal market-making arrangement to protect the intellectual property of the fund. Licensed exchanges should work with issuers to achieve a situation where full portfolio holdings disclosure is delayed only to the extent necessary to protect the issuer's intellectual property, and full portfolio holdings disclosure must be provided at least quarterly with a delay of no more than two months. The issuer must also disclose an iNAV which should be disseminated as frequently as practicable, given the nature of the fund. The iNAV should be the issuer's best estimate of the ETP's value per unit throughout the trading day. Please refer to [Internal market making](#) below for further details.

Material portfolio information disclosure model

Another circumstance where delayed portfolio holdings disclosure is permitted is when an issuer is relying on material portfolio information (MPI) disclosure. Under this model, the issuer agrees with the market maker on the characteristics of the MPI that will be published to the market daily. For example, the MPI could be a basket of proxy assets, rather than the actual holdings of the fund. The issuer must disclose:

- the MPI at the start of each trading day
- an iNAV at least every 15 seconds throughout the trading day
- the tracking performance between the disclosed MPI and the full portfolio on a quarterly basis, and
- full portfolio holdings at least quarterly with a delay of no more than two months.

Liquidity provision and market making

Licensed exchanges should consider whether there is likely to be investor demand for a new product. They should also have rules requiring product issuers to provide adequate product liquidity in their ETP so that investors can consistently trade at a price that is close to the NAV of the ETP. Product issuers can choose to appoint a lead market maker or, in very specific circumstances, product issuers may adopt the role themselves. In addition, other market makers may be encouraged to provide liquidity by fee rebates and technology or technical services fee incentives offered by licensed exchanges.

Irrespective of the method adopted by product issuers, licensed exchanges should proactively monitor product liquidity on a regular basis (ideally daily) to satisfy themselves that:

- they have mechanisms in place to alert them when a market maker is absent from the market for an unacceptable period, and
- the agreed liquidity parameters for the ETP are being complied with by market makers.

If either of these factors is not being achieved, licensed exchanges will need to consider what action may be appropriate (e.g. suspension of trading, revoking admission or additional market-making obligations).

Licensed exchanges and issuers should consider whether the price at which an ETP is admitted, and the resulting minimum bid–offer spread in relative terms, is appropriate for the ETP’s strategy. Higher ETP prices can facilitate narrower bid–offer spreads as a percentage of traded prices because the minimum tick size is \$0.01 for all traded prices above \$2.

Licensed exchanges should make average bid–offer spreads for all ETPs available on a regular basis so investors can assess the cost of entering and exiting their investments.

Market makers appointed by product issuers

Product issuers generally appoint an independent third party that is a market participant to act as lead market maker in order to fulfil their own liquidity obligations.

A lead market maker’s role is to provide liquidity in secondary trading volumes and to quote within agreed spreads. Licensed exchanges should verify that product issuers:

- have entered into appropriate contractual arrangements to require their lead market maker to provide quotes that are tight and two-sided, sufficiently large in order size and available for most of the trading day, and
- have processes in place to monitor their lead market maker’s quoting performance on an ongoing basis.

Market makers earn their revenue from trading, and competition is a strong motivation to maintain tight bid–offer spreads that should then produce close alignment to the NAV and consequently to the iNAV. Ensuring that investors can trade at a price close to the NAV is critical to investor confidence in the market. The licensed exchange should closely monitor whether this is achieved consistently.

Internal market making

In very specific circumstances, licensed exchanges may allow the issuer to adopt the role of market maker (i.e. an internal market-making arrangement) on the fund’s behalf rather than using an independent third-party trading participant.

Under this arrangement, the issuer must appoint a trading participant to act as execution agent to enter bids and offers in the ETP units throughout the day on behalf of the ETP. At the end of the trading day, a net creation or redemption in the ETP units is performed by the issuer, or their appointed third party, and any profit or loss based on the market-making activity is attributed to the ETP. Disclosure of the ETP’s holdings is provided on a delayed, rather than daily, basis. Issuers typically seek to implement this arrangement if they consider there is a risk that others will use the ETP’s intellectual property, for example, by replicating the investment strategy to the ETP’s detriment.

Licensed exchanges should only allow internal market making and delayed portfolio holdings disclosure when there is a genuine need to protect the issuer’s intellectual property. While we acknowledge there are concerns for some issuers arising from daily portfolio holdings disclosure, timely transparency, which is ordinarily considered to be daily disclosure, is important, and we expect this to be the normal practice.

Factors that licensed exchanges should consider in assessing internal market-making arrangements include whether:

- the issuer and the trading participant appointed as execution agent have the appropriate competencies, resources, policies, procedures, systems and controls necessary to carry out their role in relation to the internal market making
- the internal market-making arrangement complies with the Corporations Act, including the prohibitions on market manipulation and insider trading, and the duties to act in the best interest of members, manage conflicts of interest and maintain withdrawal provisions that are compliant with section 601GA(4). Issuers are encouraged to seek legal advice explaining how their proposed arrangements will comply with the Corporations Act
- the input for market-making quotes is limited to publicly available information – for example, the iNAV, publicly available portfolio holdings disclosures, general market conditions and trading activity. Licensed exchanges should review internal compliance and supervision arrangements to verify that effective information barriers have been established at the issuer and its execution agent so that bids and offers are not submitted to the market by persons or systems with knowledge of the current portfolio holdings. If the execution agent also provides other services for the issuer (e.g. transaction hedging), the issuer should not provide the execution agent with material non-public information about the fund's portfolio holdings in connection with that service unless appropriate information barriers are established to segregate this information from the market-making service
- the iNAV is as accurate and is disseminated as frequently as practicable, given the nature of the fund. For example, for some funds, it may be better practice to incorporate adjustments (such as index futures) to reflect market movements in underlying assets that are not traded during Australian market hours. The licensed exchange should also be satisfied that the issuer has robust processes in place to maintain the integrity and continued distribution of the iNAV. For example, this could include the responsible entity undertaking its own monitoring and integrity checks or contracting with a second iNAV provider as a backup. Both a higher quality iNAV and more frequent publication of the iNAV can help to manage market integrity risks and enable investors to trade at prices that reflect the fund's current value
- the extent of the delayed disclosure is appropriate, given the nature of the fund. Licensed exchanges should work with issuers so that full portfolio holdings disclosure is delayed only to the extent necessary to protect the ETP's intellectual property. For example, it may be better practice for funds with higher portfolio turnover rates to provide full portfolio holdings disclosure more frequently than ones with lower portfolio turnover, as the risk of intellectual property being replicated is lower
- the arrangements regarding the bid–offer spread, minimum order size and time in market each trading day support exiting investors and incoming investors being able to transact at fair and orderly prices
- risk management processes (including processes to identify and respond to instances of heightened volatility, illiquidity events, large market movements and substantial information asymmetry in the market) are robust
- the contracts which underpin the internal market-making arrangement are appropriate, including confirming that any discretion afforded to the issuer to override the standing market-making instructions does not result in the arrangement being at risk of non-compliance with the insider trading prohibition
- there is adequate disclosure in the product disclosure statement (PDS) about the additional risks of the product. For example:
 - the ETP may not always be able to make a market in times of uncertainty about values, due to its duty to act in the best interests of members, and
 - the fund will bear the risk of market-making activities, which may result in a profit or loss to unit holders.

We consider that it is not appropriate to offer a market-making incentive scheme (e.g. trading fee rebates) for internal market makers. We also consider it is not appropriate for issuers to use 'treasury stock' in the course of conducting internal market making (i.e. units in the ETP that are part of the scheme property and held for market-making inventory purposes). Licensed exchanges should require that any units bought by the ETP must be cancelled before the next trading session.

There may be periods of time where there are substantial information asymmetries in the market – for example, where publication of the iNAV has ceased, the iNAV is no longer an accurate reflection of the fund's current value (due to technical malfunctions or stale data inputs) or when the responsible entity seeks to change the parameters of its market-making operations. In these circumstances, we consider it is better practice for the issuer to inform the market by announcement and cease market making until the information asymmetry is resolved. A further step may be to request a trading halt of units of the fund. It is up to the issuer, in conjunction with the market operator, to decide whether this action is in the best interests of unit holders, taking into account the type of event and how long it may take to be resolved.

Licensed exchanges should provide investor education about the differences between products with internal market making and other ETPs, including the risks unique to these arrangements.

Other market makers operating under a licensed exchange's fee rebate incentive scheme

Licensed exchanges may offer rebate agreements by which market makers that are independent of the product issuer receive a rebate on trading fees where they meet the required metrics (maximum spread, minimum size and time in market) for the product type in order to further promote liquidity. Licensed exchanges should not pay any trading fee rebates in excess of 100% of total trading fees (i.e. there cannot be a net payment for market makers to trade on a per transaction basis). Trading fee rebates should also be designed to promote liquidity levels, while ensuring fair and orderly trading. Licensed exchanges may offer technology or technical services fee incentives to registered market makers. Note that market makers are able to qualify for trading fee rebates without providing liquidity for the full trading day, and traded prices may occur at unfavourable prices during periods when market makers are absent. Licensed exchanges should monitor the presence of market makers and overall quote quality on an ongoing basis.

Securities lending

Issuers of ETPs that engage in securities lending practices should disclose this to investors in the PDS. Licensed exchanges, as part of the admission process, should verify that issuers have made adequate disclosures about:

- the reasons for the issuer engaging in securities lending
- the percentage of ETP assets that can be lent to third parties
- the potential risks to investors as a result of securities lending, including the potential impact on returns due to short selling by the borrower of those securities
- any fees earned by the issuer (or a related company of the issuer) from the securities lending arrangements. Where this applies, there should be relevant disclosures of any conflict of interest – in particular, there should be disclosure about how the revenues are shared between the issuer (acting as agent) and the ETP investors
- the types of collateral issuers will accept when undertaking securities lending, and
- the risk that collateralisation may not always prevent investors from losses.

Licensed exchanges should satisfy themselves that the issuer has appropriate collateral standards governing what types of assets may be obtained by the issuer as collateral under a securities lending arrangement.

Ongoing supervision of ETPs and issuers

Licensed exchanges are required to monitor the ETPs and issuers admitted to their market on an ongoing basis to ensure, to the extent that it is reasonably practicable to do so:

- a fair, orderly and transparent market, and
- compliance with the operating rules.

The licensed exchange needs to ensure that its own capabilities remain adequate as the market and range of products evolve (e.g. experienced staff, IT systems).

This will include proactive and frequent monitoring to check whether:

- issuers meet continuous disclosure and other disclosure obligations, including disclosure about tracking performance for ETPs that follow an index
- market makers comply with the agreed liquidity/spreads. For example, licensed exchanges should engage with issuers and market makers where there is insufficient liquidity or spreads are becoming too wide
- incentive schemes (e.g. rebates) for each product do not produce unnecessary intermediation
- issuers adhere to the ETP's intended derivative limits. Licensed exchanges may impose conditions requiring issuers to notify them when derivative exposures exceed permitted levels. In such cases, the licensed exchange should monitor the frequency of reporting and take appropriate action if the extent to which derivative exposures exceed permitted levels is unreasonable or greater than anticipated
- there are adequate procedures for managing situations where it may not be possible to sell close to the NAV (e.g. low liquidity ETPs, orderly wind-downs of ETPs or fund suspensions), and
- the ETP market has sufficient integrity and is adequately protecting retail investors.

Waivers

Licensed exchanges should not grant waivers from their operating rules to accommodate new ETP features on a case-by-case basis. There may be instances where minor technical issues do not require operating rule changes but may be dealt with by way of a waiver.

We recognise that there are significant innovations and global developments occurring in ETPs. Where licensed exchanges consider that their operating rules need to be amended for policy reasons to accommodate such innovations or developments, the licensed exchanges are encouraged to discuss these with ASIC.

Product-naming considerations

Licensed exchanges should verify that issuers have adopted appropriate product naming and descriptions in marketing their ETPs to retail investors. Retail investors frequently trade ETPs through execution-only brokers and may not receive a PDS. As a result, appropriate labelling helps them to better understand the key characteristics of these products. We consider that product names that more clearly reflect the nature of the product can assist in alerting retail investors to the type of product and associated risks.

Licensed exchanges should satisfy themselves that the product is true to label and supports the naming conventions in their rules or conditions of admission: see [Table 1](#). There may be complexities in the way a product operates, for example where a passive fund invests in an active fund from overseas. Where licensed exchanges become aware of an inconsistent labelling or marketing approach, they should take action with the issuer.

Licensed exchanges should encourage naming that helps retail investors to clearly differentiate between the different types of risks associated with the different types of ETPs, in particular between:

- passive and active investment strategies
- index-based and non-index-based ETPs
- ETPs that have material exposure to derivatives, and
- ETPs that are structured as managed investment schemes and other ETPs.

The naming guidelines in [Table 1](#) are to be applied in relation to the title of the ETP and descriptions in the PDS, and any marketing material.

Table 1: Product-naming guidelines

Product-naming considerations	Factors to consider
ETF	<p>ETF can only be used as a standalone term in the title and descriptions in the PDS, and any other marketing material for collective investment vehicles (such as registered managed investment schemes) that have a passive investment strategy and seek to replicate or track the performance of an index, a specified combination of multiple indices, or other widely regarded/available benchmark (e.g. currency pair or commodity), the value of which is continuously disclosed or can be immediately determined.</p>
Active ETF	<p>The term 'active ETF' can be used in the title and descriptions in the PDS, and other marketing material for collective investment vehicles that buy and sell investments based on an active investment strategy or where they seek to outperform a particular benchmark. These funds must not be labelled ETFs without also including the word 'active' and should also include the words 'managed fund' (e.g. ABC Active ETF (Managed Fund)).</p> <p>Where the label 'active ETF' is used, the fund must be marketed as having an active management investment strategy (i.e. the impression should not be given that it has a passive management investment strategy or that it aims to track a benchmark).</p>
Hedge fund	<p>ETPs that meet the hedge fund criteria in Regulatory Guide 240 Hedge funds: Improving disclosure (RG 240) need to use the words 'hedge fund' in their name (e.g. ABC Fund (Hedge Fund) or ABC Hedge Fund). ETPs that would be regarded as a fund of hedge fund in RG 240 will need to use the words 'hedge fund' or 'fund of hedge fund' in their name (e.g. ABC Fund (Fund of Hedge Fund) or ABC Fund of Hedge Fund).</p> <p>Hedge funds are a subcategory of managed funds which use alternative investment strategies that can expose investors to more diverse and complex risks than other types of managed funds.</p> <p>A hedge fund is a registered managed investment scheme which is either promoted as a hedge fund or exhibits two or more of the characteristics described in RG 240 which include:</p> <ul style="list-style-type: none"> • a complex investment strategy or structure • use of debt for the dominant purpose of making a financial investment • derivative use • engaging in short selling, and • charging a performance fee. <p>The labels 'synthetic' or 'managed fund' do not need to be used where the fund is labelled 'hedge fund'.</p>

Product-naming considerations	Factors to consider
Managed fund (quoted)	<p>Collective investment vehicles that are not permitted to use the label 'ETF' or are not required to be named 'hedge fund', need to use the words 'managed fund' in their name (e.g. ABC Fund (Managed Fund) or ABC Managed Fund).</p> <p>The purpose of this requirement is to distinguish these vehicles from those that aim to passively track an index.</p>
Synthetic	<p>An ETP admitted to trading status is to be considered synthetic where it is intended to use derivatives to achieve a material exposure to the underlying instruments described in its investment strategy. The 'synthetic' label has been used to help investors understand the method being used to replicate the underlying index or instrument.</p> <p>An ETP must use the label 'synthetic' unless the PDS makes clear that the investment strategy would not permit it to hold notional derivative exposures that in aggregate relate to underlying assets valued at more than 10% of the NAV of the ETP apart from in exceptional circumstances (in which case the issuer will take action as soon as practicable to reduce the exposure below the limit). Derivatives used solely to hedge foreign exchange risk of the underlying assets can be excluded for the 10% limit.</p> <p>The word 'synthetic' needs to be included in the ETP's name (e.g. ABC Fund (Synthetic) or ABC Synthetic Fund).</p>
Structured products	<p>A security or derivative which gives financial exposure to the performance of underlying instruments needs to use the words 'structured product' in its name (e.g. ABC (Structured Product) or ABC Structured Product).</p> <p>Types of structured products include exchange traded commodities (ETCs) and exchange traded certificates and exchange traded notes (ETNs).</p> <p>Structured products may be labelled 'collateralised structured product' where the relevant PDS makes clear that investors' entitlements are enforceable and will at all times be adequately secured by a proprietary interest in physical holdings valued at 95% or more of the market value of the structured product.</p> <p>A structured product must not use the label 'ETF', 'active ETF', 'managed fund' or 'hedge fund'.</p>

Other types of ETPs

Single underlying asset

Where an ETP directly holds a single underlying security passively in trust to maturity or on an ongoing basis and does not actively manage or trade it, the product may not be described as an ETF or active ETF. These products may be, but are not required to be, labelled as a managed fund.

This does not apply to an ETP whose underlying asset is a collective investment vehicle (e.g. feeder fund). In these situations, a licensed exchange should adopt a 'look through' approach to the holdings of the underlying asset to determine appropriate naming.

Smart beta or rules-based products

Smart beta, factor, multi-asset and quantitative or rules-based ETPs are increasingly common and may seek to provide additional diversification or return enhancements relative to traditional market capitalisation benchmarks. These types of products can fall into a grey area, where the strategies are a hybrid between active and passive investment management.

If collective investment schemes do not meet the ETF labelling criteria, they must be labelled as 'managed funds' or 'hedge funds' and they may (where not misleading) be labelled as active ETFs. However, where such ETPs are not truly active and it may be misleading to use 'active ETF', they may use the label 'managed fund'.

Where a collective investment vehicle seeks to outperform a benchmark and makes investment decisions on a discretionary basis, it may be appropriate to use the label 'active ETF'.

Where the ETP uses one of these types of investment strategies but is not a collective investment vehicle, it should be labelled 'structured product'.

Leveraged/inverse ETPs

The use of leveraged or inverse ETPs (1X, 2X, 3X) with daily resets has not currently been permitted given the inability for these products to exactly replicate the specified multiples of an index over more than one day (because of the compounding effect of the daily reset function) and concerns that retail investors fail to understand the implications of the product being held for a period longer than one day.

Other types of ETPs that provide material leveraged/inverse exposure to an underlying reference asset are able to be considered for admission where the target range for the leveraged/inverse performance of the ETP is clearly identified in its PDS. The exposure of these ETPs is reset where its exposure deviates from its prescribed range. These types of ETPs must be labelled 'managed fund', 'hedge fund', 'synthetic managed fund' or 'structured product' as appropriate.

Important notice

Please note that this information sheet is a summary giving you basic information about a particular topic. It does not cover the whole of the relevant law regarding that topic, and it is not a substitute for professional advice.

You should also note that because this information sheet avoids legal language wherever possible, it might include some generalisations about the application of the law. Some provisions of the law referred to have exceptions or important qualifications. In most cases, your particular circumstances must be taken into account when determining how the law applies to you.

This is **Information Sheet 230 (INFO 230)**, reissued in October 2021. Information sheets provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

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