REPORT 750

Response to submissions on CP 356 ETP naming conventions: Updates to INFO 230

November 2022

About this report

This report highlights the key issues that arose out of the submissions received on Consultation Paper 356 *ETP naming conventions: Updates to INFO 230* and details our responses to those issues.

About ASIC regulatory documents

In administering legislation ASIC issues the following types of regulatory documents.

Consultation papers: seek feedback from stakeholders on matters ASIC is considering, such as proposed relief or proposed regulatory guidance.

Regulatory guides: give guidance to regulated entities by:

- explaining when and how ASIC will exercise specific powers under legislation (primarily the Corporations Act)
- explaining how ASIC interprets the law
- describing the principles underlying ASIC's approach
- giving practical guidance (e.g. describing the steps of a process such as applying for a licence or giving practical examples of how regulated entities may decide to meet their obligations).

Information sheets: provide concise guidance on a specific process or compliance issue or an overview of detailed guidance.

Reports: describe ASIC compliance or relief activity or the results of a research project.

Disclaimer

This report does not constitute legal advice. We encourage you to seek your own professional advice to find out how the Corporations Act and other applicable laws apply to you, as it is your responsibility to determine your obligations.

This report does not contain ASIC policy. For information on ASIC's approach to the exchange traded product (ETP) naming conventions, please see Information Sheet 230 *Exchange traded products: Admission guidelines* (INFO 230).

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A Overview

1 In Consultation Paper 356 *ETP naming conventions: Updates to INFO 230* (CP 356), we requested feedback on stakeholder experiences to date with exchange traded product (ETP) naming conventions in Information Sheet 230 *Exchange traded products: Admission guidelines* (INFO 230), and consulted on proposals aiming to simplify the naming conventions and promote flexibility for the next phase of ETP market development.

2 We received five confidential and five non-confidential responses to CP 356 from a range of stakeholders, including market operators, market participants, product issuers, financial advisers and industry associations. Some of the submissions we received reflected the views of multiple stakeholders. We are grateful to respondents for taking the time to send us their comments.

3 This report highlights the key issues that arose out of the submissions received on CP 356 and our responses to those issues. It is not meant to be a comprehensive summary of all responses received.

4 For a list of the non-confidential respondents to CP 356, see Appendix 2. Copies of these submissions are currently on the CP 356 page on the ASIC website.

Feedback received

5 Our request for feedback on stakeholder experiences with INFO 230 revealed a broad consensus that:

(a) ETP naming conventions provide useful guidance for investors (although with some limitations);

(b) ASIC should continue to outline ETP naming conventions for licensed exchanges and product issuers; and

(c) the current ETP naming conventions should be updated.

6 Respondents were also largely supportive of our specific proposals. Notably, there were no objections to the retirement of the existing ‘Managed Fund’ label, and corresponding expansion of the use of the ‘ETF’ label. Most respondents were also of the view that any transition to updated ETP naming conventions should also apply to all existing products to ensure a level playing field across the industry and reduce investor confusion.

7 The main issues with our proposals raised by respondents related to:

(a) the need to ensure consistency between licensed exchanges in the frameworks around, and application of, updated ETP naming conventions; and

(b) details of the proposed secondary naming conventions, particularly the derivatives use limb in the definition of 'Complex'.

Summary of updates to INFO 230 and transitional arrangements

8 ASIC has considered all the submissions we received in relation to CP 356. We have revised our final updates to INFO 230 to address issues raised by respondents in relation to our proposals. These changes include:

(a) updates to the definitions of secondary labels 'Active' and 'Complex' to improve clarity;

(b) new guidance targeted at 'dual access' or 'dual entry-exit' ETPs;

(c) clarification of the role of licensed exchanges and how the labels should be applied; and

(d) a simpler approach to the appearance of the labels, removing the use of brackets for secondary labels.

9 In this report, we have outlined a suggested two-stage approach to an industry-wide transition for all ETPs to updated naming conventions. Further details of any such transition, including the timing, will need to be mapped and coordinated by the licensed exchanges.

10 We have also reviewed and updated information on the MoneySmart website concerning exchange traded funds (ETFs). We strongly encourage all ETP industry stakeholders to consider how they can contribute to investor education.

B Updated ETP naming conventions

Key points

In Section B of CP 356, we proposed updating our guidance in INFO 230 on ETP naming conventions to improve consistency and reduce confusion and uncertainty from the current naming conventions.

The majority of respondents agreed with, or had no objections to, the two-level naming convention approach we proposed.

Our proposal to use 'ETF' and 'Structured Product' as primary labels, retiring the use of 'Managed Fund', was supported by most respondents. However, the proposal to define two secondary labels 'Active' and 'Complex' generated a wide range of views.

In our updates to INFO 230, we have retained the proposed two-level naming structure, as well as the two secondary labels 'Active' and 'Complex'. We have revised the definitions of the secondary labels to improve clarity in response to stakeholder feedback.

Retaining and updating ETP naming convention guidance

11 In CP 356, we proposed to continue to outline product naming conventions in INFO 230 as good practice guidelines for the admission of ETPs. We proposed revising the existing naming conventions by dividing them into two levels of labelling:

(a) primary labels—to distinguish between types of financial products that are ETPs; and

(b) secondary labels—signifying the risks and strategies of the products.

12 Primary labels are intended to be applied to all ETPs (i.e. all ETPs should be able to fit into one or the other category). Secondary labels apply in addition to primary labels, but only for ETPs that meet specific criteria.

13 ETPs are a relatively new type of financial product with features and risks that are not well understood by many investors and can vary across products. For this reason, we also requested feedback on how to support or encourage investor education on different ETP product features.

Stakeholder feedback

14 There was agreement among respondents that ASIC should continue to outline ETP naming conventions for licensed exchanges and product issuers, but that the current naming conventions required updating. Reasons provided for why the naming conventions should be updated included:

(a) improving the relevance of the conventions in light of more recent developments and the evolution of the ETP market;

(b) enhancing information available to investors; and

(c) increasing transparency.

15 The majority of respondents agreed with, or had no objections to, a two-level labelling approach in principle. However, some respondents raised concerns, qualifications or made additional comments. These included:

(a) suggestions that a single level of naming conventions could be adopted without changing the ultimate outcome;

(b) responses highlighting the limitations of naming conventions—labels may not highlight all features and risks, or explain relevant features and risks to an investor; and

(c) concerns with ensuring there is consistency in the application of updated naming conventions.

16 The submissions we received contained numerous suggestions and ideas on how to support or encourage investor education on different ETP product features. These responses highlighted the role that different stakeholders—including exchanges, retail brokers, product issuers and ASIC—can play in contributing to a more informed investor community.

ASIC's response

We have updated our guidance on naming conventions for ETPs in INFO 230 and adopted the proposed two-level approach defining primary and secondary labels.

The final updates reflect our view that a small number of prescribed labels, combined with other elements of the product name (e.g. name of the issuer and/or investment manager, name of the index the product intends to track, or summary of the investment strategy), are a useful way to alert investors to different product types, as well as flag that a product has features or risks that may require them to undertake further assessment before investing.

As noted in CP 356, we do not expect the name of a product, or any labels attached, to fully inform investors of all key characteristics and, therefore, risks of a product. The purpose of the labels is to promote a degree of consistency in terminology and serve as a starting point for investor education on different product features.

To support investor education in ETPs, ASIC has reviewed and updated information on ETFs on the MoneySmart website. Further updates to MoneySmart are planned for the transitional period once the new labels are in use.

We strongly encourage all ETP industry stakeholders to consider how they can contribute to investor education. This includes opportunities for different stakeholder groups to work together to reach a greater number of prospective and existing investors.

Primary labels—ETP naming conventions by product type

17 In CP 356, we proposed a new set of minimum standards for labelling ETP product types. The primary label is intended to differentiate between ETPs that are:

(a) collective investment vehicles (CIVs) (e.g. managed investment schemes, including those that hold a single asset on trust until maturity, and corporate collective investment vehicles (CCIVs))—which are labelled as ‘Exchange Traded Funds’ or ‘ETFs’; and

(b) structured products (e.g. products that are open-ended and structured as derivatives, redeemable preference shares or debt securities)—which are labelled as ‘Structured Products’. In CP 356, we requested feedback on a suitable abbreviation for this category of products.

18 In practical terms, this proposal would result in retirement of the existing ‘Managed Fund’ label and expansion of the use of the ‘ETF’ label.

Stakeholder feedback

19 No respondents objected to the proposal to expand the use of the label ‘ETF’. There was broad consensus that the existing ‘Managed Fund’ label was not effective and should be retired to reduce investor confusion.

20 However, some respondents raised concerns that the use of the term ‘ETF’ for all CIVs may not be well suited to products that are ‘dual access’—that is, ETFs where investors have a choice to either buy and sell units on an exchange, or to invest and redeem units directly with the responsible entity. The concern was that the ‘ETF’ label (and secondary labels, if applied) could potentially be confusing to existing unitholders of funds that have transitioned from being unlisted to dual access, who hold unlisted units either directly or through a platform.

21 Most respondents did not object to the proposed ‘Structured Product’ label. However, it was argued that the label has negative connotations, and that ‘Exchange Traded Commodities’ (ETCs) should be carved out as a separate category of products. There were mixed views on whether to adopt a standard abbreviation for ‘Structured Products’, with some noting that an abbreviation may not be informative to investors.

22 In addition to the above, the majority of respondents agreed that:

(a) issuers of listed investment products such as listed investment companies (LICs) and listed investment trusts (LITs) should be unable to use the term ‘Exchange Traded Fund’ or ‘ETF’ for these products; and

(b) CCIV sub-funds should be considered within the same conventions as managed investment schemes.

23 Respondents also provided several suggestions to clarify the differences between product types when comparing quoted managed investment schemes and quoted CCIV sub-funds to LICs, LITs and other listed investment products.

ASIC's response

In our updated INFO 230 guidance, we have adopted the two primary labels consulted on—'ETF' and 'Structured Product'—and retired the previous 'Managed Fund' label. We have also added a new section to our guidance to clarify how the labels should be applied to 'dual access' or 'dual entry-exit' ETPs.

'Dual access' ETPs

We are of the view that these products should not be treated differently because:

- there is no inconsistency or inaccuracy in labelling a dual access product an 'ETF'. Once the product is admitted to quotation on a licensed exchange, it is an ETF because all units are fungible, and unitholders are able to equally participate in on-market trading (even if units are also able to be acquired/disposed of off market); and
- any potential investor confusion is manageable through communications with unitholders at the time the product is admitted to quotation—we expect responsible entities of products that transition to the dual access structure to inform their existing members of this and make them aware that on-market and off-market entry and exit mechanisms are now available for the product.

We consider it important that the same product (regardless of the method of access) is not marketed with different names to different groups of investors. The increasing popularity of dual access structures makes this an important area for investor education in the short term.

Structured products

We have retained the use of 'Structured Product' as the label for products that are admitted as ETPs but are not structured as CIVs. We have indicated that 'Structured' may be used as a standard abbreviation for these products.

Exchange traded commodities or 'ETCs'

We do not agree that the term 'exchange traded commodity' or 'ETC' should be used for 'Structured Products' that provide exposure to commodities. This would be liable to confuse investors because:

- under this proposal, some ETPs providing exposure to commodities would be ETFs (where structured as a CIV) while others would be ETCs (when structured as a 'Structured Product');

- the use of 'ETC' in this context would be different to international uses we are aware of. There is not presently a clear international consensus around the use of 'ETC' that justifies an exception being created in this jurisdiction; and
- the ETPs that will meet the definition of 'Structured Product' are admitted to quotation on licensed exchanges as 'Structured Products'. 'ETCs' are not recognised as a product type in the licensed exchanges' operating rules, procedures or ETP admission frameworks.

LICs, LITs and other unlisted/unquoted funds

We would support licensed exchanges that list LICs and LITs making it clearer in their operating rules or procedures that such products should not use the term 'ETF' in their names.

We do not provide product naming or labelling conventions guidance to responsible entities of unlisted/unquoted funds (beyond not being false or misleading) due to limitations in the scope of our regulatory remit. ETP naming conventions are applied and implemented through the operating rule frameworks of licensed exchanges.

Secondary labels—Naming conventions related to risks and strategy

24 In CP 356, we proposed to continue to provide good practice guidance for licensed exchanges in applying risk-based and strategy-based labels for ETPs. Specifically, we proposed to provide guidance on two secondary labels for ETFs:

(a) Active—ETFs that:

(i) buy and sell investments based on an active investment strategy; or

(ii) disclose their full portfolio holdings on a delayed basis under internal market making or material portfolio information disclosure models.

(b) Complex—ETFs that:

(i) have leveraged or inverse exposures;

(ii) employ short selling;

(iii) use derivatives (other than for exchange rate hedging purposes) to gain material economic exposure to affect the underlying investment strategy; and/or

(iv) otherwise meet the definition of a hedge fund in Regulatory Guide 240 *Hedge funds: Improving disclosure* (RG 240).

25 Where a product applies the 'Complex' label, it would not have to apply the 'Active' label.

26 We proposed not to provide any guidance on secondary labels for ‘Structured Products’.

Stakeholder feedback

27 The majority of respondents supported ASIC continuing to provide good practice guidance on specific risk-based or strategy-based labels.

28 However, several respondents raised general and specific issues with ASIC’s two proposed secondary labels. The key themes from the responses were:

(a) general support for the proposed ‘Active’ label; and

(b) some reservations about the proposed ‘Complex’ label.

29 Most of the submissions we received on the ‘Active’ label were about clarifying its scope and application. Respondents provided a much more diverse range of views in relation to the ‘Complex’ label proposal. In summary:

(a) most respondents supported the rationale for a single label for more ‘complex’ products. Some of these respondents noted that although a single label does not advise an investor of the type of risk or its materiality, it could potentially alert investors to the presence of additional risk factors and that they should seek additional information; and

(b) a smaller number of respondents concluded that a general label for products with a range of risks would not be helpful to investors because of the lack of specificity. Some of these respondents proposed that instead of a single label intended to alert investors to a range of additional risk factors, ASIC should define and provide guidance on a series of more specific secondary labels.

30 Most respondents agreed that, if the ‘Complex’ label was adopted, the proposed definition required amendments, specifically in relation to the use of derivatives. Respondents considered the definition too narrow, potentially capturing more uses of derivatives than intended or thought preferable (e.g. by not excluding interest rate hedging). One respondent was of the view that crypto-asset funds should apply the ‘Complex’ label due to the differing nature of the underlying asset’s risks.

31 In totality, we received submissions that the ETP naming conventions framework could define a range of features including passive/active, transparent/non-transparent, open-ended (to differentiate ETPs from closed-ended products traded on an exchange), leveraged, inverse, different types of derivatives usage, hedge funds and ETCs.

ASIC's response

We have adopted our proposal to provide guidance on two secondary labels, 'Active' and 'Complex', with changes to the definitions of these labels to address stakeholder feedback. In our final guidance both the secondary labels have been made product-type neutral—they could be applied to either ETFs or 'Structured Products'. We have also clarified that secondary labels are intended to apply exclusively. A product that must apply the 'Complex' label will not need to also apply the 'Active' label.

The purpose and limitations of ETP naming conventions

In considering whether to adopt our proposal to simplify our guidance and define only two secondary labels, we considered a range of factors.

Detailed prescriptive labelling of specific product features has several potential disadvantages, including:

- greater potential for inconsistency of application between licensed exchanges;
- potential need to apply multiple labels if a product fits into more than one category, or attempt to manufacture hierarchies between labels to avoid this; and
- increased regulatory and stakeholder effort to regularly review and update the list of labels, with flow-on impacts to product names, to mitigate some of the issues above as the ETP market evolves over time.

As noted above, most submissions we received on the proposed secondary labels acknowledged the merits of a simpler approach, while also highlighting areas for improvement. We considered the evolution of the Australian ETP market to date, mix of products currently admitted to quotation, and expected future direction. At present, we consider it is more likely to be useful to investors to designate two secondary labels, 'Active' and 'Complex', as a marker or flag for these products.

Interaction with 'true to label' considerations and the discretion of licensed exchanges

Some of the limitations inherent in simplified secondary labels can be counterbalanced by increased focus or emphasis on broader 'true to label' considerations.

In practice, the exchanges must exercise judgement in considering whether the full trading name of a product (including any labels applied) is appropriate. However, we also agree with submissions we received that our original proposal to reference the licensed exchanges having discretion in applying the secondary labels is problematic if it suggests different treatment of similar products is intended under our guidance.

To address these issues, we have revised INFO 230 to remove the reference to exchange discretion and clarify the scope of our guidance and the role of the exchanges in implementing it.

Secondary labels should be applied to the trading names of all ETPs that meet the relevant definitions. We have also made an important amendment to the definition of 'Complex' to reflect that, in the absence of a set of prescribed detailed labels, it is good practice for the full product name to indicate the specific risks, strategies or features that gave rise to the application of the 'Complex' label.

We believe this approach balances the aims of:

- highlighting a range of more complex products to investors in a simple way using a 'label', and
- encouraging the identification of specific risks or features somewhere in the product name, where possible, without prescribing or limiting the descriptors that might be used for this purpose.

Active

Based on stakeholder feedback, we have amended the definition of 'Active' to link it directly to the concept of a 'robust and transparent index or benchmark'. This label will apply to products where the objective is to outperform an index or which are benchmark unaware. Related to this, the section on smart beta or rules-based products has also been updated. These products may be 'ETFs' or 'Active ETFs', depending on whether the product tracks a robust and transparent index or benchmark.

Complex

As noted above, the 'Complex' label needs to be interpreted and understood in the context of its purpose as a flag to investors that there may be elements of the product that require more detailed consideration.

Derivatives use

We have made amendments to the definition of 'Complex' to clarify when the label should be applied to funds that use derivatives. Key changes to this definition include:

- clarification that the intent of the derivatives use limb is to identify products with a higher risk profile because of *non-temporary* material exposure to derivatives to implement the underlying investment strategy; and
- expansion of the exclusion to include disclosed hedging of exchange rate or interest rate risks, similar to RG 240.

We have also included additional guidance for licensed exchanges on how to assess 'materiality' under the derivatives usage limb to address stakeholder concerns about consistency of approach. Similar to the previous 'Synthetic' definition, we expect exchanges to consider whether the ETP could have notional derivative exposures that in aggregate relate to underlying assets valued at 10% or more of the net asset value of the ETP. However, this threshold should be used as a guide and should not itself be determinative.

Crypto-assets as an underlying asset of the ETP

We have not included ETPs that provide exposure to crypto-assets within the 'Complex' label (except where an ETP would otherwise meet the 'Complex' definition). While crypto-assets are a very risky and volatile class, and can be complex for individual retail investors to directly engage with, our view is that the ETPs with crypto-assets as an underlying assets are not 'Complex' ETPs for the purpose of these naming conventions. We expect that crypto-assets would be identified within the broader 'true to label' considerations.

C Implementation and other topics

Key points

In Section C of CP 356, we asked for feedback on the implementation of updated ETP naming conventions, including proposals to encourage increased consistency in the way the labels appear, and the desirability of further clarification of the role of licensed exchanges.

Most respondents were supportive of a standard location and appearance for the labels, as well as a consistent approach to ETP naming in the rule frameworks of licensed exchanges. We have adjusted our proposed approach to the appearance of the labels following stakeholder feedback to remove the use of brackets for secondary labels.

We also received very valuable feedback on transitional arrangements. All respondents who considered this issue agreed that all existing ETPs should transition to the updated labels in principle. Based on the feedback we received, we have provided a suggested approach for a two-stage transition in this report. The details of this transition will need to be coordinated by relevant licensed exchanges.

Conventions concerning the appearance of any labels applied and the role of licensed exchanges

32 We proposed to update INFO 230 to include general conventions that:

(a) labels should appear at the end of the product name;

(b) any relevant secondary labels should appear in brackets—for example, 'Name of Fund (Active) ETF' or 'Name of Fund ETF (Active)'; and

(c) issuers or licensed exchanges should take steps to ensure that relevant naming conventions appear in all instances where a product name is used.

33 We also proposed to work with licensed exchanges that authorise and admit ETPs to quotation to increase certainty through the implementation of a more consistent, market-wide approach to ETP naming conventions at the time of admission and on an ongoing basis.

Stakeholder feedback

34 Most respondents who provided submissions on this point were supportive of a standard location and appearance for labels. More than one respondent raised issues in relation to the use of brackets for secondary labelling—for example, noting that there may be confusion with the ticker, which also appears in round brackets.

35 Most respondents agreed with ASIC's proposals that licensed exchanges should implement more consistent rules concerning ETP naming conventions at the time a product is admitted and on an ongoing basis. Several respondents emphasised that increased consistency might help to minimise the potential for differences in interpretation of the rules of licensed exchanges and ASIC's guidance.

36 Some respondents requested clarification of ASIC's role in ensuring consistency of outcomes from our guidance. One respondent also requested we clarify whether ASIC's guidance applies to the registered or trading name of a product.

ASIC's response

Appearance of the labels

We have revised our guidance to indicate that the display of the labels should be at the end of the product trading name, with the secondary label appearing immediately before the primary label.

Registered name versus trading name

In response to a submission on this point, we have clarified in INFO 230 that the labels should be applied to the trading name of a product (the name that appears on the licensed exchange's website, in marketing materials and the product disclosure statement (PDS)).

Role of licensed exchanges

We expect the licensed exchanges currently active in admitting ETPs to trading status to consider whether it is possible to develop rule frameworks that are more consistent with each other to support the implementation of ASIC guidance, including the transition described below. We understand that this may involve the exchanges holding further consultation with industry on any proposed rule changes and the transition.

ASIC's role in implementation of INFO 230 guidance

ASIC monitors trends in ETP admissions through regular compliance meetings with the licensed exchanges who admit these products to quotation. We also review specific product admissions on a case-by-case basis when they are referred to us by one of the licensed exchanges.

We expect that during the transition, for any products where there is uncertainty on how to apply our updated ETP naming conventions guidance, the application should be referred to us by the licensed exchanges for review prior to admission.

Transitional arrangements

37 In CP 356, we asked for feedback on whether the transition to new primary labels should be made mandatory (for all ETPs or classes or subsets of ETPs) to promote consistency across the industry and reduce investor confusion.

Stakeholder feedback

38 All respondents who provided submissions on whether the transition to new primary labels should be made mandatory supported a transition to new labels for all existing ETPs in principle. Stakeholders provided different recommendations for the length of such a transition period, with some noting that the transition should allow for updates to coincide with periodic rollovers of PDSs.

ASIC's response

Based on industry support and noting that this is also the best outcome from an investor perspective, we strongly support the licensed exchanges overseeing a coordinated transition to new ETP naming conventions for all existing ETPs when they are ready to do so. This transition will primarily affect products that were labelled 'Managed Funds' and 'Hedge Funds' under the previous guidance.

To ensure an orderly process, we suggest the transition be completed in two stages:

- Stage 1: Licensed exchange preparation and readiness; and
- Stage 2: Industry transition to new naming conventions (a period of at least 12 months from a defined start date).

Stage 1 of the transition will include all the steps (operating rule changes, system and other process changes) that the licensed exchanges will need to complete to prepare for the industry transition. The licensed exchanges have indicated that they need time to develop plans for the transition in detail, including identification of any areas where further consultation with industry or work with data vendors is required. We expect the exchanges to provide updates to the market about expected timeframes as they progress this work.

Stage 2 will commence when both licensed exchanges currently active in admitting ETPs to quotation are ready for the industry transition. We suggest that a period of at least 12 months should be allowed for this stage of the transition so that updates can coincide with periodic rollovers of the PDS.

To the extent that it can be supported by existing system settings, rule and other admission frameworks, we encourage exchanges to consider whether they can allow new ETPs admitted to quotation following the publication of this report to use the updated ETP labels from the time of admission.

Otherwise, our expectation is that new products will be admitted using the labels in their trading names required under the previous guidance on ETP naming conventions in INFO 230 until the Stage 2 transition of all other existing products: see Appendix 1 for a summary of our previous guidance.

A transition to the new naming conventions for existing products will result in costs for the industry. We commend affected stakeholders for their commitment to implementing a consistent outcome for Australian investors.

Appendix 1: Previous guidance on ETP naming conventions

39 Our previous INFO 230 guidance on ETP naming has been included here for reference during the transition period.

Table 1: Previous INFO 230 product naming guidelines

Product naming considerations	Factors to consider
ETF	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.
Active ETF	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)). 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).

Product naming considerations	Factors to consider
Hedge fund	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). 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. 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: • 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. The labels 'synthetic' or 'managed fund' do not need to be used where the fund is labelled 'hedge fund'.
Managed fund (quoted)	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). The purpose of this requirement is to distinguish these vehicles from those that aim to passively track an index.

Product naming considerations	Factors to consider
Synthetic	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. 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. The word 'synthetic' needs to be included in the ETP's name (e.g. ABC Fund (Synthetic) or ABC Synthetic Fund).
Structured products	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). Types of structured products include exchange traded commodities (ETCs) and exchange traded certificates and exchange traded notes (ETNs). 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. A structured product must not use the label 'ETF', 'active ETF', 'managed fund' or 'hedge fund'.

Appendix 2: List of non-confidential respondents

- Baker and McKenzie
- Cboe Australia
- ETF Securities
- Financial Services Council
- Stockspot

