Pitcher Partners
ACCOUNTANTS • AUDITORS • ADVISORS

Level 22 MLC Centre
19 Martin Place
Sydney NSW 2000
Australia

Postal Address:
GPO Box 1615
Sydney NSW 2001
Australia

Tel: +61 2 9221 2099
Fax: +61 2 92231762

www.pitcher.com.au
partners@pitcher-nsw.com.au

Pitcher Partners is an association of independent firms
Melbourne | Sydney | Perth | Adelaide | Brisbane | Newcastle

1 March 2019

Ms Mavis Tan
ASX Ltd
PO Box H224
Aust Square NSW 1215

By Email: mavis.tan@asx.com.au

Submission to the review on Simplifying, clarifying and enhancing the integrity and efficiency of the ASX Listing Rules

Pitcher Partners provides assurance, taxation and advisory services to over 100 fund managers and their investment products, including over 30 ASX listed investment companies (LIC's) and trusts (LIT's) and are pleased to make the following submissions with respect to the proposed changes to ASX listing rules that directly impact LIC's and LIT's.

Should you wish to discuss our submission or require further information, please contact me on (02) 8236 7766 or by email scott.whiddett@pitcher.com.au.

Yours faithfully,
Pitcher Partners

Scott Whiddett
Partner
Sydney

PROPOSED CHANGES TO THE REPORTING REQUIREMENTS FOR LICS AND LITS MENTIONED IN SECTION 2.3

Net tangible asset backing definition
We do not agree with the proposed amendments to the definition of "net tangible asset backing" (NTA backing) in rule 19.12 as they neither simplify, clarify or enhance the disclosure.

LIC's and LIT's are required to prepare Annual and Half-Year reports that comply with the Corporations Act and applicable Australian Accounting Standards (AAS) as established by the Australian Accounting Standards Board (AASB)[1]. The Australian Accounting Standards provide clear recognition and measurement principles and guidance around fair value reporting. We believe the correct application of Australian Accounting Standards should lead to the most appropriate basis for determining total assets and total liabilities in the NTA backing definition.

For example, Australian Accounting Standards already require liabilities to be recorded for:

- provisions of tax on realised income and gains (Current Tax);
- provisions for estimated tax on unrealised income and gains (Deferred Tax);
- Provisions for declared, but unpaid, dividends or distributions; and
- Provisions for accrued but unpaid management and/or performance fees.

In our experience, LIC/LIT's prepare their monthly accounts in accordance with Australian Accounting Standards. Therefore, it would be simpler for them to derive their NTA backing from these monthly accounts (prepared in accordance with current AAS's).

In amending the definition of "net tangible asset backing" in rule 19.12, the description of variable "A", "I" and "L" could be as follows:

A = total assets. The value of assets at the end of the month must be calculated in accordance with Australian Accounting Standards.
I = intangible assets calculated in accordance with Australian Accounting Standards.
L = total liabilities ranking ahead of, or equally with, claims of that +class of +securities. The value of liabilities at the end of the month must be calculated in accordance with Australian Accounting Standards.

The benefit of the above, is that the ASX leverages off any changes the AASB makes in the future with respect to accounting principles and guidance and ensures that the ASX listing rules remain current and consistent with Australian Accounting Standards.

We consider the regular disclosure of a LIC/LIT's NTA backing to be important to investors, but they need to be relevant and meaningful. The following are areas where we consider improvements can be made in the definitions and guidance for reporting of monthly NTA backing:

---

[1] *The AASB perform the function of developing, issuing and maintaining principles-based Australian accounting and external reporting standards and guidance to enhance external reporting consistency and quality.*

- Improved guidance on what constitutes an intangible for a LIC/LIT would be useful, as we see some disparity in interpretation. For example, should deferred tax assets that cannot (or are not intended to) be utilised to offset current and deferred tax liabilities be treated as an intangible asset (to better reflect the net assets at work for shareholders)?
- Remove the option available to LIC's (LIT's unlikely to be providing for tax) in the description of variable "L" to either disclose NTA backing before or after provisions for estimated tax on unrealised income and gains (deferred tax) as they can be confusing and potentially misleading to investors, researchers and data providers. For example:
    - For a LIC that rarely realises an investment and therefore rarely pays the deferred tax liability provided in its accounts, NTA backing before Deferred Tax is a meaningful proxy for the net assets at work for shareholders.
    - For a LIC that actively realises its investments, the deferred tax liability provided in its accounts will quickly become payable and therefore, NTA backing after Deferred Tax may be a more meaningful proxy for the net assets at work for shareholders.
- In our view, it would be better to require LIC's to report both NTA backing Before Deferred Tax and NTA backing After Deferred Tax and explain which they consider more meaningful and why.
- In our view, deferred tax assets that cannot (or are not intended to) be utilised to offset current and deferred tax liabilities, should be treated as an intangible asset under this ASX listing rule. The per share/unit value of the deferred tax assets (excluded as "I") should be disclosed by way of note.

LIC/LIT annual report disclosures under rule 4.10.20

We have two comments on the proposed amendments to rule 4.10.20:

1. We seek clarity on the list of "specific" investments disclosures sought at proposed rule 4.10.20(a); and
2. We commend the ASX on proposing a requirement for LIC's and LIT's to reconcile and explain the movement in NTA backing during the period at proposed rule 4.10.20(c).

1. List of Investments

We would like the ASX to clarify that it does not expect LIC's and LIT's to list out their short-sold investments or derivative positions by name and value. As such disclosure may enable or encourage exploitation of that LIC/LIT's short-sold or derivative exposure at the detriment of their share/unitholders.

The requirement to annually disclose a list of investments has the following disadvantages:

- creates an uneven playing field with unlisted registered managed investment schemes (which are a direct competitor to LIC's and LIT's).
- for an LIC/LIT attempting to build a meaningful investment over time at "good" prices, disclosure may lead to front running and disadvantage share/unitholders in that LIC/LIT.
- enables third parties to exploit a LIC/LIT's exposure to those specific investments.
- can lead to LIC/LIT's exiting investment positions at balance date in order to "tidy up" investment disclosures.

We would consider a more meaningful disclosure to share/unitholders and other stakeholders include requiring the following annual disclosures (instead of existing and proposed rule 4.10.20(a)):

- a statement that investments held are within the LIC/LIT's stated mandate and are valued at their fair value in accordance with Australian Accounting Standards; and
- breakdown / reconciliation, by type, of investment assets and liabilities by total value and referencing to the relevant notes in the Annual Report that provide more information as to their measurement basis, risks and sensitivity's . For example:

Investment Asset / (Liability)	$'000	%	Annual Report Note reference
<u>**Investment Assets**</u>			
Cash			
Investment receivables*			
Listed Securities			
Equity Swaps			
Futures			
Forward Exchange Contracts			
Unlisted Securities			
Other (specify)…………			
Total Investment Assets			
Investment Liabilities			
Borrowings / overdrafts			
Investment payables*			
Listed securities sold short			
Equity Swaps			
Futures			
Forward Exchange Contracts			
Other (specify)…………			
Total Investment Liabilities			
Net Investment			

** unsettled trades, distributions, brokerage etc*

We note that Australian Accounting Standards already require extensive disclosure of fair value measurement (including level 1, level 2 and level 3 inputs), risks and exposure and sensitivity analysis.

2. <u>NTA Reconciliation</u>

We concur that a reconciliation explaining movements in the NTA backing between reporting periods will simplify, clarify and enhance share/unitholders and other stakeholders understanding of an LIC/LIT's performance.