



# **Register of ASX Operating Warrant and AQUA Rule Waivers**

**16 to 31 July 2011**

**The purpose of this register is to record when ASX has exercised its discretion and granted a waiver from the ASX Operating Warrant and AQUA rules. Waivers are published bi-monthly and include information such as:**

- Organisation**
- Rule Number**
- Decision Details**
- Basis for Decision**

**For all product enquiries, please contact:  
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<b>Rule Number</b>	7100 ETF
<b>Date</b>	30/06/2011
<b>Participant</b>	Participants (All)
<b>Waiver Number</b>	WPA110029-001
<b>Decision</b>	<p>Based solely on the information provided, and subject to the qualifications below, ASX grants a waiver pursuant to ASX Operating Rule 6030 as follows:</p> <p>ASX grants relief from the definition of "ETF" under ASX Operating Rule 7100 to allow the BetaShares Euro ETF and BetaShares British Pound ETF to each be an "ETF" and therefore an "ETF Security" for the purpose of the definition of AQUA Products. Noting that this is in spite of the fact that the BetaShares Euro ETF and BetaShares British Pound ETF do not meet the requirement under the definition by providing for the issue of new Equity Securities in return for the subscriber transferring to the scheme a portfolio of Securities.</p> <p>The waiver applies to all Market Participants. The effect of the relief is that for the purposes of the ASX Operating Rules:</p> <ul style="list-style-type: none"> <li>* The BetaShares Euro ETF and BetaShares British Pound ETF are ETFs and ETF Securities for the purpose of Schedule 10A; and</li> <li>* ASX Operating Rules 3310 and Procedure 3310 will apply to the reporting of Special Trades of the BetaShares Euro ETF and BetaShares British Pound ETF.</li> </ul> <p>ASX's decision is solely related to its consideration of the application of ASX Operating Rule 7100, specifically the definitions of AQUA Product, ETF and ETF Security.</p>
<b>Basis For Decision</b>	<p>Underlying Policy</p> <p>ASX will list ETFs that satisfy the definition of an ETF which is currently defined in the ASX Operating Rules as:  a registered managed investment scheme or a scheme which ASIC has exempted from the registration requirements:</p> <ul style="list-style-type: none"> <li>(i) listed on ASX or admitted under Rule [2121];</li> <li>(ii) with power and approval to continuously issue and have quoted on ASX Equity Securities in the scheme;</li> <li>(iii) which provides for the issue of new Equity Securities in return for the subscriber transferring to the scheme a portfolio of Securities; and</li> <li>(iv) for which the price of the Underlying Instrument is continuously disclosed or can be immediately ascertained.</li> </ul> <p>Where it can be shown that an ETF substantially satisfies the current definition except for matters that may be unnecessarily restrictive, minor or inconsequential then ASX will assess the impact of these in the light of current market trends both in Australia and overseas. Many of the products currently being developed, while still an ETF under all other requirements of the rules, are not made up of underlying securities (eg Foreign Exchange or gold bullion) and thus provide for the issue of new Equity Securities in return for the subscriber transferring cash to the scheme rather than a portfolio of Securities as required by limb (iii).</p>

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## Present Application

The Proposed ETFs are designed to track the price of foreign currencies relative to the Australian Dollar. This will be achieved by:

1. Investing in bank deposit accounts denominated in the relevant currency; and
2. Investing in wholesale cash management trusts.

It is relevant to this waiver request to note that in August 2010, ASX released an AQUA Post-Implementation Consultation Paper and Request for Comment ("the Consultation Paper"). The Consultation Paper proposed an amendment to the definition of ETFs to allow for applications and redemptions in the primary market on a daily basis, either in-specie, or in cash. Following market feedback this proposal is presently being progressed and a new definition incorporating this change has been drafted and is intended to be lodged with ASIC in the near future.