



ASX Investment Products

ETP Update - August 2022

ASX today releases its admission policy for crypto-asset ETPs.

Crypto-asset ETPs – Rule Amendments & Updates to Admission Checklists

1. Rule Amendments

Over recent years, ASX has received multiple enquiries regarding the admission of ETPs that provide exposure to Crypto-assets such as Bitcoin. ASX is taking a cautious approach to these products, given the unique characteristics and risks around such assets and the evolving regulatory guidance in this area.

On 29 October 2021, ASIC released updated regulatory guidance to licensed exchanges (INFO 230) and issuers (INFO 225) regarding crypto-asset ETPs and other investment products.

Following engagement with stakeholders, ASX amended the AQUA Rules to establish a new category of permissible underlying assets for Crypto-assets.¹ For a Crypto-asset to be an “Eligible Crypto-asset”, it must satisfy one of two limbs - either:

1. the relevant Crypto-asset must be specified in the Procedures (consistent with ASIC's preliminary views in INFO 230 and supporting analysis conducted by ASX, only BTC and ETH are specified at the time of writing); or
2. ASX must have determined that the relevant Crypto-asset meets the criteria to be an "Eligible Crypto-asset". If the Crypto-asset is not a financial product ASX must be satisfied that the relevant crypto-asset satisfies ASIC's five factors in INFO 230².

Importantly, if the Crypto-asset is a financial product, it should be assessed in accordance with the relevant criteria for that category of financial product under the existing AQUA Rules.

2. Updates to Admission Checklists

In order to assist prospective issuers of Crypto-asset ETPs to compile application documentation in an efficient fashion, **ASX has updated relevant AQUA Product Admission Checklists, available [here](#)**. The majority of relevant checklist items for Crypto-asset ETPs is in a new section of these Checklists entitled 'AQUA Products with Crypto-assets as Underlying Assets' which contains the following sub-sections:

- a. Crypto-asset custody
- b. Trade execution
- c. Crypto-asset benchmark

However, it is noted that there are other updates throughout the Checklists that are relevant to Crypto-asset ETP applicants.

In addition to the updated Checklists, ASX has developed an internal framework for assessing Crypto-asset ETP applications. The framework seeks to assist ASX meeting its obligations, including its ability to maintain fair, orderly, and transparent markets by addressing areas of policy such as:

- Required experience levels of key participants including RE, crypto-custodian, and market-makers
- Initially limiting Eligible Crypto-Assets to BTC and ETH
- Limiting investment mandates (ie index tracking preferred to active)

ETP issuers should speak to the Investment Products team at investmentproducts@asx.com.au to discuss any prospective ETP with exposures to Crypto-assets, and how resulting product applications will need to be structured to comply with regulatory guidance, the AQUA Rules, and ASX's internal policies regarding Crypto-asset ETPs.

If you have any queries, please contact the Investment Product Specialist team.

Kind regards,

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¹ ASX released a Notice on 4 May 2022 informing Participants of the amendments to ASX Operating Rules and Procedures to facilitate AQUA Products holding Eligible Crypto-assets that would become effective on 30 May 2022, available [here](#).

² The five factors that factors that ASIC expects market operators to be satisfied of when determining whether a particular non-financial product crypto-asset is a permissible Underlying Instrument:

1. that there is a high level of institutional support and acceptance of the crypto-asset being used for investment purposes
2. that 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
3. that there is a mature spot market for the crypto-asset
4. that there is a regulated futures market for trading derivatives linked to the crypto-asset, and
5. that robust and transparent pricing mechanisms for the crypto-asset are available, both throughout the trading day and to strike a NAV price

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