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Stamping Fee Review Team
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Consultation on the Stamping Fee Exemption

Thank you for the opportunity to make a submission on the issue of the Stamping Fee Exemption for Listed Investment Entities (LIEs). ASX does not have regulatory responsibility for the relationship between brokers/financial advisers and their clients so we are not in position to comment on the nature of advice being provided on LIEs or the impact that stamping fees may (or may not) have had on that advice. Instead our comments are more around the important role this category of listed investment products plays as part of a balanced portfolio.

ASX provides a venue for the listing of a range of managed investments. In addition to listed investment entities (Listed Investment Companies (LICs), Listed Investment Trusts (LITs), Australian Real Estate Investment Trusts (A-REITs) and Infrastructure funds) there are other managed investments including Exchange Traded Products (ETPs) such as Exchange Traded Funds (ETFs)). ASX also offers a settlement service for unlisted managed funds through the mFund platform. The following table sets out the size of these market segments as at end-December 2019.

Fund Segment	Market Cap
A-REITs	$147.8bn
Infrastructure	$90.9bn
Exchange Traded Products (incl ETFs)	$61.5bn
LICs and LITs	$53.1bn
mFund	$1.1bn

These product segments represent a broad range of managed investments that can meet the needs of different investors as part of a balanced portfolio. This includes providing them with exposure to certain asset classes (non-residential property and infrastructure) which cannot be invested in directly and which can provide relatively stable income and attractive returns to retail investors. Listed products are designed to offer greater liquidity and real-time transparency of valuations that are not available through unlisted alternatives.

There has been strong growth in LIEs over recent years which reflects both a growth in underlying valuation of assets in the funds and the number of new funds being listed. This is in response to demand from investors for products that provide a degree of diversification within a given investment class or which can offer higher returns than are available through other vehicles (such as bank deposits).

These managed funds are made available to investors through a number of different corporate structures (companies, trusts, managed investment schemes). The choice of structure by issuers reflects their assessment of factors including investment strategy, underlying assets in the portfolio, distribution strategy, and the type of tax treatment that may be attractive to investors. For example, closed-end funds (LIEs) can be more suited to certain strategies or asset types, especially those that are less liquid and rely on stable sources of capital rather than needing to respond to a regular flow of new subscriptions and redemptions.

These products also pursue a range of investment strategies. Historically LICs have generally invested in equity securities, although more recently there has been a discernible trend of new issuers moving away from equity investments and into fixed income and credit related securities. This trend is also seen in ETFs where investors are showing a growing demand for higher yielding income assets in the current low interest rate environment.

The assets underlying LIEs can also provide very different risk and return characteristics. For example, A-REITs have long provided investors with an exposure to different property investments such as retail, industrial, and commercial leases which are typically correlated to the general level of economic activity and growth. Infrastructure funds on the other hand generally hold regulated underlying assets, often natural monopolies such as roads, airports, power generation and transmission, which have underlying cash flows that are highly predictable and often mandated price increases linked to official inflation measures.

Stamping fees are a traditional way to compensate brokers and financial advisers for the work involved in analysing new issues of equity securities and LIEs. This work includes assessing the suitability of the product for a category of investors, including analysing the offer document. The amount of work involved would likely differ depending on the nature and complexity of the product.

ASX understands that concerns have been raised that the current exemption, which allows for the payment of stamping fees for LIEs (but not other forms of managed investments), may have influenced the quality of advice provided to retail clients about investments into these products. We note that these concerns apparently relate to recent capital raisings by LICs and LITs but that no similar concerns have been expressed in relation to other LIEs such as A-REITs and infrastructure funds.

We are aware that the public debate has also focused on analysis that has correlated the payment of stamping fees with the underperformance of recently listed LICs and LITs. Given the short time available, and without the methodology used to underpin the analysis, it is difficult to comment in detail on the specifics of that analysis. However, it is worth making a few points:

- Past performance in not a reliable indicator of future performance. This is particularly the case when many of these products are structured as long-term investment vehicles where the manager is undertaking an active investment strategy and returns can deviate, potentially significantly, above and below average market returns for a period of time. Analysis of returns can also be sensitive to the period being analysed and how the calculation of returns is undertaken (i.e. simple average, weighted average, etc).
- There is a significant variation in returns and the discount/premium to NTA across the population of LIEs and these can reflect a number of factors including the size of the fund, its maturity, the underlying assets held and investment strategies. This variation is to be expected, but is not necessarily captured by analysis on average returns. While the analysis may suggest that recently listed funds have not performed well over the past few years it cannot consider how the investment strategy may perform over time, particularly if the fund grows in size.
- Any recent underperformance of, for example, LICs and LITs that invest in equity securities may also reflect a flow away from closed–end fund structures into other products that may now be more attractive to retail investors, such as open-ended funds including ETFs. This can impact the balance of supply and demand for the LIEs and hence their price and returns.
- There can be significant differences in returns between LIEs that focus on different asset classes.
  - At a time when the attractiveness of LICs and LITs investing in equity securities has declined, demand has shifted to those that invest in fixed interest and/or credit products (given investor appetite for yield in a low interest rate environment). The closed-end structure of such LIEs are well suited to the long-term nature of these underlying assets where they may not be liquid and real-time price discovery is more difficult. It is worth noting that these products tend to have performed better recently than equity based products when compared to stated investment objectives, and typically are trading at tighter spreads to NTA/NAV. The demand by retail investors for higher yielding products has also attracted a number of highly respected global fund managers to the Australian market providing new investment options.
  - Similarly, products that provide investors with exposure to other attractive asset classes such as A-REITs and infrastructure funds provide a different risk and return profile for investors while being an important source of capital for economically productive activities.

We suggest that the Government exercises caution when considering changes to existing market practice that could impact across the whole market segment without clear evidence that a problem exists. This is particularly important given the relatively truncated consultation period being undertaken. As with any consideration of regulatory changes there is a need to clearly identify that a problem exists and that it is not possible to address it within the exiting regulatory rules. If regulatory change is considered necessary, then it should be designed and applied in a way that addresses the issue without the regulations impacting other products where no problems have been identified.

If the Government has evidence that there has been poor advice and misselling in relation to LIC & LITs there is an existing regulatory framework, including penalties for breaches of an adviser's best interests duty to their clients. If that is not considered to be a sufficient response and the Government believes changing the stamping fee exemption is necessary, ASX recommends that care should be taken when designing the policy response to ensure it doesn't adversely impact capital markets and the underlying productive activity they can finance.

We believe that the exemption should be maintained for listed A-REITs and infrastructure funds which have more in common with other listed companies which rely on stable sources of long-term capital to fund economically productive activities. These products also often involve complex corporate and debt structures which require brokers/advisers to undertake significant due diligence before determining in the product is suitable for inclusion in a particular investor's portfolio. The listed versions of these products (compared to unlisted alternatives) can offer important liquidity benefits for investors during periods of financial market volatility (such as the during the global financial crisis).

ASX observes that there are a number of differences in the regulatory approach to different types of managed investment products beyond the issue of stamping fees. ASX will be reviewing its rules framework to consider differences in treatment present in the existing rules and to identify opportunities to create a more unified approach.

Thank you again for the opportunity to comment and ASX is available to expand on any of the points made in this submission.

Yours sincerely

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