

Summary of Public Comments on "Development of Listing Rules for Actively Managed ETFs"

Tokyo Stock Exchange, Inc. (TSE) released the outline of the "Development of Listing Rules for Actively Managed ETFs" on March 29, 2023, and welcomed comments until April 28, 2023. In response, 12 comments were received.

The following is a summary of the comments received and TSE's responses.

No.	Summary of Comments	TSE's Response
	1 . Criteria for Listing Examination	
	• Contents of the Investment Trust Basic Terms and Conditions	
1	<ul style="list-style-type: none"> In the remarks for (h), it states that "Satisfying the requirements of Article 17-3 (Exceptions to Investment Restrictions to Avoid Concentration of Credit Risk) of the Rules on Management of Investment Trusts, etc. does not mean that the requirements on the left are satisfied." Is it correct to understand that the "specialized use" described in Article 17-3(1)(3) is not permitted for active ETFs? 	<ul style="list-style-type: none"> Investment trusts for "specialized use" as described in Article 17-3, Paragraph 1, Item 3 of the "Rules on Management of Investment Trusts, etc." (Investment Trusts Association, Japan (JITA)) cannot be listed as "Domestic Actively Managed ETFs."
	2 . Information Disclosure, etc.	
	(1) Timely Disclosure	
2	<ul style="list-style-type: none"> Please indicate if there is a deadline for timely disclosure regarding cases in which "the annual average of the total NAV of Domestic Actively Managed ETFs has fallen below JPY 1 billion ". Also, is it correct to think that if a company's annual average of the total NAV recovers and it avoids delisting after it has fallen below JPY 1 billion, timely disclosure is not required under regulations, and that this is left to the discretion of that company? 	<ul style="list-style-type: none"> "Annual average of the total NAV" refers to the simple average of the daily (excluding non-business days) NAV (net asset value) for a year from April 1 of the previous year to March 31. For Domestic Actively Managed ETFs that have been listed for 5 years or longer, the management company of the ETF is required to submit to TSE a document stating the daily NAV of the ETF for the same period as soon as it knows the annual average of the total NAV. If the annual average of the total NAV falls below JPY 1 billion, the company must disclose that promptly. The following items are required to be included in such a timely

		<p>disclosure.</p> <ul style="list-style-type: none"> ✓ The company will enter into a grace period for delisting until the end of March of the following year, and by the last business day of February of the following year, the company must disclose the simple average of the daily NAV for the 11-month period (excluding non-business days) from April 1 of the previous year to the end date of February. ✓ A record date of the end of March of the following year shall be set as the record date for the examination regarding the appropriateness of the delisting criteria. • Even when the annual average of the total NAV is recovered and delisting is avoided, timely disclosure is required as a transitional disclosure of the timely disclosure referred to above.
<ul style="list-style-type: none"> • Information Disclosure 		
3	<ul style="list-style-type: none"> • Regarding the "Report on Product Characteristics of an Actively Managed ETF and Management System of Management Company," you state that if "any changes occur to the overview of management policy, investment risks, presumed investor attributes based on these, or method(s) of providing portfolio information provided in the above report, the management company must submit a revised report promptly after the change. "Does promptly after the change" mean promptly after the change is <i>implemented</i>? Or does it mean promptly after the change is <i>decided</i>?" 	<ul style="list-style-type: none"> • If the management company for a listed domestic ETF changes its management policy, investment risks, presumed investor attributes based on these, or the method of providing portfolio information after the ETF is listed, the management company of the listed domestic ETF must submit a "Report on Product Characteristics and Management System of Domestic Actively Managed ETFs" promptly after the changes are implemented. • This "promptly after the change" means "promptly after the change is implemented." • However, please note that in the event that a decision is made to amend the basic terms and conditions of the investment trust in conjunction with the above amendment, timely disclosure of the amendment to the basic terms and conditions

		of the investment trust must be made promptly.
4	<ul style="list-style-type: none"> I think that the disclosure of the expected portfolio (top issues included) at the time of initial listing application should not be a requirement or should be optional. There is a risk that investors in ETFs may be disadvantaged as a result of front running, and a risk of misleading investors regarding the difference between the portfolio at the time of establishment and the portfolio at the time of initial listing. In addition, when describing the portfolio, I believe it is necessary to explain that, before implementation, the portfolio may differ from the actual portfolio. 	<ul style="list-style-type: none"> The description of the expected portfolio (top issues) referred to in the "Report on Product Characteristics and Management System of Domestic Actively Managed ETFs ", which is to be made available for public inspection on the listing approval date, will be an optional item as explained in "7. Other Information Contributing to Investment Decisions in the Exchange Market" of the same report. In addition, during the listing examination concerning the soundness of the management of investment trust assets, etc., the management company may be requested to submit an expected portfolio with the assumption that the portfolio will not be disclosed.
5	<ul style="list-style-type: none"> It is stated that "in cases where investment trust assets are expected to include beneficiary certificates of investment trusts and corporations, the investment trusts and corporations to be invested in must be specified in the "overview of management policy" section." However, in cases where ETFs (including both Indicator-Tracking ETFs and Actively Managed ETFs) are used in a complementary way, etc., it may be impossible to specify issues in advance. Perhaps issues could be specified only when the ratio passes a certain threshold. Also, does this mean that active FOFs that have a change of investment targets are not allowed? Or, would it be possible to establish an active FOF by promptly submitting a management report on the changed management structure, etc. in the event of a change? 	<ul style="list-style-type: none"> According to the "overview of management policy" section of the "Report on Product Characteristics of an Actively Managed ETF and Management System of Management Company", in cases where investment trust assets are expected to include beneficiary certificates of investment trusts and corporations, a summary of the management policy and investment restrictions of the investment trust, etc. concerned should be included (including main investment targets and investment regions) in addition to specifying the investment trusts, etc. in which the relevant investment trust assets, etc. will be invested. The above explanation and specifications are not required for beneficiary certificates, etc. related to investment trusts, etc. that are managed so that the fluctuation rate of the NAV per unit of investment trust assets, etc. matches the rate of a specific indicator, and that are listed on a domestic financial

		<p>instruments exchange or that are listed on a foreign financial instruments exchange, etc. and are similar to those listed on a domestic financial instruments exchange.</p> <ul style="list-style-type: none"> • The investment trust beneficiary certificates, etc., described above may be used for any purpose, such as complementary use, and may be used for investment without the above identification and explanation, even if there are changes in the investment portfolio. • However, for investment trust beneficiary certificates, etc. other than those described above, the above explanation and specifications would be required even in the case of complementary use, due to the need to clarify the purpose of use of derivatives, etc. • A Domestic Actively Managed FOF that changes investment trust beneficiary certificates, etc. other than those described above may be established if promptly after a change is implemented in the "Overview of Management Policy" which determines the investment trust beneficiary certificates, etc. in which the investment trusts, etc. are invested, the "Report on Product Characteristics and Management System of Domestic Actively Managed ETFs" is submitted. Along with providing the above explanation, we do not prevent specification in advance of the mutual funds, etc. that may be included.
6	<ul style="list-style-type: none"> • It is stated that "if the trust fee rate exceeds 1.0% (before tax) (or 1.5% if the investment trust assets include overseas assets), the management company must include its reasoning for deciding on said rate." Do these percentages include fees for lending and other expenses borne by the fund? 	<ul style="list-style-type: none"> • The "trust fee rate" refers to the assumed rate of trust fees as stated in the ETF's Annual Securities Report, etc. • It does not include "fees for lending" or any other costs or fees.
	<ul style="list-style-type: none"> • Information Provision to Investors 	

7	<ul style="list-style-type: none"> It is stated that the "portfolio information" for actively managed ETFs is expected to be distributed on the management company's website or through an information distribution vendor, as is currently the case. Since there is no index to which actively managed ETFs are linked, it is expected that the assets to be invested in these ETFs will be diversified. If the file format and the identification numbering system for an issue disclosed at that date and time differs between the management company and information vendor, there is a concern that understanding portfolio information will become increasingly complex. While it is easy to identify listed shares, bonds are expected to be more complicated to identify. We would like TSE to create guidelines on how to provide "portfolio information," such as consistent ISINs for bonds. 	<ul style="list-style-type: none"> The management company of a Domestic Actively Managed ETF is required to provide investors with portfolio information determined prior to the start of the daily trading session in a manner that is accessible to the public. The portfolio information must include the following regarding the ETFs and the assets in which the ETFs invest. <ul style="list-style-type: none"> a The name, issue code, or other means of identifying the details regarding rights or currencies of securities, derivatives, or commodity investment transactions. b Quantity or value of each included asset specified in a. above c Unit price of each included asset specified in a. above If the management company or information vendor only provides information that is insufficient for identifying the details of the assets in a Domestic Actively Managed ETF, then the management company of the ETF is not fulfilling its disclosure obligations. As for using consistent identification numbers on the premise that sufficient information to identify the contents of the incorporated assets has been distributed, we will consider and implement this if considered necessary, based on the opinions of many related parties participating in our exchange market.
8	<ul style="list-style-type: none"> I understand that the items to be included in the monthly report are to be determined by the exchange, but could you indicate specifically what items are required? If qualitative information, such as comments from managers, etc., is required, as is the case with general active investment trusts, this would increase the burden on the management company, which could result in higher trust fees and other costs to the investors. 	<ul style="list-style-type: none"> The items to be included in the monthly report will be defined in the " Guidebook for Listing Actively Managed ETFs". The contents of which shall conform to Article 18 of the " Rules on Investment Reports, etc. for Investment Trusts and Investment Corporations" of the Investment Trusts Association, Japan (JITA), and in addition, the following statements shall be published.

		<ul style="list-style-type: none"> ✓ For ETFs that do not specify a benchmark for the graph of base value trends and fluctuation rate by period, it is desirable to indicate both in conjunction with a stock price index or other reference indicator. If, due to the nature of the product, it is not desirable to indicate both of them together, the specific reason(s) for this should be indicated in the notes or by other means. ✓ It is encouraged to include information that is deemed useful for investors in making investment decisions, such as the investment manager's self-evaluation of the ETF's investment performance, the outlook for the market environment, and future prospects based on these factors. ✓ It is encouraged to include information about the management company's current awareness regarding the unhindered circulation and fair price formation of the ETFs and its future efforts based on that awareness should be briefly described, in accordance with the expected investors of the ETFs. • The encouraged items referred to above should be actively described by each management company, while taking into account the cost of handling the information as this is information that is considered useful for helping investors to make investment decisions, and it contributes to smooth distribution and fair price formation.
	3. Delisting Criteria	
9	<ul style="list-style-type: none"> • Regarding the section that states, "Where the annual average of the total NAV of a Domestic Actively Management ETF falls below JPY 1 billion and does not reach JPY 1 billion or more within one year," since it is possible 	<ul style="list-style-type: none"> • "Annual average of the total NAV" refers to the simple average of the daily (excluding non-business days) NAV for a year from April 1 of the previous year to March 31.

	<p>that it may slightly exceed JPY 1 billion within one year due to market fluctuations, it would be better to set some buffer, for example, "When the average of the total NAV of listed Domestic Actively Managed ETFs is not more than JPY 1 billion and does not exceed 1.5 billion yen within one year."</p>	<ul style="list-style-type: none"> The examination as to whether or not the annual average of the total NAV is less than JPY 1 billion will be conducted every year with the end date of March as the record date. In other words, the annual average of the total NAV will also be used for the examination for delisting on the record date following the first time the annual average of the total NAV falls below JPY 1 billion. This criterion for delisting requires that a Domestic Actively Managed ETF with a track record of at least 5 years after listing be eligible for listing with an average annual NAV of at least JPY 1 billion, and we believe it is inappropriate to provide a "buffer" as you have pointed out. If not reaching JPY X billion or more within one year was established as a delisting criterion, this would be inappropriate because delisting could be avoided even if the NAV of the ETF increased only on a single record date due to additions or cancellations of securities to the ETF. Given the nature of ETFs, where the NAV goes up and down as a result of such additions or cancellations of securities, we believe it is reasonable from the standpoint of fairness to determine eligibility for listing by using a simple average of daily NAV.
1 0	<ul style="list-style-type: none"> Where it is stated "does not reach JPY 1 billion or more within one year," is that referring to the total NAV or the annual average of the total NAV? The current description is a bit unclear, so I think it would be better to clearly state which. In the latter case, if the annual average fell below JPY 1 billion at one point, but the balance increased the following year, the timing of the increase would determine whether the listing would be maintained or delisted, so the former (does not reach JPY X billion or more within one year) could possibly be better. 	
	4. Other	
1 1	<ul style="list-style-type: none"> Japan should have active ETFs. 	<ul style="list-style-type: none"> Thank you for your appreciation of the purpose of this development.
1 2	<ul style="list-style-type: none"> Since passive and active ETFs differ significantly in terms of product characteristics and risks, I propose that it be mandatory to clearly state "active" in the fund name to make it easier for investors to recognize the difference between the two. Also, given that active ETFs may have inferior liquidity compared to passive ETFs, I suggest that the difference in risk 	<ul style="list-style-type: none"> In developing this listing system, we did not make it mandatory to specify "active" or otherwise in the fund name. However, for Domestic Actively Managed ETFs, investment risks are required to be described in the "Report on Product Characteristics and Management System of Domestic Actively

	<p>between active ETFs and passive ETFs be required to be stated in disclosure documents. For your information, the Australian Securities and Investment Commission has issued guidance on ETP naming conventions. Click here for the link.</p>	<p>Managed ETFs and Management Company".</p> <ul style="list-style-type: none"> • TSE also plans to change the display on the issues page of its website so that investors can identify active ETFs as being different from Indicator-Tracking ETFs. • The liquidity of an ETF depends not only on whether or not there is an underlying index, but also on the nature and liquidity of the underlying assets. TSE will make necessary announcements on the investment risks page of the TSE website and elsewhere. ✓ Actively managed ETFs are products that, unlike traditional ETFs, are not linked to an indicator. ✓ As a result of active management of the fund, the NAV may move in ways that cannot be explained by fluctuations in the benchmark or overall market quotations. ✓ The portfolio information disclosed daily by the management company, etc. is only the information used as the basis for calculating the NAV of the previous day, and the estimated NAV per unit (indicative NAV) calculated from such information does not always match the fair value of the ETF.
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Submitters: Nos. 1, 2, 3, 4, 5, 6, 9 and 10 are from Nomura Asset Management Co., Ltd.; No. 7 is from Daiwa Securities Co. Ltd. Nos. 8 and 12 are from BlackRock Japan Co., Ltd.; No. 11 is from an individual.