

12 April 2024

PREMIUM ASIA FUND ARSN 134 226 029
PREMIUM ASIA INCOME FUND ARSN 151 270 423
PREMIUM CHINA FUND ARSN 116 380 771
(EACH A “FUND” AND TOGETHER THE “FUNDS”)¹

**ADOPTION OF THE ATTRIBUTION MANAGED INVESTMENT TRUST REGIME -
NOTICE OF PROPOSED MODIFICATION OF EACH FUND CONSTITUTION**

This notice is published by Equity Trustees Limited (ACN 004 031 298) as Responsible Entity (RE) of the Funds, under section 601GCA of the Corporations Act as inserted by *ASIC Corporations (Attribution Managed Investment Trusts) Instrument 2016/489 (ASIC Instrument 2016/489)*. This notice intends to inform Members of the Funds (**Members**) that the RE proposes to modify the constitution of each Fund (**Constitution**) in order for the Funds to be able to be operated as attribution managed investment trusts (**AMIT**).

The AMIT Regime

Pursuant to ASIC Instrument 2016/489, the RE proposes to modify the Constitutions of the Funds such that each Fund can opt to be effectively operated as an AMIT. The key difference between the current tax regime which applies to the Fund (Division 6 of the *Income Tax Assessment Act 1936* (Cth) (**ITA Act**)) and Division 276 of the *Income Tax Assessment Act 1997* together with associated legislation (**AMIT Regime**), is that under the AMIT Regime, members are taxed on the taxable income that is allocated or “attributed” to members by the responsible entity. The AMIT Regime effectively requires a responsible entity to undertake this allocation or attribution on a *fair and reasonable basis*. This is in contrast to the ITA Act under Division 6, which provides for members to be subject to tax to the extent, proportionately, that each member is “presently entitled” to the income of a fund according to trust law principles.

The proposed modifications to each Fund’s Constitution

The modifications to be made to the Constitutions (**Proposed Modifications**) allow the RE to elect to apply the AMIT Regime to the Funds and for the RE to be able to operate the Funds in a manner permitted by the AMIT Regime. The Proposed Modifications and their effect, are summarised below and in the attached table.

As a result of the RE adopting the AMIT Regime, there may be the following potential benefits for Members:

- a removal of the potential for double taxation that may arise for Members where there are mismatches between the amount distributed and the taxable income of the Funds. This is achieved through the provision of appropriate cost base adjustments where distributions are greater or less than the amount on which the Member is assessed for tax purposes;

¹ Effective on or around 22 April 2024, the Fund names will be updated as follows:

- Premium Asia Fund will become the Antipodes Asia Fund;
- Premium Asia Income Fund will become the Antipodes Asia Income Fund; and
- Premium China Fund will become the Antipodes China Fund.



- greater certainty regarding the quantum and character of any amounts distributed or otherwise passed through to Members and how such amounts are treated for tax purposes; and
- greater certainty regarding certain aspects of the tax treatment of each Fund as a whole, including the status of each Fund as a “fixed trust”.

However, as the Proposed Modifications will provide the RE with additional duties and powers, the Proposed Modifications include protections for the RE and the Funds in relation to the RE exercising its powers in relation to the AMIT Regime and also when it deals with Members’ objections to the RE’s attribution of taxable income to them.

How to contact us if you wish to respond to this notice

The RE will proceed with the Proposed Modifications on or after the day which is **7 days from the date of this notice**, unless it receives a request to call and arrange a meeting of Members of a Fund to consider and vote on a special resolution to modify the Constitution as proposed, from Members of a Fund with at least 5% of the votes that may be cast on the resolution, before the end of this 7-day notice period.

If you wish to request a meeting of Members to vote on the Proposed Modifications, this request must be made in writing, and sent to arehayem@eqt.com.au by 19 April 2024. Otherwise, Members are not required to respond to this notice.



Table of Proposed Modifications

Constitution clause	Description of the Proposed Modification
Clause 3A	<p>Ability for Funds to opt-in to the AMIT Regime</p> <p>Inserts the specific powers and rights in relation to the AMIT Regime, which are necessary or desirable for the RE to have in order to comply with and administer the Fund under the AMIT Regime. Specifically this amendment provides ability for the RE make an AMIT Choice - that is the Fund can be elected to be treated as an AMIT, noting this is an option and not an obligation on the RE. Provisions provide clarity on the continuity of AMIT status and scenario where the Fund is no longer an AMIT.</p>
Defined Terms	<p>Existing definitions have been amended and additional definitions have been inserted at clause 27.1 of the Constitutions of the Premium Asia Fund and Premium China Fund, clause 35.1 of the Premium Asia Income Fund Constitution and the Schedules inserted. These defined terms correlate and give effect to the AMIT clauses as part of the Proposed Modifications. Any terms that are defined as the same as provided by the Tax Act are subject to change from time to time, therefore the extent of any inconsistency or updates for currency, the definitions provided by the Tax Act prevail.</p>
Schedule references - as inserted into each Constitution	
Clause 2	<p>Clearly Defined Rights</p> <p>New clause will specifically limit the powers, rights and discretions conferred on the RE to the extent necessary to ensure that the Fund satisfies the "Clearly Defined Rights" (as defined) requirement that is necessary for the Fund to be an AMIT. This clause will have no effect provided the Fund remains a registered managed investment scheme. The RE has no intention of deregistering the Fund.</p>
Clause 3	<p>AMIT Income and Distribution</p> <p>Broadly inserts an ability for the RE to determine "Income" to be distributed that is referable to an AMIT during a particular financial year in which the Fund was an AMIT including any relevant adjustments and provides a default "Income" amount where the RE does not make a determination.</p>
Clause 4	<p>Power to accumulate monies</p> <p>Provides the RE with specific power to determine whether all or part of the "Income" as being distributed to Members. This means the RE may accumulate amounts and exclude amounts from being distributed as "Income" for the relevant financial year.</p>
Clause 5	<p>Separate Accounts</p> <p><u>Permits the RE to</u> keep separate accounts of different categories or sources of Income, or deductions or credits for tax purposes, and may allocate Income, deductions or credits from a particular category or source, for tax purposes to particular Members and allocate items of income, deductions or credit as appropriate / required.</p>



Constitution clause	Description of the Proposed Modification
<p>Clause 6</p>	<p>Attribution under AMIT Regime – basis for attribution</p> <p>Will provide for the attribution of taxable income among Members in accordance with the AMIT Regime. These provisions require that the RE attribute the taxable income in accordance with its obligations under the AMIT Regime, and that the taxable components attributed to each Member reflect the taxable components reflected in the income entitlements of each Member for the relevant financial year.</p>
<p>Clause 7</p>	<p>Member objections and indemnities</p> <p>New clause will set out the terms on which Members will be able to exercise their rights to object to the RE’s attribution of taxable income to them under the AMIT Regime, and confer specific powers on the RE to (i) take such actions as the RE considers appropriate to provide for the rights and interests of other Members to be protected; (ii) amend its attribution and take such actions as the RE determines necessary to give effect to the amended attribution; and (iii) be indemnified by the Member against any costs incurred in relation to dealing with their objection. While the new clause will place additional obligations on objecting Members, it provides the RE with powers to ensure that any such objections that may be made by a Member are dealt with in an efficient and effective manner, and to minimise the adverse impact of objections made by a particular Member on other Members. The indemnity from the objecting Members should benefit the other Members and the RE because the RE might otherwise be entitled to be indemnified from the Fund.</p>
<p>Clause 8</p>	<p>Unders/Overs</p> <p>New clause will facilitate the exercise of the RE’s powers in relation to Unders and Overs (as defined) of the Fund, in the manner permitted by the AMIT Regime, and confirm that the exercise of the RE’s powers in relation to Unders and Overs is subject to a similar limitation of liability as provided for generally under the Constitution.</p>
<p>Clauses 9 and 11</p>	<p>Extension of RE’s limitation of liability</p> <p>These clauses will be inserted to provide for the RE’s liability to Members to be extended to where the RE is exercising powers under the AMIT Regime. This additional limitation of liability is being included as a reflection of the broad powers that are provided to the RE under the AMIT Regime, which could expose the RE or the Fund to unnecessary cost, liability and expense. Members.</p>
<p>Clause 10</p>	<p>AMIT powers</p> <p>This clause will provide for the RE to have certain specific powers and rights in relation to the AMIT Regime, which are necessary or desirable for the RE to have in order to comply with and administer the Fund under the AMIT Regime – including the power to elect the Fund as an AMIT. These powers also include issuance of required statements and the power to require a Member to provide an indemnity in respect of any tax incurred by the RE under the AMIT Regime. Although the terms of these powers are broad, most of these powers are already provided to the RE under the AMIT Regime itself. Including these powers provides greater clarity regarding the RE’s exercise of power in relation to an AMIT operation and ensures they are subject to the limitation of liability</p>



Constitution clause	Description of the Proposed Modification
Clause 12	<p>Right of indemnity for tax AMIT</p> <p>This right of indemnity will require each Member to indemnify the RE in relation to any tax and any other costs, expenses or liabilities incurred as a result of being liable to such tax, that may become payable by the RE under the AMIT Regime and that the RE determines relates to the investor. The new clauses also confer powers on the RE to (i) prescribe terms and conditions which apply in the event that the RE is entitled to be indemnified by a Member; and (ii) undertake certain actions to satisfy that indemnity from amounts owing to the Member or from the investor's units. This indemnity seeks to protect the RE, the Fund and Members where the RE is exposed to tax and associated costs, expenses or liabilities that relate to a particular Member.</p>