

CR 2024/48 - Magellan Global Fund - exchange of Closed Class Units for new Open Class Units



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Status: **legally binding**

Class Ruling

Magellan Global Fund – exchange of Closed Class Units for new Open Class Units

❶ Relying on this Ruling

This publication is a public ruling for the purposes of the *Taxation Administration Act 1953*.

If this Ruling applies to you, and you correctly rely on it, we will apply the law to you in the way set out in this Ruling. That is, you will not pay any more tax or penalties or interest in respect of the matters covered by this Ruling.

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What this Ruling is about

1. This Ruling sets out the income tax consequences for the holders of Closed Class Units in Magellan Global Fund (MGF) in relation to the redemption of all Closed Class Units in exchange for the Trustee of MGF issuing new Open Class Units, which was implemented on 22 July 2024 (Implementation Date).
2. Details of this scheme are set out in paragraphs 21 to 45 of this Ruling.
3. All legislative references in this Ruling are to the *Income Tax Assessment Act 1997*, unless otherwise indicated.

Who this Ruling applies to

4. This Ruling applies to you if you:
 - were recorded on the MGF unit register as a holder of Closed Class Units in MGF by 7:00 pm AEST on 15 July 2024 (Record Date)
 - are a 'resident of Australia' (as that term is defined in subsection 6(1) of the *Income Tax Assessment Act 1936*), and
 - held your MGF Closed Class Units on capital account – that is, your MGF Closed Class Units were neither held as revenue assets (as defined in section 977-50) nor as trading stock (as defined in subsection 995-1(1)).
5. This Ruling does **not** apply to you if you are subject to the taxation of financial arrangements rules in Division 230 in relation to the scheme outlined in paragraphs 21 to 45 of this Ruling.

Note: Division 230 will not apply to individuals, unless they have made an election for it to apply.

Status: **legally binding**

When this Ruling applies

6. This Ruling applies from 1 July 2024 to 30 June 2025.

Ruling**CGT consequences*****CGT event C2 happened on redemption of Closed Class Units in Magellan Global Fund***

7. CGT event C2 happened when your Closed Class Units were redeemed by the Trustee of MGF (section 104-25).

8. The time of CGT event C2 was on the Implementation Date (22 July 2024) (paragraph 104-25(2)(b)).

9. The capital proceeds from CGT event C2 happening to each Closed Class Unit in MGF is the market value of the fraction of an Open Class Unit in MGF you received in respect of the redemption of a Closed Class Unit (subsection 116-20(1)). The market value of an Open Class Unit is worked out as at the time of CGT event C2.

10. You made a capital gain from CGT event C2 happening if the capital proceeds from the redemption of your Closed Class Unit exceeded the cost base of that unit (subsection 104-25(3)). You made a capital loss from CGT event C2 happening if the capital proceeds from the redemption of your Closed Class Unit were less than the reduced cost base of that unit (subsection 104-25(3)).

Availability of roll-over for the redemption of your Closed Class Units in Magellan Global Fund

11. If you made a capital gain or capital loss from the redemption of your Closed Class Units in MGF, you may choose to obtain a roll-over (section 124-245).

Consequences if you choose the roll-over for your Closed Class Units in Magellan Global Fund***Capital gain or capital loss is disregarded***

12. If you choose the roll-over, your capital gain or capital loss is disregarded (subsection 124-15(2)).

13. For the purposes of determining your eligibility to make a discount capital gain from a subsequent CGT event happening to the Open Class Units in MGF you acquired in exchange for your Closed Class Units in MGF, the Open Class Units are taken to have been acquired on the date you acquired, for CGT purposes, the corresponding Closed Class Units (table item 2 of subsection 115-30(1)).

Cost base and reduced cost base of Open Class Units in Magellan Global Fund

14. If you choose the roll-over, the first element of the cost base and reduced cost base of a replacement Open Class Unit in MGF that you received is worked out by dividing the total cost bases of your Closed Class Units by the number of replacement Open Class Units you received (subsection 124-15(3)).

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Consequences if you do not choose, or cannot choose, the roll-over for your Closed Class Units in Magellan Global Fund

Capital gain or capital loss is not disregarded

15. If you do not choose, or cannot choose, the roll-over, you must take into account any capital gain or capital loss from CGT event C2 happening on the redemption of your Closed Class Units in MGF in working out your net capital gain or net capital loss for the income year in which CGT event C2 happened (sections 102-5 and 102-10).

16. If you make a capital gain where the roll-over is not chosen, or cannot be chosen, you can treat the capital gain as a discount capital gain provided that the conditions of Subdivision 115-A are met. In particular, you must have acquired your Closed Class Units in MGF that were redeemed at least 12 months before the Implementation Date (excluding the date of acquisition and the Implementation Date).

Cost base and reduced cost base of Open Class Units in Magellan Global Fund

17. If you do not choose, or cannot choose, the roll-over, the first element of the cost base and reduced cost base of a replacement Open Class Unit in MGF that you received is equal to the market value of the Closed Class Units in MGF you gave in respect of acquiring the Open Class Unit (subsections 110-25(2) and 110-55(2)).

18. The market value of the Closed Class Units in MGF you gave is to be worked out as at the time when you acquired the Open Class Units in MGF. We accept that the market value of each Closed Class Unit you gave was \$2.2188.

19. The first element of the cost base and reduced cost base of each replacement Open Class Unit in MGF that you received can be worked out by dividing the total market value of your Closed Class Units in MGF by the number of replacement Open Class Units you received.

Acquisition date of Open Class Units in Magellan Global Fund

20. If you do not choose, or cannot choose, the roll-over, the acquisition date of the Open Class Units in MGF is the date on which those units were issued to you, being the Implementation Date (table item 3 of section 109-10).

Scheme

21. The following description of the scheme is based on information provided by the applicant. If the scheme is not carried out as described, this Ruling cannot be relied upon.

Magellan Global Fund

22. MGF is a unit trust that was settled on 22 June 2007.

23. MGF is a registered managed investment scheme under Chapter 5C of the *Corporations Act 2001* (with the Australian Registered Scheme Number 126 366 961).

24. MGF is an attribution managed investment trust under Division 276.

25. Magellan Asset Management Limited (a company incorporated in Australia) is the Trustee and responsible entity of MGF.

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26. The investment strategy of MGF is to invest in large companies whose shares are traded on foreign securities exchanges.
27. MGF was listed on the Australian Securities Exchange (ASX) on 30 November 2020.
28. Before the redemption that is the subject of this Ruling, MGF had 2 classes of units on issue (Open Class Units and Closed Class Units). On the Implementation Date, there were 1,507,560,839 Closed Class Units on issue.
29. The Closed Class Units in MGF traded under the ASX code MGF.
30. The Open Class Units in MGF trade on the ASX AQUA platform under the ASX code MGOC.
31. The Open Class Units and Closed Class Units in MGF had the same rights to receive income and capital distributions from MGF and to exercise voting power in relation to MGF.
32. As well as being traded on the ASX AQUA platform, new Open Class Units in MGF can be acquired or existing Open Class Units in MGF can be redeemed (based on the net asset value of the Open Class Units) by lodging an application request or a redemption request with the Trustee of MGF.
33. By contrast, Closed Class Units in MGF could only be traded on the ASX.
34. The Closed Class Units in MGF historically traded on the ASX at a discount to net asset value for a significant period of time.

Redemption of Closed Class Units in Magellan Global Fund by the Trustee of Magellan Global Fund

35. On 7 December 2023, the Trustee of MGF announced to the ASX that it would propose to unit-holders the conversion of all the Closed Class Units in MGF in return for issuing new Open Class Units in MGF.
36. In deciding to redeem all the Closed Class Units in MGF, the Trustee of MGF first obtained judicial advice from the Supreme Court of New South Wales.
37. On 26 June 2024, the following resolutions were approved by the unit-holders of MGF to authorise the redemption of all the Closed Class Units in MGF:
- a special resolution of all the unit-holders of MGF to make amendments to the constitution of MGF (as required by paragraph 601GC(1)(a) of the *Corporations Act 2001*)
 - a special resolution of Closed Class unit-holders for the purposes of clause 7.5 of the constitution of MGF
 - a special resolution of Closed Class unit-holders to remove MGF from the official list of the ASX under ASX Listing Rule 17.11.
38. On the Implementation Date (22 July 2024), the Trustee of MGF:
- redeemed all the Closed Class Units in MGF, and
 - issued new Open Class Units in MGF for the Closed Class Units in MGF (Closed Class unit-holders receiving 0.73604246 of an Open Class Unit for each Closed Class Unit that was redeemed).

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39. The new Open Class Units were issued to all holders of Closed Class Units in MGF as at the Record Date (7:00 pm AEST on 15 July 2024), other than Ineligible Foreign Closed Class Unitholders.

40. An Ineligible Foreign Closed Class Unitholder was a holder of Closed Class Units in MGF whose address as shown on the MGF unit register as at the Record Date was a place outside Australia and its external territories, New Zealand, Hong Kong and Singapore.

41. An Ineligible Foreign Closed Class Unitholder did not receive the Open Class Units in MGF to which they would otherwise be entitled for the redemption of their Closed Class Units in MGF. Those Open Class Units were issued by the Trustee of MGF to a sale agent, who sold them on the ASX AQUA platform. The relevant amount of the net sale proceeds was paid by the Trustee of MGF to each Ineligible Foreign Closed Class Unitholder.

42. The Closed Class Units in MGF were suspended from trading on the ASX from the close of business on 11 July 2024.

43. MGF was removed from the official list of the ASX from the close of trading on 22 July 2024.

44. The new Open Class Units commenced trading on the ASX AQUA platform on 23 July 2024.

Other matters

45. The following table is a summary of the key dates for the scheme.

Table 1: Summary of key dates for the scheme

Date	Event
7 December 2023	Announcement of conversion proposal
20 May 2024	First judicial advice
26 June 2024	Meeting of MGF unit-holders
10 July 2024	Second judicial advice
15 July 2024 (7:00 pm AEST)	Record Date
22 July 2024	Implementation Date

Commissioner of Taxation

7 August 2024

Status: **not legally binding**

References

Related Rulings/Determinations:

TR 2006/10; TD 2002/10

Legislative references:

- | | |
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| <ul style="list-style-type: none"> - ITAA 1936 6(1) - ITAA 1997 102-5 - ITAA 1997 102-10 - ITAA 1997 104-25 - ITAA 1997 104-25(2)(b) - ITAA 1997 104-25(3) - ITAA 1997 109-10 - ITAA 1997 110-25(2) - ITAA 1997 110-55(2) | <ul style="list-style-type: none"> - ITAA 1997 Subdiv 115-A - ITAA 1997 115-30(1) - ITAA 1997 116-20(1) - ITAA 1997 124-15(2) - ITAA 1997 124-15(3) - ITAA 1997 124-245 - ITAA 1997 Subdiv 124-E - ITAA 1997 Div 230 - ITAA 1997 Div 276 - ITAA 1997 977-50 - ITAA 1997 995-1(1) - Corporations Act 2001 Chapter 5C - Corporations Act 2001 601GC(1)(a) |
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ATO references

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