

## Charter Hall Retail REIT ASX/Media Release

### Notice regarding new AMIT Regime 13 December 2017

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This information is published by Charter Hall Retail Management Limited (**RE**) as responsible entity of Charter Hall Retail REIT (**Trust**) under section 601GCB(2) of the Corporations Act as modified by ASIC Corporations (Attribution Managed Investment Trusts) Instrument 2016/489 (**Class Order**) to inform members of the Trust (**Members**) that the RE has amended the constitution for the Trust (**Constitution**) to allow the Trust to be operated as an attribution managed investment trust under the new **AMIT Regime**.

#### The AMIT Regime

The Tax Laws Amendment (New Tax System for Managed Investment Trusts) Act 2016, together with additional supplemental legislation ("the **AMIT Regime**"), became law on 5 May 2016. The RE amended the Constitution on 13 December 2017 so that the Trust can be effectively operated as an attribution managed investment trust under this new tax regime.

The key difference between the current tax regime which applies to the Trust (Division 6 of the Income Tax Assessment Act 1936) and the new AMIT Regime is that under the AMIT Regime, Members are taxed on the taxable income that is allocated or "attributed" to Members by the RE. The new AMIT Regime requires the RE to undertake this allocation or attribution on a fair and reasonable basis. This is in contrast to the current taxing regime under Division 6, which provides that a Member will be subject to tax to the extent that each Member is "presently entitled" to the income of the Trust according to trust law principles.

The RE amended the Constitution to allow the RE to elect to apply the new AMIT Regime to the Trust and to facilitate the RE to be able to operate the Trust as an attribution managed investment trust in a manner permitted by the AMIT Regime. The modifications made to the Constitution are summarised below.

#### Reasons for the amendments to the Constitution

The RE believes that, by allowing a different tax regime to be adopted for the Trust, the amendments to the Constitution have 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 Trust. 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;
- greater certainty regarding the quantum and character of any amounts distributed or otherwise passed through to Members and the tax consequences of those amounts;
- removal of ambiguity in relation to the tax treatment of tax deferred and tax free distributions;
- the ability to reconcile errors in the taxable income allocated to members (referred to as "unders" and "overs") in the year they are discovered by the RE rather than the present requirement to amend the returns of previous years; and



- greater certainty regarding certain aspects of the tax treatment of the Trust, such as the Trust being deemed to be a “fixed trust” for income tax purposes.

The RE notes that the AMIT regime has only been recently enacted. As such, it is possible there may be some uncertainty regarding its operation in the initial years.

### **Effect of the amendments made to the Constitution**

The amendments made to the Trust's Constitution permit the RE to:

- elect for the Trust to operate as an AMIT;
- determine the taxable income of the Trust and allocate the taxable income to Members on a fair and reasonable basis;
- make amended allocations of taxable income to Members; and
- do all things necessary to operate the Trust as an AMIT.

The amendments also:

- provide limitations to the RE's powers to ensure as far as possible that the Members continue to have "clearly defined rights", a necessary requirement for the Trust to be able to apply the AMIT Regime;
- confirm that the exercise of the RE's powers under the AMIT Regime is subject to the same limitation of liabilities as provided for generally under the Constitution of the Trust;
- provide the machinery for the exercise of the rights afforded to Members under the AMIT Regime to object to any attribution. It also requires Members to indemnify the RE against costs and liabilities incurred in that process and to acknowledge that their rights may be impacted by the exercise of other Members' objection rights; and
- provide for 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, which the RE reasonably determines relates to the Member or units held by the Member.

Various associated definitions and ancillary provisions were included to facilitate the application of the AMIT Regime to the Trust.

### **How to contact us if you have any questions**

If you wish to discuss the Constitutional amendments or the AMIT Regime in more detail please feel free to call the RE on 1300 365 585.