

The Ontario Securities Commission

Mutual Fund Rules

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Ontario Securities Commission

Mutual Fund Rules

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Mutual Fund Prospectus Disclosure

**Notice
National Instrument 81-101
Form 81-101F1
Form 81-101F2
Companion Policy 81-101CP**

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**NOTICE OF RULES AND POLICY UNDER
THE SECURITIES ACT
NATIONAL INSTRUMENT 81-101
FORMS 81-101F1 AND 81-101F2
AND COMPANION POLICY 81-101CP
MUTUAL FUND PROSPECTUS DISCLOSURE
AND NOTICE OF REVOCATION OF
CANADIAN SECURITIES ADMINISTRATORS NOTICE
AND RESCISSION OF
NATIONAL POLICY STATEMENT NO. 36**

Notice of Rules and Policy

The Commission has, under section 143 of the *Securities Act* (the "Act"), made National Instrument 81-101 Mutual Fund Prospectus Disclosure (the "National Instrument"), Form 81-101F1 (the "SP Form"), Form 81-101F2 (the "AIF Form"); (the SP Form and AIF Form, collectively, the "Forms") as Rules under the Act, and has adopted Companion Policy 81-101CP Mutual Fund Prospectus Disclosure (the "Companion Policy") as a Policy under the Act.

The National Instrument, the Forms and the Companion Policy are initiatives of the Canadian Securities Administrators (the "CSA"). The National Instrument has been, or is expected to be, adopted as a rule in each of British Columbia, Alberta, Manitoba, Ontario and Nova Scotia, a Commission regulation in Saskatchewan, and a policy in all other jurisdictions represented by the CSA. The Forms will be adopted as rules in Ontario and British Columbia. The Companion Policy has been, or is expected to be, implemented as a policy in all of the jurisdictions represented by the CSA.

The National Instrument, the Forms, and the material required by the Act to be delivered to the Minister of Finance were delivered on November 12, 1999. If the Minister does not approve the National Instrument, reject the National Instrument or return it to the Commission for further consideration by January 11, 2000, or if the Minister approves the National Instrument, the National Instrument will come into force, pursuant to section 7.1 of the National Instrument, on February 1, 2000. If the Minister does not approve the Forms, reject the Forms or return them to the Commission for further consideration, the Forms will come into force on February 1, 2000. The Companion Policy will come into force on the day that the National Instrument comes into force.

The CSA published drafts of the National Instrument (the "1999 Draft Instrument"), the SP Form (the "1999 Draft SP Form"), the AIF Form (the "1999 Draft AIF Form") and Companion Policy (the "1999 Draft Policy") in April 1999¹. The instruments were previously published for comment in July 1998².

During the comment period on the 1999 Draft Instrument, the 1999 Draft SP Form, the 1999 Draft AIF Form and the 1999 Draft Policy, which ended on July 5, 1999, the CSA received a number of submissions. The comments provided in these

submissions have been considered by the CSA and the final versions of the National Instrument, the SP Form, the AIF Form and Companion Policy being published with this Notice reflect the decisions of the CSA.

Appendix A of this Notice lists the commenters on the 1999 Draft Instrument, the 1999 Draft SP Form, the 1999 Draft AIF Form and the 1999 Draft Policy, and Appendix B provides a summary of the comments received and the response of the CSA.

This Notice summarizes in a general manner the changes made in the National Instrument, the Forms and Companion Policy from the corresponding materials published in 1999 for comment.

Revocation of CSA Notice and National Policy Statement

Effective the date that the National Instrument comes into force, National Policy Statement No. 36 ("NP36") and the CSA Notice 81-301 Mutual Fund Prospectus Disclosure System - Concept Proposal - Request for Comment will be revoked. These materials are replaced or superseded by the matters contained in the National Instrument.

Transition

As described above, it is anticipated that upon the National Instrument and the related instruments receiving all necessary approvals, the new mutual fund prospectus regime created by these instruments will become effective on February 1, 2000.

In order to ease the transition for market participants, the CSA notes two matters.

First, the CSA advises market participants that *pro forma* or preliminary prospectuses, prepared in accordance with the National Instrument and Forms, will be accepted for filing and review after January 1, 2000 so long as the *pro forma* prospectus was required under securities legislation to be filed during January 2000. The CSA does not wish mutual funds with lapse dates after March 1, 2000 to renew their prospectuses early in January. No receipts for such prospectuses can be issued until after the National Instrument comes into force.

Second, the CSA reminds market participants of section 7.2 of the National Instrument. This section allows a prospectus receipted under NP36 before the National Instrument comes into force to be used until its expiry. The section also permits the CSA to receipt a simplified prospectus prepared in accordance with NP36 to be receipted after the National Instrument comes into force, if the corresponding *pro forma* or preliminary prospectus was filed before the National Instrument comes into force.

Background

Substance and Purpose of National Instrument, the SP Form, the AIF Form and Companion Policy

The National Instrument and Forms implement a new regulatory regime governing the disclosure provided by mutual funds in satisfaction of the prospectus requirements of securities legislation. The National Instrument will provide the

¹ In Ontario, at (1999) 22 OSCB 2605.

² In Ontario, at (1998), 21 OSCB 4817.

framework for the system, by requiring the preparation and filing of a simplified prospectus and annual information form by all mutual funds. The National Instrument will also require that both these disclosure documents be prepared in certain formats.

The SP Form provides detailed disclosure requirements for a simplified prospectus of a mutual fund, and the AIF Form provides detailed disclosure requirements for an annual information form of a mutual fund.

The Companion Policy describes the central philosophy of the CSA in implementing the mutual fund prospectus disclosure regime; in particular, it describes the purpose of a simplified prospectus and an annual information form. The Companion Policy also provides further explanation of certain of the rules contained in the National Instrument and certain disclosure items of the Forms.

The regime created by the National Instrument and Forms is designed for conventional mutual funds, and certain mutual funds are specifically excluded from the regime by the National Instrument. The excluded mutual funds consist of labour-sponsored venture capital corporations, commodity pools and mutual funds listed and posted for trading on a stock exchange or quoted on an over-the-counter market.

Summary of Changes to National Instrument, SP Form, AIF Form and Companion Policy from the Versions published in April 1999

This section describes changes made in the National Instrument, the SP Form, the AIF Form and the Companion Policy from the versions published for comment in April 1999, except that changes of a minor nature, or those made only for purposes of clarification or drafting reasons, are generally not discussed. For a detailed summary of the contents of the versions published for comment in April 1999, reference should be made to the Notice published with those instruments. As the changes to the National Instrument, the Companion Policy, the SP Form and the AIF Form are not material, these instruments are not subject to a further comment period. The majority of changes were made by the CSA in response to comments received; others were made as a result of further consideration by the CSA.

National Instrument

Section 1.1

Definitions of "commodity pool" and "precious metals fund" have been added. These definitions are identical to those contained in proposed National Instrument 81-104 Commodity Pools, and have been included in connection with the deletion of a reference to mutual funds "subject to National Instrument 81-104" in section 1.3 of the 1999 Draft Instrument. That deletion was necessary because National Instrument 81-104 will not be in force at the time that the National Instrument comes into force. Section 1.3 now provides that the National Instrument does not apply to "commodity pools".

The definition of "educational material" has been amended by the deletion of the requirement that such material not refer to a particular mutual fund, mutual fund family or to the products

or services offered by a particular mutual fund or mutual fund family. The CSA are of the view that a reference to a particular mutual fund, a mutual fund family or such products or services, is not of itself enough to necessarily make the document in which the reference is made promotional. In conjunction with this change, subsection 5.4(3) of the Companion Policy has been amended to include a statement that a mutual fund, mutual fund family or such products or services may be referred to in educational material so long as the reference does not result in the promotion of such entities or products or services.

A definition of "material contract" has been added to the National Instrument. The definition defines a material contract to be a contract listed in an annual information form in response to Item 16 of the AIF Form. The definition has been added to clarify that the requirement to file material contracts contained in the National Instrument pertains to the documents listed in the relevant annual information form.

Section 2.2

Much of section 2.2 is new, and has been added to specify how amendments to a simplified prospectus or to an annual information form can be made, particularly to a multiple SP or a multiple AIF where the Part A section is bound separately from a Part B section. Section 2.2 also clarifies how amendments are to be identified.

Section 5.2

Subsection 5.2(2) has been added to specify the contents of a general front cover of a document that includes both a simplified prospectus and other materials permitted to be bound with a simplified prospectus under section 5.1. The CSA have added this provision to ensure that a bound package of documents is properly labelled and easily identifiable by an investor.

Part 7

Section 7.1 has been amended to provide that the National Instrument comes into force on February 1, 2000.

SP Form

Part A

Item 8.2. Item 8.2 has been amended by the addition of a requirement that the table required by this Item, which contains sales charge information, assume a five percent annual return in cases in which the mutual fund has a deferred sales charge option in which the amount paid by an investor at the time of a redemption of securities is based upon the net asset value of those securities at that time.

Item 9.2. Item 9.2 has replaced Item 13.2 of Part B of the 1999 Draft SP Form. This Item requires disclosure, generally speaking, of the percentage of management fees used to pay commissions and for other marketing and dealer-incentive purposes. Item 9.2 now provides that this disclosure be made on a fund family basis, rather than on an individual fund basis as in the 1999 Draft SP Form. The CSA have also changed the requirement to disclose the dollar amount of management fees so paid in favour of a percentage calculation.

Item 10. An instruction to item 10 has been added, emphasizing the importance of disclosure of the tax consequences associated with direct payment of management fees by investors holding funds in RRSPs.

Item 12. This Item has been amended by the addition of a reference to disclosure permitted or required to be contained in a simplified prospectus by an order or ruling of a securities regulatory authority pertaining to the mutual fund. This addition has been made to ensure that such information is not technically prohibited from being included in a simplified prospectus by paragraph 4.1(2)(e) of the National Instrument, which provides that only educational material or the information that is specifically mandated or permitted by the SP Form to be included in a simplified prospectus may be included.

Part B

Item 1. Item 1 has been amended by the addition of a requirement for an additional sentence in the footer required by that item in cases in which a Part B section has been amended and restated.

Item 6. Item 6 has been amended by the addition of a requirement that the simplified prospectus of a mutual fund describe the nature of any securityholder, or other, approval that may be required in order to change the fundamental investment objectives of the mutual fund and any of the material investment strategies to be used to achieve those investment objectives. The CSA consider it important that investors be aware of the rights given to them under National Instrument 81-102 Mutual Funds in this regard. This disclosure was previously required to be made in the annual information form of a mutual fund. As well, a requirement in the 1999 Draft SP Form to state whether the mutual fund will be managed so that its securities will constitute foreign property under the *Income Tax Act* (Canada) (the "ITA"), was deleted and replaced with the provision described immediately below.

Item 7. Item 7 has been amended by the addition of subsection (4), which requires a mutual fund whose securities are not foreign property under the ITA to state what proportion of its assets may, or will be, invested in foreign securities.

Item 8. Item 8 has been amended in two ways.

First, the Item specifically states that the requirement to disclose the top ten holdings of a mutual fund does not apply to money market funds.

Second, the Item now requires that the top ten holdings be disclosed as of a date within 30 days of the date of the simplified prospectus, and that a warning accompany the list, stating that the information contained in the list may change due to the ongoing portfolio transactions of the mutual fund. The Item also requires a statement on how more current information may be obtained, if available.

Item 13.2 of 1999 Draft SP Form. This item has been moved to Item 9.2 of Part A of the SP Form, as discussed above.

Item 13.2. Subsection (2) of this Item provides that certain assumptions are required to be made in the calculations

required by that subsection. One of those assumptions is that the management expense ratio and operating expense of the mutual fund be assumed to be the same for the past 10 years as they were in the last completed financial year. Subsection (2) has been amended to provide that any performance fees paid in a year that would not have been paid had the mutual fund earned a total return of five percent in the last completed financial year shall be excluded from the assumptions concerning management expense ratios and operating expenses.

AIF Form

General Instructions. Subsection (10) of the General Instructions has been amended by the addition of a discussion concerning the consolidation of annual information forms into a multiple AIF. This discussion also appears in section 6.3 of the Companion Policy.

Item 3. Subsection (4) of this Item now requires that a mutual fund state any former name or names if its name has changed in the last 10 years, rather than since its formation as in the 1999 Draft AIF Form.

Item 10.2. The language in this Item, respecting disclosure of information concerning the manager of a mutual fund, has been conformed more closely with the disclosure requirements concerning directors of corporations required by proposed Ontario Rule 41-501 General Prospectus Requirements.

Item 12. The requirements for disclosure of the governance arrangements of a mutual fund have been amended to require identification of the body or group that has responsibility for fund governance and the extent to which its members are independent of the manager of the mutual fund. These requirements are substantially similar to those contained in the 1999 Draft AIF Form, but have been reworded to be of more general application than in the previous draft, in order to contemplate a wider variety of governance structures.

Item 16. Item 16(3) has been amended to require disclosure of the termination provisions of material contracts in an annual information form. The Item has also been amended to clarify that disclosure only of the consideration paid by a mutual fund under those contracts is required to be made.

Item 17(4). In order to bring the provision into conformity with other proposed securities legislation, and in response to comments received, this provision has been amended from the 1999 Draft AIF Form in two ways. Only settlement agreements entered into in the ten years before the date of the Simplified Prospectus but after the date upon which the National Instrument comes into force, must be disclosed. As well, penalties or sanctions imposed on a manager, director or officer of a mutual fund which (although not related to trading in securities, promotion or management of a fund) must be disclosed if they are likely to be considered important to a reasonable investor in determining whether to purchase securities of the fund.

Item 23(3) of the 1999 Draft AIF Form. This item regarding identification of breaches of securities legislation has been deleted in response to comments received, as well as for greater consistency with existing and proposed securities legislation.

Companion Policy

Section 2.7. Section 2.7 has been added to discuss and clarify the various aspects of the filing and document preparation requirements concerning amendments to simplified prospectuses and annual information forms. The section also reminds market participants that an amendment to a prospectus does not change its lapse date under Canadian securities legislation.

Section 4.1. Subsection (6) has been added to include the statement that the National Instrument contains no restrictions on how many simplified prospectuses can be consolidated into a multiple SP.

Section 4.2. Subsection (2) has been added to discuss the procedure by which a new mutual fund can be added to a multiple SP that contains final simplified prospectuses.

Section 5.3. Section 5.3 has been amended by the addition of subsection (3), which contains a discussion of the items in the SP Form that permit certain mandated or permitted information to be included in a simplified prospectus.

Section 5.4. Subsection (3) has been amended by the inclusion of a statement that a mutual fund, mutual fund family, or products or services offered by those entities may be referred to in educational material so long as the reference does not result in the promotion of those entities, products or services. This change has been made in conjunction with the change to the definition of "educational material" in section 1.1 of the National Instrument to remove the prohibition against such references in educational material.

Section 8.2. Section 8.2 is new and has been added to remind market participants of the need to consider the necessity of amending a simplified prospectus in connection with a change in the personnel of a portfolio adviser.

Amendment of Regulation - Ontario

In Ontario, the Ontario Commission has made the following amendments to Regulation 1015 of the Revised Regulations of Ontario, 1990, (the "Regulation") in conjunction with the making of the National Instrument as a rule in Ontario. These amendments come into force at the time that the National Instrument comes into force.

1. Subsection 44(1) of the Regulation is deleted and replaced with the following:

"Except as otherwise provided in National Instrument 81-101 Mutual Fund Prospectus Disclosure, the prospectus of a mutual fund shall be prepared in accordance with Form 15."

2. Subsection 49(2) of the Regulation is deleted and replaced with the following:

"Except as otherwise provided in National Instrument 81-101 Mutual Fund Prospectus Disclosure, the information contained in a

prospectus need not follow the order of the items contained in the forms and may be expressed in a condensed or summarized manner if it does not obscure any of the required information or any information necessary to keep the required information from being incomplete or misleading."

3. Subsection 49(4) of the Regulation is deleted and replaced with the following:

"Except as otherwise provided in National Instrument 81-101 Mutual Fund Prospectus Disclosure, all information contained in a prospectus shall be set out under appropriate headings or captions reasonably indicative of the principal subject matter set out thereunder."

4. Subsection 49(5) of the Regulation is deleted and replaced with the following:

"Except as otherwise provided in National Instrument 81-101 Mutual Fund Prospectus Disclosure, every prospectus shall contain a reasonably detailed table of contents."

5. Subsection 49(6) of the Regulation is deleted and replaced with the following:

"Except as otherwise provided in National Instrument 81-101 Mutual Fund Prospectus Disclosure, information required by more than one applicable item of a prospectus form need not be repeated."

6. Subsections 52(1) and 52(2) of the Regulation are each amended by deletion of the words "the Rules entitled In the Matter of a Simplified Prospectus Qualification System for Mutual Funds (1984), 7 OSCB 5333, National Policy Statement No. 36 (1984), 7 OSCB 5355, as amended and National Policy Statement No. 39 (1987), OSCB 6465, as amended," and the replacement of those words with the words "National Instrument 81-101 Mutual Fund Prospectus Disclosure."

7. Section 81(1) of the Regulation is amended by the deletion of paragraphs 1, 2 and 3, and the addition of the following as new paragraph 1:

"1. National Instrument 81-101 Mutual Fund Prospectus Disclosure."

National Instrument, SP Form, AIF Form and Companion Policy

The texts of the National Instrument, SP Form, AIF Form and the Companion Policy follow.

Text of Revocation of CSA Notice

The text of the revocation of the CSA Notice described in this Notice is as follows:

"CSA Notice 81-301 Mutual Fund Prospectus Disclosure System - Concept Proposal - Request for Comment is revoked effective the date that National Instrument 81-101 Mutual Fund Prospectus Disclosure comes into force."

Text of Rescission of National Policy Statement No. 36

"National Policy Statement No. 36, entitled "Mutual Funds: Simplified Prospectus Qualification System" is rescinded effective at the time that National Instrument 81-101 Mutual Fund Prospectus Disclosure comes into force."

**APPENDIX A
LIST OF COMMENTERS ON
NATIONAL INSTRUMENT 81-101,
FORM 81-101F1, FORM 81-101F2 AND
COMPANION POLICY 81-101CP**

1. Fidelity Investments Canada Limited
2. The Investment Funds Institute of Canada
3. Investors Group
4. Mackenzie Financial Corporation
5. Rice Financial Group Inc.
6. Templeton Management Limited
7. Trimark Investment Management Inc.

DATED: November 12, 1999.

**APPENDIX B
SUMMARY OF COMMENTS RECEIVED ON
NATIONAL INSTRUMENT 81-101,
FORM 81-101F1, FORM 81-101F2 AND
COMPANION POLICY 81-101CP AND
RESPONSE OF THE CANADIAN SECURITIES
ADMINISTRATORS**

1. INTRODUCTION

The CSA published drafts of the National Instrument (the "1999 Draft Instrument"), Form 81-101F1 (the "1999 Draft SP Form"), Form 81-101F2 (the "1999 Draft AIF Form") and Companion Policy (the "1999 Draft Policy") in April 1999³. The instruments had been previously published for comment in July 1998.⁴

During the comment period on the 1999 Draft Instrument, the 1999 Draft SP Form, the 1999 Draft AIF Form and the 1999 Draft Policy, which ended on July 5, 1999, the CSA received 7 submissions, six of which were from five mutual fund management companies and one mutual fund dealer. The remaining submission was from The Investment Funds Institute of Canada (IFIC) who provided comments on behalf of its members.

The comments provided in these submissions have been considered by the CSA and the final versions of the National Instrument, the SP Form, the AIF Form and Companion Policy being published with this Notice reflect the decisions of the CSA in this regard.

Copies of the comment letters may be viewed at the office of Micromedia, 20 Victoria Street, Toronto, Ontario (416) 312-5211 or (800) 387-2689; the office of the British Columbia Securities Commission, 200-865 Hornby Street, Vancouver, British Columbia (604) 899-6500; the office of the Alberta Securities Commission, 10025 Jasper Avenue, Edmonton, Alberta (403) 427-5201; and the office of the Commission des valeurs mobilières du Québec, Stock Exchange Tower, 800 Victoria Square, 17th Floor, Montréal, Québec.

The CSA thank all commenters for providing their comments. The nature of the comments received indicates the care and thought given by industry participants to the issues addressed by the instruments published for comment in April 1999 and the comments have been very helpful to the CSA in their consideration and preparation of the final versions of these materials.

The following is a summary of the comments received, together with the CSA's responses and, where applicable, the changes adopted by the CSA. As the changes to the 1999 Draft Instrument, the 1999 Draft SP Form, the 1999 Draft AIF Form and the 1999 Draft Policy are not material, these instruments are not subject to a further comment period.

2. GENERAL COMMENTS

Commenters on the whole provided detailed comments on specific sections of the 1999 Draft Forms. However, general comments were also received in support of the changes made in the 1999 draft instruments.

It was acknowledged that the changes made generally reflect the recommendations of the industry. It was noted that the CSA have taken considerable effort to provide flexibility to the use of Part A and B packaging and the ability of fund companies to provide educational information supplementing the required disclosure. Commenters supported the fact that the changes proposed will reduce the repetition inherent in the fund summary originally proposed and will shorten the simplified prospectus documents. Support was expressed, generally, for the change in focus of the annual information form to a document that supplements the information provided in the simplified prospectus as this will avoid redundancy.

IFIC noted that it expects to recommend the use of a point of sale fee disclosure document to be delivered by dealers to investors, which may reduce the disclosure needed in the simplified prospectus, and will be in further contact with the CSA in this regard. The CSA will await those submissions and will review them once received.

A commenter suggested that the CSA adopt a 'continuous disclosure' type system, which would permit funds to file updates to the disclosure required in Part B of the simplified prospectus (e.g. the fund's top ten holdings) on a quarterly basis. It was suggested that this would permit more frequent updating of the fund-specific disclosure. The CSA note that at this time this comment is beyond the mandate of this rule-making project.

3. SUBSTANTIVE COMMENTS ON SPECIFIC PROVISIONS

Note: In these Tables, "NI" means National Instrument 81-101 Mutual Fund Prospectus Disclosure; "CP" means Companion Policy 81-101CP Mutual Fund Prospectus Disclosure; and references to a "1999 Draft" means the version of the referenced instrument published for comment in April 1999. "NP 36" means National Policy Statement No. 36; and "CSA" means the Canadian Securities Administrators.

³ In Ontario, at (1999) 22 OSCB 2605.

⁴ In Ontario, at (1998) 21 OSCB 4817.

**SUMMARY OF COMMENTS
ON PROPOSED NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE
PUBLISHED FOR COMMENT APRIL 30, 1999**

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
1.	Part 1 -- Section 1.1 - -Definition of Educational material	_____	Definition should not prohibit the mention of specific mutual funds or a fund family, provided that any mention is for educational purposes. Providing specific examples that include such names helps make abstract information about mutual fund investing more accessible to investors.	Change made to definition to permit a non-promotional reference to a mutual fund. Change made to CP at subsection 5.4(3) to clarify that educational, and not promotional, references to specific mutual funds are permitted, for example, as part of a general discussion of the risks of mutual funds.
2.	Part 2, Section 2.2(1)(b)(i)- Disclosure Documents	Section 2.2(1) and (2); Section 1.1; CP Section 2.7	<p>The requirement to file all material contracts (or drafts) with the preliminary SP and AIF causes concern as at that time, these documents are usually in the process of being developed for submission with the final SP/AIF. Public disclosure of these documents at such an early stage raises competitive concerns. All material documents should be required to be filed prior to the submission of the final SP/AIF.</p> <p>Clarify that material contract should not include any contracts to which the mutual fund is not a party, e.g. a portfolio management contract between the fund manager and sub-adviser.</p> <p>Clarify what documentation is to be filed when there is only a change to a SP and not the AIF, and add a further subsection 2.1(1)(d)(iii) to contemplate changes only to a SP.</p>	<p>The CSA acknowledge that this requirement represents a change to current practise, and notes that the material contracts filed on SEDAR with preliminary prospectuses are not made 'public' at that time but rather are marked as 'private' on the system. Please see the explanation of the words 'file', 'deliver' and 'send' in section 2.5 of the CP. Only final versions of the SP, AIF and material contracts will be made public. Filers should file SP documents only when they are also ready to file the material contracts.</p> <p>Change made. Definition of "material contract" added to Section 1.1, which definition refers to the list of material contracts in Item 16, Form 81-101F2.</p> <p>Change made. Section 2.2 of NI clarified, and Section 2.7 added to CP to clarify that filing an amendment to a SP may be synonymous with updating the certificate, and for further clarification and discussion of amendments.</p>

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
3.	Part 3, Section 3.2 - Documents Incorporated by Reference	_____	Add a further subsection to section 3.2 to clarify that reliance on the disclosure provided in the SP is also deemed to include reliance on the AIF, most recently filed financial statements and accompanying auditors reports as well as the most recently filed interim financial statements which are included by reference in the SP under section 3.1.	No changes made. None necessary since law operates in the manner discussed.
4.	Part 4 - Plain Language and Presentation	_____	Several sections of mandated language could be replaced with more simple words or phrases. Permit the inclusion of educational material in a SP under subsection 4.1(2)(e) without restricting the location of such disclosure.	No changes made. The CSA consider that the mandated language is in plain language and that the section operates as the commenter suggested. The NI and the Forms further provide that language "substantially in the form of" the suggested language, may be used.
5.	Part 5 - Packaging	_____	Permit marketing materials to be attached to, or bound with, the SP under Item 5.1(3). Allow more latitude in the ordering of documents under section 5.2 in order to allow fund companies to customize their products.	No changes made. The inclusion of marketing materials may detract from the required disclosure, lengthen the document and potentially confuse investors. The required ordering of documents is important in allowing potential investors to compare prospectus disclosure between funds, making the prospectus a more useful document.
6.	Part 7 - Transition	_____	Clarify whether a fund company that files a preliminary SP before NI81-101 comes into force can file its final SP using the new form where it knows that the receipt will not be issued until after NI81-101 comes into force. Permit a phase-in period of 12 months, during which time funds would have the option of using the current disclosure regime or taking advantage of the new format.	No change made. Please see Notice which discusses the fact that as an administrative practice, the CSA are prepared to accept a preliminary or <i>pro forma</i> prospectus using the format contemplated by the Instrument thirty days prior to the implementation date of the Instrument. The prospectus would not be received until NI81-101 comes into force.

**SUMMARY OF COMMENTS
ON
PROPOSED COMPANION POLICY 81-101CP
PUBLISHED FOR COMMENT APRIL 30, 1999**

	April, 1999 Draft Reference	Revised Final Reference	Comment	CSA Response
1.	Part 2 - Purpose and General Approach of the Instrument	_____	Although additional information should not be included in the SP that would make it unduly lengthy, concern that the reference to limiting the size of the SP may inadvertently limit the length of the educational material included, which would prejudice larger fund families.	No changes made. The CSA have not included any size limitations. The size and length of a multiple SP will be dictated by the fund family's compliance with the NI and the Forms.
2.	Part 7 - Delivery	_____	Although subsection 7.1(1) states that the Instrument requires delivery to all investors of a SP, there is no such requirement under NI81-101. Section 3.2 of the Instrument does not actually require such delivery.	Change made. Section 7.1(1) amended to clarify that the Instrument <i>contemplates</i> delivery to all investors of a simplified prospectus, as <i>required by securities legislation</i> .

**SUMMARY OF COMMENTS
ON
PROPOSED FORM 81-101F1
CONTENTS OF SIMPLIFIED PROSPECTUS
PUBLISHED FOR COMMENT APRIL 30, 1999**

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
1.	Part A, Item 1 – Front Cover Disclosure	_____	Permit the SP to be wrapped with covers that would permit the use of a logo, certain fund-identifying names and marks, an investor introductory overview and mutual fund educational information prior to the formal “front cover” of the SP.	The Instrument permits the use of a logo. Change made to subsection 5.2(2) of the NI to clarify that front covers may contain artwork, logos or fund-identifying marks.
2.	Part A, Item 8.2 – Illustration of Different Purchase Options	_____	<p>Commenters supported the reduction in the number of required tables under this heading.</p> <p>Reinsert the assumed 5% annual rate of return, to ensure that industry participants prepare their calculations based on the same assumptions. An assumed rate of return is necessary for any fund company that charges redemption fees on current market value, rather than on original cost. Include a footnote for those companies that calculate the fees at current market value, indicating an assumed 5% rate of return and a warning that actual fees may fluctuate.</p> <p>Where a fund has a higher maximum allowable sales charge, though typically a lower maximum is charged, an explanatory footnote should be used below the table.</p>	<p>Comment noted.</p> <p>Change made. See Item 8.2(2)(b).</p> <p>No changes made.</p>
3.	Part A, Item 10(4) – Income Tax Considerations for Investors	_____	<p>The instructions should include guidance as to when this type of disclosure would be considered “material”. “Potential impact” and “anticipated portfolio turnover rate” also require further instruction.</p> <p>The requirement of additional disclosure beyond that required by Item 10(1), “if material” describing the potential impact of a fund’s anticipated portfolio turnover rate on a taxable investor, is repetitious of the disclosure required by Part B, Item 7(4). The portfolio turnover rate may not be relevant to a taxable investor, as there is no agreement that a high portfolio turnover rate translates into higher taxes for investors especially if investor gains are offset by losses. It may not be possible to gauge a fund’s “anticipated” or “potential” turnover in times of market uncertainty. The detailed disclosure of distributions in a fund’s financial statements is sufficient disclosure for taxable investors.</p>	<p>No changes made. The CSA consider those terms to be sufficiently clear.</p> <p>No changes made, although comment noted.</p>

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
4.	Part A, Item 10(6)-Income Tax Consideration Investors	_____	Remove item 10(6) and replace it with general warning language that investors should consult their advisers on their personal tax positions if management fees are paid by them directly.	Change made. Instruction added to Item 10 to require that tax considerations for investments held through registered plans to be explicitly described.
5.	Part A, Item 12 – Additional Information	_____	Provide more guidance regarding what should or should not be included in this area or delete this section.	Change made. Item amended to specify that this item may refer to an order or ruling of a securities regulatory authority and an additional example given in the Instructions.
6.	Part A, Item 14 – Back Cover	_____	Move the disclosure to the back cover of each separately bound SP, as the information in this item is essentially the same as in Part A, Item 3.1 – Introductory Disclosure.	No changes made as the CSA are of the view that the disclosure is sufficiently important to warrant being printed in both places.
7.	Part B, Item 1 - General	_____	Disclaimer in footer of each page of Part B about Part A should only be required at the bottom of the first page of each separately bound Part B.	No changes made as the CSA are of the view that this disclosure is sufficiently important to be printed on each page.
8.	Part B, Item 5 – Fund Details Instruction 3	_____	The industry should be encouraged or mandated to use the fund type designations recently developed by the Investment Funds Standards Committee which stipulated fund categories and the criteria for each. The industry should assign the correct fund category to its funds when describing them in the fund prospectus, to avoid consumer confusion when searching out performance information published by the financial media.	At present, the CSA neither encourage nor discourage the use of the fund type designations. Funds are not prohibited from using these designations if so desired.
9.	Part B, Item 6 Fundamental Investment Objectives	_____	The requirement under section 5.1(c) of NI 81-102 of unitholder approval of changes to fundamental investment objectives may cause funds to restrict their disclosure under Item 6(1) to minimize the need for unitholder approval of even minor changes in disclosure.	No changes made. The CSA consider disclosure under this item of utmost importance to investors and expect compliance. 1999 Draft F2 item 4(3)'s requirements added to new 1999 Draft F1 item 6(2).

	April, 1999 Draft Reference	Revised Final Reference	Comment	CSA Response
			<p>Item 6(1)(b) -- A change in the portfolio management of a fund that results in a change to the income tax classification of the fund's units should not require unitholder consent, especially where the change is from "foreign property" to Canadian property. Investors cannot be negatively impacted by such a change and so should not have to bear the cost of a unitholder meeting.</p> <p>Item 6(1)(b)'s requirement repeats the same requirement as in item 5(e) (Fund Details), and is not a fundamental investment objective. This disclosure would be more appropriate under Part A, Item 10 –Income Tax Considerations for Investors.</p> <p>The requirement to disclose the type of securities in which the fund may invest other than under normal market conditions in item 7 could be confusing given that the instructions for item 6 require disclosure of the "type or types of securities, such as money market instruments, bonds or equity securities in which the fund will primarily invest."</p> <p>Combine items 6 and 7 so that funds may indicate expressly those aspects of their investment objectives and strategies for which changes require unitholder approval.</p> <p>Instead of the general language used in item 6(1)(a), the Instrument should state which types of changes will require unitholder approval.</p>	<p>Item 6(1)(b) deleted. New item 7(4) added which clarifies that if a Canadian fund intends to invest in foreign property, this must be disclosed. A change from Canadian to "foreign" property would generally require unitholder approval since it likely would result from a change in the fund's fundamental investment objectives.</p> <p>Comment addressed by the deletion of item 6(1)(b).</p> <p>Change made. Instruction 1 to Item 6 amended to add the words "under normal market conditions". Changes made to Item 6(2) to clarify that a prospectus must disclose the nature of any securityholder or other approval required to change a fund's fundamental investment objective, and any of the material investment strategies to be used to achieve those investment objectives.</p>

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
10.	Part B, Item'8 - Top Ten Holdings	_____	<p>Delete the requirement to disclose top ten holdings as at financial year end in SP as it will quickly become outdated and potentially mislead unitholders. The information will not be comparable fund to fund as it is based on the fund's financial year. One alternative is to state under Item 6 or 7 that current quarterly or monthly holdings information is available from financial advisors or the fund manager. The most recent financial statements will provide investors with more complete and current information. Another option is to include the top ten holdings of the fund based on the most recent quarterly data.</p> <p>If this Item is retained, money market funds should be explicitly exempted because the problems of irrelevance and timeliness are exacerbated with this type of fund.</p> <p>Item 8, instruction 4's requirement should apply only when the underlying interest or proportionate share (respectively) comprises more than 10% of the value of the derivative or index participation unit.</p>	<p>Change made to specify that the disclosure of top ten holdings should be within 30 days of the date of the final prospectus. Requirement added to Item 8 to require statements to the effect that the information contained in the list may change due to the ongoing portfolio transactions of the fund, and concerning how more recent information, if available, may be obtained.</p> <p>Change made. Money market funds excluded from this item.</p> <p>No change made, as none necessary.</p>
11.	Part B, Item 10 - Suitability	_____	<p>As fund managers do not possess the relevant "know your client" information, a statement of suitability should only comment on the type of portfolio and not the type of investor for which the fund is suitable.</p>	<p>No changes made, as none needed. The Item allows for a statement of the suitability of the fund for certain types of portfolios, rather than types of investors.</p>
12.	Part B, Item 11.3 - Line Graph	_____	<p>Delete Item 11.3(2)(b)'s requirement to dramatize the information on a quarterly basis. The year-by-year performance disclosure and ten-year duration of the information sufficiently demonstrates performance volatility. Delete Item 11.3(7)'s requirement to disclose a change in the comparative index, and item 11.4(5)'s requirement of an explanation of any change of index (Annual Compound Returns).</p> <p>11.3(6) -- The Investment Funds Standards Committee classification of mutual funds should be adopted for the line graph comparison. The standard against which funds compare their performance should be the applicable industry category index which indicates the average performance of all funds in a specific category, rather than a broad based securities market index.</p>	<p>No changes made. The CSA are of the view that quarterly performance information is of value to investors, and that the disclosure of changes of indices is necessary clarification from past prospectus disclosure.</p> <p>The CSA have considered this comment and determined that it is beyond the mandate of this rule-making project.</p>

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
13.	Part B, Item 13.1 - Financial Highlights	_____	<p>Commenters supported the CSA's attempt to simplify the detailed disclosure in these tables. Some commented that it should be further simplified by deletion of the number of units outstanding.</p> <p>Aside from the annual distribution figure in the first table, the detailed distribution information should be deleted from the prospectus. Instead, a cross reference should be made to a fund's financial statements.</p> <p>The charts under this Item should reflect circumstances where management fees are paid outside the fund. Item 13.1(6)'s provision that the MER shall not be shown for any period under a full financial year of the fund is inconsistent with NI 81-102, paragraph 17.2(2)(a) which stipulates that the MER must be annualized for periods shorter than one year.</p>	<p>No change made as the CSA are of the view that the number of outstanding units and the required distribution information are sufficiently important to investors to be disclosed in prospectuses.</p> <p>Change made. Item 13.1(6) amended to require the MER to be annualized for periods shorter than one year.</p>
14.	Part B, Item 13.2 – Sales Incentives Paid from Management Fees	Part A, Item 9.2 - Dealer Compensation from Management Fees	<p>One commenter supported the objective of the section, "to be clear for consumers to understand what they are paying for and what they should expect when investing in a fund". Other commenters felt this item should be deleted as it requires excessive disclosure that does not provide investors with any meaningful information that will assist in making informed investment decisions.</p>	<p>The CSA are of the view supported by at least one commenter that there is investor value to knowing on a fund family basis, the fund distribution costs, and that any difficulty with the disclosure is with respect to the vertical organization structure of some companies.</p>

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
			<p>As the Item requires disclosure of the approximate amount of the management fees received by the manager that were "paid" to registered dealers, the provision may only apply to organizations that actually pay distributors of their funds and thus would not apply to companies that allocate income internally. To require disclosure from some industry participants based on the distribution channels creates an unlevel playing field.</p> <p>Commenters also noted their concerns about this disclosure related to the following: Distortions between funds of the same family are possible as a new fund with a small asset base that is heavily promoted may have a higher marketing cost relative to an older, larger fund, leading investors to erroneous conclusions about the funds. NI 81-105 and the existing disclosure requirements about fees paid from the fund and sales charges levied, are sufficient and make the disclosure related to educational and promotional conferences under item 13. 2(b) unnecessary. This disclosure may prejudice larger fund companies that generally incur higher costs in holding such conferences. Fund companies lack the ability to accurately track the marketing and conference expenses on a specific fund by fund basis.</p>	<p>The CSA acknowledge this comment and will be seeking further elaboration on how this comment could be addressed, having regard to the structures in place in the industry, particularly for mutual fund groups associated with large financial institutions and whose mutual funds are largely distributed by dually employed sales persons through branches of the financial institution. The CSA note that the "unlevel playing field" referred to in this comment exists due to industry relationships and structures and not due to any action or inaction by the CSA. Notwithstanding this comment, the CSA continue of the view that the disclosure required by Part A, Item 9.2 will assist investors in better understanding the extent to which the fees they indirectly bear are used not for management and investor services, but for payment of distribution costs incurred by the managers of the mutual funds.</p> <p>Change made. Item moved to Part A, Item 9.2 so that the required disclosure may be made on a fund-family basis. Also requirement amended so that disclosure of a specified percentage necessary.</p>

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
15.	Part B, Item 13.3(2) – Illustration of Fund Expenses Indirectly Borne by Investors	Part B, Item 13.2(2)	The illustration table may not capture the scenario of the manager being entitled to a performance fee bonus. If the manager earns the bonus in the prior year, the fund's MER would be very high (and the investors would have realized a large increase in the value of their holdings). By forcing an assumed total return of 5% and the prior year's MER, that fund will, unfairly, appear to be very expensive to own over the 10 year period. Suggested approach for funds that have performance fees is to apply a hypothetical MER based on a 5% total return in the prior year, plus a footnote explaining that MERs will vary based on the performance fee earned by the manager in future years.	Change made. Item 13.2(2)(iii) (formerly item 13.2(2)(ii)) amended to exclude any performance fees paid in the last completed financial year which would not have been paid had the mutual fund earned a total of five percent in that last completed financial year.

**SUMMARY OF COMMENTS
ON
PROPOSED FORM 81-101F2
CONTENTS OF ANNUAL INFORMATION FORM
PUBLISHED FOR COMMENT APRIL 30, 1999**

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
1.	Item 3 – Name, Formation and History	_____	<p>Delete altogether, or narrow item 3(4)'s requirement to provide all former names of the fund, to the names of the fund during the preceding 10 years (for which period performance data is provided).</p> <p>Aside from changes in the fund's fundamental objectives, items 3(3) and 3(5) are of questionable relevance to an investor's decision to purchase the fund now. Reduce the latter time period to a five year period.</p> <p>Much of the disclosure outlined in items 3(5)(a) through (e) should be contained in the fund's permanent information record, rather than in a disclosure document.</p>	<p>Change made. Item 3(4)'s requirement refined to provide former names during the preceding 10 years.</p> <p>Change made. Item 3(3) amended to refer to the last 10 year period.</p> <p>No change made. The CSA are of the view that the required disclosure is relevant to certain investors.</p>
2.	Item 6(2) – Valuation of Portfolio Securities	_____	<p>Fair value pricing, the ability to "fair value" a fund's portfolio in the event that some or all of the securities cannot be valued as they ordinarily would, should not be considered a deviation of pricing to be reported in Item 6(2). Delete requirement to disclose all deviations from normal valuation practices over the previous 3 years as it raises tracking difficulties, and is irrelevant unless such deviations (on a case-by-case basis or in the aggregate) would have resulted in a change in the fund's net asset value per unit.</p>	<p>Change made. Item changed to require that an example of the exercise of this discretion within the past three years be disclosed. If such discretion has not been exercised in the last three years, this should be stated. Fair value pricing that is in the course of ordinary day to day valuation procedures as established by the declaration of trust of the fund, are not required to be disclosed. The item requires disclosure of instances where senior management is involved in the valuation of a security, as a deviation from typical valuation practices.</p>
3.	Item 10.2(3) – Manager	_____	<p>Item 10.2(2) should require the listing of only the "senior" or "executive" partners, directors and officers of the manager of the fund with their addresses and occupations over the preceding five years. Delete the requirement at item 10.2(3) to disclose the first position held by each partner, officer and director of the manager. Disclosure of the principal occupation or job title during the previous 5 years is sufficient. Number of years with the organization may be more meaningful.</p>	<p>Change made. Item 10.2(3) changed to refer only to "offices" held. The CSA note that the revised language is consistent with the general prospectus rules for all corporate issuers, and confirms that funds are only required to disclose the names of those considered by the fund or the manager to be an "officer".</p>

	April, 1999 Draft Reference	Revised Final Reference	Comment	CSA Response
4.	Item 10.3 – Portfolio Adviser	_____	<p>Delete the requirement to disclose the name of the person or persons providing portfolio management services, unless their identity is being used as a selling feature. The identities of personnel employed by (or associated with) the fund's portfolio advisers may not even be known by the fund. The focus on individuals rather than the investment adviser also places the focus on individual managers rather than on the team approach used by many investment advisers. The identity of such individuals could be made available on request.</p> <p>The costs of filing prospectus amendments to comply with the disclosure required by item 10.3(3)(b) could be quite high as the movement of portfolio managers is common. Permit funds to "sticker" the AIF (using the American approach) with such changes as an interim measure until the annual renewal filing of the prospectus and AIF, or waive the fee. Fund companies would be required to advise investors through their regular news bulletins, investor statements, marketing material or web sites.</p>	<p>Change made. Section 8.2 of CP, added to clarify that while the names of individuals providing portfolio management services must be disclosed in the prospectus, an amendment to the prospectus need only be filed if the fund company has been promoting the fund based on the work of an individual who ceases to provide such services. The CSA refer commenters to the discussion in NI 81-102 CP, s. 7.4 regarding significant changes.</p> <p>Comment noted. No change made to item 10.3(3)(b) at this time. The CSA refer commenters to the discussion in the CP, section 2.7 regarding amendments.</p>
5.	Item 10.4- Brokerage Arrangements	_____	<p>The requirement to disclose the brokerage arrangements and 'soft dollar' arrangements entered into by a fund's various portfolio advisers may not be known to the fund and, even if known, would not be relevant unless the manager itself directly benefits from these arrangements.</p>	<p>No changes made.</p>
6.	Item 10.6 – Directors, Officers and Trustees	_____	<p>Item 10.6(5)'s requirement for disclosure of the first position held by officers and directors of an incorporated fund is unnecessary and should be deleted. This requirement should only apply to senior or executive directors and officers.</p>	<p>Comment addressed above.</p>
7.	Item 10.10 – Other Service Providers	_____	<p>The specific type of information to be disclosed in contractual arrangements between the fund and the person or company providing material services, requires clarification. Delete the words "and describe the contractual arrangements between the mutual fund and the person or company".</p>	<p>Change made. Item amended to state "...describe the <i>material features of the</i> contractual arrangements." Note the intentional deletion of the words "between the mutual fund and"</p>
8.	Item 11.1 – Principal Holders of Securities	_____	<p>The disclosure required under Item 11.1(5) regarding the 10% aggregate ownership level should be applicable to each of the subsections under 11.1(5)(a) and (b) as disclosure below the 10% level would not provide meaningful information for investors upon which to base their investment decisions.</p>	<p>No changes made.</p>

	<i>April, 1999 Draft Reference</i>	<i>Revised Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
9.	Item 12 – Fund Governance	_____	The required disclosure, while useful, does not contemplate various forms of fund governance bodies. Item 12(1)(a) should be restated to read “the body or group which has responsibility for fund governance, the extent to which its members are independent of the fund manager and, if so, their names and addresses....”	Change made. Item 12(1)(a) amended to read “the body or group that has responsibility for fund governance, the extent to which its members are independent of the fund manager...”. The rest of the provision has been amended slightly for greater clarity.
10.	Item 13.1 – Management Fee Rebate or Distribution Programs	_____	While commenters agreed that a general description of any management fee rebate program is justified, they felt that disclosure of the different management fees paid by different investors should not be required as such information is not relevant to investors' investment decisions.	No changes made. The CSA consider that this information may well be relevant to an investor's investment decision.
11.	Item 16- Material Contracts	_____	Delete the requirement under Item 16(3) to disclose particulars of contracts, as disclosing the consideration given for contracts is not relevant to unitholders and raises serious competitive concerns.	Change made. Item amended to require disclosure of termination provisions. Item clarified to state that consideration paid by the mutual fund under such contracts must be disclosed, as the CSA are of the view that such disclosure is relevant to investors.
12.	Item 17.4 – Legal and Administrative Proceedings	_____	Delete the requirement to disclose settlement agreements made between a mutual fund manager and a securities regulator. Settlement agreements are the result of many factors unrelated to the merits of any claim, and do not represent a final judicial arbitration on the issues. Requiring such disclosure could act as a disincentive for fund managers to settle such disputes, resulting in more costly hearings before the securities commissions. Any required disclosure of settlement agreements should be only of those entered into after the instrument comes into force and not be based on a 10-year history.	Change made. Item amended to require only the disclosure of settlement agreements entered into after the Instrument comes into force.
13.	Item 23 – Exemptions and Approvals	_____	Delete item as other issuers are not required to make such disclosure before identification of the breach and mutual funds should operate on a level playing field with other issuers. It is unlikely that a fund or manager will confess any “material breaches of securities legislation” in an AIF, without first having dealt with the issue with the appropriate regulator. If it has resulted in a court or regulatory determination, it would be disclosed in Item 17.	Change made. Item deleted for greater consistency with existing and proposed securities regulations.

**NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE
TABLE OF CONTENTS**

**NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE**

PART 1 DEFINITIONS, INTERPRETATION AND APPLICATION

<u>PART</u>	<u>TITLE</u>	
PART 1	DEFINITIONS, INTERPRETATION AND APPLICATION	1.1 Definitions - In this Instrument
	1.1 Definitions	"commodity pool" means a mutual fund, other than a precious metals fund, that has adopted fundamental investment objectives that permit it to use
	1.2 Interpretation	
	1.3 Application	
PART 2	DISCLOSURE DOCUMENTS	(a) specified derivatives other than as permitted by National Instrument 81-102 Mutual Funds, or
	2.1 Filing of Disclosure Documents	
	2.2 Amendments to Disclosure Documents	
	2.3 Supporting Documents	
	2.4 Simplified Prospectus	(b) physical commodities other than as permitted by National Instrument 81-102;
PART 3	DOCUMENTS INCORPORATED BY REFERENCE AND DELIVERY TO SECURITYHOLDERS	"educational material" means material containing general information about one or more of investing in general, mutual funds, portfolio management, capital markets, retirement savings, income or education saving plans and financial planning, if the material does not promote a particular mutual fund or mutual fund family or the products or services offered by a particular mutual fund or mutual fund family;
	3.1 Documents Incorporated by Reference	
	3.2 Delivery of Preliminary Simplified Prospectus and Simplified Prospectus	
	3.3 Documents to be Delivered or Sent upon Request	
	3.4 Toll-Free Telephone Number or Collect Telephone Calls	
	3.5 Soliciting Expressions of Interest Prohibited	"financial year" includes the first completed financial period of a mutual fund beginning with the inception of the mutual fund and ending on the date of its first financial year end;
PART 4	PLAIN LANGUAGE AND PRESENTATION	"material contract" means a contract listed in an annual information form in response to Item 16 of Form 81-101F2 Contents of Annual Information Form;
	4.1 Plain Language and Presentation	
	4.2 Preparation in the Required Form	"multiple AIF" means a document containing two or more annual information forms that have been consolidated in accordance with section 5.4;
PART 5	PACKAGING	"multiple SP" means a document containing two or more simplified prospectuses that have been consolidated in accordance with subsection 5.1(1);
	5.1 Combinations of Documents	
	5.2 Order of Contents of Bound Documents	"Part A section" means the section of a simplified prospectus that contains the disclosure required by Part A of Form 81-101F1 Contents of Simplified Prospectus;
	5.3 Separate Binding of Part B Sections of a Multiple SP	
	5.4 Annual Information Forms	"Part B section" means the section of a simplified prospectus that contains the disclosure required by Part B of Form 81-101F1;
PART 6	EXEMPTION	"plain language" means language that can be understood by a reasonable person, applying a reasonable effort;
	6.1 Grant of Exemption	
	6.2 Evidence of Exemption by Securities Regulatory Authority	"precious metals fund" means a mutual fund that has adopted fundamental investment objectives, and received all required regulatory approvals, that permit it to invest in precious metals or in entities that invest in precious metals and that otherwise complies with National Instrument 81-102;
PART 7	TRANSITIONAL	
	7.1 Effective Date	
	7.2 Prospectus Disclosure	
	7.3 Blacklined Copies	

"single AIF" means an annual information form that has not been consolidated with another annual information form under section 5.4; and

"single SP" means a simplified prospectus that has not been consolidated with another simplified prospectus under subsection 5.1(1).

1.2 Interpretation - Terms defined in National Instrument 81-102 or National Instrument 81-105 Mutual Fund Sales Practices and used in this Instrument have the respective meanings ascribed to them in those Instruments.

1.3 Application - This Instrument does not apply to mutual funds that are

- (a) labour-sponsored venture capital corporations;
- (b) commodity pools; or
- (c) listed and posted for trading on a stock exchange or quoted on an over-the-counter market.

PART 2 DISCLOSURE DOCUMENTS

2.1 Filing of Disclosure Documents - A mutual fund

- (a) that files a preliminary prospectus shall file the preliminary prospectus in the form of a preliminary simplified prospectus prepared in accordance with Form 81-101F1, and shall concurrently file a preliminary annual information form prepared and certified in accordance with Form 81-101F2;
- (b) that files a *pro forma* prospectus shall file the *pro forma* prospectus in the form of a *pro forma* simplified prospectus prepared in accordance with Form 81-101F1, and shall concurrently file a *pro forma* annual information form prepared in accordance with Form 81-101F2;
- (c) that files a prospectus shall file the prospectus in the form of a simplified prospectus prepared in accordance with Form 81-101F1, and shall concurrently file an annual information form prepared and certified in accordance with Form 81-101F2; and
- (d) that files an amendment to a prospectus
 - (i) shall file an amendment to a simplified prospectus and shall concurrently file an amendment to the related annual information form, or
 - (ii) in circumstances in which changes are made only to an annual information form, shall file an amendment to the annual information form.

2.2 Amendments to Disclosure Documents

- (1) An amendment to a simplified prospectus or to an annual information form may consist of either
 - (a) an amendment that does not fully restate the text of the simplified prospectus or annual information form; or
 - (b) an amended and restated simplified prospectus or annual information form.
- (2) Despite subsection (1), an amendment to the Part B section that is separately bound from the Part A section of a simplified prospectus shall be effected only by way of an amended and restated Part B section.
- (3) An amendment to a simplified prospectus or to an annual information form shall be identified and dated as follows:
 - 1. For an amendment that does not restate the text of a simplified prospectus or annual information form:

"Amendment No. [insert amendment number] dated [insert date of amendment] to [identify document] dated [insert date of document being amended]."
 - 2. For an amended and restated simplified prospectus, other than an amendment to which subsection (2) applies, or annual information form:

"Amended and Restated [identify document] dated [insert date of amendment], amending and restating [identify document] dated [insert date of document being amended]."

2.3 Supporting Documents

- (1) A mutual fund shall
 - (a) file with a preliminary simplified prospectus and a preliminary annual information form any other supporting documents required to be filed under securities legislation; and
 - (b) at the time a preliminary simplified prospectus and preliminary annual information form are filed, deliver or send to the securities regulatory authority
 - (i) a copy of all material contracts made by, and drafts of all material contracts intended to be made by, the mutual fund,

- (ii) for
 - (A) a new mutual fund, a copy of a draft opening balance sheet of the mutual fund, and
 - (B) an existing mutual fund, a copy of the latest audited financial statements of the mutual fund, and
 - (iii) any other supporting documents required to be delivered or sent to the securities regulatory authority under securities legislation.
- (2) A mutual fund shall
- (a) file with a *pro forma* simplified prospectus and a *pro forma* annual information form
 - (i) a copy of any material contract made by the mutual fund, and a copy of any amendment to a material contract made by the mutual fund, not previously filed, and
 - (ii) any other supporting documents required to be filed under securities legislation; and
 - (b) at the time a *pro forma* simplified prospectus and *pro forma* annual information form are filed, deliver or send to the securities regulatory authority
 - (i) a copy of the *pro forma* simplified prospectus, blacklined to show changes and the text of deletions from the latest simplified prospectus previously filed,
 - (ii) a copy of the *pro forma* annual information form, blacklined to show changes and the text of deletions from the latest annual information form previously filed,
 - (iii) a copy of a draft of each material contract of the mutual fund, and a copy of each draft amendment to a material contract of the mutual fund, in either case not yet executed but proposed to be executed by the time of filing of the simplified prospectus, and
- (iv) any other supporting documents required to be delivered or sent to the securities regulatory authority under securities legislation.
- (3) A mutual fund shall
- (a) file with a simplified prospectus and an annual information form
 - (i) a copy of any material contract, and a copy of any amendment to a material contract, made by the mutual fund and not previously filed,
 - (ii) for a new mutual fund, a copy of the audited balance sheet of the mutual fund, and
 - (iii) any other supporting documents required to be filed under securities legislation; and
 - (b) at the time a simplified prospectus is filed, deliver or send to the securities regulatory authority
 - (i) a copy of the simplified prospectus, blacklined to show changes and the text of deletions from the preliminary or *pro forma* simplified prospectus,
 - (ii) a copy of the annual information form, blacklined to show changes and the text of deletions from the preliminary or *pro forma* annual information form, and
 - (iii) any other supporting document required to be delivered or sent to the securities regulatory authority under securities legislation.
- (4) A mutual fund shall
- (a) file with an amendment to a simplified prospectus and an amendment to the annual information form
 - (i) a copy of any material contract made by the mutual fund, and a copy of any amendment to a material contract made by the mutual fund, not previously filed, and
 - (ii) any other supporting documents required to be filed under securities legislation; and

(b) at the time an amendment to a simplified prospectus is filed, deliver or send to the securities regulatory authority

- (i) if the amendment to the simplified prospectus is in the form of an amended and restated simplified prospectus, a copy of that document blacklined to show changes and the text of deletions from the simplified prospectus,
- (ii) if the amendment to the annual information form is in the form of an amended and restated annual information form, a copy of the amended annual information form, blacklined to show changes and the text of deletions from the annual information form, and
- (iii) any other supporting document required to be delivered or sent to the securities regulatory authority under securities legislation.

(5) A mutual fund shall

(a) file with an amendment to an annual information form in circumstances in which the corresponding simplified prospectus is not amended

- (i) a copy of any material contract made by the mutual fund, and a copy of any amendment to a material contract made by the mutual fund, not previously filed, and
- (ii) any other supporting documents required to be filed under securities legislation; and

(b) at the time an amendment to an annual information form is filed, if the amendment is in the form of an amended and restated annual information form, deliver or send to the securities regulatory authority

- (i) a copy of the amended and restated annual information form blacklined to show changes and the text of deletions from the annual information form, and
- (ii) any other supporting documents required to be delivered or sent to the securities regulatory

authority under securities legislation.

2.4 Simplified Prospectus - A simplified prospectus is a prospectus for the purposes of securities legislation.

PART 3 DOCUMENTS INCORPORATED BY REFERENCE AND DELIVERY TO SECURITYHOLDERS

3.1 Documents Incorporated by Reference - The following documents shall, by means of a statement to that effect, be incorporated by reference into, and shall form part of, a simplified prospectus:

1. The annual information form that is filed concurrently with the simplified prospectus.
2. The most recently filed comparative annual financial statements of the mutual fund, together with the accompanying report of the auditor, filed either before or after the date of the simplified prospectus.
3. The most recently filed interim financial statements of the mutual fund that were filed before or after the date of the simplified prospectus and that pertain to a period after the period to which the annual financial statements then incorporated by reference in the simplified prospectus pertain.

3.2 Delivery of Preliminary Simplified Prospectus and Simplified Prospectus

- (1) The requirement under securities legislation to deliver or send a preliminary prospectus of a mutual fund to a person or company is satisfied by delivering or sending a preliminary simplified prospectus for the mutual fund filed under this Instrument, prepared in accordance with Form 81-101F1, either with or without the documents incorporated by reference.
- (2) The requirement under securities legislation to deliver or send a prospectus of a mutual fund to a person or company is satisfied by delivering or sending a simplified prospectus for the mutual fund filed under this Instrument, prepared in accordance with Form 81-101F1, either with or without the documents incorporated by reference.

3.3 Documents to be Delivered or Sent upon Request

- (1) A mutual fund shall deliver or send to any person or company that requests the simplified prospectus of the mutual fund or any of the documents incorporated by reference into the simplified prospectus, a copy of the simplified prospectus or requested document.

- (2) A mutual fund shall deliver or send, to any person or company that requests the annual information form of the mutual fund, the current simplified prospectus of the mutual fund with the annual information form, unless the mutual fund has previously delivered or sent that simplified prospectus to that person or company.
- (3) A mutual fund shall deliver or send all documents requested under this section within three business days of receipt of the request and free of charge.

3.4 Toll-Free Telephone Number or Collect Telephone Calls - A mutual fund shall have a toll-free telephone number for, or accept collect telephone calls from, persons or companies that want to receive a copy of the simplified prospectus of the mutual fund and any or all documents incorporated by reference into the simplified prospectus.

3.5 Soliciting Expressions of Interest Prohibited - Neither a multiple SP that includes both a *pro forma* simplified prospectus and a preliminary simplified prospectus nor a multiple AIF that includes both a *pro forma* annual information form and a preliminary annual information form shall be used to solicit expressions of interest.

PART 4 PLAIN LANGUAGE AND PRESENTATION

4.1 Plain Language and Presentation

- (1) A simplified prospectus and annual information form shall be prepared using plain language and in a format that assists in readability and comprehension.
- (2) A simplified prospectus
 - (a) shall present all information briefly and concisely;
 - (b) shall present the items listed in the Part A section of Form 81-101F1 and the items listed in the Part B section of Form 81-101F1 in the order stipulated in those parts;
 - (c) may, unless the Part B section is being bound separately from the Part A section as permitted by subsection 5.3(1), place the Part B section of the simplified prospectus in any location in the simplified prospectus;
 - (d) shall use the headings and sub-headings stipulated in Form 81-101F1, and may use sub-headings in items for which no sub-headings are stipulated;
 - (e) shall contain only educational material or the information that is specifically

mandated or permitted by Form 81-101F1; and

- (f) shall not incorporate by reference into the simplified prospectus, from any other document, information that is required to be included in a simplified prospectus.

4.2 Preparation in the Required Form - Despite provisions in securities legislation relating to the presentation of the content of a prospectus, the simplified prospectus and annual information form shall be prepared in accordance with this Instrument.

PART 5 PACKAGING

5.1 Combinations of Documents

- (1) A simplified prospectus shall not be consolidated with one or more other simplified prospectuses to form a multiple SP unless the Part A sections of each simplified prospectus are substantially similar.
- (2) A multiple SP shall be prepared in accordance with the applicable requirements of Form 81-101F1.
- (3) A simplified prospectus or a multiple SP may only be attached to, or bound with, one or more of the following documents:
 - 1. Documents incorporated by reference.
 - 2. Educational material.
 - 3. Account application documents.
 - 4. Registered tax plan applications and documents.
 - 5. Any point of sale disclosure documents required by securities legislation.

5.2 Order of Contents of Bound Documents

- (1) If the material or documents referred to in paragraphs 1 to 5 of subsection 5.1(3) are attached to, or bound with, a single SP or multiple SP
 - (a) the single SP or multiple SP shall be the first document contained in the package; and
 - (b) no pages shall come before the single SP or multiple SP in the package other than, at the option of the mutual fund, a general front cover and a table of contents pertaining to the entire package.

- (2) The general front cover referred to in paragraph 1(b) may contain only the names of the mutual funds to which the package relates, trademark or tradenames identifying those mutual funds or other members of the organization of those mutual funds, and artwork.

5.3 Separate Binding of Part B Sections of a Multiple SP

- (1) The Part B sections of a multiple SP may be bound separately from the Part A section of that document.
- (2) If a Part B section of a multiple SP is bound separately from the Part A section of the multiple SP
 - (a) all of the Part B sections of the multiple SP shall be bound separately from the Part A section; and
 - (b) all or some of the Part B sections may be bound together with each other or separately.

5.4 Annual Information Forms

- (1) An annual information form shall be consolidated with one or more other annual information forms into a multiple AIF if the related simplified prospectuses are consolidated into a multiple SP.
- (2) A multiple AIF shall be prepared in accordance with the applicable requirements of Form 81-101F2.

PART 6 EXEMPTION

6.1 Grant of Exemption

- (1) The regulator or the securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

- ### 6.2 Evidence of Exemption by Securities Regulatory Authority
- Without limiting the manner in which an exemption under section 6.1 may be evidenced, the issuance by the regulator of a receipt for a simplified prospectus and annual information form, or an amendment to a simplified prospectus and annual information form, is evidence of the granting of the exemption from any form or content requirements relating to a simplified prospectus or annual information form if

- (a) the person or company that sought the exemption sent to the regulator, with the *pro forma* or preliminary simplified prospectus and annual information form, or at least 10 days before the issuance of the receipt in the case of an amendment, a letter or memorandum describing the matters relating to the exemption and indicating why consideration should be given to the granting of the exemption; and
- (b) the regulator has not sent written notice to the contrary to the person or company that sought the exemption before, or concurrent with, the issuance of the receipt.

PART 7 TRANSITIONAL

- 7.1 **Effective Date** - This Instrument comes into force on February 1, 2000.
- 7.2 **Prospectus Disclosure** - The simplified prospectus of a mutual fund for which a preliminary or *pro forma* simplified prospectus is filed, or for which a receipt is obtained, before the date that this Instrument comes into force is not required to comply with this Instrument if the simplified prospectus complies with National Policy Statement No. 36 as if that policy statement or a rule based on that policy statement were in force in the local jurisdiction.
- 7.3 **Blacklined Copies** - Despite Part 2, a mutual fund need not file a blacklined copy of a document prepared under this Instrument that compares the document with a document prepared under National Policy Statement No. 36.

**COMPANION POLICY 81-101CP TO NATIONAL
INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE**

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**COMPANION POLICY 81-101CP TO
NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE**

PART 1 PURPOSE OF THE COMPANION POLICY

1.1 Purpose of the Companion Policy - The purpose of this Companion Policy is to state the views of the Canadian securities regulatory authorities on various matters relating to the Instrument, including,

- (a) a discussion of the general approach taken by the Canadian securities regulatory authorities in, and the general regulatory purpose for, the Instrument;
- (b) explanation and discussion of various parts of the Instrument; and
- (c) examples of some matters described in the Instrument.

PART 2 PURPOSE AND GENERAL APPROACH OF THE INSTRUMENT

2.1 Purpose of the Instrument

- (1) The purpose of the Instrument is to ensure that mutual funds provide investors with disclosure documents that clearly and concisely state information that investors should consider in connection with an investment decision about the mutual fund. Two general approaches have been used in the Instrument in order to achieve this result.
- (2) First, the Instrument requires, in subsection 4.1(1), that these documents be prepared using plain language and in a format that assists in readability and comprehension.
- (3) Second, the Instrument has been designed to ensure that investors receive disclosure documents that will be helpful to them, and permits mutual fund organizations considerable flexibility in designing those documents in order to assist investors. The Instrument contemplates the use of two documents by a mutual fund (in addition to financial statements): a simplified prospectus, which is given to all investors, and an annual information form, which is available on request, that, together with the financial statements, contain full, true and plain disclosure about the mutual fund. However, the Instrument contemplates that, at the option of mutual fund organizations, investors may receive only the disclosure documents that pertain to the mutual funds in which they are interested.

2.2 Simplified Prospectus

- (1) The Instrument contemplates that all investors in a mutual fund will receive a simplified prospectus, which is to be a clear concise document that is designed to provide the typical investor with the necessary information to permit the making of an informed investment decision. The Instrument requires the delivery only of a simplified prospectus to an investor in connection with a purchase, unless the investor also requests delivery of the annual information form, financial statements or both.
- (2) The approach of the Instrument is to give investors a choice of the amount of information that they wish to consider before making a decision about investing in the mutual fund. Investors will have the option of purchasing the mutual fund's securities after reviewing the information in the simplified prospectus only or after requesting and reviewing the annual information form, financial statements, or both, incorporated by reference into the simplified prospectus.
- (3) The Instrument and Form 81-101F1 (the "SP Form") provide detailed requirements as to the contents and format of a simplified prospectus. These requirements
 - (a) are designed to ensure that simplified prospectuses are clear, concise, understandable and well-organized, and contain the most important information that an investor would consider in making an investment decision, in order to encourage investors to read and consider the contents of the simplified prospectus;
 - (b) standardize, to some degree, the order in which information is presented in a simplified prospectus, in order to ensure that investors may easily compare disclosure about one mutual fund with disclosure about other mutual funds in the same or a different simplified prospectus; and
 - (c) prohibit the addition of information in the simplified prospectus not specifically required by the SP Form, in order to prevent a simplified prospectus from expanding to a size that discourages an investor from reading it, and that obscures the most important information about a mutual fund that should be considered by an investor.

2.3 Annual Information Form

- (1) The Instrument contemplates that a supplemental disclosure document, the

annual information form, will be provided to any person on request. The annual information form is incorporated by reference into the simplified prospectus.

- (2) Information contained in the related simplified prospectus will generally not be repeated in an annual information form except as necessary to make the annual information form comprehensible as an independent document. Generally speaking, an annual information form is intended to provide disclosure about different matters than those discussed in the simplified prospectus, such as information concerning the internal operations of the manager of the mutual fund, which may be of assistance or interest to some investors.
- (3) The Instrument and Form 81-101F2 (the "AIF Form") are designed to ensure that an annual information form, like a simplified prospectus, is prepared in a clear manner that will encourage investors to read it. Therefore, an annual information form is subject to the same general requirements of subsection 4.1(1) of the Instrument as the simplified prospectus, which is that both documents must be prepared using plain language and in a format that assists readability and comprehension.
- (4) The Instrument and the AIF Form allow for more flexibility in the preparation of an annual information form than is the case with a simplified prospectus. The rules pertaining to the order in which information is to be disclosed in an annual information form are not as stringent as for a simplified prospectus, and an annual information form may include information not specifically required by the AIF Form.

2.4 Financial Statements - The Instrument contemplates that the mutual fund's most recently filed audited financial statements, and any interim statements filed after those audited statements, will be provided upon request to any person or company requesting them. Like the annual information form, these financial statements are incorporated by reference into the simplified prospectus. The result is that future filings will be incorporated by reference into the simplified prospectus, while superseding the financial statements previously filed.

2.5 Filing and Delivery of Documents - Section 2.2 of the Instrument distinguishes between documents that are required by securities legislation to be "filed" with the securities regulatory authority and those that must be "delivered" or "sent" to the securities regulatory authority. The Canadian securities regulatory authorities remind mutual funds that documents that are "filed" are on the public record, and documents that are "delivered" or "sent" are not necessarily on the public record.

2.6 Supporting Documents - Section 2.2 of the Instrument and other Canadian securities legislation require supporting documents to be filed with a simplified prospectus and annual information form and amendments. A list of documents required is set out in an Appendix to National Policy 43-201 Mutual Reliance Review System for Prospectuses and Initial AIFs.

2.7 Amendments

- (1) Paragraph 2.1(d) of the Instrument requires an amendment to an annual information form to be filed whenever an amendment to a simplified prospectus is filed. If the substance of the amendment to the simplified prospectus is not such as to require a change to the text of the annual information form, the amendment to the annual information form would consist only of the certificate page referring to the mutual fund to which the amendment to the simplified prospectus pertains.
- (2) The commercial copies of an amended and restated document can be created either by a full reprint of the entire document, or by the use of stickers, affixed to an existing document, that provide the new text created by the amendment. If stickers are used, it will be necessary to use both a sticker for the substance of the amendments and a separate sticker for the cover page of the document in order to describe the type and date of the document as required by subsection 2.2(1)(b) of the Instrument.
- (3) The requirements contained in section 2.2 of the Instrument apply both in relation to an amendment to a full simplified prospectus, and an amendment only to a Part A or Part B section of a simplified prospectus in cases in which the Part A and Part B sections are bound separately. The Canadian securities regulatory authorities note that section 2.2 of the Instrument would require amendments to various parts of a multiple SP to be evidenced as follows:
 1. For a multiple SP in which the Part A and the Part B sections are bound together, an amendment to either or both of the Part A or Part B sections could be in the form of a free standing amending instrument which would be delivered to investors with the rest of the multiple SP. The amending instrument would be identified, in accordance with subsection 2.2(3) of the Instrument, as "Amendment No. [insert number], dated [date of amendment] to the simplified prospectus document for the [name of funds] dated [date of original document]". Alternatively, the

amendment could be in the form of a restated and amended multiple SP document, identified as such in accordance with subsection 2.2(3).

2. For a multiple SP in which the Part A and the Part B sections are bound separately from each other, an amendment to the Part A section of the document in circumstances in which there was no amendment to a Part B section could be either in the form of an amending document or an amended and restated Part A document. An amending document could be identified as "Amendment No. [insert number], dated [date of amendment], to the Part A section of the simplified prospectuses of the [name of funds] dated [original date of multiple SP]", and the amended and restated Part A document could be identified as "Amended and Restated Simplified Prospectuses dated [date of amendment] of the [name of funds], amending and restating the Simplified Prospectuses dated [original date of document]."
3. In the circumstances described in paragraph 2 above, it is noted that no amendment of any kind is required to be made to the Part B sections of the multiple SP. The footer required by Item 1 of Part B of Form 81-101F1 to be contained on the bottom of each page of a Part B section will continue to show the date of the original Part A document; for this reason the amended Part A document must be identified in a way that shows both the date of the amendments and the original date of the document so that it can be identified by investors as the document that relates to the corresponding Part B sections.
4. For a multiple SP in which the Part A and the Part B sections are separately bound, an amendment to a Part B section must be made by way of an amended and restated Part B document, regardless of whether there is an amendment being made to the Part A section of the simplified prospectus. If no amendment to the Part A section of the simplified prospectus is being made, then it is not necessary to make any amendment to the Part A document. The amended and restated Part B document will be identified by an addition of a statement in the footer required by Item 1 of Part B of Form 81-101F1 that identifies the

document as a document that amends and restates the original Part B document.

- (4) The Canadian securities regulatory authorities note that an amendment to a prospectus of a mutual fund, even if it amends and restates the prospectus, does not change the date under Canadian securities legislation by which the mutual fund must renew the prospectus. That date, which is commonly referred to as the "lapse date" for the prospectus, remains that date established under Canadian securities legislation.

PART 3 PLAIN LANGUAGE AND PRESENTATION

3.1 Plain Language - Subsection 4.1(1) of the Instrument requires that a simplified prospectus and annual information form be written in plain language. The term "plain language" is defined in the Instrument as "language that can be understood by a reasonable person, applying a reasonable effort". The Canadian securities regulatory authorities note that the purpose of requiring documents to be written in plain language is to ensure that disclosure documents will be easy to read, and therefore more widely read by investors than traditional prospectuses. Mutual funds should consider the following plain language techniques in preparing their documents:

- using short sentences
- using definite, concrete, everyday language
- using the active voice
- avoiding superfluous words
- organizing a document into clear, concise sections, paragraphs and sentences
- avoiding legal or business jargon
- using strong verbs
- using personal pronouns to speak directly to the reader
- avoiding reliance on glossaries and defined terms unless they facilitate understanding of the disclosure
- avoiding vague boilerplate wording
- avoiding abstractions by using more concrete terms or examples
- avoiding excessive detail
- avoiding multiple negatives

- using technical and business terms only when unavoidable and only if clear and concise explanations are provided for these terms.

3.2 Presentation

(1) Subsection 4.1(1) of the Instrument requires that a simplified prospectus and annual information form be presented in a format that assists in readability and comprehension. The Instrument and related forms also set out certain aspects of a simplified prospectus and annual information form that must be presented in a required format, requiring some information to be presented in the form of tables, charts or diagrams. Within these requirements, mutual funds have considerable flexibility in the format used for simplified prospectuses and annual information forms. The formatting of documents can contribute substantially to the ease with which the document can be read and understood. Mutual funds should consider using the following formatting ideas when preparing their documents:

- tabular or bulleted presentation of complex information
- maintaining white space on each page to lessen the density of the text
- reasonably-sized, easy-to-read typeface
- "question and answer" formats
- avoiding presenting blocks of text in upper-case or italicized letters
- avoiding full-justified margins.

(2) The Canadian securities regulatory authorities are of the view that documents may be easier to read and understand with the use of design features such as pictures, colour, boxes, shading, graphs, charts, tables, graphics, sidebars and logos that accurately depict aspects of the mutual fund industry, the mutual fund or mutual fund family or products and services offered by the mutual fund family. Mutual funds should, however, exercise caution when using design features in their documents, as excessive use or crowding of design features might make the documents more difficult to read or understand.

(3) The Canadian securities regulatory authorities note that they have, on occasion, seen amendments to simplified prospectuses prepared in highly legal and technical styles. For example, some amendments merely reference specific lines or sections of a

simplified prospectus that are being amended, without providing the reader with a restated section or an explanation for the changes. In addition, some amendments have been presented in the form of photocopies of some other documents, such as meeting materials, with the word "amendment" written on the top of the photocopy. The Canadian securities regulatory authorities are of the view that these approaches are inappropriate ways of amending a simplified prospectus or annual information form under the Instrument. Material changes to mutual funds must be described in a format that assists in readability and comprehension, as required by subsection 4.1(1) of the Instrument. Therefore, the Canadian securities regulatory authorities expect that amendments will be expressed clearly, and in a manner that enables the reader to easily read and understand both the amendment and the revised sections of the relevant document. This manner of expression may require the preparation of either an amended or restated simplified prospectus or annual information form or a clearly worded amendment insert for the existing simplified prospectus or annual information form.

PART 4 THE MULTIPLE SP

4.1 General Provisions Relating to a Multiple SP

(1) The predecessor to the Instrument, National Policy Statement No. 36 ("NP36"), contemplated the consolidation of the disclosure concerning a number of mutual funds into one document. What NP36 implied, and what the Instrument makes explicit, is that a consolidated "simplified prospectus" pertaining to a number of mutual funds is in law a number of separate simplified prospectuses, one simplified prospectus for each mutual fund. Further, a receipt issued by the securities regulatory authority in connection with a consolidated "simplified prospectus" in law represents a separate receipt for the simplified prospectus pertaining to each mutual fund. The Instrument and the SP Form make clear that a simplified prospectus under the Instrument pertains to one mutual fund and use the term "multiple SP" to refer to a document that contains more than one simplified prospectus. This distinction has been made explicit in order to clarify the statutory prospectus delivery obligation that arises on the sale of a security of a mutual fund if the two parts of the simplified prospectus are not bound together, as discussed in section 7.3 of this Policy.

(2) Under the Instrument, a simplified prospectus consists of two sections: a Part A section, which provides introductory information about

the mutual fund, general information about mutual funds and information applicable to the mutual funds managed by the mutual fund organization, and a Part B section, which contains specific information about the mutual fund.

- (3) The Instrument states that simplified prospectuses shall not be consolidated to form a multiple SP unless the Part A section of each simplified prospectus is substantially similar. In the view of the Canadian securities regulatory authorities, the term "substantially similar" would be applicable in this context if there is a high degree of similarity between the Part A sections of the simplified prospectuses that are proposed to be consolidated. This option would be available generally to mutual funds in the same mutual fund family that are administered by the same entities and operated in the same manner. There may be some deviation between the disclosure that would be provided for some of the mutual funds; those deviations have been largely contemplated by the SP Form.
- (4) In order to maximize flexibility for mutual fund organizations and improve the accessibility of disclosure provided to investors, the Instrument allows the Part B sections of a multiple SP to be bound separately from the Part A section. In addition, the Instrument permits the physical separation of each Part B section that pertains to a different mutual fund. This would permit an investor to be provided with a Part A section that described the mutual fund family and mutual fund organization generally, and only the fund-specific disclosure that relates to the mutual fund or funds in which the investor is interested. This approach could permit a "back pocket" approach in which the Part B sections of a simplified prospectus could be inserted in a pocket of the Part A section of the document.
- (5) The Instrument and the SP Form contain detailed requirements designed to ensure that the investor is aware that both the general and fund-specific parts of a multiple SP should be read.
- (6) The Instrument contains no restrictions on how many simplified prospectuses can be consolidated into a multiple SP.

4.2 Adding Additional Funds to a Multiple SP

- (1) It is noted that, as with NP36, mutual funds may create and file a document that contains both a *pro forma* simplified prospectus and a preliminary simplified prospectus in order to include the disclosure of a new mutual fund in documents that already pertain to existing mutual funds.

- (2) It is also possible to add a new mutual fund to a multiple SP that contains final simplified prospectuses. In this circumstance, an amended multiple SP and multiple AIF containing disclosure of the new mutual fund would be filed. The preliminary filing would constitute the filing of a preliminary simplified prospectus and annual information form for the new mutual fund and a draft amended and restated simplified prospectus and annual information form for each existing fund. Once comments concerning the document had been cleared, a final filing of the documents could be made; these documents would be a simplified prospectus and annual information form for the new mutual fund and an amended and restated simplified prospectus and annual information form for each previously existing mutual fund.
- (3) As noted under subsection 2.7(4) of this Policy, an amendment to a prospectus of a mutual fund does not change the "lapse date" of the prospectus under Canadian securities legislation. Mutual funds are encouraged to pay particular attention to this issue when following the procedures described in subsection (2).

PART 5 THE SIMPLIFIED PROSPECTUS

- 5.1 **General Purposes** - The general purposes of a simplified prospectus are described in section 2.2 of this Policy. In light of those purposes, the Canadian securities regulatory authorities wish to bring a number of matters to the attention of the persons or companies that prepare simplified prospectuses.
- 5.2 **Catalogue Approach** - The Instrument requires that a multiple SP must present the fund-specific, or Part B, disclosure about each fund using a catalogue approach, with the disclosure about each mutual fund presented separately from the disclosure about each other mutual fund. The Canadian securities regulatory authorities consider this requirement to be a key element of the disclosure regime created by the Instrument and related forms and expect that the catalogue approach will be strictly followed.
- 5.3 **Additional Information**
 - (1) Paragraph 4.1(2)(a) of the Instrument provides that a simplified prospectus shall provide all information briefly and concisely. Paragraph 4.1(2)(e) of the Instrument requires that a simplified prospectus shall include only educational material or information that is specifically mandated or permitted by the required form.
 - (2) As described in Part 2 of this Policy, the general requirements referred to in subsection (1) are important elements of the disclosure regime implemented by the Instrument and

related forms. The Canadian securities regulatory authorities are of the view that simplified prospectuses must be restricted to key information and kept short in order to encourage as many potential investors as possible to read simplified prospectuses.

- (3) Item 12 of Part A and Item 14 of Part B of Form 81-101F1 permit disclosure of information required or permitted by securities legislation or by an order or ruling of the securities regulatory authority pertaining to the mutual fund that is not otherwise required to be disclosed by Form 81-101F1. This addition has been made to ensure that such information is not technically prohibited from being included in a simplified prospectus by paragraph 4.1(2)(e) of the National Instrument. Instruction (1) to Item 12 of Part A of Form 81-101F1 contains examples of the type of disclosure that may be appropriately included under these Items.

5.4 Inclusion of Educational Material

- (1) Paragraph 4.1(2)(e) of the Instrument permits the inclusion of educational material in a simplified prospectus. There are no requirements as to the location of any educational material; however, the Canadian securities regulatory authorities recommend that educational material contained in a simplified prospectus be close to mandated disclosure to which the educational material substantively relates.
- (2) It is noted that educational material contained in a simplified prospectus is subject to the general requirements of the Instrument, and therefore should be presented in a manner consistent with the rest of the simplified prospectus. Therefore, the educational material should be concise, clear and not so lengthy as to detract from the clarity or presentation of the balance of the simplified prospectus.
- (3) The definition of "educational material" contained in section 1.1 of the Instrument excludes material that promotes a particular mutual fund or mutual fund family or the products or services offered by the mutual fund or mutual fund family. A mutual fund, mutual fund family or those products or services may be referred to in educational material as an example so long as the reference does not result in the promotion of those entities, products or services. Mutual funds should ensure that any material included within, attached to or bound with a simplified prospectus is educational material within the meaning of this definition.

- 5.5 **Format** - The Canadian securities regulatory authorities emphasize that a simplified prospectus is required to use the headings and specified sub-headings exactly as they are set out in the Instrument. For sections for which no sub-heading is specified, a simplified prospectus is permitted to include sub-headings, under the required headings, if it is so desired.

PART 6 THE ANNUAL INFORMATION FORM

- 6.1 **General Purposes** - The general purposes of an annual information form are described in section 2.3 of this Policy. In light of those purposes, the Canadian securities regulatory authorities wish to bring a number of matters to the attention of the persons or companies that prepare annual information forms.

- 6.2 **Accessibility of an Annual Information Form** - The Canadian securities regulatory authorities expect that mutual funds, managers of mutual funds, principal distributors and participating dealers will encourage investors who want more information about a mutual fund to both request and read annual information forms. The Instrument requires that an annual information form be sent within three business days of a request, and the Canadian securities regulatory authorities expect that mutual funds and their managers will be diligent in complying with this requirement.

- 6.3 **Consolidation of Annual Information Forms** - Subsection 5.4(1) of the Instrument requires the consolidation of annual information forms into a multiple AIF if the related simplified prospectuses are consolidated into a multiple SP. It is noted that the Instrument does not prevent the consolidation of annual information forms even if the related simplified prospectuses are not consolidated. Therefore, a mutual fund organization may prepare, for instance, one multiple AIF that pertains to all of its mutual funds, even if the simplified prospectuses for those mutual funds are not fully or even partially consolidated.

6.4 Additional Material

- (1) The Instrument and AIF Form do not prohibit the inclusion in an annual information form of information not specifically required by the AIF Form. Among other things, a mutual fund may therefore include educational information in an annual information form. Additional material in an annual information form is, however, subject to the general requirements contained in subsection 4.1(1) of the Instrument that all information must be presented in plain language and in a format that assists in readability and comprehension.
- (2) The Canadian securities regulatory authorities remind mutual funds that include additional information, such as educational material, in

an annual information form to ensure that that material is not included primarily for purpose of promotion. An annual information form is designed to be easily understandable to investors and less legalistic in its drafting than traditional prospectuses, but it still constitutes part of a prospectus under securities legislation.

PART 7 DELIVERY

7.1 Delivery of the Simplified Prospectus and Annual Information Form

- (1) The Instrument contemplates delivery to all investors of a simplified prospectus in accordance with the requirements of securities legislation, and does not require the delivery of the documents incorporated by reference into the simplified prospectus unless requested. However, a mutual fund is free to adopt a practice of routinely providing investors or potential investors with a simplified prospectus, annual information form and financial statements if it so chooses.
- (2) The Canadian securities regulatory authorities encourage mutual funds, their managers and principal distributors to make simplified prospectuses available to potential investors as soon as possible in the sales process, in advance of any requirements contained in the Instrument or securities legislation, either directly or through dealers and others involved in selling mutual fund securities to investors.
- (3) The Canadian securities regulatory authorities do not consider the requirements of section 3.4 of the Instrument to be exclusive. Mutual funds are therefore encouraged to inform investors that they may use the mutual fund's Internet sites and e-mail addresses to request further information and additional documents.

7.2 Delivery of Documents by a Mutual Fund - Section 3.3 of the Instrument requires that a mutual fund deliver or send to a person or company, upon request, a simplified prospectus or documents incorporated by reference. The Canadian securities regulatory authorities are of the view that compliance with this specifically-mandated requirement by an unregistered entity is not a breach of the registration requirements of securities legislation.

7.3 Delivery of Separate Part A and Part B Sections

- (1) Mutual fund organizations that create physically separate Part B sections are reminded of section 3.2 of the Instrument, which provides that the requirement under securities legislation to deliver or send a prospectus for a mutual fund is satisfied by the delivery or sending of a simplified

prospectus for the mutual fund. This obligation would be satisfied only by the delivery of both the Part A and Part B sections of a simplified prospectus. Particularly in the case of a switch by an investor from one mutual fund to another in a mutual fund family, the mutual fund organization must ensure that the investor is provided with the Part B section of the simplified prospectus pertaining to the mutual fund just purchased, even if the Part A section of the simplified prospectus was previously delivered.

- (2) Subsection 5.3(2) of the Instrument permits Part B sections that have been bound separately from the related Part A section to either be bound individually or together, at the option of the mutual fund organization. There is no prohibition against the same Part B section of a multiple SP being bound by itself for distribution to some investors, but also being bound with the Part B section of other mutual funds for distribution to other investors.

7.4 Delivery of Non-Educational Material - The Instrument and related forms contain no restrictions on the delivery of non-educational material such as promotional brochures with either of the simplified prospectus or the annual information form. This type of material may, therefore, be delivered with, but cannot be included within, wrapped around, or attached or bound to, the simplified prospectus and annual information form.

7.5 Delivery of Financial Statements - The Canadian securities regulatory authorities remind mutual funds that statements of portfolio transactions, as part of the financial statements of a mutual fund, are documents that are incorporated by reference in a simplified prospectus and are to be delivered upon request. Statements of portfolio transactions are only required to be delivered if specifically requested, and not automatically required to be delivered in response to requests for financial statements.

PART 8 COMMENTARY ON INVESTMENT AND RELATED DISCLOSURE

8.1 Investment Disclosure - The SP Form requires detailed disclosure concerning a number of aspects of the investment approach taken by a mutual fund, including disclosure concerning fundamental investment objectives, investment strategies, and risk and risk management. The SP Form has been prepared to require better disclosure in this regard than what was required under NP36. The Canadian securities regulatory authorities emphasize the importance that they attach to this disclosure, and note that, for many mutual funds, the best persons to prepare and review the disclosure are the portfolio advisers of the mutual fund. Therefore, it is highly recommended that those persons play an important role in the preparation and review of this disclosure.

8.2 Portfolio Advisers - The AIF Form requires disclosure concerning the extent to which investment decisions are made by particular individuals employed by a portfolio adviser, or by committee, and requires in section 10.3(3)(b) of the AIF Form that certain specified information be given about those individuals principally responsible for the investment portfolio of the mutual fund. Section 5.10 of National Instrument 81-102 Mutual Funds requires that a simplified prospectus be amended if a significant change occurs to the operations of the mutual fund. Reference is made to section 7.4 of Companion Policy 81-102CP Mutual Funds for a discussion of when a departure of a high-profile individual from a portfolio adviser of a mutual fund may constitute a significant change for the mutual fund. Mutual funds should consider these provisions if and when they encounter the departure of such a person from a portfolio adviser. If such a departure is not a significant change for the mutual fund, then there is no requirement for an amendment to a simplified prospectus, subject to the general requirement that a simplified prospectus contain full, true and plain disclosure about the mutual fund.

PART 9 NEED FOR MULTIPLE OR SEPARATE APPLICATIONS

9.1 Need for Multiple or Separate Applications

- (1) The Canadian securities regulatory authorities note that a person or company that obtains an exemption from a provision of the Instrument need not apply again for the same exemption at the time of each simplified prospectus and annual information form refiling unless there has been some change in an important fact relating to the granting of the exemption.
- (2) It should be noted that the principle described in subsection (1) does not necessarily apply to applications required to be made under the Regulations to the *Securities Act* (Quebec) for relief from provisions of those Regulations that are substantially similar to those contained in the Instrument. In that case, an application may be required with each refiling of a simplified prospectus and annual information form of a mutual fund.
- (3) In Quebec, it may be necessary to apply for exemptions from the equivalent sections in the Act and the Regulations.

**NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE
FORM 81-101F1
CONTENTS OF SIMPLIFIED PROSPECTUS**

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**NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE
FORM 81-101F1
CONTENTS OF SIMPLIFIED PROSPECTUS**

GENERAL INSTRUCTIONS:

General

- (1) *This Form describes the disclosure required in a simplified prospectus of a mutual fund. Each Item of this Form outlines disclosure requirements. Instructions to help you provide this disclosure are printed in italic type.*
- (2) *Terms defined in National Instrument 81-101 Mutual Fund Prospectus Disclosure, National Instrument 81-102 Mutual Funds or National Instrument 81-105 Mutual Fund Sales Practices and used in this Form have the meanings that they have in those national instruments.*
- (3) *A simplified prospectus shall state the required information concisely and in plain language. Reference should be made to Part 3 of Companion Policy 81-101CP for a discussion concerning plain language and presentation.*
- (4) *Respond as simply and directly as is reasonably possible and include only as much information as is necessary for an understanding of the fundamental and particular characteristics of the mutual fund. Brevity is especially important in describing practices or aspects of a mutual fund's operations that do not differ materially from those of other mutual funds.*
- (5) *National Instrument 81-101 requires the simplified prospectus to be presented in a format that assists in readability and comprehension. This Form does not mandate the use of a specific format to achieve these goals. However, mutual funds are encouraged to use, as appropriate, tables, captions, bullet points or other organizational techniques that assist in presenting the required disclosure clearly and concisely.*
- (6) *Each Item shall be presented under the heading or sub-heading stipulated in this Form; references to the relevant Item number are optional. If no sub-heading for an Item is stipulated in this Form, a mutual fund may include sub-headings, under the required headings, at its option.*
- (7) *A simplified prospectus may contain photographs and artwork only if they are relevant to the business of the mutual fund, mutual fund family or members of the organization of the mutual fund and are not misleading.*
- (8) *Any footnotes to tables provided for under any Item in this Form may be deleted if the substance of the footnotes is otherwise provided.*

Contents of a Simplified Prospectus

- (9) *A simplified prospectus shall pertain to one mutual fund, and shall consist of two sections, a Part A section and a Part B section.*
- (10) *The Part A section of a simplified prospectus contains the response to the Items in Part A of this Form and contains introductory information about the mutual fund, general information about mutual funds and information applicable to the mutual funds managed by the mutual fund organization.*
- (11) *The Part B section of a simplified prospectus contains the response to the Items in Part B of this Form and contains specific information about the mutual fund to which the simplified prospectus pertains.*
- (12) *Despite securities legislation, a simplified prospectus shall present each Item in the Part A section and each Item in the Part B section in the respective order provided for in this Form. However, the Part B section of the simplified prospectus may be placed in any location in the simplified prospectus. For a single SP, this means that the Part B section may be placed before the Part A section, somewhere in the middle of the Part A section or after the Part A section, except for the covers.*
- (13) *Subsection 5.1(3) of National Instrument 81-101 permits certain documents to be attached to, or bound with, a simplified prospectus. Those documents consist of the documents incorporated by reference into the simplified prospectus, educational material, account application documents, registered tax plan applications and documents and any point of sale disclosure documents required by securities legislation. No other documents may be attached to, or bound with, a simplified prospectus.*

Consolidation of Simplified Prospectuses into a Multiple SP

- (14) *Subsection 5.1(1) of National Instrument 81-101 states that simplified prospectuses shall not be consolidated to form a multiple SP unless the Part A sections of each simplified prospectus are substantially similar. The Part A sections in a consolidated document need not be repeated. These provisions permit a mutual fund organization to create a document that contains the disclosure for a number of mutual funds in the same family.*
- (15) *As with a single SP, a multiple SP will consist of two Parts:*
 1. *A Part A section that contains general information about the mutual funds, or the mutual fund family, described in the document.*
 2. *A number of Part B sections, each of which will provide specific information about one mutual fund. The Part B sections shall not be consolidated with each other so that, in a multiple SP, information about each of the mutual funds described in the document shall be provided on a fund by fund or catalogue basis and shall set out for each mutual fund separately the information required by Part B of this Form. Each Part B section shall start on a new page.*
- (16) *For a multiple SP in which the Part A and Part B sections are bound together, the Part B sections may be placed at any location in the document; that is, before the Part A section, somewhere in the middle of the Part A section or after the Part A section, except for the back cover. If the Part B sections are bound with the Part A section, the Part B sections shall be kept together in the document.*
- (17) *Section 5.3 of National Instrument 81-101 permits the Part B sections of a multiple SP to be bound separately from the Part A section of the document. If one Part B section is bound separately from the Part A section of the document, all Part B sections must be separate from the Part A section of the document.*
- (18) *Subsection 5.3(2) of National Instrument 81-101 permits Part B sections that have been bound separately from the related Part A section to either be bound individually or together, at the option of the mutual fund organization. There is no prohibition against the same Part B section of a multiple SP being bound by itself for distribution to some investors, and also being bound with the Part B section of other mutual funds for distribution to other investors.*
- (19) *Section 3.2 of National Instrument 81-101 provides that the requirement under securities legislation to deliver a prospectus for a mutual fund will be satisfied by the delivery of a simplified prospectus, either with or without the documents incorporated by reference. Mutual fund organizations that bind separately the Part B sections of a multiple SP from the Part A section are reminded that, since a simplified prospectus consists of a Part A section and a Part B section, delivery of both sections is necessary in order to satisfy the delivery obligations in connection with the sale of securities of a particular mutual fund.*
- (20) *In Items 1 through 4 of Part A of this Form, specific instructions are provided for a single SP and a multiple SP and in some cases for a multiple SP for which the Part A section is either bound with, or separate from, the Part B sections of the document. The remainder of Part A of this Form generally refers to disclosure required for "a mutual fund" in a "simplified prospectus". This disclosure should be modified as appropriate to reflect multiple mutual funds covered by a multiple SP.*

PART A GENERAL DISCLOSURE

Item 1: Front Cover Disclosure

1.1 For a Single SP

- (1) Indicate on the front cover whether the document is a preliminary simplified prospectus, a *pro forma* simplified prospectus or a simplified prospectus.
- (2) Indicate on the front cover the name of the mutual fund to which the simplified prospectus pertains.
- (3) Despite securities legislation, state on the front cover of a preliminary simplified prospectus the following:

"A copy of this Simplified Prospectus has been filed with [the securities authority(ies) in each of/certain of the provinces/provinces and territories of Canada] but the Simplified Prospectus has not yet become final for the purpose of a distribution. Information contained in this Simplified Prospectus may not be complete and may have to be amended. The [units/shares] described in this Simplified Prospectus may not be sold to you until a receipt for the Simplified Prospectus is obtained by the mutual fund from the securities regulatory [authority(ies)]."

- (4) If a commercial copy of the preliminary simplified prospectus is prepared, print the legend referred to in subsection (3) in red ink.
- (5) For a preliminary simplified prospectus or simplified prospectus, indicate the date of the document, which shall be the date of the certificates contained in the related annual information form. This date shall be within three business days of the date the document is filed with the securities regulatory authority. Write the date in full, writing the name of the month in words. A *pro forma* simplified prospectus need not be dated, but may reflect the anticipated date of the simplified prospectus.
- (6) State, in substantially the following words:

"No securities regulatory authority has expressed an opinion about these [units/shares] and it is an offence to claim otherwise."

1.2 For a Multiple SP in which the Part A section and the Part B sections are bound together

- (1) Indicate on the front cover whether the document is a preliminary simplified prospectus, a *pro forma* simplified prospectus or a simplified prospectus for each of the mutual funds to which the document pertains.
- (2) Indicate on the front cover the names of the mutual funds and, at the option of the mutual funds, the name of the mutual fund family, to which the document pertains.
- (3) Despite securities legislation, state on the front cover of a document that contains a preliminary simplified prospectus the following:

"A copy of this document has been filed with [the securities authority(ies) in each of/certain of the provinces/provinces and territories of Canada] but has not yet become final for the purpose of a distribution. Information contained in this document may not be complete and may have to be amended. The [units/shares] described in this document may not be sold to you until receipts for this document are obtained by the mutual fund from the securities regulatory [authority(ies)]."
- (4) If a commercial copy of the document that contains a preliminary simplified prospectus is prepared, print the legend referred to in subsection (3) in red ink.
- (5) If the document contains a preliminary simplified prospectus or a simplified prospectus, indicate the date of the document, which shall be the date of the certificates contained in the related multiple AIF. This date shall be within three business days of the date the document is filed with the securities regulatory authority. Write the date in full, writing the name of the month in words. A document that is a *pro forma* multiple SP need not be dated, but may reflect the anticipated date of the multiple SP.
- (6) State, in substantially the following words:

"No securities regulatory authority has expressed an opinion about these [units/shares] and it is an offence to claim otherwise."

1.3 For a Multiple SP in which the Part A section is bound separately from the Part B sections

- (1) Comply with Item 1.2.
- (2) State prominently, in substantially the following words:

"A complete simplified prospectus for the mutual funds listed on this page consists of this document and an additional disclosure document that provides specific information about the mutual funds in which you are investing. This document provides general information applicable to all of the [name of mutual fund family] funds. You must be provided with the additional disclosure document."

Item 2: Table of Contents

2.1 For a Single SP

- (1) Despite securities legislation, at the option of the mutual fund, include a table of contents.
- (2) If a table of contents is included, begin it on a new page, which may be the inside front cover of the document.

2.2 For a Multiple SP in which the Part A section and the Part B sections are bound together

- (1) Include a table of contents.
- (2) Include in the table of contents, under the heading "Fund Specific Information", a list of all of the mutual funds to which the document pertains, with the numbers of the pages where information about each mutual fund can be found.
- (3) Begin the table of contents on a new page, which may be the inside front cover of the document.

2.3 For a Multiple SP in which the Part A section is bound separately from the Part B sections

- (1) Include a table of contents for the Part A section of the multiple SP.
- (2) Begin the table of contents on a new page, which may be the inside front cover of the document.
- (3) Include, immediately following the table of contents and on the same page, a list of the mutual funds to which the multiple SP pertains and details on how the Part B disclosure for each mutual fund will be provided.

Item 3: Introductory Disclosure

3.1 For a Single SP

Provide, either on a new page or immediately under the table of contents, under the heading "Introduction", the following statement in substantially the following words:

- This Simplified Prospectus contains selected important information to help you make an informed investment decision and to help you understand your rights.
- This Simplified Prospectus contains information about the Fund and the risks of investing in mutual funds generally, as well as the names of the firms responsible for the management of the Fund.
- Additional information about the Fund is available in the Annual Information Form, the Fund's most recently filed annual financial statements and any interim financial statements of the Fund filed after those annual financial statements. These documents are incorporated by reference into this Simplified Prospectus, which means that they legally form part of this document just as if they were printed as a part of this document. You can get a copy of the Annual Information Form and those financial statements, including a statement of portfolio transactions, at your request, and at no cost, by calling [toll-free/collect] [insert the toll-free telephone number or telephone number where collect calls are accepted, as required by section 3.4 of the Instrument], or from your dealer.
- [If applicable] These documents are available on the [mutual fund's/mutual fund family's] Internet site at [insert mutual fund's Internet site address], or by contacting the [mutual fund/mutual fund family] at [insert mutual fund's/mutual fund family's e-mail address].
- These documents and other information about the Fund are available on the Internet at www.sedar.com.

3.2 For a Multiple SP

Provide, either on a new page or immediately under the table of contents, under the heading "Introduction" the following statement in substantially the following words:

- This document contains selected important information to help you make an informed investment decision and to help you understand your rights as an investor.
- This document is divided into two parts. The first part, [from pages ● through ●], contains general information applicable to all of the [name of fund family] Funds. The second part, [from pages ● through ●] [which is separately bound], contains specific information about each of the Funds described in this document.
- Additional information about each Fund is available in the Fund's Annual Information Form and the Fund's most recently filed annual financial statements and any interim financial statements of the Fund filed after those annual financial statements. These documents are incorporated by reference into this document, which means that they legally form part of this document just as if they were printed as a part of this document. You can get a copy of the Fund's Annual Information Form and those financial statements, including a statement of portfolio transactions, at your request, and at no cost, by calling [toll-free/collect] [insert the toll-free telephone number or telephone number where collect calls are accepted, as required by section 3.4 of the Instrument], or from your dealer.

Mutual Fund Rules

- [If applicable] These documents are available on the [mutual funds/mutual fund family's] Internet site at [insert mutual funds/mutual fund family's Internet site address], or by contacting the [mutual funds/mutual fund family] at [insert e-mail address].
- These documents and other information about the Funds are available at www.sedar.com."

Item 4: General Investment Risks

- (1) Disclose under the heading "What is a Mutual Fund and What are the Risks of Investing in a Mutual Fund?"
 - (a) a brief general description of the nature of a mutual fund; and
 - (b) the risk factors or other investment considerations that an investor should take into account that are associated with investing in mutual funds generally.
- (2) For a multiple SP, at the option of the mutual fund, disclose the risk factors and investment considerations that are applicable to more than one of those mutual funds.
- (3) At a minimum, in response to the requirements of subsection (1), include disclosure in substantially the following words:
 - Mutual funds own different types of investments, depending upon their investment objectives. The value of these investments will change from day to day, reflecting changes in interest rates, economic conditions, and market and company news. As a result, the value of a mutual fund's [units/shares] may go up and down, and the value of your investment in a mutual fund may be more or less when you redeem it than when you purchased it.
 - [If applicable], The full amount of your investment in any [name of mutual fund family] mutual fund is not guaranteed.
 - Unlike bank accounts or GICs, mutual fund [units/shares] are not covered by the Canada Deposit Insurance Corporation or any other government deposit insurer."
- (4) State that, under exceptional circumstances, a mutual fund may suspend redemptions. Provide a reference to the disclosure provided in response to Item 6(2) of Part A of this Form.

INSTRUCTIONS:

- (1) *Examples of the risks that may be disclosed under subsection (2) are stock market risk, interest rate risk, foreign security risk, foreign currency risk, specialization risk and risk associated with the use of derivatives. If this risk disclosure is provided under this subsection, the fund-specific disclosure about each mutual fund described in the document should contain a reference to the appropriate parts of this risk disclosure.*
- (2) *In providing disclosure under subsection (1), follow the instructions under Item 9 of Part B of this Form, as appropriate.*

Item 5: Organization and Management Details for a Multiple SP

- (1) Provide, under the heading "Organization and Management of the [name of mutual fund family]", information about the manager, trustee, portfolio adviser, principal distributor, custodian, registrar and auditor of the mutual funds to which the document relates in the form of a diagram or table.
- (2) For each entity listed in the diagram or table, briefly describe the services provided by that entity and the relationship of that entity to the manager.
- (3) For each entity listed in the diagram or table, other than the manager of the mutual funds, provide the municipality and the province or country where it principally provides its services to the mutual funds. Provide the complete municipal address for the manager of the mutual funds.
- (4) At the option of the mutual fund, provide, under a separate sub-heading, details of the manager of the mutual fund, including the history and background of the manager and any overall investment strategy or approach used by the manager in connection with the mutual funds for which it acts as manager.
- (5) Despite subsection (1), if the information required by subsection (1) is not the same for substantially all of the mutual funds described in the document, provide in the diagram or table contemplated by subsection (1) only that information

that is the same for substantially all of the mutual funds and provide the remaining disclosure required by that subsection in the diagram or table required by Item 4(1) of Part B of this Form.

INSTRUCTIONS:

- (1) *The information required to be disclosed in this Item shall be presented prominently, using enough space so that it is easy to read.*
- (2) *The descriptions of the services provided by the listed entities should be brief. For instance, the manager may be described as "manages the overall business and operations of the funds", a portfolio adviser may be described as "provides investment advice to the manager about the investment portfolio of the funds" or "manages the investment portfolio of the funds", and a "principal distributor" may be described as "markets the securities of the funds and sells securities [through brokers and dealers] [or its own sales force]".*

Item 6: Purchases, Switches and Redemptions

- (1) Briefly describe, under the heading "Purchases, Switches and Redemptions", how an investor can purchase and redeem the securities of the mutual fund or switch them for securities of other mutual funds, how often the mutual fund is valued, and state that the issue and redemption price of those securities is based on the mutual fund's net asset value of a security of that class, or series of a class, next determined after the receipt by the mutual fund of the purchase order or redemption order.
- (2) State that, under extraordinary circumstances, the rights of investors to redeem securities may be suspended by the mutual fund, and describe the circumstances when the suspension of redemption rights could occur.
- (3) For a new mutual fund that is being sold on a best efforts basis, state whether the issue price will be fixed during the initial distribution period, and state when the mutual fund will begin issuing and redeeming securities based on the net asset value per security of the mutual fund.
- (4) Describe all available purchase options and state, if applicable, that the choice of different purchase options requires the investor to pay different fees and expenses and, if applicable, that the choice of different purchase options affects the amount of compensation paid by a member of the organization of the mutual fund to a dealer. Include cross-references to the disclosure provided under Items 8 and 9 of Part A of this Form.

Item 7: Optional Services Provided by the Mutual Fund Organization

If applicable, under the heading "Optional Services", describe the optional services that may be obtained by typical investors from the mutual fund organization.

INSTRUCTION:

Disclosure in this Item should include, for example, any asset allocation services, registered tax plans, foreign content monitoring plans, regular investment and withdrawal plans, U.S. dollar purchase plans, periodic purchase plans, contractual plans, periodic withdrawal plans or switch privileges.

Item 8: Fees and Expenses

8.1 General Disclosure

- (1) Set out information about the fees and expenses payable by the mutual fund and by investors in the mutual fund under the heading "Fees and Expenses".
- (2) The information required by this Item shall first be a summary of the fees, charges and expenses of the mutual fund and investors presented in the form of the following table, appropriately completed, and introduced using substantially the following words:

"This table lists the fees and expenses that you may have to pay if you invest in the [insert the name of the mutual fund]. You may have to pay some of these fees and expenses directly. The Fund may have to pay some of these fees and expenses, which will therefore reduce the value of your investment in the Fund."

- (3) Include the fees for any optional services provided by the mutual fund organization, as described by Item 7 of Part A of this Form, in the table.
- (4) If management fees are payable directly by investors, add a line item in the table to disclose the maximum percentage that could be paid by investors.

- (5) If the manager permits negotiation of a management fee rebate, provide disclosure of these arrangements. If these arrangements are not available for each mutual fund described in the document, make this disclosure in the description of fees and expenses required for each fund by Item 5 of Part B of this Form and include a cross-reference to that information in the table required by this Item.

Fees and Expenses Payable by the Fund	
Management Fees	<i>[See Instruction (1)] [disclosure re management fee rebate program]</i>
Operating Expenses	<i>[See Instructions (2) and (3)] Fund[s] pay[s] all operating expenses, including _____</i>
Fees and Expenses Payable Directly by You	
Sales Charges	<i>[specify percentage, as a percentage of _____]</i>
Switch Fees	<i>[specify percentage, as a percentage of _____, or specify amount]</i>
Redemption Fees	<i>[specify percentage, as a percentage of _____, or specify amount]</i>
Registered Tax Plan Fees <i>[include this disclosure and specify the type of fees if the registered tax plan is sponsored by the mutual fund and is described in the simplified prospectus]</i>	<i>[specify amount]</i>
Other Fees and Expenses <i>[specify type]</i>	<i>[specify amount]</i>

INSTRUCTIONS:

- (1) *If the table pertains to more than one mutual fund and not all of the mutual funds pay the same management fees, under "Management Fees" in the table, either*
- (a) *state that the management fees are unique to each mutual fund, include management fee disclosure for each mutual fund as a separate line item in the table required by Item 5 of Part B of this Form for that mutual fund, and include a cross-reference to that table; or*
 - (b) *list the amount of the management fee, including any performance or incentive fee, for each mutual fund separately.*
- (2) *If the table pertains to more than one mutual fund and not all of the mutual funds have the same obligations to pay operating expenses, either*
- (a) *state that the operating expenses payable by the mutual funds are unique to each mutual fund, include the description of the operating expenses payable by each mutual fund as a separate line item in the table required by Item 5 of Part B of this Form for that mutual fund, and include a cross-reference to that table; or*
 - (b) *provide the disclosure concerning the operating expenses for each mutual fund contemplated by this Item separately.*
- (3) *Under "Operating Expenses", state whether the mutual fund pays all of its operating expenses and list the main components of those expenses. If the mutual fund pays only certain operating expenses and is not responsible for payment of all such expenses, adjust the statement in the table to reflect the proper contractual responsibility of the mutual fund.*
- (4) *Show all fees or expenses payable by the mutual fund, even if it is expected that the manager of the mutual fund or other member of the organization of the mutual fund will waive or absorb some or all of those fees and expenses.*
- (5) *If the management fees of a mutual fund are payable directly by a securityholder and vary so that specific disclosure of the amount of the management fees cannot be disclosed in the simplified prospectus of the mutual fund, or cannot be derived from disclosure in the simplified prospectus, provide as much disclosure as is possible about the*

management fees to be paid by securityholders, including the highest possible rate or range of those management fees.

8.2 Illustrations of Different Purchase Options

- (1) Under the sub-heading "Impact of Sales Charges" provide information, substantially in the form of the following table, concerning the amount of fees payable by an investor under the available purchase options and introduced using substantially the following words:

"The following table shows the amount of fees that you would have to pay under the different purchase options available to you if you made an investment of \$1,000 in the Fund, if you held that investment for one, three, five or ten years and redeemed immediately before the end of that period."

	At Time of Purchase	1 Year	3 Years	5 Years	10 Years
Sales Charge Option	\$●	---	---	---	---
Redemption Charge Option ⁽¹⁾	---	\$●	\$●	\$●	\$●
No Load Option	---	---	---	---	---
[Other purchase options]	\$●	\$●	\$●	\$●	\$●

⁽¹⁾ Redemption charges may apply only if you redeem your [units/shares] in a particular year. Redemption charges are shown under "Fees and Expenses" above.

- (2) In preparing the table contemplated by this Item, assume, in determining the fees paid under the sales charge option, that
- (a) the maximum sales commission disclosed in the simplified prospectus is paid by the investor; and
 - (b) if the mutual fund has a deferred sales charge option in which the amount paid by an investor at the time of a redemption of securities is based upon the net asset value of those securities at that time, an annual return of five percent since time of purchase, and disclose that assumption in a footnote to the table.

Item 9: Dealer Compensation

9.1 General

Provide, under the heading "Dealer Compensation", the disclosure of sales practices and equity interests required by sections 8.1 and 8.2 of National Instrument 81-105.

INSTRUCTIONS:

- (1) Briefly state the compensation paid and the sales practices followed by the members of the organization of the mutual fund in a concise and explicit manner, without explaining the requirements and parameters for permitted compensation contained in National Instrument 81-105.
- (2) For example, if the manager of the mutual fund pays an up-front sales commission to participating dealers, so state and include the range of commissions paid. If the manager permits participating dealers to retain the sales commissions paid by investors as compensation, so state and include the range of commissions that can be retained. If the manager or another member of the mutual fund's organization pays trailing commissions, so state and provide an explanation of the basis of calculation of these commissions and the range of the rates of such commissions. If the mutual fund organization from time to time pays the permitted marketing expenses of participating dealers on a co-operative basis, so state. If the mutual fund organization from time to time holds educational conferences that sales representatives of participating dealers may attend or from time to time pays certain of the expenses incurred by participating dealers in holding educational conferences for sales representatives, so state.
- (3) If the members of the organization of the mutual funds follow any other sales practices permitted by National Instrument 81-105, briefly describe these sales practices.

- (4) *Include a brief summary of the equity interests between the members of the organization of the mutual fund and participating dealers and representatives as required by section 8.2 of National Instrument 81-105. This disclosure may be provided by means of a diagram or table.*

9.2 Dealer Compensation from Management Fees

Disclose, under the heading "Dealer Compensation from Management Fees", the approximate percentage obtained from a fraction

- (a) the numerator of which is the aggregate amount of cash paid to registered dealers in the last completed financial year of the manager of the mutual fund, for payments made
- (i) by
 - (A) the manager of the mutual fund, or
 - (B) an affiliate of the manager,
 - (ii) in order to
 - (A) pay compensation to registered dealers in connection with the distribution of securities of the mutual fund or mutual funds that are members of the same mutual fund family as the mutual fund, or
 - (B) pay for any marketing, fund promotion or educational activity in connection with the mutual fund or mutual funds that are members of the same mutual fund family as the mutual fund; and
- (b) the denominator of which is the aggregate amount of management fees received by the managers of the mutual fund and all other mutual funds in the same mutual fund family as the mutual fund in the last completed financial year of the manager.

INSTRUCTION:

- (1) *The disclosure presented under this Item should be described as information about the approximate percentage of management fees paid by mutual funds in the same family as the mutual fund that were used to fund commissions or other promotional activities of the mutual fund family in the most recently completed financial year of the manager of the mutual fund.*
- (2) *The calculations made under this Item should take into account the payment of sales and trailing commissions and the costs of participation in co-operative marketing, fund promotion and educational conferences.*
- (3) *Amounts paid out by a mutual fund organization as sales commissions should be netted against amounts received from deferred sales charges.*

Item 10: Income Tax Considerations for Investors

- (1) Briefly describe under the heading "Income Tax Considerations for Investors" the income tax consequences for investors of income and capital gains distributions made by the mutual fund, as well as of the gains or losses that occur on the disposition of securities of the mutual fund by the investor.
- (2) This description shall explain the different tax treatment applicable to mutual fund securities held in a registered tax plan as compared to mutual fund securities held in non-registered accounts.
- (3) Describe the impact of the mutual fund's distribution policy on a taxable investor who acquires securities of the mutual fund late in a calendar year.
- (4) If material, describe the potential impact of the mutual fund's anticipated portfolio turnover rate on a taxable investor.
- (5) Describe how the adjusted cost base of a security of a mutual fund can be calculated by those investors holding outside a registered tax plan.

INSTRUCTION:

- (1) *If management fees are paid directly by investors, describe generally the income tax consequences to taxable investors of this arrangement.*
- (2) *Subsection (2) is particularly relevant for investors who hold their mutual fund investments through RRSPs, if they have invested in a mutual fund that requires management fees to be paid directly by the investors. Detailed disclosure of the tax consequences of this arrangement on those investors should be made by such mutual funds.*

Item 11: Statement of Rights

Provide a brief explanation, under the heading "What are your Legal Rights?", of an investor's statutory rights of rescission and damages, including the right of action for misrepresentations contained in the simplified prospectus and in any documents incorporated by reference into the simplified prospectus, in substantially the following words:

"Securities legislation in some provinces gives you the right to withdraw from an agreement to buy mutual funds within two business days of receiving the Simplified Prospectus, or to cancel your purchase within 48 hours of receiving confirmation of your order.

Securities legislation in some provinces and territories also allows you to cancel an agreement to buy mutual fund [units/shares] and get your money back, or to make a claim for damages, if the Simplified Prospectus, Annual Information Form or financial statements misrepresent any facts about the Fund. These rights must usually be exercised within certain time limits.

For more information, refer to the securities legislation of your province or territory or consult your lawyer."

Item 12: Additional Information

- (1) Provide any specific disclosure required or permitted to be disclosed in a prospectus under securities legislation or by an order or ruling of the securities regulatory authority pertaining to the mutual fund that is not otherwise required to be disclosed by this Form.
- (2) This Item does not apply to the requirements of securities legislation that are form requirements for a prospectus.

INSTRUCTIONS:

- (1) *An example of a provision of securities legislation that may be relevant to this Item is the requirement contained in the conflict of interest provisions of the Canadian securities legislation of a number of jurisdictions to the effect that a mutual fund shall not make an investment in respect of which a related person will receive any fee or compensation except for fees paid pursuant to a contract disclosed in, among other things, a prospectus. Another example is the requirement of some jurisdictions that certain statements be included in a simplified prospectus of a mutual fund with a non-Canadian manager.*
- (2) *For a single SP, provide this disclosure either under this Item or under Item 14 of Part B of this Form, whichever is more appropriate.*
- (3) *For a multiple SP, this disclosure should be provided under this Item if the disclosure pertains to all of the mutual funds described in the document. If the disclosure does not pertain to all of those funds, the disclosure should be provided in the fund-specific disclosure required or permitted under Item 14 of Part B of this Form.*

Item 13: Part B Introduction

- (1) For a multiple SP, at the option of the mutual fund, include in a separate section any explanatory information that would otherwise be repeated identically in each Part B section of the document.
- (2) Any information included in an introductory section under subsection (1) may be omitted elsewhere in the Part B section of the document.

INSTRUCTION:

- (1) *This Item may be used to avoid the need for repetition of standard information in each Part B section of a multiple SP.*

- (2) *Examples of the type of information that may be moved to an introductory section from other parts of the Part B section are:*
 - (a) *definitions or explanations of terms used in each Part B section, such as "portfolio turnover rate" and "management expense ratio"; and*
 - (b) *discussion or explanations of the tables or charts that are required in each Part B section of the document.*
- (3) *A similar Item is contained in Item 3 of Part B of this Form. A mutual fund organization may include this section either at the end of the Part A section of the multiple SP or at the beginning of the Part B section, at its option.*

Item 14: Back Cover

- (1) State on the back cover the name of the mutual fund or funds included in the document or the mutual fund family, as well as the name, address and telephone number of the manager of the mutual fund or funds.
- (2) State, in substantially the following words:
 - Additional information about the Fund[s] is available in the Fund['s/s'] Annual Information Form and financial statements. These documents are incorporated by reference into this Simplified Prospectus, which means that they legally form part of this document just as if they were printed as a part of this document.
 - You can get a copy of the Fund['s/s'] Annual Information Form and financial statements, including a statement of portfolio transactions, at your request, and at no cost, by calling [toll-free/collect] [insert toll-free telephone number or telephone number where collect calls are accepted, as required by section 3.4 of the Instrument], or from your dealer or by e-mail at [insert e-mail address].
 - These documents and other information about the Fund[s], such as information circulars and material contracts, are also available [on the [insert name of mutual fund manager] Internet site at [insert fund's Internet site] or] or at www.sedar.com."
- (3) For a multiple SP in which the Part A section is bound separately from the Part B sections, state, in substantially the following words:

"A complete simplified prospectus for the mutual funds listed on this cover consists of this document and an additional disclosure document that provides specific information about the mutual funds in which you are investing. This document provides general information applicable to all of the [name of mutual fund family] funds. You must be provided with the additional disclosure document."

PART B FUND-SPECIFIC INFORMATION

Item 1: General

- (1) For a multiple SP in which the Part B sections are bound separately from the Part A section, include at the bottom of each page of a Part B section a footer in substantially the following words and in a type size consistent with the rest of the document:

"This document provides specific information about [name of Fund]. It should be read in conjunction with the rest of the simplified prospectus of the [name of mutual fund family] dated [insert date]. This document and the document that provides general information about [name of mutual fund family] together constitute the simplified prospectus.
- (2) If the Part B section is an amended and restated document, add to the footer required by subsection (1) a statement that the document has been amended and restated on [insert date].

Item 2: Introductory

2.1 For a Single SP

Include at the top of the first page of the Part B section of the simplified prospectus, the heading "Specific Information about the [name of Fund]".

2.2 For a Multiple SP in which the Part A section and the Part B sections are bound together

Include

- (a) at the top of the first page of the first Part B section in the document, the heading "Specific Information about Each of the Mutual Funds Described in this Document"; and
- (b) at the top of each page of a Part B section of the document, a heading consisting of the name of the mutual fund described on that page.

2.3 For a Multiple SP in which the Part A section is bound separately from the Part B sections

Include at the top of each page of a Part B section of the document, a heading consisting of the name of the mutual fund described on that page.

Item 3: General Information

- (1) For a multiple SP, at the option of the mutual fund, include in an introductory section any explanatory information that would otherwise be repeated identically in each Part B section of the document.
- (2) Any information included in an introductory section under subsection (1) may be omitted elsewhere in the Part B section of the document.

INSTRUCTIONS:

- (1) *See the Instruction to Item 13 of Part A of this Form.*
- (2) *If the disclosure contemplated by this Item is included in Part A of the multiple SP under Item 13 of Part A of this Form, include in the introduction section of each Part B section of the multiple SP a cross-reference to where this disclosure is located in the Part A section of the multiple SP.*

Item 4: Organization and Management Details

- (1) For a single SP, under the heading "Organization and Management of the [name of mutual fund]", provide information about the manager, trustee, portfolio adviser, principal distributor, custodian, registrar and auditor of the mutual fund in the form of a diagram or table.
- (2) For each entity listed in the diagram or table, briefly describe the services provided by that entity and the relationship of that entity to the manager.
- (3) For each entity listed in the diagram or table, other than the manager of the mutual fund, provide the municipality and the province or country where it principally provides its services to the mutual funds. Provide the complete municipal address for the manager of the mutual fund.
- (4) At the option of the mutual fund, include under a separate sub-heading, details of the manager of the mutual fund, including the history and background of the manager and any overall investment strategy or approach used by the manager in connection with its mutual funds.
- (5) Follow the requirements and instructions of Item 5 of Part A of this Form in connection with the diagram or table.

Item 5: Fund Details

Under the heading "Fund Details", disclose, in a table

- (a) the type of mutual fund that the mutual fund is best characterized as;
- (b) the date on which the mutual fund was started;
- (c) the nature of the securities offered by the simplified prospectus;
- (d) whether the mutual fund is eligible as an investment for registered retirement savings plans, registered retirement income funds or deferred profit sharing plans;
- (e) whether securities of the mutual fund will constitute foreign property under the ITA;

- (f) if this information is not contained in the table required by Item 8.1 of Part A of this Form
 - (i) the amount of the management fee, including any performance or incentive fee, charged to the mutual fund; and
 - (ii) details concerning the operating expenses paid by the mutual fund contemplated by Instruction (3) of Item 8.1 of Part A of this Form; and
- (g) any information required by subsection (5) of Item 5 of Part A of this Form to be contained in Part B.

INSTRUCTIONS:

- (1) *In disclosing the date on which the mutual fund started, use the date on which the securities of the mutual fund first became available to the public, which will be on, or about, the date of the issuance of the first receipt for a prospectus of the mutual fund. For a mutual fund that formerly offered its securities privately, disclose this fact.*
- (2) *If the mutual fund pays a fee that is determined by the performance of the mutual fund, the disclosure required by paragraph 7.1(c) of National Instrument 81-102 to be described in a simplified prospectus of the mutual fund should be included in a footnote to the description of the incentive fee in the table.*
- (3) *Examples of types of mutual funds that could be listed in response to paragraph (a) are money market, equity, bond or balanced funds related, if appropriate, to a geographical region, or any other description that accurately identifies the type of mutual fund.*
- (4) *If the rights attached to the securities being offered are materially limited or qualified by those attached to any other class or series of securities of the mutual fund or if another class or series of securities of the mutual fund ranks ahead of or equally with the securities being offered, include, as part of the disclosure provided in response to paragraph (c), information regarding those other securities that will enable investors to understand the rights attaching to the securities being offered.*
- (5) *In providing the disclosure contemplated by paragraph (f), provide any disclosure required by, and follow, the Instructions to Item 8.1 of Part A of this Form.*

Item 6: Fundamental Investment Objectives

- (1) Set out under the heading "What Does the Fund Invest In?" and under the sub-heading "Investment Objectives" the fundamental investment objectives of the mutual fund, including information that describes the fundamental nature of the mutual fund, or the fundamental features of the mutual fund, that distinguish it from other mutual funds.
- (2) Describe the nature of any securityholder or other approval that may be required in order to change the fundamental investment objectives of the mutual fund and any of the material investment strategies to be used to achieve those investment objectives.
- (3) Describe any restrictions on investments adopted by the mutual funds, beyond what is required under securities legislation, that pertain to the fundamental nature of the mutual fund.
- (4) If the mutual fund purports to arrange a guarantee or insurance in order to protect all or some of the principal amount of an investment in the mutual fund, include this fact as a fundamental investment objective of the mutual fund and
 - (a) identify the person or company providing the guarantee or insurance;
 - (b) provide the material terms of the guarantee or insurance, including the maturity date of the guarantee or insurance;
 - (c) if applicable, state that the guarantee or insurance does not apply to the amount of any redemptions before the maturity date of the guarantee or before the death of the securityholder and that redemptions before that date would be based on the net asset value of the mutual fund at the time; and
 - (d) modify any other disclosure required by this section appropriately.

INSTRUCTIONS:

- (1) *State the type or types of securities, such as money market instruments, bonds or equity securities, in which the mutual fund will primarily invest under normal market conditions.*

- (2) *If the mutual fund primarily invests, or intends to primarily invest, or if its name implies that it will primarily invest*
 - (a) *in a particular type of issuer, such as foreign issuers, small capitalization issuers or issuers located in emerging market countries;*
 - (b) *in a particular geographic location or industry segment; or*
 - (c) *in portfolio assets other than securities,*

the mutual fund's fundamental investment objectives should so indicate.
- (3) *If a particular investment strategy is an essential aspect of the mutual fund, as evidenced by the name of the mutual fund or the manner in which the mutual fund is marketed, disclose this strategy as an investment objective. This instruction would be applicable, for example, to a mutual fund that described itself as an "asset allocation fund" or a "mutual fund that invests primarily through the use of derivatives".*

Item 7: Investment Strategies

- (1) Describe under the heading "What Does The Fund Invest In?" and under the sub-heading "Investment Strategies"
 - (a) the principal investment strategies that the mutual fund intends to use in achieving its investment objectives; and
 - (b) the process by which the mutual fund's portfolio adviser selects securities for the fund's portfolio, including any investment approach, philosophy, practices or techniques used by the portfolio adviser or any particular style of portfolio management that the portfolio adviser intends to follow.
- (2) Indicate what types of securities, other than those held by the mutual fund in accordance with its fundamental investment objectives, may form part of the mutual fund's portfolio assets under normal market conditions.
- (3) If the mutual fund intends to use derivatives
 - (a) for hedging purposes only, state that the mutual fund may use derivatives for hedging purposes only;
 - (b) for non-hedging purposes, or for hedging and non-hedging purposes, briefly describe
 - (i) how derivatives are or will be used in conjunction with other securities to achieve the mutual fund's investment objectives,
 - (ii) the types of derivatives expected to be used and give a brief description of the nature of each type, and
 - (iii) the limits of the mutual fund's use of derivatives.
- (4) If the mutual fund is managed so that its securities do not constitute foreign property for purposes of the ITA, state whether any, and if so what proportion, of the assets of the mutual fund may or will be invested in foreign securities.
- (5) If the mutual fund is not a money market fund, and intends to engage in active and frequent trading of portfolio securities as a principal investment strategy to achieve its investment objectives such that the portfolio turnover rate of the mutual fund is expected to be more than 70 percent, describe
 - (a) the tax consequences to securityholders of an active portfolio turnover, and
 - (b) how the tax consequences of, or trading costs associated with, the mutual fund's portfolio turnover may affect the mutual fund's performance.
- (6) If the mutual fund may depart temporarily from its fundamental investment objectives as a result of adverse market, economic, political or other considerations, disclose any temporary defensive tactics the mutual fund's portfolio adviser may use or intends to use in response to such conditions.
- (7) Describe any restrictions on investments adopted by the mutual fund, beyond what is required under securities legislation, that do not pertain to the fundamental nature of the mutual fund.

INSTRUCTION:

A mutual fund may, in responding to this Item, provide a discussion of the general investment approach or philosophy followed by the portfolio adviser of the mutual fund.

Item 8: Top Ten Holdings

For any mutual fund other than a money market fund, list the ten largest holdings of the mutual fund, by percentage of net assets of the mutual fund, as at a date within 30 days of the date of the simplified prospectus and state the percentage of the net assets of the mutual fund that are invested in each of those holdings. Such listing shall be accompanied by a warning to the effect that the information contained in the list may change due to the ongoing portfolio transactions of the mutual fund and a statement on how more current information may be obtained by investors, if available.

INSTRUCTIONS:

- (1) *If the mutual fund owns more than one class of securities of an issuer, those classes should be aggregated for purposes of the calculations to be made under this Item.*
- (2) *Portfolio assets other than securities should be aggregated if they have substantially similar investment risks and profiles. For instance, gold certificates should be aggregated, even if they are issued by different financial institutions.*
- (3) *Cash and cash equivalents should be treated as one separate discrete category.*
- (4) *In making the determinations of its holdings for purposes of the disclosure required by this Item, a mutual fund should, for each long position in a derivative that is held by the mutual fund for purposes other than hedging and for each index participation unit held by the mutual fund, consider that it holds directly the underlying interest of that derivative or its proportionate share of the securities held by the issuer of the index participation unit.*

Item 9: Risks

- (1) Set out specific information concerning any material risks associated with an investment in the mutual fund, other than those risks previously discussed in response to Item 4 of Part A of this Form, under the heading "What are the Risks of Investing in the Fund?".
- (2) For a money market fund, include disclosure to the effect that although the mutual fund intends to maintain a constant price for its securities, there is no guarantee that the price will not go up and down.
- (3) Include specific cross-references to the risks described in response to paragraph 1(b) of Item 4 of Part A of this Form that are applicable to the mutual fund.
- (4) If the mutual fund offers more than one class or series of securities, disclose the risks that the investment performance, expenses or liabilities of one class or series may affect the value of the securities of another class or series, if applicable.

INSTRUCTIONS:

- (1) *Consider the mutual fund's portfolio investments as a whole.*
- (2) *Provide the disclosure in the context of the mutual fund's fundamental investment objectives and investment strategies, outlining the risks associated with any particular aspect of those fundamental investment objectives and investment strategies.*
- (3) *Include a discussion of general market, political, market sector, liquidity, interest rate, foreign currency, diversification, credit, legal and operational risks, as appropriate.*
- (4) *Include a brief discussion of general investment risks, such as specific company developments, stock market conditions, general economic and financial conditions in those countries where the investments of the mutual fund are listed for trading, applicable to the particular mutual fund.*
- (5) *If derivatives are to be used by the mutual fund for non-hedging purposes, describe the risks associated with any use or intended use by the mutual fund of derivatives.*

Item 10: Suitability

Provide a brief statement of the suitability of the mutual fund for particular investors under the heading "Who Should Invest in this Fund?", describing either or both of the characteristics of the investor for whom the mutual fund may or may not be an appropriate investment, and the portfolios for which the mutual fund is suited or for which the mutual fund should not be used.

INSTRUCTIONS:

- (1) *In responding to the disclosure required by this Item, indicate the level of investor risk tolerance that would be appropriate for investment in the mutual fund.*
- (2) *If the mutual fund is particularly unsuitable for certain types of investors or for certain types of investment portfolios, emphasize this aspect of the mutual fund, and disclose both the types of investors who should not invest in the mutual fund, with regard to investments on both a short and long term basis, and the types of portfolios that should not invest in the mutual fund. Conversely, it might be appropriate to discuss whether the mutual fund is particularly suitable for particular investment objectives.*

Item 11: Past Performance

11.1 General

- (1) Item 11 applies only to mutual funds that are permitted under paragraph 15.6(a) of National Instrument 81-102 Mutual Funds to include performance data in their sales communications.
- (2) Despite the specific requirements of this Item, performance data shall not be provided for any period if the mutual fund was not offering its securities by way of a prospectus or simplified prospectus at all times during the period.
- (3) In responding to the requirements of this Item, a mutual fund shall comply with section 15.9 of National Instrument 81-102 as if that section applied to a simplified prospectus.
- (4) Set out in footnotes to the chart, graph or table required by this Item the assumptions relevant to the calculation of the performance information, and include a statement of the significance for taxable investors of the assumption that distributions are reinvested.
- (5) In the introduction to the chart, graph or table required by this Item, or in a general introduction to the "Past Performance" section, indicate that
 - (a) the returns or performance information shown assume that all distributions made by the mutual fund in the periods shown were reinvested in additional securities of the mutual fund;
 - (b) the return or performance information do not take into account sales, redemption, distribution or other optional charges or income taxes payable that would have reduced returns or performance; and
 - (c) how the mutual fund has performed in the past does not necessarily indicate how it will perform in the future.
- (6) Use a linear scale for the each axis of the bar chart and line graph required by this Item.
- (7) The y-axis for each of the bar chart and line graph shall start at 0.

11.2 Year-by-Year Returns

- (1) Provide a bar chart, under the heading "Past Performance" and under the sub-heading "Year-by-Year Returns", that shows, in chronological order with the most recent year on the right of the bar chart, the annual total return, calculated as provided under subsection (2), of the mutual fund for the lesser of
 - (a) each of the ten most recently completed calendar years; and
 - (b) each of the completed calendar years in which the mutual fund has been in existence and in which the securities of the mutual fund have been offered by way of a prospectus or simplified prospectus.
- (2) Calculate the annual total return of the mutual fund for a year in accordance with the requirements of Part 15 of National Instrument 81-102.

- (3) Provide an introduction to the bar chart that
 - (a) indicates that the bar chart shows the mutual fund's annual performance for each of the years shown, and illustrates that the mutual fund's performance has changed from year to year; and
 - (b) indicates that the bar chart shows, in percentage terms, how much an investment made on January 1 in each year would have grown or decreased by December 31 in that year.

11.3 Line Graph

- (1) If the mutual fund is not a money market fund, include immediately following the bar chart required by Item 11.2, under the sub-heading "Overall Past Performance", a line graph that shows the information described in subsection (2) for the period determined under subsection (3).
- (2) The information to be provided in the line graph shall be
 - (a) the initial value, and final value, of a hypothetical \$10,000 investment in the mutual fund as at the beginning, and as at the end, of the period determined under subsection (3), with the dollar amounts of those values shown on the line graph;
 - (b) the subsequent values, shown graphically, of the investment referred to in paragraph (a) at the end of each quarter in the period determined under subsection (3); and
 - (c) assuming a level of \$10,000 at the beginning of the period determined under subsection (3), the subsequent levels, shown graphically, of each index selected under subsection (6) at the end of each quarter in the period determined under subsection (3), and the final value of each index at the end of that period with the dollar amount of the final value of each index shown on the line graph.
- (3) The period covered by the line graph shall be an unbroken period that
 - (a) ends on December 31 of the year before the date of the simplified prospectus; and
 - (b) consists of the least of
 - (i) 10 years,
 - (ii) the time since the inception of the mutual fund, and
 - (iii) the time since the mutual fund began to offer its securities by way of a prospectus or simplified prospectus.
- (4) Show the hypothetical values for the mutual fund and the index or indices in chronological order, with the most recent year on the right.
- (5) Provide an introduction to the line graph that indicates that the graph shows the growth of a hypothetical \$10,000 investment in the mutual fund, as compared to the increase of the shown index or indices for the indicated number of years.
- (6) Include in the line graph, and provide a brief description of
 - (a) one or more appropriate broad-based securities market indices; and
 - (b) at the option of the mutual fund, one or more non-securities financial indices or narrowly-based market indices that reflect the market sectors in which the mutual fund invests.
- (7) If the mutual fund includes in the line graph an index that is different from those included in the most recently filed simplified prospectus, explain the reason(s) for the change and include in the line graph the disclosure required by this Item for both the new and former indices.

INSTRUCTIONS:

- (1) *It is not necessary to disclose the exact value, in a dollar amount, of the hypothetical investment and index levels as at the end of each quarter in the period covered by the line graph. Subsection (2) requires only that the line graph itself be detailed enough to show increases or decreases of the relevant level in each quarter in graphic form. Actual dollar amounts may be included in the line graph at the option of the mutual fund, except that the initial value*

of \$10,000 and the final value at the end of the period covered by the line graph are to be shown as actual dollar amounts, as required by subsection (2).

- (2) An "appropriate broad-based securities market index" is one that
 - (a) is administered by an organization that is not affiliated with any of the mutual fund, its manager, its portfolio adviser or principal distributor, unless the index is widely recognized and used; and
 - (b) has been adjusted by its administrator to reflect the reinvestment of dividends on securities in the index or interest on debt.
- (3) It may be appropriate for a mutual fund that invests in more than one type of security to compare its performance to a mix of relevant indices. For example, a balanced fund may wish to compare its performance to both a bond index and an equity index or to a blended return based on a combination of the returns of the bond index and the equity index, in proportions comparable to the mutual fund's own investment mix.
- (4) In addition to the appropriate broad-based securities market index, the mutual fund may compare its performance to other more financial or narrowly based securities indices that reflect the market sectors in which the mutual fund invests or that provide useful comparatives to the performance of the mutual fund. For example, a mutual fund could compare its performance to an index that measured the performance of certain sectors of the stock market (e.g. communications companies, financial sector companies, etc.) or to a non-securities index, such as the Consumer Price Index, so long as the comparison is not misleading.
- (5) The descriptions required by subsection (6) of the indices included in the line graph may, at the option of the mutual fund, be presented as footnotes to the line graph.

11.4 Annual Compound Returns

- (1) If the mutual fund is not a money market fund, disclose, in the form of a table immediately following the line graph required by Item 11.3, under the sub-heading "Annual Compound Returns"
 - (a) the mutual fund's past performance for the 10, five, three and one year periods ended on December 31 in the year immediately before the year in which the simplified prospectus is filed; and
 - (b) if the mutual fund was offering its securities by way of a prospectus or simplified prospectus for more than one and less than ten years, the mutual fund's past performance since the inception of the mutual fund.
- (2) Provide an introduction to the table that indicates that the table shows the mutual fund's historical annual compound total return for the periods indicated, as compared to the performance of an indicated index or indices.
- (3) Include in the table, for the same periods for which total return information about the mutual fund is provided, the historical annual compound total returns or changes of the index or indices for which information is provided in the line graph prepared under Item 11.3.
- (4) Calculate the compound total return in accordance with the requirements of Part 15 of National Instrument 81-102.
- (5) If the mutual fund includes in the table an index that is different from those included in the most recently filed simplified prospectus, explain the reason(s) for the change and include in the table the disclosure required by this Item for both the new and former indices.

Item 12: Distribution Policy

State under the heading "Distribution Policy" whether distributions are made by the mutual fund in cash or reinvested in securities of the mutual fund, and indicate when distributions are made.

Item 13: Financial Highlights

13.1 Tables

- (1) Provide selected financial information about the mutual fund under the heading "Financial Highlights", in the form of the following tables, appropriately completed, and introduced using substantially the following words:

"The following tables show selected key financial information about the Fund and are intended to help you understand the Fund's financial performance for the past [insert number] years. This information is derived from

the Fund's audited annual financial statements. Please see page [insert page number] for information about how you can obtain the Fund's audited financial statements."

The Fund's Distributions and Net Asset Value per [Unit/Share]

	[insert year]	[insert year]	[insert year]	[insert year]	[insert year]
Distributions:	\$●	\$●	\$●	\$●	\$●
From net income	\$●	\$●	\$●	\$●	\$●
From realized gain	\$●	\$●	\$●	\$●	\$●
Return of capital	\$●	\$●	\$●	\$●	\$●
Total Annual Distributions⁽¹⁾	\$●	\$●	\$●	\$●	\$●
Net asset value at [insert last day of financial year] of year shown	\$●	\$●	\$●	\$●	\$●

⁽¹⁾ Distributions were [paid in cash/reinvested in additional [units/shares] of the Fund].

Ratios and Supplemental Data

	[insert year]	[insert year]	[insert year]	[insert year]	[insert year]
Net assets (000's) ⁽¹⁾	\$●	\$●	\$●	\$●	\$●
Number of [units/shares] outstanding ⁽¹⁾	●	●	●	●	●
Management expense ratio ⁽²⁾	●%	●%	●%	●%	●%
Portfolio turnover rate ⁽³⁾	●%	●%	●%	●%	●%

⁽¹⁾ This information is provided as at [insert date of end of financial year] of the year shown.

⁽²⁾ Management expense ratio is based on total expenses for the stated period and is expressed as an annualized percentage of daily average net assets during the period.

⁽³⁾ The Fund's portfolio turnover rate indicates how actively the Fund's portfolio adviser manages its portfolio investments. A portfolio turnover rate of 100% is equivalent to the Fund buying and selling all of the securities in its portfolio once in the course of the year. The higher a fund's portfolio turnover rate in a year, the greater the trading costs payable by the fund in the year, and the greater the chance of an investor receiving taxable capital gains in the year. There is not necessarily a relationship between a high turnover rate and the performance of a fund.

- (2) Derive the selected financial information in the tables referred to in subsection (1) from the audited annual financial statements of the mutual fund.
- (3) Provide per unit or per share amounts to the nearest cent, and provide percentage amounts to two decimal places.
- (4) Provide the selected financial information required by this Item in chronological order for each of the five most recently completed financial years of the mutual fund for which audited financial statements have been filed, with the information for the most recent financial year in the first column on the right of the table.
- (5) If the mutual fund was not in existence or was not offering its securities by way of prospectus for any year for which information would otherwise be required to be provided under subsection (4), the tables shall not include any information for that year and the mutual fund shall disclose by way of a note to the table that the information is unavailable because the mutual fund only came into existence or only commenced offering its securities by way of prospectus or simplified prospectus on a date specified in that note.

- (6) The management expense ratio for any period less than a full financial year of a mutual fund shall be annualized.
- (7) If the basis of the calculation of the management fees or of the other fees, charges or expenses that are charged to the mutual fund is changed or is proposed to be changed and if the change would have had an effect on the management expense ratio for the last completed financial year of the mutual fund if the change had been in effect throughout that financial year, disclose the effect of the change on the management expense ratio in a note to the appropriate table.
- (8) Do not include disclosure concerning portfolio turnover rate for a money market fund.

INSTRUCTIONS:

- (1) *Calculate the mutual fund's portfolio turnover rate by dividing the lesser of the amounts of the purchases and sales of portfolio securities for the financial year by the average of the value of the portfolio securities owned by the mutual fund in the financial year. Calculate the monthly average by totalling the values of portfolio securities as at the beginning and end of the first month of the financial year and as at the end of each of the succeeding 11 months and dividing the sum by 13. Exclude from both numerator and denominator amounts relating to all securities having a remaining term to maturity on the date of acquisition by the mutual fund of one year or less.*
- (2) *Calculate the management expense ratio of the mutual fund as required by Part 16 of National Instrument 81-102.*

13.2 Illustration of Fund Expenses Indirectly Borne by Investors

- (1) Following the disclosure required by Item 13.1, under the heading "Fund Expenses Indirectly Borne by Investors", provide an example of the share of the expenses of the mutual fund indirectly borne by investors, containing the information and based on the assumptions described in subsection (2).
- (2) The information to be provided under this Item shall be an investor's cumulative proportional share of the fees and expenses paid by the mutual fund, in dollars, over a period of one, three, five and 10 years, assuming
 - (a) an initial investment of \$1,000;
 - (b) a total annual return of the mutual fund of five percent in each year, calculated in accordance with section 15 of National Instrument 81-102;
 - (c) a management expense ratio and operating expense of the mutual fund the same throughout the 10 year period as they were in the last completed financial year of the mutual fund, excluding any performance fees paid in a year which would not have been paid had the mutual fund earned a total return of five percent in that last completed financial year.
- (3) Provide an introduction to the disclosure that explains that the disclosure is intended to help an investor compare the cost of investing in the mutual fund with the cost of investing in other mutual funds, shows the amount of fees and expenses paid by the mutual fund that are indirectly borne by an investor, and describes the assumptions used.
- (4) Provide a cross-reference to the disclosure provided under Item 8 of Part A of this Form for information about fees and expenses paid directly by the investor.

Item 14: Additional Information

- (1) Provide any specific disclosure required or permitted to be disclosed in a prospectus under securities legislation or by an order or ruling of the securities regulatory authority pertaining to the mutual fund that is not otherwise required to be disclosed by this Form.
- (2) This Item does not apply to requirements of securities legislation that are form requirements for a prospectus.

INSTRUCTIONS:

- (1) *See Instruction (1) to Item 12 of Part A of this Form for examples of disclosure that might appropriately be made under these Items.*
- (2) *For a simplified prospectus that is not part of a multiple SP, provide this disclosure either under this Item or under Item 12 of Part A of this Form, whichever is more appropriate.*

- (3) *For a multiple SP, this disclosure should be provided under this Item if the disclosure does not pertain to all of the mutual funds described in the document. If the disclosure pertains to all of those funds, the disclosure should be provided in the fund-specific disclosure required or permitted under Item 12 of Part A of this Form.*

**NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE
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**NATIONAL INSTRUMENT 81-101
MUTUAL FUND PROSPECTUS DISCLOSURE
FORM 81-101F2
CONTENTS OF ANNUAL INFORMATION FORM**

GENERAL INSTRUCTIONS:

General

- (1) *This Form describes the disclosure that is required in an annual information form of a mutual fund. Each Item of this Form outlines disclosure requirements. Instructions to help you provide this disclosure are printed in italic type.*
- (2) *Terms defined in National Instrument 81-101 Mutual Fund Prospectus Disclosure, National Instrument 81-102 Mutual Funds or National Instrument 81-105 Mutual Fund Sales Practices and used in this Form have the meanings that they have in those national instruments.*
- (3) *An annual information form is intended to supplement the information contained in the related simplified prospectus. Information contained in the related simplified prospectus need not be repeated except as required to make the annual information form comprehensible as an independent document. Generally speaking, all of the disclosure required to be provided in connection with a particular requirement of Form 81-101F1 ("the SP Form") in order to satisfy statutory disclosure requirements should be contained in the simplified prospectus. For some Items, it may be appropriate to expand in the annual information form on matters discussed in the simplified prospectus; for instance, a mutual fund organization may wish to describe in an annual information form some of its optional services in more detail than in the simplified prospectus. Generally speaking, however, an annual information form is intended to provide disclosure about different matters than those discussed in the simplified prospectus, which may be of assistance or interest to some investors.*
- (4) *Unless otherwise required by this Form, information may be presented in a different format and style in an annual information form than in a simplified prospectus. An annual information form is required by National Instrument 81-101 to be presented in a format that assists in readability and comprehension. This Form generally does not mandate the use of a specific format to achieve this goal and mutual funds are encouraged to use, as appropriate, tables, captions, bullet points or other organizational techniques that assist in presenting the disclosure clearly.*

- (5) An annual information form may contain photographs and artwork only if they are relevant to the business of the mutual fund, mutual fund family or members of the organization of the mutual fund and are not misleading.
- (6) As with a simplified prospectus, an annual information form is to be prepared using plain language. Reference should be made to Part 3 of Companion Policy 81-101CP for a discussion concerning plain language and presentation.
- (7) Any footnotes provided for under any Item of this Form may be deleted if the substance of the footnotes is otherwise provided.

Contents of an Annual Information Form

- (8) An annual information form pertains to one mutual fund but, unlike a simplified prospectus, is not required to be divided into a discrete Part A section, pertaining to general disclosure, and a Part B section, pertaining to fund-specific disclosure.
- (9) It is not necessary to disclose the Items required by this Form in an annual information form in any particular order or under any particular heading. This is unlike the rule for a simplified prospectus, which provides that information contained in a simplified prospectus must be in the order and under the headings required by the SP Form.

Consolidation of Annual Information Forms into a Multiple AIF

- (10) Section 5.4 of National Instrument 81-101 requires an annual information form to be consolidated with one or more other annual information forms into a multiple AIF if the related simplified prospectuses are consolidated into a multiple SP. As the Instrument does not prevent the consolidation of annual information forms even if the related simplified prospectuses are not consolidated, a mutual fund organization may prepare one multiple AIF that pertains to all of its mutual funds, even if the simplified prospectuses for those mutual funds are not fully or even partially consolidated.
- (11) Unlike the situation with a multiple SP, National Instrument 81-101 does not permit parts of a multiple AIF to be bound separately.
- (12) Unlike the requirements for a multiple SP, there are no requirements that disclosure concerning each mutual fund described in a multiple AIF be organized in any particular manner or order. In particular, it is not necessary to use the catalogue approach required to be used in a multiple SP in which

disclosure about individual mutual funds is required to be separately presented. Information may be presented separately for each mutual fund, or consolidated, at the option of the mutual fund organization.

- (13) The requirements in this Form generally speak of "a mutual fund". These requirements apply to each mutual fund to which a multiple AIF pertains.

Item 1: Front Cover Disclosure

1.1 For a Single AIF

- (1) Indicate on the front cover whether the document is a preliminary annual information form, a *pro forma* annual information form or an annual information form.
- (2) Indicate on the front cover the name of the mutual fund to which the annual information form pertains.
- (3) Despite securities legislation, state on the front cover of a preliminary annual information form the following:

"A copy of this annual information form has been filed with [the securities authority(ies) in each of/certain of the provinces/provinces and territories of Canada] but has not yet become final for the purpose of a distribution. Information contained in this annual information form may not be complete and may have to be amended. The securities described in this annual information form may not be distributed to you until a receipt for the annual information form is obtained by the mutual fund from the securities regulatory [authority(ies)]."

- (4) If a commercial copy of the preliminary annual information form is prepared, print the legend referred to in subsection (3) in red ink.
- (5) For a preliminary annual information form or annual information form, indicate the date of the document, which shall be the date of the certificates for the document. This date shall be within three business days of the date it is filed with the securities regulatory authority. Write the date of the document in full, writing the name of the month in words. A *pro forma* annual information form need not be dated, but may reflect the anticipated date of the annual information form.

- (6) State, in substantially the following words:

"No securities regulatory authority has expressed an opinion about these [units/shares] and it is an offence to claim otherwise."

1.2 For a Multiple AIF

(1) Indicate on the front cover whether the document is a preliminary annual information form, a *pro forma* annual information form or an annual information form for each of the mutual funds to which the document pertains.

(2) Indicate on the front cover the names of the mutual funds and, if desired, the name of the mutual fund family, to which the document pertains.

(3) Despite securities legislation, state on the front cover of a document that contains a preliminary annual information form the following:

"A copy of this annual information form has been filed with [the securities authority(ies) in each of/certain of the provinces/provinces and territories of Canada] but has not yet become final for the purpose of a distribution. Information contained in this annual information form may not be complete and may have to be amended. The securities described in this annual information form may not be distributed to you until a receipt for the annual information form is obtained by the mutual fund from the securities regulatory [authority(ies)]."

(4) If a commercial copy of a document that contains a preliminary annual information form is prepared, print the legend referred to in subsection (3) in red ink.

(5) If the document contains a preliminary annual information form or annual information form, indicate the date of the document, which shall be the date of the certificates for the document. This date shall be within three business days of the date it is filed with the securities regulatory authority. Write the date of the document in full, writing the name of the month in words. A document that is a *pro forma* multiple AIF need not be dated, but may reflect the anticipated date of the multiple AIF.

(6) State, in substantially the following words:

"No securities regulatory authority has expressed an opinion about these [units/shares] and it is an offence to claim otherwise."

Item 2: Table of Contents

Include a table of contents.

Item 3: Name, Formation and History of the Mutual Fund

(1) State the full name of the mutual fund and the address of its head or registered office.

(2) State the laws under which the mutual fund was formed and the date and manner of its formation.

(3) Identify the constating documents of the mutual fund and, if material, state whether the constating documents have been amended in the last 10 years and describe the amendments.

(4) If the mutual fund's name has been changed in the last 10 years, state the mutual fund's former name or names and the date on which it was changed.

(5) Disclose, and provide details about, any major events affecting the mutual fund in the last 10 years. Include information, if applicable, about

(a) the mutual fund having participated in, or been formed from, an amalgamation or merger with one or more other mutual funds;

(b) the mutual fund having participated in any reorganization or transfer of assets in which the securityholders of another issuer became securityholders of the mutual fund;

(c) any changes in fundamental investment objectives or material investment strategies;

(d) any changes in the portfolio adviser or changes in, or of control of, the manager; and

(e) the mutual fund, before it filed a prospectus as a mutual fund, having existed as a closed-end investment fund, non-public mutual fund or other entity.

Item 4: Investment Restrictions

(1) Include a statement to the effect that the mutual fund is subject to certain restrictions and practices contained in securities legislation, including National Instrument 81-102, which are designed in part to ensure that the investments of the mutual fund are diversified and relatively liquid and to ensure the proper administration of the mutual fund, and state that the mutual fund is managed in accordance with these restrictions and practices.

(2) If the mutual fund has received the approval of the securities regulatory authorities to vary any of the investment restrictions and practices contained in securities legislation, including National Instrument 81-102, provide details of the permitted variations.

- (3) Describe the nature of any securityholder or other approval that may be required in order to change the fundamental investment objectives and any of the material investment strategies to be used to achieve the investment objectives.
- (4) State the restrictions on the investment objectives and strategies that arise out of any of the following matters:
 - 1. Whether the securities of the mutual fund are or will be a qualified investment within the meaning of the ITA for retirement savings plans, retirement income funds, education savings plans, deferred profit sharing plans or other plans registered under the ITA.
 - 2. Whether the securities of the mutual fund are or will be recognized as a registered investment within the meaning of the ITA.
 - 3. Whether the securities of the mutual fund will constitute foreign property within the meaning of the ITA.
- (5) State whether the mutual fund has deviated in the last year from the rules under the ITA that apply to the status of its securities as
 - (a) qualified investments within the meaning of the ITA for retirement savings plans, retirement income funds, education savings plans, deferred profit sharing plans or other plans registered under the ITA;
 - (b) registered investments within the meaning of the ITA; or
 - (c) non-foreign property under the ITA.
- (6) State the consequences of any deviation described in response to subsection (5).
- (d) conversion rights;
- (e) redemption rights; and
- (f) provisions as to amendment of any of these rights or provisions.
- (2) Describe the rights of securityholders to approve
 - (a) the matters set out in section 5.1 of National Instrument 81-102; and
 - (b) any matters provided for in the constating documents of the mutual fund.

Item 6: Valuation of Portfolio Securities

- (1) Describe the methods used to value the various types or classes of portfolio assets of the mutual fund and its liabilities for the purpose of calculating net asset value.
- (2) If the manager has discretion to deviate from the mutual fund's valuation practices described in subsection (1), disclose when and to what extent that discretion may be exercised and, if it has been exercised in the past three years, provide an example of how it has been exercised or, if it has not been exercised in the past three years, so state.

Item 7: Calculation of Net Asset Value

- (1) State that the issue and redemption price of securities of the mutual fund is based on the mutual fund's net asset value next determined after the receipt of a purchase order and a redemption order. Describe the method followed or to be followed by the mutual fund in determining the net asset value.
- (2) State the frequency at which the net asset value is determined and the date and time of day at which it is determined.
- (3) If a money market mutual fund intends to maintain a constant net asset value per security, disclose this intention and disclose how the mutual fund intends to maintain this constant net asset value.

Item 8: Purchases and Switches

- (1) Describe the procedure followed or to be followed by investors who desire to purchase securities of the mutual fund or switch them for securities of other mutual funds.
- (2) State that the issue price of securities is based on the net asset value of a security of that class, or series of a class, next determined after the receipt by the mutual fund of the purchase order.

Item 5: Description of Securities Offered by the Mutual Fund

- (1) State the description or the designation of securities, or the series or classes of securities, offered by the mutual fund under the related simplified prospectus and describe the securities or all material attributes and characteristics, including
 - (a) dividend or distribution rights;
 - (b) voting rights;
 - (c) liquidation or other rights upon the termination of the mutual fund;

- (3) Describe how the securities of the mutual fund are distributed. If sales are effected through a principal distributor, give brief details of any arrangements with the principal distributor.
- (4) Describe all available purchase options and state, if applicable, that the choice of different purchase options requires the investor to pay different fees and expenses and, if applicable, that the choice of different purchase options affects the amount of compensation paid by a member of the organization of the mutual fund to the dealer.
- (5) Disclose that a dealer may make provision in arrangements that it has with an investor that will require the investor to compensate the dealer for any losses suffered by the dealer in connection with a failed settlement of a purchase of securities of the mutual fund caused by the investor.
- (6) For a mutual fund that is being sold on a best efforts basis, state whether the issue price will be fixed during the initial distribution period, and state when the mutual fund will begin issuing securities at the net asset value per security of the mutual fund.

Item 9: Redemption of Securities

- (1) Describe the procedures followed, or to be followed, by an investor who desires to redeem securities of the mutual fund, specifying the procedures to be followed and documents to be delivered before a redemption order pertaining to securities of the mutual fund is accepted by the mutual fund for processing and before payment of the proceeds of redemption is made by the mutual fund.
- (2) State that the redemption price of the securities is based on the net asset value of a security of that class, or series of a class, next determined after the receipt by the mutual fund of the redemption order.
- (3) Disclose that a dealer may make provision in arrangements that it has with an investor that will require the investor to compensate the dealer for any losses suffered by the dealer in connection with any failure of the investor to satisfy the requirements of the mutual fund or securities legislation for a redemption of securities of the mutual fund.
- (4) Discuss the circumstances under which the mutual fund may suspend redemptions of the securities of the mutual fund.

Item 10: Responsibility for Mutual Fund Operations

10.1 General

Describe how each of the following aspects of the operations of the mutual fund are administered and who administers those functions:

- (a) the management and administration of the mutual fund, including valuation services, fund accounting and securityholder records, other than the management of the portfolio assets;
- (b) the management of the portfolio assets, including the provision of investment analysis or investment recommendations and the making of investment decisions;
- (c) the purchase and sale of portfolio assets by the mutual fund and the making of brokerage arrangements relating to the portfolio assets;
- (d) the distribution of the securities of the mutual fund;
- (e) if the mutual fund is a trust, the trusteeship of the mutual fund;
- (f) if the mutual fund is a corporation, the oversight of the affairs of the mutual fund by the directors of the mutual fund; and
- (g) the custodianship of the assets of the mutual fund.

INSTRUCTION:

The disclosure required under Item 10.1 may be provided separately from, or combined with, the detailed disclosure concerning the persons or companies that provide services to the mutual fund required by Items 10.2 through 10.10.

10.2 Manager

- (1) State the name, address, telephone number, e-mail address and, if applicable, website address of the manager of the mutual fund.
- (2) List the names and home addresses in full or, alternatively, solely the municipality of residence or postal address, and the respective positions and offices held with the manager and their respective principal occupations at, and within the five years preceding, the date of the annual information form, of all partners, directors and officers of the manager of the mutual fund at the date of the annual information form.
- (3) If a partner, director or officer of the manager of the mutual fund has held more than one office with the manager of the mutual fund within the past five years, state only the current office held.

- (4) If the principal occupation of a director or officer of the manager of the mutual fund is with an organization other than the manager of the mutual fund, state the principal business in which the organization is engaged.
- (5) Describe the circumstances under which any agreement with the manager of the mutual fund may be terminated, and include a brief description of the essential terms of this agreement.

10.3 Portfolio Adviser

- (1) If the manager of the mutual fund provides the portfolio management services in connection with the mutual fund, so state.
- (2) If the manager does not provide portfolio management services, state the names and municipality of the principal or head office for each portfolio adviser of the mutual fund.
- (3) State
 - (a) the extent to which investment decisions are made by certain individuals employed by the manager or a portfolio adviser and whether those decisions are subject to the oversight, approval or ratification of a committee; and
 - (b) the name, title, and length of time of service of the person or persons employed by or associated with either the manager or a portfolio adviser of the mutual fund who is or are principally responsible for the day-to-day management of a material portion of the portfolio of the mutual fund, implementing a particular material strategy or managing a particular segment of the portfolio of the mutual fund, and each person's business experience in the last five years.
- (4) Describe the circumstances under which any agreement with a portfolio adviser of the mutual fund may be terminated, and include a brief description of the essential terms of this agreement.

10.4 Brokerage Arrangements

- (1) State
 - (a) the formula, method or criteria, if any, used in allocating brokerage business to persons or companies engaged in the distribution of the securities of the mutual fund;

- (b) the formula, method or criteria, if any, used in allocating brokerage business to persons or companies that furnish statistical, research or other services to the mutual fund, or to the manager or to the portfolio adviser of the mutual fund; and
- (c) the formula, method or criteria, if any, used in allocating brokerage business to an "affiliated entity", within the meaning of that term contained in the Instructions in Item 11.2, and any variation from any formula, method or criteria applied in allocating brokerage business to a non-affiliated entity.

- (2) State the name of any person or company that has provided investment decision-making services to the manager or a portfolio adviser of the mutual fund in connection with the mutual fund since the date of the last annual information form of the mutual fund, and a summary of the nature of those services, if all or some of those services were paid for through commissions or brokerage transactions executed on behalf of the mutual fund.

INSTRUCTION:

The term "investment decision-making services" means

- (a) *advice as to the value of securities and the advisability of effecting transactions in securities;*
- (b) *analyses and reports concerning securities, portfolio strategies or performance, issuers, industries, or economic or political factors and trends; and*
- (c) *databases or software to the extent they are designed mainly to support the services referred to in paragraphs (a) and (b).*

10.5 Principal Distributor

- (1) If applicable, state the name and address of the principal distributor of the mutual fund.
- (2) Describe the circumstances under which any agreement with the principal distributor of the mutual fund may be terminated, and include a brief description of the essential terms of this agreement.

10.6 Directors, Officers and Trustees

- (1) List the names and home addresses in full or, alternatively, solely the municipality of residence or postal address, and the principal occupations at, or within the five years preceding, the date of the annual information

form, of all directors or officers of an incorporated mutual fund or of the individual trustee or trustees, if any, of a mutual fund that is a trust.

- (2) State, for a mutual fund that is a trust, the names and municipality of residence for each person or company that is responsible for performing the trusteeship function of the mutual fund.
- (3) Indicate, for an incorporated mutual fund, all positions and offices with the mutual fund then held by each person named in response to subsection (1).
- (4) If the principal occupation of a director, officer or trustee is that of a partner, director or officer of a company other than the mutual fund, state the business in which the company is engaged.
- (5) If a director or officer of an incorporated mutual fund has held more than one position in the mutual fund, state only the first and last position held.
- (6) For a mutual fund that is a limited partnership, provide the information required by this Item for the general partner of the mutual fund, modified as appropriate.

10.7 Custodian

- (1) State the name, municipality of the principal or head office, and nature of business of the custodian and any principal sub-custodian of the mutual fund.
- (2) Describe generally the sub-custodian arrangements of the mutual fund.

INSTRUCTION:

A "principal sub-custodian" is a sub-custodian to whom custodial authority has been delegated in respect of a material portion or segment of the portfolio assets of the mutual fund.

10.8 Auditor

State the name and municipality of the auditor of the mutual fund.

10.9 Registrar

If applicable, state the name of the registrar of securities of the mutual fund and the municipalities in which the register of securities of the mutual fund are kept.

10.10 Other Service Providers

State the name, municipality of the principal or head office, and the nature of business of each other

person or company that provides services relating to portfolio valuation, securityholder records, fund accounting, or other material services, in respect of the mutual fund, and describe the material features of the contractual arrangements by which the person or company has been retained.

Item 11: Conflicts of Interest

11.1 Principal Holders of Securities

- (1) The information required in response to this Item shall be given as of a specified date within 30 days before the date of the annual information form.
- (2) Disclose the number and percentage of securities of each class or series of voting securities of the mutual fund and of the manager of the mutual fund owned of record or beneficially, directly or indirectly, by each person or company that owns of record, or is known by the mutual fund or the manager to own beneficially, directly or indirectly, more than 10 percent of any class or series of voting securities, and disclose whether the securities are owned both of record and beneficially, of record only, or beneficially only.
- (3) For any entity that is named in response to subsection (2), disclose the name of any person or company of which that entity is a "controlled entity".
- (4) If any person or company named in respect of subsection (2) owns of record or beneficially, directly or indirectly, more than 10 percent of any class of voting securities of the principal distributor of the mutual fund, disclose the number and percentage of securities of the class so owned.
- (5) Disclose the percentage of securities of each class or series of voting or equity securities beneficially owned, directly or indirectly, in aggregate, by all the directors, senior officers and trustees
 - (a) of the mutual fund
 - (i) in the mutual fund if the aggregate level of ownership exceeds 10 percent,
 - (ii) in the manager, or
 - (iii) in any person or company that provides services to the mutual fund or the manager; and
 - (b) of the manager
 - (i) in the mutual fund if the aggregate level of ownership exceeds 10 percent,

- (ii) in the manager, or
- (iii) in any person or company that provides services to the mutual fund or the manager.

(c) *in the case of a limited partnership, the general partner is the second-mentioned person or company.*

(3) *A person or company is a "subsidiary entity" of another person or company if*

(a) *it is a controlled entity of*

- (i) *that other,*
- (ii) *that other and one or more persons or companies, each of which is a controlled entity of that other, or*
- (iii) *two or more persons or companies, each of which is a controlled entity of that other; or*

(b) *it is a subsidiary entity of a person or company that is that other's subsidiary entity.*

(4) *For the purposes of subsection (1) of Item 11.2, the provision of services includes the provision of brokerage services in connection with execution of portfolio transactions for the mutual fund.*

11.2 Affiliated Entities

- (1) State whether any person or company that provides services to the mutual fund or the manager in relation to the mutual fund is an affiliated entity of the manager, and show the relationships of those affiliated entities in the form of an appropriately labelled diagram.
- (2) State that disclosure of the amount of fees received from the mutual fund by each person or company described in subsection (1) is contained in the audited financial statements of the mutual fund.
- (3) Identify any individual who is a director or senior officer of the mutual fund or partner, director or officer of the manager and also of any affiliated entity of the manager described in response to subsection (1), and give particulars of the relationship.

INSTRUCTIONS:

- (1) *A person or company is an "affiliated entity" of another person or company if one is a subsidiary entity of the other or if both are subsidiary entities of the same person or company or if each of them is a controlled entity of the same person or company.*
- (2) *A person or company is a "controlled entity" of a person or company if*
 - (a) *in the case of a person or company*
 - (i) *voting securities of the first-mentioned person or company carrying more than 50 percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company, and*
 - (ii) *the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person or company;*
 - (b) *in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned person or company holds more than 50 percent of the interests in the partnership; or*

11.3 Dealer Manager Disclosure

If the mutual fund is dealer managed, disclose this fact and that the mutual fund is subject to the restrictions set out in section 4.1 of National Instrument 81-102, and summarize section 4.1 of National Instrument 81-102.

Item 12: Fund Governance

- (1) Provide detailed information concerning the governance of the mutual fund, including information concerning
 - (a) the body or group that has responsibility for fund governance, the extent to which its members are independent of the manager of the mutual fund and the names and municipalities of residence of each member of that body or group; and
 - (b) descriptions of the policies, practices or guidelines of the mutual fund or the manager relating to business practices, sales practices, risk management controls and internal conflicts of interest, and if the mutual fund or the manager have no such policies, practices or guidelines, a statement to that effect.
- (2) If the mutual fund intends to use derivatives, describe the policies and practices of the

mutual fund to manage the risks associated with the use of derivatives.

- (3) In the disclosure provided under subsection (2), include disclosure of
 - (a) whether there are written policies and procedures in place that set out the objectives and goals for derivatives trading and the risk management procedures applicable to derivatives trading;
 - (b) who is responsible for setting and reviewing the policies and procedures referred to in paragraph (a), how often are the policies and procedures reviewed, and the extent and nature of the involvement of the board of directors or trustee in the risk management process;
 - (c) whether there are trading limits or other controls on derivative trading in place and who is responsible for authorizing the trading and placing limits or other controls on the trading;
 - (d) whether there are individuals or groups that monitor the risks independent of those who trade; and
 - (e) whether risk measurement procedures or simulations are used to test the portfolio under stress conditions.

- (b) whether a reduced fee is paid at the relevant time or whether the full fee is paid at that time with a repayment of a portion of the management fee to follow at a later date;
- (c) who funds the reduction or repayment of management fees, when the reduction or repayment is made and whether it is made in cash or in securities of the mutual fund;
- (d) whether the differing management fees are negotiable or calculated in accordance with a fixed schedule;
- (e) if the management fees are negotiable, the factors or criteria relevant to the negotiations and state who negotiates the fees with the investor;
- (f) whether the differing management fees payable are based on the number or value of the securities of the mutual fund purchased during a specified period or the number or value of the securities of the mutual fund held at a particular time; and
- (g) any other factors that could affect the amount of the management fees payable.

- (3) Disclose the income tax consequences to the mutual fund and its securityholders of a management fee structure that results in one securityholder paying a management fee that differs from another.

INSTRUCTION:

The disclosure provided under this Item should make appropriate distinctions between the risks associated with the intended use by the mutual fund of derivatives for hedging purposes as against the mutual fund's intended use of derivatives for non-hedging purposes.

Item 13: Fees and Expenses

13.1 Management Fee Rebate or Distribution Programs

- (1) Disclose details of all arrangements that are in effect or will be in effect during the currency of the annual information form that will result, directly or indirectly, in one securityholder in the mutual fund paying as a percentage of the securityholder's investment in the mutual fund a management fee that differs from that payable by another securityholder.
- (2) In the disclosure required by subsection (1), describe
 - (a) who pays the management fee;

Item 14: Income Tax Considerations

- (1) State in general terms the bases upon which the income and capital receipts of the mutual fund are taxed.
- (2) State in general terms the income tax consequences to the holders of the securities offered of
 - (a) any distribution to the holders in the form of dividends or otherwise, including amounts reinvested in securities of the mutual fund;
 - (b) the redemption of securities;
 - (c) the issue of securities; and
 - (d) any transfers between mutual funds.

Item 15: Remuneration of Directors, Officers and Trustees

- (1) If the management functions of the mutual fund are carried out by employees of the mutual fund, provide for those employees the

disclosure concerning executive compensation that is required to be provided for executive officers of an issuer under securities legislation.

- (2) Describe any arrangements, including the amounts paid, the name of the individual and any expenses reimbursed by the mutual fund to the individual, under which compensation was paid or payable by the mutual fund during the most recently completed financial year of the mutual fund, for the services of directors of the mutual fund and members of an independent board of governors or advisory board of the mutual fund
- (a) in that capacity, including any additional amounts payable for committee participation or special assignments; and
- (b) as consultants or experts.

Item 16: Material Contracts

- (1) List and provide particulars of
- (a) the declaration of trust or trust agreement of the mutual fund, if any;
- (b) any agreement of the mutual fund or trustee with the manager of the mutual fund;
- (c) any agreement of the mutual fund, the manager or trustee with the portfolio adviser or portfolio advisers of the mutual fund;
- (d) any agreement of the mutual fund, the manager or trustee with the custodian of the mutual fund;
- (e) any agreement of the mutual fund, the manager or trustee with the principal distributor of the mutual fund; and
- (f) any other contract or agreement that can reasonably be regarded as material to an investor in the securities of the mutual fund.
- (2) State a reasonable time at which and place where the contracts or agreements listed in response to subsection (1) may be inspected by prospective or existing securityholders.
- (3) Include, in describing particulars of contracts, the date of, parties to, consideration paid by the mutual fund under, termination provisions of, and general nature of, the contracts.

INSTRUCTION:

This Item does not require disclosure of contracts entered into in the ordinary course of business of the mutual fund.

Item 17: Legal and Administrative Proceedings

- (1) Describe briefly any ongoing legal and administrative proceedings material to the mutual fund, to which the mutual fund, its manager or principal distributor is a party.
- (2) For all matters disclosed under subsection (1), disclose
- (a) the name of the court or agency having jurisdiction;
- (b) the date on which the proceeding was instituted;
- (c) the principal parties to the proceeding;
- (d) the nature of the proceeding and, if applicable, the amount claimed; and
- (e) whether the proceedings are being contested and the present status of the proceedings.
- (3) Provide similar disclosure about any proceedings known to be contemplated.
- (4) Describe the penalties or sanctions imposed and the grounds on which they were imposed or the terms of any settlement agreement and the circumstances that gave rise to the settlement agreement, if the manager of the mutual fund, or a director or officer of the mutual fund or the partner, director or officer of the manager of the mutual fund has,
- (a) in the 10 years before the date of the simplified prospectus, been subject to any penalties or sanctions imposed by a court or securities regulator relating to trading in securities, promotion or management of a publicly-traded mutual fund, or theft of fraud, or been subject to any other penalties or sanctions imposed by a court or regulatory body that would be likely to be considered important to a reasonable investor in determining whether to purchase securities of the mutual fund; or
- (b) in the 10 years before the date of the simplified prospectus but after the date that National Instrument 81-101 came into force, entered into a settlement agreement with a court, securities regulatory or other regulatory body, in

relation to any of the matters referred to in paragraph (a).

- (5) If the manager of the mutual fund, or a director or officer of the mutual fund or the partner, director or officer of the manager of the mutual fund has, within the 10 years before the date of the simplified prospectus, been subject to any penalties or sanctions imposed by a court or securities regulator relating to trading in securities, promotion or management of a publicly traded mutual fund, or theft or fraud, or has entered into a settlement agreement with a regulatory authority in relation to any of these matters, describe the penalties or sanctions imposed and the grounds on which they were imposed or the terms of the settlement agreement.

Item 18: Other Material Information

- (1) Give particulars of any other material facts relating to the securities proposed to be offered that are not otherwise required to be disclosed by this Form or the SP Form.
- (2) Provide any specific disclosure required or permitted to be disclosed in a prospectus under securities legislation that is not otherwise required to be disclosed by this Form.
- (3) Subsection (2) does not apply to requirements of securities legislation that are form requirements for a prospectus.

INSTRUCTION:

The disclosure provided under subsection (2) may also be provided under Item 12 of Part A or Item 14 of Part B of the SP Form. If the disclosure is provided under one of these Items, it need not be provided under this Item.

Item 19: Certificate of the Mutual Fund

- (1) Include a certificate of the mutual fund that states:

"This annual information form, the financial statements of the fund [specify] for the financial period ended [specify] and the auditors' report on those financial statements, together with the simplified prospectus required to be sent or delivered to a purchaser during the currency of this annual information form, constitute full, true and plain disclosure of all material facts relating to the securities offered by the simplified prospectus and do not contain any misrepresentation."

- (2) The certificate required to be signed by the mutual fund shall, if the mutual fund is established as a trust, be signed

- (a) if any trustee of the mutual fund is an individual, by each individual who is a trustee or by a duly authorized attorney of the individual; or
- (b) if any trustee of the mutual fund is a body corporate, by the duly authorized signing officer or officers of the body corporate.

- (3) Despite subsection (2), if the declaration of trust or trust agreement establishing the mutual fund delegates the authority to do so, or otherwise authorizes a person to do so, the certificate form required to be signed by the trustee or trustees of the mutual fund may be signed by the person to whom the authority is delegated or who is authorized.
- (4) Despite subsections (2) and (3), if the trustee of the mutual fund is also its manager, the certificate shall indicate that it is being signed by the person or company both in its capacity of trustee and in its capacity as manager of the mutual fund and shall be signed in the manner prescribed by Item 20.

Item 20: Certificate of the Manager of the Mutual Fund

- (1) Include a certificate of the manager of the mutual fund in the same form as the certificate signed by the mutual fund.
- (2) The certificate shall, if the manager is a company, be signed by the chief executive officer and the chief financial officer of the manager, and on behalf of the board of directors of the manager by any two directors of the manager other than the chief executive officer or chief financial officer, duly authorized to sign.
- (3) Despite subsection (2), if the manager has only three directors, two of whom are the chief executive officer and chief financial officer, the certificate required by subsection (2) to be signed on behalf of the board of directors of the manager shall be signed by the remaining director of the manager.

Item 21: Certificate of Each Promoter of the Mutual Fund

- (1) Include a certificate of each promoter of the mutual fund in the same form as the certificate signed by the mutual fund.
- (2) The certificate to be signed by the promoter shall be signed by any officer or director of the promoter duly authorized to sign.

Item 22: Certificate of the Principal Distributor of the Mutual Fund

- (1) Include a certificate of the principal distributor of the mutual fund that states:

"To the best of our knowledge, information and belief, this annual information form, the financial statements of the fund [specify] for the financial period ended [specify] and the auditors' report on those financial statements, together with the simplified prospectus required to be sent or delivered to a purchaser during the currency of this annual information form, constitute full, true and plain disclosure of all material facts relating to the securities offered by the simplified prospectus and do not contain any misrepresentation."

- The financial statements and other information about the Fund[s], such as information circulars and material contracts, are also available on the [insert name of mutual fund manager] Internet site at [insert fund's Internet site] or at www.sedar.com."

- (2) The certificate to be signed by the principal distributor shall be signed by any officer or director of the principal distributor duly authorized to sign.

INSTRUCTION:

For a mutual fund that has a principal distributor, the certificate required by this Item is necessary to satisfy the requirements of securities legislation that an underwriter sign a certificate to a prospectus.

Item 23: Exemptions and Approvals

- (1) Describe all exemptions from, or approvals under, this Instrument, National Instrument 81-102, National Instrument 81-105 or National Policy Statement No. 39, obtained by the mutual fund or the manager that continue to be relied upon by the mutual fund or the manager.
- (2) Include the disclosure required by subsection (1) in the section of the annual information form that describes the matter to which the exemption pertains.

Item 24: Back Cover

- (1) State on the back cover the name of the mutual fund or funds included in the annual information form or the mutual fund family, as well as the name, address and telephone number of the manager of the mutual fund or funds.
- (2) State, in substantially the following words:
 - Additional information about the Fund[s] is available in the Fund[s/s] financial statements.
 - You can get a copy of the Fund[s/s] financial statements, including a statement of portfolio transactions, at no cost by calling [toll-free/collect] [insert toll-free telephone number or telephone number where collect calls are accepted, as required by section 3.4 of the Instrument], or from your dealer or by e-mail at [insert e-mail address].

Mutual Funds

**Notice
National Instrument 81-102
Companion Policy 81-102CP**

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**NOTICE OF RULE AND POLICY UNDER
THE SECURITIES ACT
NATIONAL INSTRUMENT 81-102
AND COMPANION POLICY 81-102CP
MUTUAL FUNDS
AND NOTICE OF REVOCATION OF
CANADIAN SECURITIES ADMINISTRATORS NOTICE
AND RESCISSION OF
NATIONAL POLICY STATEMENT NO. 34
AND
NATIONAL POLICY STATEMENT NO. 39**

Notice of Rule and Policy

The Commission has, under section 143 of the *Securities Act* (the "Act"), made National Instrument 81-102 Mutual Funds (the "National Instrument") as a Rule under the Act, and has adopted Companion Policy 81-102CP Mutual Funds (the "Companion Policy") as a Policy under the Act.

The National Instrument and Companion Policy are both initiatives of the Canadian Securities Administrators (the "CSA"). The National Instrument has been, or is expected to be, adopted as a rule in each of British Columbia, Alberta, Manitoba, Ontario and Nova Scotia, a Commission regulation in Saskatchewan, and a policy in all other jurisdictions represented by the CSA. The Companion Policy has been, or is expected to be, implemented as a policy in all of the jurisdictions represented by the CSA.

The National Instrument and the material required by the Act to be delivered to the Minister of Finance were delivered on November 12, 1999. If the Minister does not approve the National Instrument, reject the National Instrument or return it to the Commission for further consideration by January 11, 2000, or if the Minister approves the National Instrument, the National Instrument will come into force, pursuant to section 20.1 of the National Instrument, on February 1, 2000. The Companion Policy will come into force on the date that the National Instrument comes into force.

The CSA published drafts of the National Instrument (the "1999 Draft Instrument") and Companion Policy (the "1999 Draft Policy") in March 1999.¹ The instruments had been previously published for comment in June 1997.²

During the comment period on the 1999 Draft Instrument and the 1999 Draft Policy, which ended on May 18, 1999, the CSA received a number of submissions. The comments provided in these submissions have been considered by the CSA and the final versions of the National Instrument and Companion Policy being published with this Notice reflect the decisions of the CSA in this regard.

Appendix A of this Notice lists the commenters on the 1999 Draft Instrument and the 1999 Draft Policy and Appendix B provides a summary of the comments received and the response of the CSA.

¹ In Ontario, at (1999) 22 OSCB (Supp).

² In Ontario, at (1997), 20 OSCB (Supp2).

Revocation of National Policy Statements and CSA Notice

Effective the date that the National Instrument comes into force, National Policy Statement No. 34, entitled "Unincorporated Issuers: Requirements to Maintain a Register of Security Holders", and National Policy Statement No. 39, entitled "Mutual Funds", will be rescinded and the CSA Notice entitled "*Mutual Funds: Section 16 Sales Communications*" (CSA #93/5) will be revoked. These policy statements and the CSA notice are replaced or superseded by the matters contained in the National Instrument and Companion Policy.

Background

This Notice summarizes in a general manner the changes made in the National Instrument and Companion Policy from the 1999 Draft Instrument and 1999 Draft Policy. As described above, Appendix B to this Notice outlines the comments received in respect of the 1999 materials, together with CSA responses.

The CSA received a number of comments, in connection with the drafts of the National Instrument and Companion Policy published both in 1997 and March 1999 on the need for change in the following seven areas:

- Use of swap instruments by mutual funds;
- Securities lending by mutual funds and the use of repurchase agreements by mutual funds;
- Standardized regime for the structure of so-called "funds of funds";
- Timing of transfers among financial institutions and among mutual funds;
- Principal trading in securities between mutual funds and entities related to the manager of the mutual fund;
- Acquisition of securities by mutual funds from underwriters related to the mutual fund manager; and
- Inter-fund trading of securities.

The CSA have decided to permit mutual funds to directly use swaps and the National Instrument contains the rules in this regard.

The CSA have considered the comments on the other areas listed above and have decided not to make changes to the National Instrument in those areas at the present time. The CSA propose that these issues be addressed as part of a parallel process that will enable sufficient public comment and industry consultation regarding any revised rules. The CSA propose to publish proposed rules as amending instruments to the National Instrument to deal with these issues. The CSA consider that their anticipated process of dealing with these significant comments will permit appropriate regulatory and public consideration of the issues, as well as permit the timely replacement of National Policy Statement No. 39 ("NP39"), through the finalization of the National Instrument in advance

of finalizing the appropriate regulatory response to these significant comments.

Substance and Purpose of National Instrument and Companion Policy

The National Instrument is designed to replace NP 39 and will regulate all publicly offered investment funds that fall within the definition of "mutual fund" contained in Canadian securities legislation. Accordingly, all publicly offered investment funds that give investors the right to redeem securities on demand at a price based on the net asset value of those securities will be required to comply with the National Instrument. Specialized mutual funds such as labour sponsored investment funds, mortgage funds and commodity pools will generally be required to comply with the National Instrument and also applicable securities regulation that is in addition to, or in partial substitution for, the provisions of the National Instrument.

The purpose of the Companion Policy is to state the views of the CSA on various matters relating to the National Instrument.

Summary of Changes to National Instrument from 1999 Draft Instrument

This section describes changes made in the National Instrument from the 1999 Draft Instrument except that changes of a minor nature, or those made only for purposes of clarification or drafting reasons, are generally not discussed. For a detailed summary of the contents of the 1999 Draft Instrument, reference should be made to the Notice published with that instrument. As the changes to the National Instrument from the 1999 Draft Instrument are not material, the National Instrument is not subject to a further comment period.

The majority of changes were made in response to comments received; others were made as the result of further consideration of the applicable rules by the CSA.

Section 1.1

The definitions of "*approved credit rating*" and "*approved credit rating organization*" have been amended to recognize Duff & Phelps Credit Rating Co. as an approved credit rating organization and to include, as approved credit ratings, that organization's ratings for commercial paper/short term debt and long term debt. The ratings included are those considered by the CSA to be equivalent to the rating levels of other organizations already contained in the definition of "*approved credit rating*".

The definition of "*fundamental investment objectives*" has been amended to remove from the definition the inclusion of the phrase "whether the mutual fund is managed to constitute foreign property under the ITA". The CSA state, in section 2.5 of the Companion Policy, their view that whether a mutual fund's securities are foreign or non-foreign property under the Income Tax Act (Canada) ("ITA") is linked to the fundamental investment objectives of the mutual fund as a matter of interpretation. For this reason, this reference has been removed from the definition in the National Instrument.

A definition of "*index mutual fund*" has been added to refer to a mutual fund whose fundamental investment objectives

require it to hold securities, or invest, in a manner that replicates a specified widely quoted market index. The definition is used in subsection 15.3(3) to exempt young index mutual funds from a prohibition concerning the content of its sales communications applicable generally to young mutual funds. See the discussion on that subsection in this Notice for further information.

The definition of "*investor fees*" has been amended to clarify that the definition only pertains to fees, charges and expenses payable to the mutual fund organization in which an investor invests. The change was made to clarify that the definition does not include sales commissions paid to participating dealers. The definition also clarifies that it does not include fees, charges and expenses paid to a member of the organization of the mutual fund acting solely as a participating dealer.

Section 2.1

Subsection 2.1(1) has been amended to clarify that the prohibition contained in that section is triggered by the entering into of a specified derivatives transaction or the purchase of index participation units, in addition to the purchase of a security of an issuer. Subsection (3) has been amended to clarify that it is operative only in respect of long positions of the mutual fund in specified derivatives.

Section 2.5

Subsection 2.5(1)(b) has been amended by an inclusion of a reference to incentive fees to clarify that there may be no duplication of incentive fees in arrangements in which a mutual fund invests in the securities of another mutual fund. The change was made to remove ambiguity over whether incentive fees were included in the prohibition against duplication of management fees.

Section 2.6

Section 2.6 has been amended in two ways.

First, subparagraph (a)(i) has been amended to permit a mutual fund to borrow cash or provide a security interest in order to permit it to settle portfolio transactions, so long as after the borrowing, the outstanding amount of all borrowing by the mutual fund does not exceed five percent of its net assets. The CSA have made this change to recognize a procedure that has developed in the industry and that is considered necessary to permit timely and smooth settlement of portfolio transactions.

Second, the language of section 2.6 has been changed to apply generally to "security interests" granted by a mutual fund, rather than encumbrances or specific types of security interests. The CSA believe that the principles contained in the section should apply to all security interests, regardless of the type of security interest that is used in a given context. The CSA have added a provision to permit only those security interests in a specified derivative transaction that are made in accordance with industry practice for the relevant type of transaction and relate only to obligations under particular specified derivatives positions. These changes reflect existing practice and the existing views of the CSA on what was implied by NP39.

Section 2.7

Subsection 2.7(4) has been amended to clarify that the specified derivatives counterparty limit rule contained in that subsection applies only in respect of the exposure of a mutual fund to a counterparty, and therefore does not include the exposure of a counterparty to a mutual fund under the specified derivatives positions.

Section 2.11

Section 2.11 has been amended to provide that the exemption from the notice requirement contained in that section is available if each simplified prospectus of the mutual fund has contained the required disclosure since the later of January 1, 1994 and its inception. The provision formerly required that disclosure since the inception of the mutual fund. The CSA recognize that the former approach did not work well for mutual funds that were in existence before the advent of the derivatives regime introduced in NP39 in 1992.

Section 4.4

The liability regime contained in section 4.4 has been amended in two ways.

First, subsections (1) and (2) have been amended to provide that a manager of a mutual fund is responsible only for its own failure, or the failure of any person or company retained by it or by the mutual fund to discharge any of the manager's responsibilities to the mutual fund, to exercise the prescribed standard of care. The version of section 4.4 contained in the 1999 Draft Instrument would have had the manager liable for the failure of any person or company providing services to the mutual fund or to the manager in connection with the mutual fund to satisfy the standard of care. This approach could have made the manager liable for matters outside its own area of responsibility, which the CSA consider inappropriate.

Second, subsection (5) has been amended to provide that a director of a mutual fund is not subject to the liability regime contained in section 4.4. Directors are subject to the liability regime imposed by the relevant corporate legislation.

Section 5.6

Paragraph 5.6(1)(b) has been amended to add references to tax-deferred transactions under the ITA into which mutual funds may enter, in addition to "qualifying exchanges" under section 132.2 of the ITA. The CSA are satisfied that any tax-deferred transaction entered into by two mutual funds under the ITA is acceptable for the purposes of subsection 5.6(1), subject to satisfaction of the other conditions contained in that subsection.

Section 6.1

Section 6.1 has been amended in two ways.

First, subsection 6.1(2) has been amended to provide that a sub-custodian or custodian outside of Canada may be retained if appropriate to facilitate portfolio transactions of the mutual fund outside Canada. The 1999 Draft Instrument would have permitted such a retention only if "required to execute" transactions outside of Canada. The CSA do not wish to

impose an overly onerous standard concerning the appointment of non-Canadian custodians or sub-custodians, and have therefore returned to the wording now contained in NP39 in this regard.

Second, subsection (6) has been added to clarify that a manager of a mutual fund shall not act as custodian or sub-custodian of the mutual fund. The CSA have included this provision to reflect existing CSA policy, which is to have the portfolio assets held by an entity other than the manager; without subsection (6), the National Instrument would have operated to permit the manager to act as custodian.

Sections 6.2 and 6.3

Each of these sections contains a requirement permitting certain entities to act as custodian or sub-custodian of a mutual fund if its shareholders' equity, as reported in its most recent audited financial statements, exceeds certain prescribed amounts. These requirements have been amended to remove the provision that this test must be based on financial statements that have been made public. The CSA recognize that some custodians are not required to make their financial statements public; for instance, some custodians are members of a larger corporate group that do not make public segregated financial statements pertaining only to the custodian.

Section 6.4

This section has been amended in two ways.

First, the section has been amended to permit a custodian or sub-custodian agreement to provide for the granting of a security interest by a mutual fund to secure the obligations of the mutual fund to repay borrowings by the fund from a custodian or sub-custodian for the purpose of settling portfolio transactions. This change corresponds to the change to section 2.6 described above.

Second, the section has been amended to permit a custodian or sub-custodian to charge a mutual fund a safekeeping and administrative services fee arising on the transfer of portfolio assets of the mutual fund.

Both these changes are designed to recognize commercial realities and existing practice.

Section 6.5

Section 6.5 has been amended to permit a mutual fund to pay a safekeeping and administrative services fee to a custodian or sub-custodian arising on the transfer of portfolio assets of the mutual fund. This change corresponds to the change described above in relation to section 6.4.

Section 6.6

This section has been amended to remove the provision that prevented a custodian or sub-custodian from being indemnified by a mutual fund unless the mutual fund had reasonable grounds to believe that the action or inaction of the custodian or sub-custodian that led to the claim was in the best interests of the mutual fund. The CSA recognize that custodians and sub-custodians typically act on instructions

from the mutual fund or the manager and do not consider whether given instructions are in the best interests of the mutual fund. Therefore, the National Instrument imposes a requirement that custodians and sub-custodians not be negligent in carrying out their duties, but not a requirement that any indemnification of their actions be contingent on whether or not the mutual fund has reasonable grounds to believe they acted in the best interests of the mutual fund.

Section 6.8

Subsection 6.8(3) has been amended to provide that a mutual fund may deposit with its counterparty portfolio assets over which it has granted a security interest in connection with a particular specified derivatives transaction. This change represents an exemption from the otherwise applicable custodian provisions, and corresponds to the change to section 2.6 that permits the mutual fund to grant such a security interest.

Section 9.2

Paragraph 9.2(a) has been amended to provide that a mutual fund has one business day to decide whether to reject a purchase order, rather than 24 hours. The one business day requirement is more workable in connection with purchase orders received before weekends or holidays.

Section 9.4

Subsection 9.4(4) has been amended to ensure that the provisions applicable to cheques that are not honoured are also applicable in the case of other forms of payment that are not honoured.

In addition, subsection (4) now provides that a redemption required by that subsection shall be processed as if the redemption order was received on the fourth business day, rather than the third business day, after the pricing date of the original sale order. This change was necessary to tie properly to the provision that specifies that such a redemption is required only if payment on the relevant purchase order is not made on or before the third business day after the pricing date.

Sections 11.1 and 11.2

Paragraphs 3(c) of sections 11.1 and 11.2 have been amended. Those paragraphs set out the purposes for which a dealer holding client funds may withdraw those funds from the relevant trust account. The paragraphs have been amended to provide that the funds may be withdrawn to pay, among other things, fees, charges and expenses payable by an investor in connection with purchase, conversion, holding, transfer or redemption of the relevant securities. The paragraphs no longer make reference to using the funds to pay for "investor fees". This change, together with the clarification to the definition of "investor fees" described above, clarifies that funds in a trust account may be withdrawn to pay any fees owing by the investor in connection with a mutual fund investment, including fees owed to a participating dealer.

Section 12.1

Paragraph 12.1(2)(b) has been amended to provide that the compliance report relating to the principal distributor of a

mutual fund may be prepared by the auditor of the principal distributor or by the auditor of the mutual fund.

Section 14.1

Section 14.1 has been amended by the addition of paragraph (b), which permits a mutual fund to set as the record date for a dividend or distribution the last day on which the net asset value per security is calculated before the day on which the net asset value per security is calculated for purposes of the dividend or distribution. This change has been made to accommodate existing practice and to clarify an ambiguity in the corresponding provision of NP39.

Section 15.2

Subsection 15.2(2) has been amended to provide that performance data and disclosure specifically required by the National Instrument to be included in a written sales communication must be in at least 10-point type. The 1999 Draft Instrument required all of the text in a written sales communication to be in at least 10-point type. This change relieves mutual fund organizations and distributors from any extra expense associated with purchasing more advertisement space in order to accommodate the proposed requirements of the 1999 Draft Instrument, but ensures that some of the most important information contained in a sales communication is presented in at least 10-point type in order that the information be more clearly presented to investors.

Section 15.3

Section 15.3 has been amended in three ways.

First, subsection (1) has been amended to provide greater flexibility in the preparation of sales communications that involve comparison of the performance of a mutual fund or asset allocation service with a benchmark. Paragraph (d) of the 1999 Draft Instrument provided that such a comparison could be made only if the benchmark existed and was widely available during the period for which the comparison was made. Paragraph (d) has been amended to permit the comparison of the performance of a mutual fund or asset allocation service with a benchmark that did not exist for all or part of the relevant period, so long as a reconstruction or calculation of what the benchmark would have been during that period, calculated on a basis consistent with its current basis of calculation, is widely recognized and available. This change has been made to recognize that in the case of some new benchmarks, such as the S&P/TSE 60 Index, the preparers of the benchmarks have made generally available calculations of what the benchmark would have been prior to its introduction.

Second, subsection (3) is new, and exempts young index mutual funds from the prohibition of not disclosing the performance of a benchmark during the period for which other young mutual funds are not permitted to publish performance data. The CSA are satisfied that the publication of the performance of the index on which the investments of a young index mutual fund are based is appropriate and not subject to abuse, so long as the index satisfies the rules applicable to benchmarks.

Third, subsection (4) has been amended to provide that a sales communication that provides performance ratings or ranking for a mutual fund or asset allocation service shall provide the relevant rating or ranking for each period for which standard performance data is required to be given. This change is designed to prevent sales communications from "cherry picking" rankings for a mutual fund, and is consistent with the approach of the National Instrument relating to the presentation of performance data.

Section 15.4

Section 15.4 has been amended through changes to the mandated warning disclosure contained in that section. The CSA have attempted to make the required disclosure simpler, shorter and more understandable for the average investor.

In connection with these changes, subsection 15.4(11) of the 1999 Draft Instrument has been deleted. That provision would have required a shorter form of warning than was otherwise required in the case of certain types of sales communication. The CSA have deleted this provision on the basis that the new required forms of disclosure are now simpler and shorter than in the 1999 Draft Instrument or in NP39.

Section 15.5

Section 15.5 has been amended in three ways.

First, subsection (1) has been amended to provide that a mutual fund shall not be described as a "no load" fund if investor fees are payable by an investor on a purchase or redemption of the securities of the mutual fund, or if fees, charges or expenses are payable by an investor to a participating dealer named in the sales communication. This approach is consistent with the approach now contained in NP39. The 1999 Draft Instrument would have prevented a mutual fund from being described as a "no load" fund if sales commissions were charged by participating dealers that were independent of the mutual fund organization. The CSA did not intend this result, and have amended the definition of "investor fees" and amended subsection 15.5(1) accordingly.

Second, subsection (2) has been amended to require that a sales communication for a "no load" mutual fund disclose that management fees and operating expenses are paid by the mutual fund. The 1999 Draft Instrument would have required a summary of those fees, and the CSA have decided that that approach is excessive in the circumstances.

Third, subsection (3) has been amended in a manner similar to subsection (2). Subsection (3) requires that a sales communication containing a reference to the existence or absence of fees or charges, other than the disclosure required by section 15.4 or a reference to the term "no load", shall disclose the types of fees and charges that exist. The 1999 Draft Instrument required disclosure of a summary of the fees and charges that exist.

Section 15.6

Section 15.6 has been amended to permit sales communications for young mutual funds to contain performance data for those funds if they are sent to securityholders of a mutual fund or participants in an asset

allocation service under common management with the mutual fund or asset allocation service. This subsection already permitted such materials to go to securityholders of the young mutual fund. The change has been made to recognize that mutual fund organizations with multiple funds will prepare one document containing performance information about all the funds to be sent to all securityholders of all the funds.

Section 16.1

Section 16.1 has been amended in three ways.

First, subsections (3) and (4) have been amended to apply to all non-optional fees, charges and expenses paid in connection with the holding of securities of a mutual fund, rather than only to management fees. This change has been made to ensure that all such fees, charges and expenses payable directly by investors are taken into account for purposes of calculating management expense ratio.

Second, subsection (5) has been changed in an analogous way, in order to provide that all mutual fund expenses rebated by a manager or a mutual fund to a securityholder, rather than only management fees, are properly taken into account in the calculation of management expense ratio.

Third, subsections (7) and (8) have been added to clarify the calculation of management expense ratio in cases of financial years that are less than 12 months. Subsection (7) provides that the phrase "financial year" used in subsection (1) includes a period other than 12 months for which an issuer is required by securities legislation to prepare audited financial statements. Subsection (8) provides that the management expense ratio of a mutual fund for a financial year of less than 12 months shall be annualized. This approach is consistent with the approach taken in National Policy Statement No. 36 and carried forward into National Instrument 81-101 Mutual Fund Prospectus Disclosure. Section 16.1 continues to provide that the calculation of management expense ratio must be based on expenses shown for a financial year; mutual funds may not disclose a management expense ratio for less than a financial year, thereby ensuring that its management expense ratio will be based on total expenses derived from audited financial statements.

Section 18.1

Section 18.1 has been amended by the removal of the requirement that a mutual fund maintain records "for at least as long as the mutual fund is in existence". The CSA are satisfied that the length of time that a mutual fund maintains records is an issue properly left to the business judgment of the organization, having regard to limitation periods and statutory and other common law requirements.

Section 18.2

Section 18.2 has been amended to clarify the purposes for which a securityholder list may be obtained, in order to conform more closely with corporate legislation. The provision now provides that a list may be requested for a matter relating to the relationships among the mutual fund, the members of the organization of the mutual fund, and the securityholders, partners, directors and officers of those entities. This parallels the corporate provisions that provide that shareholder lists may

be obtained for a matter relating to the "affairs" of an issuer, which is defined as the relationship among a corporation, its affiliates and shareholders and the officers and directors of such bodies corporate.³

Part 20

Part 20 has been amended to include the relevant dates relating to the implementation of the National Instrument and various dates relating to transitional matters.

Section 20.1 provides that the National Instrument comes into force on February 1, 2000.

Section 20.2 permits sales communications printed before December 31, 1999 to be used until August 1, 2000, despite any requirements in the National Instrument.

Subsection 20.5(1) provides that subsection 4.4(1) of the National Instrument does not come into force until August 1, 2000; this gives mutual fund organizations six months to ensure that all relevant agreements conform with the requirements of that subsection. Subsection 20.5(2) provides that subsections 2.4(2), 2.7(4) and 6.4(1) do not come into force until February 1, 2001; this gives mutual fund organizations one year from the date of the coming into force of the rest of the National Instrument to put systems in place to monitor compliance with subsections 2.4(2) and 2.7(4) and to ensure that agreements with custodians and sub-custodians comply with the requirements of subsections 6.4(1) and 6.8(4).

Appendix A

A number of generally recognized exchanges have been added to Appendix A.

Summary of Changes to the Companion Policy from the 1999 Draft

This section describes the changes made in the Companion Policy from the 1999 Draft Policy. For a detailed summary of the 1999 Draft Policy, reference should be made to the Notice published with that policy. Changes of a minor nature, or those made for drafting or clarification reasons or to conform the Companion Policy to the National Instrument are not discussed in this section.

Section 2.5

Section 2.5 has been expanded to discuss the meaning of the definition "fundamental investment objectives" and its relationship to the disclosure of the fundamental investment objectives of a mutual fund in a simplified prospectus under National Instrument 81-101 and Form 81-101F1. Section 2.5 explains that the definition in the National Instrument is designed to refer to the disclosure of fundamental investment objectives made under National Instrument 81-101, and that a change to the mutual fund requiring a change to that disclosure will require securityholder approval under National

Instrument 81-102. Section 2.5 also states that views of the Canadian securities regulatory authorities that whether the securities of a mutual fund are foreign property under the ITA is linked to the fundamental investment objectives of the mutual fund, and that a change in the method by which the mutual fund is managed that changes that status would be likely due to a change in the fundamental investment objectives of the mutual fund.

Section 2.9 of the 1999 Draft Policy

This section, which discussed the definition of "investor fees" has been deleted in conjunction with the amendments to that definition in the National Instrument.

Section 2.13 (Section 2.14 of the 1999 Draft Policy)

Paragraph 4 of subsection 2.13(3) has been added to provide a further example of a circumstance that the Canadian securities regulatory authorities would generally not consider to be a "purchase" of a security by a mutual fund. This paragraph refers to the decision of a mutual fund not to tender into an issuer bid, even though its decision is likely to result in an increase in its percentage holdings of a security beyond what the mutual fund would be permitted under the National Instrument to purchase.

Section 3.3

A reference to section 2.1 of the National Instrument has been added to this section to emphasize that investments in "quasi-mutual funds" or index participation units by mutual funds are subject to all of the investment restrictions of the National Instrument, including section 2.1.

Section 4.2

Paragraph 4 of section 4.2 has been added to clarify the operation of the commodity futures legislation of Ontario in connection with a non-resident sub-adviser advising in respect of a mutual fund using futures.

Section 4.4

Section 4.4 has been added to clarify that the definition of "cash cover" includes interest accrued on the securities or other portfolio assets used for cash cover purposes.

Section 7.2 of the 1999 Draft Policy

This section has been deleted in conjunction with the expansion of the discussion of the term "fundamental investment objectives" in section 2.5 of the Companion Policy.

Section 7.2

Section 7.2 has been amended by the deletion of subsection (2), which noted the need for separate approvals for certain transactions in Quebec. The CVMQ is proceeding to take steps to make such approvals unnecessary following the implementation of the National Instrument.

³ See for example, the definition of "affairs" in section 2(1) of the *Canada Business Corporations Act*.

Section 11.1

Subsection 11.1(6) has been added to discuss the status of non-interest bearing trust accounts maintained under sections 11.1 or 11.2 of the National Instrument.

Section 12.1

Section 12.1 is new and discusses subsection 13.1(4) of the National Instrument. Section 12.1 emphasizes that the Canadian securities regulatory authorities expect mutual funds to calculate their net asset value per security as quickly as commercially practicable and to make the results of that calculation available to the financial press as quickly as is commercially practicable.

Section 14.1

Section 14.1 is new and states the views of the Canadian securities regulatory authorities on matters concerning management expense ratio calculations. The section emphasizes that the rules of calculation of management expense ratio contained in the National Instrument are applicable regardless of the context in which a mutual fund discloses its management expense ratio. The section also discusses issues relating to the determination of "total expenses" used in the calculation of management expense ratio.

Section 15.1

Section 15.1 discusses section 18.1 of the National Instrument, and states that it is up to a mutual fund, having regard to prudent business practice and any applicable statutory limitation periods, to decide how long it wishes to retain securityholder records required by this section.

Section 16.1

Section 16.1 has been amended by the deletion of subsections (2) and (3) of the 1999 Draft Policy. Those subsections dealt with the need for additional applications in Quebec, which will not be necessary following the implementation of the National Instrument in Quebec.

National Instrument and Companion Policy

The texts of the National Instrument and Companion Policy follow.

Regulation to be Amended - Ontario

In Ontario, the Ontario Commission has amended section 240 of Regulation 1015 of the Revised Regulations of Ontario, 1990, in conjunction with the making of the National Instrument as a rule in Ontario, by replacing, whenever appearing, references to the words "policy or practice" with the words "rule, policy or practice".

Text of Revocation of CSA Notice

The text of the revocation of the CSA Notice described in this Notice is as follows:

"The CSA Notice entitled *"Mutual Funds: Section 16 Sales Communications"* (CSA #93/5) is revoked effective at the time that National Instrument 81-102 Mutual Funds comes into force."

Text of Rescission of National Policy Statement No. 34 and National Policy Statement No. 39

National Policy Statement No. 34 and National Policy Statement No. 39 are to be replaced by the National Instrument and accordingly will be rescinded.

The text of the rescission of National Policy Statement No. 34 is:

"National Policy Statement No. 34, entitled *"Unincorporated Issuers: Requirement to Maintain a Register of Security Holders"*, is rescinded, effective at the time that National Instrument 81-102 Mutual Funds comes into force."

The text of the rescission of National Policy Statement No. 39 is:

"National Policy Statement No. 39, entitled *"Mutual Funds"*, is rescinded, effective at the time that National Instrument 81-102 Mutual Funds comes into force."

DATED: November 12, 1999.

**APPENDIX A
LIST OF COMMENTERS ON
NATIONAL INSTRUMENT 81-102 AND
COMPANION POLICY 81-102CP**

1. AGF Management Ltd.
2. Duff & Phelps Credit Rating Co. (2 submissions)
3. Fasken Campbell Godfrey
4. Fidelity Investments Canada Limited
5. Global Strategems (Michael Barrett, Managing Editor)
6. Investors Group
7. Osler, Hoskin & Harcourt
8. PricewaterhouseCoopers
9. Royal Bank of Canada, Royal Trust and Royal Mutual Funds Inc.
10. TD Asset Management Inc.
11. The Association of Global Custodians
12. The Investment Funds Institute of Canada (IFIC)
13. Trimark Investment Management Inc.

**APPENDIX B
SUMMARY OF COMMENTS RECEIVED ON
NATIONAL INSTRUMENT 81-102 AND
COMPANION POLICY 81-102CP AND
RESPONSE OF THE CANADIAN SECURITIES
ADMINISTRATORS**

1. INTRODUCTION

The CSA published drafts of National Instrument 81-102 (the "National Instrument") and Companion Policy 81-102CP (the "Companion Policy") in March 1999⁴. The instruments published in March 1999 are called the "1999 Draft Instrument" and "1999 Draft Policy" in this Appendix. The instruments had been previously published for comment in June 1997.⁵

During the comment period on the 1999 Draft Instrument and the 1999 Draft Policy, which ended on May 18, 1999, the CSA received 14 submissions from 13 commenters. The commenters can be grouped as follows:

Mutual fund management companies:	7
Stock exchanges and rating agencies:	1
Accounting firms:	1
Law firms:	2
Trade Associations:	2
TOTAL:	13

The two trade associations listed each made submissions in respect of the 1999 Draft Instrument and the 1999 Draft Policy on behalf of their respective members.

The comments provided in these submissions have been considered by the CSA and the final versions of the National Instrument and Companion Policy being published with this Notice reflect the decisions of the CSA in this regard. The CSA thank all commenters for providing their comments on the 1999 Draft Instrument and the 1999 Draft Policy.

Copies of the comment letters may be viewed at the office of Micromedia, 20 Victoria Street, Toronto, Ontario (416) 312-5211 or (800) 387-2689; the office of the British Columbia Securities Commission, 200-865 Hornby Street, Vancouver, British Columbia (604) 899-6500; the office of the Alberta Securities Commission, 10025 Jasper Avenue, Edmonton, Alberta (403) 427-5201; and the office of the Commission des valeurs mobilières du Québec, Stock Exchange Tower, 800 Victoria Square, 17th Floor, Montréal, Québec.

Many of the commenters provided detailed comments on specific sections of the 1999 Draft Instrument and the 1999 Draft Policy. Some comments were of a very technical, non-substantive nature. The following is a summary of the substantive comments received, together with the CSA's responses and, where applicable, the changes adopted by the CSA. As the changes to the 1999 Draft Instrument and the 1999 Draft Policy were not material, the National Instrument

⁴ In Ontario, at (1999) 22 OSCB (Supp).

⁵ In Ontario, at (1997), 20 OSCB (Supp2).

and the Companion Policy are not subject to a further comment period.

2. COMMENTS PREVIOUSLY RAISED ON 1997 DRAFT INSTRUMENT AND COMPANION POLICY

A number of commenters provided comments on issues that had previously been raised in connection with the draft instruments published in June 1997. The following is a list of those issues:

- the use of repurchase agreements;
- reducing the equity requirement for sub-custodians from \$100 million to \$50 million;
- reducing the time for reversing a failed redemption order from T+10 to T+3;
- using a currency other than the Canadian or U.S. dollar for calculating net asset value;
- including receivables from the acceptance of purchase orders for mutual fund securities in the definition of "cash cover";
- eliminating the requirement for unitholder approval for a change of auditor;
- permitting the use of specified derivatives with underlying interests in commodities other than gold.

The CSA reconsidered the comments received with respect to these issues and concluded that their responses have not changed since March 1999. Accordingly, the comments on these issues are not set out in the tabular summary of comments which follows. Reference should be made to the Summary of Comments on the 1999 Draft Instrument and the 1999 Draft Policy for the CSA response to these issues.

3. SUBSTANTIVE COMMENTS ON SPECIFIC PROVISIONS

Note: In this Table, "NI" means National Instrument 81-102 Mutual Funds and "CP" means Companion Policy 81-102CP Mutual Funds; "March 1999 Draft" means the version of the materials published for comment in March 1999; "NP 39" means National Policy Statement No. 39; and "CSA" means the Canadian Securities Administrators.

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
1	Definition of "approved credit rating" and "approved credit rating organization"	_____	Duff & Phelps should be included as an approved credit rating organization since it is one of only four credit rating agencies recognized by the SEC (U.S.) as a "nationally recognized statistical rating organization" for rating all types of securities. The company has a presence in Canada in the form of a joint venture relationship with DBRS Inc. to provide ratings and research specifically designed for investors in high yield U.S. dollar denominated Canadian issues.	Change made.
2	Definition of "cash cover"	_____	Commercial paper of an approved credit rating should be included in the definition, particularly since it is already permitted for money market funds by clause (d)(iii) of the definition of "money market fund".	No change at this time. The use of commercial paper will be considered in connection with the CSA's work to permit mutual funds to engage in securities lending.
3	Definition of "cash equivalent"	_____	The definition should be amended to include instruments with a term of 13 months, or 25 months in the case of government obligations, and the dollar weighted term to maturity "not exceeding 90 days" (see definition of "money market fund") should be restored to 180 days instead of 90 days. Long-term instruments provide potential for yield improvement without significantly altering the risk profile of a money market portfolio.	No change. This is a comment that was raised prior to the reformulation process when there was some controversy concerning what is a money market fund. The definition reflects the CSA's understanding of the industry consensus on this issue.
4	Definition of "cash equivalent"	_____	The definition should be expanded to include commercial paper (with an "approved credit rating"), repurchase agreements and money market funds. Even if repurchase agreements and commercial paper are not included, money market funds should be included even if they invest in commercial paper and repurchase agreements. The reason for this is that the inter-position of a money market fund changes and enhances the stability and liquidity of the investment beyond the characteristics of the fund's own investment holdings.	No change. Repurchase agreements will be addressed as part of a parallel amending process. The use of money market funds will be considered as part of the review of fund on fund investments. The CSA has concerns about the implications of a "top fund" which uses derivatives investing up to 80% or 90% of its assets in a related money market fund. Any changes in these areas will be made as amendments to the NI. No change with respect to commercial paper (see comment re "cash cover" above).
5	Definition of "conventional convertible security"	_____	An essential element of a conventional convertible security is that the rate or formula for conversion or exchange is fixed by the terms of the convertible security. Otherwise, any exchange or trade of a security (including those at market rates) would be caught by the definition. Such an exchange is not a convertible security, conventional or otherwise. Nonetheless, it should also be clear that they do not constitute "specified derivatives".	Change made. The words "according to its terms" have been added to the definition.

	March 1999 Draft Reference	Final Reference	Comment	CSA Response
6	Definition of "dealer managed mutual fund" and "dealer manager"	_____	It is not clear whether these definitions recognize funds with third party advisers (i.e. without a "specified dealer" in the chain) as dealer-managed.	No change. The CSA will consider this issue in their review of the restrictions imposed on related party transactions. The current wording carries forward the requirements of NP 39.
7	Definition of "debt-like security"	_____	It is not clear whether equity-linked GICs and/or linked notes fall within the parameters of the definition. Section 2.4 of the CP should be amended to provide more clarification.	No change. The CSA believe that the definition is clear. Whether a particular investment fits within the definition will depend on the facts as applied to the test in the definition.
8	Definition of "fundamental investment objectives"	_____	<p>The definition does not clearly distinguish between investment objectives and investment strategies. The definition should be amended to clearly distinguish between objectives and strategies to ensure that unnecessary unitholder meetings (which are costly, time consuming and almost invariably poorly attended) are not required. As a result, some funds may provide more general disclosure of their investment objectives in order to avoid having to call unnecessary meetings.</p> <p>With respect to whether the fund is managed to constitute non-foreign property under the ITA, will relief be granted to permit changes to currently disclosed fundamental investment objectives?</p>	<p>Changes made. The CP has been amended to refer to the disclosure requirements of NI 81-101 and Form 81-101F1 which recognizes the difference between investment objectives and investment strategies. Examples of fundamental investment objectives are provided in the CP.</p> <p>The reference to management of a mutual fund so as to constitute foreign property has been removed from the definition since it was but one example of a fundamental investment objective. The CP has been amended to state that the CSA are of the view that whether securities of a mutual fund are foreign property under the ITA is linked to the fund's fundamental investment objectives. The NI does not require change in current fundamental investment objectives of a mutual fund. If a fund is currently being managed to be non-foreign property then that is part of the fundamental investment objectives of that fund.</p>
9	Definition of "hedging"	_____	A threshold of "high" degree in relation to the stated variables should be specified.	No change. See subsection 2.7(1) of the CP.
10	Definition of "index participation units"	_____	The definition appears to preclude the use of index participation units which track an index and employ indexation strategies other than replication of the composition of the index.	Change made. Clause (b) added to provide for strategies that replicate performance of an index.
11	Definition of "investor fees"	_____	Does the definition include all fees applied by the fund manufacturer or must this definition contemplate all possible fee expenses that could be applied by a broker/dealer and/or a financial planner?	Definition amended for clarity.

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
12	Definition of "mutual fund conflict of interest investment restrictions"	_____	Part (b) of the definition could be problematic since it prevents the crossing of securities. For example, it would preclude a fixed income portfolio manager from buying a bond and then, as it nears maturity, cross the securities to a shorter term bond fund, and in turn crossing the security to a money market fund as it approaches maturity. This type of transaction should be permissible if executed at fair market value through an independent broker/dealer.	No change. Inter-fund trading not permitted by the securities legislation of several of the provinces. Issue to be addressed as part of parallel amending process.
13	Definition of "permitted supra-national agency"	_____	The European Investment Bank should be included in the definition.	No change. A "permitted supranational agency" must be prescribed under paragraph (g) of the definition of "foreign property" in subsection 206(1) of the ITA. The European Investment Bank has not been prescribed.
14	Definition of "purchase"	_____	A transaction should be considered to be a "purchase" only where securities are acquired as a result of a positive action by a fund and not as a result of a passive incident. The automatic conversion of securities in connection with an amalgamation, merger or other reorganization ought not be considered a "purchase", regardless of how the fund voted in connection with the transaction. To make the characterization of a subsequent conversion dependent on the fund's vote may encourage elements of gamesmanship with respect to voting (i.e. to attempt to ensure 100% conversion without any compliance violation). The definition should be simplified to remove the relevance of voting and to classify all automatic or forced conversions (even those with an element of selection) as not being "purchases"	Change made to section 2.13 of CP to clarify that a transaction would not be a "purchase" if the mutual fund declined to tender into an issuer bid. The CSA recognize that referring to voting may not be a perfect solution but voting is fundamental to decision-making.
15	Definition of "report to security-holders"	_____	The definition should be expanded to include any reports sent to securityholders generally. Quarterly reports would be included in the current definition of "sales communications" and this serves no valid policy objective. The expanded definition should then be excluded from the definition of "sales communication". Such reports are only sent to existing securityholders, are not "primarily promotional" in nature and are still subject to section 15.8 with respect to the use of performance data.	No change. The CSA believe that such quarterly reports should contain the modified warning language (see section 15.4).

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
16	Definition of "significant change"	_____	The proposed change to measure the subjective event of "significant change" by estimating investor perception (as opposed to the view of an issuer in the former definition of "material change") is an onerous task. Is the "investor" of average financial knowledge? Given the varying degree of investor sophistication, fund companies require more guidance and examples of instances where a change would be considered "significant". Part 7 of the CP only provides two examples of what the CSA considers "significant changes". This is not sufficient.	No change. The definition imposes a "reasonable" person test.
17	Definition of "special warrant"	_____	In today's market, "special warrant" can include instruments such as special shares or special units and therefore the definition should be expanded to recognize this.	No change. The CSA do not believe that it is necessary to change the term since what is important is whether the security fits within the definition.
18	Section 2.1	_____	Why are securities issued by U.S. states and governments of other foreign jurisdictions not excluded from the concentration restriction? It is not clear why such securities would not be given the same treatment if the basis for the exclusion is low risk, low volatility and sufficient liquidity. Despite subsection 3.1(3) of the CP, it is not clear why the CSA is not willing to codify the standard exemptions granted to international bond funds. Applications of this type are commonly made, the bases for the applications are usually very similar, orders are routinely issued and are very similar in most cases. Why should an international equity fund not be given the same flexibility as an international bond fund on a discretionary basis (s.3.1(3) of CP)?	No change; provision consistent with NP39. The CSA would consider an application for discretionary relief by mutual funds wishing to deviate from those restrictions due to specialized investment objectives.
19	S. 2.1(3) and (4)	_____	These provisions do not clearly instruct whether the fund should appraise index participation units for asset concentration or not.	Subsection 2.1(1) of the NI and subsection 3.3(2) of the CP have been amended to clarify that the purchase of index participation units is subject to section 2.1 of the NI.
20	S. 2.2	_____	Why is the issue of control for a mutual fund or a group of mutual funds different than for any other market participant? The control restrictions in Canadian securities legislation already contain adequate restriction on aggregate holdings of securities of an issuer through the take-over bid, early warning and insider reporting requirements. The concentration restrictions in s. 2.1 provide the necessary diversification protections to guard the interests of investors. From a control perspective the issue is not how many shares are owned by a particular fund i.e. it is irrelevant if a control position is allocated among a dozen funds or restricted to a single account.	No change. This rule is not addressed to the secondary market but is rather intended to address the management of a mutual fund. The fundamental feature of a mutual fund is that it should not control another issuer. The rule is not intended to address diversification. Diversification is addressed by section 2.1.

	March 1999 Draft Reference	Final Reference	Comment	CSA Response
21	S.2.2(2)	_____	<p>Although section 2.14 of the CP contains examples of acquisitions that would not generally be considered "purchases", the list is not exhaustive. The current wording might (inadvertently) catch a situation in which a fund's holdings increase as a result of a decision not to tender to an offer (and other unforeseen circumstances).</p> <p>The process for reducing holdings once the 10% level is reached should be amended to conform with the requirements of section 2.4 concerning "illiquid assets".</p>	<p>Change made to s. 2.13 of CP. If the mutual fund acquires securities pursuant to an issuer bid to which it declined to tender, that acquisition would not be considered a purchase.</p> <p>No change. The CSA believe that the time provided is adequate and appropriate.</p>
22	S. 2.4(2)	_____	<p>The monitoring of a fund's holdings in illiquid assets is typically done on a monthly basis. Therefore, the subsection should be amended to provide that "a mutual fund shall not have invested, as at the first month-end following a period of 90 days, more than 15 percent of its net assets taken at market value, in illiquid assets".</p>	<p>No change. The CSA believe that the time provided is adequate and appropriate.</p>
23	S. 2.5(2)(b)	_____	<p>The clause should be amended to extend the exemption to funds listed on exchanges in the United States and other countries. Such an amendment would be parallel to the rule for index participation units. There does not appear to be any policy reason to restrict mutual funds from investing in closed-end funds listed on a U.S. exchange.</p>	<p>No change. The rule reflects those "quasi mutual fund" entities currently known to the CSA as being potential investments for mutual funds. A problem with this section only arises if the mutual fund wishes to invest in an entity that has a redemption feature.</p>
24	S. 2.6	_____	<p>Mutual funds should be able to purchase, for non-hedging purposes, listed warrants and debt-like securities on margin. Hedge funds are permitted to regularly engage in such transactions. Perhaps the CSA should encourage funds to submit statements or implement modest disclosure arrangements to assist in monitoring these transactions.</p>	<p>No change. The CSA believe that leveraged investing is not appropriate for mutual funds offered by way of prospectus.</p>
25	S. 2.6(a)	_____	<p>This subsection should be amended to permit a mutual fund to borrow money on a short-term basis to settle investment transactions. The purchase and sale of fund securities are typically settled on a "contractual settlement" basis. As a result, it is market practice for a custodian's client accounts to regularly go into overdraft. These overdrafts usually are for very short periods of time. In other words, the custodian advances funds to the mutual fund in order to prevent trades from failing given the difference in settlement times and dates. This advance would constitute a borrowing by the mutual fund. Therefore, the subsection should be amended to include an additional exception as follows:</p> <p><i>The transaction is a temporary measure to facilitate the settlement of investment transactions by the custodian or a sub-custodian of the mutual fund.</i></p>	<p>Change made. The 5% restriction on amount of all borrowings is aggregate (i.e. includes both redemptions and settlements).</p>

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26	S. 2.6(a)(ii)	_____	The commentary to the NI states that amendments to this provision were made "in response to comments that mutual funds should be permitted to encumber portfolio assets to effect derivatives transactions instead of being restricted to posting margin". However, the wording of the clause does not appear to meet this objective. The wording "to post margin" is more restrictive than permitting a mutual fund to encumber portfolio assets "to effect derivatives transactions". Subsection 6.8(3) does not use the term margin. The words "to post margin" should be deleted.	Drafting changes made to reflect original intention. The words "encumbrance", and "post margin" have been deleted. Reference is now made to a "security interest". The security interest must relate only to obligations under specified derivatives positions. Clause 2.6(a)(iv) has been deleted.
27	S. 2.7	_____	The three to five year term limit on swaps may reduce the ability of a fund to effectively eliminate or decrease its market or currency risk. Other conditions relating to swaps, particularly those pertaining to eligible counterparties, should alleviate regulatory concerns about extended term limits. To alleviate a counterparty credit risk that may arise from long-term swaps, a current practice is to include a three year mutual put in the swap terms which would permit the mutual fund to put the swap back to the counterparty in three years. Thus the counterparty risk is only three years although the term of the swap is much longer. The Canadian swap market has become mature, highly liquid and active, enabling swaps to be unwound at any time therefore term limits should not be imposed.	No change. The CSA consider that the five year limit is acceptable since, among other things, derivatives with limits exceeding five years are not very prevalent. The CSA believe that any impact on a fund's ability to act will not be material. Furthermore, the CSA does not believe that all segments of the Canadian swap market are highly liquid (eg. equity and commodity swaps).
28	Section 2.10	_____	Section 4.2 of the CP appears to add additional requirements that would severely limit the number of entities eligible to act as sub-advisers for funds that wish to use derivatives. Provided the requirements of s. 2.10 of the NI are satisfied, there is no reason why a credible, established foreign sub-adviser should be required to acquire the specific Canadian registrations or qualifications set out in s. 4.2 of the CP. Section 4.2 of the CP should be deleted so as not to reverse the long-standing policy of Canadian law which has recognized the ability of non-resident advisers to advise on Canadian mutual funds. Both the NI and the CP over-emphasize the difficulties associated with managing funds that employ derivative instruments. Derivative instruments are now a well established part of portfolio management and do not require the degree of focus and special requirements set out in the NI.	No change. Section 4.2 of the CP does not impose any requirements but merely reminds industry participants of registration requirements that exist under securities or commodity futures legislation. The CSA believe that the provisions governing derivative instruments are necessary and appropriate.
29	S. 2.10(1)	_____	It is not clear why the restrictions in this subsection only apply to advice of a non-resident adviser concerning standardized futures and options.	No change. There are registration requirements with respect to investments in options and futures. See section 4.2 of the CP.

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30	S. 2.11(2)	_____	The exemption does not cover funds in existence before NP 39 was amended to permit derivatives, which have disclosed in their most recent SP that they may use derivatives and have previously given unitholders notice of their intention to use derivatives, but have not actually done so to date. Such funds should not be required to provide notice to unitholders again simply because each of its simplified prospectuses since inception have not contained this disclosure.	Change made. Notice not required if SP has contained disclosure concerning the use of specified derivatives since the later of January 1, 1994 and the inception of the fund.
31	S. 4.1(1)	_____	Determining the start of the 60 day period is linked to the time that the relevant securities are out of distribution. In some cases that may be the date of closing of the transaction, but in other cases it may not be until sometime after that date. For example, in a firm commitment offering that is not fully subscribed on the date of closing the unsold securities are taken into the underwriter's inventory after closing and are marked to market. Section 4.1 should be amended to ensure that the 60 day period starts to run at the date of the closing of the transaction. This would be sufficient to adequately safeguard mutual fund investors against potential harms.	No change. The CSA believe that it is appropriate to tie the restriction to the end of the distribution.
32	S.4.4(3)	_____	<p>If this provision is intended simply to deal with the indemnification of the manager of the mutual fund by the mutual fund and not all service providers to the mutual funds then it should be clearly specified. The liability and indemnification scheme should apply to persons or companies retained to perform duties or activities that the manager would otherwise be obligated to perform but not to those providing services used by the manager in performing its services for the mutual fund.</p> <p>The provision should be amended to clearly exclude the trustee of the mutual fund. Common law sets the standard that should be applicable to trustees and it is not necessary for the NI to address specifically the indemnification of trustees.</p> <p>Clarification should also be given regarding the status of directors of mutual funds which are corporations and members of independent advisory boards of mutual funds which are trusts.</p>	<p>Changes made to subsections 4.4(1) and (2) to clarify that the section relates to persons retained by the manager or the mutual fund to discharge any of the manager's responsibilities to the mutual fund. Section 4.4 deals only with the relationship between the manager and the mutual fund. It does not purport to regulate the relationship between a trustee and the fund.</p> <p>Subsection 4.4(5) has been amended so that it does not apply to a director of a mutual fund. The liability and indemnification of directors is addressed by corporate law.</p>
33	S. 5.1(a)	_____	Further clarification is needed on the scope of the obligations intended, particularly with respect to the kinds of changes that would require securityholder approval. Is an "increase" measured in absolute dollars or in percentage terms? Do the words "could result in increases" impose a test based on possibility, reasonable expectation or what is conceivable in a worst case scenario? Examples and elaborations in the CP would assist in interpreting the provision.	No change. The CSA believe that section 6.3 of the CP provides sufficient clarification.

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34	S. 5.1(f)	_____	The requirement for securityholder approval should be subject to a "significant change" test as in s. 5.1(g). A 60 day notice period would be preferable so that if any securityholder did not support a reorganization, despite there being no significant change to the mutual fund or the securityholder's rights, the securityholder could redeem his or her securities.	No change. The CSA believe that securityholders should be able to vote on arrangements that result in the mutual fund in which they originally invested ceasing to exist and the securityholders becoming securityholders of another mutual fund.
35	s.5.1(g)	_____	Despite the definition of "significant change" in section 1.1, the meaning of the term in the context of a merger of mutual funds is highly subjective, and will be very difficult to interpret and apply.	No change. Subsection 7.3(2) of the CP provides guidance.
36	S. 5.3	_____	There should be no difference in the required treatment of an increase in charges to the mutual fund between that required for those mutual funds which are permitted to be described as "no load" and those which are not. In either case, investors are equally affected by non-arms length charges and should be afforded the same protections.	No change. The CSA believe that this distinction is valid because there would be no charge to the unitholder of a no-load fund who chooses to redeem. Section is a carry-over from NP39.
37	S. 5.5(2) and 5.8(1)	_____	Whether there is a change of manager or a change of control of the manager, the substantive result is the same - namely, another (new) organization now operates the mutual fund or group of funds. Accordingly, it seems logically inconsistent that these two types of transactions should be treated differently. Presumably, for the time being, securityholder approval will <u>not</u> be required in relation to a proposed change of control of a manager?	No change. At this time securityholder approval is not required for a change in control of manager, although as noted in the notice published with the March 1999 draft instruments, the CSA remain concerned about the implications to investors of changes in control of managers.
38	S. 5.6(1)(b)	_____	Certain other transactions which do not fall within the meaning of "qualifying exchange" under section 132.2 of the ITA should be exempted from obtaining pre-approval of securities regulatory authorities. These would include mergers of mutual fund corporations which, in the normal course, may be equally, if not more, straightforward than a "qualified exchange". As drafted, the provision would require pre-approval for such transactions. These types of transactions should not require pre-approval therefore the provision should be deleted.	Change made to contemplate other tax-deferred transactions under ITA.
39	S. 5.6(1)(i)	_____	Requiring that redemptions be permitted up to the close of business on the day before the effective date of a merger or conversion could be problematic since a fund company's systems could be legitimately inoperative on that date. Consequently, redemptions received on that date would not be processed.	No change. The CSA note that most mergers mutual funds carried out to date have permitted redemptions up to the close of business of the day before the effective date of the merger.

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40	S. 5.8	_____	The notice requirement may not work in cases where the fund manager is a public company and the target of a hostile take-over bid. The level of prescribed disclosure may entail preparation of an entirely separate disclosure document geared to securityholders of the funds as opposed to shareholders of the current manager to whom the take-over bid circular is directed. A notice to securityholders of the funds summarizing the key elements of the transaction should be sufficient. The notice requirement should be restricted to changes of control as a result of the agreement of the mutual fund manager or its owner. For indirect changes of control, prior regulatory approval should be required instead (which could require advance notice to unitholders in appropriate cases) with notice to unitholders in the next mailing of continuous disclosure material.	No change. It is correct that a separate disclosure document addressed to securityholders of the fund may have to be prepared. An application for an exemption can be made in cases where such requirements may be problematic.
41	S. 6.1(2)(b)	_____	The words "if appropriate to facilitate" in the 1997 Draft have been replaced by the words "if required to execute". Although in most cases foreign investment requires foreign custody, there are countries in which it would be possible to take physical possession of securities certificates and remove them to Canada. It is unclear whether the current words would compel Canadian funds to transport physical certificates in such circumstances. Such a requirement would be ill-advised given related delays and risks which would render such securities significantly less liquid than if they were held in a depository or by a sub-custodian in the relevant jurisdiction.	Change made. There was no intention to change the standard. The words "required to execute" have been deleted and the words "appropriate to facilitate" have been included. The latter phrase is used in NP39.
42	S. 6.1(3)(c)	_____	Confirm that this requirement is satisfied where the agreement between the custodian and the sub-custodian permits the custodian to enforce its contractual rights against the sub-custodian with respect to the portfolio assets held by the appointed sub-custodian.	No change. The mutual fund must be able to require the custodian or the sub-custodian to enforce rights on behalf of the mutual fund.
43	S. 6.1(4)	_____	Confirm that a provision, either in the constating documents of the mutual fund itself (where there is no separate custodian agreement) or in the custodian agreement between the mutual fund and the custodian, which permits the custodian to appoint in its discretion one or more sub-custodians would be sufficient to meet the requirement of this provision.	No change. Subsections 6.1(4) and (5) set out the rules in this regard.
44	S. 6.2 and 6.3	_____	The requirement that the trust company's audited financial statements have to have been made public should be deleted. There are very few trust companies left in Canada which make their financial statements available to the public, except on a consolidated basis.	Change made. The words "that have been made public" have been deleted from sections 6.2 and 6.3.

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45	S. 6.4(3)	_____	It is industry practice for custodian agreements to provide that no encumbrance on the portfolio assets of the mutual fund will be created except for either a good faith claim for payment of the fees and expenses of the custodian or for a claim for payment of any amounts advanced by the custodian to the mutual fund for the purpose of settling transactions. If custodians are not permitted to have a security interest in respect of such advances, custodians would not make the advance and the reality is that the majority of investment transactions would fail. Therefore, the NI should be amended to permit encumbrances for amounts owing in respect of advances made by the custodian to settle transactions.	Change made. Clause 6.4(3)(a) amended to permit security interest in portfolio assets to secure obligations of a mutual fund to repay amounts advanced by the custodian for the purpose of settling portfolio transactions.
46	S. 6.4(3)(b) and S. 6.5(5)	_____	It is common for custodians to charge an administrative and safekeeping fee which includes a charge for processing the receipt of assets into custody or the delivery of assets out of custody. Although such processing occurs as a result of purchases and sales by the mutual fund, these transaction-based fees compensate the custodian for performing a specific service, not for the transfer of beneficial ownership. Such fees have never been regarded as inconsistent with s. 7.01(8) of NP 39 which expressly permits contractual provisions requiring payment of "the fees and expenses of the Custodian or sub-custodian as the case may be for safekeeping and administrative services".	Change made to s. 6.4(3)(b) and s. 6.5(5).
47	S. 6.5(5)	_____	This provision should be deleted. It introduces a prohibition which could prevent a mutual fund from achieving proper ownership of assets in markets where such transfers are beneficial and are only available if fees are paid. Many markets, particularly foreign or emerging markets, have different and changing practices regarding securities trading and settlement. As long as the fees paid by the fund are reasonable and consistent with industry norms, it is in the best interests of the fund to be permitted to make transfers in the same way as other investors may.	No change. The CSA believe that it is appropriate to continue the prohibition in NP39 against the payment of such fees, although the changes referred to above have been made to this subsection.

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48	S. 6.6(3)	_____	<p>Indemnification should be permitted if the "custodian" rather than the "mutual fund" has reasonable grounds to believe that the action is in the best interests of the fund. Custodians must meet certain prescribed requirements and act in a fiduciary capacity towards a fund therefore they are in the best position to determine what is in the best interests of a fund.</p> <p>Since a custodian <u>must</u> follow its client's instructions and has no discretion to assess the wisdom of those instructions, it would be highly unfair to require custodians to bear losses resulting from the due execution of instructions that the mutual fund later asserts were not in its best interests.</p> <p>Therefore, the word "and" which joins clauses (a) and (b) should be replaced by the word "or". In the alternative, clause (b) should be deleted. Subsection 6.6(4) should also be amended accordingly.</p>	Change made. Clause 6.6(3)(b) deleted. Subsection 6.6(4) not changed.
49	S. 6.6(3)	_____	<p>The use of the words "legal fees, judgments and amounts paid in settlement" arguably requires some form of litigation in order for the indemnity to operate. However, where a custodian has clearly met its standard of care, the custodian should be entitled to be indemnified out of the assets of the mutual fund without having to take any legal action. In addition, this restrictive language may subject the mutual fund itself to additional costs in order to defend a bona fide claim by the custodian, which cannot be the intent of this provision.</p>	No change. The provision does not make the commencement of formal legal proceedings a precondition for indemnification.
50	S. 6.8(1)	_____	<p>The reference to "initial margin" should be changed to "margin" since the concept of initial margin does not appear elsewhere in the section.</p>	Change made.
51	S. 6.8	_____	<p>The exception in s. 6.8(3) needs to be better expressed to reflect three issues:</p> <p>(i) the exception remains limited to transactions involving forward contracts or options that are not clearing corporation options;</p> <p>(ii) the current language, dealing with "depositing...as collateral" does not encompass the full range of ways in which a mutual fund's assets can be "encumbered";</p> <p>(iii) the placement of 6.8(3) in the custodial section does not clearly reflect the intention to grant an exception - such an intention should be expressed in the same section which contains the prohibition (i.e in Part 2). A new section should be added to Part 2 to permit the encumbrance of portfolio assets by way of granting a security interest in those assets.</p>	Change made. Subsection 6.8(3) has been amended to permit the deposit of assets in connection with the granting of a security interest relevant to specified derivative transactions. This conforms to the changes made to section 2.6 of the NI.
52	S. 6.8(4)	_____	<p>A transitional provision should be included in Part 20 to allow agreements by which portfolio assets are deposited in accordance with section 6.8 to be amended as is the case for custodial agreements under section 6.4.</p>	Change made. Paragraph 20.5(2)4 added.

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53	S. 9.1(3)	_____	The word "transmitted" should be replaced by the word "sent" for consistency with subsections 9.1(1) and (2).	Change made.
54	S. 9.1(4) and (6)	_____	The ability to establish cut-off times should extend to paper orders as well. Fund managers and dealers may need to establish different cut-off times for different orders, depending on the manner in which the order is processed. Cut-off times for electronic orders could be later than those for paper orders since electronic orders can be processed more quickly. While the language of the NI appears sufficiently permissive to allow for this, a section should be added to the CP to clarify this point. These comments also apply to subsection 10.2(4) and (7).	No change. A distinction has been made for electronic orders because such orders go directly to the order receipt office on the same day.
55	S. 9.1(7)	_____	The provision seems to require either (i) that the person responsible for approving new accounts receive a copy of each and every purchase order received by the dealer, despite the fact that the person responsible for reviewing client trades is also receiving this information, or (ii) that the person approving new accounts must also be the person who performs the know your client review of trades. Dealers should be entitled to establish, within the limits of generally applicable supervisory requirements imposed by securities laws, how they will meet these obligations. To the extent that an "in the jurisdiction" requirement is imposed by the laws of a jurisdiction, the obligation to satisfy that requirement exists notwithstanding this provision. Where such a requirement is not imposed, this NI is not the appropriate place to establish such a requirement.	Change made. The words "approving the opening of new client accounts and for" have been deleted.
56	S. 9.1(7)	_____	The provision should make clear that the relevant information can be communicated electronically.	No change. Electronic transmission is not precluded.
57	S. 9.2(a)	_____	The provision should be amended to state that "the rejection of the order is made no later than the close of business on the business day after the date of receipt of the order by the mutual fund". If the 24 hour requirement is retained, it could mean that a mutual fund that received an order on Friday would have to reject the order on a non-business day.	Change made. The reference to "24 hours" has been replaced with "one business day".
58	S. 9.2(b)	_____	The provision should be amended to require that money be refunded within 3 business days (T+3), to be consistent with the rest of the NI and to ensure that the purchaser's cheque has cleared the banking system.	No change. The CSA believe that there should be no delay in refunding cash to an investor when a purchase order is rejected.
59	S. 9.4(1)	_____	This provision enshrines the T+3 standard. The settlement standard for money market funds should be dealt with separately. The industry norm is currently T+1 for such funds.	No change. The provision imposes a minimum standard. A shorter settlement period is permitted.

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60	S. 9.4(3) & 10.4(4)	_____	In cases of both <i>in specie</i> purchases and redemptions the requirement to include details in the statement of portfolio transactions should be deleted. To put this requirement into effect by segregating these assets would require systems enhancements.	No change. The reporting requirement for <i>in specie</i> redemptions that is currently in section 13.03 of NP 39 is retained.
61	S. 9.4(4)	_____	The provision should be amended to include any situation in which the mutual fund discovers, after T+3, that there are insufficient funds to settle the purchase. There are forms of payment, other than cheques, which may be returned to the mutual fund if insufficient payor's monies are available. The provision should be amended to address all forms of insufficient payment. For example, payment via electronic fund transfer.	Change made. Reference to "method of payment" has been added.
62	S. 9.4(4)(a)	_____	This clause should be amended to clarify that the order to redeem the securities purchased and force settle the purchase order is deemed to be received on the business day following T+3. This follows the same approach as NP 39 but simply reflects the shorter settlement cycle.	Change made.
63	S. 10.1	_____	For registered accounts the registered holder must be the trustee. The trustee typically delegates a number of functions regarding the administration of the registered plan to the fund company or dealer that sponsors the registered plan and so the trade is often approved by the fund company or dealer and then processed. It would be helpful to clarify these requirements with respect to registered accounts in section 10.2 of the CP.	No change. Paragraph 10.1(1)(b)(i) permits a redemption order to be completed "on behalf of" a securityholder. Therefore, parties are not precluded from making arrangements that they consider appropriate.
64	S. 10.2(6)	_____	Since all orders come from registered dealers, the notice proposed should be given to the participating dealer rather than the securityholder.	No change. The CP clarifies that reference to "securityholder" is to the registered securityholder.
65	S. 11.1	_____	The provision requires a dealer to have "a" trust account. It should be amended to clarify that this does not mean that a dealer must only maintain a single trust account (some may wish to maintain trust accounts with different financial institutions to make it easier to transmit client funds).	Change made to clause 11.1(1)(a) to permit more than one trust account.
66	S. 11.1(4)	_____	Permitting dealers to remit interest annually to a contingency fund, as previously suggested, is a viable and positive option which should be considered by the CSA.	No change at this time.

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67	S. 11.3	_____	Some financial institutions will not pay interest on an account if there is not a sufficient balance maintained in the account at all times. In smaller communities, dealers may not be able to access a branch of a competing financial institution. Assuming the financial institution imposes the same requirements on all accounts with a dealer and pays no interest on any of those accounts, this would presumably meet the specific requirements of clause 11.3(1)(b). Clarification of this point was not included in the recent CSA Staff Notice 33-303 and 81-304 and would be helpful.	No change. The provision does not require that interest always be paid. If no interest is charged "on comparable accounts of the financial institution" then the requirement is satisfied. See subsection 11.1(6) of the CP.
68	S. 11.3(1)(c)	S. 11.3(c)	This provision is unnecessary and should be deleted. The mutual funds benefit from all interest earned on the account. Bank charges are a customary and reasonable cost of obtaining bank services. There is no valid policy reason why the funds should enjoy the benefits associated with the account without paying the normal costs associated with a bank account.	No change. The CSA consider charges against a trust account to be a cost of doing business for principal distributors and participating dealers. The money in a trust account is client money and cannot be reduced through bank charges.
69	S. 11.5	_____	There is no apparent policy rationale for requiring the custodian to open its records to the fund's principal distributor for inspection. It seems reasonable that the manager of operations and the auditors should have access to the fund's records and a cogent argument could be made that the trustee should also have access to these records. The designation of "representatives of the mutual fund" as having the authority to request inspection of contracts may be problematic since the term is not defined in either the NI or the CP.	Change made. The reference to principal distributor has been deleted.
70	S. 12.1	_____	The filing requirement for dealers and distributors should be 140 days (as it is for funds).	No change. The provision is consistent with the financial filing requirements for registrants.
71	S. 12.1(2)(b)	_____	The clause should be amended to allow the principal distributor to file a report of its own auditor or that of the funds' auditor. In certain cases, the auditor of the principal distributor is different from the auditor of the mutual funds. The audit of financial statements of a mutual fund includes an examination of the securityholder accounting system procedures and controls and also covers the co-mingling of money. If the clause is not modified, the auditor of the principal distributor would be required to perform the same procedures as the auditor of the mutual fund performs in rendering an opinion on the financial statements of the mutual fund. This will result in a duplication of effort and cost inefficiency.	Change made.

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72	Part 13	_____	<p>The CICA and other professional bodies are in a better position to offer guidance on these issues and therefore the CSA should not impose detailed and specific regulations regarding the valuation of securities. For example, sections 13.4 and 13.5 should be deleted since it is inappropriate and unnecessary to provide specific direction on only limited subsets of investments.</p> <p>The wording contained in s.14.05 of NP 39 is preferable to the approach set out in subsection 13.5(4) and if the provision is retained it should be amended back to the wording used in NP 39. The requirement of s.13.5(4)(b) should only apply in circumstances in which the daily limits have been reached rather than for all standardized futures for which daily limits are applicable.</p> <p>It would be appropriate to also consider the time value of money that may be built into the futures contract i.e. the "fair value" of the futures contract should be established. It is inappropriate for the CSA to attempt to mandate a particular valuation method given the need for judgment in determining fair value in certain circumstances.</p>	<p>No change. The CSA believe that it is necessary and appropriate to address these issues in the NI. Provisions have been carried forward from NP39.</p> <p>Change made.</p> <p>No change. The CSA believe that the time value is accounted for by basing the value of the future on the gain or loss on the future.</p>
73	S. 13.1(4)	_____	Reference is made to publication of net asset value. Net asset value <u>per security</u> is published. The two concepts are different and equally important. The NI should deal carefully and separately with each.	Changes made throughout NI.
74	S. 13.1(4)	_____	The provision should be deleted. If the provision is retained, it should be amended so that it is not mandatory but instead reflects a concept of "commercially reasonable efforts". Also, the word "timely" must be clarified.	No change. See section 12.1 of the CP.
75	S. 13.4	_____	This section does not address adequately the complexities associated with valuing restricted shares. For example, it does not deal with instances where the information required is not available (eg. proportional class information at the time of purchase and valuation). Also, the time remaining until the lifting of a restriction is a factor in valuation and has not been addressed. There is no room for manager discretion which is advisable in certain situations.	No change. The time remaining until lifting of a restriction is addressed in clause (b).
76	S. 13.5, 6	_____	The term "mark-to-market" should be defined.	Change made. The provision has been deleted. The valuation of swaps is now addressed by paragraph 3 of section 13.5.

	March 1999 Draft Reference	Final Reference	Comment	CSA Response
77	Part 14	_____	Section 13.3 requires that capital transactions will be reflected in the first valuation date after the date used to establish an issue or redemption price. Accordingly, it appears that the net asset value per security for distribution purposes will not include capital activity for transactions of that date. This is an inconsistency which will impact calculations, including the capital gains refund mechanism, to the disadvantage of securityholders of the fund. The provision should be clarified so that transactions be reflected in the net asset value per security for distribution purposes.	No change. The CSA are of the opinion that there is no conflict between s. 13.3 and s.14.1(a).
78	S. 14.1	_____	Some funds utilize the following model for distributions: <i>Day X:</i> 1. - calculate NAVPS 2.- process orders received prior to cut-off time on Day X at Day X NAVPS 3.- develop unitholder record <i>Day X+1:</i> 1.- calculate NAVPS and distribution per unit 2.- process orders received since Day X cut-off time and before Day X+1 cut-off time at Day X+1 NAVPS 3.- process distributions (reinvestments and cheques as appropriate) to unitholders shown on unitholder record. This is an efficient and fair method of dealing with distributions. The section should be amended to make clear that it will continue to be possible to declare a record date on a day immediately prior to the actual distribution.	Change made. The record date can be the date on which the NAVPS is determined for purposes of paying a dividend or distribution or the last day on which NAVPS was calculated before the date of payment.
79	Part 15	_____	This part does not mention image advertisements, nor does the Notice preceding the NI. The CSA should confirm that CSA Notice 7 - National Policy No. 39 - Mutual Funds - Sales Communications, which excludes image advertisements from the definition of "sales communications", continues to apply.	No change. Subsection 2.15(3) of the CP addresses image advertising.

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
80	S. 15.2(2)	_____	<p>The change to requiring 10-point type will make the creation and use of some advertisements and sales communications prohibitively expensive, as all text will need to be enlarged accordingly and the overall space required will need to be increased to accommodate this.</p> <p>The new requirement may also eliminate the use of certain graphical presentations in advertisements, such as mountain charts.</p> <p>The new requirement is anti-competitive since no other participant in the financial services industry is subject to the same standards.</p> <p>Ultimately, there are sufficient safeguards in the requirement that sales communications not be misleading and the current 8-point type requirement.</p> <p>As a minimum, the 10-point type requirement should be restricted to specified text (including headlines, performance data, warning language), with the flexibility to use any other type size for the balance of the text.</p> <p>The point size of type is merely one factor that determines readability and changing the type size is not an effective way of making disclaimers more readable. An alternative would be to establish a minimum point size and leading relationship, to make the type easier to read.</p> <p>Although a disclaimer would be made larger, because designers can increase the size of the other type, the net result may be that the disclaimer is no more prominent, attractive or effective.</p> <p>The requirement may also make it less efficient to provide French materials since such materials are generally more space intensive than in English. Extensive re-design costs will have to be incurred for many standard documents.</p>	<p>Change made. The 10-point type requirement applies to performance data or disclosure specifically required to be included in sales communications by the NI.</p>

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
81	S. 15.3(1)(d)	_____	<p>The clause prohibits comparison to a benchmark that has or will become discontinued(eg. TSE 100) if that benchmark only existed for a portion of the period subject to comparison, thus limiting the period that can be compared. The use of reconstructed benchmarks is the norm. For example, the TSE/S&P 60 will be reconstructed back over a number of years. CSA concerns could be addressed by appropriate disclosure concerning the transition from the discontinued benchmark to another benchmark.</p> <p>The clause prohibits the use of peer group indices and other benchmarks produced by an independent organization which may be entirely suitable for comparison but are not permitted simply because they are or were not widely available throughout the entire period of comparison.</p> <p>For some funds (eg. balanced funds) there are no currently available indices against which to benchmark. To date, the practice has been to take two or more appropriate benchmarks and average the performance on the indices in order to develop a benchmark appropriate to the fund. The clause would appear to prohibit this practice for no valid policy reason.</p>	<p>Change made. Clause 15.3(1)(d) has been amended to permit the use of reconstructed benchmarks that are widely recognized and available.</p> <p>Change made. A new subsection 15.3(3) has been added to permit an index mutual fund to provide performance data for its benchmark index provided the benchmark is widely recognized and available.</p> <p>No change. Exemptive relief can be requested in appropriate circumstances.</p>
82	S. 15.3(2)	_____	<p>This subsection needs to be clarified. The apparent intention is that any comparison of performance data about young funds made to existing securityholders includes only a comparison to a fund or asset allocation service under common management and not to a benchmark. The reference to the prohibition under 15.6(a) is unclear, since 15.6(a) describes the situations in which performance data can be used in a sales communication. Also, it is not clear why the performance data about young funds cannot be compared to a recognized benchmark.</p>	<p>Change made. Subsection 15.3(3) has been added to permit a young fund to make comparisons to a widely recognized and available index.</p>
83	S. 15.3(3)(b)	S. 15.3(4)(b)	<p>For the purposes of comparability of rankings, it is more meaningful to have the ranking information for the standard periods of 1,3,5 and 10 years as opposed to the standard performance data for these periods.</p>	<p>Change made. New paragraph (c) added.</p>
84	S. 15.3(5)	S. 15.3(6)	<p>This subsection appears to conflict with subsection 15.13(3) which restricts references in communications to funds that <u>are</u> money market funds instead of to funds that are or were money market funds under the NI or NP 39. Why does subsection 15.13(3) refer to "communications" while subsection 15.3(5) refers to "sales communications"?</p>	<p>Change made. Subsection 15.13(3) has been deleted.</p>

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
85	S. 15.3(4)(c)	S. 15.3(5)(c)	Is it correct that if there is a differential between credit ratings that the lower credit rating would have to be used, as is currently the requirement under subclause 16.04(a)(xv) of NP 39?	Yes. No change.
86	S. 15.4	_____	The sample warning language remains too lengthy and inaccessible. Shorter, simpler general warning language should be adopted for section 15.4.	Change made. All of the sample warnings and disclosure have been amended.
87	S. 15.4(7)(b)	_____	Does the CSA intend that the prescribed statement appear adjacent to the performance numbers or on the same page? Subsection 15.4(6) regarding non-money market funds does not prescribe where the required statement is to be positioned. If the intent of this part is to ensure that disclosure statements appear coterminous to the performance numbers, it is plausible that the remaining disclosure statements will not be read. In light of the change to a minimum of 10 point type, it is submitted that the disclosure will be read and should be part of main disclosure.	Yes. No change.
88	S. 15.4(11)	DELETED	The approach in NP 39 and the 1997 Draft is preferable since there should be no need for warning language in such situations. However, the 50% should refer to the size or area of the communication and not to the text (number of words) of the communication.	Change made. This subsection has been deleted since the warnings have been reduced.
89	S. 15.5	_____	To describe a fund as no-load is misleading notwithstanding this provision. All mutual funds pay distribution costs in some way.	No change.
90	S. 15.5(2)	_____	The term "fees and charges paid by the mutual fund" is very broad and would arguably include fees such as management fees, custody fees, trustee fees, brokerage fees etc. which are not required to be disclosed by any other mutual fund in their sales communications. There is no rationale for requiring such disclosure. The disclosure of fees, charges and trailing commissions should not be required unless such fees and charges are payable by the investor. The market is generally aware that "no load" means no fees or charges payable directly by the investor.	Change made. The words "fees and charges" have been replaced with the words "management fees and operating expenses". The revised warning language in subsections 15.4(3) and (6) which applies to all mutual funds (other than money market funds) refers to trailing commissions, fees and expenses.
91	S. 15.5(2)(b)	_____	This requirement goes far beyond the NP 39 requirements and will, in practice, proscribe all advertising by no-load funds since even a summary description of all fees and charges paid by the mutual fund will be extensive. General warning language (see comment re 15.4(3)) would address any potential for confusion by alerting investors to the possibility of fees and charges, both direct and indirect.	Change made. The requirement to include a summary of fees and charges has been replaced by a requirement to disclose that management fees and operating expenses are paid by the mutual fund.
92	S. 15.5(2)(c)	_____	Despite the statement in footnote 133 that the CSA wish to alleviate confusion between the term "no-load" and the existence of trailers, the proposed regulatory solution may create confusion.	No change.

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
93	S. 15.5(3)	_____	The wording should be limited to only fees and charges payable by the investor directly. To do otherwise would be impractical and would result in no fund referring to itself as "no load". This would not be in the best interests of investors.	Change made. The communication does not need to provide a summary but must disclose the types of fees and charges that exist.
94	S. 15.6(a)(i)	_____	Is this clause breached by delivering a combined annual or semi-annual report to securityholders for all funds within a fund family where one or more funds has operated for less than 12 months? If reports to securityholders are excluded from the definition of "sales communication", then providing combined reports to securityholders will not violate this clause.	Change made. New paragraph 15.6(a)(ii)(B) added to permit delivery of sales communication to securityholders/participants of a mutual fund/asset allocation service under common management.
95	S. 15.7	_____	Would an advertisement making reference to investments available through an asset allocation service profiling the performance of mutual funds not under common management be deemed as "comparing performance"? This type of advertisement does not actually instruct readers to compare, but rather observe the performance history of various funds which comprise portfolios offered through the assets allocation service.	No. No change.
96	S. 15.7(b)	_____	The possibility for fund comparisons has been dramatically narrowed by this provision, particularly in respect of funds that are not under common management. Restricting comparisons of funds in different families to those with similar fundamental investment objectives is troubling given the breadth of the definition.	No change. The CSA believe that comparisons should be permitted only where the fundamental investment objectives are similar.
97	S. 15.8(2)(a)	_____	Is it correct to presume that the CSA will not require sales communications to necessarily present data in a 10, 5, 3 and 1 year order?	No change. The order is not prescribed however the data must be consecutive.
98	S. 15.8(2)(b)(i) and (ii)	_____	Please clarify the methodology that should be employed to ensure compliance with these provisions.	No change. The CSA believe that the provisions are clear.
99	S. 15.8(4)	_____	Will this requirement be waived if fund companies use the most current standard performance data in the sales communication? Many fund companies have newspaper performance advertisements, which are based upon the most current data, and are promptly updated.	Change made. The second part of the provision has been deleted.
100	S. 15.9	_____	It is doubtful whether the additional disclosure requirements imposed by this section are practical and may be adhered to in a manner that is meaningful or useful for investors in a sales communication.	No change.

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
101	S. 15.9(2)	_____	<p>This provision imposes significant new requirements. Essentially it limits the use of performance data to either stale-dated performance of the two funds that existed before the transaction or to performance data of the continuing fund, but only after that fund has been in existence for one year. It is not clear what investors gain from seeing stale-dated performance of the two funds prior to reorganization and from not seeing any performance data for the continuing fund for one year.</p> <p>The acquiring fund existed before and continues to exist after the transaction. Therefore, why is it prejudicial to a securityholder to be given performance data of the continuing fund anytime after the transaction, provided there is disclosure about the merger in the sales communication. Requiring performance information for the non-continuing fund may be misleading, especially if the non-continuing fund was considerably smaller than the continuing fund. Investors may be encouraged to make "quick calculations" by blending the performance data for both funds which, for many reasons, may be undesirable (as noted by the rejection of this approach by the CSA).</p>	No change. The application of the provision is limited to cases where there was a significant change to the continuing fund as a result of the transaction.
102	S. 15.12	_____	<p>Does this preclude reference to the anticipated availability date of a new fund in a newsletter or a reader newspaper advertisement? It does not appear that s. 15.12(e) prohibits fund companies from mentioning an anticipated launch date when read in conjunction with s. 65 of the Securities Act (Ontario). The CSA should clarify this, perhaps with a cross-reference to corresponding sections in the Securities Act (Ontario).</p>	No change. Reference to anticipated availability is not precluded.
103	Part 16	_____	<p>The calculation does not appear to exclude interest charges, taxes and commissions and brokerage fees on the purchase and sale of portfolio assets. It is in effect a total operating expense ratio. This is a significant change and will have the effect of increasing industry MERs. Comparison with a previous year will yield inconsistent results. Certain taxes, which relate solely to the investing activity of a fund, rather than operating expenses, ought not to be included in the MER calculation. Specifically, for corporate funds, the inclusion of corporate income taxes, capital tax, and foreign withholding taxes are a consequence of investing activity and accordingly, are most properly reflected in the performance of the fund. These costs are outside the control of the manager and bear no relation to operating activities. Therefore, these taxes should be excluded from the calculation of MER.</p> <p>The 1997 CICA Research Report stated that GST/PST should be included in "total expenses" but that income and capital tax be excluded. The industry practice has been to exclude GST when reporting MER.</p>	No change. See subsection 14.1(2) of the CP. The MER is designed to be an all inclusive expense ratio regardless of control over these expenses. The aim is to show investors the actual cost of investing.

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
104	S. 16.1(1)	_____	Please clarify whether calendar or business days should be employed.	No change. The CSA believe that the provision is clear as drafted.
105	S. 16.1(2)	_____	Please clarify what is meant by "note to disclosure". Does this include only financial statement disclosure, or does it also include prospectuses and other continuous disclosure documents?	No change. See subsection 14.1(1) of the CP.
106	S. 16.1(2)	_____	The calculation is complex for each fund and some fund companies do not presently provide these details. Presently, notation is made in the financial statements that a portion of the fees otherwise payable by the funds has been absorbed by the mutual fund. This appears to be no longer adequate. Please clarify if this is an accurate interpretation of the new requirement.	No change. The provision requires that a mutual fund disclose more than that some fees have been waived or absorbed.
107	S. 18.1	_____	Some limits should be placed on the type of information to be retained, the length of time it must be retained and what information securityholders can access. The requirement should be replaced by a requirement that records be retained for 7 years (in keeping with the Income Tax Act) or some other reasonable time limit. Also, it should be clarified that records and registers may be kept in electronic form rather than in paper form.	Change made. The words "for at least as long as the mutual fund is in existence" have been deleted. See section 15.1 of the CP. The provision does not require that records be kept in paper form.
108	S. 18.2	_____	The second purpose - "a matter relating to the administration of the mutual fund" - is a very broadly stated purpose and there are no guidelines in the CP concerning how it may be limited. Without some guidance in the CP, it may not be possible to adequately control access to securityholder record information that may be sought for an improper purpose. Each mutual fund company has an obligation of confidentiality to holders of its securities which should only be lessened in the clearest of cases (such as to influence the voting of securities).	Change made. Subsection 18.2(1) has been amended to refer to a "matter relating to the relationships of the mutual fund, the members of the organization of the mutual fund, and the securityholders, directors and officers of those entities".
109	S. 19.1(1)	_____	Clause 2.2(2)(b) of NI 13-101 SEDAR permits electronic filing of exemptive relief applications "reasonably required to facilitate a distribution of securities to which a prospectus relates". Notwithstanding that provision, all applications for exemptive relief under NI 81-102 should be filed on SEDAR including applications under proposed National Policy 12-201 MRRS, subject to existing rules and policy considerations pertaining to confidentiality. Orders granted should be published or otherwise made publicly available as other orders or decisions of CSA members.	Applications for relief from the NI will be filed and processed on SEDAR as is currently the practice with NP 39 applications.
110	S. 19.2(1)	_____	The provision should be amended to clarify that the revocation by the CSA of any exemption order or waiver previously given under NP 39 may not be made without the relevant market participant first having the right to be heard.	No change. Any action taken by a regulator or securities regulatory authority would be subject to the general principles of administrative law as well as any specific requirements in securities law.

	<i>March 1999 Draft Reference</i>	<i>Final Reference</i>	<i>Comment</i>	<i>CSA Response</i>
111	Appendix B - Compliance Reports	_____	The audit reports essentially provide that there is compliance in all material respects with the applicable requirements of NI 81-102. However, the compliance reports do not contain an exclusion for non-material deviations. The language of the compliance reports should be amended to state that there is compliance "in all material respects" with the applicable requirements of NI 81-102.	No change. The CSA want to know whether there has been compliance in all respects with the applicable provisions.
112	S. 7.5(2) & (3) CP	S. 7.4(2) & (3) CP	<p>Recently there have been a number of moves of high profile individual portfolio managers to competing mutual fund organizations. Some mutual fund groups have also heavily marketed, both in public advertising and advertising to the broker network, individual "star" portfolio managers who are managing particular funds. Perhaps there should be at least a minimum notice period (eg. to permit investors to switch to another fund outside or within the existing fund group) before there is such a change (other than a termination for cause, which could occur immediately) rather than tying the change to timely disclosure and amending the prospectus. Consideration should be given to requiring a minimum notice period or even a requirement of securityholder or securities regulatory approval.</p> <p>Notwithstanding 7.5(2) of the CP, the name of the individual portfolio manager may not appear in the prospectus therefore an amendment to the SP may not be necessary to disclose the departure of a particular individual.</p>	No change.

**NATIONAL INSTRUMENT 81-102
MUTUAL FUNDS**

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PART 1 DEFINITIONS AND APPLICATION

1.1 Definitions - In this Instrument

"acceptable clearing corporation" means a clearing corporation that is an acceptable clearing corporation under the Joint Regulatory Financial Questionnaire and Report;

"advertisement" means a sales communication that is published or designed for use on or through a public medium;

"approved credit rating" means, for a security or instrument, a rating at or above one of the following rating categories issued by an approved credit rating organization for that security or instrument or a category that replaces one of the following rating categories if

(a) there has been no announcement by the approved credit rating organization of which the mutual fund or its manager is or ought to be aware that the rating of the security or instrument to which the approved credit rating was given may be down-graded to a rating category that would not be an approved credit rating, and

(b) no approved credit rating organization has rated the security or instrument in a rating category that is not an approved credit rating:

Approved Credit Rating Organization	Commercial Paper/ Short Term Debt	Long Term Debt
CBRS Inc.	A-1	A
Dominion Bond Rating Service Limited	R-1-L	A
Duff & Phelps Credit Rating Co.	D-1	A
Fitch IBCA, Inc.	A-1	A
Moody's Investors Service, Inc.	P-1	A2
Standard & Poor's Corporation	A-1	A
Thomson BankWatch, Inc.	TBW-2	A

"approved credit rating organization" means each of CBRS Inc., Dominion Bond Rating Service Limited, Duff & Phelps Credit Rating Co., Fitch IBCA, Inc., Moody's Investors Service, Inc., Standard & Poor's Corporation, and Thomson BankWatch, Inc. and any of their respective successors;

"asset allocation service" means an administrative service under which the investment of a person or company is allocated, in whole or in part, among mutual funds to which this Instrument applies and reallocated among those mutual funds and, if applicable, other assets according to an asset allocation strategy;

"book-based system" means a system for the central handling of securities or equivalent book-based entries under which all securities of a class or series deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery;

"cash cover" means any of the following portfolio assets of a mutual fund that are held by the mutual fund, have not been allocated for specific purposes and are available to satisfy all or part of the obligations arising from a position in specified derivatives held by the mutual fund:

1. Cash.
2. Cash equivalents.
3. Synthetic cash.
4. Receivables of the mutual fund that arise from the disposition of portfolio assets, net of payables that arise from the acquisition of portfolio assets;

"cash equivalent" means an evidence of indebtedness that has a remaining term to maturity of 365 days or less and that is issued, or fully and unconditionally guaranteed as to principal and interest, by

- (a) the government of Canada or the government of a jurisdiction,
- (b) the government of the United States of America, the government of one of the states of the United States of America, the government of another sovereign state or a permitted supranational agency, if, in each case, the evidence of indebtedness has an approved credit rating, or
- (c) a Canadian financial institution, or a financial institution that is not incorporated or organized under the laws of Canada or of a jurisdiction if, in either case, evidences of indebtedness of that issuer or guarantor that are rated as short term debt by an approved credit rating organization have an approved credit rating;

"clearing corporation" means an organization through which trades in options or standardized futures are cleared and settled;

"clearing corporation option" means an option, other than an option on futures, issued by a clearing corporation;

"conventional convertible security" means a security of an issuer that is, according to its terms, convertible

into, or exchangeable for, other securities of the issuer, or of an affiliate of the issuer;

"conventional floating rate debt instrument" means an evidence of indebtedness of which the interest obligations are based upon a benchmark commonly used in commercial lending arrangements;

"conventional warrant or right" means a security of an issuer, other than a clearing corporation, that gives the holder the right to purchase securities of the issuer or of an affiliate of the issuer;

"currency cross hedge" means the substitution by a mutual fund of a risk to one currency for a risk to another currency, if neither currency is a currency in which the mutual fund determines its net asset value per security and the aggregate amount of currency risk to which the mutual fund is exposed is not increased by the substitution;

"custodian" means the institution appointed by a mutual fund to act as custodian of the portfolio assets of the mutual fund;

"dealer managed mutual fund" means a mutual fund the portfolio adviser of which is a dealer manager;

"dealer manager" means

- (a) a specified dealer that acts as a portfolio adviser,
- (b) a portfolio adviser in which a specified dealer, or a partner, director, officer, salesperson or principal shareholder of a specified dealer, directly or indirectly owns or record or beneficially, or exercises control or direction over, securities carrying more than 10 percent of the total votes attaching to securities of the portfolio adviser, or
- (c) a partner, director or officer of a portfolio adviser referred to in paragraph (b);

"debt-like security" means a security purchased by a mutual fund, other than a conventional convertible security or a conventional floating rate debt instrument, that evidences an indebtedness of the issuer if

- (a) either
 - (i) the amount of principal, interest or principal and interest to be paid to the holder is linked in whole or in part by a formula to the appreciation or depreciation in the market price, value or level of one or more underlying interests on a predetermined date or dates, or
 - (ii) the security provides the holder with a right to convert or exchange the security into or for the underlying

interest or to purchase the underlying interest, and

- (b) on the date of acquisition by the mutual fund, the percentage of the purchase price attributable to the component of the security that is not linked to an underlying interest is less than 80 percent of the purchase price paid by the mutual fund;

"delta" means the positive or negative number that is a measure of the change in market value of an option relative to changes in the value of the underlying interest of the option;

"equivalent debt" means, in relation to an option, swap, forward contract or debt-like security, an evidence of indebtedness of approximately the same term as, or a longer term than, the remaining term to maturity of the option, swap, contract or debt-like security and that ranks equally with, or subordinate to, the claim for payment that may arise under the option, swap, contract or debt-like security;

"forward contract" means an agreement, not entered into with, or traded on, a stock exchange or futures exchange or cleared by a clearing corporation, to do one or more of the following on terms or at a price established by or determinable by reference to the agreement and at or by a time in the future established by or determinable by reference to the agreement:

1. Make or take delivery of the underlying interest of the agreement.
2. Settle in cash instead of delivery;

"fundamental investment objectives" means the investment objectives of a mutual fund that define both the fundamental nature of the mutual fund and the fundamental investment features of the mutual fund that distinguish it from other mutual funds;

"futures exchange" means an association or organization operated to provide the facilities necessary for the trading of standardized futures;

"government security" means an evidence of indebtedness issued, or fully and unconditionally guaranteed as to principal and interest, by any of the government of Canada, the government of a jurisdiction or the government of the United States of America;

"guaranteed mortgage" means a mortgage fully and unconditionally guaranteed, or insured, by the government of Canada, by the government of a jurisdiction or by an agency of any of those governments;

"hedging" means the entering into of a transaction, or a series of transactions, and the maintaining of the position or positions resulting from the transaction or series of transactions

- (a) if
 - (i) the intended effect of the transaction, or the intended cumulative effect of the series of transactions, is to offset or reduce a specific risk associated with all or a portion of an existing investment or position or group of investments or positions,
 - (ii) the transaction or series of transactions results in a high degree of negative correlation between changes in the value of the investment or position, or group of investments or positions, being hedged and changes in the value of the instrument or instruments with which the investment or position is hedged, and
 - (iii) there are reasonable grounds to believe that the transaction or series of transactions no more than offset the effect of price changes in the investment or position, or group of investments or positions, being hedged, or
- (b) if the transaction, or series of transactions, is a currency cross hedge;

"illiquid asset" means

- (a) a portfolio asset that cannot be readily disposed of through market facilities on which public quotations in common use are widely available at an amount that at least approximates the amount at which the portfolio asset is valued in calculating the net asset value per security of the mutual fund, or
- (b) a restricted security held by a mutual fund, the resale of which is prohibited by a representation, undertaking or agreement by the mutual fund or by the predecessor in title of the mutual fund;

"index mutual fund" means a mutual fund that has adopted fundamental investment objectives that require it to

- (a) hold the securities that are included in a specified widely quoted market index in substantially the same proportion as those securities are reflected in that index, or
- (b) invest in a manner that causes the mutual fund to replicate the performance of that index;

"index participation unit" means a security traded on a stock exchange in Canada or the United States and issued by an issuer the only purpose of which is to

- (a) hold the securities that are included in a specified widely quoted market index in substantially the same proportion as those securities are reflected in that index, or
- (b) invest in a manner that causes the issuer to replicate the performance of that index;

"investor fees" means, in connection with the purchase, conversion, holding, transfer or redemption of securities of a mutual fund, all fees, charges and expenses that are or may become payable by a securityholder of the mutual fund to a member of the organization of the mutual fund other than a member of the organization acting solely as a participating dealer;

"Joint Regulatory Financial Questionnaire and Report" means the Joint Regulatory Financial Questionnaire and Report of various Canadian SROs on the date that this Instrument comes into force and every successor to the form that does not materially lessen the criteria for an entity to be recognized as an "acceptable clearing corporation";

"long position" means a position held by a mutual fund that, for

- (a) an option, entitles the mutual fund to elect to purchase, sell, receive or deliver the underlying interest or, instead, pay or receive cash,
- (b) a standardized future or forward contract, obliges the mutual fund to accept delivery of the underlying interest or, instead, pay or receive cash,
- (c) a call option on futures, entitles the mutual fund to elect to assume a long position in standardized futures,
- (d) a put option on futures, entitles the mutual fund to elect to assume a short position in standardized futures, and
- (e) a swap, obliges the mutual fund to accept delivery of the underlying interest or receive cash;

"management expense ratio" means the ratio, expressed as a percentage, of the expenses of a mutual fund to its average net asset value, calculated in accordance with Part 16;

"manager" means a person or company that directs the business, operations and affairs of a mutual fund;

"member of the organization" has the meaning ascribed to that term in National Instrument 81-105 Mutual Fund Sales Practices;

"money market fund" means a mutual fund that has and intends to continue to have

- (a) all of its assets invested in any or all of
 - (i) cash,
 - (ii) cash equivalents,
 - (iii) evidences of indebtedness, other than cash equivalents, that have remaining terms to maturity of 365 days or less, or
 - (iv) floating rate evidences of indebtedness not referred to in subparagraph (ii) or (iii), if the principal amounts of the obligations will continue to have a market value of approximately par at the time of each change in the rate to be paid to the holders of the evidences of indebtedness,
- (b) a portfolio with a dollar-weighted average term to maturity not exceeding 90 days, calculated on the basis that the term of a floating rate obligation is the period remaining to the date of the next rate setting,
- (c) not less than 95 percent of its assets invested in cash, cash equivalents or evidences of indebtedness denominated in a currency in which the net asset value per security of the mutual fund is calculated, and
- (d) not less than 95 percent of its assets invested in any or all of
 - (i) cash,
 - (ii) cash equivalents, or
 - (iii) evidences of indebtedness of issuers the commercial paper of which has an approved credit rating;

"mortgage" includes a hypothec or security that creates a charge on real property in order to secure a debt;

"mutual fund conflict of interest investment restrictions" means the provisions of securities legislation that

- (a) prohibit a mutual fund from knowingly making or holding an investment in an issuer in which the mutual fund, alone or together with one or more mutual funds under common management, is a substantial securityholder as defined by securities legislation, or
- (b) prohibit the portfolio adviser of the mutual fund, the mutual fund or a responsible person, as defined in securities legislation, from selling portfolio assets of the mutual fund to, or purchasing portfolio assets from, another mutual fund under common management;

"mutual fund conflict of interest reporting requirements" means the provisions of securities legislation that require the filing of a report with the securities regulatory authority in prescribed form that discloses every transaction of purchase or sale of portfolio assets between the mutual fund and specified related persons or companies;

"non-resident sub-adviser" means a person or company providing portfolio management advice

- (a) whose principal place of business is outside of Canada,
- (b) that advises a portfolio adviser to a mutual fund, and
- (c) that is not registered under securities legislation in the jurisdiction in which the portfolio adviser that it advises is located;

"option" means an agreement that provides the holder with the right, but not the obligation, to do one or more of the following on terms or at a price established by or determinable by reference to the agreement at or by a time established by the agreement:

1. Receive an amount of cash determinable by reference to a specified quantity of the underlying interest of the option.
2. Purchase a specified quantity of the underlying interest of the option.
3. Sell a specified quantity of the underlying interest of the option;

"option on futures" means an option the underlying interest of which is a standardized future;

"order receipt office" means, for a mutual fund

- (a) the principal office of the mutual fund,
- (b) the principal office of the principal distributor of the mutual fund, or
- (c) a location to which a purchase order or redemption order for securities of the mutual fund is required or permitted by the mutual fund to be delivered by participating dealers or the principal distributor of the mutual fund;

"participating dealer" means a dealer other than the principal distributor that distributes securities of a mutual fund;

"participating fund" means a mutual fund in which an asset allocation service permits investment;

"performance data" means a rating, ranking, quotation, discussion or analysis regarding an aspect of the investment performance of a mutual fund, an

asset allocation service, a security, an index or a benchmark;

"permitted gold certificate" means a certificate representing gold if the gold is

- (a) available for delivery in Canada, free of charge, to or to the order of the holder of the certificate,
- (b) of a minimum fineness of 995 parts per 1,000,
- (c) held in Canada,
- (d) in the form of either bars or wafers, and
- (e) if not purchased from a bank listed in Schedule I or II of the *Bank Act* (Canada), fully insured against loss and bankruptcy by an insurance company licensed under the laws of Canada or a jurisdiction;

"permitted supranational agency" means the African Development Bank, the Asian Development Bank, the Caribbean Development Bank, the European Bank for Reconstruction and Development, the Inter-American Development Bank, the International Bank for Reconstruction and Development, the International Finance Corporation, and any person or company prescribed under paragraph (g) of the definition of "foreign property" in subsection 206(1) of the ITA;

"physical commodity", means, in an original or processed state, an agricultural product, forest product, product of the sea, mineral, metal, hydrocarbon fuel product, precious stone or other gem;

"portfolio adviser" means a person or company that provides investment advice or portfolio management services under a contract with the mutual fund or with the manager of the mutual fund;

"portfolio asset" means an asset of a mutual fund;

"pricing date" means, for the sale of a security of a mutual fund, the date on which the net asset value per security of the mutual fund is calculated for the purpose of determining the price at which that security is to be issued;

"principal distributor" means a person or company through whom securities of a mutual fund are distributed under an arrangement with the mutual fund or its manager that provides

- (a) an exclusive right to distribute the securities of the mutual fund in a particular area, or
- (b) a feature that gives or is intended to give the person or company a material competitive advantage over others in the distribution of the securities of the mutual fund;

"public quotation" includes, for the purposes of calculating the amount of illiquid assets held by a mutual fund, any quotation of a price for a fixed income security made through the inter-dealer bond market;

"purchase" means, in connection with an acquisition of a portfolio asset by a mutual fund, an acquisition that is the result of a decision made and action taken by the mutual fund;

"report to securityholders" means a report that includes annual or semi-annual financial statements and that is delivered to securityholders of a mutual fund;

"restricted security" means a security, other than a specified derivative, the resale of which is restricted or limited by a representation, undertaking or agreement by the mutual fund or by the mutual fund's predecessor in title, or by law;

"sales communication" means a communication relating to, and by, a mutual fund or asset allocation service, its promoter, manager, portfolio adviser, principal distributor, a participating dealer or a person or company providing services to any of them, that

- (a) is made
 - (i) to a securityholder of the mutual fund or participant in the asset allocation service, or
 - (ii) to a person or company that is not a securityholder of the mutual fund or participant in the asset allocation service, to induce the purchase of securities of the mutual fund or the use of the asset allocation service, and

(b) is not contained in any of the following documents of the mutual fund:

1. A preliminary or *pro forma* prospectus.
2. A simplified prospectus or preliminary or *pro forma* simplified prospectus.
3. An annual information form or preliminary or *pro forma* annual information form.
4. Financial statements, including the notes to the financial statements and the auditor's report on the financial statements.
5. A trade confirmation.
6. A statement of account;

"short position" means a position held by a mutual fund that, for

- (a) an option, obliges the mutual fund, at the election of another, to purchase, sell, receive or deliver the underlying interest, or, instead, pay or receive cash,
- (b) a standardized future or forward contract, obliges the mutual fund, at the election of another, to deliver the underlying interest or, instead, pay or receive cash,
- (c) a call option on futures, obliges the mutual fund, at the election of another, to assume a short position in standardized futures, and
- (d) a put option on futures, obliges the mutual fund, at the election of another, to assume a long position in standardized futures;

"significant change" means

- (a) a change in the business, operations or affairs of a mutual fund that would be considered important
 - (i) by a reasonable investor in determining whether to purchase securities of the mutual fund, or
 - (ii) by a reasonable securityholder of the mutual fund in determining whether to continue to hold securities of the mutual fund, or
- (b) a decision to implement a change referred to in paragraph (a) made
 - (i) by senior management of the mutual fund who believe that confirmation of the decision by the board of directors of the mutual fund is probable, or
 - (ii) by senior management of the manager of the mutual fund who believe that confirmation of the decision by the board of directors of the manager of the mutual fund is probable;

"special warrant" means a security that, by its terms or the terms of an accompanying contractual obligation, entitles or requires the holder to acquire another security without payment of material additional consideration and obliges the issuer of the special warrant or the other security to undertake efforts to file a prospectus to qualify the distribution of the other security;

"specified asset-backed security" means a security that

- (a) is primarily serviced by the cash flows of a discrete pool of receivables or other financial assets, either fixed or revolving, that by their terms convert into cash within a finite time, and any rights or assets designed to assure

the servicing or timely distribution of proceeds to securityholders, and

- (b) by its terms entitles an investor in that security to a return of the investment of that investor at or by a time established by or determinable by reference to an agreement, except as a result of losses incurred on, or the non-performance of, the financial assets;

"specified dealer" means a dealer other than a dealer whose activities as a dealer are restricted by the terms of its registration to one or both of

- (a) acting solely in respect of mutual fund securities, or
- (b) acting solely in respect of transactions in which a person or company registered in the category of limited market dealer in a jurisdiction is permitted to engage;

"specified derivative" means an instrument, agreement or security, the market price, value or payment obligations of which are derived from, referenced to or based on an underlying interest, other than

- (a) a conventional convertible security,
- (b) a specified asset-backed security,
- (c) an index participation unit,
- (d) a government or corporate strip bond,
- (e) a capital, equity dividend or income share of a subdivided equity or fixed income security,
- (f) a conventional warrant or right, or
- (g) a special warrant;

"standardized future" means an agreement traded on a futures exchange pursuant to standardized conditions contained in the by-laws, rules or regulations of the futures exchange, and cleared by a clearing corporation, to do one or more of the following at a price established by or determinable by reference to the agreement and at or by a time established by or determinable by reference to the agreement:

1. Make or take delivery of the underlying interest of the agreement.
2. Settle the obligation in cash instead of delivery of the underlying interest;

"sub-custodian" means, for a mutual fund, an entity that has been appointed to hold portfolio assets of the mutual fund in accordance with section 6.1 by either the custodian or a sub-custodian of the mutual fund;

"swap" means an agreement that provides for

- (a) an exchange of principal amounts,
- (b) the obligation to make, and the right to receive, cash payments based upon the value, level or price, or on relative changes or movements of the value, level or price, of one or more underlying interests, which payments may be netted against each other, or
- (c) the right or obligation to make, and the right or obligation to receive, physical delivery of an underlying interest instead of the cash payments referred to in paragraph (b);

"synthetic cash" means a position that in aggregate provides the holder with the economic equivalent of the return on a banker's acceptance accepted by a bank listed in Schedule I of the *Bank Act* (Canada) and that consists of

- (a) a long position in a portfolio of shares and a short position in a standardized future of which the underlying interest consists of a stock index, if
 - (i) there is a high degree of positive correlation between changes in the value of the portfolio of shares and changes in the value of the stock index, and
 - (ii) the ratio between the value of the portfolio of shares and the standardized future is such that, for any change in the value of one, a change of similar magnitude occurs in the value of the other, or
- (b) a long position in the evidences of indebtedness issued, or fully and unconditionally guaranteed as to principal and interest, by any of the government of Canada or the government of a jurisdiction and a short position in a standardized future of which the underlying interest consists of evidences of indebtedness of the same issuer and same term to maturity, if
 - (i) there is a high degree of positive correlation between changes in the value of the portfolio of evidences of indebtedness and changes in the value of the standardized future, and
 - (ii) the ratio between the value of the evidences of indebtedness and the standardized future is such that, for any change in the value of one, a change of similar magnitude occurs in the value of the other;

"timely disclosure requirements" means the requirements in securities legislation for a reporting

issuer to file a press release and a report when a material change occurs in the affairs of the reporting issuer;

"underlying interest" means, for a specified derivative, the security, commodity, financial instrument, currency, interest rate, foreign exchange rate, economic indicator, index, basket, agreement, benchmark or any other reference, interest or variable, and, if applicable, the relationship between any of the foregoing, from, to or on which the market price, value or payment obligation of the specified derivative is derived, referenced or based; and

"underlying market exposure" means, for a position of a mutual fund in

- (a) an option, the quantity of the underlying interest of the option position multiplied by the market value of one unit of the underlying interest, multiplied, in turn, by the delta of the option,
- (b) a standardized future or forward contract, the quantity of the underlying interest of the position multiplied by the current market value of one unit of the underlying interest; or
- (c) a swap, the underlying market exposure, as calculated under paragraph (b), for the long position of the mutual fund in the swap.

1.2 Application - This Instrument applies only to

- (a) a mutual fund that offers or has offered securities under a prospectus or simplified prospectus for so long as the mutual fund remains a reporting issuer; and
- (b) a person or company in respect of activities pertaining to a mutual fund referred to in paragraph (a) or pertaining to the filing of a prospectus to which subsection 3.1(1) applies.

1.3 Interpretation - Each section, part, class or series of a class of securities of a mutual fund that is referable to a separate portfolio of assets is considered to be a separate mutual fund for purposes of this Instrument.

PART 2 INVESTMENTS

2.1 Concentration Restriction

- (1) A mutual fund shall not purchase a security of an issuer, enter into a specified derivatives transaction or purchase index participation units if, immediately after the transaction, more than 10 percent of the net assets of the mutual fund, taken at market value at the time of the transaction, would be invested in securities of any issuer.

- (2) Subsection (1) does not apply to a purchase of a government security or a security issued by a clearing corporation.
- (3) In determining a mutual fund's compliance with the restrictions contained in this section, the mutual fund shall, for each long position in a specified derivative that is held by the mutual fund for purposes other than hedging and for each index participation unit held by the mutual fund, consider that it holds directly the underlying interest of that specified derivative or its proportionate share of the securities held by the issuer of the index participation unit.
- (4) Despite subsection (3), the mutual fund shall not include in the determination referred to in subsection (3) a security or instrument that is a component of, but that represents less than 10 percent of
 - (a) a stock or bond index that is the underlying interest of a specified derivative; or
 - (b) the securities held by the issuer of an index participation unit.

2.2 Control Restrictions

- (1) A mutual fund shall not
 - (a) purchase a security of an issuer if, immediately after the purchase, the mutual fund would hold securities representing more than 10 percent of
 - (i) the votes attaching to the outstanding voting securities of that issuer; or
 - (ii) the outstanding equity securities of that issuer; or
 - (b) purchase a security for the purpose of exercising control over or management of the issuer of the security.
- (2) If a mutual fund acquires a security of an issuer other than as the result of a purchase, and the acquisition results in the mutual fund exceeding the limits described in paragraph (1)(a), the mutual fund shall as quickly as is commercially reasonable, and in any event no later than 90 days after the acquisition, reduce its holdings of those securities so that it does not hold securities exceeding those limits.
- (3) In determining its compliance with the restrictions contained in this section, a mutual fund shall
 - (a) assume the conversion of special warrants held by it; and

- (b) consider that it holds directly the underlying securities represented by any American depositary receipts held by it.

2.3 Restrictions Concerning Types of Investments -
A mutual fund shall not

- (a) purchase real property;
- (b) purchase a mortgage, other than a guaranteed mortgage;
- (c) purchase a guaranteed mortgage if, immediately after the purchase, more than 10 percent of the net assets of the mutual fund, taken at market value at the time of the purchase, would consist of guaranteed mortgages;
- (d) purchase a gold certificate, other than a permitted gold certificate;
- (e) purchase gold or a permitted gold certificate if, immediately after the purchase, more than 10 percent of the net assets of the mutual fund, taken at market value at the time of the purchase, would consist of gold and permitted gold certificates;
- (f) except to the extent permitted by paragraphs (d) and (e), purchase a physical commodity;
- (g) purchase, sell or use a specified derivative other than in compliance with sections 2.7 to 2.11;
- (h) purchase, sell or use a specified derivative the underlying interest of which is
 - (i) a physical commodity other than gold, or
 - (ii) a specified derivative of which the underlying interest is a physical commodity other than gold; or
- (i) purchase an interest in a loan syndication or loan participation if the purchase would require the mutual fund to assume any responsibilities in administering the loan in relation to the borrower.

2.4 Restrictions Concerning Illiquid Assets

- (1) A mutual fund shall not purchase an illiquid asset if, immediately after the purchase, more than 10 percent of the net assets of the mutual fund, taken at market value at the time of the purchase, would consist of illiquid assets.
- (2) A mutual fund shall not have invested, for a period of 90 days or more, more than 15

percent of its net assets, taken at market value, in illiquid assets.

- (3) If more than 15 percent of the net assets of a mutual fund, taken at market value, are illiquid assets, the mutual fund shall, as quickly as is commercially reasonable, take all necessary steps to reduce the percentage of its net assets made up of illiquid assets to 15 percent or less.

2.5 Investments in Other Mutual Funds

- (1) A mutual fund shall not purchase a security of another mutual fund unless
 - (a) immediately after the purchase, not more than 10 percent of the net assets of the mutual fund, taken at market value at the time of the purchase, would be invested in securities of other mutual funds,
 - (b) there is no duplication of management fees, incentive fees and sales charges between the mutual funds and this is described in the simplified prospectus of the mutual fund, and
 - (c) either
 - (i) the other mutual fund is qualified for distribution under a simplified prospectus in the jurisdictions in which the securities of the mutual fund are qualified for distribution under a simplified prospectus, or
 - (ii) the other mutual fund was established with the approval of the government of a foreign jurisdiction, the only means by which the mutual fund may invest in the securities of issuers of that foreign jurisdiction is through a mutual fund so established, and there is disclosure in the simplified prospectus of the mutual fund of the risk factors that may be associated with the investment in that foreign jurisdiction.

- (2) Subsection (1) does not apply to the purchase of
 - (a) an index participation unit that is a security of a mutual fund; or
 - (b) a mutual fund that is listed and posted for trading on a Canadian stock exchange.

2.6 Investment Practices - A mutual fund shall not

- (a) borrow cash or provide a security interest over any of its portfolio assets unless
 - (i) the transaction is a temporary measure to accommodate requests for the redemption of securities of the mutual fund while the mutual fund effects an orderly liquidation of portfolio assets, or to permit the mutual fund to settle portfolio transactions and, after giving effect to all transactions undertaken under this subparagraph, the outstanding amount of all borrowings of the mutual fund does not exceed five percent of the net assets of the mutual fund taken at market value at the time of the borrowing,
 - (ii) the security interest is required to enable the mutual fund to effect a specified derivative transaction under this Instrument, is made in accordance with industry practice for that type of transaction and relates only to obligations arising under that particular specified derivatives transaction, or
 - (iii) the security interest secures a claim for the fees and expenses of the custodian or a sub-custodian of the mutual fund for services rendered in that capacity as permitted by subsection 6.4(3);
- (b) purchase securities on margin, unless permitted by section 2.7 or 2.8;
- (c) sell securities short, unless permitted by section 2.7 or 2.8;
- (d) purchase a security, other than a specified derivative, that by its terms may require the mutual fund to make a contribution in addition to the payment of the purchase price;
- (e) engage in the business of underwriting, or marketing to the public, securities of any other issuer;
- (f) lend cash or portfolio assets other than cash;
- (g) guarantee securities or obligations of a person or company; or
- (h) purchase securities other than through market facilities through which these securities are normally bought and sold unless the purchase price approximates the prevailing market price or the parties are at arm's length in connection with the transaction.

2.7 Transactions in Specified Derivatives for Hedging and Non-hedging Purposes

- (1) A mutual fund shall not purchase an option that is not a clearing corporation option or enter into a swap or a forward contract unless
 - (a) the option, swap or contract has a remaining term to maturity of
 - (i) three years or less, or
 - (ii) between three and five years if, at the time of the transaction, the option, swap or contract provides the mutual fund with a right, at its election, to eliminate its exposure under the option, swap or contract no later than three years after the mutual fund has purchased the option or entered into the swap or contract; and
 - (b) at the time of the transaction, the option, swap or contract, or equivalent debt of the counterparty, or of a person or company that has fully and unconditionally guaranteed the obligations of the counterparty in respect of the option, swap or contract, has an approved credit rating.
- (2) If the credit rating of an option that is not a clearing corporation option, the credit rating of a swap or forward contract, or the credit rating of the equivalent debt of the writer or guarantor of the option, swap or contract, falls below the level of approved credit rating while the option, swap or contract is held by a mutual fund, the mutual fund shall take the steps that are reasonably required to close out its position in the option, swap or contract in an orderly and timely fashion.
- (3) Despite any other provisions contained in this Part, a mutual fund may enter into a trade to close out all or part of a position in a specified derivative, in which case the cash cover held to cover the underlying market exposure of the part of the position that is closed out may be released.
- (4) The mark-to-market value of the exposure of a mutual fund under its specified derivatives positions with any one counterparty other than an acceptable clearing corporation or a clearing corporation that clears and settles transactions made on a futures exchange listed in Appendix A, calculated in accordance with subsection (5), shall not exceed, for a period of 30 days or more, 10 percent of the net assets of the mutual fund.

- (5) The mark-to-market value of specified derivatives positions of a mutual fund with any one counterparty shall be, for the purposes of subsection (4),
- (a) if the mutual fund has an agreement with the counterparty that provides for netting or the right of set-off, the net mark-to-market value of the specified derivatives positions of the mutual fund; and
 - (b) in all other cases, the aggregated mark-to-market value of the specified derivative positions of the mutual fund.

2.8 Transactions in Specified Derivatives for Purposes Other than Hedging

- (1) A mutual fund shall not
- (a) purchase a debt-like security that has an options component or an option, unless, immediately after the purchase, not more than 10 percent of the net assets of the mutual fund, taken at market value at the time of the purchase, would consist of those instruments held for purposes other than hedging;
 - (b) write a call option, or have outstanding a written call option, that is not an option on futures unless, as long as the position remains open, the mutual fund holds
 - (i) an equivalent quantity of the underlying interest of the option,
 - (ii) a right or obligation, exercisable at any time that the option is exercisable, to acquire an equivalent quantity of the underlying interest of the option, and cash cover that, together with margin on account for the position, is not less than the amount, if any, by which the strike price of the right or obligation to acquire the underlying interest exceeds the strike price of the option, or
 - (iii) a combination of the positions referred to in subparagraphs (i) and (ii) that is sufficient, without recourse to other assets of the mutual fund, to enable the mutual fund to satisfy its obligations to deliver the underlying interest of the option;
 - (c) write a put option, or have outstanding a written put option, that is not an

option on futures, unless, as long as the position remains open, the mutual fund holds

- (i) a right or obligation, exercisable at any time that the option is exercisable, to sell an equivalent quantity of the underlying interest of the option, and cash cover in an amount that, together with margin on account for the position, is not less than the amount, if any, by which the strike price of the option exceeds the strike price of the right or obligation to sell the underlying interest,
 - (ii) cash cover that, together with margin on account for the option position, is not less than the strike price of the option, or
 - (iii) a combination of the positions referred to in subparagraphs (i) and (ii) that is sufficient, without recourse to other assets of the mutual fund, to enable the mutual fund to acquire the underlying interest of the option;
- (d) open or maintain a long position in a debt-like security that has a component that is a long position in a forward contract, or in a standardized future or forward contract, unless the mutual fund holds cash cover in an amount that, together with margin on account for the specified derivative and the market value of the specified derivative, is not less than, on a daily mark-to-market basis, the underlying market exposure of the specified derivative;
- (e) open or maintain a short position in a standardized future or forward contract, unless the mutual fund holds
- (i) an equivalent quantity of the underlying interest of the future or contract,
 - (ii) a right or obligation to acquire an equivalent quantity of the underlying interest of the future or contract and cash cover that together with margin on account for the position is not less than the amount, if any, by which the strike price of the right or obligation to acquire the underlying interest exceeds the forward price of the contract, or

- (iii) a combination of the positions referred to in subparagraphs (i) and (ii) that is sufficient, without recourse to other assets of the mutual fund, to enable the mutual fund to deliver the underlying interest of the future or contract; or
- (f) enter into, or maintain, a swap position unless
 - (i) for periods when the mutual fund would be entitled to receive payments under the swap, the mutual fund holds cash cover in an amount that, together with margin on account for the swap and the market value of the swap, is not less than, on a daily mark-to-market basis, the underlying market exposure of the swap; and
 - (ii) for periods when the mutual fund would be required to make payments under the swap, the mutual fund holds
 - (A) an equivalent quantity of the underlying interest of the swap,
 - (B) a right or obligation to acquire an equivalent quantity of the underlying interest of the swap and cash cover that, together with margin on account for the position, is not less than the aggregate amount of the obligations of the mutual fund under the swap, or
 - (C) a combination of the positions referred to in clauses (A) and (B) that is sufficient, without recourse to other assets of the mutual fund, to enable the mutual fund to satisfy its obligations under the swap.
- (2) A mutual fund shall treat any synthetic cash position on any date as providing the cash cover equal to the notional principal value of a banker's acceptance then being accepted by a bank listed in Schedule I of the *Bank Act* (Canada) that would produce the same annualized return as the synthetic cash position is then producing.

2.9 Transactions in Specified Derivatives for Hedging Purposes - Sections 2.1, 2.2, 2.4 and 2.8 do not apply to the use of specified derivatives by a mutual fund for hedging purposes.

2.10 Adviser Requirements

- (1) If a portfolio adviser of a mutual fund receives advice from a non-resident sub-adviser concerning the use of options or standardized futures by the mutual fund, the mutual fund shall not invest in or use options or standardized futures unless
 - (a) the obligations and duties of the non-resident sub-adviser are set out in a written agreement with the portfolio adviser; and
 - (b) the portfolio adviser contractually agrees with the mutual fund to be responsible for any loss that arises out of the failure of the non-resident sub-adviser
 - (i) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, and
 - (ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.
- (2) A mutual fund shall not relieve a portfolio adviser of the mutual fund from liability for loss for which the portfolio adviser has assumed responsibility under paragraph (1)(b) that arises out of the failure of the relevant non-resident sub-adviser
 - (a) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, or
 - (b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.
- (3) Despite subsection 4.4(3), a mutual fund may indemnify a portfolio adviser against legal fees, judgments and amounts paid in settlement, actually and reasonably incurred by that person or company in connection with services provided by a non-resident sub-adviser for which the portfolio adviser has assumed responsibility under paragraph (1)(b), only if

- (a) those fees, judgments and amounts were not incurred as a result of a breach of the standard of care described in subsection (1) or (2); and
 - (b) the mutual fund has reasonable grounds to believe that the action or inaction that caused the payment of the fees, judgments and amounts paid in settlement was in the best interests of the mutual fund.
- (4) A mutual fund shall not incur the cost of any portion of liability insurance that insures a person or company for a liability except to the extent that the person or company may be indemnified for that liability under this section.

2.11 Commencement of Use of Specified Derivatives by a Mutual Fund

- (1) A mutual fund that has not used specified derivatives shall not begin using specified derivatives unless
- (a) its simplified prospectus contains the disclosure required for mutual funds using derivatives; and
 - (b) the mutual fund has provided to its securityholders, not less than 60 days before it begins using specified derivatives, written notice that discloses its intent to begin using specified derivatives and the disclosure required for mutual funds using derivatives.
- (2) A mutual fund is not required to provide the notice referred to in paragraph (1)(b) if each simplified prospectus of the mutual fund since the later of January 1, 1994 and its inception contains the disclosure required for mutual funds using specified derivatives.

PART 3 NEW MUTUAL FUNDS

3.1 Initial Investment in a New Mutual Fund

- (1) No person or company shall file a simplified prospectus for a newly established mutual fund unless
- (a) an investment of at least \$150,000 in securities of the mutual fund has been made, and those securities are beneficially owned, before the time of filing by
 - (i) the manager, a portfolio adviser, a promoter or a sponsor of the mutual fund,

(2) A mutual fund shall not redeem a security issued upon an investment in the mutual fund referred to in paragraph (1)(a) until \$500,000 has been received from persons or companies other than the persons and companies referred to in paragraph (1)(a).

3.2 Prohibition Against Distribution - If a simplified prospectus of a mutual fund contains the disclosure described in paragraph 3.1(1)(b), the mutual fund shall not distribute any securities unless the subscriptions described in that disclosure, together with payment for the securities subscribed for, have been received.

3.3 Prohibition Against Reimbursement of Organization Costs - None of the costs of incorporation, formation or initial organization of a mutual fund, or of the preparation and filing of any of the preliminary simplified prospectus, preliminary annual information form, initial simplified prospectus or annual information form of the mutual fund shall be borne by the mutual fund or its securityholders.

PART 4 CONFLICTS OF INTEREST

4.1 Prohibited Investments

- (1) A dealer managed mutual fund shall not knowingly make an investment in a class of securities of an issuer during, or for 60 days after, the period in which the dealer manager of the mutual fund, or an associate or affiliate of the dealer manager of the mutual fund, acts as an underwriter in the distribution of securities of that class of securities, except as a member of the selling group distributing five percent or less of the securities underwritten.
- (2) A dealer managed mutual fund shall not knowingly make an investment in a class of securities of an issuer of which a partner, director, officer or employee of the dealer

manager of the mutual fund, or a partner, director, officer or employee of an affiliate or associate of the dealer manager, is a partner, director or officer, unless the partner, director, officer or employee

- (a) does not participate in the formulation of investment decisions made on behalf of the dealer managed mutual fund;
- (b) does not have access before implementation to information concerning investment decisions made on behalf of the dealer managed mutual fund; and
- (c) does not influence, other than through research, statistical and other reports generally available to clients, the investment decisions made on behalf of the dealer managed mutual fund.

(3) Subsections (1) and (2) do not apply to an investment in a class of securities issued or fully and unconditionally guaranteed by the government of Canada or the government of a jurisdiction.

4.2 Self-Dealing - A mutual fund shall not purchase a security from, or sell a security to, any of the following persons or companies, if that person or company would be selling to the mutual fund, or purchasing from the mutual fund, as principal:

- 1. The manager, portfolio adviser or trustee of the mutual fund.
- 2. A partner, director or officer of the mutual fund or of the manager, portfolio adviser or trustee of the mutual fund.
- 3. An associate or affiliate of a person or company referred to in paragraph 1 or 2.
- 4. A person or company, having fewer than 100 securityholders of record, of which a partner, director or officer of the mutual fund or a partner, director or officer of the manager or portfolio adviser of the mutual fund is a partner, director, officer or securityholder.

4.3 Exception - Section 4.2 does not apply to a purchase or sale of a security by a mutual fund if the price payable for the security is

- (a) not more than the ask price of the security as reported by any available public quotation in common use, in the case of a purchase by the mutual fund; or

- (b) not less than the bid price of the security as reported by any available public quotation in common use, in the case of a sale by the mutual fund.

4.4 Liability and Indemnification

(1) An agreement or declaration of trust by which a person or company acts as manager of a mutual fund shall provide that the manager is responsible for any loss that arises out of the failure of the manager, or of any person or company retained by the manager or the mutual fund to discharge any of the manager's responsibilities to the mutual fund,

- (a) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, and
- (b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

(2) A mutual fund shall not relieve the manager of the mutual fund from liability for loss that arises out of the failure of the manager, or of any person retained by the manager or the mutual fund to discharge any of the manager's responsibilities to the mutual fund,

- (a) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the mutual fund, or
- (b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

(3) A mutual fund may indemnify a person or company providing services to it against legal fees, judgments and amounts paid in settlement, actually and reasonably incurred by that person or company in connection with services provided by that person or company to the mutual fund, if

- (a) those fees, judgments and amounts were not incurred as a result of a breach of the standard of care described in subsection (1) or (2); and
- (b) the mutual fund has reasonable grounds to believe that the action or inaction that caused the payment of the fees, judgments and amounts paid in settlement was in the best interests of the mutual fund.

(4) A mutual fund shall not incur the cost of any portion of liability insurance that insures a

person or company for a liability except to the extent that the person or company may be indemnified for that liability under this section.

- (5) This section does not apply to any losses to a mutual fund or securityholder arising out of an action or inaction by a custodian or sub-custodian of the mutual fund or by a director of the mutual fund.

PART 5 FUNDAMENTAL CHANGES

5.1 Matters Requiring Securityholder Approval - The prior approval of the securityholders of a mutual fund, given as provided in section 5.2, is required before

- (a) the basis of the calculation of a fee or expense that is charged to the mutual fund is changed in a way that could result in an increase in charges to the mutual fund;
- (b) the manager of the mutual fund is changed, unless the new manager is an affiliate of the current manager;
- (c) the fundamental investment objectives of the mutual fund are changed;
- (d) the auditor of the mutual fund is changed;
- (e) the mutual fund decreases the frequency of the calculation of its net asset value per security;
- (f) the mutual fund undertakes a reorganization with, or transfers its assets to, another mutual fund, if
 - (i) the mutual fund ceases to continue after the reorganization or transfer of assets, and
 - (ii) the transaction results in the securityholders of the mutual fund becoming securityholders in the other mutual fund; or
- (g) the mutual fund undertakes a reorganization with, or acquires assets from, another mutual fund, if
 - (i) the mutual fund continues after the reorganization or acquisition of assets,
 - (ii) the transaction results in the securityholders of the other mutual fund becoming securityholders in the mutual fund, and
 - (iii) the transaction would be a significant change to the mutual fund.

5.2 Approval of Securityholders

- (1) Unless a greater majority is required by the constating documents of the mutual fund, the laws applicable to the mutual fund or an applicable agreement, the approval of the securityholders of the mutual fund to a matter referred to in section 5.1 shall be given by a resolution passed by at least a majority of the votes cast at a meeting of the securityholders of the mutual fund duly called and held to consider the matter.
- (2) Despite subsection (1), the holders of securities of a class or series of a class of securities of a mutual fund shall vote separately as a class or series of a class on a matter referred to in section 5.1 if that class or series of a class is affected by the action referred to in section 5.1 in a manner different from holders of securities of other classes or series of a class.
- (3) Despite section 5.1 and subsections (1) and (2), if the constating documents of the mutual fund so provide, the holders of securities of a class or series of a class of securities of a mutual fund shall not be entitled to vote on a matter referred to in section 5.1 if they, as holders of the class or series of a class, are not affected by the action referred to in section 5.1.

5.3 Circumstances in Which Approval of Securityholders Not Required

- (1) Despite section 5.1, the approval of securityholders of a mutual fund is not required to be obtained for a change referred to in paragraph 5.1(a)
 - (a) if
 - (i) the mutual fund is at arm's length to the person or company charging the fee or expense to the mutual fund referred to in paragraph 5.1(a) that is changed,
 - (ii) the simplified prospectus of the mutual fund discloses that, although the approval of securityholders will not be obtained before making the changes, securityholders will be sent a written notice at least 60 days before the effective date of the change that is to be made that could result in an increase in charges to the mutual fund, and
 - (iii) the notice referred to in subparagraph (ii) is actually sent

60 days before the effective date of the change; or

- (b) if
 - (i) the mutual fund is permitted by this Instrument to be described as a "no-load" fund,
 - (ii) the simplified prospectus of the mutual fund discloses that securityholders will be sent a written notice at least 60 days before the effective date of a change that is to be made that could result in an increase in charges to the mutual fund, and
 - (iii) the notice referred to in subparagraph (ii) is actually sent 60 days before the effective date of the change.

5.4 Formalities Concerning Meetings of Securityholders

- (1) A meeting of securityholders of a mutual fund called to consider any matter referred to in section 5.1 shall be called on written notice sent not less than 21 days before the date of the meeting.
- (2) The notice referred to in subsection (1) shall contain or be accompanied by a statement that includes
 - (a) a description of the change or transaction proposed to be made or entered into and, if the matter is one referred to in paragraph 5.1(a), the effect that the change would have had on the management expense ratio of the mutual fund had the change been in force throughout the mutual fund's last completed financial year;
 - (b) the date of the proposed implementation of the change or transaction; and
 - (c) all other information and documents necessary to comply with the applicable proxy solicitation requirements of securities legislation for the meeting.

5.5 Approval of Securities Regulatory Authority

- (1) The approval of the securities regulatory authority is required before
 - (a) the manager of a mutual fund is changed, unless the new manager is an affiliate of the current manager;

- (b) a reorganization or transfer of assets of a mutual fund is implemented, if the transaction will result in the securityholders of the mutual fund becoming securityholders in another mutual fund;
 - (c) a change of the custodian of a mutual fund is implemented, if there has been or will be, in connection with the proposed change, a change of the type referred to in paragraph (a); or
 - (d) a mutual fund suspends, other than under section 10.6, the rights of securityholders to request that the mutual fund redeem their securities.
- (2) No person or company, or affiliate or associate of that person or company, may act as manager of a mutual fund if that person or company, or an affiliate or associate of that person or company, has acquired control of a manager of the mutual fund unless the approval of the securities regulatory authority has been obtained for the change in control.

5.6 Pre-Approved Reorganizations and Transfers

- (1) Despite subsection 5.5(1), the approval of the securities regulatory authority is not required to implement a transaction referred to in paragraph 5.5(1)(b) if
 - (a) the mutual fund is being reorganized with, or its assets are being transferred to, another mutual fund to which this Instrument applies and that
 - (i) is managed by the manager, or an affiliate of the manager, of the mutual fund,
 - (ii) a reasonable person would consider to have substantially similar fundamental investment objectives, valuation procedures and fee structure as the mutual fund,
 - (iii) is not in default of any requirement of securities legislation, and
 - (iv) has a current simplified prospectus in the local jurisdiction;
 - (b) the transaction is a "qualifying exchange" within the meaning of section 132.2 of the ITA or is a tax-deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the ITA;

- (c) the transaction contemplates the wind-up of the mutual fund as soon as reasonably possible following the transaction;
 - (d) the portfolio assets of the mutual fund to be acquired by the other mutual fund as part of the transaction
 - (i) may be acquired by the other mutual fund in compliance with this Instrument, and
 - (ii) are acceptable to the portfolio adviser of the other mutual fund and consistent with the other mutual fund's fundamental investment objectives;
 - (e) the transaction is approved
 - (i) by the securityholders of the mutual fund in accordance with paragraph 5.1(f), and
 - (ii) if required, by the securityholders of the other mutual fund in accordance with paragraph 5.1(g);
 - (f) the materials sent to securityholders of the mutual fund in connection with the approval under paragraph 5.1(f) include
 - (i) a circular that, in addition to other requirements prescribed by law, describes the proposed transaction, the mutual fund into which the mutual fund will be reorganized, the income tax considerations for the mutual funds participating in the transaction and their securityholders, and, if the mutual fund is a corporation and the transaction involves its shareholders becoming securityholders of a mutual fund that is established as a trust, a description of the material differences between being a shareholder of a corporation and being a securityholder of a trust,
 - (ii) if not previously sent to all securityholders, the current simplified prospectus and the most recent annual and interim financial statements that have been made public for the mutual fund into which the mutual fund will be reorganized, and
 - (iii) a statement that securityholders may obtain an annual information form for the mutual fund into which the mutual fund will be reorganized by contacting that mutual fund at a specified address or telephone number;
 - (g) the mutual fund has complied with section 5.10 in connection with the making of the decision to proceed with the transaction by the board of directors of the manager of the mutual fund or of the mutual fund;
 - (h) the mutual funds participating in the transaction bear none of the costs and expenses associated with the transaction; and
 - (i) securityholders of the mutual fund continue to have the right to redeem securities of the mutual fund up to the close of business on the business day immediately before the effective date of the transaction.
- (2) A mutual fund that has continued after a transaction described in paragraph 5.5(1)(b) shall, if the audit report accompanying its audited financial statements for its first completed financial year after the transaction contains a reservation in respect of the value of the portfolio assets acquired by the mutual fund in the transaction, send a copy of those financial statements to each person or company that was a securityholder of a mutual fund that was terminated as a result of the transaction and that is not a securityholder of the mutual fund.

5.7 Applications

- (1) An application for an approval required under section 5.5 shall contain,
 - (a) if the application is required by paragraph 5.5(1)(a) or subsection 5.5(2),
 - (i) details of the proposed transaction,
 - (ii) details of the proposed new manager or the person or company proposing to acquire control of the manager,
 - (iii) as applicable, the names, residence addresses and birthdates of
 - (A) all proposed new partners, directors or

- officers of the manager,
 - (B) all partners, directors or officers of the person or company proposing to acquire control of the manager,
 - (C) any proposed new individual trustee of the mutual fund, and
 - (D) any new directors or officers of the mutual fund,
 - (iv) all information necessary to permit the securities regulatory authority to conduct security checks on the individuals referred to in subparagraph (iii),
 - (v) sufficient information to establish the integrity and experience of the persons or companies referred to in subparagraphs (ii) and (iii), and
 - (vi) details of how the proposed transaction will affect the management and administration of the mutual fund;
 - (b) if the application is required by paragraph 5.5(1)(b),
 - (i) details of the proposed transaction,
 - (ii) details of the total annual returns of each of the mutual funds for each of the previous five years,
 - (iii) a description of the differences between the fundamental investment objectives, investment strategies, valuation procedures and fee structure of each of the mutual funds and any other material differences between the mutual funds, and
 - (iv) a description of those elements of the proposed transaction that make section 5.6 inapplicable;
 - (c) if the application is required by paragraph 5.5(1)(c), sufficient information to establish that the proposed custodial arrangements will be in compliance with Part 6;
 - (d) if the application relates to a matter that would constitute a significant change for the mutual fund, a draft of an amendment to the simplified prospectus of the mutual fund reflecting the change; and
 - (e) if the matter is one that requires the approval of securityholders, confirmation that the approval has been obtained or will be obtained before the change is implemented.
- (2) A mutual fund that applies for an approval under paragraph 5.5(1)(d) shall
- (a) make that application to the securities regulatory authority or regulator in the jurisdiction in which the head office or registered office of the mutual fund is situate; and
 - (b) concurrently file a copy of the application so made with the securities regulatory authority or the regulator in the local jurisdiction if the head office or registered office of the mutual fund is not situated in the local jurisdiction.
- (3) A mutual fund that has complied with subsection (2) in the local jurisdiction may suspend the right of securityholders to request that the mutual fund redeem their securities if
- (a) the securities regulatory authority or regulator in the jurisdiction in which the head office or registered office of the mutual fund is situate has granted approval to the application made under paragraph (2)(a); and
 - (b) the securities regulatory authority or regulator in the local jurisdiction has not notified the mutual fund, by the close of business on the business day immediately following the day on which the copy of the application referred to in paragraph (2)(b) was received, either that
 - (i) the securities regulatory authority or regulator has refused to grant approval to the application, or
 - (ii) this subsection may not be relied upon by the mutual fund in the local jurisdiction.

5.8 Matters Requiring Notice

- (1) No person or company that is a manager of a mutual fund may continue to act as manager of the mutual fund following a direct or indirect

change of control of the person or company unless

- (a) notice of the change of control was given to all securityholders of the mutual fund at least 60 days before the change; and
- (b) the notice referred to in paragraph (a) contains the information that would be required by law to be provided to securityholders if securityholder approval of the change were required to be obtained.

- (2) No mutual fund shall terminate unless notice of the termination is given to all securityholders of the mutual fund at least 60 days before termination.
- (3) The manager of a mutual fund that has terminated shall give notice of the termination to the securities regulatory authority within 30 days of the termination.

5.9 Relief from Certain Regulatory Requirements

- (1) The mutual fund conflict of interest investment restrictions and the mutual fund conflict of interest reporting requirements do not apply to a transaction referred to in paragraph 5.5(1)(b) if the approval of the securities regulatory authority has been given to the transaction.
- (2) The mutual fund conflict of interest investment restrictions and the mutual fund conflict of interest reporting requirements do not apply to a transaction described in section 5.6.

5.10 Significant Changes - Upon the occurrence of a significant change with respect to a mutual fund, the mutual fund shall

- (a) comply with the timely disclosure requirements in connection with the significant change as if the significant change were a material change in the affairs of the mutual fund; and
- (b) file an amendment to its simplified prospectus that discloses the significant change in accordance with the requirements of securities legislation as if the amendment were required to be filed under securities legislation.

PART 6 CUSTODIANSHIP OF PORTFOLIO ASSETS

6.1 General

- (1) Except as provided in sections 6.8 and 6.9, all portfolio assets of a mutual fund shall be held under the custodianship of one custodian that satisfies the requirements of section 6.2.

(2) Except as provided in subsection 6.5(3) and sections 6.8 and 6.9, portfolio assets of a mutual fund shall be held

- (a) in Canada by the custodian or a sub-custodian of the mutual fund; or
- (b) outside Canada by the custodian or a sub-custodian of the mutual fund, if appropriate to facilitate portfolio transactions of the mutual fund outside Canada.

(3) The custodian or a sub-custodian of a mutual fund may appoint one or more sub-custodians to hold portfolio assets of the mutual fund, if, for each appointment,

- (a) written consent to the appointment has been provided by the mutual fund and, if the appointment is by a sub-custodian, the custodian of the mutual fund;
- (b) the sub-custodian that is to be appointed is a person or company described in section 6.2 or 6.3, as applicable;
- (c) the arrangements under which a sub-custodian is appointed are such that the mutual fund may enforce rights directly, or require the custodian or a sub-custodian to enforce rights on behalf of the mutual fund, to the portfolio assets held by the appointed sub-custodian; and
- (d) the appointment is otherwise in compliance with this Instrument.

(4) The written consent referred to in paragraph (3)(a) may be in the form of a general consent, contained in the agreement governing the relationship between the mutual fund and the custodian, or the custodian and the sub-custodian, to the appointment of persons or companies that are part of an international network of sub-custodians within the organization of the appointed custodian or sub-custodian.

(5) A custodian or sub-custodian shall provide to the mutual fund a list of each person or company that is appointed sub-custodian under a general consent referred to in subsection (4).

(6) Despite any other provisions of this Part, the manager of a mutual fund shall not act as custodian or sub-custodian of the mutual fund.

6.2 Entities Qualified to Act as Custodian or Sub-Custodian for Assets Held in Canada - The custodian of a mutual fund, and a sub-custodian of a

mutual fund that is to hold portfolio assets of the mutual fund in Canada, shall be one of the following:

1. A bank listed in Schedule I or II of the *Bank Act* (Canada).
2. A trust company that is incorporated under the laws of Canada or a jurisdiction and licensed or registered under the laws of Canada or a jurisdiction, and that has shareholders' equity, as reported in its most recent audited financial statements, of not less than \$10,000,000.
3. A company that is incorporated under the laws of Canada or of a jurisdiction, and that is an affiliate of a bank or trust company referred to in paragraph 1 or 2, if
 - (a) the company has shareholders' equity, as reported in its most recent audited financial statements that have been made public, of not less than \$10,000,000; or
 - (b) the bank or trust company has assumed responsibility for all of the custodial obligations of the company in respect of that mutual fund.

6.3 Entities Qualified to Act as Sub-Custodian for Assets Held outside Canada - A sub-custodian of a mutual fund that is to hold portfolio assets of the mutual fund outside of Canada shall be one of the following:

1. An entity referred to in section 6.2.
2. An entity that
 - (a) is incorporated or organized under the laws of a country, or a political subdivision of a country, other than Canada;
 - (b) is regulated as a banking institution or trust company by the government, or an agency of the government, of the country under whose laws it is incorporated or organized or a political subdivision of that country; and
 - (c) has shareholders' equity, as reported in its most recent audited financial statements, of not less than the equivalent of \$100,000,000.
3. An affiliate of an entity referred to in paragraph 1 or 2 if
 - (a) the affiliate has shareholders' equity, as reported in its most recent audited financial statements that have been made public, of not less than the equivalent of \$100,000,000; or

- (b) the entity referred to in paragraph 1 or 2 has assumed responsibility for all of the custodial obligations of the subsidiary in respect of that mutual fund.

6.4 Contents of Custodian and Sub-Custodian Agreements

- (1) All custodian agreements and sub-custodian agreements of a mutual fund shall provide for matters relating to
 - (a) the requirements concerning the location of portfolio assets contained in subsection 6.1(2);
 - (b) the appointment of a sub-custodian required by subsection 6.1(3);
 - (c) the requirements concerning lists of sub-custodians contained in subsection 6.1(5);
 - (d) the method of holding portfolio assets required by section 6.5 and subsection 6.8(4);
 - (e) the standard of care and responsibility for loss required by section 6.6; and
 - (f) the review and compliance reports required by section 6.7.
- (2) A sub-custodian agreement concerning the portfolio assets of a mutual fund shall provide for the safekeeping of portfolio assets on terms consistent with the custodian agreement of the mutual fund.
- (3) No custodian agreement or sub-custodian agreement concerning the portfolio assets of a mutual fund shall
 - (a) provide for the creation of any security interest on the portfolio assets of the mutual fund except for a good faith claim for payment of the fees and expenses of the custodian or sub-custodian for acting in that capacity or to secure the obligations of the mutual fund to repay borrowings by the mutual fund from a custodian or sub-custodian for the purpose of settling portfolio transactions; or
 - (b) contain a provision that would require the payment of a fee to the custodian or sub-custodian for the transfer of the beneficial ownership of portfolio assets of the mutual fund, other than for safekeeping and administrative services in connection with acting as custodian or sub-custodian.

6.5 Holding of Portfolio Assets and Payment of Fees

- (1) Except as provided in subsections (2) and (3) and sections 6.8 and 6.9, portfolio assets of a mutual fund not registered in the name of the mutual fund shall be registered in the name of the custodian or a sub-custodian of the mutual fund or any of their respective nominees with an account number or other designation in the records of the custodian sufficient to show that the beneficial ownership of the portfolio assets is vested in the mutual fund.
- (2) Portfolio assets of a mutual fund issued in bearer form shall be designated or segregated by the custodian or a sub-custodian of the mutual fund or the applicable nominee so as to show that the beneficial ownership of the property is vested in the mutual fund.
- (3) A custodian or sub-custodian of a mutual fund may deposit portfolio assets of the mutual fund with a depository, or a clearing agency, that operates a book-based system.
- (4) The custodian or sub-custodian of a mutual fund arranging for the deposit of portfolio assets of the mutual fund with, and their delivery to, a depository, or clearing agency, that operates a book-based system shall ensure that the records of any of the applicable participants in that book-based system or the custodian contain an account number or other designation sufficient to show that the beneficial ownership of the portfolio assets is vested in the mutual fund.
- (5) A mutual fund shall not pay a fee to a custodian or sub-custodian for the transfer of beneficial ownership of portfolio assets of the mutual fund other than for safekeeping and administrative services in connection with acting as custodian or sub-custodian.

6.6 Standard of Care

- (1) The custodian and each sub-custodian of a mutual fund, in carrying out their duties concerning the safekeeping of, and dealing with, the portfolio assets of the mutual fund, shall exercise
 - (a) the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances; or
 - (b) at least the same degree of care as they exercise with respect to their own property of a similar kind, if this is a higher degree of care than the degree of care referred to in paragraph (a).
- (2) A mutual fund shall not relieve the custodian or a sub-custodian of the mutual fund from liability to the mutual fund or to a

securityholder of the mutual fund for loss that arises out of the failure of the custodian or sub-custodian to exercise the standard of care imposed by subsection (1).

- (3) A mutual fund may indemnify a custodian or sub-custodian against legal fees, judgments and amounts paid in settlement, actually and reasonably incurred by that entity in connection with custodial or sub-custodial services provided by that entity to the mutual fund, if those fees, judgments and amounts were not incurred as a result of a breach of the standard of care described in subsection (1).
- (4) A mutual fund shall not incur the cost of any portion of liability insurance that insures a custodian or sub-custodian for a liability, except to the extent that the custodian or sub-custodian may be indemnified for that liability under this section.

6.7 Review and Compliance Reports

- (1) The custodian of a mutual fund shall, on a periodic basis not less frequently than annually,
 - (a) review the custodian agreement and all sub-custodian agreements of the mutual fund to determine if those agreements are in compliance with this Part;
 - (b) make reasonable enquiries as to whether each sub-custodian satisfies the applicable requirements of section 6.2 or 6.3; and
 - (c) make or cause to be made any changes that may be necessary to ensure that
 - (i) the custodian and sub-custodian agreements are in compliance with this Part; and
 - (ii) all sub-custodians of the mutual fund satisfy the applicable requirements of section 6.2 or 6.3.
- (2) The custodian of a mutual fund shall, not more than 60 days after the end of each financial year of the mutual fund, advise the mutual fund in writing
 - (a) of the names and addresses of all sub-custodians of the mutual fund;
 - (b) whether the custodian and sub-custodian agreements are in compliance with this Part; and

(c) whether, to the best of the knowledge and belief of the custodian, each sub-custodian satisfies the applicable requirements of section 6.2 or 6.3.

(3) A copy of the report referred to in subsection (2) shall be delivered by or on behalf of the mutual fund to the securities regulatory authority within 30 days after the filing of the annual financial statements of the mutual fund.

6.8 Custodial Provisions relating to Derivatives

(1) A mutual fund may deposit portfolio assets as margin for transactions in Canada involving clearing corporation options, options on futures or standardized futures with a dealer that is a member of an SRO that is a participating member of CIPF if the amount of margin deposited does not, when aggregated with the amount of margin already held by the dealer on behalf of the mutual fund, exceed 10 percent of the net assets of the mutual fund, taken at market value as at the time of deposit.

(2) A mutual fund may deposit portfolio assets with a dealer as margin for transactions outside Canada involving clearing corporation options, options on futures or standardized futures if

(a) in the case of standardized futures and options on futures, the dealer is a member of a futures exchange or, in the case of clearing corporation options, is a member of a stock exchange, and, as a result in either case, is subject to a regulatory audit;

(b) the dealer has a net worth, determined from its most recent audited financial statements that have been made public, in excess of the equivalent of \$50 million; and

(c) the amount of margin deposited does not, when aggregated with the amount of margin already held by the dealer on behalf of the mutual fund, exceed 10 percent of the net assets of the mutual fund, taken at market value as at the time of deposit.

(3) A mutual fund may deposit with its counterparty portfolio assets over which it has granted a security interest in connection with a particular specified derivatives transaction.

(4) The agreement by which portfolio assets of a mutual fund are deposited in accordance with this section shall require the person or company holding portfolio assets of the mutual fund so deposited to ensure that its

records show that mutual fund is the beneficial owner of the portfolio assets.

6.9 Separate Account for Paying Expenses - A mutual fund may deposit cash in Canada with an institution referred to in paragraph 1 or 2 of section 6.2 to facilitate the payment of regular operating expenses of the mutual fund.

PART 7 INCENTIVE FEES

7.1 Incentive Fees - A mutual fund shall not pay, or enter into arrangements that would require it to pay, and no securities of a mutual fund shall be sold on the basis that an investor would be required to pay, a fee that is determined by the performance of the mutual fund, unless

(a) the fee is calculated with reference to a benchmark or index that

(i) reflects the market sectors in which the mutual fund invests according to its fundamental investment objectives,

(ii) is available to persons or companies other than the mutual fund and persons providing services to it, and

(iii) is a total return benchmark or index;

(b) the payment of the fee is based upon a comparison of the cumulative total return of the mutual fund against the cumulative total percentage increase or decrease of the benchmark or index for the period that began immediately after the last period for which the performance fee was paid; and

(c) the method of calculation of the fee and details of the composition of the benchmark or index are described in the simplified prospectus of the mutual fund.

7.2 Multiple Portfolio Advisers - Section 7.1 applies to fees payable to a portfolio adviser of a mutual fund that has more than one portfolio adviser, if the fees are calculated on the basis of the performance of the portfolio assets under management by that portfolio adviser, as if those portfolio assets were a separate mutual fund.

PART 8 CONTRACTUAL PLANS

8.1 Contractual Plans - No securities of a mutual fund shall be sold by way of a contractual plan unless

(a) the contractual plan was established, and its terms described in a prospectus or simplified prospectus that was filed with the securities regulatory authority, before the date that this Instrument came into force;

- (b) there have been no changes made to the contractual plan or the rights of securityholders under the contractual plan since the date that this Instrument came into force; and
- (c) the contractual plan has continued to be operated in the same manner after the date that this Instrument came into force as it was on that date.

(6) Despite subsection (5), a mutual fund may provide that a purchase order for securities of the mutual fund received at an order receipt office of the mutual fund after a specified time on a business day, or on a day that is not a business day, will be considered to be received by the mutual fund on the next business day following the day of actual receipt.

(7) A principal distributor or participating dealer shall ensure that a copy of each purchase order received in a jurisdiction is sent, by the time it is sent to the order receipt office of the mutual fund under subsection (2), to a person responsible for the supervision of trades made on behalf of clients for the principal distributor or participating dealer in the jurisdiction.

PART 9 SALE OF SECURITIES OF A MUTUAL FUND

9.1 Transmission and Receipt of Purchase Orders

- (1) Each purchase order for securities of a mutual fund received by a participating dealer at a location that is not its principal office shall, on the day the order is received, be sent by same day or next day courier, same day or next day priority post, telephone or electronic means, without charge to the person or company placing the order or to the mutual fund, to the principal office of the participating dealer.
- (2) Each purchase order for securities of a mutual fund received by a participating dealer at its principal office or by the principal distributor of the mutual fund at a location that is not an order receipt office of the mutual fund shall, on the day the order is received, be sent by same day or next day courier, same day or next day priority post, telephone or electronic means, without charge to the person or company placing the order or to the mutual fund, to an order receipt office of the mutual fund.
- (3) Despite subsections (1) and (2), a purchase order for securities of a mutual fund received at a location referred to in those subsections after normal business hours on a business day, or on a day that is not a business day, may be sent, in the manner and to the place required by those subsections, on the next business day.
- (4) A participating dealer or principal distributor that sends purchase orders electronically may
 - (a) specify a time on a business day by which a purchase order must be received in order that it be sent electronically on that business day; and
 - (b) despite subsections (1) and (2), send electronically on the next business day a purchase order received after the time so specified.
- (5) A mutual fund is deemed to have received a purchase order for securities of the mutual fund when the order is received at an order receipt office of the mutual fund.

9.2 Acceptance of Purchase Orders - A mutual fund may reject a purchase order for the purchase of securities of the mutual fund if

- (a) the rejection of the order is made no later than one business day after receipt by the mutual fund of the order;
- (b) on rejection of the order, all cash received with the order is refunded immediately; and
- (c) the simplified prospectus of the mutual fund states that the right to reject a purchase order for securities of the mutual fund is reserved and reflects the requirements of paragraphs (a) and (b).

9.3 Issue Price of Securities - The issue price of a security of a mutual fund to which a purchase order pertains shall be the net asset value per security of that class, or series of a class, next determined after the receipt by the mutual fund of the order.

9.4 Delivery of Funds and Settlement

- (1) A principal distributor or participating dealer shall forward any cash received for payment of the issue price of securities of a mutual fund to an order receipt office of the mutual fund so that the cash arrives at the order receipt office as soon as practicable and in any event no later than the third business day after the pricing date.
- (2) Payment of the issue price of securities of a mutual fund shall be made to the mutual fund on or before the third business day after the pricing date for the securities by
 - (a) a payment of cash in a currency in which the net asset value per security of the mutual fund is calculated; or

- (b) good delivery of securities if
 - (i) the mutual fund would at the time of payment be permitted to purchase those securities,
 - (ii) the securities are acceptable to the portfolio adviser of the mutual fund and consistent with the mutual fund's investment objectives, and
 - (iii) the value of the securities is at least equal to the issue price of the securities of the mutual fund for which they are payment, valued as if the securities were portfolio assets of the mutual fund.

- (3) If payment of the issue price of securities of a mutual fund is made by the good delivery of securities as contemplated by paragraph (2)(b), the statement of portfolio transactions next prepared by the mutual fund shall include a note providing details of the securities so delivered.
- (4) If payment of the issue price of the securities of a mutual fund to which a purchase order pertains is not made on or before the third business day after the pricing date or if the mutual fund has been paid the issue price by a cheque or method of payment that is subsequently not honoured,
 - (a) the mutual fund shall redeem the securities to which the purchase order pertains as if it had received an order for the redemption of the securities immediately before the close of business on the fourth business day after the pricing date or on the day on which the mutual fund first knows that the method of payment will not be honoured; and
 - (b) the amount of the redemption proceeds derived from the redemption shall be applied to reduce the amount owing to the mutual fund on the purchase of the securities and any banking costs incurred by the mutual fund in connection with the dishonoured cheque.
- (5) If the amount of the redemption proceeds referred to in subsection (4) exceeds the aggregate of issue price of the securities and any banking costs incurred by the mutual fund in connection with the dishonoured cheque, the difference shall belong to the mutual fund.
- (6) If the amount of the redemption proceeds referred to in subsection (4) is less than the

issue price of the securities and any banking costs incurred by the mutual fund in connection with the dishonoured cheque,

- (a) if the mutual fund has a principal distributor, the principal distributor shall pay, immediately upon notification by the mutual fund, to the mutual fund the amount of the deficiency; or
- (b) if the mutual fund does not have a principal distributor, the participating dealer that delivered the relevant purchase order to the mutual fund shall pay immediately, upon notification by the mutual fund, to the mutual fund the amount of the deficiency.

PART 10 REDEMPTION OF SECURITIES OF A MUTUAL FUND

10.1 Requirements for Redemptions

- (1) No mutual fund shall pay redemption proceeds unless
 - (a) if the security of the mutual fund to be redeemed is represented by a certificate, the mutual fund has received the certificate or appropriate indemnities in connection with a lost certificate; and
 - (b) either
 - (i) the mutual fund has received a written redemption order, duly completed and executed by or on behalf of the securityholder, or
 - (ii) the mutual fund permits the making of redemption orders by telephone or electronic means by, or on behalf of, a securityholder who has made prior arrangements with the mutual fund in that regard and the relevant redemption order is made in compliance with those arrangements.
- (2) A mutual fund may establish reasonable requirements applicable to securityholders who wish to have the mutual fund redeem securities, not contrary to this Instrument, as to procedures to be followed and documents to be delivered
 - (a) by the time of delivery of a redemption order to an order receipt office of the mutual fund; or

- (b) by the time of payment of redemption proceeds.
 - (3) The manager shall provide to securityholders of a mutual fund at least annually a statement outlining the requirements referred to in subsection (1) and established by the mutual fund under subsection (2), and containing
 - (a) detailed reference to all documentation required for redemption of securities of the mutual fund;
 - (b) detailed instructions on the manner in which documentation is to be delivered to participating dealers or the mutual fund;
 - (c) a description of all other procedural or communication requirements; and
 - (d) an explanation of the consequences of failing to meet timing requirements.
 - (4) The statement referred to in subsection (3) is not required to be separately provided, in any year, if the requirements are described in the mutual fund's annual financial statements or annual report, or in a simplified prospectus that is sent to all securityholders in that year.
- (4) A participating dealer or principal distributor that sends redemption orders electronically may
 - (a) specify a time on a business day by which a redemption order must be received in order that it be sent electronically on that business day; and
 - (b) despite subsections (1) and (2), send electronically on the next business day a redemption order received after the time so specified.
 - (5) A mutual fund is deemed to have received a redemption order for securities of the mutual fund when the order is received at an order receipt office of the mutual fund or all requirements of the mutual fund established under paragraph 10.1(2)(a) have been satisfied, whichever is later.
 - (6) If a mutual fund determines that its requirements established under paragraph 10.1(2)(a) have not been satisfied, the mutual fund shall notify the securityholder making the redemption order, by the close of business on the business day after the date of the delivery to the mutual fund of the incomplete redemption order, that its requirements established under paragraph 10.1(2)(a) have not been satisfied and shall specify procedures still to be followed or the documents still to be delivered by that securityholder.
 - (7) Despite subsection (5), a mutual fund may provide that orders for the redemption of securities that are received at an order receipt office of the mutual fund after a specified time on a business day, or on a day that is not a business day, will be considered to be received by the mutual fund on the next business day following the day of actual receipt.

10.2 Transmission and Receipt of Redemption Orders

- (1) Each redemption order for securities of a mutual fund received by a participating dealer at a location that is not its principal office shall, on the day the order is received, be sent by same day or next day courier, same day or next day priority post, telephone or electronic means, without charge to the relevant securityholder or to the mutual fund, to the principal office of the participating dealer.
- (2) Each redemption order for securities of a mutual fund received by a participating dealer at its principal office or by the principal distributor of the mutual fund at a location that is not an order receipt office of the mutual fund shall, on the day the order is received, be sent by same day or next day courier, same day or next day priority post, telephone or electronic means, without charge to the relevant securityholder or to the mutual fund, to an order receipt office of the mutual fund.
- (3) Despite subsections (1) and (2), a redemption order for securities of a mutual fund received at a location referred to in those subsections after normal business hours on a business day, or on a day that is not a business day, may be sent, in the manner and to the place required by those subsections, on the next business day.

10.3 Redemption Price of Securities - The redemption price of a security of a mutual fund to which a redemption order pertains shall be the net asset value of a security of that class, or series of a class, next determined after the receipt by the mutual fund of the order.

10.4 Payment of Redemption Price

- (1) Subject to subsection 10.1(1) and to compliance with any requirements established by the mutual fund under paragraph 10.1(2)(b), a mutual fund shall pay the redemption price for securities that are the subject of a redemption order
 - (a) within three business days after the date of calculation of the net asset

value per security used in establishing the redemption price; or

the mutual fund for conversion into that currency and delivery forthwith to the securityholder.

- (b) if payment of the redemption price was not made at the time referred to in paragraph (a) because a requirement established under paragraph 10.1(2)(b) or a requirement of subsection 10.1(1) had not been satisfied, within three business days of

- (i) the satisfaction of the relevant requirement, or
- (ii) the decision by the mutual fund to waive the requirement, if the requirement was a requirement established under paragraph 10.1(2)(b).

- (2) The redemption price of a security, less any applicable investor fees, shall be paid to or to the order of the securityholder of the security.

- (3) A mutual fund shall pay the redemption price of a security

- (a) in the currency in which the net asset value per security of the redeemed security was denominated; or

- (b) with the prior written consent of the securityholder, by making good delivery to the securityholder of portfolio assets, the value of which is equal to the amount at which those portfolio assets were valued in calculating the net asset value per security used to establish the redemption price.

- (4) If payment of the redemption price of securities of a mutual fund is made under paragraph (3)(b), the statement of portfolio transactions next prepared by the mutual fund shall include a note describing the portfolio assets delivered to the securityholder and the value assigned to the portfolio assets.

- (5) If the redemption price of a security is paid in currency, a mutual fund is deemed to have made payment

- (a) when the mutual fund, its manager or principal distributor mails a cheque or transmits funds in the required amount to or to the order of the securityholder of the securities; or

- (b) if the securityholder has requested that redemption proceeds be delivered in a currency other than that permitted in subsection (3), when the mutual fund delivers the redemption proceeds to the manager or principal distributor of

10.5 Failure to Complete Redemption Order

- (1) If a requirement of a mutual fund referred to in subsection 10.1(1) or established under paragraph 10.1(2)(b) has not been satisfied on or before the close of business on the tenth business day after the date of the redemption of the relevant securities, and, in the case of a requirement established under paragraph 10.1(2)(b), the mutual fund does not waive satisfaction of the requirement, the mutual fund shall

- (a) issue, to the person or company that immediately before the redemption held the securities that were redeemed, a number of securities equal to the number of securities that were redeemed, as if the mutual fund had received from the person or company on the tenth business day after the redemption, and accepted immediately before the close of business on the tenth business day after the redemption, an order for the purchase of that number of securities; and

- (b) apply the amount of the redemption proceeds to the payment of the issue price of the securities.

- (2) If the amount of the issue price of the securities referred to in subsection (1) is less than the redemption proceeds, the difference shall belong to the mutual fund.

- (3) If the amount of the issue price of the securities referred to in subsection (1) exceeds the redemption proceeds

- (a) if the mutual fund has a principal distributor, the principal distributor shall pay immediately to the mutual fund the amount of the deficiency;

- (b) if the mutual fund does not have a principal distributor, the participating dealer that delivered the relevant redemption order to the mutual fund shall pay immediately to the mutual fund the amount of the deficiency; or

- (c) if the mutual fund has no principal distributor and no dealer delivered the relevant redemption order to the mutual fund, the manager of the mutual fund shall pay immediately to the mutual fund the amount of the deficiency.

10.6 Suspension of Redemptions

- (1) A mutual fund may suspend the right of securityholders to request that the mutual fund redeem its securities for the whole or any part of a period during which normal trading is suspended on a stock exchange, options exchange or futures exchange within or outside Canada on which securities are listed and traded, or on which specified derivatives are traded, if those securities or specified derivatives represent more than 50 percent by value, or underlying market exposure, of the total assets of the mutual fund without allowance for liabilities and if those securities or specified derivatives are not traded on any other exchange that represents a reasonably practical alternative for the mutual fund.
- (2) A mutual fund that has an obligation to pay the redemption price for securities that have been redeemed in accordance with subsection 10.4(1) may postpone payment during a period in which the right of securityholders to request redemption of their securities is suspended, whether that suspension was made under subsection (1) or pursuant to an approval of the securities regulatory authority.
- (3) A mutual fund shall not accept a purchase order for securities of the mutual fund during a period in which it is exercising rights under subsection (1) or at a time in which it is relying on an approval of the securities regulatory authorities contemplated by paragraph 5.5(1)(d).

PART 11 COMMINGLING OF CASH

11.1 Principal Distributors

- (1) Cash received by a principal distributor of a mutual fund, or by a person or company providing services to the mutual fund or the principal distributor, for investment in, or on the redemption of, securities of the mutual fund, or on the distribution of assets of the mutual fund, until disbursed as permitted by subsection (3),
 - (a) shall be accounted for separately and be deposited in a trust account or trust accounts established and maintained in accordance with the requirements of section 11.3; and
 - (b) may be commingled only with cash received by the principal distributor or service provider for the sale or on the redemption of other mutual fund securities.
- (2) Except as permitted by subsection (3), the principal distributor or person or company

providing services to the mutual fund or principal distributor shall not use any of the cash referred to in subsection (1) to finance its own or any other operations in any way.

- (3) The principal distributor or person or company providing services to a mutual fund or principal distributor may withdraw cash from a trust account referred to in paragraph (1)(a) for the purpose of
 - (a) remitting to the mutual fund the amount or, if subsection (5) applies, the net amount, to be invested in the securities of the mutual fund;
 - (b) remitting to the relevant persons or companies redemption or distribution proceeds being paid on behalf of the mutual fund; or
 - (c) paying fees, charges and expenses that are payable by an investor in connection with the purchase, conversion, holding, transfer or redemption of securities of the mutual fund.
- (4) All interest earned on cash held in a trust account referred to in paragraph (1)(a) shall be paid to securityholders or to each of the mutual funds to which the trust account pertains, pro rata based on cash flow,
 - (a) no less frequently than monthly if the amount owing to a mutual fund or to a securityholder is \$10 or more; and
 - (b) no less frequently than once a year.
- (5) When making payments to a mutual fund, the principal distributor or service provider may offset the proceeds of redemption of securities of the mutual fund or amounts held for distributions to be paid on behalf of the mutual fund held in the trust account against amounts held in the trust account for investment in the mutual fund.

11.2 Participating Dealers

- (1) Cash received by a participating dealer, or by a person or company providing services to a participating dealer, for investment in, or on the redemption of, securities of a mutual fund, or on the distribution of assets of a mutual fund, until disbursed as permitted by subsection (3)
 - (a) shall be accounted for separately and shall be deposited in a trust account or trust accounts established and maintained in accordance with section 11.3; and

- (b) may be commingled only with cash received by the participating dealer or service provider for the sale or on the redemption of other mutual fund securities.
- (2) Except as permitted by subsection (3), the participating dealer or person or company providing services to the participating dealer shall not use any of the cash referred to subsection (1) to finance its own or any other operations in any way.
- (3) A participating dealer or person or company providing services to the participating dealer may withdraw cash from a trust account referred to in paragraph (1)(a) for the purpose of
 - (a) remitting to the mutual fund or the principal distributor of the mutual fund the amount or, if subsection (5) applies, the net amount, to be invested in the securities of the mutual fund;
 - (b) remitting to the relevant persons or companies redemption or distribution proceeds being paid on behalf of the mutual fund; or
 - (c) paying fees, charges and expenses that are payable by an investor in connection with the purchase, conversion, holding, transfer or redemption of securities of the mutual fund.
- (4) All interest earned on cash held in a trust account referred to in paragraph (1)(a) shall be paid to securityholders or to each of the mutual funds to which the trust account pertains, pro rata based on cash flow,
 - (a) no less frequently than monthly if the amount owing to a mutual fund or to a securityholder is \$10 or more; and
 - (b) no less frequently than once a year.
- (5) When making payments to a mutual fund, a participating dealer or service provider may offset the proceeds of redemption of securities of the mutual fund and amounts held for distributions to be paid on behalf of a mutual fund held in the trust account against amounts held in the trust account for investment in the mutual fund.
- (6) A participating dealer or person providing services to the participating dealer shall permit the mutual fund and the principal distributor, through their respective auditors or other designated representatives, to examine the books and records of the participating dealer to verify the compliance with this section of the

participating dealer or person providing services.

11.3 Trust Accounts - A principal distributor or participating dealer that deposits cash into a trust account in accordance with section 11.1 or 11.2 shall

- (a) advise, in writing, the financial institution with which the account is opened at the time of the opening of the account that
 - (i) the account is established for the purpose of holding client funds in trust,
 - (ii) the account is to be labelled by the financial institution as a "trust account",
 - (iii) the account is not to be accessed by any person other than authorized representatives of the principal distributor or participating dealer, and
 - (iv) the cash in the trust account may not be used to cover shortfalls in any accounts of the principal distributor or participating dealer;
- (b) ensure that the trust account bears interest at rates equivalent to comparable accounts of the financial institution; and
- (c) ensure that any charges against the trust account are not paid or reimbursed out of the trust account.

11.4 Exemption

- (1) Sections 11.1 and 11.2 do not apply to members of The Investment Dealers Association of Canada, The Alberta Stock Exchange, The Montreal Exchange, The Toronto Stock Exchange or the Vancouver Stock Exchange.
- (2) A participating dealer that is a member of an SRO referred to in subsection (1) shall permit the mutual fund and the principal distributor, through their respective auditors or other designated representatives, to examine the books and records of the participating dealer to verify the participating dealer's compliance with the requirements of its association or exchange that relate to the commingling of cash.

11.5 Right of Inspection - The mutual fund, its trustee, manager and principal distributor shall ensure that all contractual arrangements made between any of them and any person or company providing services to the mutual fund permit the representatives of the mutual fund, its manager and trustee to examine the books and records of those persons or companies in order to monitor compliance with this Instrument.

PART 12 COMPLIANCE REPORTS

12.1 Compliance Reports

- (1) A mutual fund that does not have a principal distributor shall complete and file, within 140 days after the financial year end of the mutual fund
 - (a) a report in the form contained in Appendix B-1 describing compliance by the mutual fund during that financial year with the applicable requirements of Parts 9, 10 and 11; and
 - (b) a report by the auditor of the mutual fund, in the form contained in Appendix B-1, concerning the report referred to in paragraph (a).
- (2) The principal distributor of a mutual fund shall complete and file, within 90 days after the financial year end of the principal distributor
 - (a) a report in the form contained in Appendix B-2 describing compliance by the principal distributor during that financial year with the applicable requirements of Parts 9, 10 and 11; and
 - (b) a report by the auditor of the principal distributor or by the auditor of the mutual fund, in the form contained in Appendix B-2, concerning the report referred to in paragraph (a).
- (3) Each participating dealer that distributes securities of a mutual fund in a financial year of the participating dealer shall complete and file, within 90 days after the end of that financial year
 - (a) a report in the form contained in Appendix B-3 describing compliance by the participating dealer during that financial year with the applicable requirements of Parts 9, 10 and 11 in connection with its distribution of securities of all mutual funds in that financial year; and
 - (b) a report by the auditor of the participating dealer, in the form contained in Appendix B-3, concerning the report referred to in paragraph (a).
- (4) Subsection (3) does not apply to members of The Investment Dealers Association of Canada, The Alberta Stock Exchange, The Montreal Exchange, The Toronto Stock Exchange or the Vancouver Stock Exchange.

PART 13 CALCULATION OF NET ASSET VALUE PER SECURITY

13.1 Frequency and Currency of Calculation of Net Asset Value per Security

- (1) The net asset value per security of a mutual fund shall be calculated
 - (a) if the mutual fund does not use specified derivatives, at least once in each week; or
 - (b) if the mutual fund uses specified derivatives, at least once every business day.
- (2) Despite subsection (1)(a), a mutual fund that, at the date that this Instrument comes into force, calculates net asset value per security no less frequently than once a month may continue to calculate net asset value per security at least as frequently as it does at that date.
- (3) The net asset value per security of a mutual fund shall be calculated in the currency of Canada or in the currency of the United States of America or both.
- (4) A mutual fund that arranges for the publication of its net asset value per security in the financial press shall ensure that its current net asset value per security is provided on a timely basis to the financial press.

13.2 Portfolio Transactions - Each transaction of purchase or sale of a portfolio asset effected by a mutual fund shall be reflected in a calculation of net asset value per security of the mutual fund made not later than the first calculation of net asset value per security made after the date on which the transaction becomes binding.

13.3 Capital Transactions - The issue or redemption of a security of a mutual fund shall be reflected in the first calculation of net asset value per security of the mutual fund made after the calculation of net asset value per security used to establish the issue or redemption price.

13.4 Valuation of Restricted Securities - A mutual fund shall value a restricted security at the lesser of

- (a) the value based on reported quotations of that restricted security in common use; and
- (b) that percentage of the market value of the securities of the class or series of a class of which the restricted security forms part that are not restricted securities, equal to the percentage that the mutual fund's acquisition cost was of the market value of the securities at the time of acquisition, but taking into account, if appropriate, the amount of time

remaining until the restricted securities will cease to be restricted securities.

13.5 Valuation of Specified Derivatives - A mutual fund shall value specified derivatives transactions and positions in accordance with the following principles:

1. A long position in an option or a debt-like security shall be valued at the current market value of the position.
2. For options written by a mutual fund
 - (a) the premium received by the mutual fund for those options shall be reflected as a deferred credit that shall be valued at an amount equal to the current market value of the option that would have the effect of closing the position;
 - (b) any difference resulting from revaluation shall be treated as an unrealized gain or loss on investment;
 - (c) the deferred credit shall be deducted in calculating the net asset value per security of the mutual fund; and
 - (d) any securities that are the subject of a written option shall be valued at their current market value.
3. The value of a forward contract or swap shall be the gain or loss on the contract that would be realized if, on the date that valuation is made, the position in the forward contract or swap were to be closed out.
4. The value of a standardized future shall be
 - (a) if daily limits imposed by the futures exchange through which the standardized future was issued are not in effect, the gain or loss on the standardized future that would be realized if, on the date that valuation is made, the position in the standardized future were to be closed out; or
 - (b) if daily limits imposed by the futures exchange through which the standardized future was issued are in effect, based on the current market value of the underlying interest of the standardized future.
5. Margin paid or deposited on standardized futures or forward contracts
 - (a) shall be reflected as an account receivable; and
 - (b) if not in the form of cash, shall be noted as held for margin.

PART 14 RECORD DATE

14.1 Record Date - The record date for determining the right of securityholders of a mutual fund to receive a dividend or distribution by the mutual fund shall be one of

- (a) the day on which the net asset value per security is determined for the purpose of calculating the amount of the payment of the dividend or distribution;
- (b) the last day on which the net asset value per security of the mutual fund was calculated before the day referred to in paragraph (a); or
- (c) if the day referred to in paragraph (b) is not a business day, the last day on which the net asset value per security of the mutual fund was calculated before the day referred to in paragraph (b).

PART 15 SALES COMMUNICATIONS AND PROHIBITED REPRESENTATIONS

15.1 Ability to Make Sales Communications - Sales communications pertaining to a mutual fund may be made by a person or company only in accordance with this Part.

15.2 Sales Communications - General Requirements

- (1) Despite any other provision of this Part, no sales communication shall
 - (a) be untrue or misleading; or
 - (b) include a statement that conflicts with information that is contained in the preliminary simplified prospectus, the preliminary annual information form, the simplified prospectus or annual information form
 - (i) of a mutual fund, or
 - (ii) in which an asset allocation service is described.
- (2) All performance data or disclosure specifically required by this Instrument and contained in a written sales communication shall be at least as large as 10-point type.

15.3 Prohibited Disclosure in Sales Communications

- (1) A sales communication shall not compare the performance of a mutual fund or asset allocation service with the performance or change of any benchmark or investment unless
 - (a) it includes all facts that, if disclosed, would be likely to alter materially the

- conclusions reasonably drawn or implied by the comparison;
- (b) it presents data for each subject of the comparison for the same period or periods;
 - (c) it explains clearly any factors necessary to make the comparison fair and not misleading; and
 - (d) in the case of a comparison with a benchmark
 - (i) the benchmark existed and was widely recognized and available during the period for which the comparison is made, or
 - (ii) the benchmark did not exist for all or part of the period, but a reconstruction or calculation of what the benchmark would have been during that period, calculated on a basis consistent with its current basis of calculation, is widely recognized and available.
- (2) A sales communication for a mutual fund or asset allocation service that is prohibited by paragraph 15.6(a) from disclosing performance data shall not provide performance data for any benchmark or investment other than a mutual fund or asset allocation service under common management with the mutual fund or asset allocation service to which the sales communication pertains.
- (3) Despite subsection (2), a sales communication for an index mutual fund may provide performance data for the index on which the investments of the mutual fund are based if the index complies with the requirements for benchmarks contained in paragraph (1)(d).
- (4) A sales communication shall not refer to a performance rating or ranking of a mutual fund or asset allocation service unless
- (a) the rating or ranking is prepared by an organization that is not a member of the organization of the mutual fund;
 - (b) standard performance data is provided for any mutual fund or asset allocation service for which a performance rating or ranking is given; and
 - (c) the rating or ranking is provided for each period for which standard performance data is required to be given.
- (5) A sales communication shall not refer to a credit rating of securities of a mutual fund unless
- (a) the rating is current and was prepared by an approved credit rating organization;
 - (b) there has been no announcement by the approved credit rating organization of which the mutual fund or its manager is or ought to be aware that the credit rating of the securities may be down-graded; and
 - (c) no approved credit rating organization is currently rating the securities at a lower level.
- (6) A sales communication shall not refer to a mutual fund as, or imply that it is, a money fund, cash fund or money market fund unless, at the time the sales communication is used and for each period for which money market fund standard performance data is provided, the mutual fund is and was a money market fund, either under National Policy Statement No. 39 or under this Instrument.
- (7) A sales communication shall not state or imply that a registered retirement savings plan, registered retirement income fund or registered education savings plan in itself, rather than the mutual fund to which the sales communication relates, is an investment.

15.4 Required Disclosure and Warnings in Sales Communications

- (1) A written sales communication shall
- (a) bear the name of the principal distributor or participating dealer that distributed the sales communication; and
 - (b) if the sales communication is not an advertisement, contain the date of first publication of the sales communication.
- (2) A sales communication that includes a rate of return or a mathematical table illustrating the potential effect of a compound rate of return shall contain a statement in substantially the following words:
- "[The rate of return or mathematical table shown] is used only to illustrate the effects of the compound growth rate and is not intended to reflect future values of [the mutual fund or asset allocation service] or returns on investment [in the mutual fund or from the use of the asset allocation service]."

- (3) A sales communication, other than a report to securityholders, of a mutual fund that is not a money market fund and that does not contain performance data shall contain a warning in substantially the following words:

"Commissions, trailing commissions, management fees and expenses all may be associated with mutual fund investments. Please read the prospectus before investing. Mutual funds are not guaranteed, their values change frequently and past performance may not be repeated."

- (4) A sales communication, other than a report to securityholders, of a money market fund that does not contain performance data shall contain a warning in substantially the following words:

"Commissions, trailing commissions, management fees and expenses all may be associated with mutual fund investments. Please read the prospectus before investing. Mutual fund securities are not covered by the Canada Deposit Insurance Corporation or by any other government deposit insurer. There can be no assurances that the fund will be able to maintain its net asset value per security at a constant amount or that the full amount of your investment in the fund will be returned to you. Past performance may not be repeated."

- (5) A sales communication for an asset allocation service that does not contain performance data shall contain a warning in substantially the following words:

"Commissions, trailing commissions, management fees and expenses all may be associated with mutual fund investments and the use of an asset allocation service. Please read the prospectus of the mutual funds in which investment may be made under the asset allocation service before investing. Mutual funds are not guaranteed, their values change frequently and past performance may not be repeated."

- (6) A sales communication, other than a report to securityholders, of a mutual fund that is not a money market fund and that contains performance data shall contain a warning in substantially the following words:

"Commissions, trailing commissions, management fees and expenses all may be associated with mutual fund investments. Please read the

prospectus before investing. The indicated rate[s] of return is [are] the historical annual compounded total return[s] including changes in [share or unit] value and reinvestment of all [dividends or distributions] and does [do] not take into account sales, redemption, distribution or optional charges or income taxes payable by any securityholder that would have reduced returns. Mutual funds are not guaranteed, their values change frequently and past performance may not be repeated."

- (7) A sales communication, other than a report to securityholders, of a money market fund that contains performance data shall contain

- (a) a warning in substantially the following words:

"Commissions, trailing commissions, management fees and expenses all may be associated with mutual fund investments. Please read the prospectus before investing. The performance data provided assumes reinvestment of distributions only and does not take into account sales, redemption, distribution or optional charges or income taxes payable by any securityholder that would have reduced returns. Mutual fund securities are not covered by the Canada Deposit Insurance Corporation or by any other government deposit insurer. There can be no assurances that the fund will be able to maintain its net asset value per security at a constant amount or that the full amount of your investment in the fund will be returned to you. Past performance may not be repeated."; and

- (b) a statement in substantially the following words, immediately following the performance data:

"This is an annualized historical yield based on the seven day period ended on [date] [annualized in the case of effective yield by compounding the seven day return] and does not represent an actual one year return."

- (8) A sales communication for an asset allocation service that contains performance data shall contain a warning in substantially the following words:

"Commissions, trailing commissions, management fees and expenses all may be associated with mutual fund investments and the use of an asset

allocation service. Please read the prospectus of the mutual funds in which investment may be made under the asset allocation service before investing. The indicated rate[s] of return is [are] the historical annual compounded total return[s] assuming the investment strategy recommended by the asset allocation service is used and after deduction of the fees and charges in respect of the service. The return[s] is [are] based on the historical annual compounded total returns of the participating funds including changes in [share] [unit] value and reinvestment of all [dividends or distributions] and does [do] not take into account sales, redemption, distribution or optional charges or income taxes payable by any securityholder in respect of a participating fund that would have reduced returns. Mutual funds are not guaranteed, their values change frequently and past performance may not be repeated."

- (9) A sales communication distributed after the issue of a receipt for a preliminary prospectus or preliminary simplified prospectus of the mutual fund described in the sales communication but before the issue of a receipt for its prospectus or simplified prospectus shall contain a warning in substantially the following words:

"A preliminary simplified prospectus relating to the fund has been filed with certain Canadian securities commissions or similar authorities. You cannot buy [units] [shares] of the fund until the relevant securities commissions or similar authorities issue receipts for the simplified prospectus of the fund."

- (10) A sales communication for a mutual fund or asset allocation service that purports to arrange a guarantee or insurance in order to protect all or some of the principal amount of an investment in the mutual fund or asset allocation service shall
- (a) identify the person or company providing the guarantee or insurance;
 - (b) provide the material terms of the guarantee or insurance, including the

maturity date of the guarantee or insurance;

- (c) if applicable, state that the guarantee or insurance does not apply to the amount of any redemptions before the maturity date of the guarantee or before the death of the securityholder and that redemptions before that date would be based on the net asset value per security of the mutual fund at the time; and
 - (d) modify any other disclosure required by this section appropriately.
- (11) The warnings referred to in this section shall be communicated in a manner that a reasonable person would consider clear and easily understood at the same time as, and through the medium by which, the related sales communication is communicated.
- (12) A mutual fund that files a prospectus rather than a simplified prospectus shall amend the warnings required by this section to refer to a prospectus, as applicable.

15.5 Disclosure Regarding Distribution Fees

- (1) No person or company shall describe a mutual fund in a sales communication as a "no-load fund" or use words of like effect if on a purchase or redemption of securities of the mutual fund investor fees are payable by an investor or if any fees, charges or expenses are payable by an investor to a participating dealer of the mutual fund named in the sales communication, other than
- (a) fees and charges related to specific optional services;
 - (b) for a mutual fund that is not a money market fund, redemption fees on the redemption of securities of the mutual fund that are redeemed within 90 days after the purchase of the securities, if the existence of the fees is disclosed in the sales communication, or in the simplified prospectus of the mutual fund; or
 - (c) costs that are payable only on the set-up or closing of a securityholder's account and that reflect the administrative costs of establishing or closing the account, if the existence of the costs is disclosed in the sales communication, or in the simplified prospectus of the mutual fund.
- (2) If a sales communication describes a mutual fund as "no-load" or uses words to like effect, the sales communication shall

- (a) indicate the principal distributor or a participating dealer through which an investor may purchase the mutual fund on a no-load basis;
 - (b) disclose that management fees and operating expenses are paid by the mutual fund; and
 - (c) disclose the existence of any trailing commissions paid by a member of the organization of the mutual fund.
- (3) A sales communication containing a reference to the existence or absence of fees or charges, other than the disclosure required by section 15.4 or a reference to the term "no-load", shall disclose the types of fees and charges that exist.
- (4) The rate of sales charges or commissions for the sale of securities of a mutual fund or the use of an asset allocation service shall be expressed in a sales communication as a percentage of the amount paid by the purchaser and as a percentage of the net amount invested if a reference is made to sales charges or commissions.

15.6 Performance Data - General Requirements - No sales communication pertaining to a mutual fund or asset allocation service shall contain performance data of the mutual fund or asset allocation service unless

- (a) either
 - (i) the mutual fund has offered securities under a simplified prospectus in a jurisdiction for at least one completed financial year, or the asset allocation service has been operated for at least 12 months and has invested only in participating mutual funds each of which has offered securities under a simplified prospectus in a jurisdiction for at least one completed financial year, or
 - (ii) if the sales communication pertains to a mutual fund or asset allocation service that does not satisfy the requirements of subparagraph (i), the sales communication is sent only to
 - (A) securityholders of the mutual fund or participants in the asset allocation service, or
 - (B) securityholders of a mutual fund or participants in an asset allocation service under common management with the mutual fund or asset allocation service;

- (b) the sales communication also contains standard performance data of the mutual fund or asset allocation service and, in the case of a written sales communication, the standard performance data is presented in a type size that is equal to or larger than that used to present the other performance data;
- (c) the performance data reflects or includes references to all elements of return; and
- (d) except as permitted by subsection 15.3(3), the sales communication does not contain performance data for a period that is before the time when the mutual fund offered its securities under a simplified prospectus or before the asset allocation service commenced operation.

15.7 Advertisements - An advertisement for a mutual fund or asset allocation service shall not compare the performance of the mutual fund or asset allocation service with any benchmark or investment other than

- (a) one or more mutual funds or asset allocation services that are under common management or administration with the mutual fund or asset allocation service to which the advertisement pertains;
- (b) one or more mutual funds or asset allocation services that have fundamental investment objectives that a reasonable person would consider similar to the mutual fund or asset allocation service to which the advertisement pertains; or
- (c) an index.

15.8 Performance Measurement Periods Covered by Performance Data

- (1) A sales communication, other than a report to securityholders, that relates to a money market fund may provide standard performance data only if
 - (a) the standard performance data has been calculated for the most recent seven day period for which it is practicable to calculate, taking into account publication deadlines; and
 - (b) the seven day period does not start more than 45 days before the date of the appearance, use or publication of the sales communication.
- (2) A sales communication, other than a report to securityholders, that relates to an asset allocation service or to a mutual fund other than a money market fund may provide standard performance data only if

- (a) the standard performance data has been calculated for the 10, five, three and one year periods and the period since the inception of the mutual fund if the mutual fund has been offering securities by way of simplified prospectus for more than one and less than 10 years, and
- (b) the periods referred to in paragraph (a) end on the same calendar month end that is
 - (i) not more than 45 days before the date of the appearance or use of the advertisement in which it is included, and
 - (ii) not more than three months before the date of first publication of any other sales communication in which it is included.
- (3) A report to securityholders may contain standard performance data only if
 - (a) the standard performance data has been calculated for the 10, five, three and one year periods and the period since the inception of the mutual fund if the mutual fund has been offering securities by way of simplified prospectus for more than one and less than 10 years; and
 - (b) the periods referred to in paragraph (a) end on the day as of which the balance sheet of the financial statements contained in the report to securityholders was prepared.
- (4) A sales communication shall clearly identify the periods for which performance data is calculated.
- (b) for a money market fund that during the performance measurement period did not pay or accrue the full amount of any fees and charges of the type described under paragraph 15.11(1)1, disclosure of the difference between the full amounts and the amounts actually charged, expressed as an annualized percentage on a basis comparable to current yield.
- (2) If a mutual fund has, in the last 10 years, undertaken a reorganization with, or acquired assets from, another mutual fund in a transaction that was a significant change for the mutual fund or would have been a significant change for the mutual fund had this Instrument been in force at the time of the transaction, then, in any sales communication of the mutual fund,
 - (a) the mutual fund shall provide summary disclosure of the transaction;
 - (b) the mutual fund may include its performance data covering any part of a period before the transaction only if it also includes the performance data for the other fund for the same periods;
 - (c) the mutual fund shall not include its performance data for any part of a period after the transaction unless
 - (i) 12 months have passed since the transaction, or
 - (ii) the mutual fund includes in the sales communication the performance data for itself and the other mutual fund referred to in paragraph (b); and
 - (d) the mutual fund shall not include any performance data for any period that is composed of both time before and after the transaction.

15.9 Changes affecting Performance Data

- (1) If, during or after a performance measurement period of performance data contained in a sales communication, there have been changes in the business, operations or affairs of the mutual fund or asset allocation service to which the sales communication pertains that could have materially affected the performance of the mutual fund or asset allocation service, the sales communication shall contain
 - (a) summary disclosure of the changes, and of how those changes could have affected the performance had those changes been in effect throughout the performance measurement period; and

15.10 Formula for Calculating Standard Performance Data

- (1) The standard performance data of a mutual fund shall be calculated in accordance with this section.
- (2) In this Part
"current yield" means the yield of a money market fund expressed as a percentage and determined by applying the following formula:

$$\text{current yield} = [\text{seven day return} \times 365/7] \times 100;$$

"effective yield" means the yield of a money market fund expressed as a percentage and determined by applying the following formula:

$$\text{effective yield} = [(\text{seven day return} + 1)^{365/7} - 1] \times 100;$$

"seven day return" means the income yield of an account of a securityholder in a money market fund that is calculated by

- (a) determining the net change, exclusive of new subscriptions other than from the reinvestment of distributions or proceeds of redemption of securities of the money market fund, in the value of the account,
- (b) subtracting all fees and charges of the type referred to in paragraph 15.11(1)3 for the seven day period, and
- (c) dividing the result by the value of the account at the beginning of the seven day period;

"standard performance data" means

- (a) for a money market fund
 - (i) the current yield, or
 - (ii) the current yield and effective yield, if the effective yield is reported in a type size that is at least equal to that of the current yield, and
- (b) for any mutual fund other than a money market fund, the total return

calculated in each case in accordance with this section; and

"total return" means the annual compounded rate of return for a mutual fund for a period that would equate the initial value to the redeemable value at the end of the period, expressed as a percentage, and determined by applying the following formula:

$$\text{total return} = [(\text{redeemable value}/\text{initial value})^{(1/N)} - 1] \times 100$$

where N = the length of the performance measurement period in years, with a minimum value of 1.

- (3) If there are fees and charges of the type described in paragraph 15.11(1)1 relevant to the calculation of redeemable value and initial value of the securities of a mutual fund, the redeemable value and initial value of securities of a mutual fund shall be the net

asset value of one unit or share of the mutual fund at the beginning or at the end of the performance measurement period, minus the amount of those fees and charges calculated by applying the assumptions referred to in that paragraph to a hypothetical securityholder account.

- (4) If there are no fees and charges of the type described in paragraph 15.11(1)1 relevant to a calculation of total return, the calculation of total return for a mutual fund may assume a hypothetical investment of one security of the mutual fund and be calculated as follows:

- (a) "initial value" means the net asset value of one unit or share of a mutual fund at the beginning of the performance measurement period; and

- (b) "redeemable value" =

$$R \times (1 + D_1/P_1) \times (1 + D_2/P_2) \times (1 + D_3/P_3) \dots \times (1 + D_n/P_n)$$

where R = the net asset value of one unit or security of the mutual fund at the end of the performance measurement period,

D = the dividend or distribution amount per security of the mutual fund at the time of each distribution,

P = the dividend or distribution reinvestment price per security of the mutual fund at the time of each distribution, and

n = the number of dividends or distributions during the performance measurement period.

- (5) Standard performance data of an asset allocation service shall be based upon the standard performance data of its participating funds.

- (6) Performance data

- (a) for a mutual fund other than a money market fund shall be calculated to the

nearest one-tenth of one percent; and

- (b) for a money market fund shall be calculated to the nearest one-hundredth of one percent.

15.11 Assumptions for Calculating Standard Performance Data

(1) The following assumptions shall be made in the calculation of standard performance data of a mutual fund:

1. Recurring fees and charges that are payable by all securityholders
 - (a) are accrued or paid in proportion to the length of the performance measurement period;
 - (b) if structured in a manner that would result in the performance information being dependent on the size of an investment, are calculated on the basis of an investment equal to the greater of \$10,000 or the minimum amount that may be invested; and
 - (c) if fully negotiable, are calculated on the basis of the average fees paid by accounts of the size referred to in paragraph (b).
2. There are no fees and charges related to specific optional services.
3. All fees and charges payable by the mutual fund are accrued or paid.
4. Dividends or distributions by the mutual fund are reinvested in the mutual fund at the net asset value per security of the mutual fund on the reinvestment dates during the performance measurement period.
5. There are no non-recurring fees and charges that are payable by some or all securityholders and no recurring fees and charges that are payable by some but not all securityholders.
6. A complete redemption occurs at the end of the performance measurement period so that the ending redeemable value includes elements of return that have been accrued but not yet paid to securityholders.

(2) The following assumptions shall be made in the calculation of standard performance data of an asset allocation service:

1. Fees and charges that are payable by participants in the asset allocation service
 - (a) are accrued or paid in proportion to the length of the performance measurement period;
 - (b) if structured in a manner that would result in the performance information being dependent on the size of an investment, are calculated on the basis of an investment equal to the greater of \$10,000 or the minimum amount that may be invested; and
 - (c) if fully negotiable, are calculated on the basis of the average fees paid by accounts of the size referred to in paragraph (b).
2. There are no fees and charges related to specific optional services.
3. The investment strategy recommended by the asset allocation service is utilized for the performance measurement period.
4. Transfer fees are
 - (a) accrued or paid;
 - (b) if structured in a manner that would result in the performance information being dependent on the size of an investment, calculated on the basis of an account equal to the greater of \$10,000 or the minimum amount that may be invested; and
 - (c) if the fees and charges are fully negotiable, calculated on the basis of the average fees paid by an account of the size referred to in paragraph (b).
5. A complete redemption occurs at the end of the performance measurement period so that the ending redeemable value includes elements of return that have been accrued but not yet paid to securityholders.

(3) The calculation of standard performance data shall be based on actual historical performance and the fees and charges

payable by the mutual fund and securityholders, or the asset allocation service and participants, in effect during the performance measurement period.

15.12 Sales Communications During the Waiting Period

- If a sales communication is used after the issue of a receipt for a preliminary simplified prospectus of the mutual fund described in the sales communication but before the issue of a receipt for its simplified prospectus, the sales communication shall state only

- (a) whether the security represents a share in a corporation or an interest in a non-corporate entity;
- (b) the name of the mutual fund and its manager;
- (c) the fundamental investment objectives of the mutual fund;
- (d) without giving details, whether the security is or will be a qualified investment for a registered retirement savings plan, registered retirement income fund or registered education savings plan or qualifies or will qualify the holder for special tax treatment; and
- (e) any additional information permitted by securities legislation.

15.13 Prohibited Representations

- (1) Securities issued by an unincorporated mutual fund shall be described by a term that is not and does not include the word "shares".
- (2) No communication by a mutual fund or asset allocation service, its promoter, manager, portfolio adviser, principal distributor, participating dealer or a person providing services to the mutual fund or asset allocation service shall describe a mutual fund as a commodity pool or as a vehicle for investors to participate in the speculative trading of, or leveraged investment in, derivatives, unless the mutual fund is a commodity pool as defined in National Instrument 81-101 Mutual Fund Prospectus Disclosure.

PART 16 CALCULATION OF MANAGEMENT EXPENSE RATIO

16.1 Calculation of Management Expense Ratio

- (1) A mutual fund may disclose its management expense ratio only if the management expense ratio is calculated for a financial year of the mutual fund and if it is calculated by
 - (a) dividing
 - (i) the total expenses of the mutual fund for the financial year as shown on its income statement,

by

- (ii) the average net asset value of the mutual fund for the financial year, obtained by

- (A) adding together the net asset values of the mutual fund as at the close of business of the mutual fund on each day during the financial year on which the net asset value of the mutual fund has been calculated, and

- (B) dividing the amount obtained under clause (A) by the number of days during the financial year on which the net asset value of the mutual fund has been calculated; and

- (b) multiplying the result obtained under paragraph (a) by 100.

- (2) If any fees and expenses otherwise payable by a mutual fund in a financial year were waived or otherwise absorbed by a member of the organization of the mutual fund, the mutual fund shall disclose in a note to the disclosure of its management expense ratio, details of

- (a) what the management expense ratio would have been without any waivers or absorptions;

- (b) the length of time that the waiver or absorption is expected to continue;

- (c) whether the waiver or absorption can be terminated at any time by the member of the organization of the mutual fund; and

- (d) any other arrangements concerning the waiver or absorption.

- (3) All non-optional fees, charges and expenses paid directly by investors of a mutual fund in connection with the holding of securities of the mutual fund during the period to which the disclosed management expense ratio relates shall be included by the mutual fund in its calculation of the management expense ratio with an appropriate explanation in a note to the disclosure.

- (4) If the aggregate amount of a non-optional fee, charge and expense payable directly by investors of a mutual fund in connection with the holding of securities of the mutual fund during the period to which the disclosed management expense ratio relates is not ascertainable, the mutual fund shall include

the maximum amount of the non-optional investor fee that could have been paid by those investors in its calculation of the management expense ratio.

- (5) Mutual fund expenses rebated by a manager or a mutual fund to a securityholder shall not be deducted from total expenses of the mutual fund in determining the management expense ratio of the mutual fund.
- (6) A mutual fund that has separate classes or series of securities shall calculate a management expense ratio for each class or series, in the manner required by this section, modified as appropriate.
- (7) In this section, the phrase "financial year" includes, for an issuer, a period other than the 12 months for which the issuer is required by securities legislation to prepare audited financial statements.
- (8) The management expense ratio of a mutual fund for a financial year of less than 12 months shall be annualized.

16.2 Fund of Funds Calculation - For the purposes of subparagraph 16.1(1)(a)(i), the total expenses of a mutual fund for a financial year that invests in securities of one or more other mutual funds is equal to the sum of

- (a) the total expenses incurred by the mutual fund attributable to its investment in each underlying mutual fund, as calculated by
 - (i) multiplying the total expenses of each underlying mutual fund for the financial year as shown on the income statement of each underlying mutual fund,

by

 - (ii) the average proportion of securities of the underlying mutual fund held by the mutual fund during the financial year, calculated by
 - (A) adding together the proportion of securities of the underlying mutual fund held by the mutual fund on each day in the financial year, and
 - (B) dividing the amount obtained under clause (A) by the number of days in the financial year; and
- (b) the total expenses of the mutual fund for the financial year as shown on its income statement.

PART 17 FINANCIAL STATEMENT REQUIREMENTS

17.1 Information About Specified Derivatives

- (1) A mutual fund shall, in the statement of investment portfolio included in the annual and interim financial statements of the mutual fund, or in the notes to that statement, disclose
 - (a) for long positions in clearing corporation options, the number of options, the underlying interest, the strike price, the expiration month and year, the cost and the market value;
 - (b) for long positions in options on futures, the number of options on futures, the futures contracts that form the underlying interest, the strike price, the expiration month and year of the option on futures, the delivery month and year of the futures contract that forms the underlying interest of the option on futures, the cost and the market value;
 - (c) for clearing corporation options written by the mutual fund, the particulars of the deferred credit account, indicating the number of options, the underlying interest, the strike price, the expiration month and year, the premium received and the value as determined under section 13.5;
 - (d) for options purchased by the mutual fund that are not clearing corporation options, the number of options, the credit rating of the issuer of the options, whether the rating has fallen below the approved credit rating, the underlying interest, the principal amount or quantity of the underlying interest, the strike price, the expiration date, the cost and the market value;
 - (e) for options written by the mutual fund that are not clearing corporation options, the particulars of the deferred credit account, indicating the number of options, the underlying interest, the principal amount or quantity of the underlying interest, the exercise price, the expiration date, the premium received and the value as determined under section 13.5;
 - (f) for positions in standardized futures, the number of standardized futures, the underlying interest, the price at which the contract was entered into, the delivery month and year and the value as determined under section 13.5;

(g) for positions in forward contracts, the number of forward contracts, the credit rating of the counterparty, whether the rating has fallen below the approved credit rating level, the underlying interest, the quantity of the underlying interest, the price at which the contract was entered into, the settlement date and the value as determined under section 13.5; and

(h) for debt-like securities, the principal amount of the debt, the interest rate, the payment dates, the underlying interest, the principal amount or quantity of the underlying interest, a description of whether the derivative component is an option or a forward contract with respect to the underlying interest, the strike price in the case of an options component and the set price in the case of a forward component, and the value as determined under section 13.5.

(2) If applicable, the statement of investment portfolio included in the annual and interim financial statements of the mutual fund, or the notes to that statement, shall identify by an asterisk or other notation the underlying interest that is being hedged by each position taken by the mutual fund in a specified derivative.

17.2 Additional Disclosure Requirements

(1) The annual financial statements of a mutual fund shall

(a) set out in appropriate detail the amounts of all fees, charges and expenses, if any, that have been charged to the mutual fund during each financial year reported upon in the financial statements; and

(b) set out the net asset value per security of the mutual fund as at the end of the last completed financial year and as at the end of each of the four preceding completed financial years, or such fewer number of financial years as the mutual fund has been in existence.

(2) The annual and interim financial statements of a mutual fund shall disclose

(a) the management expense ratio of each class or series of a class of securities of the mutual fund for each of the last five completed financial years of the mutual fund or such fewer number of financial years as the mutual fund has been in existence, and shown for periods of less than 12 months on an

annualized basis with reference to the period covered and the fact that the management expense ratio shown is annualized; and

(b) a brief description of the method of calculating the management expense ratio.

17.3 Approval of Financial Statements

(1) The board of directors of a mutual fund that is a corporation shall

(a) approve the annual financial statements of the mutual fund that are to be delivered on request to purchasers of its securities; and

(b) authorize two directors of the mutual fund to sign those financial statements to evidence that approval.

(2) The manager or the trustee or trustees of a mutual fund that is a trust, or another person or company authorized to do so by the constating documents of the mutual fund, shall

(a) approve the annual financial statements of the mutual fund that, on and after the date the simplified prospectus of the mutual fund is filed, are to be delivered to purchasers of its securities with the prospectus or the simplified prospectus or are incorporated by reference into the simplified prospectus; and

(b) authorize two appropriate persons to sign those financial statements to evidence that approval.

PART 18 SECURITYHOLDER RECORDS

18.1 Maintenance of Records - A mutual fund that is not a corporation shall maintain, or cause to be maintained, up to date records of

(a) the names and latest known addresses of each securityholder of the mutual fund;

(b) the number and class or series of a class of securities held by each securityholder of the mutual fund; and

(c) the date and details of each issue and redemption of securities, and each distribution, of the mutual fund.

18.2 Availability of Records

- (1) A mutual fund that is not a corporation shall make, or cause to be made, the records referred to in section 18.1 available for inspection, free of charge, during normal business hours at its principal or head office by a securityholder or a representative of a securityholder, if the securityholder has agreed in writing that the information contained in the register will not be used by the securityholder for any purpose other than attempting to influence the voting of securityholders of the mutual fund or a matter relating to the relationships among the mutual fund, the members of the organization of the mutual fund, and the securityholders, partners, directors and officers of those entities.
- (2) A mutual fund shall, upon written request by a securityholder of the mutual fund, provide, or cause to be provided, to the securityholder a copy of the records referred to in paragraphs 18.1(a) and (b) if the securityholder
 - (a) has agreed in writing that the information contained in the register will not be used by the securityholder for any purpose other than attempting to influence the voting of securityholders of the mutual fund or a matter relating to the administration of the mutual fund; and
 - (b) has paid a reasonable fee to the mutual fund that does not exceed the reasonable costs to the mutual fund of providing the copy of the register.

PART 19 EXEMPTIONS AND APPROVALS

19.1 Exemption

- (1) The regulator or securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

19.2 Exemption or Approval under Prior Policy

- (1) A mutual fund that has obtained, from the regulator or securities regulatory authority, an exemption or waiver from, or approval under, a provision of National Policy Statement No. 39 before this Instrument came into force is exempt from any substantially similar provision of this Instrument, if any, on the same conditions, if any, as are contained in the earlier exemption or approval, unless the regulator or securities regulatory authority has

revoked that exemption or waiver under authority provided to it in securities legislation.

- (2) Despite Part 7, a mutual fund that has obtained, from the regulator or securities regulatory authority, approval under National Policy Statement No. 39 to pay incentive fees may continue to pay incentive fees on the terms of that approval if disclosure of the method of calculation of the fees and details of the composition of the benchmark or index used in calculating the fees are described in the simplified prospectus of the mutual fund.
- (3) A mutual fund that intends to rely upon subsection (1) shall, at the time of the first filing of its *pro forma* simplified prospectus after this Instrument comes into force, send to the regulator a letter or memorandum containing
 - (a) a brief description of the nature of the exemption from, or approval under, National Policy Statement No. 39 previously obtained; and
 - (b) the provision in the Instrument that is substantially similar to the provision in National Policy Statement No. 39 from or under which the exemption or approval was previously obtained.

PART 20 TRANSITIONAL

- 20.1 Effective Date** - This Instrument comes into force on February 1, 2000.
- 20.2 Sales Communications** - Sales communications, other than advertisements, that were printed before December 31, 1999 may be used until August 1, 2000, despite any requirements in this Instrument.
- 20.3 Reports to Securityholders** - This Instrument does not apply to reports to securityholders printed before this Instrument came into force.
- 20.4 Mortgage Funds** - Paragraphs 2.3(b) and (c) do not apply to a mutual fund that has adopted fundamental investment objectives to permit it to invest in mortgages in accordance with National Policy Statement No. 29 if
 - (a) a National Instrument replacing National Policy Statement No. 29 has not come into force;
 - (b) the mutual fund was established, and has a prospectus or simplified prospectus for which a receipt was issued, before the date that this Instrument came into force; and
 - (c) the mutual fund complies with National Policy Statement No. 29.

20.5 Delayed Coming into Force

- (1) Despite section 20.1, subsection 4.4(1) does not come into force until August 1, 2000.
- (2) Despite section 20.1, the following provisions of this Instrument do not come into force until February 1, 2001:
 1. Subsection 2.4(2).
 2. Subsection 2.7(4).
 3. Subsection 6.4(1).
 4. Subsection 6.8(4).

NATIONAL INSTRUMENT 81-102

APPENDIX A

**Futures Exchanges for the Purpose of
Subsection 2.7(4) - Derivative
Counterparty Exposure Limits**

Futures Exchanges

Australia

Sydney Futures Exchange
Australian Financial Futures Market

Austria

Osterreichische Termin-und Option Borse (OTOB - The Austrian Options and Futures Exchange)

Belgium

Belfox CV (Belgium Futures and Options Exchange)

Brazil

Bolsa Brasileira de Futuros
Bolsa de Mercadorias & Futuros
Bolsa de Valores de Rio de Janeiro

Canada

The Winnipeg Commodity Exchange
The Toronto Futures Exchange
The Montreal Exchange

Denmark

Kobenhavus Fondsbors (Copenhagen Stock Exchange)
Garenti fonden for Dankse Optioner og Futures (Guarantee Fund for Danish Options and Futures)
Futop (Copenhagen Stock Exchange)

Finland

Helsinki Stock Exchange
Oy Suomen Optiopörssi (Finnish Options Exchange)
Suomen Optionmeklarit Oy (Finnish Options Market)

France

Marché à terme international de France S.A. (MATIF S.A.)
Marché des option négociables à Paris (MUNCP)

Germany

DTB Deutsche Terminbörse GmbH
EUREX

Hong Kong

Hong Kong Futures Exchange Limited

Ireland	United States
Irish Futures and Options Exchange	Chicago Board of Options Exchange (CBOE) Chicago Board of Trade (CBOT) Chicago Mercantile Exchange (CME) Commodity Exchange, Inc. (COMEX) Financial Instrument Exchange (Finex) a division of the New York Cotton Exchange Board of Trade of Kansas City, Missouri, Inc. Mid-America Commodity Exchange Minneapolis Grain Exchange (MGE) New York Futures Exchange, Inc. (NYFE) New York Mercantile Exchange (NYMEX) New York Board of Trade (NYBOT) Pacific Stock Exchange Philadelphia Board of Trade (PBOT) Twin Cities Board of Trade
Italy	
Milan Italiano Futures Exchange	
Japan	
Osaka Shoken Torihikisho (Osaka Securities Exchange) The Tokyo Commodity Exchange for Industry The Tokyo International Financial Futures Exchange Tokyo Grain Exchange Tokyo Stock Exchange	
Netherlands	
AEX Options & Futures Exchange EOE-Optiebeurs (European Options Exchange) Financiele Termijnmarkt Amsterdam N.V.	
New Zealand	
New Zealand Futures and Options Exchange	
Norway	
Oslo Stock Exchange	
Philippines	
Manila International Futures Exchange	
Portugal	
Bosa de Derivatives de Porto	
Singapore	
Singapore Commodity Exchange (SICOM) Singapore International Monetary Exchange Limited (SIMEX)	
Spain	
Meff Renta Fija Meff Renta Variable	
Sweden	
OM Stockholm Fondkommission AB	
Switzerland	
EUREX	
United Kingdom	
International Petroleum Exchange (IPE) London International Financial Futures and Options Exchange (LIFFE) London Metal Exchange (LME) OM London	

NATIONAL INSTRUMENT 81-102

APPENDIX B-1

Compliance Report

TO: [The appropriate securities regulatory authorities]
FROM: [Name of mutual fund]
RE: Compliance Report on National Instrument 81-102
For the year ended [insert date]

We hereby confirm that we have complied with the applicable requirements of Parts 9, 10 and 11 of National Instrument 81-102 for the year ended [insert date] [except as follows:] [list exceptions, if any].

[NAME of mutual fund]

Signature

Name and office of the person executing this report

Date

NATIONAL INSTRUMENT 81-102

APPENDIX B-1

Audit Report

TO: [The appropriate securities regulatory authorities]
RE: Compliance Report on National Instrument 81-102
For the year ended [insert date]

We have audited [name of mutual fund]'s report made under section 12.1 of National Instrument 81-102 regarding its compliance for the year ended [insert date] with the applicable requirements of Parts 9, 10 and 11 of that National Instrument. Compliance with these requirements is the responsibility of the management of [name of mutual fund] (the "Fund"). Our responsibility is to express an opinion on management's compliance report based on our audit.

We conducted our audit in accordance with the standards for assurance engagements established by The Canadian Institute of Chartered Accountants. Those standards require that we plan and perform an audit to obtain reasonable assurance as a basis for our opinion. Such an audit includes examining, on a test basis, evidence supporting the assertions in management's compliance report.

In our opinion, the Fund's report presents fairly, in all material respects, the Fund's compliance for the year ended [insert date] with the applicable requirements of Parts 9, 10 and 11 of National Instrument 81-102.

This report is provided solely for the purpose of assisting the securities regulatory authority [ies] to which it is addressed in discharging its [their] responsibilities and should not be used for any other purpose.

City
Date

Chartered Accountants

NATIONAL INSTRUMENT 81-102

APPENDIX B-2

Compliance Report

TO: [The appropriate securities regulatory authorities]
FROM: [Name of principal distributor] (the "Distributor")
RE: Compliance Report on National Instrument 81-102
For the year ended [insert date]
FOR: [Name(s) of the mutual fund (the "Fund[s]")]

We hereby confirm that we have complied with the applicable requirements of Parts 9, 10 and 11 of National Instrument 81-102 in respect of the Fund[s] for the year ended [insert date] [except as follows:] [list exceptions, if any].

[NAME of the Distributor]

Signature

Name and office of the person
executing this report

Date

NATIONAL INSTRUMENT 81-102

APPENDIX B-2

Audit Report

TO: [The appropriate securities regulatory authorities]
RE: Compliance Report on National Instrument 81-102
For the year ended [insert date]

We have audited [name of principal distributor]'s report made under section 12.1 of National Instrument 81-102 regarding its compliance for the year ended [insert date] with the applicable requirements of Parts 9, 10 and 11 of that National Instrument in respect of the [name of mutual funds] (the "Funds"). Compliance with these requirements is the responsibility of the management of [name of principal distributor] (the "Company"). Our responsibility is to express an opinion on management's compliance report based on our audit.

We conducted our audit in accordance with the standards for assurance engagements established by The Canadian Institute of Chartered Accountants. Those standards require that we plan and perform an audit to obtain reasonable assurance as a basis for our opinion. Such an audit includes examining, on a test basis, evidence supporting the assertions in management's compliance report.

In our opinion, the Company's report presents fairly, in all material respects, the Company's compliance for the year ended [insert date] with the applicable requirements of Parts 9, 10 and 11 of National Instrument 81-102 in respect of the Funds.

This report is provided solely for the purpose of assisting the securities regulatory authority [ies] to which it is addressed in discharging its [their] responsibilities and should not be used for any other purpose.

City

Date

Chartered Accountants

NATIONAL INSTRUMENT 81-102

APPENDIX B-3

Compliance Report

TO: [The appropriate securities regulatory authorities]
FROM: [Name of participating dealer] (the "Distributor")
RE: Compliance Report on National Instrument 81-102 For the year ended [insert date]

We hereby confirm that we have sold mutual fund securities to which National Instrument 81-102 is applicable. In connection with our activities in distributing these securities, we have complied with the applicable requirements of Parts 9, 10 and 11 of National Instrument 81-102 for the year ended [insert date] [except as follows:] [list exceptions, if any].

[NAME of the Distributor]

Signature

Name and office of the person executing this report

Date

NATIONAL INSTRUMENT 81-102

APPENDIX B-3

Audit Report

TO: [The appropriate securities regulatory authorities]
RE: Compliance Report on National Instrument 81-102 For the year ended [insert date]

We have audited [name of participating dealer]'s report made under section 12.1 of National Instrument 81-102 regarding its compliance for the year ended [insert date] with the applicable requirements of Parts 9, 10 and 11 of that National Instrument in respect of sales of mutual fund securities. Compliance with these requirements is the responsibility of the management of [name of participating dealer] (the "Company"). Our responsibility is to express an opinion on management's compliance report based on our audit.

We conducted our audit in accordance with the standards for assurance engagements established by The Canadian Institute of Chartered Accountants. Those standards require that we plan and perform an audit to obtain reasonable assurance as a basis for our opinion. Such an audit includes examining, on a test basis, evidence supporting the assertions in management's compliance report.

In our opinion, the Company's report presents fairly, in all material respects, the Company's compliance for the year ended [insert date] with the applicable requirements of Parts 9, 10 and 11 of National Instrument 81-102 in respect of sales of mutual fund securities.

This report is provided solely for the purpose of assisting the securities regulatory authority [ies] to which it is addressed in discharging its [their] responsibilities and should not be used for any other purpose.

City
Date

Chartered Accountants

**COMPANION POLICY 81-102CP TO NATIONAL
INSTRUMENT 81-102
MUTUAL FUNDS**

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**COMPANION POLICY 81-102CP TO NATIONAL
INSTRUMENT 81-102
MUTUAL FUNDS**

PART 1 PURPOSE

1.1 Purpose - The purpose of this Policy is to state the views of the Canadian securities regulatory authorities on various matters relating to National Instrument 81-102 Mutual Funds (the "Instrument"), including

- (a) the interpretation of various terms used in the Instrument;
- (b) recommendations concerning the operating procedures that the Canadian securities regulatory authorities suggest that mutual funds, or persons performing services for mutual funds, adopt to ensure compliance with the Instrument;
- (c) discussions of circumstances in which the Canadian securities regulatory authorities have granted relief from particular requirements of National Policy Statement No. 39 ("NP39"), the predecessor to the Instrument, and the conditions that those authorities imposed in granting that relief; and
- (d) recommendations concerning applications for approvals required under, or relief from, provisions of the Instrument.

PART 2 COMMENTS ON DEFINITIONS CONTAINED IN THE INSTRUMENT

- 2.1 "asset allocation service"** - The definition of "asset allocation service" in the Instrument includes only specific administrative services in which an investment in mutual funds subject to the Instrument is an integral part. The Canadian securities regulatory authorities do not view this definition as including general investment services such as discretionary portfolio management that may, but are not required to, invest in mutual funds subject to this Instrument.
- 2.2 "cash equivalent"** - The definition of "cash equivalent" in the Instrument includes certain evidences of indebtedness of Canadian financial institutions. This includes banker's acceptances.
- 2.3 "clearing corporation"** - The definition of "clearing corporation" in the Instrument includes both incorporated and unincorporated organizations, which may, but need not, be part of an options or futures exchange.
- 2.4 "debt-like security"** - Paragraph (b) of the definition of "debt-like security" in the Instrument provides that the value of the component of an instrument that is

not linked to the underlying interest of the instrument must account for less than 80 percent of the aggregate value of the instrument in order that the instrument be considered a debt-like security. The Canadian securities regulatory authorities have structured this provision in this manner to emphasize what they consider the most appropriate manner to value these instruments. That is, one should first value the component of the instrument that is not linked to the underlying interest, as this is often much easier to value than the component that is linked to the underlying interest. The Canadian securities regulatory authorities recognize the valuation difficulties that can arise if one attempts to value, by itself, the component of an instrument that is linked to the underlying interest.

2.5 "fundamental investment objectives"

- (1) The definition of "fundamental investment objectives" is relevant in connection with paragraph 5.1(c) of the Instrument, which requires that the approval of securityholders of a mutual fund be obtained before any change is made to the fundamental investment objectives of the mutual fund. The fundamental investment objectives of a mutual fund are required to be disclosed in a simplified prospectus under Part B of Form 81-101F1 Contents of Simplified Prospectus. The definition of "fundamental investment objectives" contained in the Instrument uses the language contained in the disclosure requirements of Part B of Form 81-101F1, and the definition should be read to include the matters that would have to be disclosed under the Item of Part B of the form concerning "Fundamental Investment Objectives". Accordingly, any change to the mutual fund requiring a change to that disclosure would trigger the requirement for securityholder approval under paragraph 5.1(c) of the Instrument.
- (2) Part B of Form 81-101F1 sets out, among other things, the obligation that a mutual fund disclose in a simplified prospectus both its fundamental investment objectives and its investment strategies. The matters required to be disclosed under the Item of Part B of the form relating to "Investment Strategies" are not "fundamental investment objectives" under the Instrument.
- (3) Generally speaking, the "fundamental investment objectives" of a mutual fund are those attributes that define its fundamental nature. For example, mutual funds that are guaranteed or insured, or that pursue a highly specific investment approach such as index funds or derivative funds, may be defined by those attributes. Often the manner in which a mutual fund is marketed will provide evidence as to its fundamental nature; a mutual fund

whose advertisements emphasize, for instance, that investments are guaranteed likely will have the existence of a guarantee as a "fundamental investment objective".

- (4) The Canadian securities regulatory authorities are of the view that whether the securities of a mutual fund are foreign property under the ITA is linked to the mutual fund's fundamental investment objectives. Therefore, a change in the method by which the mutual fund is managed that results in its securities going from being foreign property to being non-foreign property, or vice versa, would be likely due to a change in the mutual fund's fundamental investment objectives.
- (5) One component of the definition of "fundamental investment objectives" is that those objectives distinguish a mutual fund from other mutual funds. This component does not imply that the fundamental investment objectives for each mutual fund must be unique. Two or more mutual funds can have identical fundamental investment objectives.

2.6 "guaranteed mortgage" - A mortgage insured under the *National Housing Act* (Canada) or similar provincial statutes is a "guaranteed mortgage" for the purposes of the Instrument.

2.7 "hedging"

- (1) One component of the definition of "hedging" is the requirement that hedging transactions result in a "high degree of negative correlation between changes in the value of the investment or position, or group of investments or positions, being hedged and changes in the value of the instrument or instruments with which the investment or position is hedged". The Canadian securities regulatory authorities are of the view that there need not be complete congruence between the hedging instrument or instruments and the position or positions being hedged if it is reasonable to regard the one as a hedging instrument for the other, taking into account the closeness of the relationship between fluctuations in the price of the two and the availability and pricing of hedging instruments.
- (2) The definition of "hedging" includes a reference to the "maintaining" of the position resulting from a hedging transaction or series of hedging transactions. The inclusion of this component in the definition requires a mutual fund to ensure that a transaction continues to offset specific risks of the mutual fund in order that the transaction be considered a "hedging" transaction under the Instrument; if the "hedging" position ceases to provide an offset

to an existing risk of a mutual fund, then that position is no longer a hedging position under the Instrument, and can be held by the mutual fund only in compliance with the specified derivatives rules of the Instrument that apply to non-hedging positions. The component of the definition that requires the "maintaining" of a hedge position does not mean that a mutual fund is locked into a specified derivatives position; it simply means that the specified derivatives position must continue to satisfy the definition of "hedging" in order to receive hedging treatment under the Instrument.

- (3) Paragraph (b) of the definition of "hedging" has been included to ensure that currency cross hedging continues to be permitted under the Instrument. Currency cross hedging is the substitution of currency risk associated with one currency for currency risk associated with another currency, if neither currency is a currency in which the mutual fund determines its net asset value per security and the aggregate amount of currency risk to which the mutual fund is exposed is not increased by the substitution. Currency cross hedging is to be distinguished from currency hedging, as that term is ordinarily used. Ordinary currency hedging, in the context of mutual funds, would involve replacing the mutual fund's exposure to a "non-net asset value" currency with exposure to a currency in which the mutual fund calculates its net asset value per security. That type of currency hedging is subject to paragraph (a) of the definition of "hedging".

2.8 "illiquid asset" - A portfolio asset of a mutual fund that meets the definition of "illiquid asset" will be an illiquid asset even if a person or company, including the manager or the portfolio adviser of a mutual fund or a partner, director or officer of the manager or portfolio adviser of a mutual fund or any of their respective associates or affiliates, has agreed to purchase the asset from the mutual fund. That type of agreement does not affect the words of the definition, which defines "illiquid asset" in terms of whether that asset cannot be readily disposed of through market facilities on which public quotations in common use are widely available.

2.9 "manager" - The definition of "manager" under the Instrument only applies to the person or company that actually directs the business of the mutual fund, and does not apply to others, such as trustees, that do not actually carry out this function. Also, a "manager" would not include a person or company whose duties are limited to acting as a service provider to the mutual fund, such as a portfolio adviser.

2.10 "option" - The definition of "option" includes warrants, whether or not the warrants are listed on a

stock exchange or quoted on an over-the-counter market.

conversion right at the option of the mutual fund.

2.11 "performance data" - The term "performance data" includes data on an aspect of the investment performance of a mutual fund, an asset allocation service, security, index or benchmark. This could include data concerning return, volatility or yield. The Canadian securities regulatory authorities note that the term "performance data" would not include a rating prepared by an independent organization reflecting the credit quality, rather than the performance, of, for instance, a mutual fund's portfolio or the participating funds of an asset allocation service.

(3) The Canadian securities regulatory authorities consider that the following types of transactions would generally not be purchases of a security by a mutual fund under the definition:

2.12 "public medium" - An "advertisement" is defined in the Instrument to mean a sales communication that is published or designed for use on or through a "public medium". The Canadian securities regulatory authorities interpret the term "public medium" to include print, television, radio, tape recordings, video tapes, computer disks, the Internet, displays, signs, billboards, motion pictures and telephones.

1. The mutual fund receives the security as a result of a compulsory acquisition by an issuer following completion of a successful take-over bid.
2. The mutual fund receives the security as a result of a merger, amalgamation, plan of arrangement or other reorganization that the mutual fund voted against.
3. The mutual fund receives the security as the result of the exercise of an exchange or conversion right attached to a security held by the mutual fund made at the discretion of the issuer of the security held by the mutual fund.
4. The mutual fund declines to tender into an issuer bid, even though its decision is likely to result in an increase in its percentage holdings of a security beyond what the mutual fund would be permitted under the Instrument to purchase.

2.13 "purchase"

(1) The definition of a "purchase", in connection with the acquisition of a portfolio asset by a mutual fund, means an acquisition that is the result of a decision made and action taken by the mutual fund.

(2) The Canadian securities regulatory authorities consider that the following types of transactions would generally be purchases of a security by a mutual fund under the definition:

2.14 "restricted security" - A special warrant is a form of restricted security and, accordingly, the provisions of the Instrument applying to restricted securities apply to special warrants.

2.15 "sales communication"

1. The mutual fund effects an ordinary purchase of the security, or, at its option, exercises, converts or exchanges a convertible security held by it.
2. The mutual fund receives the security as consideration for a security tendered by the mutual fund into a take-over bid.
3. The mutual fund receives the security as the result of a merger, amalgamation, plan of arrangement or other reorganization for which the mutual fund voted in favour.
4. The mutual fund receives the security as a result of the automatic exercise of an exchange or conversion right attached to another security held by the mutual fund in accordance with the terms of that other security or the exercise of that exchange or

(1) The term "sales communication" refers to a communication to a securityholder of a mutual fund and to a person or company that is not a securityholder if the purpose of the communication is to induce the purchase of securities of the mutual fund. A sales communication therefore does not include a communication solely between a mutual fund or its promoter, manager, principal distributor or portfolio adviser and a participating dealer, or between the principal distributor or a participating dealer and its registered salespersons, that is indicated to be internal or confidential and that is not designed to be passed on by any principal distributor, participating dealer or registered salesperson to any securityholder of, or potential investor in, the mutual fund. In the view of the Canadian securities regulatory authorities, if a communication of that type were so passed on by the principal distributor, participating dealer or registered salesperson, the communication

would be a sales communication made by the party passing on the communication if the recipient of the communication were a securityholder of the mutual fund or if the intent of the principal distributor, participating dealer or registered salesperson in passing on the communication were to induce the purchase of securities of the mutual fund.

- (2) The term "sales communication" is defined in the Instrument such that the communication need not be in writing and includes any oral communication. The Canadian securities regulatory authorities are of the view that the requirements in the Instrument pertaining to sales communications would apply to statements made at an investor conference to securityholders or to others to induce the purchase of securities of the mutual fund.
- (3) The Canadian securities regulatory authorities are of the view that image advertisements that are intended to promote a corporate identity or the expertise of a mutual fund manager fall outside the definition of "sales communication". However, an advertisement or other communication that refers to a specific mutual fund or funds or promotes any particular investment portfolio or strategy would be a sales communication and therefore be required to include warnings of the type now described in section 15.4 of the Instrument.
- (4) Paragraph (b) of the definition of a "sales communication" in the Instrument excludes sales communications contained in certain documents that the mutual fund is required to prepare, including audited or unaudited financial statements (which include a statement of portfolio transactions), statements of account and confirmations of trade. The Canadian securities regulatory authorities are of the view that if information is contained in these types of documents that is not required to be included by securities legislation, any such additional material is not excluded by paragraph (b) of the definition of sales communication and may, therefore, constitute a sales communication if the additional material otherwise falls within the definition of that term in the Instrument.

2.16 "specified derivative"

- (1) The term "specified derivative" is defined to mean an instrument, agreement or security, the market price, value or payment obligations of which are derived from, referenced to or based on an underlying interest. Certain instruments, agreements or securities that would otherwise be specified derivatives within

the meaning of the definition are then excluded from the definition for purposes of the Instrument.

- (2) Because of the broad ambit of the lead-in language to the definition, it is impossible to list every instrument, agreement or security that might be caught by that lead-in language but that is not considered to be a derivative in any normal commercial sense of that term. The Canadian securities regulatory authorities consider conventional floating rate debt instruments, securities of a mutual fund or commodity pool, non-redeemable securities of an investment fund, American depository receipts and instalment receipts to be within this category and will not treat those instruments as a specified derivative in administering the Instrument.

2.17 "standardized future" - The definition of "standardized future" refers to an agreement traded on a futures exchange. This type of agreement is called a "futures contract" in the legislation of some jurisdictions, and an "exchange contract" in the legislation of some other jurisdictions (such as British Columbia and Alberta). The term "standardized future" is used in the Instrument to refer to these types of contracts, to avoid conflict with existing local definitions.

2.18 "swap" - The Canadian securities regulatory authorities are of the view that the definition of a swap in the Instrument would include conventional interest rate and currency swaps, as well as equity swaps.

PART 3 INVESTMENTS

3.1 Evidences of Indebtedness of Foreign Governments and Supranational Agencies

- (1) Section 2.1 of the Instrument prohibits mutual funds from purchasing a security of an issuer, other than a government security or a security issued by a clearing corporation if, immediately after the purchase, more than 10 percent of the net assets of the mutual fund, taken at market value at the time of the purchase, would be invested in securities of that issuer. The term "government security" is defined in the Instrument as an evidence of indebtedness that is issued, or fully and unconditionally guaranteed as to principal and interest, by any of the government of Canada, the government of a jurisdiction or the government of the United States of America.
- (2) Before the Instrument came into force, the Canadian securities regulatory authorities granted relief from the predecessor provision of NP39 to a number of international bond

funds in order to permit those mutual funds to pursue their fundamental investment objectives with greater flexibility.

- (3) The Canadian securities regulatory authorities will continue to consider applications for relief from section 2.1 of the Instrument if the mutual fund making the application demonstrates that the relief will better enable the mutual fund to meet its fundamental investment objectives. This relief will ordinarily be restricted to international bond funds.
- (4) The relief from paragraph 2.04(1)(a) of NP39, which is replaced by section 2.1 of the Instrument, that has been provided to a mutual fund has generally been limited to the following circumstances:
 - 1. The mutual fund has been permitted to invest up to 20 percent of its net assets, taken at market value at the time of purchase, in evidences of indebtedness of any one issuer if those evidences of indebtedness are issued, or guaranteed fully as to principal and interest, by supranational agencies or governments other than the government of Canada, the government of a jurisdiction or the government of the United States of America and are rated "AA" by Standard & Poor's, or have an equivalent rating by one or more other approved credit rating organizations.
 - 2. The mutual fund has been permitted to invest up to 35 percent of its net assets, taken at market value at the time of purchase, in evidences of indebtedness of any one issuer, if those securities are issued by issuers described in paragraph 1 and are rated "AAA" by Standard & Poor's, or have an equivalent rating by one or more other approved credit rating organizations.
- (5) It is noted that the relief described in paragraphs 3.1(4)1 and 2 cannot be combined for one issuer.
- (6) Despite subsection (4), the relief from paragraph 2.04(1)(a) of NP39, which is replaced by section 2.1 of the Instrument, provided to a mutual fund whose securities are a registered investment under the ITA or whose securities are not, and are described in the current prospectus or simplified prospectus of the mutual fund as not being foreign property under the ITA has generally been restricted to allowing the mutual fund to

invest no more than 20 percent of its net assets, taken at market value at the time of purchase, in securities issued by issuers described in subsection (4) if the securities of those issuers are foreign property under the ITA.

- (7) In addition to the limitation described in subsection (6), the relief from paragraph 2.04(1)(a) of NP39, which is replaced by section 2.1 of the Instrument, has generally been provided only if
 - (a) the securities that may be purchased under the relief referred to in subsections (4) and (6) are traded on a mature and liquid market;
 - (b) the acquisition of the evidences of indebtedness by the mutual fund is consistent with its fundamental investment objectives;
 - (c) the prospectus or simplified prospectus of the mutual fund disclosed the additional risks associated with the concentration of the net assets of the mutual fund in securities of fewer issuers, such as the potential additional exposure to the risk of default of the issuer in which the fund has so invested and the risks, including foreign exchange risks, of investing in the country in which that issuer is located; and
 - (d) the prospectus or simplified prospectus of the mutual fund gave details of the relief provided by the Canadian securities regulatory authorities, including the conditions imposed and the type of securities covered by the exemption.

3.2 Special Warrants - A mutual fund is required by subsection 2.2(3) of the Instrument to assume the conversion of each special warrant it holds. This requirement is imposed because the nature of a special warrant is such that there is a high degree of likelihood that its conversion feature will be exercised shortly after its issuance, once a prospectus relating to the underlying security has been filed.

3.3 Investment in Other Mutual Funds

- (1) Subsection 2.5(1) of the Instrument contains restrictions on the ability of a mutual fund to invest in the securities of another mutual fund. Subsection 2.5(2) of the Instrument provides that subsection (1) does not apply to the purchase of a mutual fund that is listed and posted for trading on a stock exchange.

(2) Subsection 2.5(2) of the Instrument removes from the fund of funds rules any security of an issuer that may technically be a mutual fund, such as a subdivided offering or an index participation unit, but that is not a conventional mutual fund and for which the fund of funds rules should not be applicable. Since those vehicles are generally listed on a stock exchange, the Canadian securities regulatory authorities have used this distinguishing feature to define the vehicles whose securities may be purchased by a mutual fund without regard to the fund of funds regime. The purchase of those vehicles is, of course, subject to the other investment restrictions of the Instrument, including, without limitation, section 2.1 of the Instrument.

3.4 Instalments of Purchase Price - Paragraph 2.6(d) of the Instrument prohibits a mutual fund from purchasing a security, other than a specified derivative, that by its terms may require the mutual fund to make a contribution in addition to the payment of the purchase price. This prohibition does not extend to the purchase of securities that are paid for on an instalment basis in which the total purchase price and the amounts of all instalments are fixed at the time the first instalment is made.

3.5 Purchase of Evidences of Indebtedness - Paragraph 2.6(f) of the Instrument prohibits a mutual fund from lending either cash or a portfolio asset other than cash. The Canadian securities regulatory authorities are of the view that the purchase of an evidence of indebtedness, such as a bond or debenture, a loan participation or loan syndication as permitted by paragraph 2.3(i) of the Instrument, or the purchase of a preferred share that is treated as debt for accounting purposes, does not constitute the lending of cash or a portfolio asset.

PART 4 USE OF SPECIFIED DERIVATIVES

4.1 Exercising Options on Futures - Paragraphs 2.8(1)(d) and (e) of the Instrument prohibit a mutual fund from, among other things, opening and maintaining a position in a standardized future except under the conditions referred to in those paragraphs. Opening and maintaining a position in a standardized future could be effected through the exercise by a mutual fund of an option on futures. Therefore, it should be noted that a mutual fund cannot exercise an option on futures and assume a position in a standardized future unless the applicable provisions of paragraphs 2.8(1)(d) or (e) are satisfied.

4.2 Registration Matters - The Canadian securities regulatory authorities remind industry participants of the following requirements contained in securities legislation:

1. A mutual fund may only invest in or use clearing corporation options and

over-the-counter options if the portfolio adviser advising with respect to these investments

(a) is permitted, either by virtue of registration as an adviser under the securities legislation or commodity futures legislation of the jurisdiction in which the portfolio adviser is providing the advice or an exemption from the requirement to be registered, to provide that advice to the mutual fund under the laws of that jurisdiction; and

(b) has satisfied all applicable option proficiency requirements of that jurisdiction which, ordinarily, will involve completion of the Canadian Options Course.

2. A mutual fund may invest in or use futures and options on futures only if the portfolio adviser advising with respect to these investments or uses is registered as an adviser under the securities or commodity futures legislation of the jurisdiction in which the portfolio adviser is providing the advice, if this registration is required in that jurisdiction, and meets the proficiency requirements for advising with respect to futures and options on futures in the jurisdiction.

3. A portfolio adviser of a mutual fund that receives advice from a non-resident sub-adviser as contemplated by section 2.10 of the Instrument is not relieved from the registration requirements described in paragraphs 1 and 2.

4. In Ontario, a non-resident sub-adviser is required, under the commodity futures legislation of Ontario, to be registered in Ontario if it provides advice to another portfolio adviser of a mutual fund in Ontario concerning the use of standardized futures by the mutual fund. Section 2.10 of the Instrument does not exempt the non-resident sub-adviser from this requirement. A non-resident sub-adviser should apply for an exemption in Ontario if it wishes to carry out the arrangements contemplated by section 2.10 without being registered in Ontario under that legislation.

4.3 Leveraging - The Instrument is designed to prevent the use of specified derivatives for the purpose of leveraging the assets of the mutual fund. The definition of "hedging" prohibits leveraging with specified derivatives used for hedging purposes. The provisions of subsection 2.8(1) of the Instrument restrict leveraging with specified derivatives used for non-hedging purposes.

4.4 Cash Cover - The definition of "cash cover" in the Instrument prescribes the securities or other portfolio

assets that may be used to satisfy the cash cover requirements relating to specified derivatives positions of mutual funds required by Part 2 of the Instrument. The definition of "cash cover" includes various interest-bearing securities; the definition includes interest accrued on those securities, and so mutual funds are able to include accrued interest for purposes of cash cover calculations.

PART 5 LIABILITY AND INDEMNIFICATION

5.1 Liability and Indemnification

- (1) Subsection 4.4(1) of the Instrument contains provisions that require that any agreement or declaration of trust under which a person or company acts as manager of a mutual fund provide that the manager is responsible for any loss that arises out of the failure of it, and of any person or company retained by it or the mutual fund to discharge any of the manager's responsibilities to the mutual fund, to satisfy the standard of care referred to in that section. Subsection 4.4(2) of the Instrument provides that a mutual fund shall not relieve the manager from that liability.
- (2) The purpose of these provisions is to ensure that the manager remains responsible to the mutual fund and therefore indirectly to its securityholders for the duty of care that is imposed by the securities legislation of most jurisdictions, and to clarify that the manager is responsible to ensure that service providers perform to the level of that standard of care. The Instrument does not regulate the contractual relationships between the manager and service providers; whether a manager can seek indemnification from a service provider that fails to satisfy that standard of care is a contractual issue between those parties.
- (3) Subsection 4.4(5) of the Instrument provides that section 4.4 does not apply to any losses to a mutual fund or securityholder arising out of an action or inaction by a custodian or sub-custodian or by a director of a mutual fund. A separate liability regime is imposed, on custodians or sub-custodians by section 6.6 of the Instrument. Directors are subject to the liability regime imposed by the relevant corporate legislation.

PART 6 SECURITYHOLDER MATTERS

- 6.1 Meetings of Securityholders** - Subsection 5.4(1) of the Instrument imposes a requirement that a meeting of securityholders of a mutual fund called for the purpose of considering any of the matters referred to in section 5.1 of the Instrument must be called on

notice sent at least 21 days before the date of the meeting. Industry participants are reminded that the provisions of National Policy Statement No. 41, or a successor instrument, may apply to any meetings of securityholders of mutual funds and that those provisions may require that a longer period of notice be given.

6.2 Limited Liability

- (1) Mutual funds generally are structured in a manner that ensures that investors are not exposed to the risk of loss of an amount more than their original investment. This is a very important and essential attribute of mutual funds.
- (2) Mutual funds that are structured as corporations do not raise pressing liability problems because of the limited liability regime of corporate statutes.
- (3) Mutual funds that are structured as limited partnerships may raise some concerns about the loss of limited liability if limited partners participate in the management or control of the partnership. The Canadian securities regulatory authorities encourage managers of mutual funds that are structured as limited partnerships to consider this issue in connection with the holding of meetings of securityholders, even if required under section 5.1 of the Instrument. In addition, all managers of mutual funds that are structured as limited partnerships should consider whether disclosure and discussion of this issue should be included as a risk factor in simplified prospectuses.

- 6.3 Calculation of Fees** - Paragraph 5.1(a) of the Instrument requires securityholder approval before the basis of the calculation of a fee or expense that is charged to a mutual fund is changed in a way that could result in an increase in charges to the mutual fund. The Canadian securities regulatory authorities note that the phrase "basis of the calculation" includes any increase in the rate at which a particular fee is charged to the mutual fund.

PART 7 CHANGES

7.1 Integrity and Competence of Mutual Fund Management Groups

- (1) Paragraph 5.5(1)(a) of the Instrument requires that the approval of the securities regulatory authority be obtained before the manager of a mutual fund is changed. Subsection 5.5(2) of the Instrument contemplates similar approval to a change in control of a manager.
- (2) In connection with each of these approvals, applicants are required by section 5.7 of the

Instrument to provide information to the securities regulatory authority concerning the integrity and experience of the persons or companies that are proposed to be involved in, or control, the management of the mutual fund after the proposed transaction.

(3) The Canadian securities regulatory authorities would generally consider it helpful in their assessment of the integrity and experience of the proposed new management group that will manage a mutual fund after a change in manager if the application set out, among any other information the applicant wishes to provide

(a) the name, registered address and principal business activity or the name, residential address and occupation or employment of

(i) if the proposed manager is not a public company, each beneficial owner of securities of each shareholder, partner or limited partner of the proposed manager, and

(ii) if the proposed manager is a public company, each beneficial owner of securities of each shareholder of the proposed manager that is the beneficial holder, directly or indirectly, of more than 10 percent of the outstanding securities of the proposed manager; and

(b) information concerning

(i) if the proposed manager is not a public company, each shareholder, partner or limited partner of the proposed manager,

(ii) if the proposed manager is a public company, each shareholder that is the beneficial holder, directly or indirectly, of more than 10 percent of the outstanding securities of the proposed manager,

(iii) each director and officer of the proposed manager, and

(iv) each proposed director, officer or individual trustee of the mutual fund.

(4) The Canadian securities regulatory authorities would generally consider it helpful if the

information relating to the persons and companies referred to in paragraph (3)(b) included

(a) for a company

(i) its name, registered address and principal business activity,

(ii) the number of securities or partnership units of the proposed manager beneficially owned, directly or indirectly, and

(iii) particulars of any existing or potential conflicts of interest that may arise as a result of the activities of the company and its relationship with the management group of the mutual fund; and

(b) for an individual

(i) his or her name, birthdate and residential address,

(ii) his or her principal occupation or employment,

(iii) his or her principal occupations or employment during the five years before the date of the application, with a particular emphasis on the individual's experience in the financial services industry,

(iv) the individual's educational background, including information regarding courses successfully taken that relate to the financial services industry,

(v) his or her position and responsibilities with the proposed manager or the controlling shareholders of the proposed manager or the mutual fund,

(vi) whether he or she is, or within five years before the date of the application has been, a director, officer or promoter of any reporting issuer other than the mutual fund, and if so, disclosing the names of the reporting issuers and their business purpose, with a particular emphasis on relationships between the individual and other mutual funds,

- (vii) the number of securities or partnership units of the proposed manager beneficially owned, directly or indirectly,
 - (viii) particulars of any existing or potential conflicts of interest that may arise as a result of the individual's outside business interests and his or her relationship with the management group of the mutual fund, and
 - (ix) a description of the individual's relationships to the proposed manager and other service providers to the mutual fund.
- (5) The Canadian securities regulatory authorities would generally consider it helpful in their assessment of the integrity and experience of the persons or companies that are proposed to manage a mutual fund after a change of control of the manager, if the application set out, among any other information that applicant wishes to provide, a description of
- (a) the proposed corporate ownership of the manager of the mutual fund after the proposed transaction, indicating for each proposed direct or indirect shareholder of the manager of the mutual fund the information about that shareholder referred to in subsection (4);
 - (b) the proposed officers and directors of the manager of the mutual fund, of the mutual fund and of each of the proposed controlling shareholders of the mutual fund, indicating for each individual, the information about that individual referred to in subsection (4);
 - (c) any anticipated changes to be made to the officers and directors of the manager of the mutual fund, of the mutual fund and of each of the proposed controlling shareholders of the mutual fund that are not set out in paragraph (b); and
 - (d) the relationship of the members of the proposed controlling shareholders and the other members of the management group to the manager and any other service provider to the mutual fund.

7.2 Mergers and Conversions of Mutual Funds - Subsection 5.6(1) of the Instrument provides that mergers or conversions of mutual funds may be carried out on the conditions described in that subsection without prior approval of the securities

regulatory authority. The Canadian securities regulatory authorities consider that the types of transactions contemplated by subsection 5.6(1) of the Instrument when carried out in accordance with the conditions of that subsection address the fundamental regulatory concerns raised by mergers and conversions of mutual funds. Subsection 5.6(1) is designed to facilitate consolidations of mutual funds within fund families that have similar fundamental investment objectives and strategies and that are operated in a consistent and similar fashion. Since subsection 5.6(1) will be unavailable unless the mutual funds involved in the transaction have substantially similar fundamental investment objectives and strategies and are operated in a substantially similar fashion, the Canadian securities regulatory authorities do not expect that the portfolios of the consolidating funds will be required to be realigned to any great extent before a merger. If realignment is necessary, the Canadian securities regulatory authorities note that paragraph 5.6(1)(h) of the Instrument provides that none of the costs and expenses associated with the transaction may be borne by the mutual fund. Brokerage commissions payable as a result of any portfolio realignment necessary to carry out the transaction would, in the view of the Canadian securities regulatory authorities, be costs and expenses associated with the transaction.

7.3 Regulatory Approval for Reorganizations

- (1) Paragraph 5.7(1)(b) of the Instrument requires certain details to be provided in respect of an application for regulatory approval required by paragraph 5.5(1)(b) that is not automatically approved under subsection 5.6(1). The Canadian securities regulatory authorities will be reviewing this type of proposed transaction, among other things, to ensure that adequate disclosure of the differences between the funds participating in the proposed transaction is given to securityholders of the mutual fund that will be merged, reorganized or amalgamated with another mutual fund.
- (2) If a mutual fund is proposed to be merged, amalgamated or reorganized with a mutual fund that has a net asset value that is smaller than the net asset value of the terminating mutual fund, the Canadian securities regulatory authorities will consider the implications of the proposed transaction on the smaller continuing mutual fund. The Canadian securities regulatory authorities believe that this type of transaction generally would constitute a significant change for the smaller continuing mutual fund, thereby triggering the requirements of paragraph 5.1(g) and section 5.10 of the Instrument.

7.4 Significant Changes

- (1) The Canadian securities regulatory authorities will not outline all changes in a mutual fund that could constitute a significant change for the mutual fund within the meaning of the Instrument. However, they wish to state their views of two matters in this Policy.
- (2) First, the Canadian securities regulatory authorities note that the change of portfolio adviser of a mutual fund will generally constitute a significant change for the mutual fund.
- (3) In addition, the departure of a high-profile individual from the employ of a portfolio adviser of a mutual fund may constitute a significant change for the mutual fund, depending on the circumstances. The definition of significant change is based on a change in the business, operations or affairs of a mutual fund that would be considered important by a reasonable investor or securityholder. Whether such a person would consider the departure of a high-profile individual to be important in this sense would likely depend substantially on how prominently the mutual fund featured that individual in its marketing. The Canadian securities regulatory authorities consider it unlikely that a mutual fund that emphasized the ability of a particular individual to encourage investors to purchase the fund could later take the position that the departure of that individual was immaterial to investors and therefore not a significant change.

PART 8 CUSTODIANSHIP OF PORTFOLIO ASSETS

8.1 Standard of Care - The standard of care prescribed by section 6.6 of the Instrument is a minimum standard only. Similarly, the provisions of section 6.5 of the Instrument, designed to protect a mutual fund from loss in the event of the insolvency of those holding its portfolio assets, are minimum requirements. The Canadian securities regulatory authorities are of the view that the requirements set out in section 6.5 may require custodians and sub-custodians to take such additional steps as may be necessary or desirable properly to protect the portfolio assets of the mutual fund in a foreign jurisdiction and to ensure that those portfolio assets are unavailable to satisfy the claims of creditors of the custodian or sub-custodian, having regard to creditor protection and bankruptcy legislation of any foreign jurisdiction in which portfolio assets of a mutual fund may be located.

8.2 Book-Based System

- (1) Subsection 6.5(3) of the Instrument provides that a custodian or sub-custodian of a mutual fund may arrange for the deposit of portfolio assets of the mutual fund with a depository, or clearing agency, that operates a book-based system. Such depositories or clearing agencies include The Canadian Depository For Securities Limited, the Depository Trust Company or any other domestic or foreign depository or clearing agency that is incorporated or organized under the laws of a country or a political subdivision of a country and operates a book-based system in that country or political subdivision or operates a transnational book-based system.
- (2) A depository or clearing agency that operates a book-based system used by a mutual fund is not considered to be a custodian or sub-custodian of the mutual fund.

8.3 Compliance - Paragraph 6.7(1)(c) of the Instrument requires the custodian of a mutual fund to make any changes periodically that may be necessary to ensure that the custodian and sub-custodian agreements comply with Part 6, and that there is no sub-custodian of the mutual fund that does not satisfy the applicable requirements of sections 6.2 or 6.3. The Canadian securities regulatory authorities note that necessary changes to ensure this compliance could include a change of sub-custodian.

PART 9 CONTRACTUAL PLANS

9.1 Contractual Plans - Industry participants are reminded that the term "contractual plan" used in Part 8 of the Instrument is a defined term in the securities legislation of most jurisdictions, and that contractual plans as so defined are not the same as automatic or periodic investment plans. The distinguishing feature of a contractual plan is that sales charges are not deducted at a constant rate as investments in mutual fund securities are made under the plan; rather, proportionately higher sales charges are deducted from the investments made during the first year, or in some plans the first two years.

PART 10 SALES AND REDEMPTIONS OF SECURITIES

- 10.1 General** - Parts 9, 10 and 11 of the Instrument are intended to ensure that
- (a) investors' cash is received by a mutual fund promptly;
 - (b) the opportunity for loss of an investors' cash before investment in the mutual fund is minimized; and

- (c) the mutual fund or the appropriate investor receives all interest that accrues on cash during the periods between delivery of the cash by an investor until investment in the mutual fund, in the case of the purchase of mutual fund securities, or between payment of the cash by the mutual fund until receipt by the investor, in the case of redemptions.

10.2 Interpretation

- (1) The Instrument refers to "securityholders" of a mutual fund in several provisions, most notably in Parts 9 and 10 when referring to purchase and redemption orders received by a mutual fund or a participating dealer or principal distributor from "securityholders".
- (2) Mutual funds must keep a record of the holders of their securities. A mutual fund registers a holder of its securities on this record as requested by the person or company placing a purchase order or as subsequently requested by that registered securityholder. The Canadian securities regulatory authorities are of the view that a mutual fund is entitled to rely on its register of holders of securities to determine the names of such holders and in its determination as to whom it is to take instructions from.
- (3) Accordingly, when the Instrument refers to "securityholder" of a mutual fund, it is referring to the securityholder registered as a holder of securities on the records of the mutual fund. If that registered securityholder is a participating dealer acting for its client, the mutual fund deals with and takes instructions from that participating dealer. The Instrument does not regulate the relationship between the participating dealer and its client for whom the participating dealer is acting as agent. The Canadian securities regulatory authorities note however, that the participating dealer should, as a matter of prudent business practice, obtain appropriate instructions, in writing, from its client when dealing with the client's beneficial holdings in a mutual fund.

10.3 Receipt of Orders

- (1) A principal distributor or participating dealer of a mutual fund should endeavour, to the extent possible, to receive cash to be invested in the mutual fund at the time the order to which they pertain is placed.
- (2) A dealer receiving an order for redemption should, at the time of receipt of the investor's order, obtain from the investor all relevant documentation required by the mutual fund in respect of the redemption including, without limitation, any written request for redemption that may be required by the mutual fund, duly

completed and executed, and any certificates representing the mutual fund securities to be redeemed, so that all required documentation is available at the time the redemption order is transmitted to the mutual fund or to its principal distributor for transmittal to the mutual fund.

- 10.4 **Backward Pricing** - Sections 9.3 and 10.3 of the Instrument provide that the issue price or the redemption price of a security of a mutual fund to which a purchase order or redemption order pertains shall be the net asset value per security, next determined after the receipt by the mutual fund of the relevant order. For clarification, the Canadian securities regulatory authorities emphasize that the issue price and redemption price cannot be based upon any net asset value per security calculated before receipt by the mutual fund of the relevant order.

10.5 Coverage of Losses

- (1) Subsection 9.4(6) of the Instrument provides that certain participating dealers may be required to compensate a mutual fund for a loss suffered as the result of a failed settlement of a purchase of securities of the mutual fund. Similarly, subsection 10.5(3) of the Instrument provides that certain participating dealers may be required to compensate a mutual fund for a loss suffered as the result of a redemption that could not be completed due to the failure to satisfy the requirements of the mutual fund concerning redemptions.
- (2) The Canadian securities regulatory authorities have not carried forward into the Instrument the provisions contained in NP39 relating to a participating dealer's ability to recover from their clients or other participating dealers any amounts that they were required to pay to a mutual fund. If participating dealers wish to provide for such rights they should make the appropriate provisions in the contractual arrangements that they enter into with their clients or other participating dealers.

PART 11 COMMINGLING OF CASH

11.1 Commingling of Cash

- (1) Part 11 of the Instrument requires principal distributors and participating dealers to account separately for cash they may receive for the purchase of, or upon the redemption of, mutual fund securities. Those principal distributors and participating dealers are prohibited from commingling any cash so received with their other assets or with cash held for the purchase or upon the sale of securities of other types of securities. The

- Canadian securities regulatory authorities are of the view that this means that dealers may not deposit into the trust accounts established under Part 11 cash obtained from the purchase or sale of other types of securities such as guaranteed investment certificates, government treasury bills, segregated funds or bonds.
- (2) Subsections 11.1(2) and 11.2(2) of the Instrument state that principal distributors and participating dealers, respectively, may not use any cash received for the investment in mutual fund securities to finance their own operations. The Canadian securities regulatory authorities are of the view that any costs associated with returned client cheques that did not have sufficient funds to cover a trade ("NSF cheques") are a cost of doing business and should be borne by the applicable principal distributor or participating dealer and should not be offset by interest income earned on the trust accounts established under Part 11 of the Instrument.
- (3) No overdraft positions should arise in these trust accounts.
- (4) Subsections 11.1(3) and 11.2(3) of the Instrument prescribe the circumstances under which a principal distributor or participating dealer, respectively, may withdraw funds from the trust accounts established under Part 11 of the Instrument. This would prevent the practice of "lapping". Lapping occurs as a result of the timing differences between trade date and settlement date, when cash of a mutual fund client held for a trade which has not yet settled is used to settle a trade for another mutual fund client who has not provided adequate cash to cover the settlement of that other trade on the settlement date. The Canadian securities regulatory authorities view this practice as a violation of subsections 11.1(3) and 11.2(3) of the Instrument.
- (5) Subsections 11.1(4) and 11.2(4) of the Instrument require that interest earned on cash held in the trust accounts established under Part 11 of the Instrument be paid to the applicable mutual fund or its securityholders "pro rata based on cash flow". The Canadian securities regulatory authorities are of the view that this requirement means, in effect, that the applicable mutual fund or securityholder should be paid the amount of interest that the mutual fund or securityholder would have received had the cash held in trust for that mutual fund or securityholder been the only cash held in that trust account.

- (6) Paragraph 11.3(b) of the Instrument requires that trust accounts maintained in accordance with sections 11.1 or 11.2 of the Instrument bear interest "at rates equivalent to comparable accounts of the financial institution". A type of account that ordinarily pays zero interest may be used for trust accounts under sections 11.1 or 11.2 of the Instrument so long as zero interest is the rate of interest paid on that type of account for all depositors other than trust accounts.

PART 12 PUBLICATION OF NET ASSET VALUE PER SECURITY

- 12.1 Publication of Net Asset Value per Security** - Subsection 13.1(4) of the Instrument requires a mutual fund that arranges for the publication of its net asset value per security in the financial press to ensure that its current net asset value per security is provided on a timely basis to the financial press. This provision ensures that a mutual fund takes steps to calculate the net asset value per security as quickly as is commercially practicable following the valuation date or time, and to make the results of that calculation available to the financial press as quickly as is commercially practicable. A mutual fund should, to the extent practicable, attempt to meet the deadlines of the financial press for publication in order to ensure that its net asset values per security are publicly available as quickly as possible.

PART 13 PROHIBITED REPRESENTATIONS AND SALES COMMUNICATIONS

13.1 Misleading Sales Communications

- (1) Part 15 of the Instrument prohibits misleading sales communications relating to mutual funds and asset allocation services. Whether a particular description, representation, illustration or other statement in a sales communication is misleading depends upon an evaluation of the context in which it is made. The following list sets out some of the circumstances, in the view of the Canadian securities regulatory authorities, in which a sales communication would be misleading. No attempt has been made to enumerate all such circumstances since each sales communication must be assessed individually.
1. A statement would be misleading if it lacks explanations, qualifications, limitations or other statements necessary or appropriate to make the statement not misleading.
 2. A representation about past or future investment performance would be misleading if it is

- (a) a portrayal of past income, gain or growth of assets that conveys an impression of the net investment results achieved by an actual or hypothetical investment that is not justified under the circumstances;
 - (b) a representation about security of capital or expenses associated with an investment that is not justified under the circumstances or a representation about possible future gains or income; or
 - (c) a representation or presentation of past investment performance that implies that future gains or income may be inferred from or predicted based on past investment performance or portrayals of past performance.
3. A statement about the characteristics or attributes of a mutual fund or an asset allocation service would be misleading if
- (a) it concerns possible benefits connected with or resulting from services to be provided or methods of operation and does not give equal prominence to discussion of any risks or associated limitations;
 - (b) it makes exaggerated or unsubstantiated claims about management skill or techniques; characteristics of the mutual fund or asset allocation service; an investment in securities issued by the fund or recommended by the service; services offered by the fund, the service or their respective manager; or effects of government supervision; or
 - (c) it makes unwarranted or incompletely explained comparisons to other investment vehicles or indices.
4. A sales communication that quoted a third party source would be misleading if the quote were out of context and proper attribution of the source were not given.
- (2) Performance data information may be misleading even if it complies technically with the requirements of the Instrument. For instance, subsections 15.8(1) and (2) of the Instrument contain requirements that the standard performance data for mutual funds given in sales communications be for prescribed periods falling within prescribed amounts of time before the date of the appearance or use of the advertisement or first date of publication of any other sales communication. That standard performance data may be misleading if it does not adequately reflect intervening events occurring after the prescribed period. An example of such an intervening event would be, in the case of money market funds, a substantial decline in interest rates after the prescribed period.
- (3) An advertisement that presents information in a manner that distorts information contained in the preliminary prospectus or prospectus, or preliminary simplified prospectus and annual information form, of a mutual fund or that includes a visual image that provides a misleading impression will be considered to be misleading.
 - (4) Any discussion of the income tax implications of an investment in a mutual fund security should be balanced with a discussion of any other material aspects of the offering.
 - (5) Paragraph 15.2(1)(b) of the Instrument provides that sales communications may not include any statement that conflicts with information that is contained in, among other things, a simplified prospectus. The Canadian securities regulatory authorities are of the view that a sales communication that provides performance data in compliance with the requirements of Part 15 of the Instrument for time periods that differ from the time periods for which performance data is required to be provided in a simplified prospectus under National Instrument 81-101 is not thereby in violation of the requirements of paragraph 15.2(1)(b) of the Instrument.
 - (6) Subsection 15.3(1) of the Instrument permits a mutual fund or asset allocation service to compare its performance to, among other things, other types of investments or benchmarks on certain conditions. Examples of such other types of investments or benchmarks to which the performance of a mutual fund or asset allocation service may be compared include consumer price indices; stock, bond or other types of indices; averages; returns payable on guaranteed investment certificates or other certificates of deposit; and returns from an investment in real estate.
 - (7) Paragraph 15.3(1)(c) of the Instrument requires that if the performance of a mutual

fund or asset allocation service is compared to that of another investment or benchmark, the comparison sets out clearly any factors necessary to ensure that the comparison is fair and not misleading. Such factors would include an explanation of any relevant differences between the mutual fund or asset allocation service and the investment or benchmark to which it is compared. Examples of such differences include any relevant differences in the guarantees of, or insurance on, the principal of or return from the investment or benchmark; fluctuations in principal, income or total return; any differing tax treatment; and, for a comparison to an index or average, any differences between the composition or calculation of the index or average and the investment portfolio of the mutual fund or asset allocation service.

13.2 Other Provisions

- (1) Subsection 15.9(1) of the Instrument imposes certain disclosure requirements for sales communications in circumstances in which there was a change in the business, operations or affairs of a mutual fund or asset allocation service during or after a performance measurement period of performance data contained in the sales communication that could have materially affected the performance of the mutual fund or asset allocation service. Examples of these changes are changes in the management, investment objectives, portfolio adviser, ownership of the manager, fees and charges, or of policies concerning the waiving or absorbing of fees and charges, of the mutual fund or asset allocation service; or of a change in the characterization of the mutual fund as a money market fund.
- (2) Paragraph 15.11(1)5 of the Instrument requires that no non-recurring fees and charges that are payable by some or all securityholders and no recurring fees and charges that are payable by some but not all securityholders be assumed in calculating standard performance data. Examples of non-recurring types of fees and charges are front-end sales commissions and contingent deferred sales charges, and examples of recurring types of fees and charges are the annual fees paid by purchasers who purchased on a contingent deferred charge basis.
- (3) Paragraphs 15.11(1)2 and 15.11(2)2 of the Instrument require that no fees and charges related to optional services be assumed in

calculating standard performance data. Examples of these fees and charges include transfer fees, except in the case of an asset allocation service, and fees and charges for registered retirement savings plans, registered retirement income funds, registered education savings plans, pre-authorized investment plans and systematic withdrawal plans.

- (4) The Canadian securities regulatory authorities are of the view that it is inappropriate and misleading for a mutual fund that is continuing following a merger to prepare and use *pro forma* performance information or financial statements that purport to show the combined performance of the two funds during a period before their actual merger. The Canadian securities regulatory authorities are of the view that such *pro forma* information is hypothetical, involving the making of many assumptions that could affect the results.

PART 14 CALCULATION OF MANAGEMENT EXPENSE RATIO

14.1 Calculation of Management Expense Ratio

- (1) Part 16 of the Instrument sets out the method to be used by a mutual fund in calculating its management expense ratio. The requirements contained in Part 16 are applicable in all circumstances in which a mutual fund calculates and discloses a management expense ratio. This includes disclosure in a sales communication, a simplified prospectus, an annual information form, financial statements or in a report to securityholders.
- (2) Paragraph 16.1(1)(a) requires the mutual fund to use its "total expenses" for a financial year as shown in its income statement as the basis for the calculation of management expense ratio. Total expenses will include interest charges and taxes of all types, including sales taxes and GST, payable by the mutual fund. Brokerage charges are not considered to be part of total expenses as they are included in the cost of purchasing, or netted out of the proceeds from selling, portfolio assets.

PART 15 SECURITYHOLDER RECORDS

- 15.1 **Securityholder Records** - Section 18.1 of the Instrument requires the maintenance of securityholder records, including past records, relating to the issue and redemption of securities and distributions of the mutual fund. Section 18.1 does not require that these records need be held indefinitely. It is up to the particular mutual fund, having regard to prudent business practice and any

applicable statutory limitation periods, to decide how long it wishes to retain old records.

Instrument will not trigger the "sunset" of those waivers and orders.

PART 16 EXEMPTIONS AND APPROVALS

16.1 Need for Multiple or Separate Applications - The Canadian securities regulatory authorities note that a person or company that obtains an exemption from a provision of the Instrument need not apply again for the same exemption at the time of each prospectus or simplified prospectus refiling unless there has been some change in an important fact relating to the granting of the exemption. This also applies to exemptions from NP39 granted before the Instrument; as provided in section 19.2 of the Instrument, it is not necessary to obtain an exemption from the corresponding provision of the Instrument.

16.2 Exemptions under Prior Policies

- (1) Subsection 19.2(1) of the Instrument provides that a mutual fund that has obtained, from the regulatory or securities regulatory authority, an exemption from a provision of NP 39 before the Instrument came into force is granted an exemption from any substantially similar provision of the Instrument, if any, on the same conditions, if any, contained in the earlier exemption.
- (2) The Canadian securities regulatory authorities are of the view that the fact that a number of small amendments have been made to many of the provisions of the Instrument from the corresponding provision of NP39 should not lead to the conclusion that the provisions are not "substantially similar", if the general purpose of the provisions remain the same. For instance, even though some changes have been made in the Instrument, the Canadian securities regulatory authorities consider paragraph 2.2(1)(a) of the Instrument to be substantially similar to paragraph 2.04(1)(b) of NP39, in that the primary purpose of both provisions is to prohibit mutual funds from acquiring securities of an issuer sufficient to permit the mutual fund to control or significantly influence the control of that issuer.

16.3 Waivers and Orders concerning "Fund of Funds" - The CSA in a number of jurisdictions have provided waivers and orders from NP39 and securities legislation to permit "fund of funds" to exist and carry on investment activities not otherwise permitted by NP39 or securities legislation. Some of those waivers and orders contained "sunset" provisions that provided that they expired when legislation or a CSA policy or rule came into force that effectively provided for a new "fund of funds" regime. For greater certainty, the Canadian securities regulatory authorities note that the coming into force of the

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