

5.1.5 Amendments to NI 81-101 Mutual Fund Prospectus Disclosure and Companion Policy 81-101CP

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

1. ***National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended by this Instrument.***

2. ***Section 1.1 is amended by***

(a) ***repealing the definition of “Personal Information Form and Authorization”,***

(b) ***after the definition of “Part B Section”, adding the following definition:***

“personal information form” means

(a) a completed Schedule 1 of Appendix A to National Instrument 41-101 *General Prospectus Requirements*, or

(b) a completed TSX/TSXV personal information form submitted by an individual to the Toronto Stock Exchange or to the TSX Venture Exchange to which is attached a completed certificate and consent in the form set out in Schedule 1 – Part B of Appendix A to National Instrument 41-101 *General Prospectus Requirements*;

(c) ***after the definition of “precious metals fund”, adding the following definition:***

“predecessor personal information form” means

(a) a completed Schedule 1 of Appendix A to National Instrument 41-101 *General Prospectus Requirements* in the form that was in effect from March 17, 2008 until May 14, 2013, or

(b) a completed TSX/TSXV personal information form to which is attached a completed certificate and consent in the form that was in effect between March 17, 2008 and May 14, 2013;

(d) ***in the definition of “single AIF”, deleting “and”,***

(e) ***in the definition of “single SP”, replacing “.” with “; and” after the words “under subsection 5.1(1)”; and***

(f) ***after the definition of “single SP”, adding the following definition;***

“TSX/TSXV personal information form” means a completed personal information form of an individual in compliance with the requirements of Form 4 for the Toronto Stock Exchange or Form 2A for the TSX Venture Exchange, as applicable, each as amended from time to time.”

3. ***Paragraph 2.3(1)(b) is amended by replacing:***

“(ii) personal information in the form of the Personal Information Form and Authorization for:

(A) each director and executive officer of the mutual fund,

(B) each director and executive officer of the manager of the mutual fund,

(C) each promoter of the mutual fund, and

(D) if the promoter is not an individual, each director and executive officer of the promoter,

unless

(E) a completed Personal Information Form and Authorization,

(F) before March 17, 2008, a completed authorization in

(I) the form set out in Appendix B of NI 44-101,

- (II) the form set out in Ontario Form 41-501F2 *Authorization of Indirect Collection of Personal Information*, or
- (III) the form set out in Appendix A of Québec Regulation Q-28 *Respecting General Prospectus Requirements*, or
- (G) before March 17, 2008, a completed personal information form or authorization in a form substantially similar to a personal information form or authorization in clause (E) or (F), as permitted under securities legislation,

was previously delivered in connection with the simplified prospectus of another mutual fund managed by the manager of the mutual fund,”

with the following:

- “(ii) a personal information form for:
 - (A) each director and executive officer of the mutual fund;
 - (B) each director and executive officer of the manager of the mutual fund;
 - (C) each promoter of the mutual fund;
 - (D) if the promoter is not an individual, each director and executive officer of the promoter,”.

4. Section 2.3 is amended by adding the following subsections after subsection 2.3(1):

- “(1.1) Despite subparagraph (1)(b)(ii), a mutual fund is not required to deliver to the regulator a personal information form for an individual if the mutual fund, the mutual fund’s manager, another issuer or the manager of another investment fund issuer, previously delivered a personal information form for the individual and all of the following are satisfied:
 - (a) the certificate and consent included in or attached to the personal information form was executed by the individual within three years preceding the date of filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund;
 - (b) the responses given by the individual to questions 6 through 10 of the individual’s personal information form are correct as at a date that is no earlier than 30 days before the filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund;
 - (c) if the personal information form was previously delivered to the regulator by another issuer, the issuer delivers to the regulator, concurrently with the filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund, a copy of the previously delivered personal information form or alternative information that is satisfactory to the regulator.
- (1.2) Until May 14, 2016, subparagraph (1)(b)(ii) does not apply to a mutual fund in respect of the delivery of a personal information form for an individual if the mutual fund, the mutual fund’s manager, another issuer or the manager of another investment fund issuer previously delivered to the regulator a predecessor personal information form for the individual and all of the following are satisfied:
 - (a) the certificate and consent included in or attached to the predecessor personal information form was executed by the individual within three years preceding the date of filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund;
 - (b) the responses given by the individual to questions 4(B) and (C) and questions 6 through 9 or, in the case of a TSX/TSXV personal information form in effect after September 8, 2011, questions 6 through 10, of the individual’s predecessor personal information form are correct as at a date that is no earlier than 30 days before the filing of the preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document for each class or series of securities of the mutual fund.”.

5. **Paragraph 2.3(2)(a) is amended by**

- (a) **deleting “and” after “has not already been filed,” from subparagraph 2.3(2)(a)(ii), and**
- (b) **adding the following after subparagraph 2.3(2)(a)(ii):**

- “(ii.1) a copy of the following documents and a copy of any amendment to the following documents that have not previously been filed:
 - (A) by-laws or other corresponding instruments currently in effect,
 - (B) any securityholder or voting trust agreement that the mutual fund has access to and that can reasonably be regarded as material to an investor in securities of the mutual fund, and”.

6. **Subparagraph 2.3(2)(b)(iii) is repealed.**

7. **Paragraph 2.3(2)(b) is amended by replacing:**

“(iv) personal information in the form of the Personal Information Form and Authorization for:

- (A) each director and executive officer of the mutual fund,
 - (B) each director and executive officer of the manager of the mutual fund,
 - (C) each promoter of the mutual fund, and
 - (D) if the promoter is not an individual, each director and executive officer of the promoter,
- unless
- (E) a completed Personal Information Form and Authorization,
 - (F) before March 17, 2008, a completed authorization in
 - (I) the form set out in Appendix B of NI 44-101,
 - (II) the form set out in Ontario Form 41-501F2 *Authorization of Indirect Collection of Personal Information*, or
 - (III) the form set out in Appendix A of Québec Regulation Q-28 *Respecting General Prospectus Requirements*, or
 - (G) before March 17, 2008, a completed personal information form or authorization in a form substantially similar to a personal information form or authorization in clause (E) or (F), as permitted under securities legislation,

was previously delivered in connection with a simplified prospectus of the mutual fund or another mutual fund managed by the manager of the mutual fund, and”

with the following:

- “(iv) a personal information form for:
 - (A) each director and executive officer of the mutual fund;
 - (B) each director and executive officer of the manager of the mutual fund;
 - (C) each promoter of the mutual fund;
 - (D) if the promoter is not an individual, each director and executive officer of the promoter, and”.

8. Section 2.3 is amended by adding the following subsection after subsection 2.3(2):

- “(2.1) Despite subparagraph (2)(b)(iv), a mutual fund is not required to deliver to the regulator a personal information form for an individual if the mutual fund, the mutual fund’s manager, another issuer or the manager of another investment fund issuer previously delivered a personal information form for the individual and all of the following are satisfied:
- (a) the certificate and consent included in or attached to the personal information form was executed by the individual within three years preceding the date of filing of the *pro forma* simplified prospectus, *pro forma* annual information form and *pro forma* fund facts document for each class or series of securities of the mutual fund;
 - (b) the responses given by the individual to questions 6 through 10 of the individual’s personal information form are correct as at a date that is no earlier than 30 days before the filing of the *pro forma* simplified prospectus, *pro forma* annual information form and *pro forma* fund facts document for each class or series of securities of the mutual fund;
 - (c) if the personal information form was previously delivered to the regulator by another issuer, the issuer delivers to the regulator, concurrently with the filing of the *pro forma* simplified prospectus, *pro forma* annual information form and *pro forma* fund facts document for each class or series of securities of the mutual fund, a copy of the previously delivered personal information form or alternative information that is satisfactory to the regulator.
- (2.2) Until May 14, 2016, subparagraph (2)(b)(iv) does not apply to a mutual fund in respect of the delivery of a personal information form for an individual if the mutual fund, the mutual fund’s manager, another issuer or the manager of another investment fund issuer previously delivered to the regulator a predecessor personal information form for the individual and all of the following are satisfied:
- (a) the certificate and consent included in or attached to the predecessor personal information form was executed by the individual within three years preceding the date of filing of the *pro forma* simplified prospectus, *pro forma* annual information form and *pro forma* fund facts document for each class or series of securities of the mutual fund;
 - (b) the responses given by the individual to questions 4(B) and (C) and questions 6 through 9 or, in the case of a TSX/TSXV personal information form in effect after September 8, 2011, questions 6 through 10, of the individual’s predecessor personal information form are correct as at a date that is no earlier than 30 days before the filing of the *pro forma* simplified prospectus, *pro forma* annual information form and *pro forma* fund facts document for each class or series of securities of the mutual fund.”.

9. Paragraph 2.3(3)(a) is amended by adding the following subparagraph after subparagraph 2.3(3)(a)(i):

- “(i.1) a copy of the following documents and a copy of any amendment to the following documents that have not previously been filed:
- (A) by-laws or other corresponding instruments currently in effect,
 - (B) any securityholder or voting trust agreement that the mutual fund has access to and that can reasonably be regarded as material to an investor in securities of the mutual fund.”.

10. Section 3.1 is amended by adding the following paragraphs after paragraph 1.1:

- “1.2 If the mutual fund has not yet filed comparative annual financial statements of the mutual fund, the most recently filed interim financial statements of the mutual fund that were filed before or after the date of the simplified prospectus.
- 1.3 If the mutual fund has not yet filed interim financial statements or comparative annual financial statements of the mutual fund, the audited balance sheet that was filed with the simplified prospectus.
- 1.4 If the mutual fund has not yet filed an annual management report of fund performance of the mutual fund, the most recently filed interim management report of fund performance of the mutual fund that was filed before or after the date of the simplified prospectus.”.

11. **Subsection 1.1(3) of Form 81-101F2 Contents of Annual Information Form is amended by replacing “distributed” with “sold”.**
12. **Subsection 1.2(3) of Form 81-101F2 is amended by replacing “distributed” with “sold”.**
13. **Section 10.2 of Form 81-101F2 is amended by**
 - (a) **adding “executive” before “officers” in subsection 10.2(2), and**
 - (b) **adding “executive” before “officer” in**
 - (i) **subsection 10.2(3), and**
 - (ii) **subsection 10.2(4).**
14. **Section 10.6 of Form 81-101F2 is amended by**
 - (a) **adding “Executive” before “Officers” in the title,**
 - (b) **adding “executive” before “officers” in subsection 10.6(1); and**
 - (c) **adding “executive” before “officer” in**
 - (i) **subsection 10.6(4), wherever it occurs, and**
 - (ii) **subsection 10.6(5).**
15. **Subsection 16(1) of Form 81-101F2 is amended by replacing:**

“(f) any other contract or agreement that can reasonably be regarded as material to an investor in the securities of the mutual fund.”

with the following:

“(f) any other contract or agreement that is material to the mutual fund.”
16. **Item 22 of Form 81-101F2 is amended by replacing:**

“(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 and the fund facts document dated [specify], 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.””

with the following:

“(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, together with the simplified prospectus and the documents incorporated by reference into the simplified prospectus, constitute full, true and plain disclosure of all material facts relating to the securities offered by the simplified prospectus, as required by the securities legislation of [insert the jurisdictions in which qualified] and do not contain any misrepresentations.””
17. This Instrument comes into force on May 14, 2013.

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

1. ***The change to Companion Policy 81-101CP to National Instrument 81-101 Mutual Fund Prospectus Disclosure is set out in this schedule.***
2. ***The following section is added after section 2.5:***

“Personal Information Forms
 - 2.5.1(1) If mutual funds are relying upon a previously delivered personal information form or predecessor personal information form, mutual funds are reminded that the responses to certain questions in the form must still be correct. Accordingly, in order to meet these requirements mutual funds should obtain appropriate confirmations from the individual concerned.
 - (2) Paragraphs 2.3(1.1)(c) and 2.3(2.1)(c) of the Instrument require that in certain circumstances a mutual fund deliver a copy of a previously delivered personal information form, or “alternative information that is satisfactory to the regulator”. Our interpretation of what would potentially be alternative information that is satisfactory to the regulator is, with respect to the previous delivery of an individual’s personal information form, the System for Electronic Document Analysis and Retrieval (SEDAR) project number and name of issuer. In most cases this information will be sufficient. Staff will contact mutual funds in cases where it is not. Mutual funds wishing to proceed in this manner should provide the information in the cover letter for the preliminary or pro forma simplified prospectus.
 - (3) If a mutual fund is delivering a copy of a previously delivered personal information form pursuant to paragraphs 2.3(1.1)(c) and 2.3(2.1)(c) of the instrument, the mutual fund should deliver it as a personal information form on SEDAR, in the same way that a new personal information form would be delivered.”.
3. This change becomes effective on May 14, 2013.