The Ontario Securities Commission

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Securities Act of Ontario (R.S.O. 1990, c. S.5) and the
Commodity Futures Act of Ontario (R.S.O. 1990, c. C.20)

The Ontario Securities Commission
Cadillac Fairview Tower
22nd Floor, Box 55
20 Queen Street West
Toronto, Ontario
M5H 3S8

416-593-8314 or Toll Free 1-877-785-1555

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416-609-3800 or 1-800-387-5164

Contact Centre – Inquiries, Complaints: Fax: 416-593-8122
TTY: 1-866-827-1295

Office of the Secretary: Fax: 416-593-2318

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FOR IMMEDIATE RELEASE
September 16, 2016

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THE SECURITIES ACT,
R.S.O. 1990, c. S.5

AND

IN THE MATTER OF
MM CAFÉ FRANCHISE INC.,
TECHOCAN INTERNATIONAL CO. LTD.,
1727350 ONTARIO LTD.,
MARIANNE GODWIN,
DAVE GARNET CRAIG
and HAIYAN (HELEN) GAO JORDAN

TORONTO – The Commission issued an Order in the above noted matter which provides that:

1. this proceeding is adjourned to a Third Appearance to be held at the offices of the Commission located at 20 Queen Street West, 17th Floor, Toronto, Ontario, commencing on November 14, 2016, at 9:00 a.m., or as soon thereafter as the hearing can be held.

A copy of the Order dated September 14, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

For media inquiries:

media_inquiries@osc.gov.on.ca

For investor inquiries:

OSC Contact Centre
416-593-8314
1-877-785-1555 (Toll Free)

1.5.2 Mark Steven Rotstein and Equilibrium Partners Inc.

FOR IMMEDIATE RELEASE
September 19, 2016

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED

AND

IN THE MATTER OF
MARK STEVEN ROTSTEIN
AND
EQUILIBRIUM PARTNERS INC.

TORONTO – The Commission issued an Order in the above named matter with certain provisions.

The Hearing on the Merits shall commence on April 17, 2017, and continue on April 19, 20, 21, 24, 25, 26, 27 and 28, 2017. The final interlocutory appearance shall be held on March 16, 2017 at 10:00 a.m.

A copy of the Order dated September 16, 2016 is available at www.osc.gov.on.ca.

OFFICE OF THE SECRETARY
ROBERT BLAIR
ACTING SECRETARY

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For investor inquiries:

OSC Contact Centre
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Chapter 2

Decisions, Orders and Rulings

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Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – approval of investment fund mergers – approval required because mergers do not meet the criteria for pre-approved reorganizations and transfers in National Instrument 81-102 – Investment Funds – terminating funds and continuing funds do not have substantially similar fundamental investment objectives – certain mergers are between funds that do not have the same fee structure – one merger will not be a "qualifying exchange" or a tax-deferred transaction under the Income Tax Act – mergers to otherwise comply with pre-approval criteria, including securityholder vote, IRC approval – securityholders provided with timely and adequate disclosure regarding the mergers

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 5.5(1)(b), 5.7(1)(b), 19.1(2).

September 8, 2016

IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)

AND

IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS

AND

IN THE MATTER OF
BMO INVESTMENTS INC.
(the Manager)
and
BMO CANADIAN LOW VOLATILITY ETF CLASS,
BMO HIGH YIELD BOND FUND,
BMO ENHANCED EQUITY INCOME FUND,
BMO CANADIAN DIVERSIFIED
MONTHLY INCOME FUND,
BMO GLOBAL MONTHLY INCOME FUND,
(each, a Terminating Fund and collectively, the Terminating Funds, and with the Manager, the Filers)

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Manager on behalf of the Terminating Funds for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) approving the mergers (the **Mergers**) of the Terminating Funds into the Continuing Funds (defined below) pursuant to paragraph 5.5(1)(b) of National Instrument 81-102 *Investment Funds* (**NI 81-102**) (the **Approval Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

(a) the Ontario Securities Commission is the principal regulator for this application; and

(b) the Manager has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in each of the provinces and territories of Canada, other than the province of Ontario (**Other Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined. The following additional terms shall have the following meanings:

Continuing Fund means each of BMO Global Low Volatility ETF Class, BMO U.S. High Yield Bond Fund, BMO Dividend Fund, BMO Diversified Income Portfolio and BMO Global Diversified Fund;

Corporation means BMO Global Tax Advantage Funds Inc.;

Continuing Corporate Class Fund means BMO Global Low Volatility ETF Class;

Corporate Class Fund means each of BMO Canadian Low Volatility ETF Class and BMO Global Low Volatility ETF Class, each a separate class of securities of the Corporation;

Fee Structure Mergers means each Merger, other than the Merger of BMO Canadian Low Volatility ETF Class into BMO Global Low Volatility ETF Class;

Fund or **Funds** means, individually or collectively, the Terminating Funds and the Continuing Funds;

Investment Objective Mergers means each Merger;

IRC means the independent review committee for the Funds;

NI 81-107 means National Instrument 81-107 – *Independent Review Committee for Investment Funds*;

Tax Act means the *Income Tax Act* (Canada);

Taxable Merger means the Merger of BMO High Yield Bond Fund into BMO U.S. High Yield Bond Fund;

Terminating Corporate Class Fund means BMO Canadian Low Volatility ETF Class,

Terminating Trust Fund means each of BMO High Yield Bond Fund, BMO Enhanced Equity Income Fund, BMO Canadian Diversified Monthly Income Fund and BMO Global Monthly Income Fund; and

Trust Fund means each of BMO High Yield Bond Fund, BMO Enhanced Equity Income Fund, BMO Canadian Diversified Monthly Income Fund, BMO Global Monthly Income Fund, BMO U.S. High Yield Bond Fund, BMO Dividend Fund, BMO Diversified Income Portfolio and BMO Global Diversified Fund.

Representations

This decision is based on the following facts represented by the Filers:

The Manager

1. The Manager is a corporation governed by the laws of Canada with its head office in Toronto, Ontario.

2. The Manager is the investment fund manager of the Funds and is registered as an investment fund manager in Ontario, Quebec and Newfoundland and Labrador, and as a mutual fund dealer in Ontario and the Other Jurisdictions.

The Funds

3. The Funds are either open-ended mutual fund trusts established under the laws of Ontario or separate classes of securities of the Corporation, a mutual fund corporation governed under the laws of Ontario.

4. Securities of the Funds are currently qualified for sale under the simplified prospectus, annual information form and fund facts each dated April 19, 2016, as amended on July 8, 2016 (collectively, the **Offering Documents**).

5. Each of the Funds is a reporting issuer under the applicable securities legislation of Ontario and the Other Jurisdictions.

6. Neither the Manager nor the Funds is in default under the applicable securities legislation of Ontario or the Other Jurisdictions.

7. Other than circumstances in which the securities regulatory authority of a province or territory of Canada has expressly exempted a Fund therefrom, each of the Funds follows the standard investment restrictions and practices established under NI 81-102.

8. The net asset value for each series of the Funds is calculated on a daily basis in accordance with the Funds' valuation policy and as described in the Offering Documents.

Reason for Approval Sought

9. Regulatory approval of the Mergers is required because each Merger does not satisfy all of the criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102. The pre-approval criteria are not satisfied in the following ways:

   (a) The fundamental investment objectives of the Continuing Funds in the Investment Objective Mergers are not, or may be considered not to be, "substantially similar" to the investment objectives of their corresponding Terminating Funds;

   (b) The fee structure of the Continuing Funds in the Fee Structure Mergers are not, or may be considered not to be, "substantially similar" to the fee structure of their corresponding Terminating Funds;

   (c) The Taxable Merger will not be completed as a "qualifying exchange" under the Tax Act.

10. Except as described in this decision, the proposed Mergers comply with all of the other criteria for pre-approved reorganizations and transfers set out in section 5.6 of NI 81-102.

The Proposed Mergers

11. The Manager intends to reorganize the Funds as follows:

(a) BMO Canadian Low Volatility ETF Class will merge into BMO Global Low Volatility ETF Class;

(b) BMO High Yield Bond Fund will merge into BMO U.S. High Yield Bond Fund;

(c) BMO Enhanced Equity Income Fund will merge into BMO Dividend Fund;

(d) BMO Canadian Diversified Monthly Income Fund will merge into BMO Diversified Income Portfolio; and

(e) BMO Global Monthly Income Fund will merge into BMO Global Diversified Fund.

12. In accordance with National Instrument 81-106 – *Investment Fund Continuous Disclosure*, a press release announcing the proposed Mergers was issued and filed on SEDAR on July 8, 2016. A material change report and amendments to the Offering Documents with respect to the proposed Mergers were filed via SEDAR on July 8, 2016.

13. As required by NI 81-107, an IRC has been appointed for the Funds. The Manager presented the potential conflict of interest matters related to the proposed Mergers to the IRC for a recommendation. On June 6, 2016, the IRC reviewed the potential conflict of interest matters related to the proposed Mergers and provided its positive recommendation for each of the Mergers, after determining that each proposed Merger, if implemented, would achieve a fair and reasonable result for each applicable Fund.

14. Securityholders of the Terminating Funds will be asked to approve the Mergers at special meetings to be held on or about September 16, 2016.

15. In accordance with corporate law requirements, securityholders of the Continuing Corporate Class Fund will be asked to approve an amendment to the articles of the Corporation in connection with the exchange of securities relating to the applicable Merger for the Continuing Corporate Class Fund at special meetings to be held on or about September 16, 2016.

16. The Mergers involving an exchange of securities of the Corporation have also been approved by the Manager as the sole common voting shareholder of the Corporation, as required under applicable corporate law.

17. A notice of meeting, a management information circular and a proxy in connection with special meetings of securityholders (collectively, the **Meeting Materials**) were mailed to securityholders of the Terminating Funds and the Continuing Corporate Class Fund commencing on August 23, 2016 and were concurrently filed via SEDAR.

18. The tax implications of the Mergers as well as the differences between the investment objectives and fee structures of the Terminating Funds and the Continuing Funds and the IRC's recommendation of the Mergers are described in the Meeting Materials so that the securityholders of the Terminating Funds may consider this information before voting on the Mergers. The Meeting Materials also describe the various ways in which investors can obtain a copy of the simplified prospectus, annual information form and fund facts for the Continuing Fund and its most recent interim and annual financial statements and management reports of fund performance.

19. Fund facts relating to the relevant series of the Continuing Funds were mailed to securityholders of the corresponding Terminating Funds.

20. Securityholders of each Terminating Fund will continue to have the right to redeem securities of the Terminating Fund at any time up to the close of business on the business day immediately before the effective date of the Mergers.

Merger Steps

21. The proposed Mergers of the Trust Funds will be structured as follows:

(a) Prior to the Merger, if required, each Terminating Trust Fund will sell any securities in its portfolio that do not meet the investment objectives and investment strategies of the applicable Continuing Fund. As a result, some of the Terminating Trust Funds may temporarily hold cash or money market instruments and may not be fully invested in accordance with their investment objectives for a brief period of time prior to the Merger being effected.

(b) The value of each Terminating Trust Fund's portfolio and other assets will be determined at the close of business on the effective date of each applicable Merger in accordance with the constating documents of the applicable Terminating Trust Fund.

(c) Each Continuing Fund and Terminating Trust Fund will distribute a sufficient amount of its net income and net realized capital gains, if any, to securityholders to ensure that it will not be subject to tax for its current tax year.

(d) Each Continuing Fund will acquire the investment portfolio and other assets of the applicable Terminating Trust Fund in exchange for securities of the Continuing Fund.

(e) Each Continuing Fund will not assume liabilities of the applicable Terminating Trust Fund and the Terminating Trust Fund will retain sufficient assets to satisfy its estimated liabilities, if any, as of the effective date of the applicable Merger.

(f) The securities of each Continuing Fund received by the applicable Terminating Trust Fund will have an aggregate net asset value equal to the value of the portfolio assets and other assets that the Continuing Fund is acquiring from the Terminating Trust Fund, and the securities of the Continuing Fund will be issued at the applicable series net asset value per security as of the close of business on the effective date of the Merger.

(g) Immediately thereafter, securities of each Continuing Fund received by the applicable Terminating Trust Fund will be distributed to securityholders of the Terminating Trust Fund in exchange for their securities in the Terminating Trust Fund on a dollar-for-dollar and series-by-series basis.

(h) As soon as reasonably possible following each Merger, and in any case within 60 days, the applicable Terminating Trust Fund will be wound up.

22. The proposed Merger of the Corporate Class Funds will be structured as follows:

(a) Prior to the Merger, if required, the Corporation will sell any securities in the portfolio underlying the Terminating Corporate Class Fund that do not meet the investment objectives and investment strategies of the Continuing Corporate Class Fund. As a result, the portfolio underlying the Terminating Corporate Class Fund may temporarily hold cash or money market instruments and may not be fully invested in accordance with its investment objectives for a brief period of time prior to the Merger being effected.

(b) The value of the Terminating Corporate Class Fund's portfolio and other assets will be determined at the close of business on the effective date of the Merger in accordance with the constating documents of the Terminating Corporate Class Fund.

(c) The Corporation may pay ordinary dividends or capital gains dividends to securityholders of the Terminating Corporate Class Fund and/or the Continuing Corporate Class Fund, as determined by the Manager at the time of the Merger.

(d) The portfolio of assets attributable to the Terminating Corporate Class Fund will be included in the portfolio of assets attributable to the Continuing Corporate Class Fund and the net asset value of the Continuing Corporate Class Fund will be increased by an amount equal to the value of the portfolio of assets being attributed to the Continuing Corporate Class Fund determined at the close of business on the effective date of the Merger in accordance with the constating documents of the Continuing Corporate Class Fund.

(e) The articles of incorporation, as amended, of the Corporation will be amended so that all of the issued and outstanding securities of the Terminating Corporate Class Fund will be exchanged for securities of the Continuing Corporate Class Fund on a dollar-for-dollar and series-by-series basis, so that securityholders of the Terminating Corporate Class Fund become securityholders of the Continuing Corporate Class Fund and so that the securities of the Terminating Corporate Class Fund are cancelled.

23. The Manager will pay for the costs of the Mergers. These costs consist mainly of brokerage charges associated with the Merger-related trades that occur both before and after the effective date of the Mergers and legal, proxy solicitation, printing, mailing and regulatory fees.

24. No sales charges will be payable in connection with the acquisition by a Continuing Fund of the investment portfolio of its applicable Terminating Fund.

25. The investment portfolio and other assets of each Terminating Fund to be acquired by the applicable Continuing Fund in order to effect the Mergers are currently, or will be, acceptable, on or prior to the effective date of the Mergers, to the portfolio manager(s) of the applicable Continuing Fund and are, or will be, consistent with the investment objectives of the applicable Continuing Fund.

26. Each Terminating Fund will merge into its applicable Continuing Fund and the Continuing Funds will continue as publicly offered open-ended mutual funds.

Benefits of Mergers

27. The Manager believes that the Mergers are beneficial to securityholders of each Terminating Fund and Continuing Fund for the following reasons:

    (a) the Mergers will result in a more streamlined and simplified product line-up that is easier for investors to under-stand;

    (b) the Mergers will eliminate similar fund offerings across product line ups, thereby reducing the administrative and regulatory costs of operating each Terminating Fund and Continuing Fund as separate funds;

    (c) following the Mergers, each Continuing Fund will have a portfolio of greater value, which may allow for increased portfolio diversification opportunities if desired; and

    (d) each Continuing Fund, as a result of its greater size, may benefit from its larger profile in the marketplace.

28. In addition to the reasons set out in paragraph 27, the Manager believes that the Merger of the Corporate Class Funds is beneficial to securityholders of each of the Terminating Corporate Class Fund and the Continuing Corporate Class Fund for the following reasons:

    (a) the Continuing Corporate Class Fund may offer a more global approach to investing, which allows the Continuing Corporate Class Fund to benefit from the synergies that the Manager and its international affiliates have recently developed;

    (b) investors will receive securities of the Continuing Fund that have a management fee that is the same as the management fee charged in respect of the securities of the Terminating Fund that they currently hold; and

    (c) investors will receive securities of the Continuing Fund that have a fixed administration fee that is the same as the fixed administration fee charged in respect of the securities of the Terminating Fund that they currently hold.

29. In addition to the reasons set out in paragraph 27, the Manager believes that the Merger of BMO High Yield Bond Fund into BMO U.S. High Yield Bond Fund is beneficial to securityholders of each of the Terminating Fund and the Continuing Fund for the following reasons:

    (a) the Continuing Fund has delivered stronger long term performance than the Terminating Fund;

    (b) there is significant overlap between portfolio holdings of the Terminating Fund and portfolio holdings of the Continuing Fund;

    (c) investors will receive securities of the Continuing Fund that have a management fee that is lower than the management fee charged in respect of the securities of the Terminating Fund that they currently hold; and

    (d) investors will receive securities of the Continuing Fund that are charged a fixed administration fee by the Manager and certain operating expenses that are paid directly by the Continuing Fund, rather than all of the variable operating expenses that are paid directly by the Terminating Fund, and such fixed administration fee provides investors with more certainty about the ongoing costs with respect to their investment in securities of the Continuing Fund.

30. Further, the Manager believes that proceeding with the Merger of BMO High Yield Bond Fund into BMO U.S. High Yield Bond Fund on a taxable basis is beneficial to securityholders of each of the Terminating Fund and the Continuing Fund because:

    (a) as at August 5, 2016, the majority of investors in the Terminating Fund were tax exempt or had an accrued loss on their securities; and

    (b) effecting the Merger on a taxable basis will preserve the unused tax losses of the Continuing Fund, which would otherwise expire upon implementation of the Merger on a tax-deferred basis and therefore would not be available to shelter income and capital gains realized by the Continuing Fund in future years.

31. In addition to the reasons set out in paragraph 27, the Manager believes that the Merger of BMO Enhanced Equity Income Fund into BMO Dividend Fund is beneficial to securityholders of each of the Terminating Fund and the Continuing Fund for the following reasons:

(a) the Continuing Fund has delivered stronger long term performance than the Terminating Fund;

(b) Series A investors will receive securities of the Continuing Fund that have a management fee that is lower than the management fee charged in respect of the securities of the Terminating Fund that they currently hold; and

(c) investors will receive securities of the Continuing Fund that have a fixed administration fee that is lower than the fixed administration fee charged in respect of the securities of the Terminating Fund that they currently hold.

32. In addition to the reasons set out in paragraph 27, the Manager believes that the Merger of BMO Canadian Diversified Monthly Income Fund into BMO Diversified Income Portfolio is beneficial to securityholders of each of the Terminating Fund and the Continuing Fund for the following reasons:

(a) the Continuing Fund may offer a more global approach to investing, which allows the Continuing Fund to benefit from the synergies that the Manager and its international affiliates have recently developed;

(b) the Continuing Fund has delivered stronger long term performance than the Terminating Fund;

(c) investors will receive securities of the Continuing Fund that have a management fee that is lower than the management fee charged in respect of the securities of the Terminating Fund that they currently hold; and

(d) investors will receive securities of the Continuing Fund that are charged a fixed administration fee by the Manager and certain operating expenses that are paid directly by the Continuing Fund, rather than all of the variable operating expenses that are paid directly by the Terminating Fund, and such fixed administration fee provides investors with more certainty about the ongoing costs with respect to their investment in securities of the Continuing Fund.

33. In addition to the reasons set out in paragraph 27, the Manager believes that the Merger of BMO Global Monthly Income Fund into BMO Global Diversified Fund is beneficial to securityholders of each of the Terminating Fund and the Continuing Fund because investors will receive securities of the Continuing Fund that have a management fee that is the same as the management fee charged in respect of the securities of the Terminating Fund that they currently hold.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Approval Sought is granted.

"Raymond Chan"
Manager,
Investment Funds and Structured Products Branch
Ontario Securities Commission

2.1.2 Fidelity Investments Canada ULC et al.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – Relief granted to two mutual funds for extension of lapse date of their prospectus for 13 days – Filer will incorporate offering of the mutual fund under the same offering documents as related family of funds when they are renewed – Extension of lapse date will not affect the currency or accuracy of the information contained in the current prospectus.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., s. 62(5).

September 15, 2016

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)**

AND

**IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS IN MULTIPLE JURISDICTIONS**

AND

**IN THE MATTER OF
FIDELITY INVESTMENTS CANADA ULC
(the Filer)**

AND

**FIDELITY DIVIDEND INVESTMENT TRUST
AND
FIDELITY NORTH AMERICAN EQUITY
INVESTMENT TRUST
(the Funds)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of the Funds for a decision under the securities legislation of the Jurisdiction (the **Legislation**) that the time limits for the renewal of the simplified prospectus, fund facts and annual information form of the Funds dated October 16, 2015 (the **Renewal Prospectus**) be extended to those time limits that would apply if the lapse date was October 29, 2016 (the **Requested Relief**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

(a) the Ontario Securities Commission is the principal regulator for this application; and

(b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (**MI 11-102**) is intended to be relied upon in all of the provinces and territories of Canada other than the Jurisdiction (collectively, with the Jurisdiction, the **Jurisdictions**).

Interpretation

Defined terms contained in National Instrument 14-101 *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined.

Representations

This decision is based on the following facts represented by the Filer:

1. Each of the Funds was established under and is governed by the laws of the Province of Ontario as a mutual fund trust, and is a reporting issuer as defined in the securities legislation of each of the Jurisdictions.

2. Neither the Filer nor any of the Funds is in default of securities legislation in any of the Jurisdictions.

3. The Funds currently distribute securities in the Jurisdictions under a simplified prospectus dated October 16, 2015, as amended (the **Prospectus**).

4. The lapse date of the Prospectus under the Legislation is October 16, 2016. Accordingly, under the Legislation, the distribution of securities of the Funds would have to cease on October 16, 2016 unless: (i) the Funds file a *pro forma* simplified prospectus at least 30 days prior to October 16, 2016; (ii) the final simplified prospectus is filed no later than 10 days after October 16, 2016; and (iii) a receipt for the final simplified prospectus is obtained within 20 days of October 16, 2016.

5. The Filer is registered as follows: (i) as a portfolio manager and mutual fund dealer in each of the Jurisdictions; (ii) as an investment fund manager in Ontario, Quebec, and Newfoundland and Labrador; and (iii) as a commodity trading manager under the *Commodity Futures Act* (Ontario).

6. The Filer is the manager of the Funds and approximately 98 mutual funds (the **Affiliated Funds**) that currently distribute their securities to the public under a simplified prospectus, fund facts and annual information form (filed on SEDAR under Project No. 2112406), that has October 29, 2016 as its lapse date under the Legislation.

7. The Affiliated Funds share many common operational and administrative features with the Funds and combining them in the same simplified prospectus will allow investors to more easily compare the features of the Affiliated Funds and the Funds.

8. The Funds only offer Series O units (the **Series O Units**) under the Prospectus. Series O Units are only available for purchase by the Affiliated Funds and other funds and accounts managed by the Filer. Series O Units of the Funds are generally not available for public purchase.

9. It would be impractical to alter and modify all the dedicated systems, procedures and resources required to prepare the renewal prospectus, annual information form and fund facts for the Affiliated Funds, and unreasonable to incur the costs and expenses associated therewith, so that the renewal prospectus for the Affiliated Funds can be filed earlier with the Renewal Prospectus.

10. The Filer may make minor changes to the features of the Affiliated Funds as part of the process of renewing the Affiliated Funds' simplified prospectus in October 2016. The ability to file the Renewal Prospectus with those of the Affiliated Funds will ensure that the Filer can make the operational and administrative features of the Funds and the Affiliated Funds consistent with each other.

11. There have been no material changes in the affairs of the Funds since the date of the Prospectus. Accordingly, the Prospectus and current fund facts of the Funds represent current information regarding the Funds.

12. Given the disclosure obligations of the Funds, should any material changes occur, the Prospectus and fund facts of the respective Fund will be amended as required in accordance with the Legislation.

13. The Requested Relief will not affect the accuracy of the information contained in the Prospectus and therefore will not be prejudicial to the public interest.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Requested Relief is granted.

"Vera Nunes"
Manager, Investment Funds and Structured Products
Ontario Securities Commission

2.1.3 Entrust Focus Partners LP and Entrust 49 Focus Fund

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – relief granted from the investment fund conflict of interest investment restrictions in securities legislation to permit pooled funds to invest in underlying pooled funds, subject to conditions.

Applicable Legislative Provisions

Securities Act (Ontario), R.S.O. 1990, c. S.5, as am., ss. 111(2)(b), 111(4), 113.

September 16, 2016

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)**

AND

**IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS
IN MULTIPLE JURISDICTIONS**

AND

**IN THE MATTER OF
ENTRUST FOCUS PARTNERS LP
(the Filer)**

AND

**IN THE MATTER OF
ENTRUST 49 FOCUS FUND
(the Fund)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer, on behalf of the Fund for a decision under the securities legislation of the Jurisdiction (the "**Legislation**") exempting the Filer and the Fund from the following provisions in connection with its investments in Underlying Entities and Stand-Alone Vehicles (each as defined below):

(a) the restriction contained in paragraph 111(2)(b) of the Legislation which prohibits an investment fund from knowingly making an investment in a person or company in which the investment fund, alone or together with one or more related investment funds, is a substantial security holder; and

(b) the restriction contained in paragraph 111(2)(4) of the Legislation which prohibits an investment fund from knowingly holding an investment described in paragraph (a) above;

(such provisions herein called the "**Substantial Security Holder Rules**" and the requested relief, the "**Substantial Security Holder Relief**").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

a. the Ontario Securities Commission is the principal regulator for this application, and

b. the Filer has provided notice that section 4.7 of Multilateral Instrument 11-102 – *Passport System* (**MI 11-102**) is intended to be relied upon in each of the provinces of Canada, except Manitoba and Prince Edward Island (together with the Jurisdiction, the "**Jurisdictions**").

Interpretation

Terms defined in National Instrument 14-101 – *Definitions* and MI 11-102 have the same meaning if used in this decision, unless otherwise defined herein.

Representations

This decision is based on the following facts represented by the Filer.

The Filer:

1. The Filer is a limited partnership established in Delaware, United States and registered with the U.S. Securities and Exchange Commission as an investment advisor. The Filer's principal office is located in New York, United States.

2. The Filer is registered in the categories of investment fund manager and portfolio manager in Ontario, and in the category of investment fund manager in Quebec.

3. The Filer is not a reporting issuer in any Jurisdiction and is not in default of securities legislation in any Jurisdiction.

4. The Filer acts as the portfolio manager and investment fund manager of the Fund.

5. The Filer is a commonly owned and controlled affiliate of EnTrust Partners LLC, EnTrust Capital Management LP and EnTrust Partners Offshore LP (the "**EnTrust Affiliated Managers**"), all of whom are registered with the U.S. Securities Exchange Commission (**SEC**) as investment advisers.

The Fund:

6. The Fund is established as an open-ended investment fund under the laws of the Province of Ontario pursuant to a trust agreement dated July 16, 2014, as amended and restated on April 20, 2015 between the Filer and Computershare Company of Canada as the trustee (the "**Trust Agreement**").

7. Securities of the Fund are offered for sale on a continuous basis to qualified investors in all provinces and territories of Canada other than Newfoundland and Labrador pursuant to exemptions from the prospectus requirements under National Instrument 45-106 – *Prospectus and Registration Exemptions*.

8. Units of the Fund are only distributed in Canada pursuant to exemptions from the prospectus requirement in accordance with NI 45-106.

9. The Fund is not a reporting issuer in any Jurisdiction and is not in default of securities legislation in any Jurisdiction.

10. The Filer is a "fund of funds" manager, more specifically a manager of hedge funds and the Fund is a fund of hedge funds. The Fund's investment objective is to achieve long-term capital growth through investment in a diversified portfolio of private investment entities managed by independent managers selected by the Filer (each, an "**Underlying Entity**").

11. The Filer engages in an extensive due diligence process when selecting an Underlying Entity for the Fund, which includes but is not limited to: (a) a scoring process based on the Filer's proprietary due diligence procedures; (b) a review of critical documents of the manager of the prospective Underlying Entity; and (c) a background check on, and an on-site visit with, the manager and key back office personnel of the prospective Underlying Entity.

12. The Fund imposes an initial lock-up period of twelve (12) months from the date of an investor's subscription (the "**Initial Lock-Up Period**"). With the expiry of the Initial Lock-Up Period, the Fund's securities are redeemable upon a ninety (90) days' prior written notice to the Filer. Accordingly, on the expiry of the Initial Lock-Up Period for the Fund's first subscriber (January 1, 2016), the Fund may be considered to be a "mutual fund in Ontario" as of such date.

13. The Underlying Entities are managed by third party managers and advisers independent of, and selected by, the Filer. Investment in the Underlying Entities is offered on a private placement basis.

14. The Underlying Entities are almost always private investment entities such that access to the investment management of the Underlying Entities is not generally available to the public at large.

15. Securities of the Underlying Entities are typically redeemable at various intervals. As the Fund has a long-term investment horizon, the Fund is able to manage its own liquidity requirements taking into consideration the frequency at which the securities of the Underlying Entities may be redeemed.

16. The Filer believes that investing in the Underlying Entities offers benefits not available through a direct investment in the securities of issuers held by the Underlying Entities. Such benefits include diversification by both investment style and range of investments. In addition, in certain situations, the Filer may only be able to gain access to certain investee companies through an investment in an Underlying Entity.

17. Investing in the Underlying Entities will allow the Fund to achieve its investment objectives in a cost efficient manner and will not be detrimental to the interests of other security holders of the Underlying Entities.

18. In some situations, the Filer and one or more EnTrust Affiliated Managers may request that the manager of an Underlying Entity establish a stand-alone vehicle ("**Stand-Alone Vehicle**") exclusively for the benefit of the Fund and/or other investment funds (the "**Affiliated Funds**") managed by the EnTrust Affiliated Managers. Such Stand-Alone Vehicle would be managed by the manager of an Underlying Entity and have investment objectives similar to the Underlying Entity. The Stand-Alone Vehicle is a parallel investment entity holding the same or similar securities, in similar proportions, as its corresponding Underlying Entity. However, the only investors in the Stand Alone Vehicle would be the Fund and the Affiliated Funds. Having a Stand Alone Vehicle can benefit the Fund and the Affiliated Funds because where an investment fund has, in effect, a single investor, such investment fund is not subject to certain risks and uncertainties that result from a pooled investment. For example a Stand Alone Vehicle can be fully invested and not maintain cash on hand for funding redemptions, since the Filer and the EnTrust Affiliated Managers can work together to manage any redemptions. The Stand Alone Vehicle is not subject to the risk that it will be forced to sell positions that it would otherwise prefer to keep in order to meet redemption requests. Additionally, a Stand Alone Vehicle can be customized for the Filer and the Affiliated Funds for example by excluding a specific portfolio investment that would be included in the portfolio of an Underlying Entity.

19. Being members of the same corporate group, the Filer and the EnTrust Affiliated Managers share facilities and key decision makers. Although they are managed by separate legal entities, the Affiliated Funds and the Fund may be considered to be under common management. Because of this, the Fund and the Affiliated Funds may be considered "related investment funds" within the meaning of the Substantial Security Holder Rules. Paragraph 111(2)(b) contains a prohibition against an investment fund knowingly investing in a person or company in which the investment fund, alone or together with one or more related investment funds, is a substantial security holder. Such prohibition precludes the Fund from investing in the Stand-Alone Vehicles and may preclude it from investing in Underlying Entities in instances where it, along with the Affiliated Funds, invests directly in an Underlying Entity.

20. Investments by the Fund in a Stand-Alone Vehicle or an Underlying Entity will be effected at an objective price. According to the Filer's policies and procedures, an objective price, for this purpose, shall be the net asset value per unit ("**NAVPU**") of the Stand-Alone Vehicle or the Underlying Entity, as applicable.

21. It is not anticipated that the Fund by itself will become a substantial security holder of any Underlying Entity or Stand-Alone Vehicle.

22. Investments by the Fund in a single Underlying Entity or in a Stand-Alone Vehicle will not represent more than 10% of the Fund's net asset value ("**NAV**").

23. It is anticipated that the Underlying Entities and Stand-Alone Vehicles in which the Fund invests will have certain restrictions on redemptions, thereby helping to manage any potential liquidity challenges. For example, such Underlying Entities and Stand-Alone Vehicles are not obliged to process redemption requests above certain thresholds, with the intended effect of relieving the manager of the Underlying Entity or Stand-Alone Vehicle from having to liquidate portfolio investments in unfavourable circumstances in order to fund redemption requests. Furthermore in the case of a Stand Alone Vehicle, the Filer and the EnTrust Affiliated Managers would manage any redemption request so as to maximize returns to the Stand Alone Vehicle, and thus avoid premature or untimely liquidation of portfolio investments.

24. The Filer and the EnTrust Affiliated Managers actively monitor the holdings of the Fund and the Affiliated Funds in the Underlying Entities and Stand-Alone Vehicles. The Filer expects that any assets directed by the Filer and the EnTrust Affiliated Managers to any manager of an Underlying Entity, which would represent in excess of 20% of the assets of such Underlying Entity, would be subject to restrictions on redemptions as described in the preceding paragraph. The Filer also expects that where the aggregate direct holdings of the Fund and the Affiliated Funds (and the holdings of any Stand Alone Vehicle) represent in excess of 20% of the combined assets of the Underlying Entity (and any Stand-Alone Vehicle), the assets held by the Underlying Entity (and any Stand-alone Vehicle) would be highly liquid and no

more than 10% of those assets will be illiquid assets, as defined in National Instrument 81-102 – *Investment Funds* ("**NI 81-102**").

25. The Filer anticipates that any Underlying Entity and Stand-Alone Vehicle in which the Fund invests would itself have adopted or be subject to concentration guidelines such that the Underlying Entity or Stand-Alone Vehicle would not invest in excess of 20% of its net assets in any single portfolio investment. Any manager or sponsor of an Underlying Entity in which the Fund invests provides offering documents describing the investment and operational guidelines adopted by such manager or sponsor in the management of an Underlying Entity, or by extension, a Stand Alone Vehicle, and the Filer carefully reviews such offering documents. The Filer thus satisfies itself that the Fund's investment portfolio has adequate portfolio diversification and liquidity, taking into account the portfolio diversification and liquidity policies of the Underlying Entities or Stand-Alone Vehicles, as the case may be.

26. The Fund and Affiliated Funds will not actively participate in the business or operations of the Underlying Entities, the Stand-Alone Vehicles, their managers or advisers. The Filer does not expect that the assets directed to any Underlying Entity or Stand-alone Vehicle will represent more than 20% of the total assets managed by that manager in its overall asset management business.

27. The Fund will prepare annual audited financial statements and interim unaudited financial statements in accordance with National Instrument 81-106 – *Investment Fund Continuous Disclosure* ("**NI 81-106**") except to the extent that the Fund has received an exemption from NI 81-106.

28. Because the Fund is managed by the Filer and any Stand-Alone Vehicles and Underlying Entities are managed by unrelated third parties, they may not always have the same valuation and redemption dates. The Fund will not accept subscriptions and redemptions on a valuation date where the current value of one or more Underlying Entities or Stand-Alone Vehicles, alone or collectively, representing more than 10% of the Fund's NAV, cannot be obtained by the Fund. The Fund will also not be available for redemption on a valuation date where Underlying Entities or Stand-Alone vehicles, alone or collectively, representing more than 10% of the Fund's NAV, are not available for redemption.

29. The holdings by the Fund of securities of the Underlying Entities and of any Stand-Alone Vehicles will be disclosed in the Fund's financial statements.

30. Since the Fund, the Underlying Entities and Stand-Alone Vehicles do not offer their securities under a simplified prospectus, they are not subject to NI 81-102 and therefore the Fund is unable to rely upon the exemption codified under subsection 2.5(7) of NI 81-102.

31. Any investment by the Fund in a Stand-Alone Vehicle and in an Underlying Entity will be aligned with the investment objectives, investment strategy, risk profile and other principal terms of the Fund. The weighting of the investment by the Fund in a Stand-Alone Vehicle or in an Underlying Entity will be reviewed and adjusted by the Filer as necessary to ensure that the weighting continues to be appropriate given the Fund's investment objectives.

32. The Fund's investments in Stand-Alone Vehicles and Underlying Entities will represent the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Fund.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Substantial Security Holder Relief is granted provided that:

1. units of the Fund are distributed in Canada solely pursuant to exemptions from the prospectus requirement in accordance with NI 45-106;

2. the investment by the Fund in securities of a Stand-Alone Vehicle or an Underlying Entity is compatible with the investment objectives of the Fund;

3. the Fund will not purchase or hold securities of a Stand-Alone Vehicle or an Underlying Entity unless:

    a. at the time of the purchase of securities of the Stand-Alone Vehicle or Underlying Entity, the Underlying Entity or Stand-Alone Vehicle holds no more than 10% of its net assets in securities of other investment funds; or

    b. the Stand-Alone Vehicle or Underlying Entity:

i. purchases or holds securities of a “money market fund” (as defined in NI 81-102); or

ii. purchases or holds securities that are “index participation units” (as defined by NI 81-102) issued by an investment fund;

4. no management fees or incentive fees are payable by the Fund that, to a reasonable person, will duplicate a fee payable by a Stand-Alone Vehicle or Underlying Entity for the same service;

5. no sales fees or redemption fees are payable by the Fund in relation to its purchases or redemptions of securities of a Stand-Alone Vehicle or Underlying Entity that, to a reasonable person, would duplicate a fee payable by an investor in the Fund;

6. the Filer, or any EnTrust Affiliated Manager, does not cause the securities of an Underlying Entity or Stand-Alone Vehicle held by the Fund to be voted at any meeting of holders of such securities, except that the Filer, or any EnTrust Affiliated Manager, may arrange for the securities the Fund holds of the Underlying Entity or Stand-Alone Vehicle to be voted by the beneficial holders of securities of the Fund;

7. the assets directed by the Filer, or any EnTrust Affiliated Manager, to any Underlying Entity or Stand-alone Vehicle will not represent more than 20% of the total assets managed by that Underlying Entity’s or Stand-alone Vehicle’s manager in its overall asset management business; and

8. each investor will be provided, in the offering memorandum or similar document of the Fund, with the following disclosure:

   a. that the Fund will invest substantially all of its assets in Underlying Entities or in Stand-Alone Vehicles;

   b. information as to the fees and expenses payable by or in respect of investment in the Underlying Entities or any Stand-Alone Vehicles that the Fund invests in, including any incentive fees or profit allocations or other allocations; and

   c. that investors may receive from the Filer, or an EnTrust Affiliated Manager, on request and free of charge, a copy of the offering memorandum or other similar disclosure document of the Underlying Entity (or Stand-Alone Vehicle) provided that to do so does not contravene applicable securities law or other legal obligations to which the Fund, the Filer, an Entrust Affiliated Manager is subject.

“Christopher Portner”
Commissioner
Ontario Securities Commission

“Janet Leiper”
Commissioner
Ontario Securities Commission

2.2 Orders

2.2.1 MM Café Franchise Inc. et al. – s. 127

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5**

AND

**IN THE MATTER OF
MM CAFÉ FRANCHISE INC.,
TECHOCAN INTERNATIONAL CO. LTD.,
1727350 ONTARIO LTD.,
MARIANNE GODWIN,
DAVE GARNET CRAIG and
HAIYAN (HELEN) GAO JORDAN**

**ORDER
(Section 127 of the Securities Act)**

WHEREAS:

1. on March 23, 2016, the Ontario Securities Commission (the "Commission") issued a Notice of Hearing pursuant to sections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5 (the "Act") in relation to a Statement of Allegations filed by Staff of the Commission ("Staff") on March 23, 2016, to consider whether it is in the public interest to make certain orders against MM Café Franchise Inc. ("MMCF"), DCL Healthcare Properties Inc. ("DCL"), Culturalite Media Inc. ("Culturalite"), Café Enterprise Toronto Inc. ("CET"), Techocan International Co. Ltd. ("Techocan"), 1727350 Ontario Ltd. ("1727350"), Marianne Godwin ("Godwin"), Dave Garnet Craig ("Craig"), Frank DeLuca ("DeLuca"), Elaine Concepcion ("Concepcion") and Haiyan (Helen) Gao Jordan ("Jordan");

2. the Notice of Hearing set April 21, 2016 as the hearing date in this matter;

3. on April 21, 2016, counsel for Staff and counsel for DCL, CET, Techocan, 1727350, Godwin, Craig, DeLuca and Jordan appeared before the Commission and made submissions and no one appeared on behalf of MMCF, Concepcion and Culturalite, although properly served;

4. on April 21, 2016, the Commission ordered that:

    (a) Staff shall disclose to the respondents documents and things in the possession or control of Staff that are relevant to the hearing by May 20, 2016;

    (b) Staff shall provide to the respondents its witness list and witness summaries, and indicate any intent to call an expert witness including the name of the expert witness and the issue on which the expert will be giving evidence by August 25, 2016; and

    (c) this proceeding is adjourned to a Second Appearance to be held at the offices of the Commission located at 20 Queen Street West, 17th Floor, Toronto, Ontario, commencing on September 6, 2016, at 3:30 p.m., or as soon thereafter as the hearing can be held;

5. on April 29, 2016, Staff filed with the Commission an Amended Statement of Allegations;

6. on June 9, 2016, the Commission ordered that the hearing date scheduled for September 6, 2016 be vacated and the hearing be held on September 13, 2016 at 3:30 p.m.;

7. on July 26, 2016, Staff filed with the Commission:

    (a) a Notice of Withdrawal withdrawing the allegations against DCL, Culturalite, CET, DeLuca and Concepcion; and

    (b) an Amended Amended Statement of Allegations withdrawing certain allegations against Jordan;

8. on September 13, 2016, counsel for Staff, Jordan, Techocan, 1727350, Godwin and Craig appeared before the Commission and made submissions and no one appeared on behalf of MMCF;

9. on September 13, 2016, Staff and the remaining respondents submitted that there may be facts that are not in dispute, and the parties indicated they will make best efforts to prepare an Agreed Statement of Facts prior to the next appearance with a view to advancing the proceeding in an effective and efficient manner; and

10. the Commission is of the opinion that it is in the public interest to make this order;

IT IS ORDERED that:

1. this proceeding is adjourned to a Third Appearance to be held at the offices of the Commission located at 20 Queen Street West, 17th Floor, Toronto, Ontario, commencing on November 14, 2016, at 9:00 a.m., or as soon thereafter as the hearing can be held.

DATED at Toronto this 14th day of September, 2016.

"Janet Leiper"

2.2.2 Mark Steven Rotstein and Equilibrium Partners Inc. – ss. 127, 127.1

**IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, c. S.5, AS AMENDED**

AND

**IN THE MATTER OF
MARK STEVEN ROTSTEIN AND
EQUILIBRIUM PARTNERS INC.**

**ORDER
(Sections 127 and 127.1 of the Securities Act)**

WHEREAS:

1. on February 29, 2016 the Ontario Securities Commission (the "Commission") issued a Notice of Hearing in respect of a Statement of Allegations filed by Staff of the Commission ("Staff") on February 29, 2016, in which Staff sought an order against Mark Steven Rotstein and Equilibrium Partners Inc. (the "Respondents") pursuant to subsection 127(1) and section 127.1 of the *Securities Act*, RSO 1990, c S.5 (the "Act");

2. the Notice of Hearing set March 24, 2016 as the hearing date in this matter;

3. on March 24, 2016, counsel for Staff and counsel for the Respondents appeared before the Commission and made submissions;

4. on March 24, 2016, the Commission ordered that:

   (a) Staff shall disclose to the Respondents on or before April 22, 2016, documents and things in the possession or control of Staff that are relevant to the hearing;

   (b) if the Respondents seek an order for disclosure of additional documents, they shall file a Notice of Motion with the Commission no later than July 8, 2016;

   (c) Staff shall disclose to the Respondents its witness list and summaries on or before July 12, 2016; and

   (d) this proceeding is adjourned to a hearing to be held at the offices of the Commission located at 20 Queen Street West, 17th Floor, Toronto, Ontario, commencing on July 19, 2016 at 10:00 a.m., or as soon thereafter as the hearing can be held;

5. on July 19, 2016, counsel for Staff and counsel for the Respondents appeared before the Commission and made submissions;

6. on July 19, 2016, the Commission ordered that:

   (a) the Respondents shall disclose to Staff on or before August 16, 2016, their witness lists and summaries, unless the Respondents make a motion to strike one or more significant, material allegations of the Statement of Allegations;

   (b) the Respondents shall indicate to Staff on or before August 16, 2016, any intent to call an expert witness, and will provide to Staff the name of the expert and state the issue on which the expert will be giving evidence;

   (c) any motions that the parties wish to bring in advance of the merits hearing shall be held on the date of the Third Appearance, and motion materials shall be filed on or before September 2, 2016; and

   (d) the Third Appearance shall be held at the offices of the Commission located at 20 Queen Street West, 17th Floor, Toronto, Ontario, commencing on September 15, 2016 at 11:30 a.m., or as soon thereafter as the hearing can be held;

7. on September 15, 2016, counsel for Staff and counsel for the Respondents appeared before the Commission and made submissions; and

8. the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED that:

1. by no later than November 30, 2016, the Respondents shall disclose to Staff their witness summaries, which shall include references to any documents to which the witness will refer;

2. the Hearing on the Merits shall commence on April 17, 2017, and continue on April 19, 20, 21, 24, 25, 26, 27 and 28, 2017;

3. the final interlocutory appearance shall be held on March 16, 2017 at 10:00 a.m.;

4. by no later than March 6, 2017, all parties shall deliver to every other party copies of documents which they intend to produce or enter as evidence at the Hearing on the Merits (the "Hearing Briefs");

5. by no later than March 9, 2017, the parties shall file with the Registrar copies of indices to their Hearing Briefs;

6. by no later than March 16, 2017, the parties shall file with the Registrar a completed E-hearing Checklist for the Hearing on the Merits;

7. by no later than March 31, 2017, the parties must inform the Registrar if alternative document formats, other than PDF, are used;

8. by no later than April 10, 2017, the parties shall file with the Registrar, via electronic medium, all the documents (including redacted documents) that the parties intend to enter into evidence at the Hearing on the Merits, along with an Index File; and

9. the parties must follow the format requirements set out in the Protocol for E-filing and E-hearings.

DATED at Toronto this 16th day of September, 2016.

"Edward P. Kerwin"

2.2.3 GuestLogix Inc. – s. 144

Headnote

Section 144 of the Securities Act (Ontario) – application for partial revocation of a cease trade order – issuer cease traded due to failure to file audited annual financial statements with the Commission – issuer has applied for a variation of the cease trade order to permit the issuer to proceed with a Plan of Arrangement under the Companies' Creditors Arrangement Act (Canada) – partial revocation granted subject to conditions.

Applicable Legislative Provisions

Securities Act, R.S.O. 1990, c. S.5, as am., ss. 127, 144.
National Policy 12-202 Revocation of a Compliance-related Cease Trade Order.

IN THE MATTER OF
THE SECURITIES ACT,
R.S.O. 1990, CHAPTER S.5, AS AMENDED
(the Act)

AND

IN THE MATTER OF
GUESTLOGIX INC.

ORDER
(Section 144 of the Act)

WHEREAS the securities of GuestLogix Inc. (the **Filer**) are subject to a cease trade order issued by the Director on April 5, 2016 pursuant to subsection 127(1) of the Act (the **Ontario CTO**), directing that all trading in the securities of the Filer cease until further order by the Director;

AND WHEREAS the Filer provides retail and payment technology that enables travel brands to enhance retail strategies at any travel touch point. The Filer and its subsidiaries offer two distinct platforms: the OnBoard Retail Technology Platform (the **Onboard Business**) and the t-Retail platform (the **OpenJaw Business**);

AND WHEREAS GuestLogix Ireland Limited (**GL Ireland**) is a wholly owned subsidiary of the Filer and owned all of the shares of OpenJaw Technologies Limited (**OpenJaw**). OpenJaw and its subsidiaries provided the OpenJaw Business to their international customers;

AND WHEREAS GL Ireland sold substantially all of the assets of the OpenJaw Business for cash consideration on May 6, 2016 (the **Asset Sale**). With the proceeds obtained from the Asset Sale, the Filer provided a cash payment equal to 100% of the amount owing to all of its secured lenders;

AND WHEREAS following the sale of the OpenJaw Business, the remaining business of the Filer is the Onboard Business, which is the business to be acquired by GXI Acquisition Corp. (the **Sponsor**);

AND WHEREAS the Filer seeks to undertake and complete a restructuring transaction in connection with the Onboard Business (the **Transaction**) pursuant to an agreement between the Filer and the Sponsor dated June 30, 2016, to be effectuated in connection with a plan of compromise and arrangement in respect of the Filer (the **Plan**) pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the **CCAA**);

AND WHEREAS the Filer has applied to the Ontario Securities Commission (the **Commission**) for an order pursuant to section 144 of the Act (the **Application**) to partially revoke the Ontario CTO to enable the Filer to undertake and complete the following trades, steps and actions (collectively, the **Proposed Transaction**) in connection with the Plan and the Transaction:

(a) the conclusion of a transaction agreement (the **Transaction Agreement**) between the Filer and the Sponsor;

(b) under the Transaction Agreement, the subscription by the Sponsor for newly created common shares in the capital of the Filer (the **New Common Shares**) for cash consideration and the issuance of the New Common Shares to the Sponsor in consideration of such payment under section 2.11(a) of National Instrument 45-106 *Prospectus Exemptions*;

(c) the consolidation of the issued and outstanding common shares (the **Common Shares**) in the capital of the Filer (including the New Common Shares) on the basis of a consolidation ratio pursuant to the Plan and the cancellation of any fractional Common Shares immediately following the consolidation without any liability, payment or other compensation or any other right in respect thereof (the **Common Share Consolidation**);

(d) the compromise and extinguishment of all claims of the Filer's unsecured creditors, including holders of the Filer's Convertible Debentures (as defined below), in exchange for a proportionate distribution of the remainder of the cash pool available under the Plan, calculated with reference to the amounts of their respective unsecured claims; and

(e) the cancellation of all other securities of the Filer, other than the New Common Shares remaining after the Common Share Consolidation, for no consideration and without any vote or approval by the holders of such equity securities. As a result, upon implementation of the Plan, the Filer will be a wholly-owned subsidiary of the Sponsor.

AND WHEREAS the Filer has represented to the Commission that:

1. The Filer was incorporated under the *Business Corporations Act* (Ontario) on August 1, 2007.

2. The Filer's head office and registered office is located at 111 Peter Street, Suite 302. Toronto, Ontario M5V 2H1.

3. The Filer is a reporting issuer in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick, Nova Scotia, Prince Edward Island, and Newfoundland (collectively, the **Reporting Jurisdictions**).

4. The authorized share capital of the Filer consists of an unlimited number of Common Shares. As at July 31, 2016, there were 134,896,721 Common Shares issued and outstanding. The Filer also has outstanding, as at July 31, 2016, $20,000,000 principal amount of 7% extendible convertible unsecured subordinated debentures, which are convertible into Common Shares at a conversion price of $1.35 per Common Share (the **Convertible Debentures**). The Filer has no other outstanding securities (including debt securities).

5. In light of difficult financial circumstances, the Filer was unable to obtain additional financing to repay amounts owing on its loan obligations and there was no reasonable expectation that the Filer's financial condition would improve without a deleveraging of its capital structure. The Filer was, therefore, insolvent and determined that it was in the best interests of the Filer and its stakeholders to file for protection under the CCAA.

6. On February 9, 2016, the Filer was granted protection from its creditors under the CCAA pursuant to an initial order (as amended and restated, the **Initial Order**) granted by the Ontario Court of Justice (Commercial List) (the **Court**). PricewaterhouseCoopers Inc. was appointed as monitor of the Filer under the CCAA. All proceedings against the Filer were stayed pursuant to the Initial Order, the purpose of which is to allow the Filer time to solicit and implement a Court-approved plan of compromise and arrangement.

7. On February 19, 2016, the Court granted an order (the **SISP Order**) approving a sale and investment solicitation process (the **SISP**) that solicits interests in and opportunities for a sale of or investment in all or part of the Filer's assets and business operations. The Asset Sale was approved by the Court as a result of the SISP in accordance with the SISP Order.

8. On March 18, 2016 the Filer's Common Shares and Convertible Debentures were delisted from trading on the Toronto Stock Exchange (the **TSX**) for failure to meet continued listing requirements of the TSX. The securities of the Filer are not listed or quoted on any other exchange or marketplace in Canada or elsewhere.

9. On April 5, 2016, the Ontario CTO was issued due to the failure of the Filer to file its annual information form, audited annual financial statements, related management's discussion and analysis and certifications for the year ended December 31, 2015.

10. On April 21, 2016 a cease trade order was also issued from the Manitoba Securities Commission (the **Manitoba Cease Trade Order**) due to the failure of the Filer to file its audited annual financial statements and related management's discussion and analysis for the year ended December 31, 2015. The Filer has applied for and expects to be granted, concurrently with this partial revocation order, a partial revocation of the Manitoba Cease Trade Order to permit the Proposed Transaction. Other than the Ontario CTO and the Manitoba Cease Trade Order, the Filer is not subject to any other cease trade orders.

11. The Filer had, after a solicitation process in accordance with the SISP Order, entered into the Transaction Agreement with the Sponsor providing for, *inter alia*, the issuance of the New Common Shares to the Sponsor and the cancellation

of the Filer's existing securities in accordance with the terms and conditions of the Plan. The Common Shares, and other securities in the capital of the Filer (other than the Convertible Debentures), had no value as a result of the financial circumstances of the Filer and the provisions of the CCAA.

12. The Filer wishes to conclude the Transaction Agreement with the Sponsor. The Sponsor will sign an acknowledgement that the Filer is currently subject to the Ontario CTO and the Manitoba Cease Trade Order.

13. The Sponsor is at arms-length to the Filer. The Sponsor and its shareholders are not related parties of the Filer and its shareholders.

14. On August 3, 2016, the Court granted a meeting order, inter alia, accepting the Plan for filing and scheduling a meeting of the unsecured creditors of the Filer to consider and vote on the Plan (the **Meeting**).

15. On September 2, 2016 the Meeting was held and the unsecured creditors voted unanimously in favour of the Plan. The Filer obtained an Order of the Court sanctioning and approving the Plan on September 12, 2016 (the **Sanction Order**).

16. Immediately following the implementation of the Plan, the Sponsor will be the only holder of the New Common Shares of the Filer and the Filer will not have any securities other than the New Common Shares remaining following the completion of the Common Share Consolidation. Accordingly, the Filer will have fewer than 15 security holders in each of the jurisdictions in Canada and fewer than 51 security holders in total worldwide.

17. As the Proposed Transaction will involve trades in securities of the Filer, the Proposed Transaction cannot be completed without a variation of the Ontario CTO and the Manitoba Cease Trade Order. The completion of the Proposed Transaction is necessary to implement the Plan and complete the Transaction.

18. The Filer's securities, including the New Common Shares to be issued to the Sponsor under the Proposed Transaction as permitted by this partial revocation order, will remain subject to the Ontario CTO and the Manitoba Cease Trade Order until such time as the Ontario CTO and the Manitoba Cease Trade Order are fully revoked.

19. The Filer's SEDAR and SEDI profiles are up to date.

20. The Filer intends to subsequently apply for an order to cease to be a reporting issuer in all of the Reporting Jurisdictions and a full revocation of the Ontario CTO and the Manitoba Cease Trade Order.

AND UPON considering the Application and the recommendation of the staff of the Commission;

AND UPON the Director being satisfied to do so would not be prejudicial to the public interest;

IT IS ORDERED, pursuant to section 144 of the Act, that the Ontario CTO is partially revoked solely to permit trades in securities of the Filer (including, for greater certainty, acts in furtherance of trades in securities of the Filer) that are necessary for and are in connection with the Proposed Transaction, provided that:

(a) the Court grants the Sanction Order;

(b) prior to the completion of the Proposed Transaction, the Sponsor:

  (i) receives a copy of the Ontario CTO,

  (ii) receives a copy of this Order, and

  (iii) receives written notice from the Filer, and provides a written acknowledgement to the Filer, that all of the Filer's securities, including the New Common Shares issued in connection with the Proposed Transaction, will remain subject to the Ontario CTO until it is revoked, and that the granting of this partial revocation Order does not guarantee the issuance of a full revocation in the future;

(c) the Filer undertakes to make available a copy of the written acknowledgement to staff of the Commission on request; and

(d) this Order will terminate on the earlier of:

  (i) the completion of the Proposed Transaction; and

  (ii) 90 days from the date hereof.

DATED this 16th day of September, 2016.

"Winnie Sanjoto"
Manager, Corporate Finance
Ontario Securities Commission

2.4 Rulings

2.4.1 INTL FCStone Financial Inc. – s. 38 of the CFA

Headnote

Application to the Commission pursuant to section 38 of the Commodity Futures Act (Ontario) (CFA) for a ruling that the Applicant be exempted from the dealer registration requirement in paragraph 22(1)(a) and the prohibition against trading on non-recognized exchanges in section 33 of the CFA. Applicant will offer the ability to trade in commodity futures contracts and commodity futures options that trade on exchanges located outside Canada and cleared through clearing corporations located outside of Canada to certain of its clients in Ontario who meet the definition of "permitted client" in National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, subject to terms and conditions.

Statutes Cited

Commodity Futures Act, R.S.O. 1990, c. C.20, as am., ss. 22, 33, 38.

Instrument Cited

National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, s. 8.18.

IN THE MATTER OF
THE COMMODITY FUTURES ACT,
R.S.O. 1990, c. C.20, AS AMENDED
(the CFA)

AND

IN THE MATTER OF
INTL FCSTONE FINANCIAL INC.

RULING & EXEMPTION
(Section 38 of the CFA)

UPON the application (the **Application**) of INTL FCStone Financial Inc. (the **Applicant**) to the Ontario Securities Commission (the **Commission**) for:

(a) a ruling of the Commission, pursuant to section 38 of the CFA, that the Applicant is not subject to the dealer registration requirements in the CFA (as defined below) or the trading restrictions in the CFA (as defined below) in connection with trades in Exchange-Traded Futures (as defined below) on exchanges located outside Canada (**Non-Canadian Exchanges**) where the Applicant is acting as principal or agent in such trades to, from or on behalf of Permitted Clients (as defined below); and

(b) a ruling of the Commission, pursuant to section 38 of the CFA, that a Permitted Client is not subject to the dealer registration requirements in the CFA or the trading restrictions in the CFA in connection with trades in Exchange-Traded Futures on Non-Canadian Exchanges, where the Applicant acts in respect of the trades in Exchange-Traded Futures on behalf of the Permitted Client pursuant to the above ruling.

AND WHEREAS for the purposes of this ruling and exemption (collectively, the **Decision**):

(i) **"CEA"** means the United States *Commodity Exchange Act*;

"CFTC" means the United States Commodity Futures Trading Commission;

"dealer registration requirements in the CFA" means the provisions of section 22 of the CFA that prohibit a person or company from trading in Exchange-Traded Futures unless the person or company satisfies the applicable provisions of section 22 of the CFA;

"Exchange-Traded Futures" means a commodity futures contract or a commodity futures option that trades on one or more organized exchanges located outside of Canada and that is cleared through one or more clearing corporations located outside of Canada;

"FINRA" means the Financial Industry Regulatory Authority in the United States;

"NI 31-103" means National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

"NFA" means the National Futures Association in the United States;

"Permitted Client" means a client in Ontario that is a "permitted client" as that term is defined in section 1.1 of NI 31-103;

"SEC" means the United States Securities and Exchange Commission;

"specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*;

"trading restrictions in the CFA" means the provisions of section 33 of the CFA that prohibit a person or company from trading in Exchange-Traded Futures unless the person or company satisfies the applicable provisions of section 33 of the CFA; and

(ii) terms used in this Decision that are defined in the *Securities Act* (Ontario) (**OSA**), and not otherwise defined in this Decision or in the CFA, shall have the same meaning as in the OSA, unless the context otherwise requires;

AND UPON considering the Application and the recommendation of staff of the Commission;

AND UPON the Applicant having represented to the Commission as follows:

1. The Applicant is a corporation incorporated under the laws of the State of Florida. Its head office is located at 329 Park Ave. North, Suite 350, Winter Park FL 32789, United States.

2. The Applicant provides futures commission merchant (**FCM**) services. FCM services include commodity clearing and execution services.

3. The Applicant is a wholly-owned subsidiary of INTL FCStone Inc. which is a public corporation which is listed on the NASDAQ under the ticker symbol INTL.

4. The Applicant is a FCM registered with the CFTC and a member of the NFA. The Applicant has a separate securities division which is registered as a broker-dealer with the SEC and which is a member of FINRA.

5. The Applicant is a direct clearing member of all major futures exchanges and clearinghouses in the United States, including the Chicago Mercantile Exchange, Chicago Board of Trade, New York Mercantile Exchange, Commodity Exchange (collectively "CME Group" for clearing purposes), Chicago Board of Options Exchange (futures), Minneapolis Grain Exchange, and ICE Futures and ICE Clear US, as well as a direct clearing member of worldwide exchanges, including ICE Futures Europe, the Dubai Mercantile Exchange, and the New Zealand Exchange. Additionally, the Applicant is a non-clearing member of major international commodity futures exchanges and clearing houses, including ICE Futures Canada, the Options Clearing Corporation, Eurex, and NYSE Euronext Paris.

6. The Applicant is not in default of securities legislation in any jurisdiction in Canada or under the CFA, subject to the matter to which this Decision relates. The Applicant is in compliance in all material respects with U.S. securities and commodity futures laws.

7. Pursuant to its registrations and memberships, the Applicant is authorized to handle customer orders and receive and hold customer margin deposits, and otherwise act as a futures broker, in the United States. Rules of the CFTC and NFA require the Applicant to maintain adequate capital levels, make and keep specified types of records relating to customer accounts and transactions, and comply with other forms of customer protection rules, including rules respecting: know-your-customer obligations, account-opening requirements, suitability requirements, anti-money laundering checks, credit checks, delivery of confirmation statements, clearing deposits and initial and maintenance margins. These rules require the Applicant to treat Permitted Clients consistently with the Applicant's U.S. customers. In order to protect customers in the event of the insolvency or financial instability of the Applicant, the Applicant is required to ensure that customer securities and monies be separately accounted for, segregated at all times from the securities and monies of the Applicant and custodied exclusively with such banks, trust companies, clearing organizations or other licensed futures brokers and intermediaries as may be approved for such purposes under the CEA and the rules promulgated by the CFTC thereunder (collectively, the **FCStone Approved Depositories**). The Applicant is further required to obtain acknowledgements from any FCStone Approved Depository holding customer funds or securities related to U.S.-based transactions or accounts that such funds and securities are to be separately held on behalf of such customers, with no right of set-off against the Applicant's obligations or debts.

8. The Applicant proposes to offer certain of its Permitted Clients in Ontario the ability to trade in Exchange-Traded Futures through the Applicant.

9. The Applicant will execute and clear trades in Exchange-Traded Futures on behalf of Permitted Clients in Ontario in the same manner that it executes and clears trades on behalf of its U.S. clients. The Applicant will follow the same know-your-customer, client classification and segregation of assets procedures that it follows in respect of its U.S. clients. Permitted Clients will be afforded the benefits of compliance by the Applicant with the statutory and other requirements of applicable securities regulators, self-regulatory organizations and exchanges. Permitted Clients in Ontario will have the same contractual rights against the Applicant as U.S. clients of the Applicant.

10. The Applicant will not maintain an office, sales force or physical place of business in Ontario.

11. The Applicant will solicit trades in Exchange-Traded Futures in Ontario only from persons who qualify as Permitted Clients.

12. Permitted Clients of the Applicant will only be offered the ability to effect trades in Exchange-Traded Futures on Non-Canadian Exchanges.

13. The Exchange-Traded Futures to be traded by Permitted Clients will include, but will not be limited to, Exchange-Traded Futures for equity index, interest rate, energy, currency, bond, agricultural and other commodity products.

14. Permitted Clients of the Applicant will be able to execute Exchange-Traded Futures orders through the Applicant by contacting the Applicant's global execution desk or by submitting orders electronically via the Applicant's electronic order routing system. Permitted Clients may also be able to self-execute Exchange-Traded Futures orders electronically via an independent service vendor and/or other electronic trading routing. Permitted Clients may also be able to execute Exchange-Traded Futures orders through third party brokers and then “give up” the transaction for clearance through the Applicant.

15. The Applicant may execute a Permitted Client's order on the relevant Non-Canadian Exchange in accordance with the rules and customary practices of the exchange, or engage another broker to assist in the execution of orders. The Applicant will remain responsible for all executions when the Applicant is listed as the executing broker of record on the relevant Non-Canadian Exchange.

16. The Applicant may perform both execution and clearing functions for trades in Exchange-Traded Futures or may direct that a trade executed by it be cleared through a carrying broker if the Applicant is not a clearing member of the Non-Canadian Exchange on which the trade is executed. Alternatively, the Permitted Client of the Applicant will be able to direct that trades executed by the Applicant be cleared through clearing brokers not affiliated with the Applicant (each a **Non-FCStone Clearing Broker**).

17. If the Applicant performs only the execution of a Permitted Client's Exchange-Traded Futures order and “gives-up” the transaction for clearance to a Non-FCStone Clearing Broker, such clearing broker will also be required to comply with the rules of the exchanges of which it is a member and any relevant regulatory requirements, including requirements under the CFA as applicable. Each such Non-FCStone Clearing Broker will represent to the Applicant, in an industry-standard give-up agreement, that it will perform its obligations in accordance with applicable laws, governmental, regulatory, self-regulatory, exchange and clearing house rules and the customs and usages of the exchange or clearing house on which the relevant Permitted Client's Exchange-Traded Futures order will be executed and cleared. The Applicant will not enter into a give-up agreement with any Non-FCStone Clearing Broker located in the United States unless such clearing broker is registered with the CFTC.

18. As is customary for all trades in Exchange-Traded Futures, a clearing corporation appointed by the exchange or clearing division of the exchange is substituted as a universal counterparty on all trades in Exchange-Traded Futures and Permitted Client orders that are submitted to the exchange in the name of the Non-FCStone Clearing Broker or the Applicant or, on exchanges where the Applicant is not a member, in the name of another carrying broker. The Permitted Client of the Applicant is responsible to the Applicant for payment of daily mark-to-market variation margin and/or proper margin to carry open positions and the Applicant, the carrying broker or the Non-FCStone Clearing Broker is in turn responsible to the clearing corporation/division for payment.

19. Permitted Clients that direct the Applicant to give-up transactions in Exchange-Traded Futures for clearance and settlement by Non-FCStone Clearing Brokers will execute the give-up agreements described above.

20. Permitted Clients will pay commissions for trades to the Applicant or the Non-FCStone Clearing Broker, or such commissions may be shared by the Applicant with the Non-FCStone Clearing Broker.

21. The trading restrictions in the CFA apply unless, among other things, an Exchange-Traded Future is traded on a recognized or registered commodity futures exchange and the form of the contract is approved by the Director. To date, no Non-Canadian Exchanges have been recognized or registered under the CFA.

22. If the Applicant were registered under the CFA as a “futures commission merchant”, it could rely upon certain exemptions from the trading restrictions in the CFA to effect trades in Exchange-Traded Futures to be entered into on certain Non-Canadian Exchanges.

AND UPON the Commission being satisfied that it would not be prejudicial to the public interest to do so;

IT IS RULED pursuant to section 38 of the CFA, that the Applicant is not subject to the dealer registration requirement set out in the CFA or the trading restrictions in the CFA in connection with trades in Exchange-Traded Futures where the Applicant is acting as principal or agent in such trades to, from or on behalf of Permitted Clients provided that:

(a) each client effecting trades in Exchange-Traded Futures is a Permitted Client;

(b) any Non-FCStone Clearing Broker has represented and covenanted to the Applicant that it is or will be appropriately registered or exempt from registration under the CFA;

(c) the Applicant only executes and clears trades in Exchange-Traded Futures for Permitted Clients on Non-Canadian Exchanges;

(d) at the time trading activity is engaged in, the Applicant:

  (i) has its head office or principal place of business in the United States;

  (ii) is registered as a FCM with the CFTC in good standing;

  (iii) is a member in good standing with the NFA; and

  (iv) engages in the business of a FCM in Exchange-Traded Futures in the United States.

(e) the Applicant has provided to the Permitted Client the following disclosure in writing:

  (i) a statement that the Applicant is not registered in Ontario to trade in Exchange-Traded Futures;

  (ii) a statement that the Applicant's head office or principal place of business is located in Winter Park, Florida, United States of America;

  (iii) a statement that all or substantially all of the Applicant's assets may be situated outside of Canada;

  (iv) a statement that there may be difficulty enforcing legal rights against the Applicant because of the above; and

  (v) the name and address of the Applicant's agent for service of process in Ontario;

(f) the Applicant has submitted to the Commission a completed Submission to Jurisdiction and Appointment of Agent for Service in the form attached as Appendix “A” hereto;

(g) the Applicant notifies the Commission of any regulatory action initiated after the date of this Decision in respect of the Applicant, or any predecessors or specified affiliates of the Applicant, by completing and filing with the Commission Appendix “B” hereto within ten days of the commencement of such action;

(h) if the Applicant does not rely on the international dealer exemption in section 8.18 of NI 31-103 (the IDE), by December 31st of each year, the Applicant pays a participation fee based on its specified Ontario revenues for its previous financial year in compliance with the requirements of Part 3 and section 6.4 of OSC Rule 13-502 Fees as if the Applicant relied on the IDE;

(i) this Decision will terminate on the earliest of:

  (i) the expiry of any transition period as may be provided by law, after the effective date of the repeal of the CFA;

(ii) six months, or such other transition period as may be provided by law, after the coming into force of any amendment to Ontario commodity futures law (as defined in the CFA) or Ontario securities law (as defined in the OSA) that affects the dealer registration requirements in the CFA or the trading restrictions in the CFA; and

(iii) five years after the date of this Decision.

AND IT IS FURTHER RULED, pursuant to section 38 of the CFA, that a Permitted Client is not subject to the dealer registration requirement in the CFA or the trading restrictions in the CFA in connection with trades in Exchange-Traded Futures on Non-Canadian Exchanges where the Applicant acts in connection with trades in Exchange-Traded Futures on behalf of the Permitted Clients pursuant to the above ruling.

Date: September 16, 2016

"Christopher Portner"
Commissioner
Ontario Securities Commission

"Janet Leiper"
Commissioner
Ontario Securities Commission

APPENDIX "A"

SUBMISSION TO JURISDICTION AND APPOINTMENT OF AGENT FOR SERVICE

INTERNATIONAL DEALER OR INTERNATIONAL ADVISER EXEMPTED FROM REGISTRATION UNDER THE COMMODITY FUTURES ACT (ONTARIO)

1. Name of person or company ("International Firm"):

2. If the International Firm was previously assigned an NRD number as a registered firm or an unregistered exempt international firm, provide the NRD number of the firm:

3. Jurisdiction of incorporation of the International Firm:

4. Head office address of the International Firm:

5. The name, e-mail address, phone number and fax number of the International Firm's individual(s) responsible for the supervisory procedure of the International Firm, its chief compliance officer, or equivalent.

   Name:

   E-mail address:

   Phone:

   Fax:

6. The International Firm is relying on an exemption order under section 38 or section 80 of the *Commodity Futures Act* (Ontario) that is similar to the following exemption in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (the "Relief Order"):

   ❑ Section 8.18 [*international dealer*]

   ❑ Section 8.26 [*international adviser*]

   ❑ Other [specify]:

7. Name of agent for service of process (the "**Agent for Service**"):

8. Address for service of process on the Agent for Service:

9. The International Firm designates and appoints the Agent for Service at the address stated above as its agent upon whom may be served a notice, pleading, subpoena, summons or other process in any action, investigation or administrative, criminal, quasi-criminal or other proceeding (a "**Proceeding**") arising out of or relating to or concerning the International Firm's activities in the local jurisdiction and irrevocably waives any right to raise as a defence in any such proceeding any alleged lack of jurisdiction to bring such Proceeding.

10. The International Firm irrevocably and unconditionally submits to the non-exclusive jurisdiction of the judicial, quasi-judicial and administrative tribunals of the local jurisdiction in any Proceeding arising out of or related to or concerning the International Firm's activities in the local jurisdiction.

11. Until 6 years after the International Firm ceases to rely on the Relief Order, the International Firm must submit to the regulator

    (a) a new Submission to Jurisdiction and Appointment of Agent for Service in this form no later than the 30th day before the date this Submission to Jurisdiction and Appointment of Agent for Service is terminated;

    (b) an amended Submission to Jurisdiction and Appointment of Agent for Service no later than the 30th day before any change in the name or above address of the Agent for Service; and

    (c) a notice detailing a change to any information submitted in this form, other than the name or above address of the Agent for Service, no later than the 30th day after the change.

12. This Submission to Jurisdiction and Appointment of Agent for Service is governed by and construed in accordance with the laws of the local jurisdiction.

Dated: _______________

____
(Signature of the International Firm or authorized signatory)

____
(Name of signatory)

____
(Title of signatory)

Acceptance

The undersigned accepts the appointment as Agent for Service of ____________________ [*Insert name of International Firm*] under the terms and conditions of the foregoing Submission to Jurisdiction and Appointment of Agent for Service.

Dated: _______________

____
(Signature of the International Firm or authorized signatory)

____
(Name of signatory)

____
(Title of signatory)

This form, and notice of a change to any information submitted in this form, is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on.ca/filings

APPENDIX "B"

NOTICE OF REGULATORY ACTION

1. Has the firm, or any predecessors or specified affiliates[1] of the firm entered into a settlement agreement with any financial services regulator, securities or derivatives exchange, SRO or similar agreement with any financial services regulator, securities or derivatives exchange, SRO or similar organization?

   Yes _____ No _____

   If yes, provide the following information for each settlement agreement:

   Name of entity

   Regulator/organization

   Date of settlement (yyyy/mm/dd)

   Details of settlement

   Jurisdiction

2. Has any financial services regulator, securities or derivatives exchange, SRO or similar organization:

		Yes	No
(a)	Determined that the firm, or any predecessors or specified affiliates of the firm violated any securities regulations or any rules of a securities or derivatives exchange, SRO or similar organization?	____	____
(b)	Determined that the firm, or any predecessors or specified affiliates of the firm made a false statement or omission?	____	____
(c)	Issued a warning or requested an undertaking by the firm, or any predecessors or specified affiliates of the firm?	____	____
(d)	Suspended or terminated any registration, licensing or membership of the firm, or any predecessors or specified affiliates of the firm?	____	____
(e)	Imposed terms or conditions on any registration or membership of the firm, or predecessors or specified affiliates of the firm?	____	____
(f)	Conducted a proceeding or investigation involving the firm, or any predecessors or specified affiliates of the firm?	____	____
(g)	Issued an order (other than an exemption order) or a sanction to the firm, or any predecessors or specified affiliates of the firm for securities or derivatives-related activity (e.g. cease trade order)?	____	____

   If yes, provide the following information for each action:

   Name of entity

   Type of action

   Regulator/organization

   Date of action (yyyy/mm/dd) Reason for action

   Jurisdiction

[1] In this Appendix, the term "specified affiliate" has the meaning ascribed to that term in Form 33-109F6 to National Instrument 33-109 *Registration Information*.

3. Is the firm aware of any ongoing investigation of which the firm or any of its specified affiliates is the subject?

Yes _____ No _____

If yes, provide the following information for each investigation:

Name of entity

Reason or purpose of investigation

Regulator/organization

Date investigation commenced (yyyy/mm/dd)

Jurisdiction

Name of firm:

Name of firm's authorized signing officer or partner

Title of firm's authorized signing officer or partner

Signature

Date (yyyy/mm/dd)

Witness

The witness must be a lawyer, notary public or commissioner of oaths.

____
Name of witness

____
Title of witness

____
Signature

____
Date (yyyy/mm/dd)

This form is to be submitted through the Ontario Securities Commission's Electronic Filing Portal:

https://www.osc.gov.on/ca/filings

Chapter 4

Cease Trading Orders

4.1.1 Temporary, Permanent & Rescinding Issuer Cease Trading Orders

Company Name	Date of Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/Revoke

THERE IS NOTHING TO REPORT THIS WEEK.

Failure to File Cease Trade Orders

Company Name	Date of Order	Date of Revocation
ACGT DNA Technologies Corporation	02 Sept 2016	13 Sept 2016
Northern Power Systems Corp.	02 Sept 2016	16 Sept 2016

4.2.1 Temporary, Permanent & Rescinding Management Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
AlarmForce Industries Inc.	19 Sept 2016	30 Sept 2016			
iSIGN Media Solutions Inc.	09 Sept 2016	21 Sept 2016	21 Sept 2016		

4.2.2 Outstanding Management & Insider Cease Trading Orders

Company Name	Date of Order or Temporary Order	Date of Hearing	Date of Permanent Order	Date of Lapse/ Expire	Date of Issuer Temporary Order
AlarmForce Industries Inc.	19 Sept 2016	30 Sept 2016			
iSIGN Media Solutions Inc.	09 Sept 2016	21 Sept 2016	21 Sept 2016		
Reservoir Capital Corp.	12 Sept 2016	23 Sept 2016			
Starrex International Ltd.	30 December 2015	11 January 2016	11 January 2016		

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Chapter 6

Request for Comments

6.1.1 CSA Notice and Request for Comment – Modernization of Investment Fund Product Regulation – Alternative Funds

CSA Notice and Request for Comment
Modernization of Investment Fund Product Regulation – Alternative Funds

September 22, 2016

Introduction

The Canadian Securities Administrators (the CSA or we) are publishing for a **90-day** comment period

- the proposed repeal of National Instrument 81-104 *Commodity Pools* (NI 81-104)
- proposed amendments to:
  - National Instrument 81-102 *Investment Funds* (NI 81-102),
  - National Instrument 81-101 *Mutual Fund Prospectus Disclosure* (NI 81-101), including Form 81-101F3 *Contents of Fund Facts Document* (the Fund Facts),
- proposed consequential amendments to:
  - Form 81-101F1 *Contents of Simplified Prospectus* and Form 81-101F2 *Contents of Annual Information Form*,
  - National Instrument 81-107 *Independent Review Committee for Investment Funds* (NI 81-107),
  - National Instrument 41-101 *General Prospectus Requirements* (NI 41-101), including Form 41-101F2 *Information Required in an Investment Fund Prospectus* (Form 41-101F2), and
  - National Instrument 81-106 *Investment Fund Continuous Disclosure* (NI 81-106).

(collectively, the Proposed Amendments).

In addition, we are publishing proposed changes to Companion Policy 81-102CP *Investment Funds* and proposing to withdraw Companion Policy 81-104CP *Commodity Pools*.

The Proposed Amendments represent the final phase of the CSA's ongoing policy work to modernize investment fund product regulation (the Modernization Project) and is primarily aimed at the development of a more comprehensive regulatory framework for publicly offered mutual funds that wish to invest in asset classes or use investment strategies not otherwise permitted under NI 81-102.

Background

The Proposed Amendments are part of the CSA's implementation of the Modernization Project. The mandate of the Modernization Project has been to review the parameters of product regulation that apply to publicly offered investment funds (both mutual funds and non-redeemable investment funds) and to consider whether our current regulatory approach sufficiently addresses product and market developments in the Canadian investment fund industry, and whether it continues to adequately protect investors. The Proposed Amendments, if adopted, are expected to have a meaningful impact on publicly offered mutual funds that utilize alternative strategies or invest in alternative asset classes (alternative funds) and would also affect other types of mutual funds (namely conventional mutual funds and ETFs) as well as non-redeemable investment funds.

The Modernization Project has been carried out in phases. With Phase 1 and the first stage of Phase 2 now complete, the Proposed Amendments represent the second and final stage of Phase 2 of the Modernization Project.

Phase 1

In Phase 1, the CSA focused primarily on publicly offered mutual funds, codifying exemptive relief that had been frequently granted in recognition of market and product developments. As well, we made amendments to keep pace with developing global standards in mutual fund product regulation, notably introducing asset maturity restrictions and liquidity requirements for money market funds. The Phase 1 amendments came into force on April 30, 2012, except for the provisions relating to money market funds, which came into force on October 30, 2012.

Phase 2 – First Stage

In the first stage of Phase 2, the CSA introduced core investment restrictions and fundamental operational requirements for non-redeemable investment funds. We also enhanced disclosure requirements regarding securities lending activities by investment funds to better highlight the costs, benefits and risks, and keep pace with developing global standards in the regulation of these activities. The Phase 2 amendments substantially came into force on September 22, 2014, except for certain transitional provisions that came into force on March 21, 2016.

Phase 2 – Second Stage – the Alternative Funds Proposal

The CSA first published an outline of a proposed a regulatory framework for alternative funds (the Alternative Funds Proposal), on March 27, 2013 as part of Phase 2 of the Modernization Project. In describing the Alternative Funds Proposal, the CSA did not publish proposed rule amendments. Instead, a series of questions were asked that focused on the broad parameters for such a regulatory framework (the Framework Consultation Questions).

The Alternative Funds Proposal dealt with issues such as naming conventions, proficiency standards for dealing representatives, and investment restrictions. We also proposed a number of areas where alternative investment funds could be permitted to use investment strategies or invest in asset classes not specifically permitted under NI 81-102 for mutual funds and non-redeemable investment funds, subject to certain upper limits.

On June 25, 2013, we published CSA Staff Notice 11-324 *Extension of Comment Period* (CSA Staff Notice 11-324), which advised that the CSA had decided to consider the Alternative Funds Proposal at a later date, in conjunction with certain investment restrictions for non-redeemable investment funds that we considered to be interrelated with the Alternative Funds Proposal (the Interrelated Investment Restrictions) as part of the second stage of Phase 2.

On February 12, 2015, we published CSA Staff Notice 81-326 *Update on an Alternative Funds Framework for Investment Funds*, where we briefly described some of the feedback we received in connection with the Framework Consultation Questions.

Summary of Proposed Amendments

Since NI 81-104 first came into force, the range of investment fund products and strategies in the marketplace has expanded significantly, both in Canada and in other jurisdictions. The Proposed Amendments reflect the CSA's efforts to modernize the existing commodity pools regime by making the regulatory framework in Canada more effective and relevant to help facilitate more alternative and innovative strategies while at the same time maintaining restrictions that we believe to be appropriate for products that can be sold to retail investors.

The Proposed Amendments, while focused on alternative funds, also include provisions that will impact other types of mutual funds, as well as non-redeemable investment funds through the Interrelated Investment Restrictions. The Proposed Amendments seek to move most of the regulatory framework currently applicable to commodity pools under NI 81-104 into NI 81-102 and rename these funds as "alternative funds". They also seek to codify existing exemptive relief frequently granted to mutual funds, and to include additional changes arising from the feedback received on the proposals set out in the Framework Consultation Questions.

The key elements of the Proposed Amendments are outlined below. A consolidated list of the specific issues in the Proposed Amendments to NI 81-102 on which we seek comment is set out in Annex A to this Notice.

(i) Repeal of NI 81-104

As noted above, the CSA are proposing that the operational framework and investment restrictions applicable to alternative funds be contained within NI 81-102 rather than spread between separate instruments, as is currently the case for commodity pools with NI 81-102 and NI 81-104. This change would necessitate the repeal of NI 81-104 and the subsequent adoption of any applicable provisions into NI 81-102.

This proposal is consistent with the work done in the first stage of Phase 2 of the Modernization Project to integrate non-redeemable investment funds into the NI 81-102 regulatory framework, and fulfills the goal of transforming NI 81-102 into the foundational operational rule for all investment funds.

(ii) Definition of "Alternative Fund"

The CSA are proposing to replace the term "commodity pool" that exists in NI 81-104 with "alternative fund", a new term in NI 81-102 that we think will better describe the types of investment objectives and strategies that characterize these types of funds.

The current definition of "commodity pool" in NI 81-104 refers to a mutual fund that has adopted fundamental investment objectives that permit it to use or invest in specified derivatives or physical commodities in a manner not permitted by NI 81-102. The CSA are proposing a similar approach to the term "alternative fund" in NI 81-102, by defining it as a mutual fund that has adopted fundamental investment objectives that permit the mutual fund to invest in asset classes or adopt investment strategies that are otherwise prohibited, but for prescribed exemptions from the investment restrictions in Part 2 of NI 81-102. This also reflects that the Proposed Amendments would result in a more comprehensive range of alternative fund-specific provisions than is currently the case for commodity pools.

(iii) Investment Restrictions

Concentration Restrictions

To allow for greater flexibility to engage in alternative investment strategies, we are proposing to permit alternative funds to have a higher concentration restriction than the current limit applicable to conventional mutual funds and to commodity pools under NI 81-102. Specifically we are proposing to increase the limit from 10% of net asset value (NAV) to 20% of NAV for alternative funds. As part of the Interrelated Investment Restrictions, we also propose setting the same concentration limit for non-redeemable investment funds. Currently the concentration restriction does not apply to non-redeemable investment funds, but many existing non-redeemable investment funds have adopted a concentration restriction that requires them to limit their investment in an issuer to no more than 20% of NAV at the time of purchase.

The proposed higher concentration limit for alternative funds and non-redeemable investment funds ensures consistency in terms of regulatory approach for all investment funds, while also providing flexibility to offer investors access to alternative investment strategies.

Investments in Physical Commodities

For mutual funds that do not qualify as alternative funds, we are proposing to expand the scope of permitted investment in physical commodities. Currently, mutual funds (other than commodity pools which are exempt from these provisions) can invest up to 10% of their NAV in gold (including 'permitted gold certificates'), but are otherwise prohibited from investing directly, or indirectly through the use of specified derivatives, in physical commodities other than gold (the Commodity Restriction). Under the Proposed Amendments, the scope of permitted investments under the Commodity Restriction would be expanded to allow mutual funds to:

- invest directly in silver, palladium and platinum, in addition to gold (including certificates representing these precious metals), and

- obtain indirect exposure to any physical commodity through the use of specified derivatives.

This new range of permitted investment in physical commodities would remain subject to a combined limit of 10% of the mutual fund's NAV at the time of purchase, consistent with the current Commodity Restriction. This proposed change reflects exemptive relief that has been regularly granted to mutual funds and recognizes that physical commodities represent an asset class that can be used effectively within a diversified investment portfolio. We are also proposing to add a "look through" test in which investments in underlying funds would be counted towards the overall limit, primarily to ensure that funds cannot indirectly exceed the proposed investment caps through fund of fund investing.

As part of this change, we also propose to add the new definitions "permitted precious metal" and "permitted precious metal certificate" to NI 81-102, to reflect the inclusion of silver, platinum and palladium within the scope of physical commodities that can be held directly by mutual funds, and to repeal the definition of "permitted gold certificate".

Under NI 81-104, commodity pools are exempt from the provisions in section 2.3 of NI 81-102 governing investment in physical commodities and we are proposing to maintain this exemption for alternative funds under NI 81-102. Non-redeemable investment funds are also exempt from these provisions and we are not proposing to change this.

Currently, there are mutual funds that have received exemptive relief from NI 81-102 to be "precious metals funds" (as currently defined in NI 81-104) because their fundamental investment objectives provide that they invest primarily in one or more precious metals. We are proposing to adopt this definition into NI 81-102. Under the Proposed Amendments, mutual funds that fit this definition would be exempt from the 10% limit on investment in physical commodities in respect of their investment in permitted precious metals. This would not represent a change in how precious metals funds currently operate.

Illiquid Assets

We are proposing to introduce a limit on investing in illiquid assets for non-redeemable investment funds. Currently all mutual funds are not permitted to invest in illiquid assets if, after the purchase, more than 10% of the fund's NAV would be invested in illiquid assets; and all mutual funds are subject to a hard cap of 15% of NAV. However, non-redeemable investment funds are not subject to such a limit under our current rules. The Proposed Amendments introduce an investment limit in illiquid assets of 20% for non-redeemable investment funds, with a hard cap of 25% of NAV.

The proposed limit for investments in illiquid assets by non-redeemable investment funds reflects the fact that unlike mutual funds, non-redeemable investment funds generally do not offer regular redemptions based on NAV. Rather, most non-redeemable investment funds primarily offer liquidity through listing their securities on an exchange. However, a significant number of non-redeemable investment funds do offer some form of redemptions at a prices based on the fund's NAV once a year, as well as, in many cases monthly redemptions at a price tied to market price, and therefore we believe a restriction on illiquid assets is important in order for those funds to meet their redemption requirements as applicable. We are seeking comment on the proposed limit on illiquid asset investments for non-redeemable investment funds.

We are not proposing to increase the permitted level of investment in illiquid assets for alternative funds or for other mutual funds. However, we recognize that there may be cases where certain types of alternative funds may, in accordance with their investment objectives wish to hold a larger proportion of their portfolio in illiquid assets, and will often accordingly offer redemptions on a less frequent basis. We seek feedback on whether a higher illiquid asset limit may be appropriate in those cases, and how best to make that work within the existing framework.

In addition, we continue to stay abreast of the various initiatives on liquidity risk management for investment fund products at the international level and how this may impact our work on this stage of the Modernization Project.

Fund-of-Fund Structures

We are proposing to permit mutual funds (other than alternative funds) to invest up to 10% of their net assets in securities of alternative funds and non-redeemable investment funds, provided those underlying funds are subject to NI 81-102. This reflects a recognition that some access to these types of products can be beneficial to a mutual fund's strategies.

We are also proposing to permit mutual funds to invest up to 100% of their NAV in any other mutual fund (other than an alternative fund) that is subject to NI 81-102, rather than just those that file a simplified prospectus (SP) under NI 81-101. This change would codify existing exemptive relief and would have the effect of permitting a mutual fund to also invest up to 100% of its NAV in exchange-traded mutual funds, whereas currently, they are limited to investing only in conventional mutual funds that file an SP. We are also proposing to remove the restriction that a mutual fund must invest in another investment fund that is a reporting issuer in the same "local jurisdiction" as the top fund. This means that a mutual fund will be able to invest in another investment fund so long as it is a reporting issuer in at least one Canadian jurisdiction, and reflects the fact that investment fund regulation is substantially harmonized in the Canadian jurisdictions. We are not proposing changes to any other aspect of the fund-of-fund rules under NI 81-102 for mutual funds.

Currently commodity pools under NI 81-104 are subject to the same fund of fund investing restrictions that apply to "conventional" mutual funds. These restrictions act to prevent a commodity pool, for example, from investing in another commodity pool or in any other type of fund, unless it is a mutual fund that has filed an SP under NI 81-101. We are proposing to permit alternative funds to invest up to 100% of their NAV in any other mutual fund (which includes other alternative funds) or in non-redeemable investment funds provided the other fund is subject to NI 81-102. The other provisions applicable to fund of fund investing by mutual funds would still apply.

Currently, non-redeemable investment funds can invest up to 100% of their NAV in other investment funds and we are not proposing to change this, or any of the other fund of fund provisions that apply to non-redeemable investment funds.

Borrowing

The CSA are proposing to permit alternative funds to borrow up to 50% of their NAV in order to help facilitate a wider array of investment strategies by alternative funds than may be possible under the current restrictions. We are also proposing that these provisions apply to non-redeemable investment funds.

In addition, we are proposing that borrowing for both alternative funds and non-redeemable investment funds be subject to the following requirements:

- funds may only borrow from entities that would qualify as an investment fund custodian under section 6.2 of NI 81-102, which essentially restricts borrowing to banks and trust companies in Canada (or their dealer affiliates);

- where the lender is an affiliate of the alternative fund's investment fund manager, approval of the fund's independent review committee (IRC) would be required under NI 81-107; and

- any borrowing agreements entered into under this section must be in accordance with normal industry practise and be on standard commercial terms for agreements of this nature.

We are also proposing to amend the IRC approval provisions in section 5.2 of NI 81-107 in order to codify the IRC approval requirement described above, in that Instrument.

Short Selling

The CSA are proposing to permit alternative funds to sell securities short beyond the current limits in NI 81-102 to provide these funds with more flexibility to use long/short strategies. In particular, we are proposing to increase the aggregate market value of all securities that may be sold short by an alternative fund to 50% of the NAV of the fund, which is an increase from the current limit of 20% of NAV for all mutual funds (including commodity pools). We note that a number of commodity pools have already been granted exemptive relief to increase the aggregate market value of securities permitted to be sold short, to 40% of the fund's NAV. We are also proposing to increase the aggregate market value of all securities of any issuer that may be sold short by an alternative fund to 10% of the NAV of the fund, calculated at the time of the short sale, which is an increase from the 5% limit currently applicable to mutual funds (including commodity pools).

In addition, we are proposing to exempt alternative funds from subsections 2.6.1(2) and (3) of NI 81-102, which require funds to hold cash cover and prohibit the use of short sale proceeds to purchase securities other than securities that qualify as cash cover. This is to help facilitate the use of "long/short" strategies by alternative funds in Canada.

We are also proposing that the same short-selling provisions applicable to alternative funds also apply to non-redeemable investment funds as part of the Interrelated Investment Fund Restrictions.

Combined Limit on Cash Borrowing and Short Selling

We are proposing that the combined use of short-selling and cash borrowing by alternative funds and non-redeemable investment funds be subject to an overall limit of 50% of NAV. That is, under the Proposed Amendments, an investment fund that is either a non-redeemable investment funds or an alternative fund would not permitted to borrow cash or sell securities short if after doing so, the aggregate value of its short-selling and cash borrowing exceeds 50% of the fund's NAV. We view short-selling as another form of borrowing, and therefore believe it should be subject to the same borrowing limit as cash borrowing.

Use of Derivatives

Dodd-Frank Relief

One of the changes we are proposing is to codify exemptive relief frequently granted to mutual funds in response to the enactment of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* (and the rules promulgated thereunder) in the United States and similar legislation in Europe (the Dodd-Frank Relief). Under this legislation, certain types of swaps are required to be cleared through a clearing corporation that is registered with the applicable regulatory agency in the US or in Europe. This legislation is part of an international initiative to more tightly regulate over-the-counter (OTC) derivatives, in response to the 2007-2008 financial crisis.

The Dodd-Frank Relief consists of relief from the counterparty designated rating requirement of subsection 2.7(1) of NI 81-102, the counterparty exposure limits of subsection 2.7(4) of NI 81-102 and the custodian requirements of part 6 of NI 81-102. It is intended to facilitate the entering into of transactions for cleared derivatives under the infrastructure mandated by those legislative reforms.

In order to codify this exemption, we are proposing to create a new defined term "cleared specified derivative", which will refer to any specified derivative that is cleared through this mandated infrastructure.

In turn, we propose to provide an exemption for all investment funds from subsections 2.7(1) and 2.7(4) of NI 81-102 for exposure to "cleared specified derivatives" and to amend section 6.8 of NI 81-102 in order to provide a specific exemption from the general custodian requirement to permit a fund to deposit assets with a dealer as margin in respect of cleared specified derivatives transactions.

Counterparty Requirements

We are proposing to exempt alternative funds from subsection 2.7(1) of NI 81-102. Currently, commodity pools are exempt from paragraph 2.7(1)(a) pursuant to NI 81-104, but are still subject to the requirements in paragraphs (b) and (c). As a result of the proposed change, a fund would no longer be prohibited from entering into certain specified derivatives transactions where either the derivative itself, or the counterparty (or the counterparty's guarantor), does not have a "designated rating" as defined in NI 81-102. This change would permit alternative funds to engage in OTC derivatives transactions with a wider variety of international counterparties. Since the financial crisis of 2007-2008, fewer firms that have been able to attain a "designated rating", which in turn limits the number of available counterparties. Access to a larger variety of counterparties can provide benefits to alternative funds in terms of pricing or products. Non-redeemable investment funds are already exempt from this subsection and we are not proposing to change that exemption.

To counterbalance the proposed exemption from subsection 2.7(1) for alternative funds, we are proposing to eliminate the exemption for commodity pools from the counterparty exposure limits in subsections 2.7(4) and 2.7(5) currently available to commodity pools under NI 81-104, and to non-redeemable investment funds under NI 81-102 (the Counterparty Exposure Exemption). Under the Proposed Amendments, both alternative funds and non-redeemable investment funds would, subject to the general exemption for cleared specified derivatives referred to above, be required to limit their mark-to-market exposure with any one counterparty to 10%.

Repealing the Counterparty Exposure Exemption is intended to reduce the credit risk to a single counterparty, particularly in connection with OTC derivatives. Where an alternative fund's exposure to a single counterparty constitutes a significant amount of the fund's NAV, we think that the risks associated with such exposure, particularly the credit risk of the counterparty, may materially alter the nature and risk profile of the fund.

We also note that large counterparty exposures through OTC derivatives may be inconsistent with the restrictions on investments in illiquid assets.

Cover Requirements

We are proposing to maintain for alternative funds, the current exemption from sections 2.8 and 2.11 of NI 81-102 applicable to commodity pools under NI 81-104, to permit an alternative fund to use specified derivatives to create synthetic leveraged exposure. Non-redeemable investment funds would remain exempt from these provisions.

Leverage

Under the Proposed Amendments, alternative funds and non-redeemable investment funds may achieve leverage through a number of ways, including cash borrowing, short selling and specified derivatives transactions. They may also obtain exposure through investing in underlying funds that employ leverage. Although the provisions relating to these investment strategies may specify limits on their use individually, we are proposing to create a single limit on the total leveraged exposure of an alternative fund or non-redeemable investment fund may have through these various strategies. This limit will also be used for disclosure purposes.

We are proposing that the aggregate gross exposure by an alternative fund or a non-redeemable investment fund, through borrowing, short-selling or the use specified derivatives cannot exceed 3 times the fund's NAV.

Specifically, a fund would have to calculate

- the total amount of outstanding cash borrowed,
- the combined market value of securities it sells short, and

- the aggregate notional amount of its specified derivatives positions, including those used for hedging purposes.

This would be divided that by the fund's net assets to determine whether this exposure falls within the prescribed limit. Under the Proposed Amendments, the total leverage limit would have to be met by alternative funds and non-redeemable investment funds on an ongoing daily basis, and not just at the time of entering into a transaction that creates leverage.

We note an absence of uniform standards for measuring leverage. Leverage can be measured in different ways and may require different assumptions. We chose this methodology primarily because it is a relatively simple calculation and relies primarily on objective criteria thereby providing a common comparative standard by which to measure a fund's leveraged exposure. However, we recognize that that there are other methods for measuring leverage in a fund, and keeping abreast of international developments in this regard[2].

We seek feedback on this proposed limit and whether the total leverage limit should be the same for mutual funds and non-redeemable investment funds, considering a mutual fund's need to fund regular redemptions. We also seek feedback on the methodology proposed under the Proposed Amendments for measuring leverage.

(iii) New Alternative Funds

Seed Capital and Organizational Costs

For alternative funds, the CSA are proposing changes to the seed capital and other start-up requirements currently applicable to commodity pools under NI 81-104. We are proposing that alternative funds comply with the same requirements applicable to other mutual funds under Part 3 of NI 81-102. The biggest change would be that the seed capital requirement for alternative funds would increase from $50,000 (the minimum seed capital requirement currently applicable to commodity pools) to $150,000. Furthermore, rather than the manager having to maintain a $50,000 investment in the fund (as currently required for commodity pools), the manager of an alternative fund may redeem the seed capital once the fund has raised at least $500,000 from outside investors. The proposed changes to the seed capital requirements are consistent with feedback received during CSA's consultations and with exemptive relief that has been granted to a number of existing commodity pools.

(iv) Proficiency

Currently, Part 4 of NI 81-104 requires a "mutual fund restricted individual" (as defined in NI 81-104)[3] who sells commodity pool securities to have qualifications that go beyond the minimum requirements to be registered as a dealing representative of a mutual fund dealer (the Proficiency Requirements). Specifically, a mutual fund restricted individual may only trade in a security of a commodity pool if that individual meets the additional proficiency standards set out in subsection 4.1(1) of NI 81-104. Part 4 also imposes proficiency requirements for dealer supervision of trades in commodity pool securities. There are currently no additional requirements for individuals registered as dealing representatives of an investment dealer who are also members of the Investment Industry Regulatory Organization of Canada (IIROC).

Consistent with the approach taken with proficiency requirements for registrants generally, we are of the view that the Proficiency Requirements would be best addressed through the existing registrant regulatory regime as opposed to following the NI 81-104 approach of incorporating such requirements into an operational rule for investment funds. For example, subsection 3.4(1) of National Instrument 31-103 *Registrant Requirements, Exemptions and Ongoing Registrant Obligations* establishes a general proficiency principle for all registrants, which states "[a]n individual must not perform an activity that requires registration unless the individual has the education, training and experience that a reasonable person would consider necessary to perform the activity competently[.]" In addition, the Proficiency Requirements are duplicative with similar requirements in existing MFDA rules and policies. As a result, we are not proposing to move the Proficiency Requirements into NI 81-102 as part of the Proposed Amendments.

Given the unique features that will characterize alternative funds, such as the increased flexibility to create leverage and engage in potentially more complex strategies, the CSA recognize that it will be appropriate for additional education, training and experience requirements to apply to individual mutual fund dealing representatives who sell alternative funds. On this basis, it is reasonable to consider whether, in order to satisfy the general proficiency principle that applies to all registrants, specific training would be necessary for an individual dealing representative to understand the structure, features, and risks of any alternative fund securities that he or she may recommend. From this perspective, we are engaging with the MFDA in order to determine the appropriate proficiency requirements for dealing representatives of mutual fund dealers trading in securities of Alternative

2 The Financial Stability Board has identified leverage within investment funds as an area for further analysis in its work to address structural vulnerabilities from asset management activities. See: Financial Stability Board, Proposed Policy Recommendations to Address Structural Vulnerabilities from Asset Management Activities – Consultation Document (22 June 2016), online: http://www.fsb.org/wp-content/uploads/FSB-Asset-Management-Consultative-Document.pdf.

3 This term is generally intended to refer to a person registered as a mutual fund dealer. In all jurisdictions in Canada except Quebec, mutual fund dealers are also members of the Mutual Fund Dealers Association of Canada (the MFDA).

Funds. This work will be parallel to our ongoing work with the Proposed Amendments and we will ensure that it has been completed before the Proposed Amendments would come into force. We also note the CSA's ongoing consultations with respect to the proposals to enhance the obligations of dealers and representatives generally, as outlined in CSA Consultation Paper 33-404 *Proposals to Enhance the Obligations of Adviser, Dealers, and Representatives Towards Their Clients*, which will also inform our work in this regard.

(v) Disclosure

Form of Prospectus/Point of Sale

A key element of the CSA's proposal for a more robust framework for alternative funds is to also bring alternative funds into the prospectus regime that exists for other types of mutual funds.

Currently, under NI 81-101, all mutual funds, other than commodity pools and exchange listed mutual funds, are required to prepare an SP, annual information form (AIF) and Fund Facts, with the Fund Facts having to be delivered at or before the point of sale. We are proposing that alternative funds that are not listed on an exchange be subject to this disclosure regime.

All other types of mutual funds, including commodity pools and exchange listed mutual funds, as well as non-redeemable investment funds, are required to file a long form prospectus under Form 41-101F2, which is delivered under the standard prospectus delivery period of within 2 days of the trade.

The CSA are currently finalizing amendments to implement a summary disclosure document similar to the Fund Facts, called ETF Facts, that will be prepared in respect of mutual funds that are listed on an exchange. It is expected that these provisions will also be applicable to listed alternative funds.

Given the CSA's efforts to otherwise harmonize the disclosure regimes for mutual funds, we do not believe that there is a policy basis for requiring that unlisted alternative funds continue to be subject to a different prospectus regime than every other type of unlisted mutual fund.

In connection with this we are also proposing changes to the Fund Facts to provide additional disclosure requirements for alternative funds. These changes would consist of requiring text box disclosure that would clearly highlight how the alternative fund differs from other mutual funds in terms of its investment strategies and the assets it is permitted to invest in. It is anticipated that complementary changes will also be reflected in the ETF Facts form requirements once they come into effect.

We are also proposing consequential amendments to Form 41-101F2 to remove any references to commodity pools.

Financial Statement Disclosure

Currently, Part 8 of NI 81-104 requires commodity pools to include in their interim financial reports and annual financial statements disclosure regarding their actual use of leverage over the period referenced in the financial statements (the Leverage Disclosure Requirements). In connection with the repeal of NI 81-104, we are proposing to incorporate the Leverage Disclosure Requirements into NI 81-106, with the requirement that it apply to any investment fund that uses leverage, which would therefore apply this requirement to non-redeemable investment funds as well. We are also proposing that the Leverage Disclosure Requirement apply to disclosure in an investment fund's Management Report of Fund Performance. NI 81-106 is the Instrument that sets out the applicable continuous disclosure requirements for investment funds, so it was appropriate to propose that the Leverage Disclosure Requirements be moved to that Instrument

(vi) Other Changes

Except as modified or repealed as referenced above, in connection with the repeal of NI 81-104, all the provisions in that instrument that currently apply to commodity pools, would be integrated into NI 81-102 and would apply to alternative funds.

(vii) Transition/Coming into Force

Subject to the nature of comments we receive, as well as any applicable regulatory requirements, we are proposing that if approved , the Proposed Amendments would come into force approximately 3 months after the final publication date, and would immediately apply to any investment fund that files a preliminary prospectus after that date. This will also apply to funds that filed a preliminary prospectus before the coming into force date but have not yet filed a final prospectus as of that date.

We recognize that for existing funds, a longer transition period may be needed to make the necessary adjustments to their portfolio as well as to their compliance and operational systems. Accordingly, we are proposing that for existing funds, the Proposed Amendments not apply for an additional 6 months after the coming into force date of the Proposed Amendments, provided that the fund filed its final prospectus before the coming into force date. We are also proposing that the Fund Facts presale delivery requirements for existing funds will not apply for an additional 6 months from the coming into force date of the Proposed Amendments.

Adoption Procedures

We expect the Proposed Amendments to be incorporated as part of rules in each of British Columbia, Alberta, Manitoba, Ontario, Nova Scotia, Prince Edward Island, New Brunswick, Newfoundland and Labrador, Northwest Territories, Yukon and Nunavut, and incorporated as part of commission regulations in Saskatchewan and regulations in Québec. The Proposed 81-102 CP Changes are expected to be adopted as part of policies in each of the CSA jurisdictions.

Alternatives Considered to the Proposed Amendments

An alternative to the Proposed Amendments would be to not implement any changes to regulatory regime governing commodity pools and maintaining the status quo.

Not proceeding with the Proposed Amendments would restrict the potential growth of commodity pools/alternative funds by limiting their ability to get exposure to new asset classes or to adopt new strategies, particularly those used by so-called “liquid alt” funds, that are commonplace in other jurisdictions for investment fund products sold to retail investors. While some of these strategies may be riskier, many are also designed to mitigate market risk, take advantage of market inefficiencies or to help produce more consistent returns under various market conditions. Alternative investment strategies have historically only been available in Canada to accredited investors or other types of investors eligible to purchase securities without a prospectus. The Proposed Amendments would enhance the offering of alternative funds and strategies by setting an appropriate regulatory framework in which these strategies may be used in funds sold by prospectus. We think that not proceeding with the Proposed Amendments would stifle innovation in the marketplace to the detriment of both investors and the investment funds industry.

As well, the prospectus regime for commodity pools would continue to be out of step with regulatory developments impacting the prospectus regime for other types of mutual funds.

Not proceeding with the Proposed Amendments in respect of the Interrelated Investment Restrictions would not be appropriate in view of both investor protection and fairness concerns, since this would permit some non-redeemable investment funds o potentially operate in a manner that is inconsistent with other investment funds. The Interrelated Investment Restrictions are intended to create a more consistent, fair and functional regulatory regime across the spectrum of publicly offered investment fund products.

Anticipated Costs and Benefits of the Proposed Amendments

We think the Proposed Amendments strike the right balance between protecting investors and fostering fair and efficient capital markets. The Proposed Amendments would benefit investors and the capital markets by encouraging product innovation and permit Canadians to gain exposure to investment strategies that have been employed for retail fund products around the world, while still maintain the protections that recognize that these products are being sold to retail investors.

The CSA are of the view that the Proposed Amendments would not create substantial costs for investment funds, their managers or securityholders. Many of the Proposed Amendments codify exemptive relief routinely granted, or expand prevailing investment parameters and limits currently applicable to mutual funds and commodity pools.

While some of the Proposed Amendments would impose restrictions on non-redeemable investment funds that are not currently in place, our review of non-redeemable investment funds from the earlier stages of this Phase of the Modernization Project indicated that a large majority of non-redeemable investment funds follow investment restrictions that are comparable to the proposed Interrelated Investment Restrictions. Further, many managers either manage various types of investment fund products (including mutual funds subject to NI 81-102) or have already established the necessary infrastructure to monitor compliance with the investment restrictions included in the constating documents of their funds. As a result, these managers are already equipped to monitor compliance with any additional investment restrictions. Therefore, we do not believe that the proposed Interrelated Investment Restrictions would create substantial costs for non-redeemable investment funds.

Overall, we think the potential benefits of the Proposed Amendments are proportionate to their costs. We seek feedback on whether you agree or disagree with our perspective on the cost burden of the Proposed Amendments. Specific quantitative data in support of your views in this context would be particularly helpful.

Local Matters

Annex I is being published in any local jurisdiction that is making related changes to local securities laws, including local notices or other policy instruments in that jurisdiction. It also includes any additional information that is relevant to that jurisdiction only.

Unpublished Materials

In developing the Proposed Provisions, we have not relied on any significant unpublished study, report or other written materials.

Request for Comments and Feedback

We are soliciting comment on the Proposed Amendments. While welcome comments on any aspect of the proposal, we have also identified specific issues for comment in Annex A to this Notice.

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period. All comments will be posted on the websites of each of the Ontario Securities Commission at www.osc.gov.on.ca, the Alberta Securities Commission at www.albertasecurities.com and the Autorité des marches financiers at www.lautorite.qc.ca. Therefore, you should not include personal information directly in comments to be published. It is important you state on whose behalf you are making the submissions.

Please submit your comments in writing on or before December 22, 2016. If you are not sending your comments by email, please send a CD containing the submissions in Microsoft Word format.

Please note that some CSA jurisdictions may also host roundtables to discuss the Proposed Amendments and we encourage interested stakeholders to participate.

Where to Send Your Comments

Address your submission to all of the CSA as follows:

British Columbia Securities Commission
Alberta Securities Commission
Financial and Consumer Affairs Authority of Saskatchewan
Manitoba Securities Commission
Ontario Securities Commission
Autorité des marchés financiers
Financial and Consumers Services Commission, New Brunswick
Superintendent of Securities, Department of Justice and Public Safety, Prince Edward Island
Nova Scotia Securities Commission
Securities Commission of Newfoundland and Labrador
Registrar of Securities, Northwest Territories
Registrar of Securities, Yukon Territory
Superintendent of Securities, Nunavut

Please send your comments only to the addresses below. Your comments will be forwarded to the other CSA members.

The Secretary
Ontario Securities Commission
20 Queen Street West
22nd Floor
Toronto, Ontario M5H 3S8
Fax: 416-593-2318
Email: comments@osc.gov.on.ca

Me Anne-Marie Beaudoin
Corporate Secretary
Autorité des marchés financiers
800, square Victoria, 22e étage
C.P. 246, tour de la Bourse
Montréal (Québec) H4Z 1G3
Fax : 514-864-6381
E-mail: consultation-en-cours@lautorite.qc.ca

Questions

Please refer your questions to any of the following CSA staff:

Christopher Bent (Project Lead)
Legal Counsel, Investment Funds and Structured Products Branch
Ontario Securities Commission
Phone: (416) 204-4958
Email: cbent@osc.gov.on.ca

Donna Gouthro
Senior Securities Analyst
Nova Scotia Securities Commission
Phone: (902)424-7077
Email: donna.gouthro@novascotia.ca

Danielle Mayhew
Legal Counsel, Corporate Finance
Alberta Securities Commission
Phone: (403) 592-3059
E-mail: danielle.mayhew@asc.ca

Darren McKall
Manager, Investment Funds and Structured Products Branch
Ontario Securities Commission
Phone: (416) 593-8118
Email: dmckall@osc.gov.on.ca

Stephen Paglia
Senior Legal Counsel, Investment Funds and Structured Products Branch
Ontario Securities Commission
Phone: (416) 593-2393
Email: spaglia@osc.gov.on.ca

Mathieu Simard
Senior Advisor, Investment Funds
Autorité des marchés financiers
Phone: (514) 395-0337, ext. 4471
Email: mathieu.simard@lautorite.qc.ca

Patrick Weeks
Corporate Finance Analyst
Manitoba Securities Commission
Phone: (204) 945-3326
Email: patrick.weeks@gov.mb.ca

Contents of Annexes

The text of the Proposed Amendments is contained in the following annexes to this Notice and is available on the websites of members of the CSA:

Annex A	–	Specific Questions of the CSA Relating to the Proposed Amendments
Annex B	–	Summary of Public Comments and CSA Responses on the 2013 Alternative Funds Proposal
Annex C-1	–	Proposed Repeal of National Instrument 81-104 *Commodity Pools*
Annex C-2	–	Proposed Withdrawal of Companion Policy 81-104CP to National Instrument 81-104 *Commodity Pools*
Annex D-1	–	Proposed Amendments to National Instrument 81-102 *Investment Funds*
Annex D-2	–	Blackline of National Instrument 81-102 *Investment Funds* to Highlight the Proposed Amendments
Annex D-3	–	Proposed Changes to Companion Policy 81-102CP to National Instrument 81-102 *Investment Funds*

Annex E	–	Proposed Amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure*
Annex F	–	Proposed Amendments to National Instrument 81-107 *Independent Review Committee for Investment Funds*
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Annex I	–	Ontario Rule-Making Authority

ANNEX A

SPECIFIC QUESTIONS OF THE CSA RELATING TO THE PROPOSED AMENDMENTS

Definition of "Alternative Fund"

1. Under the Proposed Amendments, we are seeking to replace the term "commodity pool" with "alternative fund" in NI 81-102. We seek feedback on whether the term "alternative fund" best reflects the funds that are to be subject to the Proposed Amendments. If not, please propose other terms that may better reflect these types of funds. For example, would the term "non-conventional mutual fund" better reflect these types of funds?

Investment Restrictions

Asset Classes

2. We are seeking feedback on whether there are particular asset classes common under typical "alternative" investment strategies, but have not been contemplated for alternative funds under the Proposed Amendments, that we should be considering, and why.

Concentration

3. We are proposing to raise the concentration limit for alternative funds to 20% of NAV at the time of purchase, meaning the limit must be observed only at the time of purchasing additional securities of an issuer. Should we also consider introducing an absolute upper limit or "hard cap" on concentration, which would require a fund to begin divesting its holdings of an issuer if the hard cap is breached, even passively, which is similar to the approach taken with illiquid assets under NI 81-102? Please explain why or why not.

Illiquid Assets

4. We are not proposing to raise the illiquid asset limits for alternative funds under the Proposed Amendments. Are there strategies commonly used by alternative funds for which a higher illiquid asset investment threshold would be appropriate? Please be specific.

5. Should we consider how frequently an alternative fund accepts redemptions in considering an appropriate illiquid asset limit? If so, please be specific. We also seek feedback regarding whether any specific measures to mitigate the liquidity risk should be considered in those cases.

6. We are also proposing to cap the amount of illiquid assets held by a non-redeemable investment fund, at 20% of NAV at the time of purchase, with a hard cap of 25% of NAV. We seek feedback on whether this limit is appropriate for most non-redeemable investment funds. In particular, we seek feedback on whether there are any specific types or categories of non-redeemable investment funds, or strategies employed by those funds, that may be particularly impacted by this proposed restriction and what a more appropriate limit, or provisions governing investment in illiquid assets might be in those circumstances. **In particular, we seek comments relating to non-redeemable investment funds which may, by design or structure, have a significant proportion of illiquid assets, such as 'labour sponsored or venture capital funds' (as that term is defined in NI 81-106) or 'pooled MIEs' (as that term was defined in CSA Staff Notice 31-323 *Guidance Relating to the Registration Obligations of Mortgage Investment Entities*).**

7. Although non-redeemable investment funds typically have a feature allowing securities to be redeemable at NAV once a year, we also seek feedback on whether a different limit on illiquid assets should apply in circumstances where a non-redeemable investment fund does not allow securities to be redeemed at NAV.

Borrowing

8. Should alternative funds and non-redeemable investment funds be permitted to borrow from entities other than those that meet the definition of a custodian for investment fund assets in Canada? Will this requirement unduly limit the access to borrowing for investment funds? If so, please explain why.

Total Leverage Limit

9. Are there specific types of funds, or strategies currently employed by commodity pools or non-redeemable investment funds that will be particularly impacted by the proposed 3 times leverage limit? Please be specific.

10. The method for calculating total leverage proposed under the Proposed Amendments contemplates measuring the aggregate notional amount under a fund's use of specified derivatives. Should we consider allowing a fund to include offsetting or hedging transactions to reduce its calculated leveraged exposure? Should we exclude certain types of specified derivatives that generally are not expected to help create leverage? If so, does the current definition of "hedging" adequately describe the types of transactions that can reasonably be seen as reducing a fund's net exposure to leverage?

11. We note that the proposed leverage calculation method has its limits and its applicability through different type of derivatives transactions may vary. We also acknowledge that the notional amount doesn't necessarily act as a measure of the potential risk exposure (e.g. interest rate swaps, credit default swaps) or is not a representative metric of the potential losses (e.g. short position on a futures), from leverage transactions. Are there leverage measurement methods that we should consider, that may better reflect the amount of and potential risk to a fund from leverage? If so, please explain and please consider how such methods would provide investors with a better understanding of the amount of leverage used.

Interrelated Investment Restrictions

12. We seek feedback on the other Interrelated Investment Restrictions and particularly their impact on non-redeemable investment funds. Are there any identifiable categories of non-redeemable investment funds that may be particularly impacted by any of the Interrelated Investment Restrictions? If so, please explain.

Disclosure

Fund Facts Disclosure

13. Are there any other changes to the form requirements for Fund Facts, in addition to or instead of those proposed under the Proposed Amendments that should be incorporated for alternative funds in order to more clearly distinguish them from conventional mutual funds? We encourage commenters to consider this question in conjunction with proposals to mandate a summary disclosure document for exchange-traded mutual funds outlined in the CSA Notice and Request for Comment published on June 18, 2015.

14. It is expected that the Fund Facts, and eventually the ETF Facts, will require the risk level of the mutual fund described in that document to be disclosed in accordance with the CSA Risk Classification Methodology (the Methodology) once it comes into effect. In the course of our consultations related to the Methodology, we have indicated our view that standard deviation can be applied to a broad range of fund types (asset class exposures, fund structures, manager strategies, etc.). However, in light of the proposed changes to the investment restrictions that are being contemplated, we seek feedback on the impact the Proposed Amendments would have on the applicability of the Methodology to alternative funds. In particular, given that alternative funds will have broadened access to certain asset classes and investment strategies, we seek feedback on what modifications might need to be made to the Methodology. For example, would the ability of alternative funds to engage in strategies involving leverage require additional factors beyond standard deviation to be taken into account?

Point of Sale

15. We seek feedback from fund managers regarding any specific or unique challenges or expenses that may arise with implementing point of sale disclosure for non-exchange traded alternative funds compared to other mutual funds that have already implemented a point of sale disclosure regime.

Transition

16. We are seeking feedback on the proposed transition periods under the Proposed Amendments and whether they are sufficient to allow existing funds to transition to the updated regulatory regime? Please be specific.

ANNEX B

SUMMARY OF PUBLIC COMMENTS AND CSA RESPONSES ON THE 2013 ALTERNATIVE FUNDS PROPOSAL AND THE INTERRELATED INVESTMENT RESTRICTIONS

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Part I – Background

Summary of Comments

On March 27, 2013, the Canadian Securities Administrators (CSA) published proposals relating to the second phase of the Modernization of Investment Fund Product Regulation Project (the Modernization Project). The proposals included amendments to National Instrument 81-102 *Mutual Funds* (NI 81-102), changes to Companion Policy 81-102CP (81-102CP), related consequential amendments, and proposals relating to National Instrument 81-104 *Commodity Pools* (NI 81-104) and securities lending, repurchases and reverse repurchases by investment funds (collectively, the Proposals). On June 25, 2013, the CSA published CSA Staff Notice 11-324 *Extension of Comment Period* (CSA Staff Notice 11-324) to extend the closing of the comment period on the Proposals from June 25, 2013 to August 23, 2013.

The Proposals included an outline of a more comprehensive regulatory framework for alternative funds (the Alternative Funds Proposals). The Alternative Funds Proposal aimed to (i) introduce core investment restrictions and operational requirements for publicly offered non-redeemable investment funds, other than scholarship plans, (ii) enhance the disclosure requirements relating to securities lending, repurchases and reverse repurchases by investment funds and (iii) create a more comprehensive alternative fund framework to be effected through amendments to NI 81-104 (the Alternative Funds Proposal).

On June 19, 2014, the CSA published final amendments that introduced core investment restrictions and operational requirements for non-redeemable investment funds and new disclosure requirements with respect to securities lending by all investment funds (the June 2014 Amendments), which substantially came into force on September 22, 2014, with the final transitional provisions coming into force in March of 2016.

As was described in CSA Staff Notice 11-324, the Alternative Funds Proposal were being considered in conjunction with certain of the investment restrictions included in the Proposals and separately from the June 2014 Amendments. As a result, the CSA did not summarize comments on the Alternative Funds Proposal or certain proposed amendments regarding investments in physical commodities, borrowing cash, short selling and use of derivatives (the Interrelated Investment Restrictions) in the Summary of Public Comments And CSA Responses published with the June 2014 Amendments.

We have instead chosen to summarize the comments we received on the Alternative Funds Proposal and on the Interrelated Investment Restrictions in connection with the current Notice and Proposed Amendments, in part to reflect that these earlier comments helped to inform our efforts in preparing the Proposed Amendments for consideration.

We received submissions from 36 commenters in relation to the Alternative Funds Proposal and the Interrelated Investment Restrictions, which are listed in Part IV. We wish to thank all those who took the time to comment.

Part II – Comments on proposed alternative fund framework		
Issue	**Comments**	**Responses**
General comments	Many commenters stated that in order to properly evaluate the CSA's proposals with respect to non-redeemable investment funds, the CSA would need to publish further detail regarding the Alternative Funds Proposals. Additionally, any reforms to the to the investment restrictions applicable to non-redeemable investment funds should be undertaken in connection with the development of the Alternative Funds Proposals.	We acknowledge this concern and have published the Proposed Amendments for comment. We welcome any specific feedback on the proposals contained therein.
	Several commenters agreed with the concept of an Alternative Funds Proposals and thought such a regulatory regime would create opportunities for alternative fund managers and increased investment options for retail investors.	We agree and acknowledge that is consistent with the intent behind the Proposed Amendments.
	Two commenters expressed concern that the Alternative Funds Proposals would create barriers to entry for alternative funds and result in these funds being labeled as high risk.	We believe that the Proposed Amendments will address this concern but welcome any specific feedback in this regard.
	One commenter is of the view the creation of a category of investment funds which are "alternative funds" and which allow alternative investment strategies which present, in general, much greater complexity and higher risk, should, at a minimum, only be permitted if clear labelling is required, in the name of the fund itself (and the category) which makes the complexity and higher risk of this category of funds abundantly clear to retail investors.	The Proposed Amendments do include disclosure requirements that will highlight the differences between alternative funds and other more conventional mutual funds in terms of strategies and investments. The required risk disclosure will be consistent with that of any other type of investment fund. We are not proposing a naming convention for alternative funds under the Proposed Amendments.
	Two commenters encouraged the CSA to adopt a purposive or principles based framework rather than a prescriptive approach to the Alternative Funds Proposals to allow Canadian investors access to as many different types of alternative funds as possible.	The Proposed Amendments are intended to fit within the existing regulatory framework for investment funds and therefore the approach taken with regards to prescriptive vs principles-based is consistent with the present regulatory regime.
	One commenter stated that it is important to harmonize regulation for products perceived by the public as belonging to the same category of risk and liquidity as mutual funds. This prevents regulatory arbitrage and mis-selling. Although where products are different and satisfy different investor needs, the best way to differentiate products is to ensure that there is a clear articulated difference in their structure. Products should be clearly separated based on structural factors such as whether they are redeemable or exchange listed. This would better help investors than creating different investment restrictions on the same types of funds depending on whether they are conventional or alternative.	The existing regulatory framework provides specific provisions for different types of investment fund products such as conventional mutual funds, conventional mutual funds traded on an exchange, money market funds, non-redeemable investment funds or other specialized funds including scholarship plans, labour-sponsored investment funds, and commodity pools. The Proposed Amendments are intended to fit within the current framework.

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Issue	**Comments**	**Responses**
	One commenter recommended that the CSA consider similar reforms, such as risk labelling of products or banning certain product features sold to retail investors in order to adequately protect investors. While disclosure is a necessary aspect of securities regulation, it alone will not provide adequate protection to retail investors	We agree that disclosure alone will not provide adequate protection to investors. While the Proposed Amendments do expand the range of investment strategies available to alternative funds, it also imposes what we consider reasonable restrictions to reflect that these funds that are distributed to the public. The Proposed Amendments will also address matters concerns dealer proficiency and we welcome any feedback in this regard.
	One commenter stated that minor deviations from the investment restrictions in NI 81-102, should not necessitate a fund being regulated by the alternative funds regime. The commenter asked CSA to clarify that they are not intending to force mutual funds currently investing in reliance of relief from NI 81-102 to transition to the alternative fund regulatory regime.	We agree. The Proposed Amendments include codification of exemptive relief that has been routinely granted to mutual funds, and this has been accounted for in considering the range of provisions applicable to alternative funds or non-redeemable investment funds vs mutual funds. As such, we do not believe that it will force mutual funds to become alternative funds, or otherwise create any overlap between the two types of funds. However, we welcome any feedback where this concern may be identified.
	One commenter stated that the CSA appears to have a presumption that alternative funds are more risky than conventional funds, but that this is not the case for all alternative funds.	We agree that this is not always the case and believe the Proposed Amendments do not necessarily have this presumption, but welcome any feedback in this regard.
Definition of Alternative Fund	A commenter expressed concerned that the use of the term alternative fund could be interpreted to mean these funds are high risk or volatile and that it may lead to confusion or preclude privately offered funds from utilizing the term alternative in their names.	We understand the concern. Under the Proposed Amendments, the term "alternative fund" will be used for descriptive purposes to reflect that these funds are permitted to engage in certain strategies or invest in asset classes that are not permitted for more conventional mutual funds. We are not proposing any mandatory naming conventions or other labelling requirements. We are also proposing to remove the warning label language currently applicable to commodity pools under Form 41-101F2 because we recognize that not all alternative funds or strategies are inherently riskier than a conventional mutual fund. However, we are seeking feedback as to whether we should consider a different defined term to describe these types of funds.
	One commenter thought a term based on the structure of a product would better assist investors.	Under the Proposed Amendments, the term "alternative fund" will only be applied to mutual funds, and reflects that they can engage in strategies not necessarily available to more conventional mutual funds.
	Another commenter suggested that such funds be called "Risk-Magnified Funds", "Higher-Risk Funds" or some other term that sets out clearly that such funds carry increased risks, as compared to conventional non-redeemable and	We did not propose a naming convention under the Proposed Amendments, The Proposed Amendments provide tailored disclosure for Alternative Funds that will highlight how alternative funds differ from other conventional mutual funds

Part II – Comments on proposed alternative fund framework		
Issue	**Comments**	**Responses**
	mutual funds.	in terms of the investment strategies and asset classes it is permitted to invest in.
	Two commenters believed the term alternative fund provided an appropriate description of the types of investment funds that should be captured by NI 81-104.	We agree this term will better describe the types of investment objectives and strategies that characterize these types of funds.
	A commenter felt that fixed portfolio ETFs (as defined in NI 81-102) should not automatically be considered alternative funds.	Fixed portfolio ETFs will not automatically be considered alternative fund under the Proposed Amendments. We do note however, that this term is being replaced by the term "fixed portfolio investment fund", but this change will not impact whether or not these funds are considered alternative funds.
Concentration restrictions	One commenter stated the imposition of restrictions on selected aspects of investment fund strategies may impair these strategies without achieving the objective of increased investor protection. However, the commenter supported the use of balanced restrictions that will enhance investor protection while permitting funds sufficient latitude to effectively execute their investment strategies.	We believe the Proposed Amendments provide a good balance between investor protection and an effective framework for alternative funds offered to the public.
	Several commenters felt there is no need for a concentration restriction applicable to alternative funds.	We do not agree that there should be no concentration limits. Under the Proposed Amendments, alternative funds will be considered to be mutual funds, a defining feature of which is the ability to redeem securities at their net asset value. Excessive concentration of a mutual fund's portfolio in a single issuer can impact a fund's ability to meet regular redemption requests.
	A few commenters suggested that an appropriate concentration restriction for alternative funds could be set using a threshold of 20% of total assets or net assets.	We are proposing to increase the concentration limits for alternative funds to 20% of NAV. We welcome any specific comments as to whether this is sufficient or not.
	Two commenters maintained that disclosure of the additional risks associated with a less diverse portfolio would be sufficient.	We believe the usual requirements regarding risk disclosure in an investment fund's prospectus will allow for sufficient disclosure of the risks connected with the concentration limits for alternative funds under the Proposed Amendments.
	A commenter felt that fixed portfolio ETFs (as defined in NI 81-102), which may make concentrated investments in one or more issuers, should not automatically be considered alternative funds.	Under the Proposed Amendments, fixed portfolio ETFs will not automatically be considered alternative funds. We also note that we are proposing to replace that term with the term "fixed portfolio investment fund", but that this change will not impact whether or not a fixed portfolio ETF that is a mutual fund will be considered an alternative

Part II – Comments on proposed alternative fund framework		
Issue	**Comments**	**Responses**
		fund.
	One commenter believed it would be appropriate for an alternative fund to be permitted to invest up to 30% of its net asset value in a single issuer and, perhaps as an additional control, to limit an alternative fund to investing no more than 50% of its net asset value, in aggregate, in holdings that exceed 10% of the fund's net asset value.	Under the Proposed Amendments, the concentration limits applicable to an alternative fund will be 20% of net asset value, but we are not proposing any other specific concentration limits. We welcome feedback as to whether or not this is sufficient.
	One commenter advised that flow-through limited partnerships will often invest more than 10% of their net assets in securities of a single issuer.	We note that flow-through limited partnerships will not be alternative funds under the Proposed Amendments as these types of funds are typically non-redeemable investment funds. The proposed higher concentration limit of 20 % will also apply to non-redeemable investment funds. That said, we welcome any feedback regarding any specific hardships on certain types of funds that may result from the Proposed Amendments.
Measurement of concentration where investments are leveraged	One commenter expressed the view that leverage cannot be examined in a vacuum and that liquidity of an investment fund's portfolio is more important than the fund's use of leverage from a risk management prospective.	Thank you for the comment. We welcome feedback on the leverage provisions within the Proposed Amendments.
	Another commenter stated the current leverage measurement requirements based on net asset value provide accurate information about the concentration of a fund's portfolio.	Under the Proposed Amendments, the proposed methodology for measuring leverage will be based on NAV.
	A couple of commenters stated that if a concentration restriction were to be put in place, total notional exposure would be the appropriate measurement.	The Proposed Amendments contemplate using notional exposure to calculate leverage created by derivatives. The concentration provisions in NI 81-102 have always contemplated a look through test that considers indirect exposure through derivatives or investment in underlying funds and will continue to do so under the Proposed Amendments.
Borrowing restrictions	A few commenters thought it is necessary that a borrowing limit should take into account whether the securities of the fund are redeemable or that funds should be required to match their redemption terms to the liquidity of their investments.	Under the Proposed Amendments we decided on only one borrowing limit for alternative funds and non-redeemable investment funds, without consideration of redemption frequency. We are comfortable that the requirements will not impede a fund's ability to meet its redemptions, as borrowing will be limited to no more than 50% of a fund's NAV, when combined with any short-selling by the fund. The fund will still have to manage its portfolio in order to meet its redemption requirements consistent with NI 81-102. We welcome any specific feedback in this regard.
	One commenter believed that alternative funds should have a higher borrowing limit than conventional funds.	We agree and the Proposed Amendments reflect this view.

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Issue	**Comments**	**Responses**
	One commenter thought that borrowing from prime brokers would facilitate alternative fund investment strategies. The requirements prime brokers typically impose with respect to liquidity, leverage and capital will restrict the use of borrowing by funds.	Under the Proposed Amendments, alternative funds would be permitted to borrow from an entity that would qualify as a custodian pursuant to section 6.2 of NI 81-102. This would include dealers that act as prime brokers in Canada. We welcome any specific feedback in this regard.
	A commenter believed where an alternative fund invests outside of Canada it may be advantageous for the fund to borrow from a local lender.	The Proposed Amendments do not contemplate permitting alternative funds to borrow from non-Canadian lenders. However, we welcome specific submissions on this issue.
	Two commenters stated alternative funds or non-redeemable funds should not be subject to any restriction on borrowing. The determination of the adequate leverage ratio for these funds should be left to the direction of fund managers.	We do not agree that there should be no limit on borrowing or leverage for alternative funds that can be sold to retail investors and have proposed limits on borrowing that we believe strike a reasonable balance between encouraging innovative strategies and limiting the risk to the funds from excessive leverage. We note that it is common in many international jurisdictions to impose borrowing limits on publicly distributed mutual funds.
Short selling restrictions	Several commenters thought alternative funds should have increased flexibility to engage in short selling.	We agree. The Proposed Amendments provide alternative funds with greater flexibility to engage in short selling. For example: • A larger portion of an alternative fund's portfolio can be sold short • A larger portion of a single issuer's securities can be sold short • We are proposing to remove the restrictions on the use of proceeds from short sales • We are removing the cash cover requirements (though short selling will fall within the overall leverage limits applicable to alternative funds).
	Many commenters expressed that the NI 81-102 investment restrictions that apply to short selling would impair the ability of alternative funds to utilize many common investment strategies. In particular, the cash cover requirements would prevent these funds from continuing to use common investment strategies.	Please see the response above.
	One commenter believed a blanket short selling limit of 40% of NAV may be acceptable where short selling for market hedging purposes (as defined by IIROC) is not included in the calculation of an alternative fund's short selling for the purposes of compliance with the limit.	Please see the response above. The Proposed Amendments do not contemplate an exemption for hedging transactions for the short selling limit.
	One commenter maintained that short selling of government bonds should be exempt from restrictions on short selling.	We are not proposing to exempt new types of securities from the short-selling restrictions at this time, but welcome any feedback on whether certain exemptions may be appropriate.

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Issue	**Comments**	**Responses**
	One commenter stated that short selling is essential to alternative fund strategies.	We understand and believe the Proposed Amendments reflects this.
	One commenter recommended the aggregate market value of securities of any one issuer that may be sold short by an alternative fund should be limited to 20% of the NAV of the fund and that the aggregate market value of all securities that may be sold short by an alternative fund should be limited to 100% of the NAV of the fund.	Please see above. We have not proposed that the short-selling provisions in the Proposed Amendments go this far. We think the limits proposed therein are a reasonable place to start. We welcome any feedback on whether or not the short-selling provisions are sufficient.
	A commenter thought allowing alternative funds to fully hedge out their long positions through equivalent short positions may also allow managers to tactically reduce portfolio volatility where they see potential downside risks to the market.	Please see above.
Leveraged daily tracking funds	A commenter stated that leveraged daily tracking alternative funds are highly volatile and clearly not appropriate for many investors. The commenter is of the view that many of the trades in these securities are done through discount brokerages where the proficiency of the registered representatives is not an issue, but the proficiency of the investor is a greater concern. The commenter believes that additional regulation may not be of assistance, but increased investor education is strongly recommended. Another commenter referred to disciplinary cases and cases before the Ombudsman for Banking Services and Investments where leveraged daily tracking funds have been sold to retail investors for whom they were not suitable.	Thank you for the comment. We agree that investor education is very important, particularly with respect to products with the potential for high volatility such as leverage daily tracking funds. A number of CSA members have made considerable efforts over the last years to improve investor education material on their websites. In addition, a key element of the Proposed Amendments is to also bring alternative funds into the prospectus regime that exists for other type of mutual funds, including the requirement to prepare a fund facts document. We are proposing that Alternative Funds provide additional disclosure in their fund facts documents. These changes will amount to required text box disclosure that will clearly highlight how the alternative fund differs from other conventional mutual funds in terms of investment strategies.
	One commenter believed that the existing regulatory regime mandates sufficient proficiency for the marketing and sale of alternative funds, including leveraged daily tracking funds.	Please see our responses below relating to proficiency standards for mutual fund restricted individuals dealing in Alternative Funds
Counterparty credit exposure	A few commenters thought it would not be appropriate to repeal the Counterparty Exposure Exemption from NI 81-104 and that maintaining the exemption would allow alternative funds to operate more efficiently. A number of commenters believed that imposing mandatory posting of collateral on a mark-to-market basis would be more appropriate. Requiring a counterparty to post collateral that is segregated from the other assets of the fund would mitigate risk. In addition, the CSA should consider imposing requirements as to the nature of	The Proposed Amendments do include a repeal of the exemption for commodity pools from the counterparty exposure limit provisions of subsection 2.7(4) of NI 81-102 (the Counterparty Exposure Exemption), as well as introducing an exemption from the counterparty credit rating provisions in subsection 2.7(1) of NI 81-102 for alternative funds. This was seen as a way to offer alternative funds more options in terms of counterparties to work with (as we understand that there are now fewer counterparties that would meet the “designated rating” threshold required under subsection 2.7(1) of NI 81-102, while at the

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Issue	**Comments**	**Responses**
	the collateral that should be posted.	same time mitigating counterparty risk by limiting a fund's exposure to any one counterparty. We welcome any specific feedback or commentary on other options that may more effectively help achieve the same goal.
	One commenter stated that counterparty risk is a significant issue for more than just the alternative funds sector. Rules on counterparty exposure should be consistent with other CSA rules on counterparties.	Under the Proposed Amendments, the counterparty exposure limits in subsection 2.7(4) will apply to all investment funds, except in the case of specified derivatives that have been centrally cleared.
	Two commenters thought that central clearing requirements for derivative transactions would reduce the use of OTC derivatives by investment funds, but a restriction limiting unsecured exposure to any one counterparty would mitigate risk.	The CSA currently has proposals out for comment for implementing a mandatory central clearing regime for certain types of derivatives transactions, similar to regimes implemented in other jurisdictions around the world. The Proposed Amendments contemplate an exemption from the counterparty credit limit provisions of subsection 2.7(1) of NI 81-102 and the counterparty exposure limits of subsection 2.7(4) of NI 81-102 for derivatives transactions that are executed through a central clearing house that is registered with the applicable regulatory agency.
	One commenter said an example of an operational efficiency that would likely not be available to alternative funds under a regime where the Counterparty Exposure Exemption was unavailable is alternative funds' use of clearing brokers. Many alternative funds use clearing brokers to help settle derivatives trades and net out exposures to what would otherwise be multiple counterparties. In this arrangement, the clearing broker acts as a counterparty to the fund and provides significant simplification with respect to negotiations with and monitoring of executing parties.	Please see above.
	A commenter thought it may also be difficult, given the relatively small size of the Canadian market and the challenges that Canadian alternative funds may face in accessing large numbers of counterparties, for alternative funds to observe a 10% counterparty exposure limit.	Please see above. As part of the Proposed Amendments, we are proposing to loosen the requirements for alternative funds, to only engage with counterparties that have a "designated rating", with the intent that this will open up the range of counterparties available to transact with.
	One commenter did not believe that the Counterparty Exposure Exemption should be repealed because it is not clear that there is any risk from single counterparty exposure that needs to be mitigated.	Please see above. We welcome any specific feedback in this regard.

Total leverage limit	Two commenters stated the use of leverage by an investment fund does not necessarily mean that such a fund would be riskier than a fund that does not employ leverage.	While leverage itself may not necessarily make a fund riskier than one that does not use leverage, it does have the potential to magnify the potential loss in a way that an unlevered fund will not. As such, we believe that it is appropriate to set limits on the use of leverage by investment funds and to have those funds disclose their leverage, both of which are part of the Proposed Amendments.
	One commenter believed the appropriate overall leverage limit for an alternative fund would depend on a number of factors, including the volatility of the fund's investments, risk parameters imposed by the manager, the liquidity of the fund's portfolio and how quickly the fund can de-lever. The commenter supports the general principle of an overall leverage limit which accommodates as many different types of alternative funds as possible.	Under the Proposed Amendments, we are proposing a single leverage limit for all alternative funds, to be calculated in the same way. We believe this will assist an investor in understanding and comparing leverage use by different funds.
	A commenter believed the calculation of the overall leverage of a fund should exclude hedging positions and positions in sovereign debt and associated currencies.	We have not proposed to allow for any exclusions in calculating total leverage under the Proposed Amendments – this is consistent with how funds are currently expected to calculate their maximum use of leverage under Form 41-101F2. As well, hedging transactions do not necessarily fully offset the risk of the initial position – a full exclusion of any hedging transaction may obscure a fund's true leverage by assuming the hedged position creates an offset that may not actually be the case. However, we do welcome any additional feedback on these proposals.
	A few commenters suggested that the UCITS model for regulated alternative funds provides for more practical and meaningful ways of controlling risk than imposing an absolute limit on leverage or notional exposure. The CSA should consider liquidity, borrowing, VAR and diversification limits.	Thank you for the comment. We are aware of the UCITS model and note that NI 81-102 both currently and under the Proposed Amendments, incorporates many similar elements. We are also seeking comments on the flexibility and convenience of using the gross notional exposure.
	One commenter felt it would be dangerous to monitor or regulate the risk of an alternative fund by limiting leverage or solely through a leverage limit.	We agree and are not proposing to do so under the Proposed Amendments, which also include limits on the use of borrowing and short selling, independent of the overall leverage limit being proposed.
	A commenter suggested the CSA should focus on margin to equity ratios rather than leverage.	Thank you for the comment. The method we are proposing is intended to be a simple and consistent method to calculate total leverage across different types of alternative funds. The margin to equity ratio may be inconsistent across different funds and different periods. Required margins may vary from one derivative product to another as well as from one period to the next. We welcome any further comment in this regard.

	Another commenter agreed that a limit of 3:1 seems reasonable for alternative funds that are not mutual funds. For mutual funds, the total limit should be lower. The combination of illiquid assets and leverage may create further problems for mutual funds.	We agree and this is reflected in the Proposed Amendments which contemplate a 3:1 leverage ratio for alternative funds and non-redeemable investment funds.
	One commenter believed exemptions from a total leverage limit should be considered on a case-by-case basis.	Considering leverage on a case-by-case basis is largely impractical from a rule-making standpoint. However, we note that the Proposed Amendments will not derogate from an issuer's ability to seek exemptive relief from any provision of NI 81-102.
	Another commenter proposed a total leverage limit of no more than 4:1 as an absolute limit and would suggest that 3:1 be set as the maximum at the time of investment, which would provide flexibility to account for market fluctuations.	We have proposed a hard limit of 3:1 leverage under the Proposed Amendments as we want leverage to be monitored on a daily basis and not just at the time of investment. However, we welcome any feedback regarding whether or not this is unduly flexible for issuers.
	A few commenters expressed the view that a total leverage limit for funds that offer redemptions should be lower.	We believe the proposed 3:1 leverage limit is appropriate for alternative funds and non-redeemable investment fund and have not decided to set different limits based on whether a fund offers redemptions. This in part reflects the fact that the availability of redemptions is not much of a distinguishing feature between alternative funds (which under the Proposed Amendments will be mutual funds) and non-redeemable investment funds, as a large proportion of them also offer redemptions at NAV on a yearly basis.
	One commenter felt alternative funds should be subject to a total leverage limit, whether it is 3x as proposed by the CSA or slightly higher, i.e. 4x. This will provide baseline protection for retail investors from highly levered products that are not appropriate even under the alternative fund framework.	We agree and this is reflected in the Proposed Amendments.
	Another commenter stated that while the proposed level of absolute leverage at 3 to 1 is an appropriate starting point, it is important to ensure that overall levels of risk remain acceptable at the portfolio level.	Thank you for the comment. We note that NI 81-102, both currently and under the Proposed Amendments, incorporates many provisions to address risks at the portfolio level. We welcome any feedback or commentary in this regard.
	One commenter believed NI 81-104 should not impose any restrictions on leverage for alternative investment funds. And that NI 81-104 should provide for a truly alternative regime that will permit for a range of investment strategies that are required in order to meet investors' needs.	We do not agree that alternative funds that can be sold to retail investors should have unrestricted leverage. We further note that this view is consistent with international regulation of similar products.
Measurement of leverage	A few commenters thought the current measurement of leverage as long position plus short positions over net asset value should be changed. Short positions entered into for hedging purposes should be subtracted from long	Please see our response to a similar comment above. The Proposed Amendments do not contemplate an exemption for hedging or netting transactions for the leverage calculations.

	positions.	
	One commenter believed the definition of leverage must be altered to allow alternative funds to employ meaningful risk mitigation techniques.	Please see our response above. Under the Proposed Amendments, leverage can be created by cash borrowing, short selling and derivatives. Managers can employ risk mitigation techniques as long as they are permitted under NI 81-102, both currently and under the Proposed Amendments.
	Another commenter felt disclosure should illustrate the effect of heightened volatility that is caused by leverage. This would illustrate the costs of leverage and provide a better sense of the potential risks. However, such a proposal would require developing reasonable assumptions regarding underling asset volatility and cost of leverage over time.	We thank you for your comment and welcome specific feedback in this regard.
	One commenter stated that it may be appropriate to measure leverage in conjunction with net exposure where strategies may look to achieve gross leverage levels in excess of 3 to 1. A limitation of net leverage (such as limiting net market exposures in a leveraged portfolio) where leverage exceeds 3x may be appropriate; however, it may also be appropriate to examine Value at Risk measures to limit overall portfolio risk in leveraged environments.	Please see our response to similar comments above. In addition, we believe a limitation on net leverage may be ineffective in accurately demonstrating a fund's level of leverage since the net exposure calculation does not distinguish leveraged positions from unleveraged ones. Furthermore, we note that although the value-at-risk is a quite comprehensive measure, it may not be a straightforward method of calculation and can be somewhat subjective in its elements. However, we welcome any specific feedback regarding appropriate methodologies for determining leverage and the overall risk of a fund.
	Another commenter believed the issue of appropriate leverage measurement methods is best addressed by industry participants. And the concept or method chosen should be clearly formulated, expressed and disclosed and uniformly applicable.	We welcome any feedback from industry participants in this regard.
Other investment restrictions	One commenter did not believe a restriction limiting alternative funds to investing in other investment funds that are reporting issuers in the same jurisdictions as the alternative fund is reasonable.	Under the Proposed Amendments, alternative funds will be permitted to invest in any investment fund subject to NI 81-102 without requiring that an underlying fund be a reporting issuer in the same jurisdiction as the top fund.
	A commenter encouraged the CSA to permit NI 81-102 conventional mutual funds to invest up to 10% of their net assets in alternative funds.	This is being proposed under the Proposed Amendments.
	One commenter did not believe there should be restrictions on alternative funds comparing themselves to conventional mutual funds provided the comparisons are relevant, not misleading and that appropriate disclaimers are included.	Under the Proposed Amendments, alternative funds will be defined by how their investment strategies are permitted to differ from those of more conventional mutual funds and will be required to highlight these differences in their disclosure documents.

	Another commenter felt all investment funds should be placed on a level playing field with respect to such matters as offering, operational and distribution requirements.	The Proposed Amendments contemplate this. For example, we are proposing that non-listed alternative funds file a simplified prospectus and fund facts and offer point of sale delivery, and we are also proposing that new alternative funds abide by the same seed capital/start-up requirements as more conventional mutual funds.
	A commenter stated it is not practical to try to list every possible investment strategy that may be created or proposed in the future.	We note that currently, an investment fund is required to disclosure its fundamental investment objectives, including the primary strategies under which it will seek to achieve those objectives. The Proposed Amendments will not amend these requirements.
	One commenter submitted that NI 81-104 should permit alternative funds to invest in funds that are reporting issuers in specified foreign jurisdictions, reporting issuers in at least one Canadian jurisdiction or offered under prospectus exemptions in Canada and have equivalent redemption/liquidity requirements as the top fund.	We have decided against codifying this approach as it is our preference to continue to consider investment in funds from a foreign jurisdiction or Canadian funds offered under prospectus exemptions matters on a case-by-case basis through exemptive relief. As noted above, we are proposing to simplify the fund of fund restrictions for to allow investment in underlying funds that are subject to NI 81-102, regardless of which jurisdiction an underlying fund may be a reporting issuer.
	Another commenter stated that the Alternative Funds Proposals should be as permissive as possible and they should not expressly permit or prohibit any strategy.	While the Proposed Amendments do contemplate a wider variety of strategies or asset classes that will be available to alternative funds, we do not agree that alternative funds that will be distributed to the public should have no investment restrictions.
	Two commenters believed that if non-redeemable funds are restricted from holding non-insured mortgages, investment funds that are alternative funds should be permitted to hold them.	We have not proposed to change the current restrictions on investment funds investing in mortgages under NI 81-102 under the Proposed Amendments. Please provide any specific feedback in this regard.
	A commenter expressed the belief that alternative funds should be exempted from paragraph 2.3(i) of NI 81-102 to permit them to invest up to 100% of their net asset value in loan syndications or loan participations (without regard to whether the fund would assume any responsibilities in administering the loan). These exemptions would enable alternative funds to provide retail investors with loan and mortgage fund solutions that currently are available only on a private placement basis.	We do not agree and have not proposed any changes to these restrictions under the Proposed Amendments. We further take the view that this type of activity is not consistent with the notion of investment funds being passive investment vehicles.
	One commenter believed alternative funds should be permitted to invest up to 20% of their net asset value in illiquid assets.	We have not proposed to increase the illiquid asset limits for alternative funds as we believe the current limits for commodity pools are appropriate for alternative funds. We welcome any specific comments in this regard.

	One commenter felt that it is not in the best interest of investors in alternative funds to only permit "top" alternative funds to invest in underlying mutual funds that in turn hold no more than 10% of their net asset value in securities of other mutual funds. Such a restriction would prevent alternative funds from utilizing many types of efficient and effective multi-tier investment structures. Investors in alternative funds should have access to such multi-tier alternative fund structures, which can deliver the benefits of (1) greater portfolio diversification at a reduced cost relative to that which could otherwise be achieved were the top fund required to invest directly in securities held by the underlying funds; (2) more favourable pricing and transaction costs on portfolio trades, increased access to investments and better economies of scale that can be achieved when the top fund invests through underlying funds; and (3) overall reduced portfolio complexity and increased administrative ease, which results in efficiencies that can be passed on to investors in the top funds. The above-noted advantages outweigh regulatory concerns regarding the potential complexity of the structure and duplication of fees, which can be appropriately addressed through disclosure and restrictions on duplication of fund fees and costs. A commenter supported the CSA's proposal to maintain the exemptions in 2.3(d)-(g) and (h), 2.8 and 2.11 of NI 81-104 for alternative funds. One commenter felt NI 81-104 should not impose any further restrictions. Should provide for ample flexibility for strategies that are not provided for in NI 81-102.	We do not agree and have not proposed any changes to the current restrictions on multi-tier fund of fund investment structures. These restrictions were originally put in place to reflect CSA concerns regarding among other things, complexity, transparency, and duplication of or hidden fees. These restrictions have been modified from time to time, usually on a case-by-case basis through exemptive relief to reflect multi-tier structures which in the CSA's view do not raise similar concerns. To the extent that there may be specific structures in which the efficiencies may outweigh the regulatory concerns, we remain of the view that these are best addressed through the exemptive relief process. Thank you for the comment. We are proposing to maintain these exemptions for alternative funds. The Proposed Amendments aim at providing a reasonable balance between encouraging innovative strategies and investors protection.
On-going investment by sponsors	Two commenters did not believe there is a reasonable basis for creating a different seed capital requirement for alternative funds. Two commenters thought sponsors of an alternative fund should be able to withdraw their seed capital once the fund reaches a certain size. One commenter felt sponsors should not be required to maintain an investment in their fund. However, where a sponsor does so, the seed capital should be included in the sponsor's working capital calculation.	We agree. Under the Proposed Amendments, the seed capital requirements for alternatives will be the same as for other mutual funds. We agree. Under the Proposed Amendments, alternative funds will be permitted to start withdrawing seed capital once the fund has raised $500,000 in capital from "outside" sources, which is consistent with the requirements for conventional mutual funds. Please see above. We are proposing to amend the seed capital requirements for alternative funds to be align with those of other mutual funds.

	One commenter did not think seed capital requirements should not apply to non-redeemable investment funds.	We have not proposed to change the seed capital requirements applicable to non-redeemable investment funds under the Proposed Amendments.
Proficiency standards for representatives dealing in Alternative Funds	Several commenters did not feel additional proficiency requirements are necessary for individuals dealing in alternative funds. Additional proficiency requirements would only limit the distribution channels available to alternative funds. Two commenters thought that IIROC registered representatives should not require additional proficiency requirements to sell alternative funds but that proficiency standards for mutual fund restricted representatives should be maintained. One commenter stated that there are no existing courses or proficiency requirements for dealing representatives that would add value to the offering of alternatives funds. One commenter encouraged the CSA to reconsider the existing proficiency requirements in NI 81-104 with the goal of determining whether these are appropriate or necessary. One commenter thought it was necessary that individual representatives that sell alternative funds have a fiduciary duty to act in the best interests of their clients. Another commenter supported improved proficiency requirements for all registrants who sell investment funds, and, in particular, increased proficiency requirements for registrants selling alternative funds. A commenter felt the current mutual fund course does not sufficiently address the topic of alternative funds and that additional alternative funds content should be added to the current course or a separate alternative funds course should be created. One commenter stated that the proposal to impose additional proficiency requirements on individual dealing representatives who sell securities of alternative funds is fundamental to the success of the Alternative Funds Proposals. The commenter believes that many problems that have occurred with alternative investments could have been avoided where individual dealer representatives properly understood the risks of their products and effectively discharged their suitability obligations. The commenter suggested that the CSA should consider Chartered Financial Analyst, Chartered Investment Manager or Chartered Alternative Investment Analyst designations as proficiency standards for representatives dealing in alternative funds.	Under the Proposed Amendments, we are proposing to remove the proficiency requirements currently applicable to mutual fund restricted individuals that trade in securities of a commodity pool (the Proficiency Requirements) under NI 81-104 for alternative funds. This recognizes that a fund operational rule is not the appropriate place for what is essentially a "know your product" provision and that some of provisions may be out of date, having not been updated since its initial implementation. We are of the view that these requirements would be best addressed directly through the registrant regulatory regime including through SRO's such as the Mutual Fund Dealers Association (MFDA), which are best placed to determine the appropriate proficiency standards for mutual fund dealer representatives. To that end we will be working with the MFDA to come to the best solution on this issue. We have not proposed any changes to the proficiency requirements for IIROC registrants. We welcome any specific feedback on the Proficiency Requirements in light of the Proposed Amendments.

	One commenter suggested the CSA consider the creation of individual registration categories for alternative fund dealing representative and associate alternative fund dealing representative. A commenter stated, with respect to non-redeemable investment funds in particular, the creation of additional proficiency requirements for the sale of alternative fund securities would represent a fundamental and potentially adverse change to the ongoing business and affairs of existing non-redeemable investment funds as well as the manufacture and distribution of non-redeemable investment funds in Canada.	
Naming convention for Alternative Funds	Most commenters who provided comments regarding the imposition of a naming convention for alternative funds objected to either the concept of a naming convention or to the proposed use of the term alternative fund. Many commenters objected to the proposed use the words alternative fund as part of the naming convention. These commenters felt such a term could result in alternative funds being labeled as high risk or volatile. Many commenters felt the term alternative fund would not necessarily identify for investors the nature of alternative funds or level of risk and complexity that is associated with these funds. Several commenters believed that improved disclosure was a better approach than a naming convention. These commenters believed it would be more useful for each fund to provide investors with meaningful and prominent disclosure of the fund's key investment objectives, strategies and risks in its disclosure documents, and for non-conventional funds to highlight for investors in a prominent manner the extent to which the fund's investment restrictions and strategies may differ from those used by conventional mutual funds. Several commenters specifically stated that drawing a clear line between funds subject to either NI 81-102 or NI 81-104 may mislead investors into believing that all funds under one framework are the same and draw attention away from the wide variance among funds within each framework. One commenter felt the imposition of a naming convention would be a highly effective tool and agreed with the use the words alternative fund.	Please note that we are not proposing a naming convention for alternative funds under the Proposed Amendments. Please see above. Please see above. We agree, which is why the Proposed Amendments include specific disclosure requirements for alternative fund prospectuses. We agree. Please see above. Among the provisions applicable to alternative fund disclosure in the Proposed Amendments will be a requirement for an alternative fund to disclosure how its investment strategies differ from what is permitted by a conventional mutual fund. We note that this is the case today between mutual funds and commodity pools, but we welcome specific feedback on the Proposed Amendments on this issue or concern. While we have not proposed a naming convention that would mandate the use of the world “alternative fund” in a fund’s name, the term will be still be used for descriptive purposes in distinguishing an alternative fund from a conventional mutual fund.

	One commenter believed better labelling in the name of the investment fund of the heightened risk and complexity along with more robust regulation and enforcement of misleading advertising, coupled with a best interest standard, would go a long way to helping to protect investors. The commenter suggested that such funds be called "Risk-Magnified Funds", "Higher-Risk Funds" or some other term that sets out clearly that such funds carry increased risks, as compared to conventional non-redeemable investment funds and mutual funds.	As noted above, we have not proposed to institute a naming convention for alternative funds, though the term will be used for descriptive purposes. While we do not agree that alternative funds will in all cases be inherently riskier than all conventional funds, we welcome any comments regarding whether we should consider a different term to describe these funds than “alternative funds”.
	A commenter suggested investment products should have risk labeling and that the CSA should ban the sale of certain classes of types of product to retail investors.	We note that the regulatory framework for investment funds requires disclosure of applicable risk factors as well as requiring risk ratings for investment funds. As well, the applicable investment restrictions for investment funds that are distributed to the public necessarily restrict the types of products that can be sold to retail investors.
	One commenter stated that requiring existing funds to change their names to comply with a naming convention requirement would create unnecessary cost and confusion to investors.	Please see above. We have not proposed a naming convention for alternative funds.
	A couple of commenters believed it would be more helpful to differentiate products based on their structure and that descriptor based on the type of securities a fund may invest in or its investment strategies could be interpreted in various ways or be too restrictive to describe all possibilities.	NI 81-102 does differentiate funds based on their structure in some aspects (such as whether they are listed or not, or whether or not they are redeemable on a regular basis). We don’t believe the Proposed Amendments will necessarily change this.
	One commenter felt that to make a naming convention work, clear definitions of alternative and conventional funds would be necessary.	Please see above. We have not proposed a naming convention, though the term “alternative fund” is being defined in NI 81-102 as part of the Proposed Amendments.
	A couple of commenters believed the term alternative fund is too generic or simplistic to include in a fund name.	Please see above.
	One commenter thought conventional mutual funds should adopt the more fulsome disclosure requirements of the long form prospectus and mutual funds should not be able to bundle multiple funds into a single prospectus.	We do not agree that mutual funds should adopt the long form prospectus. The simplified prospectus and fund facts document were designed to better assist investors in understanding the product. Furthermore, as mutual funds are required to distribute the fund facts document in lieu of a simplified prospectus, we do not see any reason to prohibit the bundling of multiple funds into a single prospectus, which is administratively more efficient.
Monthly website disclosure	One commenter believed there should be no distinction in disclosure requirements for conventional and alternative funds. However the commenter supported the introduction of a	We are not proposing specific website disclosure for alternative funds under the Proposed Amendments. However, we will be mandating certain disclosure in a fund’s financial statements

	requirement that all publicly offered investment funds disclose additional variables to understand the risk and performance of a fund, including the standard deviation of a fund.	regarding its experience with leverage. In addition, the fund facts document, which will be mandated for alternative funds, disclose adapted information in order to help investors understand a fund's risk and performance.
	A couple of commenters did not believe publishing maximum and average daily leverage would provide meaningful information to investors, as leverage may not be as significant an indicator of risk as other factors. These commenters felt the proposed disclosure requirements are limited and may be taken out of context.	Please see the response above. We note that the total leverage limit is not technically a risk indicator.
	One commenter felt these seemed like reasonable proposals and would not be too onerous on the part of the manager to implement.	Thank you for your comment.
	Another commenter agrees with the proposed disclosure requirements and thinks other risk metrics on a quarterly basis may be useful to investors.	Please provide any additional feedback on what risk metrics could be relevant for investors.
	One commenter stated that disclosure of monthly performance data would be more meaningful and that the proposed disclosure may be misleading. In particular, the disclosure of maximum drawdown is in the absence of further information will not useful. The commenter suggested the CSA revisit general instruction 11 to Form 41-101F2 to allow for performance data over shorter periods of time.	We are not proposing to review performance data disclosure.
Transition to Alternative Funds Framework	Many commenters believed existing funds should be grandfathered and not made to transition to the alternative funds framework. One commenter felt existing funds that are not offering securities to the public should be grandfathered. One commenter stated that if existing funds were made to comply with a new regulatory regime there would be considerable costs associated with changes to funds and their investment strategies. A commenter felt existing funds that are required to transition to the alternative funds framework should be permitted to provide written notice of their intention to transition into the alternative funds regime.	We are proposing a 6 month from the coming into force date transition period for existing funds to transition to the new requirements for alternative funds to the extent that they are impacted by them. However, we will expect any new funds filing a prospectus after the date the Proposed Amendments come into force to comply with those requirements from the first day of operations. We welcome any feedback on whether or not this is an appropriate transition period for existing funds.
Other comments	One commenter stated that alternative funds should be permitted to utilize the NI 81-101 simplified prospectus and fund facts disclosure regime. Another commenter believed the CSA should move ahead with point of sale disclosure for all	We are proposing that alternative funds that are not listed on an exchange use the simplified prospectus and fund facts under the Proposed Amendments. We are proposing that alternative funds that are not listed on an exchange be subject to the point

	investment products including alternative funds. One commenter did not believe that an alternative fund should be required to disclose in its prospectus how its investment strategies differ from a conventional fund. Such disclosure is not relevant and potentially misleading. This emphasizes potential risk without allowing potential benefits to be disclosed.	of sale requirements under NI 81-101. We do not agree as it is these differences that will distinguish an alternative fund from a conventional mutual fund. Therefore we believe this disclosure is important and relevant.

Part III – Comments on proposed interrelated investment restrictions		
Issue	**Comments**	**Responses**
Borrowing (s. 2.6(a) to (c))	Some commenters want the CSA to permit non-redeemable investments funds to borrow from lenders outside of Canada. A couple of commenters thought limiting non-redeemable investment funds to borrowing from Canadian financial institutions would significantly limit the sources of financing from non-redeemable investment funds. These commenters felt that non-redeemable investment funds may prefer to borrow from financial institutions that are not Canadian financial institutions because of potential for preferential rates, better terms, or a pre-existing relationship with the lender. A couple of commenters felt it would be appropriate to borrow from a foreign bank or other institution where a fund has an objective to benefit from investing in foreign markets which may be denominated in foreign currencies and desires leverage denominated in the same currencies to hedge currency exposure. Many commenters did not believe that restricting the use of leverage by non-redeemable investment funds is appropriate or necessary to ensure that investors are protected. These commenters encouraged the CSA to reconsider the proposed restriction. A number of commenters believed enhanced disclosure would be a better solution than a restriction on borrowing. A number of commenters felt the current borrowing practices of non-redeemable investment funds may not be the most appropriate basis on which to set a borrowing limit. Although there are currently a number of non-redeemable investment funds that would fit within the CSA's proposed restriction on borrowing, the restriction on borrowing may cause some funds to move to the alternative funds regime, which may not be the intention of the CSA.	Please see our responses above relating to borrowing by an alternative fund. Please note that we are also seeking feedback regarding any additional specific differences between alternative funds and non-redeemable investment funds that we should consider in respect of the proposed borrowing provisions.

Part III – Comments on proposed interrelated investment restrictions		
Issue	**Comments**	**Responses**
	One commenter saw no evidence justifying a conclusion that additional monitoring and controls exist or otherwise it would be in the best interests of investors to be exposed only to Canadian financial institutions. One commenter suggested limiting the list of lenders to Canadian and foreign regulated banks, regulated insurance companies and regulated investment dealers and their wholly-owned subsidiaries. Three commenters expressed concern a requirement to borrow from a Schedule I or II bank would restrict a fund from issuing debt securities. The ability for a fund to offer high yield debt securities would meet this investor demand, while providing existing equity holders with a longer term financing. In the current low interest rate environment, funds may be in the position to secure long term financing at historically low rates. One commenter thought that due to their nature, only a low level of liquidity is required on an ongoing basis for non-redeemable investment funds to cover recurring expenses. One commenter expressed concern that limiting borrowing to Canadian financial institutions would reduce competition and possibly increase borrowing costs for non-redeemable investment funds. Two commenters raised the issue that any restriction to limit borrowing to Canadian financial institutions may be in contravention of international trade agreements to which Canada is a party. One commenter identified leverage as being necessary for non-redeemable investment funds to enter into transactions intended to hedge risk. One commenter felt limiting leverage to cash borrowings would limit a fund's ability to meet its objectives. Some non-redeemable investment funds employ the use of derivatives or short selling as a normal part of their portfolio. These funds, if no longer permitted to enter into these positions, may find it difficult or impossible to achieve their objectives and provide investors with returns similar to those provided in the past. In certain market conditions the ability to short-sell may be the fund's best opportunity to generate positive market returns. The ability to enter into these positions is a point of differentiation between non-redeemable investment funds and mutual funds, which investors expect. The	

Part III – Comments on proposed interrelated investment restrictions		
Issue	**Comments**	**Responses**
	commenter does not consider it appropriate to classify funds with these positions as alternative funds under NI 81-104 unless there are a set of separate rules for non-redeemable investment funds.	

Part IV – List of commenters

Commenters

- AGF Investments Inc.
- Alternative Investment Management Association (AIMA)
- Arrow Capital Management Inc.
- Artemis Investment Management Limited
- Aston Hill Capital Markets Inc.
- Blackheath Fund Management Inc.
- BlackRock Asset Management Canada Limited
- Blake, Cassels & Graydon LLP
- Borden Ladner Gervais LLP
- Brompton Funds Limited
- Canadian Advocacy Council for Canadian CFA Institute Societies, The
- Canadian Foundation for Advancement of Investor Rights (FAIR)
- Canadian Securities Institute, The (CSI)
- Canadian Securities Lending Association (CASLA)
- Canoe Financial LP
- CI Investments Inc.
- Cymbria Corp.
- Faircourt Asset Management Inc.
- Fasken Martineau DuMoulin LLP
- Fidelity Investments Canada ULC
- First Asset Investment Management Inc.
- Front Street Capital
- GD-1 Management Inc. and Global Digit II Management Inc.
- Harvest Portfolios Group Inc.
- IFSE Institute, The
- Investment Funds Institute of Canada, The (IFIC)
- Investment Industry Association of Canada, The (IIAC)
- Man Investments Canada Corp.
- Mark Brown
- McCarthy Tétrault LLP
- McMillan LLP
- Middlefield Group
- Morgan Meighen & Associates Limited
- Osler, Hoskin & Harcourt LLP
- Periscope Capital Inc.
- Private Mortgage Lenders Forum
- Propel Capital Corporation
- Quadravest Capital Management Inc.
- RBC Capital Markets
- RBC Global Asset Management Inc.
- ROI Capital
- Stikeman Elliott LLP
- Stikeman Elliott LLP (on behalf of 42 organizations)
- Stikeman Elliott LLP (on behalf of BMO Capital Markets, CIBC, National Bank Financial, RBC Capital Markets,

Scotiabank and TD Securities)
- Strathbridge Asset Management Inc.
- TMX Group Limited
- Trez Capital Fund Management Limited Partnership
- W.A. Robinson Asset Management Ltd.
- Wildeboer Dellelce LLP

ANNEX C-1

PROPOSED REPEAL OF
NATIONAL INSTRUMENT 81-104 *COMMODITY POOLS*

1. National Instrument 81-104 Commodity Pools is repealed.

2. This Instrument comes into force on ●.

ANNEX C-2

PROPOSED WITHDRAWAL OF
COMPANION POLICY 81-104CP TO
NATIONAL INSTRUMENT 81-104 *COMMODITY POOLS*

1. Companion Policy 81-104CP to National Instrument 81-104 Commodity Pools is withdrawn.

2. This document becomes effective on •.

ANNEX D-1

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 81-102 INVESTMENT FUNDS

1. National Instrument 81-102 Investment Funds is amended by this Instrument.

2. Section 1.1 is amended

(a) by repealing the definition of "acceptable clearing corporation",

(b) in the definition of "clearing corporation" by replacing "options or standardized futures***" with "***specified derivatives***",***

(c) by repealing the definition of "fixed portfolio ETF",

(d) in the definition of "illiquid asset" by replacing "mutual fund***" with "***investment fund***" in paragraph (a) and by replacing "***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***" with "***an investment fund***" in paragraph (b),***

(e) by repealing the definition of "Joint Regulatory Financial Questionnaire and Report",

(f) by repealing the definition of "permitted gold certificate",

(g) in the definition of "physical commodity" by adding "electricity, water,***" before "***precious stone***",***

(h) in the definition of "public quotation" by replacing "mutual fund***" with "***investment fund***",***

(i) in the definition of "restricted security" by replacing "mutual fund***" with "***investment fund***" and by replacing "***mutual fund's***" with "***investment fund's***", and***

(j) by adding the following definitions:

"alternative fund" means a mutual fund that has adopted fundamental investment objectives that permit it to invest in asset classes or adopt investment strategies that are otherwise prohibited but for prescribed exemptions from Part 2 of this Instrument;***,***

"cleared specified derivative" means a specified derivative that is cleared through a clearing corporation that is any of the following:

(a) registered with the Securities and Exchange Commission;

(b) registered with the US Commodity Futures Trading Commission;

(c) authorized by the European Securities and Markets Authority; or

(d) a regulated clearing agency;***,***

"fixed portfolio investment fund" means an exchange traded mutual fund not in continuous distribution or a non-redeemable investment fund that

(a) has fundamental investment objectives which include holding and maintaining a fixed portfolio of publicly traded equity securities of one or more issuers the names of which are disclosed in its prospectus, and

(b) trades the securities referred to in paragraph (a) only in the circumstances disclosed in its prospectus;***,***

"non-redeemable investment fund" has the same meaning ascribed to that term in National Instrument 81-106 *Investment Fund Continuous Disclosure*;***,***

"permitted precious metals" means gold, silver, platinum and palladium;***,*** "permitted precious metal certificate" means a certificate representing a permitted precious metal if the permitted precious metal is

(a) available for delivery in Canada, free of charge, to or to the order of the holder of the certificate,

(b) in the case of a certificate representing gold, of a minimum fineness of 995 parts per 1000,

(c) in the case of a certificate representing a permitted precious metal other than gold, of a minimum fineness of 999 parts per 1000,

(d) held in Canada,

(e) in the form of either bars or wafers, and

(f) if not purchased from a bank listed in Schedule, I, II or III of the *Bank Act* (Canada), fully insured against loss and bankruptcy by an insurance company licensed under the laws of Canada or a jurisdiction;***,***

"precious metals fund" means a mutual fund, other than an alternative fund, that has adopted a fundamental investment objective to invest primarily in one or more permitted precious metals;***, and***

"regulated clearing agency" has the meaning ascribed to that term in National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives*;***.***

3. Subsection 1.2(3) is amended in paragraph (a) by replacing "sections 2.12 to 2.17;***" with "***section 2.6.1 and sections 2.7 to 2.17;***".***

4. Section 2.1 is amended

(a) in subsection (1) by adding "other than an alternative fund***" after "***mutual fund***", by replacing "***index participation units***" with "***an index participation unit***", by replacing "***percent***" with "***%***"and by adding "***one***" after "***any***",***

(b) by adding the following subsection:

(1.1) An alternative fund or a non-redeemable investment fund must not purchase a security of an issuer, enter into a specified derivatives transaction or purchase an index participation unit if, immediately after the transaction, more than 20% of its net asset value would be invested in securities of any one issuer.***,***

(c) in subsection (2) by replacing "Subsection (1) does***" with "***Subsections (1) and (1.1) do***", by replacing "***a mutual fund***" with "***an investment fund***" wherever it occurs, and by replacing "***fixed portfolio ETF***" with "***fixed portfolio investment fund***",***

(d) in subsection (3) by replacing "a mutual fund's***" with "***an investment fund's***" and by replacing "***the mutual fund***" with "***the investment fund***" wherever it occurs, and***

(e) in subsection (4) by replacing "mutual fund***" with "***investment fund***" and by replacing "***percent***" with "***%***".***

5. Section 2.3 is amended

(a) in paragraph (1)(d) by replacing "gold certificate***" with "***precious metals certificate***" wherever it occurs,***

(b) by replacing paragraph 1(e) with the following:

(e) purchase permitted precious metals, a permitted precious metal certificate or a specified derivative the underlying interest of which is a physical commodity if, immediately after the purchase, more than 10% of the mutual fund's net asset value would be made up of permitted precious metals, permitted precious metal certificates and specified derivatives the underlying interest of which is a physical commodity;***,*** (*c*) ***in paragraph 1(g) by adding "*or*" immediately after "*;*",***

(d) by repealing paragraph 1(h),

(e) by adding the following subsections:

(1.1) Paragraphs 1(d), (e), (f) and (g) do not apply to an alternative fund.

(1.2) The restriction in paragraph 1(e) does not apply to a precious metals fund with respect to purchasing permitted precious metals, a permitted precious metal certificate or a specified derivative the underlying interest of which is one or more permitted precious metals.***, and***

(f) by adding the following subsections:

(3) In determining an investment fund's compliance with the restrictions contained in this section, for each long position in a specified derivative that is held by the investment fund for purposes other than hedging and for each index participation unit or underlying investment fund held by the investment fund, the investment fund must 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 or underlying investment fund, as applicable.

(4) Despite subsection (3), in the determination referred to in subsection (3) the investment fund must not include a security or instrument that is a component of, but that represents less than 10% 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.***.***

6. Section 2.4 is amended

(***a***) ***by replacing "*percent*" with "*%*" wherever it occurs, and***

(b) by adding the following subsections:

(4) A non-redeemable investment fund must not purchase an illiquid asset if, immediately after the purchase, more than 20% of its net asset value would be made up of illiquid assets.

(5) A non-redeemable investment fund must not have invested, for a period of 90 days or more, more than 25% of its net asset value in illiquid assets.

(6) If more than 25% of the net asset value of a non-redeemable investment fund is made up of illiquid assets, the non-redeemable fund must, as quickly as commercially reasonable, take all necessary steps to reduce the percentage of its net asset value made up of illiquid assets to 25% or less.***.***

7. Subsection 2.5(2) is amended

(a) by replacing paragraph (a) with the following:

(a) if the investment fund is a mutual fund other than an alternative fund, either of the following apply:

(i) the other investment fund is a mutual fund, other than an alternative fund, that is subject to this Instrument;

(ii) the other investment fund is an alternative fund or a non-redeemable investment fund that is subject to this Instrument, provided that the mutual fund must not purchase securities of the alternative fund or non-redeemable investment fund if, immediately after the purchase, more than 10% of its net asset value would be made up of securities of alternative funds and non-redeemable investment funds;***,***

(b) in paragraph (a.1) by adding "*an alternative fund or*" before "*a non-redeemable investment fund*" wherever it occurs,

(c) ***by replacing paragraph (c) with the following:***

(c) the other investment fund is a reporting issuer in a jurisdiction,***, and***

(d) ***by repealing paragraph (c.1).***

8. ***Subsection 2.5(3) is amended by replacing "***, (c) and (c.1)***" with "***and (c)***".***

9. ***Section 2.6 is amended***

(a) ***by renumbering it as subsection 2.6(1),***

(b) ***in paragraph (a) by deleting "***in the case of a mutual fund,***",***

(c) ***in subparagraph (a)(i) replacing "***mutual fund***" with "***investment fund***" wherever it occurs, and by replacing "***five percent***" with "***5%***",***

(d) ***in subparagraph (a)(ii) and subparagraph (a)(iii) by replacing "***mutual fund***" with "***investment fund***" wherever it occurs,***

(e) ***in subparagraph (a)(iv) by adding "***or a non-redeemable investment fund***" after "***continuous distribution***",***

(f) ***in paragraphs (b) and (c) by deleting "***in the case of a mutual fund,***", and***

(g) ***by adding the following subsection:***

(2) An alternative fund or a non-redeemable investment fund may borrow cash in excess of the limits set out in subsection (1) provided that each of the following applies:

(a) the alternative fund or non-redeemable investment fund may only borrow from an entity described in section 6.2;

(b) if the lender is an affiliate of the investment fund manager of the alternative fund or non-redeemable investment fund, the independent review committee must approve the applicable borrowing agreement under subsection 5.2(1) of NI 81-107;

(c) the borrowing agreement entered into is in accordance with normal industry practice and on standard commercial terms for the type of transaction;

(d) the total value of cash borrowed must not exceed 50% of the alternative fund or non-redeemable investment fund's net asset value.***.***

10. ***Paragraph 2.6.1(1) is amended***

(a) ***by replacing "***A mutual fund***" with "***An investment fund***",***

(b) ***in subparagraph (b)(i) by replacing "***mutual fund***" with "***investment fund***", and***

(c) ***by replacing paragraph (c) with the following:***

(c) at the time the investment fund sells the security short,

(i) the investment fund has borrowed or arranged to borrow from a borrowing agent the security that is to be sold under the short sale,

(ii) if the investment fund is a mutual fund other than an alternative fund, the aggregate market value of all securities of the issuer of the securities sold short by the mutual fund does not exceed 5% of the net asset value of the mutual fund,

(iii) if the investment fund is a mutual fund other than an alternative fund, the aggregate market value of all securities sold short by the mutual fund does not exceed 20% of the net asset value of the mutual fund,

(iv) if the investment fund is an alternative fund or a non-redeemable investment fund, the aggregate market value of all securities of the issuer of the securities sold short by the investment fund does not exceed 10% of the net asset value of the investment fund; and

(v) if the investment fund is an alternative fund or a non-redeemable investment fund, the aggregate market value of all securities sold short by the investment fund does not exceed 50% of the net asset value of the investment fund.***.***

11. Subsection 2.6.1(2) is amended by adding "other than an alternative fund***" before "***that sells securities short***".***

12. Subsection 2.6.1(3) is amended by adding "other than an alternative fund***" before "***must not use the cash***".***

13. The Instrument is amended by adding the following section:

2.6.2 Total Borrowing and Short Selling

(1) Despite sections 2.6 and 2.6.1, an investment fund must not borrow cash or sell securities short, if immediately after entering into a cash borrowing or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the investment fund would exceed 50% of the investment fund's net asset value.

(2) Despite sections 2.6 and 2.6.1, if the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the investment fund exceeds 50% of the investment fund's net asset value, the investment fund must, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short to 50% or less of the investment fund's net asset value.***.***

14. Section 2.7 is amended

(a) in subsection (1) by replacing "A mutual fund***" with "***An investment fund***", by replacing "." with "***;***" in paragraph (c) and by adding the following paragraph:***

(d) the option, debt-like security, swap or contract is a cleared specified derivative.***,***

(b) in subsection (2) by replacing "a mutual fund***" with "***an investment fund***" and "***the mutual fund***" with "***the investment fund***",***

(c) in subsection (3) by replacing "a mutual fund***" with "***an investment fund***",***

(d) in subsection (4) by replacing "a mutual fund***" with "***an investment fund***", by adding "***other than for positions in cleared specified derivatives,***", after "***specified derivatives positions***", by deleting "***other than an acceptable clearing corporation or a clearing corporation that clears and settles transactions made on a futures exchange listed in Appendix A,***", by replacing "***percent***" with "***%***"and by replacing "***the mutual fund***" with "***the investment fund***",***

(e) in subsection (5) by replacing "a mutual fund***" with "***an investment fund***" and by replacing "***mutual fund***" with "***investment fund***" wherever it occurs, and***

(f) by adding the following subsection:

(6) Subsections (1), (2) and (3) do not apply to an alternative fund or a non-redeemable investment fund.***.***

15. Section 2.8 is amended by adding the following subsection:

(0.1) This section does not apply to an alternative fund.***.***

16. The Instrument is amended by adding the following section:

2.9.1 Leverage

(1) An investment fund's aggregate gross exposure must not exceed 3 times the investment fund's net asset value.

(2) For the purposes of subsection (1), an investment fund's aggregate gross exposure must be calculated as the sum of the following, divided by the investment fund's net asset value:

(a) the aggregate value of the investment fund's indebtedness under any borrowing agreements entered into pursuant to section 2.6;

(b) the aggregate market value of all securities sold short by the investment fund pursuant to section 2.6.1;

(c) the aggregate notional amount of the investment's fund's specified derivatives positions.

(3) In determining an investment fund's compliance with the restriction contained in this section, the investment fund must also include in its calculation its proportionate shares of securities of any underlying investment funds for which a similar calculation is required.

(4) An investment fund must determine its compliance with the restriction contained in this section as of the close of business of each day on which the investment fund calculates a net asset value.

(5) If the investment fund's aggregate gross exposure as determined in subsection (2) exceeds 3 times the investment fund's net asset value, the investment fund must, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate gross exposure to 3 times the investment fund's net asset value or less.*.*

17. Section 2.11 is amended by adding the following subsection:

(0.1) This section does not apply to an alternative fund.*.*

18. Subsection 6.8(1) is amended by adding "Borrowing,***" before "***Derivatives***" in the heading, by replacing "***clearing corporation options, options on futures or standardized futures***" with "***cleared specified derivatives***" and by replacing "***percent***" with "***%***".***

19. Subsection 6.8(2) is amended

(a) by replacing "clearing corporation options, options or futures or standardized futures***" with "***cleared specified derivatives***",***

(b) in paragraph (a) by deleting "in the case of standardized futures and options on futures,***" and by deleting "***, in the case of clearing corporation options***", and***

(c) in paragraph (c) by replacing "percent***" with "***%***".***

20. Section 6.8 is amended by adding the following subsection:

(3.1) An investment fund may deposit with its lender, portfolio assets over which it has granted a security interest in connection with a borrowing agreement entered into pursuant to section 2.6.*.*

21. Subsection 6.8(4) is amended by replacing "or (3)***" with "***, (3) or (3.1)***".***

22. Subsection 6.8(5) is amended by adding "borrowing,***" before "***securities lending***".***

23. Section 7.1 is amended

(a) by renumbering it as subsection 7.1(1),

(b) by adding "other than an alternative fund***" after "***A mutual fund***", and***

(c) by adding the following subsection:

(2) An alternative fund must not pay, or enter into arrangements that would require it to pay, and securities of an alternative fund must not be sold on the basis that an investor would be required to pay, a fee that is determined by the performance of the alternative fund unless

(a) the payment of the fee is based on the cumulative total return of the alternative fund for the period that began immediately after the last period for which the performance fee was paid, and

(b) the method of calculating the fee is described in the alternative fund's prospectus.***.***

24. Section 9.1.1 is amended in paragraph (b) by adding "short***" before "***position***".***

25. Section 10.1 is amended by adding the following subsection immediately after subsection (2):

(2.1) If disclosed in its prospectus, an alternative fund may include, as part of the requirements established in subsection (2), a provision that securityholders of the alternative fund will not have the right to redeem their securities for a period up to 6 months after the date on which the receipt is issued for the initial prospectus of the alternative fund.***.***

26. Section 10.3 is amended by adding the following subsection:

(5) Despite subsection (1) an alternative fund may implement a policy providing that a person or company making a redemption order for securities of the alternative fund will receive the net asset value for those securities determined, as provided in the policy, on the first or 2nd business day after the date of receipt by the alternative fund of the redemption order.***.***

27. Subsection 10.4(1.1) is amended by adding "an alternative fund or***" after "***Despite subsection (1),***".***

28. Subsection 15.13(2) is amended by replacing "a commodity pool***" with "***an alternative fund***" wherever it occurs and by replacing "***National Instrument 81-104 *Commodity Pools*"*** with "***this Instrument***".***

29. The Instrument is amended by repealing Appendix A – Futures Exchanges for the Purpose of Subsection 2.7(4) – Derivative Counterparty Exposure Limits.

30. (1) Subject to subsections (2) and (3), this Instrument comes into force on ●.

(2) If a non-redeemable investment fund or alternative fund has filed a prospectus before ●, then this Instrument will not apply to that non-redeemable investment fund or alternative fund until the date that is 6 months from the date referred to in subsection (1).

(3) A mutual fund that is a commodity pool under National Instrument 81-104 *Commodity Pools* and has filed a prospectus before the date of this Instrument will be deemed to be an alternative fund for the purposes of subsection (2).

ANNEX D-2

BLACKLINE OF
NATIONAL INSTRUMENT 81-102 *INVESTMENT FUNDS*
TO HIGHLIGHT THE PROPOSED AMENDMENTS

TABLE OF CONTENTS

NATIONAL INSTRUMENT 81-102
INVESTMENT FUNDS

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~~[Repealed];

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

"alternative fund" means a mutual fund that has adopted fundamental investment objectives that permit it to invest in asset classes or adopt investment strategies that are otherwise prohibited but for prescribed exemptions from Part 2 of this Instrument;

"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;

"borrowing agent" means any of the following:

(a) a custodian or sub-custodian that holds assets in connection with a short sale of securities by an investment fund;

(b) a qualified dealer from whom an investment fund borrows securities in order to sell them short;

"cash cover" means any of the following 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 or from a short sale of securities made by the mutual fund:

(a) cash;

(b) cash equivalents;

(c) synthetic cash;

(d) receivables of the mutual fund arising from the disposition of portfolio assets, net of payables arising from the acquisition of portfolio assets;

(e) securities purchased by the mutual fund in a reverse repurchase transaction under section 2.14, to the extent of the cash paid for those securities by the mutual fund;

(f) each evidence of indebtedness that has a remaining term to maturity of 365 days or less and a designated rating;

(g) each floating rate evidence of indebtedness if

(i) the floating interest rate of the indebtedness is reset no later than every 185 days, and

(ii) the principal amount of the indebtedness 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 evidence of indebtedness;

(h) securities issued by a money market fund;

"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 a designated 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 a designated rating organization or its DRO affiliate have a designated rating;

"cleared specified derivative" means a specified derivative that is cleared through a clearing corporation that is any of the following:

(a) registered with the Securities and Exchange Commission;

(b) registered with the U.S. Commodity Futures Trading Commission;

(c) authorized by the European Securities and Markets Authority; or

(d) a regulated clearing agency;

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

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

"clone fund" means an investment fund that has adopted a fundamental investment objective to track the performance of another investment fund;

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

"custodian" means the institution appointed by an investment fund to hold portfolio assets of the investment fund;

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

"dealer managed mutual fund" [Repealed]

"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 of 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;

"designated rating" means, for a security or instrument, a rating issued by a designated rating organization, or its DRO affiliate, that is at or above one of the following rating categories, or that is at or above a category that replaces one of the following rating categories, if

(a) there has been no announcement by the designated rating organization or its DRO affiliate of which the investment fund or its manager is or reasonably should be aware that the rating of the security or instrument to which the designated rating was given may be down-graded to a rating category that would not be a designated rating, and

(b) no designated rating organization or any of its DRO affiliates has rated the security or instrument in a rating category that is not a designated rating:

Designated Rating Organization	**Commercial Paper/ Short Term Debt**	**Long Term Debt**
DBRS Limited	R-1 (low)	A
Fitch, Inc.	F1	A
Moody's Canada Inc.	P-1	A2
Standard & Poor's Ratings Services (Canada)	A-1 (Low)	A

"designated rating organization" means

(a) each of DBRS Limited, Fitch, Inc., Moody's Canada Inc., Standard & Poor's Ratings Services (Canada), including their DRO affiliates; or

(b) any other credit rating organization that has been designated under securities legislation;

"DRO affiliate" has the same meaning as in section 1 of National Instrument 25-101 *Designated Rating Organizations*;

"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;

"fixed portfolio ETF" [Repealed]

"fixed portfolio ~~ETF~~investment fund" means an exchange-traded mutual fund not in continuous distribution or a non-redeemable investment fund that

(a) has fundamental investment objectives which include holding and maintaining a fixed portfolio of publicly traded equity securities of one or more issuers the names of which are disclosed in its prospectus, and

(b) trades the securities referred to in paragraph (a) only in the circumstances disclosed in its prospectus;

"floating rate evidence of indebtedness" means an evidence of indebtedness that has a floating rate of interest determined over the term of the obligation by reference to a commonly used benchmark interest rate and that satisfies any of the following:

(a) if the evidence of indebtedness was issued by a person or company other than a government or a permitted supranational agency, it has a designated rating;

(b) the evidence of indebtedness was issued, or is fully and unconditionally guaranteed as to principal and interest, by any of the following:

(i) the government of Canada or the government of a jurisdiction of Canada;

(ii) 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 a designated rating;

"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 an investment fund that define both the fundamental nature of the investment fund and the fundamental investment features of the investment fund that distinguish it from other investment 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 or by a corporation approved by the Office of the Superintendent of Financial Institutions to offer its services to the public in Canada as an insurer of mortgages;

"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;

"IIROC" means the Investment Industry Regulatory Organization of Canada;

"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~~investment fund, or

(b) a restricted security held by ~~a mutual fund, the resale of which is prohibited by arepresentation, undertaking or agreement by the mutual fund or by the predecessor in title of the mutual~~an investment fund;

"independent review committee" means the independent review committee of the investment fund established under National Instrument 81-107 *Independent Review Committee for Investment Funds*;

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

(a) hold the securities that are included in a permitted index or permitted indices of the mutual fund in substantially the same proportion as those securities are reflected in that permitted index or those permitted indices, or

(b) invest in a manner that causes the mutual fund to replicate the performance of that permitted index or those permitted indices;

"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;

"investment fund conflict of interest investment restrictions" means the provisions of securities legislation that are referred to in Appendix D;

"investment fund conflict of interest reporting requirements" means the provisions of securities legislation that are referred to in Appendix E;

"investor fees" means, in connection with the purchase, conversion, holding, transfer or redemption of securities of an investment fund, all fees, charges and expenses that are or may become payable by a securityholder of the investment fund to,

(a) in the case of a mutual fund, a member of the organization of the mutual fund other than a member of the organization acting solely as a participating dealer, and

(b) in the case of a non-redeemable investment fund, the manager of the non-redeemable investment fund;

"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";~~[Repealed]

"long position" means a position held by an investment fund that, for

(a) an option, entitles the investment 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 investment fund to accept delivery of the underlying interest or, instead, pay or receive cash,

(c) a call option on futures, entitles the investment fund to elect to assume a long position in standardized futures,

(d) a put option on futures, entitles the investment fund to elect to assume a short position in standardized futures, and

(e) a swap, obliges the investment 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 an investment fund to its average net asset value, calculated in accordance with Part 15 of National Instrument 81-106 *Investment Fund Continuous Disclosure*;

"manager" means an investment fund manager;

"manager-prescribed number of units" means, in relation to an exchange-traded mutual fund that is in continuous distribution, the number of units determined by the manager from time to time for the purposes of subscription orders, exchanges, redemptions or for other purposes;

"material change" has the meaning ascribed to that term in National Instrument 81-106 *Investment Fund Continuous Disclosure*;

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

"MFDA" means the Mutual Fund Dealers Association of Canada;

"money market fund" means a mutual fund that invests its assets in accordance with section 2.18;

"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" [Repealed]

"mutual fund conflict of interest reporting requirements" [Repealed]

"mutual fund rating entity" means an entity

(a) that rates or ranks the performance of mutual funds or asset allocation services through an objective methodology that is

(i) based on quantitative performance measurements,

(ii) applied consistently to all mutual funds or asset allocation services rated or ranked by it, and

(iii) disclosed on the entity's website,

(b) that is not a member of the organization of any mutual fund, and

(c) whose services to assign a rating or ranking to any mutual fund or asset allocation service are not procured by the promoter, manager, portfolio adviser, principal distributor or participating dealer of any mutual fund or asset allocation service, or any of their affiliates;

"net asset value" means the value of the total assets of the investment fund less the value of the total liabilities, other than net assets attributable to securityholders, of the investment fund, as at a specific date, determined in accordance with Part 14 of National Instrument 81-*106 Investment Fund Continuous Disclosure*;

"NI 81-107" means National Instrument 81-107 *Independent Review Committee for Investment Funds*;

<u>"non-redeemable investment fund" has the same meaning ascribed to that term in National Instrument 81-106 *Investment Fund Continuous Disclosure;*</u>

"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 an investment 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;

"overall rating or ranking" means a rating or ranking of a mutual fund or asset allocation service that is calculated from standard performance data for one or more performance measurement periods, which includes the longest period for which the mutual fund or asset allocation service is required under securities legislation to calculate standard performance data, other than the period since the inception 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 an investment fund, an asset allocation service, a security, an index or a benchmark;

"permitted gold certificate" ~~means a certificate representing gold if the gold is~~[Repealed]

~~(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, II or III 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 index" means, in relation to a mutual fund, a market index that is

(a) both

(i) administered by an organization that is not affiliated with any of the mutual fund, its manager, its portfolio adviser or its principal distributor, and

(ii) available to persons or companies other than the mutual fund, or

(b) widely recognized and used;

"permitted precious metals" means gold, silver, platinum and palladium;

"permitted precious metal certificate" means a certificate representing a permitted precious metal if the permitted precious metal is

(a) available for delivery in Canada, free of charge, to or to the order of the holder of the certificate,

(b) in the case of a certificate representing gold, of a minimum fineness of 995 parts per 1000,

(c) in the case of a certificate representing a permitted precious metal other than gold, of a minimum fineness of 999 parts per 1000,

(d) held in Canada,

(e) in the form of either bars or wafers, and

(f) if not purchased from a bank listed in Schedule I, II or III 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 European Investment Bank, the Inter-American Development Bank, the International Bank for Reconstruction and Development and the International Finance Corporation;

"physical commodity", means, in an original or processed state, an agricultural product, forest product, product of the sea, mineral, metal, hydrocarbon fuel product, electricity, water, 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 investment fund or with the manager of the investment fund;

"portfolio asset" means an asset of an investment fund;

"precious metals fund" means a mutual fund other than an alternative fund, that has adopted a fundamental investment objective to invest primarily in one or more permitted precious metals;

"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~~an investment 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 an investment fund, an acquisition that is the result of a decision made and action taken by the investment fund;

"qualified security" means

(a) an evidence of indebtedness that is issued, or fully and unconditionally guaranteed as to principal and interest, by

(i) the government of Canada or the government of a jurisdiction,

(ii) 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 a designated rating, or

(iii) 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 a designated rating organization or its DRO affiliate have a designated rating, or

(b) commercial paper that has a term to maturity of 365 days or less and a designated rating and that was issued by a person or company other than a government or permitted supranational agency;

"redemption payment date" [Repealed]

“regulated clearing agency” has the meaning ascribed to that term in National Instrument 94-101 *Mandatory Central Counterparty Clearing of Derivatives*;

“report to securityholders” means a report that includes annual financial statements or interim financial reports, or an annual or interim management report of fund performance, and that is delivered to securityholders of an investment 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~~investment fund or by the ~~mutual~~investment fund’s predecessor in title, or by law;

“sales communication” means a communication relating to, and by, an investment 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 investment fund or participant in the asset allocation service, or

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

(b) in the case of an investment fund, is not contained in any of the following documents of the investment fund:

1. A prospectus or preliminary or pro forma prospectus.

2. An annual information form or preliminary or pro forma annual information form.

3. A fund facts document or preliminary or pro forma fund facts document.

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.

7. Annual or interim management report of fund performance;

“scholarship plan” has the meaning ascribed to that term in section 1.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure*;

“short position” means a position held by an investment fund that, for

(a) an option, obliges the investment 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 investment 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 investment fund, at the election of another, to assume a short position in standardized futures, and

(d) a put option on futures, obliges the investment fund, at the election of another, to assume a long position in standardized futures;

“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;

(b) acting solely in respect of transactions in which a person or company registered in the category of exempt 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 an investment fund, an entity that has been appointed to hold portfolio assets of the investment fund in accordance with section 6.1 by either the custodian or a sub-custodian of the investment 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,

(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; or

(c) a long position in securities of an issuer and a short position in a standardized future of which the underlying interest is securities of that issuer, if the ratio between the value of the securities of that issuer and the position in 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;

"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 an investment 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 investment fund in the swap.

1.2 Application – (1) This Instrument applies only to

(a) a mutual fund that offers or has offered securities under a prospectus for so long as the mutual fund remains a reporting issuer,

(a.1) a non-redeemable investment fund that is a reporting issuer, and

(b) a person or company in respect of activities pertaining to an investment fund referred to in paragraphs (a) and (a.1) or pertaining to the filing of a prospectus to which subsection 3.1(1) applies.

(2) Despite subsection (1), this Instrument does not apply to a scholarship plan.

(3) Despite subsection (1), in Québec, in respect of investment funds organized under an Act to establish the *Fonds de solidarité des travailleurs du Québec* (*F.T.Q.*) (chapter F-3.2.1), an Act to establish *Fondaction, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi* (chapter F-3.1.2), or an Act constituting *Capital régional et coopératif Desjardins* (chapter C-6.1), the following requirements apply:

(a) sections ~~2.12~~2.6.1 and sections 2.7 to 2.17;

(b) Part 6;

(c) Part 15, except for paragraph 15.8(2)(b);

(d) Part 19;

(e) Part 20.

(4) For greater certainty, in British Columbia, if a provision of this Instrument conflicts or is inconsistent with a provision of the *Employee Investment Act* (British Columbia) or the *Small Business Venture Capital Act* (British Columbia), the provision of the Employee Investment Act or the Small Business Venture Capital Act, as the case may be, prevails.

1.3 Interpretation – (1) Each section, part, class or series of a class of securities of an investment fund that is referable to a separate portfolio of assets is considered to be a separate investment fund for purposes of this Instrument.

(2) An investment fund that renews or extends a securities lending, repurchase or reverse repurchase transaction is entering into a securities lending, repurchase or reverse repurchase agreement for the purposes of section 2.12, 2.13 or 2.14.

(3) [Repealed]

PART 2 INVESTMENTS

2.1 Concentration Restriction – (1) A mutual fund other than an alternative fund must not purchase a security of an issuer, enter into a specified derivatives transaction or purchase an index participation ~~units~~unit if, immediately after the transaction, more than 10 ~~percent~~% of its net asset value would be invested in securities of any one issuer.

(1.1) An alternative fund or a non-redeemable investment fund must not purchase a security of an issuer, enter into a specified derivatives transaction or purchase an index participation unit if, immediately after the transaction, more than 20 % of its net asset value would be invested in securities of any one issuer.

(2) ~~Subsection~~Subsections (1) ~~does~~and (1.1) do not apply to the purchase of any of the following:

(a) a government security;

(b) a security issued by a clearing corporation;

(c) a security issued by ~~a mutual~~an investment fund if the purchase is made in accordance with the requirements of section 2.5;

(d) an index participation unit that is a security of ~~a mutual~~an investment fund;

(e) an equity security if the purchase is made by a fixed portfolio ~~ETF~~investment fund in accordance with its investment objectives.

(3) In determining ~~a mutual~~an investment fund's compliance with the restrictions contained in this section, the ~~mutual~~investment fund must, for each long position in a specified derivative that is held by the ~~mutual~~investment fund for purposes other than hedging and for each index participation unit held by the ~~mutual~~investment 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~~investment fund must 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.

(5) Despite subsection (1), an index mutual fund, the name of which includes the word "index", may, in order to satisfy its fundamental investment objectives, purchase a security, enter into a specified derivatives transaction or purchase index participation units if its prospectus contains the disclosure referred to in subsection (5) of Item 6 and subsection (5) of Item 9 of Part B of Form 81-101F1 *Contents of Simplified Prospectus*.

2.2 Control Restrictions – (1) An investment fund must not purchase a security of an issuer

(a) if, immediately after the purchase, the investment fund would hold securities representing more than 10% of

(i) the votes attaching to the outstanding voting securities of the issuer; or

(ii) the outstanding equity securities of the issuer; or

(b) for the purpose of exercising control over, or management of, the issuer.

(1.1) Subsection (1) does not apply to the purchase of any of the following:

(a) a security issued by an investment fund if the purchase is made in accordance with section 2.5;

(b) an index participation unit that is a security of an investment fund.

(2) If an investment fund acquires a security of an issuer other than as the result of a purchase, and the acquisition results in the investment fund exceeding the limits described in paragraph (1)(a), the investment fund must 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, an investment fund must

(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 – (1) A mutual fund must not do any of the following:

(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 its net asset value would be made up of guaranteed mortgages;

(d) purchase a ~~gold~~precious metals certificate, other than a permitted ~~gold~~precious metals certificate;

(e) purchase ~~gold or~~permitted precious metals, a permitted ~~gold~~precious metal certificate, or a specified derivative the underlying interest of which is a physical commodity, if, immediately after the purchase, more than 10% percent of ~~its~~the mutual fund's net asset value would be made up of ~~gold and~~ permitted precious metals, permitted ~~gold~~precious metal certificates and specified derivatives the underlying interest of which is a physical commodity;

(f) purchase a physical commodity, 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; or

(h) ~~purchase, sell or use a specified derivative the underlying interest of which is~~[repealed]

~~(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.

(1.1.) Paragraphs (1)(d), (e), (f), and (g) do not apply to an alternative fund.

(1.2) The restriction in paragraph (1)(e) does not apply to a precious metals fund with respect to purchasing permitted precious metals, a permitted precious metal certificate or a specified derivative the underlying interest of which is one or more permitted precious metals.

(2) A non-redeemable investment fund must not do any of the following:

(a) purchase real property;

(b) purchase a mortgage, other than a guaranteed mortgage;

(c) purchase an interest in a loan syndication, or loan participation, if the purchase would require the non-redeemable investment fund to assume any responsibilities in administering the loan in relation to the borrower.

(3) In determining an investment fund's compliance with the restrictions contained in this section, the investment fund must, for each long position in a specified derivative that is held by the investment fund for purposes other than hedging and for each index participation unit or underlying investment fund held by the investment fund, the investment fund must 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 or underlying investment fund, as applicable.

(4) Despite subsection (3), in the determination referred to in subsection (3) the investment fund must not include a security or instrument that is a component of, but that represents less than 10% 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.

2.4 Restrictions Concerning Illiquid Assets – (1) A mutual fund must not purchase an illiquid asset if, immediately after the purchase, more than 10~~ percent~~% of its net asset value would be made up of illiquid assets.

(2) A mutual fund must not have invested, for a period of 90 days or more, more than 15~~ percent~~% of its net asset value in illiquid assets.

(3) If more than 15~~ percent~~% of the net asset value of a mutual fund is made up of illiquid assets, the mutual fund must, as quickly as is commercially reasonable, take all necessary steps to reduce the percentage of its net asset value made up of illiquid assets to 15~~ percent~~% or less.

(4) A non-redeemable investment fund must not purchase an illiquid asset if, immediately after the purchase, more than 20% of its net asset value would be made up of illiquid assets.

(5) A non-redeemable investment fund must not have invested, for a period of 90 days or more, more than 25% of its net asset value in illiquid assets.

(6) If more than 25% of the net asset value of a non-redeemable investment fund is made up of illiquid assets, the non-redeemable investment fund must, as quickly as is commercially reasonable, take all necessary steps to reduce the percentage of its net asset value made up of illiquid assets to 25% or less.

2.5 Investments in Other Investment Funds – (1) For the purposes of this section, an investment fund is considered to be holding a security of another investment fund if

(a) it holds securities issued by the other investment fund, or

(b) it is maintaining a position in a specified derivative for which the underlying interest is a security of the other investment fund.

(2) An investment fund must not purchase or hold a security of another investment fund unless~~,~~:

(a) if the investment fund is a mutual fund~~,~~ other than an alternative fund, either of the following apply:

(i) the other investment fund is a mutual fund other than an alternative fund, that is subject to this Instrument~~ and offers or has offered securities under a simplified prospectus in accordance with National Instrument 81-101 Mutual Fund Prospectus Disclosure,~~;

(ii) the other investment fund is an alternative fund or a non-redeemable investment fund that is subject to this Instrument, provided that the mutual fund must not purchase securities of the alternative fund or non-redeemable investment fund if, immediately after the purchase, more than 10% of its net asset value will be made up of securities of alternative funds and non-redeemable investment funds;

(a.1) if the investment fund is an alternative fund or a non-redeemable investment fund, one or both of the following apply:

(i) the other investment fund is subject to this Instrument;

(ii) the other investment fund complies with the provisions of this Instrument applicable to an alternative fund or a non-redeemable investment fund,

(b) at the time of the purchase of that security, the other investment fund holds no more than 10% of its net asset value in securities of other investment funds,

(c) the other investment fund is a reporting issuer in a jurisdiction,

~~(c.1) if the investment fund is a non-redeemable investment fund, the other investment fund is a reporting issuer in a jurisdiction in which the investment fund is a reporting issuer,~~[repealed],

(d) no management fees or incentive fees are payable by the investment fund that, to a reasonable person, would duplicate a fee payable by the other investment fund for the same service,

(e) no sales fees or redemption fees are payable by the investment fund in relation to its purchases or redemptions of the securities of the other investment fund if the other investment fund is managed by the manager or an affiliate or associate of the manager of the investment fund, and

(f) no sales fees or redemption fees are payable by the investment fund in relation to its purchases or redemptions of securities of the other investment fund that, to a reasonable person, would duplicate a fee payable by an investor in the investment fund.

(3) Paragraphs (2)(a), (a.1)~~, (c),~~ and (c~~.1~~) do not apply if the security

(a) is an index participation unit issued by an investment fund, or

(b) is issued by another investment fund established with the approval of the government of a foreign jurisdiction and the only means by which the foreign jurisdiction permits investment in the securities of issuers of that foreign jurisdiction is through that type of investment fund.

(4) Paragraph (2)(b) does not apply if the other investment fund

(a) is a clone fund, or

(b) in accordance with this section purchases or holds securities

(i) of a money market fund, or

(ii) that are index participation units issued by an investment fund.

(5) Paragraphs (2)(e) and (f) do not apply to brokerage fees incurred for the purchase or sale of an index participation unit issued by an investment fund.

(6) An investment fund that holds securities of another investment fund that is managed by the same manager or an affiliate or associate of the manager

(a) must not vote any of those securities, and

(b) may, if the manager so chooses, arrange for all of the securities it holds of the other investment fund to be voted by the beneficial holders of securities of the investment fund.

(7) The investment fund conflict of interest investment restrictions and the investment fund conflict of interest reporting requirements do not apply to an investment fund which purchases or holds securities of another investment fund if the purchase or holding is made in accordance with this section.

2.6 Investment Practices – (1) An investment fund must not,

(a) ~~in the case of a mutual fund,~~ 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~~investment fund while the ~~mutual~~investment fund effects an orderly liquidation of portfolio assets, or to permit the ~~mutual~~investment 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~~investment fund does not exceed ~~five percent~~5% of its net asset value at the time of the borrowing,

(ii) the security interest is required to enable the ~~mutual~~investment fund to effect a specified derivative transaction or short sale of securities under this Instrument, is made in accordance with industry practice for that type of transaction and relates only to obligations arising under the particular specified derivatives transaction or short sale,

(iii) the security interest secures a claim for the fees and expenses of the custodian or a sub-custodian of the ~~mutual~~investment fund for services rendered in that capacity as permitted by subsection 6.4(3), or

(iv) in the case of an exchange-traded mutual fund that is not in continuous distribution or a non-redeemable investment fund, the transaction is to finance the acquisition of its portfolio securities and the outstanding amount of all borrowings is repaid on the closing of its initial public offering;

(b) ~~in the case of a mutual fund,~~ purchase securities on margin, unless permitted by section 2.7 or 2.8;

(c) ~~in the case of a mutual fund,~~ sell securities short other than in compliance with section 2.6.1, 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 investment 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 otherissuer;

(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) An alternative fund or a non-redeemable investment fund may borrow cash in excess of the limits set out in subsection (1) provided that each of the following applies:

(a) the alternative fund or non-redeemable investment fund may only borrow from an entity described in section 6.2;

(b) if the lender is an affiliate of the investment fund manager of the alternative fund or non-redeemable investment fund, the independent review committee must approve the applicable borrowing agreement under subsection 5.2(2) of NI 81-107;

(c) the borrowing agreement entered into is in accordance with normal industry practice and on standard commercial terms for the type of transaction; and

(d) the total value of cash borrowed must not exceed 50% of the alternative fund or non-redeemable investment fund's net asset value.

2.6.1 Short Sales – (1) ~~A mutual~~An investment fund may sell a security short if

(a) the security sold short is sold for cash;

(b) the security sold short is not any of the following:

(i) a security that the ~~mutual~~investment fund is otherwise not permitted by securities legislation to purchase at the time of the short sale transaction;

(ii) an illiquid asset;

(iii) a security of an investment fund other than an index participation unit; and

(c) at the time the ~~mutual~~investment fund sells the security short,

(i) the ~~mutual~~investment fund has borrowed or arranged to borrow from a borrowing agent the security that is to be sold under the short sale~~;~~,

(ii) if the investment fund is a mutual fund other than an alternative fund, the aggregate market value of all securities of the issuer of the securities sold short by the mutual fund does not exceed 5% of the net asset value of the mutual fund~~; and~~,

(iii) if the investment fund is a mutual fund other than an alternative fund, the aggregate market value of all securities sold short by the mutual fund does not exceed 20% of the net asset value of the mutual fund,

(iv) if the investment fund is an alternative fund or a non-redeemable investment fund, the aggregate market value of all securities of the issuer of the securities sold short by the investment fund does not exceed 10% of the net asset value of the investment fund, and

(v) if the investment fund is an alternative fund or a non-redeemable investment fund, the aggregate market value of all securities sold short by the investment fund does not exceed 50% of the net asset value of the investment fund.

(2) A mutual fund other than an alternative fund that sells securities short must hold cash cover in an amount that, together with portfolio assets deposited with borrowing agents as security in connection with short sales of securities by the mutual fund, is at least 150% of the aggregate market value of all securities sold short by the mutual fund on a daily mark-to-market basis.

(3) A mutual fund other than an alternative fund must not use the cash from a short sale to enter into a long position in a security, other than a security that qualifies as cash cover.

2.6.2 Total Borrowing and Short Selling – (1) Despite sections 2.6 and 2.6.1, an investment fund must not borrow cash or sell securities short, if immediately after entering into a cash borrowing or short selling transaction, the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the investment fund would exceed 50% of the investment fund's net asset value.

(2) Despite sections 2.6 and 2.6.1, if the aggregate value of cash borrowed combined with the aggregate market value of all securities sold short by the investment fund exceeds 50% of the investment fund's net asset value, the investment fund must, as quickly as commercially reasonable take all necessary steps to reduce the aggregate value of cash borrowed combined with the aggregate market value of securities sold short to 50% or less of the investment fund's net asset value.

2.7 Transactions in Specified Derivatives for Hedging and Non-hedging Purposes – (1) ~~A mutual~~An investment fund must not purchase an option or a debt-like security or enter into a swap or a forward contract unless, at the time of the transaction, any of the following apply:

(a) in the case of an option, the option is a clearing corporation option;

(b) the option, debt-like security, swap or contract, has a designated rating;

(c) the 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, debt-like security, swap or contract, has a designated rating; and

(d) the option, debt-like security, swap or contract is a cleared specified derivative.

(2) If the credit rating of an option that is not a clearing corporation option, the credit rating of a debt-like security, swap or forward contract, or the credit rating of the equivalent debt of the writer or guarantor of the option, debt-like security, swap or contract, falls below the level of designated rating while the option, debt-like security, swap or contract is held by ~~a mutual~~an investment fund , the ~~mutual~~investment fund must take the steps that are reasonably required to close out its position in the option, debt-like security, swap or contract in an orderly and timely fashion.

(3) Despite any other provisions contained in this Part, ~~a mutual~~an investment 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~~an investment fund under its specified derivatives positions, other than for positions in cleared specified derivatives, 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), must not exceed, for a period of 30 days or more, 10 ~~percent~~% of the net asset value of the ~~mutual~~investment fund.

(5) The mark-to-market value of specified derivatives positions of ~~a mutual~~an investment fund with any one counterparty must be, for the purposes of subsection (4),

(a) if the ~~mutual~~investment 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~~investment fund; and

(b) in all other cases, the aggregated mark-to-market value of the specified derivative positions of the ~~mutual~~investment fund.

(6) Subsections (1), (2) and (3) do not apply to an alternative fund or a non-redeemable investment fund.

2.8 Transactions in Specified Derivatives for Purposes Other than Hedging – (0.1) This section does not apply to an alternative fund.

(1) A mutual fund must 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 its net asset value would be made up 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 must 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 – (1) 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) Section 2.2 does not apply to the use of specified derivatives by a non-redeemable investment fund for hedging purposes.

2.9.1 Leverage – (1) An investment fund's aggregate gross exposure must not exceed 3 times the investment fund's net asset value.

(2) For the purposes of subsection (1), an investment fund's aggregate gross exposure must be calculated as the sum of the following, divided by the investment fund's net asset value:

(a) the aggregate value of the investment fund's indebtedness under any borrowing agreements entered into pursuant to section 2.6,

(b) the aggregate market value of securities sold short by the investment fund pursuant to section 2.6.1, and

(c) the aggregate notional amount of the investment's fund's specified derivatives positions.

(3) In determining an investment fund's compliance with the restriction contained in this section, the investment fund must also include in its calculation its proportionate shares of securities of any underlying investment funds for which a similar calculation is required.

(4) An investment fund must determine its compliance with the restriction contained in this section as of the close of business of each day on which the investment fund calculates a net asset value.

(5) If the investment fund's aggregate gross exposure as determined in subsection (2) exceeds 3 times the investment fund's net asset value, the investment fund must, as quickly as is commercially reasonable, take all necessary steps to reduce the aggregate gross exposure to 3 times the investment fund's net asset value or less.

2.10 Adviser Requirements – (1) If a portfolio adviser of an investment fund receives advice from a non-resident sub-adviser concerning the use of options or standardized futures by the investment fund, the investment fund must 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 investment 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 investment fund, and

(ii) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

(2) An investment fund must not relieve a portfolio adviser of the investment 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 investment 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), an investment 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 investment 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 investment fund.

(4) An investment fund must 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 and Short Selling by an Investment Fund – (0.1) This section does not apply to an alternative fund.

(1) An investment fund that has not used specified derivatives must not begin using specified derivatives, and an investment fund that has not sold a security short in accordance with section 2.6.1 must not sell a security short, unless,

(a) in the case of a mutual fund, other than an exchange-traded mutual fund that is not in continuous distribution, its prospectus contains the disclosure required for a mutual fund intending to engage in the activity;

(a.1) in the case of an exchange-traded mutual fund that is not in continuous distribution or of a non-redeemable investment fund, the investment fund issues a news release that contains both of the following:

(i) the disclosure required in a prospectus for an exchange-traded mutual fund that is not in continuous distribution, or a non-redeemable investment fund, intending to engage in the activity;

(ii) the date on which the activity is intended to begin; and

(b) the investment fund has provided to its securityholders, not less than 60 days before it begins the intended activity, written notice that discloses its intent to engage in the activity and the disclosure referred to in paragraph (a) or (a.1), as applicable.

(2) A mutual fund, other than an exchange-traded mutual fund that is not in continuous distribution, is not required to provide the notice referred to in paragraph (1)(b) if each prospectus of the mutual fund since its inception has contained the disclosure referred to in paragraph (1)(a).

(3) Subsection (1) does not apply to an exchange-traded mutual fund that is not in continuous distribution, or to a non-redeemable investment fund, if each prospectus of the investment fund filed since its inception has contained the disclosure referred to in paragraph (1)(a.1).

2.12 Securities Loans – (1) Despite any other provision of this Instrument, an investment fund may enter into a securities lending transaction as lender if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Securities are loaned by the investment fund in exchange for collateral.

4. The securities transferred, either by the investment fund or to the investment fund as collateral, as part of the transaction are immediately available for good delivery under applicable legislation.

5. The collateral to be delivered to the investment fund at the beginning of the transaction

   (a) is received by the investment fund either before or at the same time as it delivers the loaned securities; and

   (b) has a market value equal to at least 102 percent of the market value of the loaned securities.

6. The collateral to be delivered to the investment fund is one or more of

   (a) cash;

   (b) qualified securities;

   (c) securities that are immediately convertible into, or exchangeable for, securities of the same issuer, class or type, and the same term, if applicable, as the securities that are being loaned by the investment fund, and in at least the same number as those loaned by the investment fund; or

   (d) irrevocable letters of credit issued by a Canadian financial institution that is not the counterparty, or an affiliate of the counterparty, of the investment fund in the transaction, if evidences of indebtedness of the Canadian financial institution that are rated as short term debt by a designated rating organization or its DRO affiliate have a designated rating.

7. The collateral and loaned securities are marked to market on each business day, and the amount of collateral in the possession of the investment fund is adjusted on each business day to ensure that the market value of collateral maintained by the investment fund in connection with the transaction is at least 102 percent of the market value of the loaned securities.

8. If an event of default by a borrower occurs, the investment fund, in addition to any other remedy available under the agreement or applicable law, has the right under the agreement to retain and dispose of the collateral to the extent necessary to satisfy its claims under the agreement.

9. The borrower is required to pay promptly to the investment fund amounts equal to and as compensation for all dividends and interest paid, and all distributions made, on the loaned securities during the term of the transaction.

10. The transaction is a “securities lending arrangement” under section 260 of the ITA.

11. The investment fund is entitled to terminate the transaction at any time and recall the loaned securities within the normal and customary settlement period for securities lending transactions in the market in which the securities are lent.

12. Immediately after the investment fund enters into the transaction, the aggregate market value of all securities loaned by the investment fund in securities lending transactions and not yet returned to it or sold by the investment fund in repurchase transactions under section 2.13 and not yet repurchased does not exceed 50% of the net asset value of the investment fund.

(2) An investment fund may hold all cash delivered to it as the collateral in a securities lending transaction or may use the cash to purchase

(a) qualified securities having a remaining term to maturity no longer than 90 days;

(b) securities under a reverse repurchase agreement permitted by section 2.14; or

(c) a combination of the securities referred to in paragraphs (a) and (b).

(3) An investment fund, during the term of a securities lending transaction, must hold all, and must not invest or dispose of any, non-cash collateral delivered to it as collateral in the transaction.

2.13 Repurchase Transactions – (1) Despite any other provision of this Instrument, an investment fund may enter into a repurchase transaction if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Securities are sold for cash by the investment fund, with the investment fund assuming an obligation to repurchase the securities for cash.

4. The securities transferred by the investment fund as part of the transaction are immediately available for good delivery under applicable legislation.

5. The cash to be delivered to the investment fund at the beginning of the transaction

   (a) is received by the investment fund either before or at the same time as it delivers the sold securities; and

   (b) is in an amount equal to at least 102 percent of the market value of the sold securities.

6. The sold securities are marked to market on each business day, and the amount of sale proceeds in the possession of the investment fund is adjusted on each business day to ensure that the amount of cash maintained by the investment fund in connection with the transaction is at least 102 percent of the market value of the sold securities.

7. If an event of default by a purchaser occurs, the investment fund, in addition to any other remedy available under the agreement or applicable law, has the right under the agreement to retain or dispose of the sale proceeds delivered to it by the purchaser to the extent necessary to satisfy its claims under the agreement.

8. The purchaser of the securities is required to pay promptly to the investment fund amounts equal to and as compensation for all dividends and interest paid, and all distributions made, on the sold securities during the term of the transaction.

9. The transaction is a "securities lending arrangement" under section 260 of the ITA.

10. The term of the repurchase agreement, before any extension or renewal that requires the consent of both the investment fund and the purchaser, is not more than 30 days.

11. Immediately after the investment fund enters into the transaction, the aggregate market value of all securities loaned by the investment fund in securities lending transactions under section 2.12 and not yet returned to it or sold by the investment fund in repurchase transactions and not yet repurchased does not exceed 50% of the net asset value of the investment fund.

(2) An investment fund may hold cash delivered to it as consideration for sold securities in a repurchase transaction or may use the cash to purchase

(a) qualified securities having a remaining term to maturity no longer than 30 days;

(b) securities under a reverse repurchase agreement permitted by section 2.14; or

(c) a combination of the securities referred to in paragraphs (a) and (b).

2.14 Reverse Repurchase Transactions – (1) Despite any other provision of this Instrument, an investment fund may enter into a reverse repurchase transaction if the following conditions are satisfied for the transaction:

1. The transaction is administered and supervised in the manner required by sections 2.15 and 2.16.

2. The transaction is made under a written agreement that implements the requirements of this section.

3. Qualified securities are purchased for cash by the investment fund, with the investment fund assuming the obligation to resell them for cash.

4. The securities transferred as part of the transaction are immediately available for good delivery under applicable legislation.

5. The securities to be delivered to the investment fund at the beginning of the transaction

   (a) are received by the investment fund either before or at the same time as it delivers the cash used by it to purchase those securities; and

   (b) have a market value equal to at least 102 percent of the cash paid for the securities by the investment fund.

6. The purchased securities are marked to market on each business day, and either the amount of cash paid for the purchased securities or the amount of purchased securities in the possession of the seller or the investment fund is adjusted on each business day to ensure that the market value of purchased securities held by the investment fund in connection with the transaction is not less than 102 percent of the cash paid by the investment fund.

7. If an event of default by a seller occurs, the investment fund, in addition to any other remedy available in the agreement or applicable law, has the right under the agreement to retain or dispose of the purchased securities delivered to it by the seller to the extent necessary to satisfy its claims under the agreement.

8. The transaction is a “securities lending arrangement” under section 260 of the ITA.

9. The term of the reverse repurchase agreement, before any extension or renewal that requires the consent of both the seller and the investment fund, is not more than 30 days.

2.15 Agent for Securities Lending, Repurchase and Reverse Repurchase Transactions – (1) The manager of an investment fund must appoint an agent or agents to act on behalf of the investment fund to administer the securities lending and repurchase transactions entered into by the investment fund.

(2) The manager of an investment fund may appoint an agent or agents to act on behalf of the investment fund to administer the reverse repurchase transactions entered into by the investment fund.

(3) The custodian or a sub-custodian of the investment fund must be the agent appointed under subsection (1) or (2).

(4) The manager of an investment fund must not authorize an agent to enter into a securities lending, repurchase or, if applicable, reverse repurchase transactions on behalf of the investment fund until the agent enters into a written agreement with the manager and the investment fund in which

(a) the investment fund and the manager provide instructions to the agent on the parameters to be followed in entering into the type of transactions to which the agreement pertains;

(b) the agent agrees to comply with this Instrument, accepts the standard of care referred to in subsection (5) and agrees to ensure that all transactions entered into by it on behalf of the investment fund will comply with this Instrument; and

(c) the agent agrees to provide to the investment fund and the manager regular, comprehensive and timely reports summarizing the investment fund's securities lending, repurchase and reverse repurchase transactions, as applicable.

(5) An agent appointed under this section, in administering the securities lending, repurchase and, if applicable, reverse repurchase transactions of the investment fund must exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

2.16 Controls and Records – (1) An investment fund must not enter into transactions under sections 2.12, 2.13 or 2.14 unless,

(a) for transactions to be entered into through an agent appointed under section 2.15, the manager has reasonable grounds to believe that the agent has established and maintains appropriate internal controls and procedures and records; and

(b) for reverse repurchase transactions directly entered into by the investment fund without an agent, the manager has established and maintains appropriate internal controls, procedures and records.

(2) The internal controls, procedures and records referred to in subsection (1) must include

(a) a list of approved borrowers, purchasers and sellers based on generally accepted creditworthiness standards;

(b) as applicable, transaction and credit limits for each counterparty; and

(c) collateral diversification standards.

(3) The manager of an investment fund must, on a periodic basis not less frequently than annually,

(a) review the agreements with any agent appointed under section 2.15 to determine if the agreements are in compliance with this Instrument;

(b) review the internal controls described in subsection (2) to ensure their continued adequacy and appropriateness;

(c) make reasonable enquiries as to whether the agent is administering the securities lending, repurchase or reverse repurchase transactions of the investment fund in a competent and responsible manner, in conformity with the requirements of this Instrument and in conformity with the agreement between the agent, the manager and the investment fund entered into under subsection 2.15(4);

(d) review the terms of any agreement between the investment fund and an agent entered into under subsection 2.15(4) in order to determine if the instructions provided to the agent in connection with the securities lending, repurchase or reverse repurchase transactions of the investment fund continue to be appropriate; and

(e) make or cause to be made any changes that may be necessary to ensure that

(i) the agreements with agents are in compliance with this Instrument,

(ii) the internal controls described in subsection (2) are adequate and appropriate,

(iii) the securities lending, repurchase or reverse repurchase transactions of the investment fund are administered in the manner described in paragraph (c), and

(iv) the terms of each agreement between the investment fund and an agent entered into under subsection 2.15(4) are appropriate.

2.17 Commencement of Securities Lending, Repurchase and Reverse Repurchase Transactions by an Investment Fund – (1) An investment fund must not enter into securities lending, repurchase or reverse repurchase transactions unless,

(a) in the case of a mutual fund, other than an exchange-traded mutual fund that is not in continuous distribution, its prospectus contains the disclosure required for mutual funds entering into those types of transactions;

(b) in the case of an exchange-traded mutual fund that is not in continuous distribution or of a non-redeemable investment fund, the investment fund issues a news release that contains both of the following:

(i) the disclosure required in a prospectus for an exchange-traded mutual fund that is not in continuous distribution, or a non-redeemable investment fund, entering into those types of transactions;

(ii) the date on which the investment fund intends to begin entering into those types of transactions; and

(c) the investment fund provides to its securityholders, at least 60 days before it begins entering into those types of transactions, written notice that discloses its intent to begin entering into those types of transactions and the disclosure referred to in paragraph (a) or (b), as applicable.

(2) Paragraph (1)(c) does not apply to a mutual fund that has entered into reverse repurchase agreements as permitted by a decision of the securities regulatory authority or regulator.

(3) Paragraph (1)(c) does not apply to a mutual fund, other than an exchange-traded mutual fund that is not in continuous distribution, if each prospectus of the mutual fund filed since its inception contains the disclosure referred to in paragraph (1)(a).

(4) Subsection (1) does not apply to an exchange-traded mutual fund that is not in continuous distribution, or to a non-redeemable investment fund, if each prospectus of the investment fund filed since its inception contains the disclosure referred to in paragraph (1)(b).

2.18 Money Market Fund – (1) A mutual fund must not describe itself as a “money market fund” in its prospectus, a continuous disclosure document or a sales communication unless

(a) it has all of its assets invested in one or more of the following:

(i) cash,

(ii) cash equivalents,

(iii) an evidence of indebtedness that has a remaining term to maturity of 365 days or less and a designated rating,

(iv) a floating rate evidence of indebtedness if

(A) the floating interest rate of the indebtedness is reset no later than every 185 days, and

(B) the principal amount of the indebtedness 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 evidence of indebtedness, or

(v) securities issued by one or more money market funds,

(b) it has a portfolio of assets, excluding a security described in subparagraph (a)(v), with a dollar-weighted average term to maturity not exceeding

(i) 180 days, and

(ii) 90 days when 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% of its assets invested in accordance with paragraph (a) are denominated in a currency in which the net asset value per security of the mutual fund is calculated, and

(d) it has not less than

(i) 5% of its assets invested in cash or readily convertible into cash within one day, and

(ii) 15% of its assets invested in cash or readily convertible into cash within one week.

(2) Despite any other provision of this Instrument, a mutual fund that describes itself as a "money market fund" must not use a specified derivative or sell securities short.

(3) A non-redeemable investment fund must not describe itself as a "money market fund".

PART 3 NEW MUTUAL FUNDS

3.1 Initial Investment in a New Mutual Fund – (1) A person or company must not file a 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,

(ii) the partners, directors, officers or securityholders of any of the manager, a portfolio adviser, a promoter or a sponsor of the mutual fund, or

(iii) a combination of the persons or companies referred to subparagraphs (i) and (ii); or

(b) the prospectus of the mutual fund states that the mutual fund will not issue securities other than those referred to in paragraph (a) unless subscriptions aggregating not less than $500,000 have been received by the mutual fund from investors other than the persons and companies referred to in paragraph (a) and accepted by the mutual fund.

(2) A mutual fund must 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 prospectus of a mutual fund contains the disclosure described in paragraph 3.1(1)(b), the mutual fund must 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 – (1) The costs of incorporation, formation or initial organization of a mutual fund, or of the preparation and filing of any of the preliminary prospectus, preliminary annual information form, preliminary fund facts document, initial prospectus, annual information form or fund facts document of the mutual fund must not be borne by the mutual fund or its securityholders.

(2) Subsection (1) does not apply to an exchange-traded mutual fund unless the fund is in continuous distribution.

PART 4 CONFLICTS OF INTEREST

4.1 Prohibited Investments – (1) A dealer managed investment fund must 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 investment fund, or an associate or affiliate of the dealer manager of the investment 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 investment fund must 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 investment 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 investment fund;

(b) does not have access before implementation to information concerning investment decisions made on behalf of the dealer managed investment 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 investment 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) Subsection (1) does not apply to an investment in a class of securities of an issuer if, at the time of each investment

(a) the independent review committee of the dealer managed investment fund has approved the transaction under subsection 5.2(2) of NI 81-107;

(b) in a class of debt securities of an issuer other than a class of securities referred to in subsection (3), the security has been given, and continues to have, a designated rating by a designated rating organization or its DRO affiliate;

(c) in any other class of securities of an issuer,

(i) the distribution of the class of equity securities is made by prospectus filed with one or more securities regulatory authorities or regulators in Canada, and

(ii) during the 60 day period referred to in subsection (1) the investment is made on an exchange on which the class of equity securities of the issuer is listed and traded; and

(d) no later than the time the dealer managed investment fund files its annual financial statements, the manager of the dealer managed investment fund files the particulars of each investment made by the dealer managed investment fund during its most recently completed financial year.

(4.1) In paragraph (4)(b), "designated rating" has the meaning ascribed to it in National Instrument 44-101 – *Short Form Prospectus Distributions*.

(5) The provisions of securities legislation that are referred to in Appendix C do not apply with respect to an investment in a class of securities of an issuer referred to in subsection (4) if the investment is made in accordance with that subsection.

4.2 Self-Dealing – (1) An investment fund must not purchase a security from, sell a security to, or enter into a securities lending, repurchase or reverse repurchase transaction under section 2.12, 2.13 or 2.14 with, any of the following persons or companies:

1. The manager, portfolio adviser or trustee of the investment fund.

2. A partner, director or officer of the investment fund or of the manager, portfolio adviser or trustee of the investment 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 investment fund or a partner, director or officer of the manager or portfolio adviser of the investment fund is a partner, director, officer or securityholder.

(2) Subsection (1) applies in the case of a sale of a security to, or a purchase of a security from, an investment fund only if the person or company that would be selling to, or purchasing from, the investment fund would be doing so as principal.

4.3 Exception – (1) Section 4.2 does not apply to a purchase or sale of a security by an investment 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 investment 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 investment fund.

(2) Section 4.2 does not apply to a purchase or sale of a class of debt securities by an investment fund from, or to, another investment fund managed by the same manager or an affiliate of the manager, if, at the time of the transaction

(a) the investment fund is purchasing from, or selling to, another investment fund to which NI 81-107 applies;

(b) the independent review committee of the investment fund has approved the transaction under subsection 5.2(2) of NI 81-107; and

(c) the transaction complies with subsection 6.1(2) of NI 81-107.

4.4 Liability and Indemnification – (1) An agreement or declaration of trust by which a person or company acts as manager of an investment fund must 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 investment fund to discharge any of the manager's responsibilities to the investment fund,

(a) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the investment fund, and

(b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

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

(a) to exercise the powers and discharge the duties of its office honestly, in good faith and in the best interests of the investment fund, or

(b) to exercise the degree of care, diligence and skill that a reasonably prudent person would exercise in the circumstances.

(3) An investment 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 investment 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 investment 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 investment fund.

(4) An investment fund must 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 an investment fund or securityholder arising out of an action or inaction by any of the following:

(a) a director of the investment fund;

(b) a custodian or sub-custodian of the investment fund, except as set out in subsection (6).

(6) This section applies to any losses to an investment fund or securityholder arising out of an action or inaction by a custodian or sub-custodian acting as agent of the investment fund in administering the securities lending, repurchase or reverse repurchase transactions of the investment fund.

PART 5 FUNDAMENTAL CHANGES

5.1 Matters Requiring Securityholder Approval – (1) The prior approval of the securityholders of an investment fund, given as provided in section 5.2, is required before the occurrence of each of the following:

(a) the basis of the calculation of a fee or expense that is charged to the investment fund or directly to its securityholders by the investment fund or its manager in connection with the holding of securities of the investment fund is changed in a way that could result in an increase in charges to the investment fund or to its securityholders;

(a.1) a fee or expense, to be charged to the investment fund or directly to its securityholders by the investment fund or its manager in connection with the holding of securities of the investment fund that could result in an increase in charges to the investment fund or to its securityholders, is introduced;

(b) the manager of the investment fund is changed, unless the new manager is an affiliate of the current manager;

(c) the fundamental investment objectives of the investment fund are changed;

(d) [Repealed]

(e) the investment fund decreases the frequency of the calculation of its net asset value per security;

(f) the investment fund undertakes a reorganization with, or transfers its assets to, another issuer, if

(i) the investment fund ceases to continue after the reorganization or transfer of assets, and

(ii) the transaction results in the securityholders of the investment fund becoming securityholders in the other issuer;

(g) the investment fund undertakes a reorganization with, or acquires assets from, another issuer, if

(i) the investment fund continues after the reorganization or acquisition of assets,

(ii) the transaction results in the securityholders of the other issuer becoming securityholders in the investment fund, and

(iii) the transaction would be a material change to the investment fund;

(h) the investment fund implements any of the following:

(i) in the case of a non-redeemable investment fund, a restructuring into a mutual fund;

(ii) in the case of a mutual fund, a restructuring into a non-redeemable investment fund;

(iii) a restructuring into an issuer that is not an investment fund.

(2) An investment fund must not bear any of the costs or expenses associated with a restructuring referred to in paragraph (1)(h).

5.2 Approval of Securityholders – (1) Unless a greater majority is required by the constating documents of the investment fund, the laws applicable to the investment fund or an applicable agreement, the approval of the securityholders of the investment fund to a matter referred to in subsection 5.1(1) must be given by a resolution passed by at least a majority of the votes cast at a meeting of the securityholders of the investment 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 an investment fund must vote separately as a class or series of a class on a matter referred to in subsection 5.1(1) if that class or series of a class is affected by the action referred to in subsection 5.1(1) in a manner different from holders of securities of other classes or series of a class.

(3) Despite subsection 5.1(1) and subsections (1) and (2), if the constating documents of the investment fund so provide, the holders of securities of a class or series of a class of securities of an investment fund must not be entitled to vote on a matter referred to in subsection 5.1(1) if they, as holders of the class or series of a class, are not affected by the action referred to in subsection 5.1(1).

5.3 Circumstances in Which Approval of Securityholders Not Required – (1) Despite subsection 5.1(1), the approval of securityholders of an investment fund is not required to be obtained for a change referred to in paragraphs 5.1(1)(a) and (a.1)

(a) if

(i) the investment fund is at arm's length to the person or company charging the fee or expense to the investment fund referred to in paragraphs 5.1(1)(a) and (a.1),

(ii) the prospectus of the investment 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 investment fund, and

(iii) the notice referred to in subparagraph (ii) is actually sent at least 60 days before the effective date of the change; or

(b) if, in the case of a mutual fund,

(i) the mutual fund is permitted by this Instrument to be described as a "no-load" fund,

(ii) the 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 at least 60 days before the effective date of the change.

(2) Despite subsection 5.1(1), the approval of securityholders of an investment fund is not required to be obtained for a change referred to in paragraph 5.1(1)(f) if either of the following paragraphs apply:

(a) all of the following apply:

(i) the independent review committee of the investment fund has approved the change under subsection 5.2(2) of NI 81-107;

(ii) the investment fund is being reorganized with, or its assets are being transferred to, another investment fund to which this Instrument and NI 81-107 apply and that is managed by the manager, or an affiliate of the manager, of the investment fund;

(iii) the reorganization or transfer of assets of the investment fund complies with the criteria in paragraphs 5.6(1)(a), (b), (c), (d), (g), (h), (i), (j) and (k);

(iv) the prospectus of the investment fund discloses that, although the approval of securityholders may not be obtained before making the change, securityholders will be sent a written notice at least 60 days before the effective date of the change;

(v) the notice referred to in subparagraph (iv) to securityholders is sent at least 60 days before the effective date of the change;

(b) all of the following apply:

(i) the investment fund is a non-redeemable investment fund that is being reorganized with, or its assets are being transferred to, a mutual fund that is

(A) a mutual fund to which this Instrument and NI 81-107 apply,

(B) managed by the manager, or an affiliate of the manager, of the investment fund,

(C) not in default of any requirement of securities legislation, and

(D) a reporting issuer in the local jurisdiction and the mutual fund has a current prospectus in the local jurisdiction;

(ii) the transaction is a tax-deferred transaction under subsection 85(1) of the ITA;

(iii) the securities of the investment fund do not give securityholders of the investment fund the right to request that the investment fund redeem the securities;

(iv) since its inception, there has been no market through which securityholders of the investment fund could sell securities of the investment fund;

(v) every prospectus of the investment fund discloses that

(A) securityholders of the investment fund, other than the manager, promoter or an affiliate of the manager or promoter, will cease to be securityholders of the investment fund within 30 months following the completion of the initial public offering by the investment fund, and

(B) the investment fund will, within 30 months following the completion of the initial public offering of the investment fund, undertake a reorganization with, or transfer its assets to, a mutual fund that is managed by the manager of the investment fund or by an affiliate of the manager of the investment fund;

(vi) the mutual fund bears none of the costs and expenses associated with the transaction;

(vii) the reorganization or transfer of assets of the investment fund complies with subparagraphs 5.3(2)(a)(i), (iv) and (v) and paragraphs 5.6(1)(d) and (k).

5.3.1 Change of Auditor of an Investment Fund – The auditor of an investment fund must not be changed unless

(a) the independent review committee of the investment fund has approved the change of auditor under subsection 5.2(2) of NI 81-107;

(b) the prospectus of the investment fund discloses that, although the approval of securityholders will not be obtained before making the change, securityholders will be sent a written notice at least 60 days before the effective date of the change, and

(c) the notice referred to in paragraph (b) to securityholders is sent 60 days before the effective date of the change.

5.4 Formalities Concerning Meetings of Securityholders – (1) A meeting of securityholders of an investment fund called to consider any matter referred to in subsection 5.1(1) must be called on written notice sent at least 21 days before the date of the meeting.

(2) The notice referred to in subsection (1) must 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 paragraphs 5.1(1)(a) or (a.1), the effect that the change would have had on the management expense ratio of the investment fund had the change been in force throughout the investment 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 or regulator is required before

(a) the manager of an investment fund is changed, unless the new manager is an affiliate of the current manager;

(a.1) a change of control of the manager of an investment fund occurs;

(b) a reorganization or transfer of assets of an investment fund is implemented, if the transaction will result in the securityholders of the investment fund becoming securityholders in another issuer;

(c) a change of the custodian of an investment 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) an investment fund suspends, other than under section 10.6, the rights of securityholders to request that the investment fund redeem their securities.

(2) [Repealed]

(3) Despite subsection (1), in Ontario only the regulator may grant an approval referred to in subsection (1).

5.6 Pre-Approved Reorganizations and Transfers – (1) Despite subsection 5.5(1), the approval of the securities regulatory authority or regulator is not required to implement a transaction referred to in paragraph 5.5(1)(b) if all of the following paragraphs apply:

(a) the investment fund is being reorganized with, or its assets are being transferred to, another investment fund to which this Instrument applies and that

(i) is managed by the manager, or an affiliate of the manager, of the investment fund,

(ii) a reasonable person would consider to have substantially similar fundamental investment objectives, valuation procedures and fee structure as the investment fund,

(iii) is not in default of any requirement of securities legislation, and

(iv) is a reporting issuer in the local jurisdiction and, if it is a mutual fund, also has a current 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 investment fund as soon as reasonably possible following the transaction;

(d) the portfolio assets of the investment fund to be acquired by the other investment fund as part of the transaction

(i) may be acquired by the other investment fund in compliance with this Instrument, and

(ii) are acceptable to the portfolio adviser of the other investment fund and consistent with the other investment fund's fundamental investment objectives;

(e) the transaction is approved

(i) by the securityholders of the investment fund in accordance with paragraph 5.1(1)(f), unless subsection 5.3(2) applies, and

(ii) if required, by the securityholders of the other investment fund in accordance with paragraph 5.1(1)(g);

(f) the materials sent to securityholders of the investment fund in connection with the approval under paragraph 5.1(1)(f) include

(i) a circular that, in addition to other requirements prescribed by law, describes the proposed transaction, the investment fund into which the investment fund will be reorganized, the income tax considerations for the investment funds participating in the transaction and their securityholders, and, if the investment fund is a corporation and the transaction involves its shareholders becoming securityholders of an investment 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 the other investment fund is a mutual fund, the most recently filed fund facts document for the other investment fund, and

(iii) a statement that securityholders may, in respect of the reorganized investment fund,

(A) obtain all of the following documents at no cost by contacting the reorganized investment fund at an address or telephone number specified in the statement:

(I) if the reorganized investment fund is a mutual fund, the current prospectus;

(II) the most recently filed annual information form, if one has been filed;

(III) as applicable, the most recently filed fund facts document;

(IV) the most recently filed annual financial statements and interim financial reports;

(V) the most recently filed annual and interim management reports of fund performance, or

(B) access those documents at a website address specified in the statement;

(g) the investment fund has complied with Part 11 of National Instrument 81-106 *Investment Fund Continuous Disclosure* in connection with the making of the decision to proceed with the transaction by the board of directors of the manager of the investment fund or of the investment fund;

(h) the investment funds participating in the transaction bear none of the costs and expenses associated with the transaction;

(i) if the investment fund is a mutual fund, securityholders of the investment fund continue to have the right to redeem securities of the investment fund up to the close of business on the business day immediately before the effective date of the transaction;

(j) if the investment fund is a non-redeemable investment fund, all of the following apply:

(i) the investment fund issues and files a news release that discloses the transaction;

(ii) securityholders of the investment fund may redeem securities of the investment fund at a date that is after the date of the news release referred to in subparagraph (i) and before the effective date of the transaction;

(iii) the securities submitted for redemption in accordance with subparagraph (ii) are redeemed at a price equal to their net asset value per security on the redemption date;

(k) the consideration offered to securityholders of the investment fund for the transaction has a value that is equal to the net asset value of the investment fund calculated on the date of the transaction.

(1.1) Despite subsection 5.5(1), the approval of the securities regulatory authority or regulator is not required to implement a transaction referred to in paragraph 5.5(1)(b) if all the conditions in paragraph 5.3(2)(b) are satisfied and the independent review committee of the mutual fund involved in the transaction has approved the transaction in accordance with subsection 5.2(2) of NI 81-107.

(2) An investment fund that has continued after a transaction described in paragraph 5.5(1)(b) must, if the audit report accompanying its audited financial statements for its first completed financial year after the transaction contains a modified opinion in respect of the value of the portfolio assets acquired by the investment fund in the transaction, send a copy of those financial statements to each person or company that was a securityholder of an investment fund that was terminated as a result of the transaction and that is not a securityholder of the investment fund.

5.7 Applications – (1) An application for an approval required under section 5.5 must contain,

(a) if the application is required by paragraph 5.5(1)(a) or (a.1),

(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 investment fund, and

(D) any new directors or officers of the investment fund,

(iv) all information necessary to permit the securities regulatory authority or regulator 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 investment 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 the investment fund and, if the other issuer is an investment fund, the other issuer for each of the previous five years,

(iii) a description of the differences between, as applicable, the fundamental investment objectives, investment strategies, valuation procedures and fee structure of the investment fund and the other issuer and any other material differences between the investment fund and the other issuer, 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 material change for the investment fund, a draft amendment to the prospectus and, if applicable, to the fund facts document of the investment 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) An investment fund that applies for an approval under paragraph 5.5(1)(d) must

(a) make that application to the securities regulatory authority or regulator in the jurisdiction in which the head office or registered office of the investment fund is situated; and

(b) concurrently file a copy of the application so made with the securities regulatory

(c) authority or the regulator in the local jurisdiction if the head office or registered office of the investment fund is not situated in the local jurisdiction.

(3) An investment fund that has complied with subsection (2) in the local jurisdiction may suspend the right of securityholders to request that the investment 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 investment fund is situated 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 investment 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 investment fund in the local jurisdiction.

5.8 Matters Requiring Notice – (1) A person or company must not continue to act as manager of an investment 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 investment 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) A mutual fund must not 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 must give notice of the termination to the securities regulatory authority within 30 days of the termination.

5.8.1 Termination of a Non-Redeemable Investment Fund – (1) A non-redeemable investment fund must not terminate unless the investment fund first issues and files a news release that discloses the termination.

(2) A non-redeemable investment fund must not terminate earlier than 15 days or later than 90 days after the filing of the news release under subsection (1).

(3) Subsections (1) and (2) do not apply in respect of a transaction referred to in paragraph 5.1(1)(f).

5.9 Relief from Certain Regulatory Requirements – (1) The investment fund conflict of interest investment restrictions and the investment 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 or regulator has been given to the transaction.

(2) The investment fund conflict of interest investment restrictions and the investment fund conflict of interest reporting requirements do not apply to a transaction described in section 5.6.

5.10 [Repealed]

PART 6 CUSTODIANSHIP OF PORTFOLIO ASSETS

6.1 General – (1) Except as provided in sections 6.8, 6.8.1 and 6.9, all portfolio assets of an investment fund must 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, 6.8.1 and 6.9, portfolio assets of an investment fund must be held

(a) in Canada by the custodian or a sub-custodian of the investment fund; or

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

(3) The custodian or a sub-custodian of an investment fund may appoint one or more sub-custodians to hold portfolio assets of the investment fund, if

(a) in the case of an appointment by the custodian, the investment fund consents in writing to the appointment,

(a.1) in the case of an appointment by a sub-custodian, the investment fund and the custodian of the investment fund consent in writing to the appointment,

(b) the sub-custodian that is to be appointed is an entity described in section 6.2 or 6.3, as applicable,

(c) the arrangements under which a sub-custodian is appointed are such that the investment fund may enforce rights directly, or require the custodian or a sub-custodian to enforce rights on behalf of the investment 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 paragraphs (3)(a) and (a.1) may be in the form of a general consent, contained in the agreement governing the relationship between the investment fund and the custodian, or the custodian and the sub-custodian, to the appointment of entities 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 must provide to the investment fund a list of all entities that are appointed sub-custodians under a general consent referred to in subsection (4).

(6) Despite any other provisions of this Part, the manager of an investment fund must not act as custodian or sub-custodian of the investment fund.

6.2 Entities Qualified to Act as Custodian or Sub-Custodian for Assets Held in Canada – If portfolio assets are held in Canada by a custodian or sub-custodian, the custodian or sub-custodian must be one of the following:

1. a bank listed in Schedule I, II or III 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 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 either of the following applies:

   (a) the company has equity, as reported in its most recent audited financial statements that have been made public, of not less than $10,000,000;

   (b) the bank or trust company has assumed responsibility for all of the custodial obligations of the company for that investment fund.

6.3 Entities Qualified to Act as Sub-Custodian for Assets Held outside Canada – If portfolio assets are held outside of Canada by a sub-custodian, the sub-custodian must 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 the laws of which it is incorporated or organized, or a political subdivision of that country, and

   (c) has 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 either of the following applies:

   (a) the affiliate has 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;

   (b) the entity referred to in paragraph 1 or 2 has assumed responsibility for all of the custodial obligations of the affiliate for that investment fund.

6.4 Contents of Custodian and Sub-Custodian Agreements – (1) All custodian agreements and sub-custodian agreements of an investment fund must provide for

(a) the location of portfolio assets,

(b) any appointment of a sub-custodian,

(c) requirements concerning lists of sub-custodians,

(d) the method of holding portfolio assets,

(e) the standard of care and responsibility for loss, and

(f) requirements concerning review and compliance reports.

(2) A sub-custodian agreement concerning the portfolio assets of an investment fund must provide for the safekeeping of portfolio assets on terms consistent with the custodian agreement of the investment fund.

(2.1) An agreement referred to under subsections (1) and (2) must comply with the requirements of this Part.

(3) A custodian agreement or sub-custodian agreement concerning the portfolio assets of an investment fund must not

(a) provide for the creation of any security interest on the portfolio assets of the investment fund except for a good faith claim for payment of the fees and expenses of the custodian or a sub-custodian for acting in that capacity or to secure the obligations of the investment fund to repay borrowings by the investment fund from the custodian or a 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 a sub-custodian for the transfer of the beneficial ownership of portfolio assets of the investment 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, 6.8.1 and 6.9, portfolio assets of an investment fund not registered in the name of the investment fund must be registered in the name of the custodian or a sub-custodian of the investment 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 investment fund.

(2) The custodian or a sub-custodian of an investment fund, or an applicable nominee, must segregate portfolio assets issued in bearer form to show that the beneficial ownership of the property is vested in the investment fund.

(3) The custodian or a sub-custodian of an investment fund may deposit portfolio assets of the investment fund with a depository, or a clearing agency, that operates a book-based system.

(4) The custodian or a sub-custodian of an investment fund arranging for the deposit of portfolio assets of the investment fund with, and their delivery to, a depository, or clearing agency, that operates a book-based system must ensure that the records of any of the applicable participants in that book-based system or of the custodian contain an account number or other designation sufficient to show that the beneficial ownership of the portfolio assets is vested in the investment fund.

(5) An investment fund must not pay a fee to the custodian or a sub-custodian of the investment fund for the transfer of beneficial ownership of portfolio assets of the investment 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 an investment fund, in carrying out their duties concerning the safekeeping of, and dealing with, the portfolio assets of the investment fund, must 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) An investment fund must not relieve the custodian or a sub-custodian of the investment fund from liability to the investment fund or to a securityholder of the investment 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) An investment fund may indemnify the custodian or a 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 investment fund, if those fees, judgments and amounts were not incurred as a result of a breach of the standard of care imposed by subsection (1).

(4) An investment fund must not incur the cost of any portion of liability insurance that insures the custodian or a 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 an investment fund must, on a periodic basis not less frequently than annually,

(a) review the custodian agreement and all sub-custodian agreements of the investment 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 investment fund satisfy the applicable requirements of section 6.2 or6.3.

(2) The custodian of an investment fund must, within 60 days after the end of each financial year of the investment fund, advise the investment fund in writing

(a) of the names and addresses of all sub-custodians of the investment 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 section 6.2 or 6.3, as applicable.

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

6.8 Custodial Provisions relating to Borrowing, Derivatives and Securities Lending, Repurchase and Reverse Repurchase Agreements – (1) An investment fund may deposit portfolio assets as margin for transactions in Canada involving ~~clearing corporation options, options on futures or standardized futures~~cleared specified derivatives 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 investment fund, exceed 10 ~~percent~~% of the net asset value of the investment fund as at the time of deposit.

(2) An investment fund may deposit portfolio assets with a dealer as margin for transactions outside Canada involving ~~clearing corporation options, options on futures or standardized futures~~cleared specified derivatives 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 investment fund, exceed 10 ~~percent~~% of the net asset value of the investment fund as at the time of deposit.

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

(3.1) An investment fund may deposit with its lender, portfolio assets over which it has granted a security interest in connection with a borrowing agreement entered into pursuant to section 2.6.

(4) The agreement by which portfolio assets are deposited in accordance with subsection (1), (2)~~ or~~, (3) or (3.1) must require the person or company holding the portfolio assets to ensure that its records show that the investment fund is the beneficial owner of the portfolio assets.

(5) An investment fund may deliver portfolio assets to a person or company in satisfaction of its obligations under a borrowing, securities lending, repurchase or reverse purchase agreement that complies with this Instrument if the collateral, cash proceeds or purchased securities that are delivered to the investment fund in connection with the transaction are held under the custodianship of the custodian or a sub-custodian of the investment fund in compliance with this Part.

6.8.1 Custodial Provisions relating to Short Sales – (1) Except where the borrowing agent is the investment fund's custodian or sub-custodian, if an investment fund deposits portfolio assets with a borrowing agent as security in connection with a short sale of securities, the market value of portfolio assets deposited with the borrowing agent must not, when aggregated with the market value of portfolio assets already held by the borrowing agent as security for outstanding short sales of securities by the investment fund, exceed 10% of the net asset value of the investment fund at the time of deposit.

(2) An investment fund must not deposit portfolio assets as security in connection with a short sale of securities with a dealer in Canada unless the dealer is a registered dealer and is a member of IIROC.

(3) An investment fund must not deposit portfolio assets as security in connection with a short sale of securities with a dealer outside of Canada unless that dealer

(a) is a member of a stock exchange and is subject to a regulatory audit; and

(b) 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.

6.9 Separate Account for Paying Expenses – An investment fund may deposit cash in Canada with an entity referred to in paragraph 1 or 2 of section 6.2 to facilitate the payment of regular operating expenses of the investment fund.

PART 7 INCENTIVE FEES

7.1 Incentive Fees ~~–~~ (1) A mutual fund other than an alternative fund must not pay, or enter into arrangements that would require it to pay, and securities of a mutual fund must not 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 prospectus of the mutual fund.

(2) An alternative fund must not pay, or enter into arrangements that would require it to pay, and securities of an alternative fund must not be sold on the basis that an investor would be required to pay, a fee that is determined by the performance of the alternative fund unless

(a) the payment of the fee is based on the cumulative total return of the alternative fund for the period that began immediately after the last period for which the performance fee was paid; and

(b) the method of calculating the fee is described in the alternative fund's prospectus.

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 – A person or company must not sell securities of a mutual fund by way of a contractual plan unless

(a) the contractual plan was established, and its terms described in a 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.

PART 9 SALE OF SECURITIES OF AN INVESTMENT FUND

9.0.1 Application – This Part, other than subsection 9.3(2), does not apply to an exchange-traded mutual fund that is not in continuous distribution.

9.1 Transmission and Receipt of Purchase Orders – (0.1) This section does not apply to an exchange-traded mutual fund.

(1) Each purchase order for securities of a mutual fund received by a participating dealer at a location that is not its principal office must, 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 or a person or company providing services to the participating dealer.

(2) Each purchase order for securities of a mutual fund received by a participating dealer at its principal office, a person or company providing services to the participating dealer, or by the principal distributor of the mutual fund at a location that is not an order receipt office of the mutual fund must, 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, a principal distributor or a person or company providing services to the 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 specified under paragraph (a).

(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.

(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 must 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.

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 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 – (1) The issue price of a security of a mutual fund to which a purchase order pertains must 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.

(2) The issue price of a security of an exchange-traded mutual fund that is not in continuous distribution, or of a non-redeemable investment fund, must not,

(a) as far as reasonably practicable, be a price that causes dilution of the net asset value of other outstanding securities of the investment fund at the time the security is issued, and

(b) be a price that is less than the most recent net asset value per security of that class, or series of a class, calculated prior to the pricing of the offering.

9.4 Delivery of Funds and Settlement – (1) A principal distributor, a participating dealer, or a person or company providing services to the principal distributor or participating dealer must forward any cash or securities 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 or securities arrive 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 must be made to the mutual fund on or before the third business day after the pricing date for the securities by using any or a combination of the following methods of payment:

(a) by paying cash in a currency in which the net asset value per security of the mutual fund is calculated;

(b) by making 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) [Repealed]

(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 must redeem the securities to which the purchase order pertains as if it had received an order for the redemption of the securities 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 must 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 must 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 must 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 must pay immediately, upon notification by the mutual fund, to the mutual fund the amount of the deficiency.

PART 9.1 WARRANTS AND SPECIFIED DERIVATIVES

9.1.1 Issuance of Warrants or Specified Derivatives – An investment fund must not

(a) issue a conventional warrant or right, or

(b) enter into a <u>short</u> position in a specified derivative the underlying interest of which is a security of the investment fund.

PART 10 REDEMPTION OF SECURITIES OF AN INVESTMENT FUND

10.1 Requirements for Redemptions – (1) An investment fund must not pay redemption proceeds unless

(a) if the security of the investment fund to be redeemed is represented by a certificate, the investment fund has received the certificate or appropriate indemnities in connection with a lost certificate; and

(b) either

(i) the investment fund has received a written redemption order, duly completed and executed by or on behalf of the securityholder, or

(ii) the investment 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 investment fund in that regard and the relevant redemption order is made in compliance with those arrangements.

(2) An investment fund may establish reasonable requirements applicable to securityholders who wish to have the investment fund redeem securities, not contrary to this Instrument, as to procedures to be followed and documents to be delivered by the following times:

(a) in the case of a mutual fund, other than an exchange-traded mutual fund that is not in continuous distribution~~,~~ by the time of delivery of a redemption order to an order receipt office of the mutual fund;

(a.1) in the case of an exchange-traded mutual fund that is not in continuous distribution or of a non-redeemable investment fund, by the time of delivery of a redemption order;

(b) by the time of payment of redemption proceeds.

(2.1) If disclosed in the prospectus, an alternative fund may include, as part of the requirements established in subsection (2), a provision that securityholders of the alternative fund will not have the right to redeem their securities for a period of up to 6 months after the date on which the receipt is issued for the initial prospectus of the alternative fund.

(3) A manager of an investment fund must provide to securityholders of the investment fund at least annually a statement containing the following:

(a) a description of the requirements referred to in subsection (1);

(b) a description of the requirements established by the investment fund under subsection (2);

(c) a detailed reference to all documentation required for redemption of securities of the investment fund;

(d) detailed instructions on the manner in which documentation is to be delivered to participating dealers, the investment fund or a person or company providing services to the investment fund to which a redemption order may be made;

(e) a description of all other procedural or communication requirements;

(f) 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 any document that is sent to all securityholders in that year.

10.2 Transmission and Receipt of Redemption Orders – (0.1) This section does not apply to an exchange-traded mutual fund.

(1) Each redemption order for securities of a mutual fund received by a participating dealer at a location that is not its principal office must, 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 or a person or company providing services to the participating dealer.

(2) Each redemption order for securities of a mutual fund received by a participating dealer at its principal office, by the principal distributor of the mutual fund at a location that is not an order receipt office of the mutual fund, or a person or company providing services to the participating dealer or principal distributor must, 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.

(4) A participating dealer, a principal distributor, or a person or company providing services to the 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 hat 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 specified under paragraph (a).

(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 must 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 must 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.

10.3 Redemption Price of Securities – (1) The redemption price of a security of a mutual fund to which a redemption order pertains must 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.

(2) Despite subsection (1), the redemption price of a security of an exchange-traded mutual fund that is not in continuous distribution may be a price that is less than the net asset value of the security and that is determined on a date specified in the exchange-traded mutual fund's prospectus or annual information form.

(3) Despite subsection (1), the redemption price of a security of an exchange-traded mutual fund that is in continuous distribution may, if a securityholder redeems fewer than the manager-prescribed number of units, be a price that is calculated by reference to the closing price of the security on the stock exchange on which the security is listed and posted for trading, next determined after the receipt by the exchange-traded mutual fund of the redemption order.

(4) The redemption price of a security of a non-redeemable investment fund must not be a price that is more than the net asset value of the security determined on a redemption date specified in the prospectus or annual information form of the investment fund.

(5) Despite subsection (1) an alternative fund may implement a policy that a person or company making a redemption order for securities of the alternative fund will receive the net asset value for those securities determined, as provided in the policy, on the first or 2nd business day after the date of receipt by the alternative fund of the redemption order.

10.4 Payment of Redemption Proceeds – (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 must pay the redemption proceeds 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

(b) if payment of the redemption proceeds 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).

(1.1) Despite subsection (1), an <u>alternative fund or an</u> exchange-traded mutual fund that is not in continuous distribution must pay the redemption proceeds for securities that are the subject of a redemption order no later than 15 business days after the valuation date on which the redemption price was established.

(1.2) A non-redeemable investment fund must pay the redemption proceeds for securities that are the subject of a redemption order no later than 15 business days after the valuation date on which the redemption price was established.

(2) The redemption proceeds for a redeemed security, less any applicable investor fees, must be paid to or to the order of the securityholder of the security.

(3) An investment fund must pay the redemption proceeds for a redeemed security by using any or a combination of the following methods of payment:

(a) by paying cash in the currency in which the net asset value per security of the redeemed security was calculated;

(b) with the prior written consent of the securityholder for a redemption other than an exchange of a manager-prescribed number of units, 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) [Repealed]

(5) If the redemption proceeds for a redeemed security are paid in currency, an investment fund is deemed to have made payment

(a) when the investment 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 investment fund delivers the redemption proceeds to the manager or principal distributor of the investment fund for conversion into that currency and delivery forthwith to the securityholder.

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 must

(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 must 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 must 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 must 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 must pay immediately to the mutual fund the amount of the deficiency.

10.6 Suspension of Redemptions – (1) An investment fund may suspend the right of securityholders to request that the investment fund redeem its securities for the whole or any part of a period during which either of the following occurs:

(a) normal trading is suspended on a stock exchange, options exchange or futures exchange within or outside Canada on which securities are listed and posted for trading, or on which specified derivatives are traded, if those securities or specified derivatives represent more than 50% by value, or underlying market exposure, of the total assets of the investment 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 investment fund;

(b) in the case of a clone fund, the investment fund whose performance it tracks has suspended redemptions.

(2) An investment fund that has an obligation to pay the redemption proceeds for securities that have been redeemed in accordance with subsection 10.4(1), (1.1) or (1.2) 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 or regulator.

(3) An investment fund must not accept a purchase order for securities of the investment 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 authority or regulator contemplated by paragraph 5.5(1)(d).

PART 11 COMMINGLING OF CASH

11.1 Principal Distributors and Service Providers – (1) Cash received by a principal distributor of a mutual fund, by a person or company providing services to the mutual fund or the principal distributor, or by a person or company providing services to a non-redeemable investment fund, for investment in, or on the redemption of, securities of the investment fund, or on the distribution of assets of the investment fund, until disbursed as permitted by subsection (3),

(a) must 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 investment fund securities.

(2) Except as permitted by subsection (3), the principal distributor, a person or company providing services to the mutual fund or principal distributor, or a person or company providing services to the non-redeemable investment fund, must 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 an investment fund or principal distributor may withdraw cash from a trust account referred to in paragraph (1)(a) for any of the following purposes:

(a) remitting to the investment fund the amount or, if subsection (5) applies, the net amount, to be invested in the securities of the investment fund;

(b) remitting to the relevant persons or companies redemption or distribution proceeds being paid on behalf of the investment fund;

(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 investment fund.

(4) All interest earned on cash held in a trust account referred to in paragraph (1)(a) must be paid to securityholders or to each of the investment funds to which the trust account pertains, pro rata based on cash flow,

(a) no less frequently than monthly if the amount owing to an investment fund or to a securityholder is $10 or more; and

(b) no less frequently than once a year.

(5) When making payments to an investment fund, the principal distributor or service provider may offset the proceeds of redemption of securities of the investment fund or amounts held for distributions to be paid on behalf of the investment fund held in the trust account against amounts held in the trust account for investment in the investment 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) must be accounted for separately and must 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 must not use any of the cash referred to in 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) must 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 must 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, a person or company providing services to the principal distributor or participating dealer, or a person or company providing services to an investment fund, that deposits cash into a trust account in accordance with section 11.1 or 11.2 must

(a) advise, in writing, the financial institution with which the account is opened at the time of the opening of the account and annually thereafter, 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, of a person or company providing services to the principal distributor or participating dealer, or of a person or company providing services to the investment fund, 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, of a person or company providing services to the principal distributor or participating dealer, or of a person or company providing services to the investment fund;

(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 a member of IIROC.

(1.1) Except in Québec, sections 11.1 and 11.2 do not apply to a member of the MFDA.

(1.2) In Québec, sections 11.1 and 11.2 do not apply to a mutual fund dealer.

(1.3) Section 11.1 does not apply to CDS Clearing and Depository Services Inc.

(2) A participating dealer that is a member of an SRO referred to in subsection (1) or (1.1) or, in Québec, that is a mutual fund dealer, must 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, or the requirements applicable to the mutual fund dealer under the regulations in Québec, that relate to the commingling of cash.

11.5 Right of Inspection – The investment fund, its trustee, manager and principal distributor must ensure that all contractual arrangements made between any of them and any person or company providing services to the investment fund permit the representatives of the investment 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, other than an exchange-traded mutual fund that is not in continuous distribution, that does not have a principal distributor must 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 must 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 must 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) Subsections (2) and (3) do not apply to a member of IIROC.

(4.1) Except in Québec, subsections (2) and (3) do not apply to a member of the MFDA.

(4.2) In Québec, subsections (2) and (3) do not apply to a mutual fund dealer.

PART 13 [Repealed]

PART 14 RECORD DATE

14.0.1 Application – This Part does not apply to an exchange-traded mutual fund.

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 must 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 an investment fund must be made by a person or company in accordance with this Part.

15.2 Sales Communications – General Requirements – (1) Despite any other provision of this Part, a sales communication must not

(a) untrue or misleading; or

(b) include a statement that conflicts with information that is contained in the preliminary prospectus, the preliminary annual information form, the preliminary fund facts document, the prospectus, the annual information form or the fund facts document, as applicable,

(i) of an investment 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 must be at least as large as 10-point type.

15.3 Prohibited Disclosure in Sales Communications – (1) A sales communication must not compare the performance of an investment 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(1)(a) from disclosing performance data must 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.

(2.1) A sales communication for a non-redeemable investment fund that is restricted by paragraph 15.6(1)(a) from disclosing performance data must not provide performance data for any benchmark or investment, other than a non-redeemable investment fund under common management with the non-redeemable investment fund 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 must 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 a mutual fund rating entity;

(b) standard performance data is provided for any mutual fund or asset allocation service for which a performance rating or ranking is given;

(c) the rating or ranking is provided for each period for which standard performance data is required to be given, except the period since the inception of the mutual fund;

(d) the rating or ranking is based on a published category of mutual funds that

(i) provides a reasonable basis for evaluating the performance of the mutual fund or asset allocation service, and

(ii) is not established or maintained by a member of the organization of the mutual fund or asset allocation service;

(e) the sales communication contains the following disclosure:

(i) the name of the category within which the mutual fund or asset allocation service is rated or ranked, including the name of the organization that maintains the category,

(ii) the number of mutual funds in the applicable category for each period of standard performance data required under paragraph (c),

(iii) the name of the mutual fund rating entity that provided the rating or ranking,

(iv) the length of the period or the first day of the period on which the rating or ranking is based, and its ending date,

(v) a statement that the rating or ranking is subject to change every month,

(vi) the criteria on which the rating or ranking is based, and

(vii) if the rating or ranking consists of a symbol rather than a number, the meaning of the symbol, and

(f) the rating or ranking is to 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.

(4.1) Despite paragraph (4)(c), a sales communication may refer to an overall rating or ranking of a mutual fund or asset allocation service in addition to each rating or ranking required under paragraph (4)(c) if the sales communication otherwise complies with the requirements of subsection (4).

(5) A sales communication must not refer to a credit rating of securities of an investment fund unless

(a) the rating is current and was prepared by a designated rating organization or its DRO affiliate;

(b) there has been no announcement by the designated rating organization or any of its DRO affiliates of which the investment fund or its manager is or ought to be aware that the credit rating of the securities may be down-graded; and

(c) no designated rating organization or any of its DRO affiliates is currently rating the securities at a lower level.

(6) A sales communication must 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 under this Instrument.

(7) A sales communication must not state or imply that a registered retirement savings plan, registered retirement income fund or registered education savings plan in itself, rather than the investment fund to which the sales communication relates, is an investment.

15.4 Required Disclosure and Warnings in Sales Communications – (1) A written sales communication must

(a) bear the name of the 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 must 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 investment fund or asset allocation service] or returns on investment [in the investment 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 must 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.".

(3.1) A sales communication, other than a report to securityholders, of a non-redeemable investment fund that does not contain performance data must contain a warning in substantially the following words:

> [If the securities of the non-redeemable investment fund are listed or quoted on an exchange or other market, state the following:] "You will usually pay brokerage fees to your dealer if you purchase or sell [units or shares] of the investment fund on [state the exchange or other market on which the securities of the investment fund are listed or quoted]. If the [units or shares] are purchased or sold on [state the exchange or other market], investors may pay more than the current net asset value when buying [units or shares] of the investment fund and may receive less than the current net asset value when selling them."
>
> [State the following in all cases:] "There are ongoing fees and expenses associated with owning [units or shares] of an investment fund. An investment fund must prepare disclosure documents that contain key information about the fund. You can find more detailed information about the fund in these documents. Investment 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 must 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 must 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 must 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.".

(6.1) A sales communication, other than a report to securityholders, of a non-redeemable investment fund that contains performance data must contain a warning in substantially the following words:

[If the securities of the non-redeemable investment fund are listed or quoted on an exchange or other market, state the following:] "You will usually pay brokerage fees to your dealer if you purchase or sell [units or shares] of the investment fund on [state the exchange or other market on which the securities of the investment fund are listed or quoted]. If the [units or shares] are purchased or sold on [state the exchange or other market], investors may pay more than the current net asset value when buying [units or shares] of the investment fund and may receive less than the current net asset value when selling them."

[State the following in all cases:] "There are ongoing fees and expenses associated with owning [units or shares] of an investment fund. An investment fund must prepare disclosure documents that contain key information about the fund. You can find more detailed information about the fund in these documents. 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 [state the following, as applicable:] [certain fees such as redemption fees or optional charges or] income taxes payable by any securityholder that would have reduced returns. Investment 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 must 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 must 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 of the mutual fund described in the sales communication but before the issue of a receipt for its prospectus must contain a warning in substantially the following words:

"A preliminary 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 prospectus of the fund.".

(10) A sales communication for an investment 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 investment fund or asset allocation service must

(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 investment fund at the time; and

(d) modify any other disclosure required by this section appropriately.

(11) The warnings referred to in this section must 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.

15.5 Disclosure Regarding Distribution Fees – (1) A person or company must not 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 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 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 must

(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”, must 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 must 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 – (1) A sales communication pertaining to an investment fund or asset allocation service must not contain performance data of the investment fund or asset allocation service unless all of the following paragraphs apply:

(a) one of the following subparagraphs applies:

(i) in the case of a mutual fund, either of the following applies:

(A) the mutual fund has distributed securities under a prospectus in a jurisdiction for a period of at least 12 consecutive months;

(B) the mutual fund previously existed as a non-redeemable investment fund and has been a reporting issuer in a jurisdiction for a period of at least 12 consecutive months;

(ii) in the case of a non-redeemable investment fund, the non-redeemable investment fund has been a reporting issuer in a jurisdiction for at least 12 consecutive months;

(iii) in the case of an asset allocation service, the asset allocation service has been operated for at least 12 consecutive months and has invested only in participating funds each of which has distributed securities under a prospectus in a jurisdiction for at least 12 consecutive months;

(iv) if the sales communication pertains to an investment fund or asset allocation service that does not satisfy subparagraph (i), (ii) or (iii), the sales communication is sent only to one of the following:

(A) securityholders of the investment fund or participants in the asset allocation service;

(B) securityholders of an investment fund or participants in an asset allocation service under common management with the investment fund or asset allocation service;

(b) the sales communication includes standard performance data of the investment fund or asset allocation service and, in the case of a written sales communication, the standard performance data is presented in 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;

(d) except as permitted by subsection 15.3(3), the sales communication does not contain performance data for a period that is,

(i) in the case of a mutual fund, before the time when the mutual fund offered its securities under a prospectus;

(ii) in the case of a non-redeemable investment fund, before the non-redeemable investment fund was a reporting issuer;

(iii) in the case of an asset allocation service, before the asset allocation service commenced operation.

(2) Despite subparagraph (1)(d)(i), a sales communication pertaining to a mutual fund referred to in clause (1)(a)(i)(B) that contains performance data of the mutual fund must include performance data for the period that the fund existed as a non-redeemable investment fund and was a reporting issuer.

15.7 Advertisements – An advertisement for a mutual fund or asset allocation service must 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.

15.7.1 Advertisements for Non-Redeemable Investment Funds – An advertisement for a non-redeemable investment fund must not compare the performance of the non-redeemable investment fund with any benchmark or investment other than any of the following:

(a) one or more non-redeemable investment funds that are under common management or administration with the non-redeemable investment fund to which the advertisement pertains;

(b) one or more non-redeemable investment funds that have fundamental investment objectives that a reasonable person would consider similar to the non-redeemable investment fund to which the advertisement pertains;

(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 an investment fund other than a money market fund, must not provide standard performance data unless,

(a) to the extent applicable, the standard performance data has been calculated for 10, 5, 3 and one year periods,

(a.1) in the case of a mutual fund that has been offering securities by way of prospectus for more than one and less than 10 years, the standard performance data has been calculated for the period since the inception of the mutual fund,

(a.2) in the case of a non-redeemable investment fund that has been a reporting issuer for more than one and less than 10 years, the standard performance data has been calculated for the period since the inception of the non-redeemable investment fund, and

(b) the periods referred to in paragraphs (a), (a.1) and (a.2) 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 must not contain standard performance data unless,

(a) to the extent applicable, the standard performance data has been calculated for 10, 5, 3 and one year periods,

(a.1) in the case of a mutual fund that has been offering securities by way of prospectus for more than one and less than 10 years, the standard performance data has been calculated for the period since the inception of the mutual fund,

(a.2) in the case of a non-redeemable investment fund that has been a reporting issuer for more than one and less than 10 years, the standard performance data has been calculated for the period since the inception of the non-redeemable investment fund, and

(b) the periods referred to in paragraphs (a), (a.1) and (a.2) end on the day as of which the statement of financial position of the financial statements contained in the report to securityholders was prepared.

(4) A sales communication must clearly identify the periods for which performance data is calculated.

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 investment fund or asset allocation service to which the sales communication pertains that could have materially affected the performance of the investment fund or asset allocation service, the sales communication must 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

(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 an investment fund has, in the last 10 years, undertaken a reorganization with, or acquired assets from, another investment fund in a transaction that was a material change for the investment fund or would have been a material change for the investment fund had this Instrument been in force at the time of the transaction, then, in any sales communication of the investment fund,

(a) the investment fund must provide summary disclosure of the transaction;

(b) the investment 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 investment fund must 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 investment fund includes in the sales communication the performance data for itself and the other investment fund referred to in paragraph (b); and

(d) the investment fund must not include any performance data for any period that is composed of both time before and after the transaction.

15.10 Formula for Calculating Standard Performance Data – (1) The standard performance data of an investment fund must be calculated in accordance with this Part.

(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, as calculated in each case in accordance with this Part,

(a) for a money market fund, either of the following:

(i) the current yield;

(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 investment fund other than a money market fund, the total return; and

"total return" means the annual compounded rate of return for an investment 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 an investment fund, the redeemable value and initial value of securities of an investment fund must be the net asset value of one unit or share of the investment 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 an investment fund may assume a hypothetical investment of one security of the investment fund and be calculated as follows:

(a) "initial value" means the net asset value of one unit or share of an investment fund at the beginning of the performance measurement period; and

(b) "redeemable value" =

$$R \times (1 + D1/P1) \times (1 + D2/P2) \times (1 + D3/P3) \ldots \times (1 + D_n/P_n)$$

where R = the net asset value of one unit or security of the investment fund at the end of the performance measurement period,

D = the dividend or distribution amount per security of the investment fund at the time of each distribution,

P = the dividend or distribution reinvestment price per security of the investment 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 must be based upon the standard performance data of its participating funds.

(6) Performance data

(a) for an investment fund other than a money market fund must be calculated to the nearest one-tenth of one percent; and

(b) for a money market fund must be calculated to the nearest one-hundredth of one percent.

15.11 Assumptions for Calculating Standard Performance Data – (1) The following assumptions must be made in the calculation of standard performance data of an investment 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 investment fund are accrued or paid.

4. Dividends or distributions by the investment fund are reinvested in the investment fund at the net asset value per security of the investment 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. In the case of a mutual fund, 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.

7. In the case of a non-redeemable investment fund, a complete redemption occurs at the net asset value of one security 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 must 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 must be based on actual historical performance and the fees and charges payable by the investment 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 prospectus of the mutual fund described in the sales communication but before the issue of a receipt for its prospectus, the sales communication must 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 investment fund must be described by a term that is not and does not include the word “shares”.

(2) A communication by an investment fund or asset allocation service, its promoter, manager, portfolio adviser, principal distributor, participating dealer or a person providing services to the investment fund or asset allocation service must not describe the investment fund as ~~a commodity pool~~an alternative fund or as a vehicle for investors to participate in the speculative trading of, or leveraged ~~investment~~investments in, derivatives, unless the investment fund is ~~a commodity pool~~an alternative fund as defined in ~~National~~this Instrument~~ 81-104 Commodity Pools~~..

15.14 Sales Communication – Multi-Class Investment Funds – A sales communication for an investment fund that distributes different classes or series of securities that are referable to the same portfolio must not contain performance data unless the sales communication complies with the following requirements:

1. The sales communication clearly specifies the class or series of security to which any performance data contained in the sales communication relates.

2. If the sales communication refers to more than one class or series of security and provides performance data for any one class or series, the sales communication must provide performance data for each class or series of security referred to in the sales communication and must clearly explain the reasons for different performance data among the classes or series.

3. A sales communication for a new class or series of security and an existing class or series of security must not contain performance data for the existing class or series unless the sales communication clearly explains any differences between the new class or series and the existing class or series that could affect performance.

PART 16 [Repealed]

PART 17 [Repealed]

PART 18 SECURITYHOLDER RECORDS

18.1 Maintenance of Records – An investment fund that is not a corporation must maintain, or cause to be maintained, up to date records of

(a) the names and latest known addresses of each securityholder of the investment fund;

(b) the number and class or series of a class of securities held by each securityholder of the investment fund; and

(c) the date and details of each issue and redemption of securities, and each distribution, of the investment fund.

18.2 Availability of Records – (1) An investment fund that is not a corporation must 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 either of the following:

(a) in the case of a mutual fund, 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;

(b) in the case of a non-redeemable investment fund, attempting to influence the voting of securityholders of the non-redeemable investment fund or a matter relating to the relationships among the non-redeemable investment fund, the manager and portfolio adviser of the non-redeemable investment fund and any of their affiliates, and the securityholders, partners, directors and officers of those entities.

(2) An investment fund must, upon written request by a securityholder of the investment 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 investment fund or a matter relating to the administration of the investment fund; and

(b) has paid a reasonable fee to the investment fund that does not exceed the reasonable costs to the investment 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 prospectus of the mutual fund.

(3) A mutual fund that intends to rely upon subsection (1) must, at the time of the first filing of its *pro forma* 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.

19.3 Revocation of Exemptions – (1) A mutual fund that has obtained an exemption or waiver from, or approval under, National Policy Statement No. 39 or this Instrument before December 31, 2003, that relates to a mutual fund investing in other mutual funds, may no longer rely on the exemption, waiver or approval as of December 31, 2004.

(2) In British Columbia, subsection (1) does not apply.

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

(a) printed before February 1, 2000; or

(b) that include only financial statements that relate to financial periods that ended before February 1, 2000.

20.4 Mortgage Funds

(1) Paragraphs 2.3(1)(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 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.

(2) If a non-redeemable investment fund has adopted fundamental investment objectives to permit it to invest in mortgages, paragraph 2.3(2)(b) does not apply to the non-redeemable investment fund, if the non-redeemable investment fund was established, and has a prospectus for which a receipt was issued, on or before September 22, 2014.

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~~
~~Irish Futures and Options Exchange~~

~~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~~

~~**United States**~~
~~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 (NYMECX)~~
~~New York Board of Trade (NYBOT)~~
~~Pacific Stock Exchange~~
~~Philadelphia Board of Trade (PBOT)~~
~~Twin Cities Board of Trade~~

[Repealed]

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 standards for assurance engagements set out in the CICA Handbook – Assurance. 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 statement of compliance for the year ended [insert date] complies, in all material respects, 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 standards for assurance engagements set out in the CICA Handbook – Assurance. 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 statement of compliance for the year ended [insert date] complies, in all material respects, 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 standards for assurance engagements set out in the CICA Handbook – Assurance. 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 statement of compliance for the year ended [insert date] complies, in all material respects, 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

National Instrument 81-102
Appendix C

Provisions Contained in Securities Legislation
for the Purpose of Subsection 4.1(5) – Prohibited Investments

Jurisdiction	**Securities Legislation Reference**
All Jurisdictions	s. 13.6 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*
Newfoundland and Labrador	s. 191 of Reg 805/96

National Instrument 81-102
Appendix D

Investment Fund Conflict of Interest Investment Restrictions

Jurisdiction	**Securities Legislation Reference**
All Jurisdictions	ss. 13.5(2)(a) and (b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*
Alberta	ss. 185(2) and (3) of the *Securities Act* (Alberta)
British Columbia	s. 6(2) of BC Instrument 81-513 *Self-Dealing*
New Brunswick	s. 137(2) of the *Securities Act* (New Brunswick)
Newfoundland and Labrador	ss. 112(2), 112(3), 119(2)(a) and 119(2)(b) of the *Securities Act* (Newfoundland and Labrador)
Nova Scotia	ss. 119(2) and (3) of the *Securities Act* (Nova Scotia)
Ontario	ss. 111(2) and (3) of the *Securities Act* (Ontario)
Saskatchewan	ss. 120(2) and (3) of the *The Securities Act*, 1988 (Saskatchewan)

National Instrument 81-102
Appendix E

Investment Fund Conflict of Interest Reporting Requirements

Jurisdiction	**Securities Legislation Reference**
Alberta	s. 191(1)(a) of the *Securities Act* (Alberta)
British Columbia	s. 9(a) of BC Instrument 81-513 *Self-Dealing*
New Brunswick	s. 143(1)(a) of the *Securities Act* (New Brunswick)
Newfoundland and Labrador	s. 118(1)(a) of the *Securities Act* (Newfoundland and Labrador)
Nova Scotia	s. 125(1)(a) of the *Securities Act* (Nova Scotia)
Ontario	s. 117(1)(a) of the *Securities Act* (Ontario)
Saskatchewan	s. 126(1)(a) of the *The Securities Act*, 1988 (Saskatchewan)

ANNEX D-3

PROPOSED CHANGES TO
COMPANION POLICY 81-102CP TO
NATIONAL INSTRUMENT 81-102 *INVESTMENT FUNDS*

1. Companion Policy 81-102CP to National Instrument 81-102 Investment Funds is amended by this Document.

2. Part 2 is changed by adding the following sections:

2.01 "alternative funds" – The Instrument defines the term "alternative fund" as a mutual fund that has adopted fundamental investment objectives that permit it to invest in asset classes or adopt investment strategies that are otherwise prohibited but for prescribed exemptions from Part 2 of this Instrument. This generally refers to the ability to adopt higher concentration limits, invest in commodities, as well as employ leverage, through borrowing cash, selling securities short or by invest in specified derivatives. This term replaced the term "commodity pool" that was defined under the former National Instrument 81-104 *Commodity Pools* (NI 81-104), which has been repealed. The Canadian securities regulatory authorities will generally deem a mutual fund that was a commodity pool under NI 81-104 to be an alternative fund under this Instrument and will therefore be subject to the provisions in this Instrument applicable to alternative funds. This definition contemplates that the alternative fund's fundamental investment objectives will reflect those fundamental features that distinguish an alternative fund from other types of mutual funds. We would therefore expect that a "conventional" mutual fund that intends to become an alternative fund would need to amend its investment objectives to do so, which would require securityholder approval under Part 5 of the Instrument.

2.3.1 "cleared specified derivative" – the definition of "cleared specified derivative" is intended to apply to derivatives transactions that take place through the facilities of a clearing corporation, where that clearing corporation has been registered or authorized by one of the US Securities and Exchange Commission, the US Commodity Futures Trading Commission or the European Securities and Markets Authority, or is generally recognized as a clearing agency in Canada. This term is part of the codification of certain exemptive relief granted in connection with the adoption of the *Dodd-Frank Wall Street Reform and Consumer Protection Act* in the US and similar legislation in Europe (Dodd-Frank), which mandated that certain types of derivatives transactions be cleared through a clearing corporation registered or authorized by the applicable regulatory agency in the US or Europe. In practice, our expectation is that, given the global efforts to coordinate the clearing mandates of the Dodd-Frank legislation most clearing corporations in operation will be approved by more than one, if not each of the agencies referenced in that definition. The definition of cleared specified derivative in the Instrument does not refer only to those derivatives required to be cleared; it includes derivatives that are voluntarily cleared under the same infrastructure as those subject to mandatory clearing obligation. The Instrument provides exceptions from certain of the restrictions on specified derivatives transactions in section 2.7 for cleared specified derivatives transactions, in recognition of the mandates of the Dodd-Frank legislation, including the protections and safeguards built into that clearing corporation infrastructure, consistent with the exemptive relief orders.*.*

3. Part 3 is changed by adding the following sections:

3.6.1 Cash Borrowing, Short Selling – (1) Subsection 2.6(2) provides an exemption from the general prohibition on cash borrowing by investment funds to allow alternative funds and non-redeemable investment funds to borrow up to 50% of their net asset value. This is to help facilitate the use of certain alternative strategies that require may require a fund to borrow cash. Borrowing under this provision will be subject to certain restrictions, including restrictions on persons or companies that may act as lenders. Specifically, a fund may only borrow cash from a lender that meets the criteria to qualify as a custodian or sub-custodian under section 6.2 of this Instrument, which is restricted to entities incorporated or registered in Canada. This may include a fund's own custodian or sub-custodian. However, if the proposed lender is an affiliate of the funds' investment fund manager, approval of the fund's independent review committee will be required as this will be viewed as a conflict of interest. Despite this, the Canadian securities regulatory authorities will generally expect that a fund will only seek to borrow from a lender that is an affiliate of the investment fund manager where it is clear that such as arrangement is in the investment fund's best interest, relative to the alternatives.

(2) For short-selling, section 2.6.1 permits alternative funds to exceed the limits on short-selling applicable to mutual funds generally and also exempts alternative funds from the restrictions on cash cover and using the proceeds from short sales to purchase long positions in a security. This is intended to facilitate the use of "long/short" strategies, which is a common strategy in the alternative fund space.

(3) Section 2.6.2 limits the use of these special exemptions for cash borrowing and short-selling by alternative funds, by imposing an overall combined cap on the use of these strategies to 50% of an alternative fund's net asset value. This reflects the view of the Canadian securities regulators that the special exemptions on the short-selling

restrictions for alternative funds under section 2.6.1 are another means of facilitating borrowing by the fund. The intent is to limit overall borrowing by an alternative fund to 50% of NAV, whether it is through direct cash borrowing, short selling or a combination of both.

3.6.2 Total Leverage – Section 2.9.1 limits a fund's total exposure through borrowing, short selling or the use of specified derivatives to no more than 3 times the fund's net asset value. This overall limit is in addition to any specific limits applicable to borrowing, short-selling or specified derivatives transactions. For the purposes of the overall leverage limit, the fund's total exposure is to be calculated as the sum of the total amount of cash borrowed by the fund, the market value of all securities sold short, and the gross notional amount of its specified derivatives positions, in the latter case. The calculation of the specified derivatives positions does not allow for any offsetting of hedging transactions. It is intended to reflect a fund's total exposure to transactions that may create leverage, and is not necessarily intended as a measure of the fund's risk exposure. However, we do expect that the prospectus or other disclosure documents of any investment fund that uses leverage will include specific disclosure concerning the risks associated with these strategies."

3.6.3 Notional Amount – Section 2.9.1 requires an investment fund to determine the notional amount of all of the fund's specified derivatives positions. The Canadian securities regulators are not mandating any specific method to calculate the notional amount of a specified derivative. However, we expect the investment fund to use generally recognized standards to determine the notional amount of a specified derivative and to apply the same methodology consistently when calculating its aggregate gross exposure or its net asset value.*.*

4. This document become effective on ●.

ANNEX E

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 81-106 *INVESTMENT FUND CONTINUOUS DISCLOSURE*

1. National Instrument 81-106 Investment Fund Continuous Disclosure is amended by this Instrument.

2. Subsection 1.3(3) is amended by deleting "National Instrument 81-104 *Commodity Pools* or***" and by replacing "***those Instruments***" with "***that Instrument***".***

3. The Instrument is amended by adding the following section:

3.12 Disclosure of Leverage – (1) An investment fund that uses leverage must disclose in its financial statements the lowest and highest level of leverage experienced by the investment fund in the reporting period covered by the financial statements, together with a brief explanation of the sources of leverage (e.g. borrowing, short selling or use of derivatives) used, how the investment fund calculates leverage as set out in section 2.9.1 of National Instrument 81-102 *Investment Funds* and the significance to the investment fund of the lowest and highest levels of leverage.

(2) The information required by subsection (1) may be included in the body of the financial statements or in the notes to the financial statements.***.***

4. Form 81-106F1 Contents of Annual and Interim Management Report of Fund Performance is amended

(a) in Item 2.3 of Part B by adding the following subsection:

(3) An investment fund that uses leverage must disclose,

(a) a brief explanation on the sources of leverage (e.g., borrowing, short selling, use of derivatives) used during the period;

(b) the lowest and highest level of leverage experienced during the period; and

(c) the significance of the lowest and highest levels of leverage to the investment fund.***, and***

(b) by replacing the Instruction to Item 2.3 of Part B with the following:

INSTRUCTIONS:

(1) Explain the nature of and reasons for changes in the investment fund's performance. Do not simply disclose the amount of change in a financial statement item from period to period. Avoid the use of boilerplate language. Your discussion should assist the reader to understand the significant factors that have affected the investment fund's performance.

*(2) For the purposes of the disclosure required in Item 2.3(3), an investment fund's leverage must be calculated as set out in section 2.9.1 of National Instrument 81-102 Investment Funds.****.***

5. This Instrument comes into force on ●.

ANNEX F

PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 81-107 *INDEPENDENT REVIEW COMMITTEE FOR INVESTMENT FUNDS*

1. National Instrument 81-107 Independent Review Committee for Investment Funds is amended by this Instrument.

2. Subsection 5.2(1) is amended

(a) in paragraph (b) by deleting "or"**,**

(b) in paragraph (c) replacing "." **with** "; or"**, and**

(c) by adding the following paragraph:

(d) a transaction in which an investment fund intends to borrow cash from an entity described in paragraph 2.6(2)(b) of National Instrument 81-102 *Investment Funds*.**.**

3. Section 1 of the Commentary to Section 5.2 of the Instrument is changed by adding "or Part 2 and***" after "***Part 6 of this Instrument***" and by deleting "***or***" before "***Part 4 of NI 81-102***".***

4. This Instrument comes into force on ●.

ANNEX G

PROPOSED 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 1.3 is amended by adding "*or*" at the end of paragraph (a) and by repealing paragraph (b).

3. Section 5.1 is amended by adding the following subsection:

(4) Despite subsection (1), a simplified prospectus for an alternative fund must not be consolidated with a simplified prospectus of another mutual fund other than an alternative fund.***.***

4. Form 81-101F1 Contents of Simplified Prospectus is amended

(a) by adding the following under the general instructions:

*(14.1) Subsection 5.1(4) of NI 81-101 states that a simplified prospectus of an alternative fund must not be consolidated with a simplified prospectus of another mutual fund that is not an alternative fund.****,***

(b) by adding the following after Item 1.1(2) of Part A:

(2.1) If the mutual fund to which the simplified prospectus pertains is an alternative fund, indicate this on the front cover.***,***

(c) by adding the following after instruction (3) under Item 6 of Part B:

(4) If the mutual fund is an alternative fund, describe the asset classes that the mutual fund invests in or the investment strategies that the mutual fund follows that cause it to fall within the definition of "alternative fund" in NI 81-102. If those investment strategies involve the use of leverage, disclose the sources of leverage (e.g., borrowing, short selling, use of derivatives) as well as the maximum amount of leverage the alternative fund may use as a ratio calculated in accordance with section 2.9.1 of National Instrument 81-102 by dividing the sum of the following by the net asset value of the alternative fund:

(a) the aggregate value of the alternative fund's indebtedness under any borrowing agreements entered into by the fund;

(b) the aggregate market value of securities to be sold short by the alternative fund;

*(c) the aggregate notional amount of the alternative fund's exposure under its specified derivatives positions.****,***

(d) by adding the following after Item 7(10) of Part B:

(11) For an alternative fund that borrows cash under subsection 2.6 (2) of NI 81-102

(a) state that the alternative fund may borrow cash and the maximum amount the fund may borrow, and

(b) briefly describe how borrowing will be used in conjunction with other strategies of the alternative fund to achieve its investment objectives and the terms of the borrowing arrangements.***,***

(e) by adding the following after Item 9(2) of Part B:

(2.1) For an alternative fund, include disclosure to the effect that the alternative fund has the ability to invest in asset classes or use investment strategies that are not permitted for conventional mutual funds and explain how these investment strategies may affect investors' chance of losing money on their investment in the fund.***,***

(f) by deleting "*and*" at the end of paragraph (b) of Item 9(7) of Part B,

(g) by replacing "*.*" at the end of paragraph (c) of Item 9(7) of Part B with "*; and*",

(h) by adding the following after paragraph (c) of Item 9(7) of Part B:

(d) borrowing arrangements.***.***

5. Form 81-101F2 Contents of Annual Information Form is amended

(a) by adding the following after Item 1.1(2):

(2.1) If the mutual fund to which the annual information form pertains is an alternative fund, indicate this on the front cover.***,***

(b) by adding the following after Item 10.9.1

10.9.2 Lender

(1) State the name of each person or company that has lent money to the alternative fund.

(2) State whether any person or company that has lent money to the alternative fund is an affiliate or associate of the manager of the alternative fund.***.***

6. Form 81-101F3 Contents of Fund Facts Document is amended

(a) by adding the following after paragraph (f) of Item 1 of Part I:

(g) if the fund facts document pertains to an alternative fund, textbox disclosure using wording substantially similar to the following:

This mutual fund is an alternative fund. It has the ability to invest in asset classes or use investment strategies that are not permitted for conventional mutual funds.

The specific strategies that differentiate this fund from conventional mutual funds include: [list the asset classes the alternative fund invests in and/or the investment strategies used by the alternative fund that cause it to fall within the definition of "alternative fund" in NI 81-102].

[Explain how the listed investment strategies may affect investors' chance of losing money on their investment in the alternative fund.]***,***

Note: The CSA is currently working on the development of an ETF Facts for exchange traded mutual funds. We anticipate including a similar disclosure requirement in Form 41-101F4.

(b) by replacing the Instruction under Item 1 of Part I with the following:

INSTRUCTIONS:

(1) The date for a fund facts document that is filed with a preliminary simplified prospectus or simplified prospectus must be the date of the certificate contained in the related annual information form. The date for a fund facts document that is filed with a pro forma simplified prospectus must be the date of the anticipated simplified prospectus. The date for an amended fund facts document must be the date of the certificate contained in the related amended annual information form.

(2) If the fund facts document pertains to an alternative fund that uses leverage, the required textbox disclosure must disclose the sources of leverage. It must also disclose the maximum amount of leverage the alternative fund may use, along with the minimum and maximum amount of leverage experienced by the alternative fund as disclosed in the most recently filed interim financial reports and audited financial statements. For a newly established alternative that has not yet filed any financial statements, state the expected range of leverage.

(3) Leverage must be disclosed as a ratio calculated by dividing the sum of the following by the net asset value of the alternative fund:

(a) *the aggregate value of the alternative fund's indebtedness under any borrowing agreements entered into by the fund;*

(b) *the aggregate market value of securities to be sold short by the alternative fund;*

(c) *the aggregate notional amount of the alternative fund's exposure under its specified derivatives transactions.***.**

Note: The CSA is currently working on the development of an ETF Facts for exchange traded mutual funds. We anticipate including a similar disclosure requirement in Form 41-101F4.

7. This Instrument comes into force on ●.

ANNEX H

PROPOSED AMENDMENTS TO NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS*

1. National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.

2. Form 41-101F2 Information Contained in an Investment Fund Prospectus is amended

(a) by replacing "**commodity pool**" in Item 1.3(1) with "**alternative fund**",

(b) by adding the following after Item 1.3(3)

(4) If the mutual fund to which the prospectus pertains is an alternative fund, include a statement explaining that the fund has the ability to invest in asset classes or use investment strategies that are not permitted for conventional mutual funds and explain how exposure to such asset classes or the adoption of such investment strategies may affect investors' chance of losing money on their investment in the fund.***,***

(c) by repealing Item 1.12,

(d) by replacing paragraph (e) of Item 3.3(1) with the following:

(e) the use of leverage, including the following:

(i) the maximum amount of leverage the investment fund may use as a ratio calculated in accordance with section 2.9.1 of National Instrument 81-102 by dividing the sum of the following by the net asset value of the alternative fund:

(A) the aggregate value of the investment funds' indebtedness under any borrowing agreements entered into by the fund;

(B) the aggregate market value of securities to be sold short by the investment fund;

(C) the aggregate notional amount of the investment fund's exposure under its specified derivatives transactions,

(ii) any restrictions on the leverage used or to be used by the investment fund, and

(iii) a brief explanation of any maximum or minimum limits that apply to each source of leverage.***,***

(e) by adding the following after instruction (3) under Item 5:

(4) If the mutual fund is an alternative fund, describe the asset classes that the mutual fund invests in or the investment strategies that the mutual fund follows that cause it to fall within the definition of "alternative fund" in NI 81-102. If those investment strategies involve the use of leverage, disclose the sources of leverage (e.g., borrowing, short selling, use of derivatives) as well as the maximum amount of leverage the alternative fund may use as a ratio calculated in accordance with section 2.9.1 of National Instrument 81-102 by dividing the sum of the following by the net asset value of the alternative fund:

(a) the aggregate value of the alternative fund's indebtedness under any borrowing agreements entered into by the fund;

(b) the aggregate market value of securities to be sold short by the alternative fund;

*(c) the aggregate notional amount of the alternative fund's exposure under its specified derivatives transactions.***,***

(f) by replacing paragraph (b) of Item 6.1(1) with the following:

(b) the use of leverage, including the following:

(i) any restrictions on the leverage used or to be used by the investment fund, and

(ii) a brief explanation of any maximum and minimum limits that apply to amounts of leverage to the investment fund.***,***

(g) by adding the following after Item 6.1(6):

(7) For an alternative fund that borrows cash under subsection 2.6 (2) of National Instrument 81-102 *Investment Funds*,

(a) state that the alternative fund may borrow cash and the maximum amount the fund may borrow, and

(b) briefly describe how borrowing will be used in conjunction with other strategies of the alternative fund to achieve its investment objectives and the terms of the borrowing arrangements.***,***

(h) by adding the following after Item 19.11

19.12 Lender

(1) State the name of each person or company that has lent money to the investment fund.

(2) State whether any person or company that has lent money to the investment fund is an affiliate or associate of the manager of the investment fund.***.***

3. This Instrument comes into force on ●.

ANNEX I

ONTARIO RULE-MAKING AUTHORITY
AUTHORITY FOR THE PROPOSED AMENDMENTS

The following provisions of the *Securities Act* (Ontario) (the Act) provide the Commission with authority to adopt the Proposed Amendments:

Subparagraph 143(1)2(i) of the Act authorizes the Commission to make rules prescribing the standards of practice and business conduct of registrants in dealing with their customers and clients and prospective customers and clients.

Paragraph 143(1)7 of the Act authorizes the Commission to make rules prescribing requirements in respect of the disclosure or furnishing of information to the public or the Commission by registrants or providing for exemptions from or varying the requirements under this Act in respect of the disclosure or furnishing of information to the public or the Commission by registrants.

Paragraph 143(1)31 of the Act authorizes the Commission to make rules regulating investment funds and the distribution and trading of the securities of investment funds, including

- making rules varying Part XV (Prospectuses – Distribution) or Part XVIII (Continuous Disclosure) by prescribing additional disclosure requirements in respect of investment funds and requiring or permitting the use of particular forms or types of additional offering or other documents in connection with the funds (subparagraph (i));
- making rules prescribing permitted investment policy and investment practices for investment funds and prohibiting or restricting certain investments or investment practices for investment funds (subparagraph (ii));
- making rules prescribing requirements for investment funds in respect of derivatives (subparagraph (ii.1));
- making rules prescribing requirements governing the custodianship of assets of investment funds (subparagraph (iii));
- making rules prescribing minimum initial capital requirements for investment funds making a distribution (subparagraph (iv)); and
- making rules prescribing procedures applicable to investment funds, registrants and any other person or company in respect of sales and redemptions of investment fund securities (subparagraph (xi)).

Paragraph 143(1)34 of the Act authorizes the Commission to make rules regulating commodity pools.

Paragraph 143(1)49 of the Act authorizes the Commission to make rules permitting or requiring, or varying the Act to permit or require, methods of filing or delivery, to or by the Commission, issuers, registrants, security holders or others, of documents, information, notices, books, records, things, reports, orders, authorizations or other communications required under or governed by Ontario securities law.

Paragraph 143(1)53 of the Act authorizes the Commission to make rules providing for exemptions from or varying the requirements of section 71.

Paragraph 143(1)54.1 of the Act authorizes the Commission to prescribe investment fund securities that are trading on an exchange or an alternative trading system for the purpose of subsection 71(1.2), prescribing the disclosure document that is required in respect of prescribed investment fund securities under subsection 71(1.3), prescribing the time and manner for sending or delivering the disclosure document, and prescribing the circumstances in which a purchase is not binding on a purchaser for the purpose of subsection 71(2.1).

Subparagraph 143(1)62 of the Act authorizes the Commission to make rules prescribing the matter affecting an investment fund that require review by the independent review committee.

Chapter 7

Insider Reporting

This chapter is available in the print version of the OSC Bulletin, as well as as in Carswell's internet service SecuritiesSource (see www.carswell.com).

This chapter contains a weekly summary of insider transactions of Ontario reporting issuers in the System for Electronic Disclosure by Insiders (SEDI). The weekly summary contains insider transactions reported during the seven days ending Sunday at 11:59 pm.

To obtain Insider Reporting information, please visit the SEDI website (www.sedi.ca).

Chapter 11

IPOs, New Issues and Secondary Financings

Issuer Name:
Bell Canada
Principal Regulator – Quebec
Type and Date:
Preliminary Base Shelf Prospectus dated September 13, 2016
NP 11-202 Receipt dated September 13, 2016
Offering Price and Description:
$4,000,000.000.00 – Debt Securities (Unsecured)
Unconditionally guaranteed as to payment of principal, interest and other payment obligations by BCE Inc.
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2533235

Issuer Name:
First Capital Realty Inc.
Principal Regulator – Ontario
Type and Date:
Preliminary Base Shelf Prospectus dated September 13, 2016
NP 11-202 Receipt dated September 14, 2016
Offering Price and Description:
$2,000,000,000.00
Common Shares
Warrants to Purchase Common Shares
Debt Securities
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2533492

Issuer Name:
June 2020 Corporate Bond Trust
Principal Regulator – Quebec
Type and Date:
Amended and Restated Preliminary Long Form Prospectus dated September 13, 2016
NP 11-202 Receipt dated September 14, 2016
Offering Price and Description:
Maximum Offering: $ * – * Units
Minimum Offering:$15,000,000 – 1,500,000 Units
Minimum Purchase: 500 Units
Price: $10.00 per Class A Unit and Class T Unit
Underwriter(s) or Distributor(s):
National Bank Financial Inc.
BMO Nesbitt Burns Inc.
CIBC World Markets Inc.
Scotia Capital Inc.
GMP Securities L.P.
Canaccord Genuity Corp.
Raymond James Ltd.
Desjardins Securities Inc.
Industrial Alliance Securities Inc.
Manulife Securities Incorporated
Echelon Wealth Partners Inc.
Mackie Research Capital Corporation
Promoter(s):
Fiera Capital Corporation
Project #2531275

Issuer Name:
Lateral Gold Corp.
Principal Regulator – British Columbia
Type and Date:
Preliminary Short Form Prospectus dated September 15, 2016
NP 11-202 Receipt dated September 15, 2016
Offering Price and Description:
$5,000,000.00 – * Subscription Receipts each representing the right to receive one Underlying Share
Price of $ * per Subscription Receipt
Underwriter(s) or Distributor(s):
Canaccord Genuity Corp.
Echelon Wealth Partners Inc.
Promoter(s):
-
Project #2534112

Issuer Name:
Leith Wheeler U.S. Small/Mid-Cap Equity Fund
Principal Regulator – British Columbia
Type and Date:
Preliminary Simplified Prospectus dated September 15, 2016
NP 11-202 Receipt dated September 15, 2016
Offering Price and Description:
Series B and Series F Units
Underwriter(s) or Distributor(s):
Leith Wheeler Investment Funds Ltd.
Leith Wheeler Investment Funds Ltd.
Promoter(s):
Leith Wheeler Investment Counsel Ltd.
Project #2534176

Issuer Name:
Liquor Stores N.A. Ltd.
Principal Regulator – Alberta
Type and Date:
Preliminary Short Form Prospectus dated September 14, 2016
NP 11-202 Receipt dated September 14, 2016
Offering Price and Description:
$67,500,000.00 – 4.70% Convertible Unsecured Subordinated Debentures
Price: $1,000 per Debenture
Underwriter(s) or Distributor(s):
CIBC WORLD MARKETS INC.
NATIONAL BANK FINANCIAL INC.
CORMARK SECURITIES INC.
RBC DOMINION SECURITIES INC.
SCOTIA CAPITAL INC.
PI FINANCIAL CORP.
Promoter(s):
-
Project #2532626

Issuer Name:
Manitok Energy Inc.
Principal Regulator – Alberta
Type and Date:
Preliminary Base Shelf Prospectus dated September 16, 2016
NP 11-202 Receipt dated September 16, 2016
Offering Price and Description:
$150,000,000.00
Common Shares
Preferred Shares
Debt Securities
Subscription Receipts
Warrants
Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2534391

Issuer Name:
Mercer International Inc.
Principal Regulator – British Columbia
Type and Date:
Preliminary MJDS Prospectus dated September 15, 2016
NP 11-202 Receipt dated September 15, 2016
Offering Price and Description:
US$650,000,000.00
Debt Securities
Common Stock
Preferred Stock
Warrants to Purchase Common Stock or Debt Securities
Any Combination of the Above
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2534163

Issuer Name:
QuantShares Enhanced Core Canadian Equity ETF
QuantShares Enhanced Core Emerging Markets Equity ETF
QuantShares Enhanced Core International Equity ETF
QuantShares Enhanced Core US Equity ETF
QuantShares Global Equity Rotation ETF
QuantShares MultiAsset Allocation ETF
QuantShares MultiAsset Income Allocation ETF
Principal Regulator – Ontario
Type and Date:
Preliminary Long Form Prospectus dated September 15, 2016
NP 11-202 Receipt dated September 15, 2016
Offering Price and Description:
Series A Units
Underwriter(s) or Distributor(s):
-
Promoter(s):
AGF Investments Inc.
Project #2534015

Issuer Name:
Canadian Western Bank
Principal Regulator – Alberta
Type and Date:
Final Base Shelf Prospectus dated September 16, 2016
NP 11-202 Receipt dated September 19, 2016
Offering Price and Description:
$750,000,000.00 – Debt Securities (subordinated indebtedness) Common Shares First Preferred Shares
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2532590

Issuer Name:
Chou Asia Fund
Chou Associates Fund
Chou Bond Fund
Chou Europe Fund
Chou RRSP Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectuses dated September 14, 2016
NP 11-202 Receipt dated September 16, 2016
Offering Price and Description:
Series A and F units
Underwriter(s) or Distributor(s):
-
Promoter(s):
-
Project #2518500

Issuer Name:
First Asset Cambridge Core Canadian Equity ETF
First Asset Cambridge Core U.S. Equity ETF
Principal Regulator – Ontario
Type and Date:
Final Long Form Prospectus dated September 12, 2016
NP 11-202 Receipt dated September 15, 2016
Offering Price and Description:
units and unhedged units
Underwriter(s) or Distributor(s):
-
Promoter(s):
FIRST ASSET INVESTMENT MANAGEMENT INC.
Project #2515653

Issuer Name:
Front Range Resources Ltd.
Principal Regulator – Alberta
Type and Date:
Final Short Form Prospectus dated September 16, 2016
NP 11-202 Receipt dated September 16, 2016
Offering Price and Description:
Up to $20,000,000.30 – 28,571,429 Common Shares of which
Up to $6,999,999.75 – 8,641,975 shares may be issued as Flow-Through Shares
Price: $0.70 per Common Share and $0.81 per Flow-Through Share
Underwriter(s) or Distributor(s):
Sprott Private Wealth LP
GMP Securities LP

Promoter(s):
-
Project #2532345

Issuer Name:
Greystone Canadian Equity Income & Growth Fund
Morningstar Strategic Canadian Equity Fund
Principal Regulator – Ontario
Type and Date:
Final Simplified Prospectuses dated September 14, 2016
NP 11-202 Receipt dated September 15, 2016
Offering Price and Description:
Series A units, Series D units, Series F units, Series K units, Series M units and Series I units
Underwriter(s) or Distributor(s):
-
Promoter(s):
Brandes Investment Partners & Co.
Project #2517821

Issuer Name:
Noront Resources Ltd.
Principal Regulator – Ontario
Type and Date:
Final Short Form Prospectus dated September 16, 2016
NP 11-202 Receipt dated September 19, 2016
Offering Price and Description:
Maximum $10,000,000.00
Minimum $3,000,000.00:
25,000,000 Units
5,000,000 Flow-Through Units
Price: $0.32 per Unit; $0.40 per Flow-Through Unit
Underwriter(s) or Distributor(s):
Secutor Capital Management Corporation
Promoter(s):
-
Project #2531960

Issuer Name:
RBC Quant Global Real Estate Leaders ETF
Principal Jurisdiction – Ontario
Type and Date:
Preliminary Long Form Prospectus dated July 22, 2016
Withdrawn on September 13, 2016
Offering Price and Description:
CAD and USD units
Underwriter(s) or Distributor(s):
RBC Global Asset Management Inc.
Promoter(s):
RBC Global Asset Management Inc.
Project #2509619

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Chapter 12

Registrations

12.1.1 Registrants

Type	Company	Category of Registration	Effective Date
Consent to Suspension (Pending Surrender)	BMG Financial Services Corp.	Exempt Market Dealer	September 9, 2016
Change in Registration Category	Addenda Capital Inc.	From: Investment Fund Manager, Portfolio Manager and Commodity Trading Manager To: Investment Fund Manager, Portfolio Manager, Commodity Trading Manager and Exempt Market Dealer	September 14, 2016
New Registration	Liberty House Asset Management Inc.	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	September 14, 2016
Voluntary Surrender	Maple Securities Canada Limited	Investment Dealer	September 14, 2016
New Registration	Vault Circle Inc.	Exempt Market Dealer	September 14, 2016
New Registration	Sanford C. Bernstein (Canada) Limited	Investment Dealer	September 15, 2016
Consent to Suspension (Pending Surrender)	Open Avenue Inc.	Exempt Market Dealer	September 15, 2016
New Registration	Viewpoint Investment Partners Corporation	Investment Fund Manager, Portfolio Manager and Exempt Market Dealer	September 16, 2016

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Chapter 13

SROs, Marketplaces, Clearing Agencies and Trade Repositories

13.2 Marketplaces

13.2.1 TriAct Canada Marketplace LP – Changes to Form 21-101F2 – Notice of Approval

TRIACT CANADA MARKETPLACE LP

NOTICE OF APPROVAL OF PROPOSED CHANGE

On September 13, 2016, the Ontario Securities Commission (OSC) approved amendments proposed by TriAct Canada Marketplace LP (TriAct) to Form 21-101F2. TriAct proposed the following changes to the MATCHNow trading system:

- Offer its subscribers an all or none (AON) mixed lot feature to ensure that orders marked as such are not executed on MATCHNow unless MATCHNow is able to execute both the board lot portion and odd lot portion of those orders. In the event that an AON mixed lot order cannot be filled in its entirety on the MATCHNow trading system, the order will be rejected, and the subscriber will then be able to re-route the order to another marketplace.

- Establish a new feature that would allow subscribers to send Immediate of Cancel Marketflow orders that would be eligible for execution at the mid-point and Minimal Price Improvement (MPI) levels. MATCHNow's matching system would first check for matching against the mid-point of the NBBO and then check for matching at MPI level.

In accordance with the OSC's "Process for the Review and Approval of the Information Contained in Form 21-101F2 and Exhibits Thereto", a notice outlining and requesting feedback on these proposed changes was published in the OSC Bulletin on July 21, 2016 at (2016), 39 OSCB 6747. No comment letters were received.

TriAct will publish a notice indicating the date of implementation of the approved changes.

13.2.2 CSE Notice 2016-14 – Significant Change Subject to Public Comment – Amendments to Trading System Functionality & Features – Notice and Request for Comment

Notice 2016-014

September 22, 2016

CANADIAN SECURITIES EXCHANGE

SIGNIFICANT CHANGE SUBJECT TO PUBLIC COMMENT

AMENDMENTS TO TRADING SYSTEM FUNCTIONALITY & FEATURES

NOTICE AND REQUEST FOR COMMENT

A. DESCRIPTION OF THE PROPOSED AMENDMENTS

CNSX Markets Inc., (the "CSE" or "Canadian Securities Exchange") has announced plans to implement new functionality and features with the launch of its new trading system in October 2016. The following is a description of the proposed changes.

Peg orders – Market Peg and Mid-Point Peg

Market pegs are buy/sell orders "pegged" to one trading increment away from the contra-side of the consolidated market National Best Bid and Offer ("NBBO").

Mid-point pegs are buy/sell orders pegged to the midpoint of the consolidated market NBBO.

Peg orders can trade at the half-cent increment, and the execution price will be recalculated as the NBBO changes, subject to any limit price on the order.

Peg orders are not displayed in the book or disseminated publicly but are sent to the IIROC Market Regulation feed upon entry or trade. Changes in the price of the order resulting from changes in the NBBO will not be provided to the IIROC Market Regulation Feed.

- If there is a one sided market, or a locked/or crossed market (no valid NBBO), peg orders will not trade
- Peg orders entered when there is no valid NBBO will be accepted, but no execution price will be assigned until there is a valid NBBO
- Peg orders are always passive and follow regular priority rules (price, firm, time)
- Peg orders can be entered in any session where order entry is permitted but are only tradeable in continuous trading and if pegged order matching session has been enabled. (Peg Session is 9:30am-4:00pm)

Market Maker Participation

Market Maker Participation is an optional feature that enables the Market Maker on their stock of responsibility to auto trade up to 40% of the boardlot volume of incoming guaranteed minimum fill ("GMF") eligible orders at the NBBO that are under the maximum participation volume amount set on the stock.

- For incoming orders of 2 Board lots, allocation will be split 1 Board lot to the book and 1 Board lot to the Market Maker if its participation is turned on. The participation volume allocation will be rounded down to the nearest full board lot but participation will be rounded up to fill incoming orders incoming of less than 200 shares
- Market Maker Participation can be turned on or off by the market maker assigned as the GMF dealer on the stock through its FIX session. The participation values Maximum Participation Volume, % of incoming orders, and Max total volume tradeable, can be set on either the bid side or sell side or both by the Market Maker or by Market Ops and can be changed intraday
- The Market Maker Participation status on a security is not sent publicly but is sent on GPC FIX (IIROC Market Regulation feed)

- When participation is on, GMF eligible orders will be filled at the NBBO
- Oddlots will be auto traded with the Market Maker on the stock at the NBBO

B. EXPECTED IMPLEMENTATION DATE

The new trading engine will be launched October 31, 2016. Peg orders and Market Maker participation will be implemented immediately following OSC approval but no earlier than October 31, 2016.

C. RATIONALE AND SUPPORTING ANALYSIS

Peg orders – Mid Point and Market Peg

The CSE is offering these new order types in response to customer demand, and to remain competitive with other marketplaces in Canada that have offered these order types for many years. These new order types will improve liquidity and offer price improvement opportunities to the benefit all market participants.

The use of these order types is optional for participants.

Market Maker Participation

The CSE is proposing to further enhance the Market Making programme we launched in the fall of 2015. The new functionality is based on consultation with existing CSE Market Makers and industry participants. The benefits of the proposed improvements remain consistent with the exchange's original objectives:

- Decrease costs
- Increase trade execution size
- Reduce the risk of adverse selection
- Encourage greater liquidity

This enhancement to the programme is optional for Market Makers.

D. EXPECTED IMPACT

The proposed additional functionality is being implemented in response to customer demand, and to remain competitive with the offerings of other market places. The new features will encourage greater liquidity to the benefit of all market participants and will provide them with the opportunity to manage their costs.

E. COMPLIANCE WITH ONTARIO SECURITIES LAW

There will be no impact on the CSE's compliance with Ontario securities law. The changes do not alter any of the requirements for fair access or the maintenance of fair and orderly markets.

F. CONSULTATION

The CSE has consulted with a number of dealers and industry stakeholders and considered the feedback received during informal dialogue.

G. TECHNOLOGY CHANGES

Peg orders – Market Peg and Mid-Point Peg

Clients already support these features on other Canadian marketplaces and therefore we do not anticipate there to be a material effort.

Market Maker Participation

The use of the enhanced programme is optional to Market Makers. Participation has been a feature on the Toronto Stock Exchange for many years and therefore we do not anticipate there to be a material effort.

H. OTHER MARKETS OR JURISDICTIONS

The proposed new functionality already exists in Canada and is currently provided by one or more marketplaces. The participation feature is more restrictive, as Market Makers on the TSX may participate with any order with a volume less than or equal to the Minimum Guaranteed Fill ("MGF") size, regardless of whether the order is MGF eligible.

K. COMMENTS

Submit comments on the proposed amendments no later than October 24, 2016 to:

Mark Faulkner
Vice President, Listings and Regulation
CNSX Markets Inc.
220 Bay Street, 9th Floor
Toronto, ON, M5J 2W4
Fax: 416.572.4160
Email: Mark.Faulkner@thecse.com

Market Regulation Branch
Ontario Securities Commission
20 Queen Street West, 20th Floor
Toronto, ON, M5H 3S8
Fax: 416.595.8940
Email: marketregulation@osc.gov.on.ca

Chapter 25

Other Information

25.1 Consents

25.1.1 Petro Basin Energy Corp. – s. 4(b) of Ont. Reg. 289/00 under the OBCA

Headnote

Consent given to an offering corporation under the Business Corporations Act (Ontario) to continue under the Business Corporations Act (British Columbia).

Statutes Cited

Business Corporations Act, R.S.O. 1990, c. B.16, as am., s. 181.
Securities Act, R.S.O. 1990, c. S.5, as am.

Regulations Cited

Regulation made under the Business Corporations Act, Ont. Reg. 289/00, as am., s. 4(b).

IN THE MATTER OF
R.R.O. 1990, REGULATION 289/00
(the Regulation)
MADE UNDER THE BUSINESS APPLICANTS ACT (ONTARIO),
R.S.O. 1990 c. B.16, AS AMENDED
(the OBCA)

AND

IN THE MATTER OF
PETRO BASIN ENERGY CORP.

CONSENT
(Subsection 4(b) of the Regulation)

UPON the application of Petro Basin Energy Corp. (the "**Applicant**") to the Ontario Securities Commission (the "**Commission**") requesting a consent from the Commission, pursuant to subsection 4(b) of the Regulation, for the Applicant to continue into the Province of British Columbia (the "**Continuance**") pursuant to Section 181 of the OBCA;

AND UPON considering the application and the recommendation of the staff to the Commission;

AND UPON the Applicant representing to the Commission that:

1. The Applicant is a corporation incorporated under the OBCA by articles of amalgamation effective August 1, 1994, and intends to make an application to the Director under the OBCA pursuant to Section 181 of the OBCA (the **Application for Continuance**) for authorization to continue as a corporation under the *Business Corporations Act* (British Columbia), S.B.C. 2002, c. 57 (the "**BCBCA**") under its name Petro Basin Energy Corp. The Applicant has a name reservation granted by the Registrar of Companies, British Columbia in the name of PEACE RIVER CAPITAL CORP. under name reservation number NR5957271. The Applicant intends to change its name concurrently with the Continuance.

2. The authorized share capital of the Applicant consists of an unlimited number of common shares (the "**Common Shares**"), of which 25,774,396 Common Shares are issued and outstanding as of August 9, 2016, an unlimited number of special shares, issuable in series, of which none have been issued, and 500,000 preference shares of which none have been issued. The Common Shares of the Applicant are listed for trading on the NEX, a separate board of TSX Venture Exchange (the "**TSXV**") under the symbol "PBA.H". The Applicant does not have any securities listed on any other exchange, except for the TSXV.

3. Pursuant to subsection 4(b) of the Regulation, the Applicant for Continuance must, where a corporation is an offering corporation (as that term is defined in the OBCA), be accompanied by the consent from the Commission.

4. The Applicant's registered office is located at 181 Bay Street, Suite 4400, Toronto, Ontario M5J 2T3 and its head office is located at 1920 – 1177 W Hastings Street, Vancouver, B.C. V6E 2K3.

5. The Applicant is an offering corporation under the OBCA and is a reporting issuer under the Ontario *Securities Act*, R.S.O. 1990, c. S.5, as amended (the "**Act**") and is also a reporting issuer under the securities legislation of Alberta and British Columbia. The Applicant is not a reporting issuer or equivalent in any other jurisdiction. The Ontario Securities Commission is currently the Applicant's principal regulator.

6. The Applicant is not in default under any provision of the OBCA or the Act, or any of the regulations or rules made under the OBCA and the Act or under the securities legislation of any other jurisdiction where it is a reporting issuer.

7. The Applicant is not a party to any proceedings or to the best of its knowledge, information and belief, any pending proceeding under the OBCA and the Act or under the securities legislation of any other jurisdiction where it is a reporting issuer.

8. The Applicant's head office and management are in British Columbia and believes that the BCBCA will provide the Applicant with greater flexibility than the OBCA.

9. Following the Continuance:

   a. the Applicant intends to remain a reporting issuer in Ontario;

   b. the Applicant's registered office will be located at 1055 West Georgia Street, 1500 Royal Centre, P.O. Box 11117, Vancouver, British Columbia V6E 4N7;

   d. the Applicant's head office will be located at 1920 – 1177 W Hastings Street, Vancouver, British Columbia V6E 2K3; and

   e. the Applicant will change its principal regulator from Ontario to British Columbia.

10. A summary of the material provisions respecting the proposed Continuance was provided to the Applicant's shareholders in the Management Information Circular of the Applicant dated April 26, 2016 (the "**Circular**") in respect of the Applicant's annual and special meeting of shareholders held on June 17, 2016 (the "**Meeting**"). The Circular was mailed to the shareholders of record as at the close of business on April 26, 2016 and was filed on SEDAR on May 11, 2016.

11. In accordance with the OBCA and the Act and the Applicant's charter documents, the special resolution of shareholders to be obtained at the Meeting in connection with the proposed Continuance (the "**Continuance Resolution**") requires the approval of not less than 66.67% of the votes cast by the shareholders voting in person or by proxy at the Meeting. Each shareholder is entitled to one vote for each Common Share held.

12. The Applicant's shareholders had the right to dissent with respect to the proposed Continuance pursuant to Section 185 of the OBCA and the Circular disclosed full particulars of this right in accordance with applicable law.

13. The Continuance Resolution was approved at the Meeting by 99.99% of the votes cast by the shareholders of the Applicant in respect of the Continuance Resolution. None of the shareholders of the Applicant exercised dissent rights pursuant to Section 185.

14. The Applicant is a junior oil and gas exploration and production company, with oil and gas interests in Ontario, Canada and Montana, U.S.A

15. The Applicant has the following wholly-owned subsidiaries:

   a. Petro Basin Energy LLC;

   b. OSE Montana Corp.;

   c. OSE Texas Corp.;

   d. 1084225 Ontario Inc.

16. The material rights, duties and obligations of a corporation governed by the BCBCA are substantially similar to those of a corporation governed by the OBCA.

AND UPON the Commission being satisfied that to do so would not be prejudicial to the public interest;

THE COMMISSION HEREBY CONSENTS to the continuance of the Corporation as a corporation under the BCBCA.

DATED this 14 day of September, 2016.

"Grant Vingoe"
Vice-Chair
Ontario Securities Commission

"Monica Kowal"
Vice-Chair
Ontario Securities Commission

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