

THE MANITOBA SECURITIES COMMISSION
MSC RULE 2021-28
(Section 149.1, The Securities Act)

AMENDMENTS TO NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE

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

2. *Section 1.1 is amended by adding the following definitions:*

“automatic switch” means a purchase of securities of a class or series of securities of a mutual fund, immediately following a redemption of the same value of securities of another class or series of securities of that mutual fund, if the only material differences between the two classes or series are both of the following:

- (a) a difference in the management fees;
- (b) a difference in the purchaser’s minimum investment amounts;

“automatic switch program” means an agreement under which automatic switches are to be made on predetermined dates for a purchaser of securities of a class or series of a mutual fund as a result of the purchaser

- (a) satisfying the minimum investment amount for the class or series, and
- (b) failing to satisfy, in whole or in part, the minimum investment amount for the class or series of securities of the mutual fund that were subject to the automatic switch because those securities were redeemed;

“portfolio rebalancing plan” means an agreement, that can be terminated at any time, under which a purchaser

- (a) selects
 - (i) a portfolio of securities of two or more mutual funds, and
 - (ii) target weightings for securities of each of those mutual funds held by the purchaser, and
- (b) on predetermined dates, purchases or redeems securities referred to in paragraph (a) in order to bring the holdings of each of those securities within the applicable target weighting;

3. *Section 3.2.01 is amended*

(a) by replacing subparagraph (4)(a)(ii) with the following:

- (ii) delivered or sent to the purchaser in accordance with section 3.2.02 and the conditions set out in that section are satisfied,,

(b) by replacing paragraph (4)(b) with the following:

- (b) section 3.2.03 or 3.2.05 applies and the conditions set out in the applicable section are satisfied, or, *and*

(c) by replacing paragraph (4)(c) with the following:

(c) section 3.2.04 or 3.2.04.1 applies.

4. *Section 3.2.03 is replaced with the following:*

3.2.03 Delivery of Fund Facts Document for Subsequent Purchases Under a Pre-authorized Purchase Plan or a Portfolio Rebalancing Plan

Despite subsection 3.2.01(1), a dealer is not required to deliver or send to the purchaser the most recently filed fund facts document for the applicable class or series of securities of the mutual fund in connection with a purchase of a security of the mutual fund made pursuant to a pre-authorized purchase plan or a portfolio rebalancing plan if all of the following apply:

- (a) the purchase is not the first purchase under the plan;
- (b) the dealer has provided a notice to the purchaser that states
 - (i) that the purchaser will not receive a fund facts document after the date of the notice unless the purchaser specifically requests the document,
 - (ii) that the purchaser is entitled to receive upon request, at no cost to the purchaser, the most recently filed fund facts document by calling a specified toll-free number, or by sending a request by mail or e-mail to a specified address or e-mail address,
 - (iii) how to access the fund facts document electronically,
 - (iv) that the purchaser will not have a right of withdrawal under securities legislation for subsequent purchases of a security of a mutual fund under the plan, but will continue to have a right of action if there is a misrepresentation in the prospectus or any document incorporated by reference into the prospectus, and
 - (v) that the purchaser may terminate the plan at any time;
- (c) at least annually during the term of the plan, the dealer notifies the purchaser in writing of how the purchaser can request the most recently filed fund facts document;
- (d) the dealer delivers or sends the most recently filed fund facts document to the purchaser if the purchaser requests the document..

5. *Section 3.2.04 is replaced with the following:*

3.2.04 Delivery of Fund Facts Document for Managed Accounts and Permitted Clients

Despite subsection 3.2.01(1), a dealer is not required to deliver or send to the purchaser the most recently filed fund facts document for the applicable class or series of securities of the mutual fund in connection with the purchase of a security of the mutual fund if either of the following apply:

- (a) the purchase is made in a managed account;
- (b) the purchaser is a permitted client that is not an individual..

6. *Section 3.2.05 is replaced with the following:*

3.2.05 Delivery of Fund Facts Document for Automatic Switch Programs

Despite subsection 3.2.01(1), a dealer is not required to deliver or send to the purchaser the most recently filed fund facts document for the applicable class or series of securities of the mutual fund in connection with the purchase of a security of the mutual fund made as an automatic switch pursuant to an automatic switch program if all of the following apply:

- (a) the purchase is not the first purchase under the automatic switch program;
- (b) the dealer has provided a notice to the purchaser that states
 - (i) that the purchaser will not receive a fund facts document after the date of the notice unless the purchaser specifically requests the document,
 - (ii) that the purchaser is entitled to receive upon request, at no cost to the purchaser, the most recently filed fund facts document by calling a specified toll-free number, or by sending a request by mail or e-mail to a specified address or e-mail address,
 - (iii) how to access the fund facts document electronically, and
 - (iv) that the purchaser will not have a right of withdrawal under securities legislation for subsequent purchases of a security of a mutual fund under the automatic purchase program, but will continue to have a right of action if there is a misrepresentation in the prospectus or any document incorporated by reference into the prospectus;
- (c) at least annually, the dealer notifies the purchaser in writing of how the purchaser can request the most recently filed fund facts document;
- (d) the dealer delivers or sends the most recently filed fund facts document to the purchaser if the purchaser requests the document;
- (e) with respect to the first purchase under the automatic switch program, the fund facts document delivered or sent to the purchaser included the fund facts automatic switch program information as defined in Appendix A..

7. *The following is added after section 3.2.05:*

3.2.06 Electronic Delivery of the Fund Facts Document

- (1) If the purchaser of a security of a mutual fund consents, a fund facts document that may be or is required to be delivered or sent under this Part may be delivered or sent electronically.
- (2) For the purposes of subsection (1), a fund facts document may be delivered or sent to the purchaser by means of an e-mail that contains either of the following:
 - (a) the fund facts document as an attachment;
 - (b) a hyperlink that leads directly to the fund facts document..

8. *Section 5.2 is amended*

- (a) *by replacing “3.2.03, or 3.2.04” with “3.2.03, or 3.2.05” in subsection (4), and*

(b) by replacing “3.2.03, or 3.2.04;” with “3.2.03, or 3.2.05;” in paragraph (4)(c).

9. The following Appendix A is added following NI 81-101:

APPENDIX A

Fund Facts Automatic Switch Program Information for Section 3.2.05

For the purposes of paragraph 3.2.05(e), “fund facts automatic switch program information” means a completed Form 81-101F3 *Contents of Fund Facts Document* modified as follows:

- (a) the heading under item 1(c.1) of Part I includes the name of each class or series of securities of the mutual fund in the automatic switch program;
- (b) the brief introduction to the fund facts document under item 1(e) of Part I includes the name of each class or series of securities of the mutual fund in the automatic switch program;
- (c) item 2 of Part I includes the fund codes of each of the classes or series of securities of the mutual fund in the automatic switch program;
- (d) item 2 of Part I includes, for each class or series of securities of the mutual fund in the automatic switch program, the date the securities of the class or series first became available to the public;
- (e) item 2 of Part I includes the management expense ratio of only the class or series of securities of the mutual fund in the automatic switch program with the highest management fee;
- (f) item 2 of Part I includes the minimum investment amount and each additional investment amount of only the class or series of securities of the mutual fund in the automatic switch program with the highest management fee;
- (g) the “Quick Facts” table referred to in item 2 of Part I includes a footnote that states all of the following:
 - (i) that the fund facts document pertains to all of the classes or series of securities of the mutual fund in the automatic switch program;
 - (ii) that further details about the automatic switch program are disclosed in the “How much does it cost?” section of the fund facts document;
 - (iii) that further details about the minimum investment amount applicable to each of the classes or series of securities of the mutual fund in the automatic switch program are disclosed in the fee decrease table under the sub-heading “Fund expenses” of the fund facts document;
 - (iv) that the management expense ratio of each of the classes or series of securities of the mutual fund in the automatic switch program is disclosed in the “Fund expenses” section of the fund facts document;
- (h) item 5(1) of Part I includes all of the following as part of the introduction:
 - (i) under the heading “How has the fund performed?”, the name of only the class or series of securities of the mutual fund with the highest management fees;
 - (ii) a statement explaining that the performance for each of the classes or series of securities of the mutual fund in the automatic switch program will be similar to the performance of the class or series of securities

of the mutual fund with the highest management fee, but will vary as a result of the difference in fees, as set out in the fee decrease table under the sub-heading “Fund expenses”;

(i) item 5(2), (3) and (4) of Part I, under the sub-headings “Year-by-year returns,” “Best and worst 3-month returns,” and “Average return”, includes the required performance data relating only to the class or series of securities of the mutual fund with the highest management fee;

(j) item 1(1.1) of Part II includes all of the following:

(i) under the heading “How much does it cost?”, in the introductory statement, the name of each class or series of securities of the mutual fund in the automatic switch program;

(ii) as a part of the introductory statement, a summary of the automatic switch program that includes all of the following:

(A) an explanation that the automatic switch program offers separate classes or series of securities of the mutual fund that charge progressively lower management fees;

(B) an explanation of the scenarios in which the automatic switches will be made, including, for greater certainty, the scenario in which automatic switches will be made due to the purchaser no longer meeting the minimum investment amount for a particular class or series of securities of the mutual fund;

(C) a statement that a purchaser will not pay higher management fees as a result of the automatic switches than those charged to the class or series of securities of the mutual fund with the highest management fee;

(D) a statement that information about the progressively lower management fees for the classes or series of securities of the mutual fund in the automatic switch program is available in the fee decrease table under the sub-heading “Fund expenses” of the fund facts document;

(E) a statement that further details about the automatic switch program are disclosed in specific sections of the simplified prospectus of the mutual fund;

(F) a statement that purchasers should speak to their representative for more information about the automatic switch program;

(k) item 1(1.2) of Part II, under the sub-heading “Sales charges”, includes the names of each class or series of securities of the mutual fund in the automatic switch program in the introduction, if applicable;

(l) if the mutual fund is not newly established, item 1(1.3)(2) of Part II includes all of the following:

(i) the management expense ratio and fund expenses of each of the classes or series of securities of the mutual fund in the automatic switch program or, if certain expense information is not available for a particular class or series of securities, the words “not available” in the corresponding part of the table;

(ii) a row in the “Annual rate” table

(A) in which the first column states “For every \$1,000 invested, this equals:”, and

(B) that discloses the respective equivalent dollar amounts of the fund expenses of each class or series of securities of the mutual fund in the automatic switch program included in the table for every \$1,000

invested;

(m) item 1(1.3)(2) of Part II includes, at the end of the disclosure under the sub-heading “Fund expenses”, all of the following:

(i) a table that includes

(A) the name of, and minimum investment amounts associated with, each class or series of securities of the mutual fund in the automatic switch program, and

(B) the combined management and administration fee decrease of each class or series of securities of the mutual fund in the automatic switch program from the management fee of the class or series of securities of the mutual fund with the highest management fee, disclosed as a percentage;

(ii) an introduction to the table referred to in subparagraph (i) stating that the table sets out the combined management and administration fee decrease of each class or series of securities of the mutual fund in the automatic switch program from the management fee of the class or series of securities of the mutual fund with the highest management fee;

(n) if all the classes or series of securities of the mutual fund in the automatic switch program are not newly established, item 1(1.3)(3) of Part II includes all of the following:

(i) a statement that the class or series of securities of the mutual fund with the highest management fee has the highest management fee among all of the classes or series of securities of the mutual fund in the automatic switch program;

(ii) a statement above the “Annual rate” table required under item 1(1.3)(2) of Part II stating “As of [the date of the most recently-filed management report of fund performance], the fund expenses were as follows:”;

(o) if some of the classes or series of securities of the mutual fund in the automatic switch program are newly established, item 1(1.3)(3) of Part II includes all of the following:

(i) a statement that the class or series of securities of the mutual fund with the highest management fee has the highest management fee among all of the classes or series of securities of the mutual fund in the automatic switch program;

(ii) a statement disclosing that the fund expenses information is not available for certain classes or series of securities of the mutual fund in the automatic switch program because they are new;

(iii) a statement above the “Annual rate” table required under item 1(1.3)(2) of Part II stating “As of [the date of the most recently filed management report of fund performance], the fund expenses were as follows:”;

(p) if the mutual fund is newly established, item 1(1.3)(4) of Part II includes all of the following:

(i) a statement that the class or series of securities of the mutual fund with the highest management fee has the highest management fee among all of the classes or series of securities of the mutual fund in the automatic switch program;

(ii) the rate of the management fee of only the class or series of securities of the mutual fund with the highest management fee;

(iii) a statement that the operating expenses and trading costs are not yet available because the mutual fund is new..

10. Subsection (10) of the General Instructions of Form 81-101F3 Contents of Fund Facts Document is replaced with the following:

(10) Unless the exception in section 3.2.05 of National Instrument 81-101 Mutual Fund Prospectus Disclosure applies, a fund facts document must disclose information about only one class or series of securities of a mutual fund. Mutual funds that have more than one class or series that are referable to the same portfolio of assets must prepare a separate fund facts document for each class or series..

11. Subsection (4) of Item 3 of Part I of Form 81-101F3 Contents of Fund Facts Document is replaced with the following:

(4) Unless the mutual fund is a newly established mutual fund, under the sub-heading “Top 10 investments [date]”, include a table disclosing all of the following:

- (a) the top 10 positions held by the mutual fund, each expressed as a percentage of the net asset value of the mutual fund;
- (b) the percentage of net asset value of the mutual fund represented by the top 10 positions;
- (c) the total number of positions held by the mutual fund..

12. Subsection (5) of Item 3 of Part I of Form 81-101F3 Contents of Fund Facts Document is replaced with the following:

(5) Unless the mutual fund is a newly established mutual fund, under the sub-heading “Investment mix [date]” include at least one, and up to two, charts or tables that illustrate the investment mix of the mutual fund’s investment portfolio..

13. Item 3 of Part I of Form 81-101F3 Contents of Fund Facts Document is amended by adding the following subsection:

(6) For a newly established mutual fund, state the following under the sub-headings “Top 10 investments [date]” and “Investment mix [date]”:

This information is not available because this fund is new..

14. Subsection (3) of Item 4 of Part I of Form 81-101F3 Contents of Fund Facts Document is replaced with the following:

(3) If the mutual fund does not have any guarantee or insurance, under the sub-heading “No guarantees”, include a statement using wording substantially similar to the following:

Like most mutual funds, this fund doesn’t have any guarantees. You may not get back the amount of money you invest..

15. Item 4 of Part I of Form 81-101F3 Contents of Fund Facts Document is amended by adding the following subsection:

(4) If the mutual fund does have a guarantee or insurance feature protecting all or some of the principal amount of an investment in the mutual fund, under the sub-heading “Guarantees”, disclose all of the following:

(a) the identity of the person or company providing the guarantee or insurance;

(b) a brief description of the material terms of the guarantee or insurance, including the maturity date of the guarantee or insurance..

16. *Subsection (1) of Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document is replaced with the following:*

(1) Unless the mutual fund is a newly established mutual fund, under the heading “How has the fund performed?”, include an introduction using wording substantially similar to the following:

This section tells you how [name of class/series of securities described in the fund facts document] [units/shares] of the fund have performed over the past [insert number of calendar years shown in the bar chart required under paragraph (2)(a)] years. Returns are after expenses have been deducted. These expenses reduce the fund’s returns..

17. *Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document is amended by adding the following subsection:*

(1.1) For a newly established mutual fund, under the heading “How has the fund performed?”, include an introduction using the following wording:

This section tells you how [name of class/series of securities described in the fund facts document] [units/shares] of the fund have performed. However, this information is not available because the fund is new..

18. *Subsection (2) of Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document is replaced with the following:*

(2) Under the sub-heading “Year-by-year returns”,

(a) for a mutual fund that has completed at least one calendar year, include all of the following:

(i) a bar chart that shows the annual total return of the mutual fund, in chronological order with the most recent year on the right of the bar chart, for the lesser of

(A) each of the 10 most recently completed calendar years, and

(B) each of the completed calendar years in which the mutual fund has been in existence and which the mutual fund was a reporting issuer;

(ii) an introduction to the bar chart using wording substantially similar to the following:

This chart shows how [name of class/series of securities described in the fund facts document] [units/shares] of the fund performed in each of the past [insert number of calendar years shown in the bar chart required under paragraph (a)]. The fund dropped in value in [for the particular years shown in the bar chart required under paragraph (a), insert the number of years in which the value of the mutual fund dropped] of the [insert number of calendar years shown in the bar chart required

in paragraph (a)] years. The range of returns and change from year to year can help you assess how risky the fund has been in the past. It does not tell you how the fund will perform in the future.

(b) for a mutual fund that has not yet completed a calendar year, state the following:

This section tells you how [name of class/series of securities described in the fund facts document] [units/shares] of the fund have performed in past calendar years. However, this information is not available because the fund has not yet completed a calendar year.

(c) for a newly established mutual fund, state the following:

This section tells you how [name of class/series of securities described in the fund facts document] [units/shares] of the fund have performed in past calendar years. However, this information is not available because the fund is new..

19. *Subsection (3) of Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document is replaced with the following:*

(3) Under the sub-heading “Best and worst 3-month returns”,

(a) for a mutual fund that has completed at least one calendar year, include all of the following:

(i) information for the period covered in the bar chart required under paragraph (2)(a) in the form of the following table:

	Return	3 months ending	If you invested \$1,000 at the beginning of the period
Best return	(see instruction 8)	(see instruction 10)	Your investment would [rise/drop] to (see instruction 12).
Worst return	(see instruction 9)	(see instruction 11)	Your investment would [rise/drop] to (see instruction 13).

(ii) an introduction to the table using wording substantially similar to the following:

This table shows the best and worst returns for the [name of class/series of securities described in the fund facts document] [units/shares] of the fund in a 3-month period over the past [insert number of calendar years shown in the bar chart required under paragraph (2)(a)]. The best and worst 3-month returns could be higher or lower in the future. Consider how much of a loss you could afford to take in a short period of time.

(b) for a mutual fund that has not yet completed a calendar year, state the following:

This section shows the best and worst returns for the [name of class/series of securities described in the fund facts document] [units/shares] of the fund in a 3-month period. However, this information is not available because the fund has not yet completed a calendar year.

(c) for a newly established mutual fund, state the following:

This section shows the best and worst returns for the [name of class/series of securities described in the fund facts document] [units/shares] of the fund in a 3-month period. However, this information is not available because the fund is new..

20. *Subsection (4) of Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document is replaced the following subsection:*

(4) Under the sub-heading “Average return”,

(a) for a mutual fund that has completed at least 12 consecutive months, include all of the following:

(i) the final value of a hypothetical \$1000 investment in the mutual fund as at the end of the period that ends within 60 days before the date of the fund facts document and consists of the lesser of

(A) 10 years, and

(B) the time since inception of the mutual fund;

(ii) the annual compounded rate of return that equates the hypothetical \$1000 investment to the final value.

(b) for a mutual fund that has not yet completed 12 consecutive months, state the following:

This section shows the value and annual compounded rate of return of a hypothetical \$1,000 investment in [name of class/series of securities described in the fund facts document] [units/shares] of the fund. However, this information is not available because the fund has not yet completed 12 consecutive months.

(c) for a newly established mutual fund, state the following:

This section shows the value and annual compounded rate of return of a hypothetical \$1,000 investment in [name of class/series of securities described in the fund facts document] [units/shares] of the fund. However, this information is not available because the fund is new..

21. *Instruction (5) of Item 5 of Part I of Form 81-101F3 Contents of Fund Facts Document is repealed.*

Expiration of exemptions and waivers

22.(1) Any exemption from or waiver of a provision of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* in relation to fund facts document delivery requirements in section 3.2.01(1) for mutual funds in a portfolio rebalancing plan or an automatic switch program expires on January 5, 2022.

22.(2) In British Columbia, subsection (1) does not apply.

Transition for portfolio rebalancing plans and automatic switch programs

23.(1) For the purposes of sections 3.2.03 and 3.2.05 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, as enacted by sections 4 and 6 of this Instrument, the first purchase of a security of a mutual fund made pursuant to a portfolio rebalancing plan or an automatic switch program on or after January 5, 2022 is considered to be the first purchase under the plan or program, as applicable.

23.(2) Subsection (1) does not apply to a portfolio rebalancing plan or an automatic switch program established before January 5, 2022, if a notice providing information substantially similar to the notice referred to in paragraph 3.2.03(c) or 3.2.05(c) of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, as enacted by section 4 and 6 of this Instrument, was delivered or sent to the purchaser between January 5, 2021 and January 5, 2022.

Effective Date

24.(1) This Instrument comes into force on January 5, 2022.

24.(2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after January 5, 2022, this Instrument comes into force on the day on which it is filed with the Registrar of Regulations.

24.(3) This Instrument may be cited as MSC Rule 2021-28.