

**MSC NOTICE 2002-37**

**NOTICE OF REQUEST FOR COMMENTS**

**PROPOSED NATIONAL INSTRUMENT 81-106  
AND COMPANION POLICY 81-106CP  
INVESTMENT FUND CONTINUOUS DISCLOSURE, AND  
FORM 81-106F1  
CONTENTS OF ANNUAL AND QUARTERLY MANAGEMENT REPORTS  
OF FUND PERFORMANCE**

**Introduction**

The Canadian Securities Administrators (the “CSA”), with this Notice, are publishing for comment proposals that would implement a new regulatory regime governing the continuous disclosure provided by investment funds. The proposed regulatory regime attempts to address the need to provide more timely and useful ongoing financial and non-financial information about an investment fund to investors and advisers.

It is anticipated that the form of financial disclosure prescribed by the proposed National Instrument will allow an average investor to better assess an investment fund’s performance, position and future prospects. Improving the quality and timeliness of financial disclosure should increase the likelihood that investors, or potential investors, will use the information to compare investments and to make appropriate investment decisions. Likewise, it is expected that the proposed form of financial disclosure will assist advisers in selecting and recommending appropriate investments that are consistent with their clients’ goals. Further, the adoption of the proposed regulatory regime on a national basis will serve to harmonize reporting requirements for investment funds across the jurisdictions.

The proposed National Instrument and Form are expected to be adopted as a rule in each of British Columbia, Alberta, Manitoba, Ontario, Quebec, Nova Scotia and Newfoundland and Labrador, as a Commission regulation in Saskatchewan and as a policy in all other provinces and territories. The proposed Companion Policy is expected to be implemented as a policy in all provinces and territories.

The implementation of the proposed National Instrument will also include certain consequential amendments (the “Consequential Amendments”) to National Instrument 81-101 Mutual Funds Prospectus Disclosure (“NI 81-101”) and its related forms, Companion Policy 81-101CP (“81-101CP”), National Instrument 81-102 Mutual Funds (“NI 81-102”), Companion Policy 81-102CP (“81-102CP”), and National Instrument 13-101 - System for Electronic Document Analysis and Retrieval (SEDAR) (“NI 13-101”).

## **Substance and Purpose of Proposed National Instrument, Form and Companion Policy**

The key features of the proposed National Instrument, Form and Companion Policy are: (i) the introduction of annual and quarterly management reports of fund performance, (ii) the revision and updating of the requirements relating to annual and interim financial statements and (iii) changes to current filing and delivery requirements.

The proposed National Instrument is intended to apply to all types of investment funds, including but not limited to, mutual funds, labour sponsored investment funds (“LSIFs”), exchange traded funds, split share corporations, closed end funds and scholarship plans.

## **Summary of Proposed National Instrument, Form and Companion Policy**

### *Annual and Quarterly Management Reports of Fund Performance*

To address the concern expressed about the timeliness and relevance of financial information provided by investment funds, the CSA are proposing the introduction of annual and quarterly management reports of fund performance. These reports, required to be prepared in accordance with Form 81-106F1, will present both quantitative and qualitative information about the fund in a concise and plain language manner. It is intended that quarterly reporting will provide investors and advisers with current information about the investment fund without all the details of full interim or annual financial statements.

A key element of the management reports of fund performance is the Management Discussion of Fund Performance (“MDFP”). MDFP is an analysis and explanation that is designed to supplement an investment fund’s financial statements. It addresses two main topics - past performance and the strategic position of the fund going forward. Past performance is analysed within the framework of a fund’s investment objectives and strategies. The MDFP should highlight those aspects of the objectives or strategies that had material impacts on performance. Any changes to the level of risk of the fund are required to be identified. Discussion of the strategic position of the fund going forward should focus on known material trends, commitments, events, risks or uncertainties that might reasonably be expected to affect a fund’s future performance or investment activities.

The annual management report of fund performance will provide financial highlights for a fund for the past year, but will not include the full, traditional financial statements. The quarterly management reports of fund performance will contain less detailed information than an annual management report of fund performance and will serve to highlight significant changes from the information in the last annual management report of fund performance of the fund. The investment fund’s auditor will be expected to follow the requirements of Section 7500 of the CICA Handbook with respect to their involvement with the annual management report of fund performance.

### *Financial Statement Requirements*

The proposed National Instrument contains revised and updated content requirements for the annual and interim financial statements of investment funds. The aim is to have a consistent set of rules governing financial statement disclosure for investment funds across Canada and to update the current requirements to improve the usefulness of these financial statements.

Part 7 of the proposed National Instrument requires specified disclosure in the annual and interim financial statements of an investment fund on securities lending, repurchase and reverse repurchase transactions. Note that this part of the proposed National Instrument restates the requirements currently contained in Part 14 of 81-102CP. In addition, Part 7 of the proposed National Instrument provides guidance on the accounting of incentive and performance fees, costs of continuous distribution of securities and trailing commissions.

Part 8 of the proposed National Instrument contains provisions setting out when financial and performance information relating to more than one investment fund and to multiple class mutual funds may be bound into one document. Note that management reports of fund performance for more than one investment fund are prohibited from being bound together. In addition, Part 8 sets out certain specific accounting requirements for LSIFs and scholarship plans. In particular, it should be noted that LSIFs have the option of not disclosing the fair value of securities for which a market value is not readily available in their statement of investment portfolio, provided the LSIF has obtained and filed a formal valuation prepared in accordance with Part 9 of the proposed National Instrument. Any formal valuation obtained in accordance with Part 9 must have been prepared by an independent valuator having appropriate qualifications.

### *Filing and Delivery Requirements*

The National Instrument proposes to give security holders the option of choosing whether to receive any or all of a fund's financial statements and management reports of fund performance. This presents a departure from the current regime which requires that the annual financial statements required to be filed with the regulators also be delivered to all security holders. The CSA are proposing this change in recognition of the cost involved in the delivery of financial statements. In addition, given the public availability of financial statements on the SEDAR website ([www.sedar.com](http://www.sedar.com)) as well as on the manager's website (if any), the mandated delivery of such documents to investors does not seem necessary to ensure full disclosure.

Accordingly, the National Instrument requires an investment fund to ask investors on an annual basis whether they would like to receive any or all of the fund's annual and quarterly management reports of fund performance, and interim and annual financial statements. Delivery of these documents is only required to be made to those holders who specifically request them. However, the transitional provision in Part 18 of the proposed National Instrument requires that the first annual management report of fund performance that is prepared by an investment fund must be sent to all investors. Finally, the proposed National Instrument shortens the time periods for the filing of annual and interim financial statements with the regulators. The time for filing annual financial statements is

reduced from 140 days after year end to 90 days after year end, while the time for filing interim financial statements is reduced from 60 days to 45 days after the end of the interim period. Management reports of fund performance are required to be filed at the same time as financial statements. The time periods for filing have been reduced in order to improve the timeliness of financial information such that the information will be more current and relevant and useful to investors and advisers in their investment decisions.

The shortened time periods for the filing of annual and interim financial statements are consistent with the time periods set out in proposed National Instrument 51-102 Continuous Disclosure Obligations (“NI 51-102”) for senior issuers. Investment funds are distributed both through primary distributions, generally on a continuous basis, and on an exchange. The CSA believes that disclosure in accordance with the shortened time periods is necessary for information to be relevant and useful to investors.

#### *Other Continuous Disclosure Obligations*

Part 11 of the proposed National Instrument provides that if a material change (in the case of a non NI 81-102 investment fund) or a significant change (in the case of a NI 81-102 investment fund) occurs, an investment fund is required to promptly issue and file a news release disclosing the nature and substance of the change and to post such news release on the website of the investment fund or fund manager. In addition, a material change report containing the information required by Form 51-102F3 is required to be filed no later than 10 days after the date on which the change occurs. This reporting requirement replaces the significant change requirement for mutual funds currently in NI 81-102.

Finally, it should be noted that the proposed National Instrument requires investment funds to comply with certain parts of NI 51-102 as if those parts of the rule applied to investment funds, eg. the solicitation of proxies (Part 12), restricted share disclosure (Part 13) and change of auditor (Part 14).

### **Summary of the Proposed Consequential Amendments**

#### *Proposed Amendments to NI 81-101 Mutual Fund Prospectus Disclosure*

The CSA are proposing a change to NI 81-101 to allow for the incorporation of the annual and quarterly management reports of fund performance into the simplified prospectus by reference. Corresponding changes are made to the introductory language required to be made in a prospectus by Item 3 of Part A of Form 81-101F1, and to a related discussion in section 2.4 of 81-101CP.

The most significant change to NI 81-101 is the deletion of the top ten holdings, past performance and financial highlights information (Items 8, 11 and 13.1 of Part B) from Form 81-101F1. This information is being deleted from the simplified prospectus for the reason that it would otherwise be duplicated by the financial highlights, past performance and summary of portfolio investments information which is proposed to be disclosed in the annual and quarterly management reports of

fund performance in accordance with Form 81-106F1. In addition, given the frequency with which management reports of fund performance will be produced, investors and advisers will be provided with more current and therefore more useful financial highlights, past performance, and holdings data on which to base their investment decisions.

Finally, an instruction is proposed to be added to Item 15 of Form 81-101F2 to indicate that the disclosure concerning executive compensation for management functions carried out by employees of a mutual fund may be made in accordance with the disclosure requirements of NI 51-102, specifically Form 51-102F6 Statement of Executive Compensation.

*Proposed Amendments to NI 81-102 Mutual Funds*

The CSA are proposing the following amendments to NI 81-102:

1. amending the definition of “report to securityholders” to include annual and quarterly management reports of fund performance;
2. amending the definition of “sales communication” so as to include annual and quarterly management reports of fund performance to the list of documents which are not considered to be “sales communications”;
3. deleting section 5.10 relating to significant changes as it is replaced by the provisions of Part 11 of the proposed National Instrument;
4. deleting Part 17 relating to financial statement requirements as it is replaced by the provisions of Part 7 of the proposed National Instrument; and
5. deleting the discussion on financial statement requirements for securities lending, repurchase and reverse repurchase transactions from Part 14 of 81-102CP.

*Proposed Amendment to NI 13-101 System for Electronic Document Analysis and Retrieval*

An amendment is proposed to NI 13-101 so as to add annual and quarterly management reports of fund performance to the list of mandated electronic filings for mutual funds and other issuers in Appendix A of NI 13-101.

**Specific Questions of the CSA Concerning Proposed NI 81-106.**

**1. Management Reports of Fund Performance**

Proposed Part 6 of NI 81-106 requires all investment funds that are reporting issuers to prepare, file and make available to those who request it, a quarterly management report of fund performance. The purpose of the quarterly management report of fund performance is to provide up-to-date information

about the fund to current and prospective investors and to advisers and dealers who analyze funds and recommend them to their clients. It is expected that the quarterly management reports of fund performance will be approximately two pages in length.

Since quarterly updated financial information will be available in the quarterly management report of fund performance, it is proposed that NI 81-101 be amended to remove the financial highlights, top 10 holdings and performance data from the simplified prospectus.

The CSA invite comments as to whether the quarterly management reports of fund performance will achieve the goals that they are intended to achieve. Should there be more or less frequent disclosure of fund performance information and why? Should there be quarterly reporting for all investment funds? Does the proposed type of information allow an investor or an adviser to make informed investment decisions?

## **2. Financial Statements**

The purpose of the annual and interim financial statements of an investment fund is to communicate information that is useful to investors, advisers and other users in making their investment allocation decisions and/or assessing management stewardship.<sup>1</sup> The users of an investment fund's financial statements include: investors, advisers and dealers, financial analysts, management, regulators and creditors.

A key characteristic of financial statements is comparability. With over 2,000 investment funds in Canada, investors and advisers need to be able to compare the financial information of different types of investment funds. A certain level of detail within the financial statements is considered necessary to assist comparability and consistency of financial information.

The CSA invite comment on whether the financial statement requirements set out in the proposed Rule meet the needs of the users of the financial statements? Does the amount of detail provided in the proposed National Instrument assist with the preparation, consistency and comparability of the financial statements? Is the proposed National Instrument too detailed? Is more detail or specific direction necessary?

The majority of investment funds currently prepare and file six month interim financial statements. Should all investment funds be required to prepare and file quarterly financial statements in addition to the proposed quarterly management reports of fund performance?

## **3. Disclosure of Risk and Volatility**

Investors and advisers require information to assess the risk of an investment. The proposed management reports of fund performance would include disclosure of how material or significant changes to the investment fund have affected the overall level of risk associated with an investment in the fund. The concepts of risk and volatility are also reflected in the required disclosure of

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<sup>1</sup> CICA Handbook, paragraph 1000.15

financial highlights, performance data and the summary of the investment portfolio.

The CSA invite comments on whether alternative methods of disclosing risk and volatility should be used. For example, should there be disclosure of the fund's best and worst quarter returns or disclosure of the correlation of the fund to a benchmark index? Is there additional disclosure that would provide useful information to the investors and advisers?

### **Authority for the Proposed National Instrument**

In those jurisdictions in which the proposed National Instrument and Form are to be adopted or made as a rule or regulation, the applicable securities legislation provides the securities regulatory authority with rule-making or regulation-making authority in respect of the subject matter of the proposed National Instrument and Form.

### **Alternatives Considered**

While developing the regime contained in the proposed National Instrument, the following alternatives were also considered:

#### *Status Quo*

Currently, mutual funds are required to prepare audited annual financial statements that are to be delivered to investors within 140 days of the mutual fund's fiscal year end. Mutual funds are also required to prepare unaudited semi-annual interim financial statements that are to be delivered and filed within 60 days of the period end. Many mutual funds utilize the exemptive provisions of National Policy 41 - Shareholder Communications that sets out an exemption from delivering interim financial statements subject to the maintenance of a supplementary mailing list.

This alternative does not address either of the issues of timeliness and usefulness of financial information or harmonization of financial disclosure requirements.

#### *Implement Reporting requirements similar to non-mutual fund reporting issuers*

Non-mutual fund reporting issuers have the same annual audited financial statement requirements as mutual funds. However, non-mutual fund reporting issuers are also required to file and deliver quarterly interim financial statements and management discussion and analysis (MD&A).

This approach would address the issue of timeliness by requiring information to be provided on a quarterly rather than semi-annual basis. However, it was felt that this approach would not address the issues of the usefulness of the information or the harmonization of regulation. Indeed, concerns have been expressed in the media and elsewhere that the investment funds industry continues to offer products that many people find difficult to understand. Traditional financial statements do not adequately capture the business of investment funds. The investment funds industry focuses on assets carried at market value and the performance and risk of those assets. Therefore, it was decided that

the needs of investors would not be well met by simply requiring traditional financial statements more frequently.

### **Related Amendments**

Related Consequential Amendments are proposed to be made to NI 81-101 (including Forms 81-101F1 and 81-101F2), 81-101CP, NI 81-102, 81-102CP, and NI 13-101.

### **Unpublished Materials**

In proposing the National Instrument, Form and Companion Policy, the CSA have not relied on any significant unpublished study, report, decision or other written materials.

### **Anticipated Costs and Benefits**

The proposed National Instrument, Form and Companion Policy are designed to promote the readability and usefulness of continuous disclosure documents to investors and advisers. The information to be included in management reports of fund performance will be organized in a clear, concise and standardized manner, which will increase the effectiveness of the information, as well as mitigate the risk of selective disclosure. The management report of fund performance will bring a qualitative aspect to continuous disclosure by providing management insight and perspective into a fund's performance. Consequently, it is expected that the proposed regime will better equip investors and advisers to make informed investment decisions.

The CSA acknowledge that the disclosure system outlined in the proposed National Instrument may result in new costs to industry participants because of the introduction of the requirement to prepare and file annual and quarterly management reports of fund performance. However, it is anticipated that these costs will be more than offset by the fact that delivery of financial statements and management reports of fund performance to all securityholders will not be mandatory (other than the first annual management report of fund performance for an investment fund), but rather will only be required at the request of the securityholder. As the proposed Companion Policy indicates, the annual document request forms to be sent to securityholders can be sent together with other mailings or electronically. As such, the annual notice requirement should not add significant additional cost.

In addition, the CSA expect that there will be significant cost savings by the removal of the financial highlights, performance data and top ten holdings from the simplified prospectus.

The CSA do not anticipate that the option for LSIFs to prepare and file a formal valuation in a prescribed manner should create additional costs for most LSIFs as certain provincial legislation governing LSIFs already require an independent valuation.

The CSA have prohibited the consolidation of management reports of fund performance for more than one investment fund. The CSA understand that the technology to prepare and print such reports individually already exists and is being used by a number of funds. Any additional costs that some



fund managers may incur in the short run to modify their systems are expected to be offset in subsequent years. The CSA believe the benefit to investors of receiving only that information that pertains to their investment outweighs any potential costs.

On balance, the CSA are of the view that the benefits to investors and also to the investment fund industry that are expected by the proposed National Instrument and Form will outweigh any costs to industry participants.

### **Comments**

Interested parties are invited to make written submissions with respect to the proposed National Instrument, Form and Companion Policy. Submissions received by December 19, 2002 will be considered.

Submissions should be sent to all of the Canadian securities regulatory authorities listed below, in care of the Ontario Securities Commission, as indicated below:

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Securities Commission  
Manitoba Securities Commission  
Ontario Securities Commission  
Securities Administration Branch, New Brunswick  
Office of the Attorney General, Prince Edward Island  
Nova Scotia Securities Commission  
Securities Commission of Newfoundland and Labrador  
Registrar of Securities, Department of Justice, Government of the Northwest Territories  
Registrar of Securities, Government of Yukon  
Registrar of Securities, Legal Registries Division, Department of Justice, Government of Nunavut  
c/o John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor, Box 55  
Toronto, Ontario M5H 3S8  
E-mail: [jstevenson@osc.gov.on.ca](mailto:jstevenson@osc.gov.on.ca)

Submissions should also be addressed to the Commission des valeurs mobilières du Québec care of:

Denise Brosseau, Secretary  
Commission des valeurs mobilières du Québec  
800 Victoria Square, Stock Exchange Tower  
P.O. Box 246, 22<sup>nd</sup> Floor  
Montréal, Québec H4Z 1G3  
E-mail: [consultation-en-cours@cvmq.com](mailto:consultation-en-cours@cvmq.com)

If you are not sending your comments by e-mail, please send us two copies of your letter, together with a diskette containing your comments (in either Word or WordPerfect format).

We cannot keep submissions confidential as securities legislation in certain provinces requires that a summary of the written comments received during the comment period be published.

Questions may be referred to any of:

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**DATED:** September 20, 2002

**NATIONAL INSTRUMENT 81-106**  
**INVESTMENT FUND CONTINUOUS DISCLOSURE**

**PART 1 DEFINITIONS AND APPLICATIONS**

**1.1 Definitions** - In this Instrument

“AIF” means an annual information form filed under section 10.1 of this Instrument;

“annual financial statement filing requirement” means the provision in securities legislation that requires the filing of annual financial statements by

- (a) a reporting issuer other than a mutual fund, or
- (b) a mutual fund in the jurisdiction;

“annual financial statements” means the financial statements required to be filed under the annual financial statement filing requirement;

“annual management report of fund performance” means a document prepared in accordance with Part B of Form 81-106F1;

“current value” means, for a portfolio asset held by, or a liability of, an investment fund,

- (a) for restricted securities, the value determined in accordance with section 13.4 of NI 81-102 Mutual Funds,
- (b) for derivatives, the value determined in accordance with section 13.5 of NI 81-102 Mutual Funds,
- (c) the market value of the portfolio asset or liability, or,
- (d) if the market value of the portfolio asset or liability is not readily available, the fair value of the portfolio asset or liability;

“designation” means,

- (a) for an equity security, the class of the security,
- (b) for a debt security not referred to in paragraph (c), an identification of the security that includes, as a minimum,
  - (i) the name of the security,
  - (ii) the interest rate of the security,

- (iii) the maturity date of the security,
  - (iv) if the security is convertible or exchangeable, disclosure of that fact, and
  - (v) if the security is ordinarily identified by reference to its priority, disclosure of that priority; and
- (c) for a security referred to in the definition of “money market fund” in National Instrument 81-102 Mutual Funds,
- (i) the name of the security,
  - (ii) the interest rate of the security, and
  - (iii) the maturity date of the security,
- (d) for any other type of security,
- (i) the name or type of security, and
  - (ii) any material terms and conditions of the security commonly used commercially in describing the security;

“education savings plan” means an agreement between one or more persons and another person or organization, in which the other person or organization agrees to pay or cause to be paid, to or for one or more beneficiaries designated in connection with the agreement, scholarship awards to further the beneficiaries’ education;

“exchange traded investment fund” means an investment fund whose securities are listed and posted for trading, or quoted on, a marketplace;

“fair value” means, for a portfolio asset or liability of an investment fund, the amount of the consideration that would be agreed upon in a transaction of purchase and sale of the portfolio asset or liability between knowledgeable, willing parties who are under no compulsion to act and who are not affiliates or associates of one another;

“financial quarter” means, for an investment fund,

- (a) if the investment fund has not completed its first financial year,
  - (i) a period, no longer than three months in duration, beginning on the date of incorporation or

organization of the investment fund and ending nine, six or three months before the end of the first financial year of the investment fund, or

- (ii) a three month period ending nine, six or three months before the end of the first financial year, and
- (b) if the investment fund has completed its first financial year, a three month period ending three, six or nine months after the end of the most recently completed financial year of the investment fund;

“formal valuation” means a valuation of either or both of the assets and liabilities of an investment fund that contains the opinion of a qualified and independent valuator as to the current value of the assets or liabilities, and that is prepared in accordance with Part 9;

“group scholarship plan” means a scholarship plan the securities of which entitle the beneficiaries, who are designated in connection with the acquisition of the securities that have the same year of maturity, to a scholarship award proportionate to the value of the securities in respect of which they are designated, on or after maturity of the securities;

“independent valuator” means, for an investment fund, a valuator that is independent of the investment fund, as determined in accordance with section 9.1;

“interim financial statements” means the financial statements required to be filed by an investment fund under the interim financial statement filing requirement;

“interim financial statement filing requirement” means the provision in securities legislation that

- (a) for a reporting issuer that is not a mutual fund, requires the filing of interim financial statements on a quarterly basis, and
- (b) for a mutual fund in the jurisdiction, requires the filing of interim financial statements on a semi-annual basis;

“interim period” means a period required to be covered by interim financial statements under the interim financial statement filing requirement;

“investment fund” means a mutual fund, a non-redeemable investment fund or a scholarship plan;

“labour sponsored fund” means an investment fund that is

- (a) a labour sponsored investment fund corporation under provincial legislation, or
- (b) a registered or prescribed labour sponsored venture capital corporation as defined in the ITA;

“management fees” means the total fees paid or payable by an investment fund to its manager or one or more portfolio advisers, excluding audit fees, directors’ fees, custodial fees and legal fees, but including incentive or performance fees;

“management report of fund performance” means an annual management report of fund performance or a quarterly management report of fund performance;

“market value” means,

- (a) for a portfolio asset held by an investment fund, the amount obtainable from the sale of the portfolio asset in an active market, excluding transaction costs, and
- (b) for a liability of an investment fund, the amount payable on the acquisition of the portfolio asset in an active market, excluding transaction costs;

“material contract” means, for an investment fund, a document that the investment fund would be required to list in an annual information form under Item 16 of Form 81-101F2 Contents of Annual Information Form if the investment fund filed a simplified prospectus under National Instrument 81-101 Mutual Fund Prospectus Disclosure;

“mutual fund in the jurisdiction” means an incorporated or unincorporated mutual fund that is a reporting issuer in, or that is organized under the laws of, the local jurisdiction;

“National Instrument 54-101” means National Instrument 54-101 Communications with Beneficial Owners of Securities of a Reporting Issuer;

“net asset value” means, for an investment fund as at a specific date, the current value of the portfolio assets of the investment fund less the current value of the total liabilities of the investment fund, as at that date;

“non redeemable investment fund” means an issuer

- (a) whose primary purpose is to invest money provided by its securityholders,
- (b) that does not invest for the purpose of exercising effective control, seeking to exercise effective control or being actively involved in the management of the issuers in which it invests, other than mutual funds or other non-redeemable investment funds, and
- (c) that is not a mutual fund;

“quarterly management report of fund performance” means a document prepared in accordance with Part C of Form 81-106F1;

“related party” means, in relation to a mutual fund, a person or company listed in section 4.2 of National Instrument 81-102 Mutual Funds;

“restricted shares” has the meaning ascribed to that term in National Instrument 51-102 Continuous Disclosure Obligations;

“scholarship award” means any amount, other than a refund of contributions, that is paid or payable directly or indirectly to further the education of the beneficiaries designated under an education savings plan;

“scholarship plan” means an investment fund the securities of which

- (a) constitute or represent an interest in an education savings plan, and
- (b) are referable to a portfolio of assets pertaining to more than one education savings plan;

“securityholder” means, for a security, the registered holder of the security, the beneficial owner of the security, or both, depending upon the context;

“significant change” means

- (a) a change in the business, operations or affairs of an investment fund that would be considered important.
  - (i) by a reasonable investor in determining whether to purchase securities of the investment fund, or
  - (ii) by a reasonable securityholder of the investment fund in determining whether to continue to hold securities of the investment fund, or



- (b) a decision to implement a change referred to in a paragraph (a) made
  - (i) by senior management of the investment fund who believe that confirmation of the decision by the board of directors of the investment fund is probable, or
  - (ii) by senior management of the manager of the investment fund who believe that confirmation of the decision by the board of directors of the manager of the investment fund is probable;

“subject securities” has the meaning ascribed to that term in National Instrument 51-102 Continuous Disclosure Obligations;

“valuation date” means the date of the investment fund’s financial year end; and

“venture investment” means an investment in a private company or an investment made in accordance with the requirements of provincial labour sponsored fund legislation or the ITA.

## 1.2 **Application**

- (1) This Instrument applies to
  - (a) an investment fund, other than a mutual fund, that is a reporting issuer;
  - (b) a mutual fund in the jurisdiction; and
  - (c) a person or company in respect of activities pertaining to an investment fund referred to in paragraph (a) or a mutual fund referred to in paragraph (b).
- (2) This Instrument applies to
  - (a) annual financial statements and annual management reports of fund performance for financial years of an investment fund beginning on or after • [date Instrument comes into force]; and
  - (b) interim financial statements and quarterly management reports of fund performance for interim periods in financial years of an investment fund beginning on or after • [date Instrument comes into force].

- (3) Part 6 of this Instrument does not apply to scholarship plans.
- (4) Parts 5, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16 and 17 of this Instrument do not apply to investment funds that are not reporting issuers.
- (5) Section 8.3 and Part 9 of this Instrument do not apply in British Columbia.
- (6) Subsections 1.3(3), (4) and (5) of this Instrument do not apply in Quebec.

### **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) Terms defined in National Instrument 14-101 Definitions, National Instrument 21-101 Marketplace Operation and National Instrument 81-102 Mutual Funds and used in this Instrument have the respective meanings ascribed to them in those Instruments.
- (3) In this Instrument, a person or company is an affiliate of another person or company if one is a subsidiary entity of the other or if both are subsidiary entities of the same person or company, or if each of them is controlled by the same person or company.
- (4) In this Instrument, a person or company is considered to be controlled by a person or company if
  - (a) in the case of a person or company
    - (i) voting securities of the first-mentioned person or company carrying more than 50 percent of the votes for the election of directors are held, otherwise than by way of security only, by or for the benefit of the other person or company, and
    - (ii) the votes carried by the securities are entitled, if exercised, to elect a majority of the directors of the first-mentioned person or company;
  - (b) in the case of a partnership that does not have directors, other than a limited partnership, the second-mentioned

person or company holds more than 50 percent of the interests in the partnership; or

- (c) in the case of a limited partnership, the general partner is the second-mentioned person or company.
- (5) In this Instrument, a person or company is considered to be a subsidiary entity of another person or company if
- (a) it is controlled by
    - (i) that other, or
    - (ii) that other and one or more persons or companies, each of which is controlled by that other, or
    - (iii) two or more persons or companies, each of which is controlled by that other; or
  - (b) it is a subsidiary entity of a person or company that is that other's subsidiary entity.

#### **1.4 Language of Documents**

- (1) An investment fund must file a document required to be filed under this Instrument in either French or English or both.
- (2) If an investment fund files a document in French or English, there is a translation of the document in the other language, and the translation is delivered to securityholders, the investment fund must file the translated document.
- (3) In Quebec, the linguistic obligations and rights prescribed by Quebec law must be complied with.

### **PART 2 ANNUAL FINANCIAL STATEMENTS**

**2.1 Filing of Annual Financial Statements** - The annual financial statement filing requirement is varied as it applies to an investment fund to require that an investment fund file its annual financial statements within 90 days, rather than 140 days, from the end of its last financial year.

#### **2.2 Delivery of Annual Financial Statements**

- (1) An investment fund shall send annually, for each of its financial years, a request form to each registered holder and beneficial owner of its securities under which the securityholder may request,

at no cost to the securityholder, to receive the investment fund's annual financial statements for that financial year.

- (2) An investment fund shall send the request form referred to in subsection (1) to the beneficial owners of its securities in accordance with the requirements of National Instrument 54-101.
- (3) An investment fund shall maintain, for each of its financial years, a supplemental mailing list that sets out the registered holders and beneficial owners of its securities who have requested to receive the investment fund's annual financial statements for that financial year by returning a completed request to the investment fund.
- (4) An investment fund shall send its annual financial statements to the registered holders and beneficial owners of its securities on the supplemental mailing list required by subsection (3) concurrently with the filing of those annual financial statements.
- (5) An investment fund that complies with subsections (1) to (4) is exempt from the requirements of securities legislation to send its annual financial statements for a financial year to registered holders of its securities.

## **2.3 Contents of Annual Financial Statements**

- (1) The annual financial statements of an investment fund shall contain,
  - (a) a statement of net assets as at the end of the most recently completed financial year of the investment fund and a comparative statement of net assets as at the end of the immediately preceding financial year;
  - (b) a statement of operations for the most recently completed financial year of the investment fund and a comparative statement of operations for the immediately preceding financial year;
  - (c) a statement of investment portfolio as at the end of the most recently completed financial year of the investment fund;<sup>1</sup>
  - (d) a summary of portfolio investments as at the end of the most recently completed financial year of the investment

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<sup>1</sup> The CSA note that a statement of investment portfolio and the summary statement of investment portfolio need not be comparative.

fund, prepared in accordance with Item 3 of Form 81-106F1;

- (e) if required by the Handbook to be prepared, a statement of cashflows for and as at the end of the most recently completed financial year of the investment fund and a comparative statement of cashflows for the immediately preceding financial year;
  - (f) if a statement of cashflows is not required by the Handbook to be prepared, a statement of changes in net assets for the most recently completed financial year of the investment fund and a comparative statement of changes in net assets for the immediately preceding financial year;
  - (g) a statement of financial highlights prepared in accordance with Form 81-106F1; and
  - (h) notes to the annual financial statements.
- (2) An investment fund shall file an auditor's report on the financial statements filed under subsection (1).

#### **2.4 Approval of Annual Financial Statements**

- (1) The board of directors of an investment fund that is a corporation shall approve the annual financial statements of the investment fund, before those financial statements are filed or made available to holders, or potential purchasers, of securities of the investment fund; and
- (2) The manager or the trustee or trustees of an investment fund that is a trust, or another person or company authorized to do so by the constating documents of the investment fund, shall approve the annual financial statements of the investment fund, before those financial statements are filed or made available to holders, or potential purchasers, of securities of the investment fund.

#### **2.5 Auditor's Report**

- (1) An auditor's report required by section 2.3 must be prepared by a person or company that is expressly permitted to sign an auditor's report under the laws of the jurisdiction in which the report is signed.
- (2) Subject to subsection (3), for the purposes of section 2.3, an investment fund must file an auditor's report that is prepared in

accordance with Canadian GAAS and does not contain a reservation.

- (3) An auditor's report required under section 2.3 must identify all audited financial periods presented for which the auditor has issued an auditor's report. Where the issuer has changed its auditor and comparative periods presented in the financial statements were audited by a different auditor, the auditor's report must refer to the former auditor's report on the comparative periods.

### **PART 3 INTERIM FINANCIAL STATEMENTS**

#### **3.1 Filing of Interim Financial Statements**

- (1) The interim financial statement filing requirement is varied as it applies to an investment fund to require that an investment fund file its interim financial statements within 45 days, rather than 60 days, after the end of the interim period.
- (2) An investment fund is not required to prepare or file interim financial statements for any period that is less than three months.

#### **3.2 Delivery of Interim Financial Statements**

- (1) An investment fund shall annually follow the same procedures in connection with its interim financial statements and a supplemental mailing list as is required by section 2.2 in connection with its annual financial statements and a supplemental mailing list and shall send its interim financial statements to registered and beneficial owners of its securities on the supplemental mailing list concurrently with the filing of those interim financial statements.
- (2) An investment fund that complies with subsection (1) is exempt from the requirements of securities legislation to send its interim financial statements for a financial year to registered holders of its securities.

#### **3.3 Contents of Interim Financial Statements** - The interim financial statements of an investment fund shall contain,

- (a) a statement of net assets as at the end of the most recently completed interim period of the investment fund and a comparative statement of net assets as at the end of the corresponding period in the immediately preceding financial year;
- (b) a statement of operations for the most recently completed interim period of the investment fund and a comparative statement of

operations for the corresponding period in the immediately preceding financial year;

- (c) a statement of investment portfolio as at the end of the most recently completed interim period of the investment fund;<sup>2</sup>
- (d) a summary of portfolio investments as at the end of the most recently completed financial year of the investment fund, prepared in accordance with Item 3 of Part B of Form 81-106F1;
- (e) if required by the Handbook to be prepared, a statement of cashflows for and as at the end of the most recently completed interim period of the investment fund and a comparative statement of cashflows for the corresponding period in the immediately preceding financial year;
- (f) if a statement of cashflows is not required by the Handbook to be prepared, a statement of changes in net assets for the most recently completed interim period of the investment fund and a comparative statement of changes in net assets for the corresponding period in the immediately preceding financial year;
- (g) a statement of financial highlights prepared in accordance with Item 2 of Part B of Form 81-106F1; and
- (h) notes to the interim financial statements.

**3.4** **Review of Interim Financial Statements** - The persons referred to in each subsection of section 2.4, as applicable, shall review the interim financial statements of the investment fund before those financial statements are filed or made available to holders, or potential purchasers, of securities of the investment fund.

## **PART 4 FINANCIAL DISCLOSURE REQUIREMENTS**

### **4.1 Generally Accepted Accounting Principles**

- (1) The financial statements required to be filed under section 2.1 and 3.1 and any other financial statements an investment fund included in a document required by this Instrument must be prepared in accordance with Canadian GAAP.

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<sup>2</sup> The CSA note that a statement of investment portfolio and the summary statement of investment portfolio need not be comparative.

- (2) An investment fund must use the same accounting principles to prepare the financial information for all the periods presented in the financial statements referred to in subsection (1).

**4.2** **Statement of Net Assets** - The statement of net assets of an investment fund shall disclose the following as separate line items:

1. cash, term deposits and, if not included in the statement of investment portfolio, short term debt instruments.
2. investments at current value.
3. accounts receivable relating to shares or units sold.
4. accounts receivable relating to portfolio assets sold.
5. accounts receivable relating to margin paid or deposited on standardized futures or forward contracts.
6. any other class of assets representing more than five percent of the total assets of the investment fund.
7. amounts receivable and/or payable in respect of specified derivatives transactions.
8. accrued expenses.
9. liabilities for portfolio assets purchased.
10. liabilities for shares or units redeemed.
11. income tax payable.
12. any other class of liability that represents more than five percent of total liabilities of the investment fund.
13. total net assets and shareholders' or unitholders' equity.
14. net asset value per security.

**4.3** **Statement of Operations** - The statement of operations of an investment fund shall disclose the following information as separate line items:

1. dividend revenue.
2. interest revenue.
3. revenue from specified derivatives.



4. revenue from securities lending.
5. management fees, excluding incentive or performance fees.
6. incentive or performance fees.
7. audit fees.
8. directors' or trustees' fees.
9. custodial fees.
10. legal fees.
11. securityholder information costs.
12. any other item of expense that represents more than five percent of total expenses of the investment fund.
13. capital tax.
14. net investment income (loss) before taxes.
15. amounts that would otherwise have been payable by the investment fund that were waived or paid by the manager or a portfolio adviser of the investment fund.<sup>3</sup>
16. provision for income tax, if applicable.
17. net investment income (loss) for the period.
18. realized gains or losses.
19. unrealized gains or losses.
20. increase (decrease) in net assets from operations.

#### **4.4 Statement of Investment Portfolio**

- (1) The statement of investment portfolio of an investment fund shall disclose the following:
  1. the name of the issuer of each security held.

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<sup>3</sup> The amount of fund expenses waived or paid by the manager or portfolio adviser of the investment fund excludes those amounts waived or paid due to an expense cap that would require securityholder approval to change.

2. the designation of each security held.
  3. the number or aggregate face value for each designation of securities held.
  4. the cost for each designation of securities held.
  5. the current value for each designation of securities held.
- (2) Despite subsection (1), the information referred to in subsection (1) may, at the option of the investment fund, be provided only in the aggregate for those short term debt instruments that are issued by a bank listed in Schedule 1, 2 or 3 to the *Bank Act* (Canada) or a loan corporation or trust corporation registered under the laws of a jurisdiction, or that have achieved an investment rating within the highest or next highest categories of ratings of each approved credit rating organization.
- (3) If an investment fund discloses short term debt instruments as permitted by subsection (2),
- (a) the investment fund shall break down the disclosure by currency of issue, and
  - (b) shall disclose separately the aggregate short term debt instruments denominated in any currency for each currency that represents more than five percent of the net assets of the fund.
- (4) If an investment fund holds positions in derivatives, the investment fund shall disclose in the statement of investment portfolio or the notes to that statement:<sup>4</sup>
1. for long positions in clearing corporation options, the number of options, the underlying interest, the strike price, the expiration month and year, the cost and the current value.
  2. for long positions in options on futures, the number of options on futures, the futures contracts that form the underlying interest, the strike price, the expiration month and year of the option on futures, the delivery month and year of the futures contract that forms the underlying

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<sup>4</sup> This section is currently section 17.1 of National Instrument 81-102 which will be revoked once this National Instrument comes into force.

interest of the option on futures, the cost and the current value.

3. for clearing corporation options written by the investment fund, the particulars of the deferred credit account, indicating the number of options, the underlying interest, the strike price, the expiration month and year, the premium received and the current value.
4. for options purchased by the investment fund that are not clearing corporation options, the number of options, the credit rating of the issuer of the options, whether the rating has fallen below the approved credit rating, the underlying interest, the principal amount or quantity of the underlying interest, the strike price, the expiration date, the cost and the current value.
5. for options written by the investment fund that are not clearing corporation options, the particulars of the deferred credit account, indicating the number of options, the underlying interest, the principal amount or quantity of the underlying interest, the exercise price, the expiration date, the premium received and the current value.
6. for positions in standardized futures, the number of standardized futures, the underlying interest, the price at which the contract was entered into, the delivery month and year and the current value.
7. for positions in forward contracts, the number of forward contracts, the credit rating of the counterparty, whether the rating has fallen below the approved credit rating level, the underlying interest, the quantity of the underlying interest, the price at which the contract was entered into, the settlement date and the current value.
8. for debt-like securities, the principal amount of the debt, the interest rate, the payment dates, the underlying interest, the principal amount or quantity of the underlying interest, a description of whether the derivative component is an option or a forward contract with respect to the underlying interest, the strike price in the case of an options component and the set price in the case of a forward component, and the current value.

9. for positions in swaps, the number of swap contracts, the credit rating of the counterparty, whether the rating has fallen below the approved credit rating, the underlying interest, the principal or notional amount, the payment dates, and the current value.
- (5) If applicable, the statement of investment portfolio included in the annual and interim financial statements of the investment fund, or the notes to the statement of investment portfolio, shall identify by an asterisk or other notation the underlying interest that is being hedged by each position taken by the investment fund in a specified derivative.
- (6) The information required by subsection (1) about mortgages may be omitted from a statement of investment portfolio if, the statement of investment portfolio instead discloses
  - (a) the total number of mortgages held;
  - (b) the total current value of mortgages held;
  - (c) a breakdown of mortgages, by reference to number and current value among mortgages insured under the *National Housing Act* (Canada), insured conventional mortgages and uninsured conventional mortgages;
  - (d) a breakdown of mortgages, by reference to number and current value, among mortgages that are pre-payable and those that are not pre-payable; and
  - (e) a breakdown of mortgages, by reference to number, current value, amortized cost and outstanding principal value, among groups of mortgages having contractual interest rates varying by no more than one quarter of one percent.

#### 4.5

**Statement of Changes in Net Assets** - The statement of changes in net assets of an investment fund shall disclose the following as separate line items:

1. net assets at the beginning of the period to which the statement applies.
2. increase or decrease in net assets from operations.
3. proceeds from the issuance of securities of the investment fund.

4. the aggregate redemption amount for which securities of the investment fund were redeemed.
5. distributions by the investment fund, including distributions that were immediately reinvested.
6. net assets at the end of the period reported upon.

**4.6** **Statement of Cashflows** - The statement of cashflows of an investment fund shall disclose the following as separate line items:

1. net investment income (loss).
2. proceeds on disposition of investments.
3. purchase of investments.
4. proceeds from issue of securities of the investment fund.
5. amounts paid on redemption of securities of the investment fund.
6. if applicable, compensation paid in respect of the sale of securities of the investment fund.

**4.7** **Notes to Financial Statements**

- (1) The notes to the financial statements of an investment fund shall disclose the following:
  1. the basis for determining current value and cost of portfolio assets, and, if a method of determining cost other than by reference to the average cost of the portfolio assets is used, disclosure of the method used.
  2. details of portfolio transactions with related parties of the investment fund, including the dollar amount of commission that the investment fund paid to any related party in connection with a portfolio transaction.
  3. if the investment fund has outstanding more than one class or series of securities ranking equally against its net assets, but differing in other respects,
    - (a) the number of authorized securities of each class or series,

- (b) the number of securities of each class or series that have been issued and are outstanding.
  - (c) the differences between the classes or series, including differences in sales charges, and management fees.
  - (d) the method used to allocate income and expenses, and realized and unrealized capital gains and losses, to each class;
  - (e) the fee arrangements for any class-level expenses paid to affiliates; and
  - (f) transactions involving the issue or redemption of securities of the investment fund undertaken in the period for each class of securities to which the financial statements pertain.
- 4. details of the total commission paid to dealers by the investment fund for its portfolio transactions during the period reported upon, including dollar amount of commissions paid and soft dollar transactions.
  - 5. the basis for calculating the management fees paid by the investment fund and the services received in consideration of the management fees.
- (2) An investment fund that borrows money shall disclose in a note to the financial statements and in the management reports of fund performance,
- 1. the minimum and maximum amount borrowed during the period;
  - 2. the percentage of net assets of the investment fund that the borrowing represented as of the end of the period;
  - 3. how the borrowed money was used; and
  - 4. details of the terms of the borrowing arrangements.

- 4.8 **Inapplicable Line Items** - Despite the requirements of this Part, an investment fund need not include in annual or interim financial statement a line item for any matter that is not applicable to the investment fund or for which there is nothing for the investment fund to disclose.

## **PART 5 ANNUAL MANAGEMENT REPORT OF FUND PERFORMANCE**

- 5.1 **Filing of Annual Management Report of Fund Performance** - An investment fund shall file its annual management report of fund performance for each financial year at the same time that it files its annual financial statements for that financial year.

- 5.2 **Delivery of Annual Management Report of Fund Performance** - An investment fund shall annually follow the same procedure in connection with its annual management report of fund performance and a supplemental mailing list as is required by section 2.2 in connection with its annual financial statements and a supplemental mailing list and shall send its annual management report of fund performance to registered and beneficial owners of its securities concurrently with the filing of that annual management report of fund performance.

- 5.3 **Contents of Annual Management Report of Fund Performance** - The annual management report of fund performance of an investment fund shall be prepared in accordance with Form 81-106F1.

### **5.4 Approval of Annual Management Report of Fund Performance**

- (1) The board of directors of an investment fund that is a corporation shall approve the annual management report of fund performance of the investment fund before the annual management report of fund performance is filed or made available to holders, or potential purchasers, of securities of the investment fund; and
- (2) The manager or the trustee or trustees of an investment fund that is a trust, or another person or company authorized to do so by the constating documents of the investment fund, shall approve the annual management report of fund performance of the investment fund before the annual management report of fund performance is filed or made available to holders, or potential purchasers, of securities of the investment fund.

### **5.5 Plain Language and Presentation**

- (1) An annual management report of fund performance shall be prepared using plain language and a format that assists in readability and comprehension.

- (2) An annual management report of fund performance shall
  - (a) present all information briefly and concisely;
  - (b) present the items listed in Part B of Form 81-106F1 in the order stipulated in that part;
  - (c) use the headings and sub-headings stipulated in Form 81-106F1, and may use sub-headings in items for which no sub-headings are stipulated; and
  - (d) not incorporate by reference into the annual management report of fund performance, from any other document, information that is required to be included in an annual management report of fund performance.

## **PART 6 QUARTERLY MANAGEMENT REPORT OF FUND PERFORMANCE**

- 6.1 Filing of Quarterly Management Report of Fund Performance** - The investment fund shall file its quarterly management report of fund performance for each financial quarter of the investment fund within 45 days after the end of the financial quarter.
- 6.2 Delivery of Quarterly Management Report of Fund Performance** - An investment fund shall annually follow the same procedure in connection with its quarterly management reports of fund performance and a supplemental mailing list as is required by section 2.2 in connection with its annual financial statements and a supplemental mailing list and shall send its quarterly management reports of fund performance to registered and beneficial owners of its securities concurrently with the filing of those quarterly management reports of fund performance.
- 6.3 Contents of Quarterly Management Report of Fund Performance** - A quarterly management report of fund performance of an investment fund shall be prepared in accordance with Form 81-106F1.
- 6.4 Review of Quarterly Management Report of Fund Performance** - The persons referred to in each subsection of section 2.4, as applicable, shall review the quarterly management reports of fund performance of the investment fund before those management reports of fund performance are filed or made available to holders, or potential purchasers, of securities of the investment fund.



## **6.5 Plain Language and Presentation**

- (1) A quarterly management report of fund performance shall be prepared using plain language and in a format that assists in readability and comprehension.
- (2) A quarterly management report of fund performance shall
  - (a) present all information briefly and concisely;
  - (b) present the items listed in Part C of Form 81-106F1 in the order stipulated in that part;
  - (c) use the headings and sub-headings stipulated in Form 81-106F1, and may use sub-headings in items for which no sub-headings are stipulated; and
  - (d) not incorporate by reference into the quarterly management report of fund performance, from any other document, information that is required to be included in a quarterly management report of fund performance.

**6.6 Exemption for Short Periods** - Despite the requirements of this Part, a quarterly management report of fund performance need not be prepared for a financial period of an investment fund that is less than three months.

## **PART 7 SPECIFIC FINANCIAL STATEMENT REQUIREMENTS**

### **7.1 Securities Lending Transactions<sup>5</sup>**

- (1) An investment fund shall disclose, in the statement of investment portfolio included in the annual and interim financial statements of the investment fund, or in the notes to the financial statements
  - (a) the aggregate dollar value of securities that were lent in the securities lending transactions of the investment fund that remain outstanding as at the date of the financial statements; and
  - (b) the type and aggregate amount of collateral received by the investment fund under securities lending transactions of the investment fund that remain outstanding as at the date of the financial statements.

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<sup>5</sup> This section is currently section 14.3 of the Companion Policy 81-102 CP which will be revoked once this National Instrument comes into force.

- (2) The statement of net assets of an investment fund that has received cash collateral in securities lending transactions that remain outstanding as of the date of the financial statements shall present
  - (a) the cash collateral received by it as an asset; and
  - (b) the obligation to repay the cash collateral as a liability.
- (3) The asset and liability referred to in subsection (2) shall be shown as separate line items in the statement of net assets.
- (4) The statement of operations of an investment fund shall present income from securities lending transactions as revenue and not as deductions from expenses.

## **7.2 Repurchase Transactions**

- (1) An investment fund, in the statement of investment portfolio included in the annual and interim financial statements of the investment fund, or in the notes to that statement, shall, for the repurchase transactions of the investment fund that remain outstanding as at the date of the statement, disclose the date of the transaction, the expiration date of the transaction, the name of the counterparty of the investment fund, the nature and current value of the securities sold by the investment fund, the amount of cash received, the repurchase price to be paid by the investment fund and the current value of the sold securities as at the date of the statement.
- (2) The statement of net assets of an investment fund that has entered into a repurchase transaction that remains outstanding as of the date of the statement of net assets shall present the obligation of the investment fund to repay the collateral as a liability.
- (3) The liability referred to in subsection (2) shall be shown as a separate line item in the statement of net assets.
- (4) The statement of operations of an investment fund shall present income from the use of the cash received on repurchase transactions as revenue and not as a deduction from expenses incurred in connection with the repurchase transaction.
- (5) The information required by this section may be presented on an aggregate basis.

### **7.3 Reverse Repurchase Transactions**

- (1) An investment fund, in the statement of investment portfolio included in the annual and interim financial statements of the investment fund, or in the notes to that statement, shall for each reverse repurchase transaction of the investment fund that remains outstanding as at the date of the statement, disclose the date of the transaction, the expiration date of the transaction, the name of the counterparty of the investment fund, the total dollar amount paid by the investment fund, the nature and value or principal amount of the securities received by the investment fund and the current value of the purchased securities as at the date of the statement.
- (2) The statement of net assets of an investment fund that has entered into a reverse repurchase transaction that remains outstanding as of the date of the financial statements shall present the reverse repurchase agreement relating to the transaction as an asset at current value.
- (3) The asset referred to in subsection (2) shall be shown as a separate line item in the statement of net assets.
- (4) The statement of operations of an investment fund shall present income from reverse repurchase transactions as revenue and not as a deduction from expenses incurred in connection with the reverse repurchase transaction.
- (5) The information required by this section may be presented on an aggregate basis.

### **7.4 Incentive or Performance Fees**

- (1) The statement of net assets of an investment fund shall recognize as a liability of the investment fund an accrual of incentive or performance fee compensation based on the current value of the underlying as of the date of the statement.
- (2) The statement of operations of an investment fund shall recognize changes in the amount of the liability referred to in subsection (1) as an expense.
- (3) The calculation of the management expense ratio shall include, as an expense of the investment fund, an incentive or performance fee change referred to in subsection (2).

- 7.5**            **Costs of Distribution of Securities** - All costs and expenses associated with the issue and distribution of securities of an investment fund that distributes its securities on a continuous basis shall be recognized as expenses in the statement of operations of the investment fund in the period in which they were incurred.
- 7.6**            **Trailing Commissions** - An investment fund that is permitted to pay costs associated with securityholders holding securities of the investment fund shall recognize those costs as an expense of the investment fund in the period in which they were incurred.

## **PART 8    GENERAL PROVISIONS**

### **8.1            Binding of Financial Statements**

- (1)      Annual and interim financial statements pertaining to more than one investment fund may be bound into one document, if all information for an investment fund is presented together, and not interspersed with information for any other investment fund.
- (2)      Despite subsection (1), notes to financial statements or discussion of accounting policies that are similar for more than one investment fund may be combined.
- (3)      The information contained in a management report of fund performance for an investment fund shall not be bound with the information contained in a management report of fund performance for another investment fund.

### **8.2            Multiple Class Investment Funds**

- (1)      An investment fund that has more than one class or series of security outstanding that is referable to a single portfolio, may, at its option,
  - (a)      prepare separate financial statements and management reports of fund performance for each class or series; or
  - (b)      combine the information concerning all of the classes or series into one set of financial statements and annual and quarterly management reports of fund performance.
- (2)      An investment fund that combines information concerning all of its classes or series of securities in one set of financial statements and management reports of fund performance shall disclose in those materials any distinctions between the classes or series of securities.

### 8.3 Labour Sponsored Funds

- (1) Despite section 4.4, a labour sponsored fund may, in its statement of investment portfolio, or summary statement of investment portfolio,
  - (a) for securities for which a market value is readily available, provide the details of the securities as required by paragraphs 4.4(1) 1 to 5 ; and
  - (b) for securities for which a market value is not readily available,
    - (i) provide the details of the securities as required by paragraphs 4.4(1) 1 to 4 if the statement of investment portfolio groups those securities by industry, type or stage of development and discloses the cost amount of each security, with an aggregate adjustment from cost to current value, for each group, and
      - (A) for a statement of investment portfolio contained in annual financial statements, the labour sponsored fund has obtained and filed a formal valuation relating to the information contained in those annual financial statements in accordance with Part 9, concurrently with the filing of the annual financial statements containing the statement of investment portfolio; or
      - (B) for a statement of investment portfolio contained in interim financial statements, the labour sponsored fund has obtained and filed a formal valuation relating to the information contained in the most recent annual financial statements of the labour sponsored fund in accordance with Part 9, and
    - (ii) disclose that a formal valuation has been obtained as of the year end date.

**8.4**            **Commodity Pools**<sup>6</sup> - In addition to the requirements of section 4.3, the statement of operations of a commodity pool shall include,

- a)     the total amount of realized net gain or net loss on positions liquidated during the period;
- b)     the change in unrealized net gain or net loss on open positions during the period;
- c)     the total amount of net gain or net loss from all other transactions in which the commodity pool engaged during the period, including interest; and
- d)     the total amount of all brokerage commissions paid during the period.

**8.5**            **Group Scholarship Plans** - In addition to the requirements of Part 2 and Part 3, a group scholarship plan shall disclose, as a separate statement or schedule to the financial statements,

- (a)     a summary of scholarship agreements and units by year of eligibility; and
- (b)     a statement of scholarships paid to qualified students.

## **PART 9    FORMAL VALUATIONS**

### **9.1            Independence of Valuator**

- (1)     Every formal valuation prepared under this Instrument shall be prepared by an independent valuator having appropriate qualifications.
- (2)     It is a question of fact as to whether a valuator
  - (a)     is independent of an investment fund; and
  - (b)     has appropriate qualifications.

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<sup>6</sup> This section is currently section 8.3 of proposed National Instrument 81-104 Commodity Pools and this section will be revoked once that National Instrument comes into force.

- 9.2 Disclosure Concerning Valuator** - An investment fund that obtains a formal valuation of its venture investment assets shall include, in the statement of investment portfolio contained in its annual financial statements, or the notes to the annual financial statements,
- (a) a statement by the directors or trustees of the fund that the valuator is qualified and independent;
  - (b) a description of any past, present or anticipated relationship between the valuator and the investment fund or its manager or portfolio adviser;
  - (c) a description of the compensation paid or to be paid to the valuator;
  - (d) the basis for determining that the valuator is qualified; and
  - (e) the basis for determining that the valuator or the person or company is independent.
- 9.3 Subject Matter of Formal Valuation** - A formal valuation under this Instrument shall provide, as of the year end, the valuation, in aggregate, of all venture investment assets of the investment fund, other than those venture investment assets whose current value is readily available and whose current value has been disclosed separately.
- 9.4 Filing of Formal Valuation** - Subject to section 9.5 an investment fund that obtains a formal valuation shall file a copy of the formal valuation concurrently with the filing of its annual financial statements.
- 9.5 Valuator's Consent** - An investment fund obtaining a formal valuation shall
- (a) obtain the valuator's consent to its filing; and
  - (b) include a statement, signed by the valuator, in substantially the following form:

“We refer to the formal valuation dated ●, which we prepared for (indicate name of the person or company) for (briefly describe the venture investments for which the formal valuation was prepared). We consent to the filing of the formal valuation with the securities regulatory authorities.”

## **PART 10 ANNUAL INFORMATION FORM**

### **10.1 Requirement to File an Annual Information Form**

- (1) Subject to subsection (2), an investment fund must file an AIF.
- (2) An investment fund is not required to file an AIF if
  - (a) the investment fund has a current prospectus prepared and filed under National Instrument 81-101 Mutual Fund Prospectus Disclosure; or
  - (b) the investment fund is in continuous distribution of its securities and has a current prospectus prepared and filed under securities legislation other than National Instrument 81-101 Mutual Fund Prospectus Disclosure.

**10.2 Filing Deadline for an AIF** – An investment fund shall file an AIF required to be filed under section 10.1 no later than 90 days after the end of its most recently completed financial year.

### **10.3 Preparation of an AIF**

- (1) An AIF required to be filed under section 10.1 shall be prepared as of the end of the most recently completed financial year of the investment fund to which it pertains.
- (2) An AIF required to be filed under section 10.1 shall be prepared in accordance with Form 81-101F2, except that:
  - (a) General Instructions (3), (10), (11), (12) and (14) of Form 81-101F2 are not applicable;
  - (b) Subsections (3) and (6) of Item 1.1 of Form 81-101F2 are not applicable;
  - (c) Item 1.2 of Form 81-101F2 is not applicable;
  - (d) Item 5 of Form 81-101F2 shall be completed in connection with all of the securities of the investment fund;
  - (e) Item 15 of Form 81-101F2 is not applicable to an investment fund that is a corporation; and
  - (f) Items 19, 20, 21 and 22 of Form 81-101F2 are not applicable.



- (3) An AIF for an investment fund may not be consolidated, combined or bound with, an AIF for another investment fund.

## **PART 11 MATERIAL/SIGNIFICANT CHANGE REPORTS**

### **11.1 Publication of Material Change or Significant Change**

- (1) If a material or significant change occurs in the affairs of an investment fund, that investment fund must:
  - (a) promptly issue and file a news release that is authorized by an executive officer of the manager of the investment fund and that discloses the nature and substance of the material change or significant change;
  - (b) post all disclosure made under paragraph (a) on the website of the investment fund or the investment fund manager;
  - (c) as soon as practicable, but in any event no later than 10 days after the date on which the change occurs, file a report containing the information required by Form 51-102F3, except that a reference in Form 51-102F3 to:
    - (i) “material change” shall be read as a reference to “significant change”, if applicable;
    - (ii) “paragraph 7.1(1)(a) of National Instrument 51-102” in Item 3 shall be read as a reference to “paragraph 11.1(1)(c) of National Instrument 81-106”;
    - (iii) “subsection 7.1(2) of National Instrument 51-102” in Item 6 shall be read as a reference to “subsection 11.1(2) of National Instrument 81-106”;
    - (iv) “subsection 7.1(4) of National Instrument 51-102” in Item 6 shall be read as a reference to “subsection 11.1(3) of National Instrument 81-106”; and
    - (v) “executive officer of your company” in Item 8 shall be read as a reference to “officer of the investment fund or of the manager of the investment fund”.
  - (d) file an amendment to its prospectus or simplified prospectus that discloses the significant change in accordance with the requirements of securities legislation

as if the amendment were required to be filed under securities legislation<sup>7</sup>.

- (2) The requirements of paragraph (1)(a) and (b) do not apply to investment funds that immediately file a report containing the information required by Form 51-102F3 marked “Confidential” together with written reasons why a news release under paragraph (1)(a) should not be issued and information posted to the website, if
  - (a) in the opinion of the investment fund, the issuance of the news release required by subsection (1) would be unduly detrimental to its interest; or
  - (b) the material change or the significant change
    - (i) consists of a decision to implement a change made by senior management of the manager of the investment fund who believe that confirmation of the decision by the directors or trustee is probable; and
    - (ii) senior management of the manager of the investment fund has no reason to believe that persons with knowledge of the material change or significant change have made use of that knowledge in purchasing or selling securities of the investment fund.
- (3) The requirements of subsection (2) do not apply in Quebec if senior management of the investment fund has reasonable grounds to believe that disclosure would be seriously prejudicial to the interests of the investment fund and that no transaction in securities of the investment fund has been or will be carried out on the basis of the information not generally known. The investment fund must comply with subsection (2) when circumstances that justify non-disclosure have ceased to exist.
- (4) If a report has been filed under subsection (2), the investment fund must advise the applicable regulator or securities regulatory authority by letter marked “Confidential”, within 10 days of the date of filing the report and every 10 days thereafter, that it believes that the report should continue to remain confidential,

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<sup>7</sup> This section is currently section 5.10 of NI 81-102 Mutual Funds, which will be revoked once this National Instrument comes into force.

until the material change or significant change is generally disclosed in the manner referred to in subsection (1).

- (5) Despite the filing of a report with the applicable regulatory or securities regulatory authority under subsection (2), an investment fund must disclose promptly and generally the material change or the significant change in the manner referred to in subsection (1) upon the investment fund becoming aware or having reasonable grounds to believe that persons or companies are purchasing or selling securities of the investment fund with knowledge of the material change or the significant change that has not been generally disclosed.

## **PART 12 PROXY SOLICITATION AND INFORMATION CIRCULARS**

### **12.1 Sending of Proxies and Information Circulars**

- (1) If management of an investment fund or the manager of an investment fund gives or intends to give notice of a meeting to securityholders of the investment fund, management or the manager must, at the same time as or before giving that notice, send to each securityholder who is entitled to notice of the meeting a form of proxy for use at the meeting.
- (2) A person or company that solicits proxies from securityholders of an investment fund shall:
  - (a) in the case of a solicitation by or on behalf of management of the investment fund, send with the notice of meeting to each securityholder whose proxy is solicited a completed Form 51-102F5; or
  - (b) in the case of a solicitation by or on behalf of any person or company other than management of the investment fund, concurrently with or before the solicitation, send a completed Form 51-102F5 and a form or proxy to each securityholder whose proxy is solicited.

### **12.2 Exemption**

- (1) Paragraph 12.1(2)(b) does not apply to a solicitation if the total number of securityholders whose proxies are solicited is not more than 15.

- (2) For the purposes of subsection (1), two or more persons or companies who are joint registered owners of one or more securities are considered to be one securityholder.

**12.3** **Compliance with National Instrument 51-102** – A person or company that solicits proxies under section 12.1 shall do so in compliance with the requirement of Sections 9.3 and 9.4 of National Instrument 51-102 Continuous Disclosure Obligations as if those Sections applied to the person or company, and as if references in those Sections to “a reporting issuer” were references to “an investment fund”.

### **PART 13 RESTRICTED SHARE DISCLOSURE REQUIREMENTS**

**13.1** **Restricted Share Disclosure Requirements** - An investment fund that has restricted shares, or securities that are directly or indirectly convertible into or exercisable or exchangeable for restricted shares or subject securities shall comply with Part 10 of National Instrument 51-102.

### **PART 14 CHANGE OF AUDITOR**

**14.1** **Change of Auditor** - An investment fund shall not change its auditor unless it complies with section 4.14 of National Instrument 51-102 as if that section applied to the investment fund, and as if

- (a) references in that section to “a reporting issuer” were references to “an investment fund”; and
- (b) references in that section to the “board of directors” were references to the “board of directors of the investment fund, or the board of directors of the manager of the investment fund, as applicable,”.

### **PART 15 FINANCIAL STATEMENTS – GENERAL**

**15.1** **Books and Records** - An investment fund shall maintain books and records in accordance with the requirements of securities legislation including all portfolio transactions undertaken by the investment fund.

#### **15.2** **Documents Available on Request**

- (1) An investment fund shall deliver or send to any person or company, on request, the most recent annual or interim financial statements of the investment fund and the most recent annual or quarterly management reports of fund performance, unless the investment fund has previously delivered or sent those financial

statements or management reports of fund performance to that person or company.

- (2) An investment fund shall deliver or send, free of charge, all documents requested under this section within three business days of receipt of the request.

**15.3 Toll-Free Telephone Number or Collect Telephone Calls** - An investment fund shall have a toll-free telephone number for, or accept collect telephone calls from, persons or companies that want to receive a copy of any or all of the most recent annual or interim financial statements or the quarterly or annual management reports of fund performance of the investment fund.

## **PART 16 ADDITIONAL FILING REQUIREMENTS**

### **16.1 Additional Filing Requirements**

- (1) An investment fund must file a copy of any material information that it sends to its securityholders.
- (2) An investment fund must file the document referred to in subsection (1) on the same date as, or as soon as practicable after, the date on which the investment fund sends the document to its securityholders.

## **PART 17 FILING OF MATERIAL CONTRACTS**

**17.1 Filing of Material Contracts** – An investment fund that is not subject to National Instrument 81-101 Mutual Fund Prospectus Disclosure or securities legislation that imposes a similar requirement shall file a copy of any material contract of the investment fund not previously filed, or any amendment to any material contract of the investment fund not previously filed

- (a) with the final prospectus of the investment fund; or
- (b) upon the execution of the material contract or amendment.

## **PART 18 TRANSITION**

**18.1 Transition Year** - Despite section 5.2, an investment fund must deliver to each securityholder the annual management report of fund performance for the first financial year end of the investment fund after the effective date of this Instrument together with an explanation of the new financial

disclosure requirements.

**18.2** **Comparative Information** - Despite any provision of this Instrument, an investment fund is not required to provide comparative information in its financial statements for the financial year, and for interim periods in the financial year, in which the investment fund is first subject to this Instrument if

- (a) it is impracticable to present prior period information on a basis consistent with this Instrument;
- (b) the prior period information that is available is presented; and
- (c) the prior period information that is presented has not been prepared in accordance with this Instrument and this fact is disclosed.

## **PART 19 EXEMPTIONS**

### **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 an exemption from any part of this Instrument, except Parts 11 and 12.

## **PART 20 EFFECTIVE DATE**

**20.1** **Effective Date** - This Instrument comes into force on •.

**NATIONAL INSTRUMENT 81-106**  
**INVESTMENT FUND CONTINUOUS DISCLOSURE**

**TABLE OF CONTENTS**

	<b>Page</b>
<b>PART 1</b>	<b>DEFINITIONS AND APPLICATION..... 1</b>
1.1	Definitions ..... 1
1.2	Application..... 6
1.3	Interpretation..... 7
1.4	Language of Documents ..... 8
<b>PART 2</b>	<b>ANNUAL FINANCIAL STATEMENTS..... 8</b>
2.1	Filing of Annual Financial Statements..... 8
2.2	Delivery of Annual Financial Statements ..... 8
2.3	Contents of Annual Financial Statements ..... 9
2.4	Approval of Annual Financial Statements ..... 10
2.5	Auditor’s Report ..... 10
<b>PART 3</b>	<b>INTERIM FINANCIAL STATEMENTS..... 11</b>
3.1	Filing of Interim Financial Statements..... 11
3.2	Delivery of Interim Financial Statements ..... 11
3.3	Contents of Interim Financial Statements ..... 11
3.4	Review of Interim Financial Statements ..... 12
<b>PART 4</b>	<b>FINANCIAL DISCLOSURE REQUIREMENTS..... 12</b>
4.1	Generally Accepted Accounting Principles..... 12
4.2	Statement of Net Assets ..... 13
4.3	Statement of Operations..... 13
4.4	Statement of Investment Portfolio ..... 14
4.5	Statement of Changes in Net Assets ..... 17
4.6	Statement of Cashflows ..... 18
4.7	Notes to Financial Statements..... 18
4.8	Inapplicable Line Items ..... 20
<b>PART 5</b>	<b>ANNUAL MANAGEMENT REPORT OF FUND PERFORMANCE..... 20</b>
5.1	Filing of Annual Management Report of Fund Performance ..... 20
5.2	Delivery of Annual Management Report of Fund Performance ..... 20
5.3	Contents of Annual Management Report of Fund Performance..... 20
5.4	Approval of Annual Management Report of Fund Performance..... 20

**TABLE OF CONTENTS**  
**(continued)**

**Page**

5.5	Plain Language and Presentation.....	20
<b>PART 6</b>	<b>QUARTERLY MANAGEMENT REPORT OF FUND PERFORMANCE.....</b>	<b>21</b>
6.1	Filing of Quarterly Management report of fund performance .....	21
6.2	Delivery of Quarterly Management report of fund performance.....	21
6.3	Contents of Quarterly Management report of fund performance.....	21
6.4	Review of Quarterly Management report of fund performance.....	21
6.5	Plain Language and Presentation.....	22
6.6	Exemption for Short Periods.....	22
<b>PART 7</b>	<b>SPECIFIC FINANCIAL STATEMENT REQUIREMENTS.....</b>	<b>22</b>
7.1	Securities Lending Transactions .....	22
7.2	Repurchase Transactions.....	23
7.3	Reverse Repurchase Transactions.....	24
7.4	Incentive or Performance Fees.....	24
7.5	Costs of Distribution of Securities .....	25
7.6	Trailing Commissions .....	25
<b>PART 8</b>	<b>GENERAL PROVISIONS .....</b>	<b>25</b>
8.1	Binding of Financial Statements .....	25
8.2	Multiple Class Investment Funds.....	25
8.3	Labour Sponsored Funds.....	26
8.4	Commodity Pools.....	27
8.5	Group Scholarship Plans .....	27
<b>PART 9</b>	<b>FORMAL VALUATIONS .....</b>	<b>27</b>
9.1	Independence of Valuator .....	27
9.2	Disclosure Re Valuator .....	28
9.3	Subject Matter of Formal Valuation.....	28
9.4	Filing of Formal Valuation.....	28
9.5	Valuator's Consent .....	28
<b>PART 10</b>	<b>ANNUAL INFORMATION FORM.....</b>	<b>29</b>
10.1	Requirement to File an Annual Information Form.....	29
10.2	Filing Deadline for an AIF .....	29
10.3	Preparation of and AIF.....	29



**TABLE OF CONTENTS**  
**(continued)**

**Page**

<b>PART 11</b>	<b>MATERIAL/SIGNIFICANT CHANGE REPORTS.....</b>	<b>30</b>
11.1	Publication of Material Change or Significant Change .....	30
<b>PART 12</b>	<b>PROXY SOLICITATION AND INFORMATION CIRCULARS.....</b>	<b>32</b>
12.1	Sending of Proxies and Information Circulars.....	32
12.2	Exemption.....	32
12.3	Compliance with National Instrument 51-102.....	33
<b>PART 13</b>	<b>RESTRICTED SHARE DISCLOSURE REQUIREMENTS .....</b>	<b>33</b>
13.1	Restricted Share Disclosure Requirements .....	33
<b>PART 14</b>	<b>CHANGE OF AUDITOR.....</b>	<b>33</b>
14.1	Change of Auditor.....	33
<b>PART 15</b>	<b>FINANCIAL STATEMENTS - GENERAL.....</b>	<b>33</b>
15.1	Books and Records.....	33
15.2	Documents Available on Request.....	33
15.3	Toll-Free Telephone Number or Collect Telephone Calls.....	34
<b>PART 16</b>	<b>ADDITIONAL FILING REQUIREMENTS.....</b>	<b>34</b>
16.1	Additional Filing Requirements .....	34
<b>PART 17</b>	<b>FILING OF MATERIAL CONTRACTS.....</b>	<b>34</b>
17.1	Filing of Material Contracts .....	34
<b>PART 18</b>	<b>TRANSITION .....</b>	<b>34</b>
18.1	Transition Year .....	34
18.2	Comparative Information.....	35

**TABLE OF CONTENTS**  
**(continued)**

	<b>Page</b>
<b>PART 19</b>	
<b>EXEMPTIONS .....</b>	<b>35</b>
19.1	
Exemption.....	35
<b>PART 20</b>	
<b>EFFECTIVE DATE.....</b>	<b>35</b>
20.1	
Effective Date.....	35

An extra section break has been inserted above this paragraph. Do not delete this section break if you plan to add text after the Table of Contents/Authorities. Deleting this break will cause Table of Contents/Authorities headers and footers to appear on any pages following the Table of Contents/Authorities.

# COMPANION POLICY 81-106CP TO NATIONAL INSTRUMENT 81-106 INVESTMENT FUND CONTINUOUS DISCLOSURE

## **PART 1**      **PURPOSE AND APPLICATION OF THE COMPANION POLICY**

### **1.1**            **Purpose**

The purpose of this Companion Policy is to provide guidance to assist investment funds in complying with their obligations under National Instrument 81-106 Investment Fund Continuous Disclosure (the “Instrument”).

### **1.2**            **Application**

- (1) Section 1.2 of the Instrument states that the Instrument applies, to investment funds, which includes scholarship plans and non-redeemable investment funds. These funds have similar characteristics to mutual funds and so are appropriately subject to similar reporting requirements.
- (2) In addition, the Instrument applies to a mutual fund in the jurisdiction, which is defined in the Instrument as “a mutual fund that is a reporting issuer in, or that is organized under the laws of, the local jurisdiction”. Market participants are reminded that the definition of mutual fund may include mutual fund securities distributed by private placement (so-called “pooled funds”) if organized under the laws of the local jurisdiction.

### **1.3**            **Plain Language Principles**

The Canadian securities regulatory authorities believe that plain language will help investors understand an investment funds’ disclosure documents so that they can make informed investment decisions. Investment funds are encouraged to adopt the following plain language principles in preparing documents filed under the Instrument:

- use short sentences
- use definite, concrete, everyday language
- use the active voice
- avoid unnecessary words
- organize the document into clear, concise sections, paragraphs and sentences
- avoid legal or business jargon
- use strong verbs

- use personal pronouns to speak directly to the reader
- avoid reliance on glossaries and defined terms unless it helps to understand the disclosure
- avoid vague boilerplate wording
- use concrete terms or examples
- avoid excessive detail
- avoid multiple negatives.

If technical or business terms are required, clear and concise explanations should be used.

#### **1.4 Signature and Certificates**

The directors of an investment fund or the manager or the trustee of an investment fund are not required to file signed or certified continuous disclosure documents. The directors or the manager or trustee of an investment fund are responsible for the information in the investment funds disclosure documents whether or not a document is signed or certified, and it is an offence under securities legislation to file a document that contains a misrepresentation.

#### **1.5 Filings on SEDAR**

Investment funds are reminded that all documents required to be filed under the Instrument must be filed in accordance with National Instrument 13-101 – System for Electronic Document Analysis and Retrieval (SEDAR).

### **PART 2 FINANCIAL STATEMENTS**

#### **2.1 Interrelationship of Financial Statements with Canadian GAAP**

- (1) Investment funds are required to prepare their annual and interim financial statements and their annual and quarterly management reports of fund performance in accordance with both Canadian GAAP and the Instrument.
- (2) Canadian GAAP provides some general requirements for the preparation of financial statements that are applicable to investment fund financial statements. Investment funds are required to comply with those requirements.
- (3) However, Canadian GAAP does not contain detailed requirements applicable to the contents of investment fund financial statements. The Canadian securities regulatory authorities believe that certain information

should properly be contained in the financial statements of investment funds in order to provide full disclosure, and require that this information be included.

- (4) The information required by the Instrument to be included in financial statements, or an annual or interim management report of fund performance, is minimum information only. Persons preparing these documents should include any other additional information required to ensure that all material information concerning the financial position or results of the investment fund is disclosed.

## **2.2 Timing and Content of Interim Financial Statements**

- (1) Interim financial statements are also required to be prepared in accordance with both Canadian GAAP and the requirements of the Instrument. For example, Section 1751 Interim Financial Statements of the Handbook requires that the interim financial statements include, at a minimum: each of the headings and subtotals included in the most recent annual financial statements; and the specific disclosures required by Section 1751. Investment funds must ensure that interim financial statements comply with both Section 1751 of the Handbook and the Instrument. Separate fourth quarter interim financial statements are not required.

## **2.3 Auditor's Report**

- (1) An auditor's report required by section 2.3 of the Instrument may not contain a reservation of opinion unless exemptive relief is granted under 19.1. The Canadian securities regulatory authorities would have serious concerns where the reservation is:
  - (a) due to a departure from Canadian GAAP; or
  - (b) due to a limitation in the scope of the auditor's examination that:
    - (i) results in the auditor being unable to form an opinion on the financial statements as a whole because of a limitation in the scope of the audit;
    - (ii) is imposed or could reasonably be eliminated by management; or
    - (iii) could reasonably be expected to be recurring.
- (2) The Canadian securities regulatory authorities encourage investment funds to file their financial statements as soon as practicable after the date of the audit report.

## **2.4 Auditor's Report - Multiple Class Funds**

- (1) As provided in section 8.2 of the Instrument, an investment fund that has more than one class or series of securities outstanding that are referable to a single portfolio, may, at its option, prepare separate financial statements and annual and quarterly management reports of fund performance for each class or series, or may consolidate the information concerning all of the classes or series into one set of financial statements and management reports of fund performance.
- (2) To satisfy the requirement to produce audited annual financial statements, an investment fund that has more than one class or series outstanding must ensure that the annual financial statements for each class or series are audited. If the investment fund is preparing separate financial statements for each class or series, it should ensure that the auditor's report for each set of financial statements pertains specifically to the relevant class or series, but also indicates that the investment fund as a whole has been reported on for the same period without reservation.
- (3) It is expected that once an investment fund makes an initial decision as to whether to prepare separate or consolidated financial statements or management reports of fund performance for its classes or series of securities, it will continue with the same approach for subsequent financial periods in order to ensure that the financial statements and management reports of fund performance for different financial periods are easily comparable. The Canadian securities regulatory authorities believe investment funds should explain, in notes to financial statements or in a management report of fund performance, the reasons for any change in approach taken from one financial period to another.

## **2.5 Auditor's Involvement with the Annual Management Reports of Fund Performance**

Investment funds' auditors are expected to comply with section 7500 – The Auditor's Involvement with the Annual Reports, of the Handbook<sup>1</sup>, in connection with the preparation of the annual management reports of fund performance required by the Instrument.

## **2.6 Delivery of Financial Statements**

- (1) Prior to the implementation of the Instrument, securities legislation of most Canadian jurisdictions required investment funds to deliver annual and, in certain circumstances, interim financial statements to

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<sup>1</sup> "Handbook" is defined in the NI 14-101 Definitions to mean the Handbook of the Canadian Institute of Chartered Accountants.

securityholders concurrent with filing. The Instrument eliminates this mandated delivery, replacing it with a requirement that an investment fund must deliver annual and interim financial statements only to those securityholders who request them subject to the annual notice requirement. Investment funds are reminded that they remain subject to all applicable corporate law requirements that may still require delivery of annual financial statements to securityholders.

- (2) Eliminating the delivery requirement enables investment funds governed by either the CBCA or provincial corporate statute to take advantage of provisions in these statutes that allow companies not to deliver annual financial statements to securityholders who have elected not to receive them.
- (3) The Instrument requires the delivery of various notices to securityholders by investment funds. Investment funds are reminded of the provisions of National Policy 11-201 Delivery of Documents by Electronic Means. In particular, it is noted that the notices required to be given under sections 2.2, 3.2, 5.2 and 6.2 of the Instrument may be given in electronic form and may be combined into one or more notices. Such notices may alternatively be sent with account statements or other materials sent to securityholders by an investment fund as is convenient to the investment fund.

## **2.7 Change in Ending Date of Financial Year**

Where an investment fund changes the ending date of its financial year, the investment fund should refer to National Policy Statement 51 Changes in the Ending Date of a Financial Year and in Reporting Status for guidance concerning reporting periods, filing deadlines and notification procedures.

## **PART 3 OTHER PROVISIONS**

### **3.1 Accounting for Securities Lending Transactions**

- (1) Section 7.1 of the Instrument imposes certain reporting requirements on investment funds in connection with any securities lending transactions entered into by the investment fund. These requirements were included to ensure that all securities lending transactions are accounted for on the same basis. The general accounting principle concerning whether a given transaction is a recordable transaction is based on determining whether risk and rewards have transferred in the transaction. The substance of a securities lending transaction is that the portfolio adviser treats the original securities as if they have never been lent. The investment fund must be able to call the original securities back at any time, and the securities returned must be the same or substantially the same as the original



securities. These conditions reduce the risk of the investment fund not being able to transact the original securities. The original securities remain on the books of the investment fund.

- (2) The accounting treatment of the collateral in a securities lending transaction depends on the ability of the lender to control what happens with the collateral. If non-cash collateral is received by the investment fund, the collateral is not reflected on the statement of net asset of the investment fund if the non-cash collateral cannot be sold or repledged. If cash collateral is received by the investment fund lender, the investment fund has the ability to either hold or reinvest the cash. The lender has effective control over the cash, even though it uses an agent to effect the reinvestment on its behalf. The cash collateral, and subsequent reinvestment, and an obligation to repay the collateral are recorded on the books of the investment fund.

### **3.2 Costs of Distribution of Securities**

- (1) Section 7.5 of the Instrument provides that all costs and expenses associated with the issue and distribution of securities of an investment fund on a continuous basis shall be recognized as expenses in the statement of operations of the investment fund in the period in which they were incurred.
- (2) Section 3.3 of National Instrument 81-102 Mutual Funds prohibits a mutual fund from paying for the costs of incorporation or organization of the mutual fund. However, apart from this restriction, a mutual fund may pay security issue costs for renewal prospectuses, which may include costs associated with legal fees relating to the preparation of a prospectus, costs associated with the distribution of the securities of the mutual fund, including underwriting, agency or similar costs, the cost of printing a prospectus, any fees that may be paid to have the securities of an exchange traded fund listed or quoted on a marketplace, and the cost of tax opinions relating to the issue of securities.
- (3) The Canadian securities regulatory authorities consider it important that investors fully understand the costs associated with the ownership of securities of an investment fund. For this reason, section 7.5 of the Instrument has been implemented, in order to ensure that costs associated with the continuous distribution of securities are shown as expenses of the investment fund on the statements of operations for the financial period in which they are incurred, and are not deferred and amortized to retained earnings, or charged directly to capital.
- (4) Non redeemable investment funds that offer their securities on a one time offering basis should account for the initial offering costs as a capital

transaction in accordance with Capital Transactions, Section 3610 of the Handbook. The amount of the costs should be disclosed separately in the financial statements of the fund for at least the period in which the relevant costs are incurred. Initial offering costs are all costs incurred to complete an offering, including costs of preparing and printing the prospectus, legal expenses, marketing expenses and agents' fees. In CSA staff's view, it is not appropriate for such costs to be deferred and recognized as an asset to be amortized to either income or retained earnings over the life of the fund.

- 3.3** **Trailing Commissions** - Trailing fees or commissions are those fees paid to dealers over time based on the client assets maintained in the fund. The Manager normally pays these fees however exemptions have been given to certain labour sponsored funds for the fund to pay these fees. Section 7.6 of the Instrument provides that any trailing fees paid by an investment fund, by way of an exemptive order, must be accounted for as an expense.

## **PART 4** **FORMAL VALUATIONS**

### **4.1** **Formal Valuations**

Part 8 of the Instrument is designed to address the concerns raised by labour sponsored funds that disclosing a fair value for its venture investments may potentially disadvantage the private companies in which it invests.

Section 8.3 permits alternative disclosure by labour sponsored funds of its statement of investment portfolio.

Labour sponsored funds must disclose the individual securities in which they invests, however, the labour sponsored fund may aggregate all changes from costs of the venture investments, thereby only showing an aggregate adjustment from cost to fair value for these securities.

This alternative disclosure is only permitted if the labour sponsored fund has obtained a formal valuation in accordance with Part 9 of the Instrument. The CSA are of the view that a report on Compliance with stated valuation policies and practices cannot take the place of a formal valuation.

- (1) An investment fund obtaining a formal valuation should, at the request of the valuator, promptly furnish the valuator with access to the investment fund manager and its advisers and to all material information in their possession relevant to the formal valuation. The valuator is expected to use that access to perform a comprehensive review and analysis of information upon which the formal valuation is based. The valuator should form its own independent views of the reasonableness of this information, including any forecasts or projections or other measurements of the

expected future performance of the enterprise, and of any of the assumptions upon which it is based, and adjust the information accordingly.

- (2) The disclosure in the valuation of the scope of review should include a description of any limitation on the scope of the review and the implications of the limitation on the valuator's conclusion.
- (3) The person or company responsible for obtaining a formal valuation should work in co-operation with the valuator to ensure that the requirements of the Instrument are satisfied.

## **4.2 Independent Valuers**

- (1) Except in certain prescribed situations, the Instrument provides that it is a question of fact as to whether a valuator is independent of the investment fund. In determining the independence of the valuator from the investment fund, a number of factors may be relevant, including whether
  - (a) the valuator or an affiliated entity of it has a material financial interest in future business in respect of which an agreement, commitment or understanding exists involving the investment fund or a person or company listed in paragraph (2)(a);
  - (b) the valuator or an affiliated entity of it is a lender of a material amount of indebtedness to any of the issuers of the investment fund's illiquid investments.
- (2) The Canadian securities regulatory authorities would generally consider a valuator to not be independent of an investment fund where
  - (a) the valuator or an affiliated entity of the valuator is
    - (i) the manager of the investment fund,
    - (ii) a portfolio adviser of the investment fund,
    - (iii) an insider of the investment fund,
    - (iv) an associate of the investment fund,
    - (v) an affiliated entity of the investment fund, or
    - (vi) an affiliated entity of any of the persons or companies named in this clause (a);

- (b) the compensation of the valuator or an affiliated entity of the valuator depends in whole or in part upon an agreement, arrangement or understanding that gives the valuator, or an affiliated entity of the valuator, a financial incentive in respect of the conclusions reached in the formal valuation;
- (c) the valuator or an affiliated entity of the valuator has a material investment in the investment fund or a portfolio asset of the investment fund.

## **PART 5 MATERIAL/SIGNIFICANT CHANGE**

### **5.1 Material/Significant Change**

The Canadian securities regulatory authorities are of the view that in order for an investment fund to file a confidential material/significant change report under subsection 11.1(3) of the Instrument, the investment fund or its manager must advise insiders of the prohibition against trading during the filing period of a confidential material change report and also must take steps to monitor trading activity.

## **PART 6 INFORMATION CIRCULARS**

### **6.1 Sending of Proxies and Information Circulars**

The Canadian securities regulatory authorities remind that an investment fund is required to send the proxy-related materials referred to in section 12.1 of the Instrument to its securityholders in accordance with the requirements of National Instrument 54-101.

**COMPANION POLICY 81-106CP TO NATIONAL INSTRUMENT 81-106  
INVESTMENT FUND CONTINUOUS DISCLOSURE**

**TABLE OF CONTENTS**

	<b>Page</b>
<b>PART 1</b>	<b>PURPOSE AND APPLICATION OF THE COMPANION POLICY ..... 1</b>
1.1	Purpose..... 1
1.2	Application..... 1
1.3	Plain Language Principles ..... 1
1.4	Signature and Certificates ..... 2
1.5	Filing on SEDAR ..... 2
<b>PART 2</b>	<b>FINANCIAL STATEMENTS..... 2</b>
2.1	Interrelationship of Financial Statements with Canadian GAAP..... 2
2.2	Timing and Content of Interim Financial Statements ..... 3
2.3	Auditor’s Report ..... 3
2.4	Auditor’s Report - Multiple Class Funds ..... 4
2.5	Auditor’s Involvement with the Annual Management Reports of Fund Performance ..... 4
2.6	Delivery of Financial Statements ..... 4
2.7	Change in Ending Date of Financial Year ..... 5
<b>PART 3</b>	<b>OTHER PROVISIONS ..... 5</b>
3.1	Accounting for Securities Lending Transactions ..... 5
3.2	Costs of Distribution of Securities ..... 6
3.3	Trailing Commissions ..... 7
<b>PART 4</b>	<b>FORMAL VALUATIONS ..... 7</b>
4.1	Formal Valuations ..... 7
4.2	Independent Valuators ..... 8
<b>PART 5</b>	<b>MATERIAL/SIGNIFICANT CHANGE ..... 9</b>
5.1	Material/Significant Change ..... 9
<b>PART 6</b>	<b>INFORMATION CIRCULARS ..... 9</b>
6.1	Sending of Proxies and Information Circulars..... 9

**NATIONAL INSTRUMENT 81-106**  
**INVESTMENT FUND CONTINUOUS DISCLOSURE**  
**FORM 81-106F1**  
**CONTENTS OF ANNUAL AND QUARTERLY MANAGEMENT REPORT OF FUND**  
**PERFORMANCE**

**GENERAL INSTRUCTIONS**

**General**

- (1) *This Form describes the disclosure required in an annual and quarterly management report of fund performance of an investment fund. Each item of this Form outlines disclosure or format requirements. Instructions to help you comply with these requirements are printed in italic type.*
- (2) *Terms defined in National Instrument 81-101 Mutual Fund Prospectus Disclosure, National Instrument 81-102 Mutual Funds, National Instrument 14-101 Definitions and National Instrument 81-106 Investment Fund Continuous Disclosure and used in this Form have the meanings that they have in those national instruments.*
- (3) *An annual and quarterly management report of fund performance shall state the required information concisely and in plain language. Reference should be made to Part 1 of Companion Policy 81-106CP for a discussion concerning plain language and presentation.*
- (4) *Respond as simply and directly as is reasonably possible and include only as much information as is necessary for an understanding of the matters for which disclosure is provided. Persons preparing an annual and quarterly management report of fund performance should strive for maximum clarity and simplicity to assist readers.*
- (5) *National Instrument 81-106 requires that an annual and quarterly management report of fund performance be presented in a format that assists its readability and comprehension. This Form generally does not mandate the use of a specific format to achieve those goals, except in the case of disclosure of financial highlights and past performance, as required by Item 2 of each of Parts B and C of this Form; that disclosure must be presented in the formats specified in this Form. In addition, the annual and quarterly management report of fund performance are required to present items in the order required by this Form. Within this framework, investment funds are encouraged to use, as appropriate, tables, captions, bullet points or other organizational techniques that assist in presenting the required disclosure clearly and concisely.*
- (6) *National Instrument 81-106 or this Form do not prohibit the inclusion of information beyond what is required by this Form; this is unlike the requirements of National Instrument 81-101, which strictly limits the type*

*of information that may be included in a simplified prospectus to what is mandated by that national instrument or Form 81-101F1. Therefore, an investment fund may include in its annual and quarterly management report of fund performance, artwork and educational material (as defined in National Instrument 81-101). However, care should be taken to ensure that the inclusion of such material does not obscure the information that is required to be provided by this Form.*

- (7) *Investment funds should also ensure that the inclusion of additional information does not lengthen the management report of fund performance excessively. It is expected that, under normal circumstances, the text of an annual management report of fund performance will be approximately 4 pages in length and that the text of a quarterly management report of fund performance will be approximately 2 pages in length.*

### **Management Discussion of Fund Performance (“MDFP”)**

- (8) *MDFP is an analysis and explanation that is designed to supplement an investment fund’s financial statements. MDFP provides the manager of an investment fund with the opportunity to discuss the investment fund’s current financial results, position and future prospects. MDFP is intended to give a reader the ability to look at the investment fund through the eyes of management by providing both a historical and prospective analysis of the investment activities and operations of the investment fund. Coupled with the financial highlights, this information should enable readers to better assess the investment fund’s performance, position and future prospects.*
- (9) *Focus the MDFP on material information about the performance of the investment fund, with particular emphasis on known material trends, commitments, events, risks or uncertainties that are reasonably expected to have a material effect on the investment fund’s future performance or investment activities. This information may be provided on a general or fund-specific basis.*
- (10) *Investment funds are not required to disclose information that is not material. Materiality is a matter of judgement in particular circumstances and should generally be determined in relation to an item’s significance to investors and other users of the information. . This concept of materiality is consistent with the definition of significant change in National Instrument 81-102. An item of information, or an aggregate of items, is considered material in the context of an investment fund if it is probable that its omission or misstatement would influence or change an investment decision with respect to the investment fund’s securities, or for exchange traded funds, the price of the security. In determining whether*

*information is material, take into account both quantitative and qualitative factors.*

- (11) *The nature of the disclosure required under the MDFP section is intentionally general. This Form contains a minimum of specific instructions in order to allow, as well as encourage, investment funds to discuss their investments in the most appropriate manner and to tailor their comments to their individual circumstances.*

### **Forward looking Information**

- (12) *You are encouraged to provide forward-looking information provided you have a reasonable basis for doing so. Preparing your MDFP necessarily involves some degree of prediction or projection. For example, MDFP requires a discussion of known trends or uncertainties that have had or that the investment fund reasonably expects will have favourable or unfavourable effects on performance.*

*All forward-looking information must contain a statement that the information is forward-looking, a description of the factors that may cause actual results to differ materially from the forward-looking information, your material assumptions and appropriate risk disclosure and cautionary language.*

*You must discuss any forward-looking information disclosed in MDFP for a prior period which in light of intervening events and absent further explanations, may be misleading. Forward looking statements may be considered misleading when they are unreasonably optimistic or aggressive, or lack objectivity, or are not adequately explained.*

### **Presentation of Information**

- (13) *Part 8 of National Instrument 81-106 prohibits the binding together of information pertaining to an investment fund in an annual or quarterly management report of fund performance with information pertaining to another investment fund. Therefore, each annual or quarterly management report of fund performance must present all information about the investment fund to which it pertains separately from that information in relation to other investment funds.*

## **PART A GENERAL**

### **Item 1 General Requirements**

- (1) An annual management report of fund performance shall contain



- (a) a MDFP concerning the investment fund for the financial year to which the annual management report of fund performance pertains, prepared in accordance with Item 1 of Part B of this Form;
  - (b) financial highlights of the investment fund for the financial year to which the annual management report of fund performance and its past performance, prepared in accordance with Item 2 of Part B of this Form; and
  - (c) a summary of portfolio investments of the investment fund as at the end of the financial year to which the annual management report of fund performance pertains, prepared in accordance with Item 3 of Part B of this Form.
- (2) A quarterly management report of fund performance shall contain
- (a) a MDFP concerning the investment fund for the financial quarter to which the quarterly management report of fund performance pertains, prepared in accordance with Item 1 of Part C of this Form;
  - (b) financial highlights of the investment fund for the financial quarter to which the quarterly management report of fund performance and its past performance, prepared in accordance with Item 2 of Part C of this Form; and
  - (c) a summary of portfolio investments of the investment fund as at the end of the financial quarter to which the quarterly management report of fund performance pertains, prepared in accordance with Item 3 of Part C of this Form.

**Item 2 Front Page Disclosure**

- (3) The front page of an annual management report of fund performance shall contain disclosure in substantially the following words:
- “This annual management report of fund performance contains financial highlights but does not contain the complete annual financial statements of the fund. You can get a copy of the annual financial statements at your request, and at no cost, by calling [toll-free/collect call telephone number], by writing to us at [insert address] or by visiting our website at [insert address].”
- (4) The front page of a quarterly management report of fund performance shall contain disclosure in substantially the following words:

“This quarterly management report of fund performance contains financial highlights, but does not contain either interim or annual financial statements of the fund. You can get a copy of the interim or annual financial statements at your request, and at no cost, by calling [toll-free/collect call telephone number], by writing to us at [insert address] or by visiting our website at [insert address].”

**PART B      CONTENT REQUIREMENTS FOR ANNUAL MANAGEMENT REPORT OF FUND PERFORMANCE**

**Item 1      Management Discussion of Fund Performance**

**1.1          Fundamental Investment Objectives**

Provide a brief summary of the fundamental investment objectives and strategies of the investment fund.

*INSTRUCTION:*

*The disclosure of the fundamental investment objective is to provide investors with a reference point in order to assess the information contained in management’s report of fund performance. It should be concise summary of the fundamental investment objectives of the investment funds, and not merely copied from the prospectus.*

**1.2          Results of Operations**

Provide a summary of the results of operations of the investment fund for the financial year to which the MDFP pertains, including, if applicable, a discussion of

- (a) how the composition and changes throughout the financial year to the composition of the investment portfolio of the investment fund relate to the investment fund’s fundamental investment objectives and strategies or to changes in the economy, markets or unusual events;
- (b) any material changes in investments in specific securities and overall asset mix from the previous period.
- (c) unusual trends such as higher than usual redemptions or sales and the effect of these on the investment fund;
- (d) significant components and significant changes to the components of revenue and expenses;
- (e) changes in results of operations of the investment fund from the previous financial year;

- (f) risks, events, uncertainties, trends and commitments likely to have a material effect on future performance;
- (g) details of any transactions involving related parties to the investment fund;
- (h) how the portfolio advisers or the manager of the investment fund voted on matters relating to issuers of portfolio assets of the investment fund, other than routine business of those issuers;
- (i) any other material information or information required to be disclosed pursuant to an order or exemption received by the fund; and
- (j) An investment fund that borrows money shall disclose,
  - (i) the minimum and maximum amount borrowed during the period;
  - (ii) the percentage of net assets of the investment fund that the borrowing represented as of the end of the period;
  - (iii) how the borrowed money was used; and
  - (iv) details of the terms of the borrowing arrangements.

### **1.3 Risk**

Discuss how any material or significant changes to the investment fund over the financial year affected the overall level of risk associated with an investment in the fund.

#### *INSTRUCTION:*

*Ensure that the discussion is not merely a repeat of information contained in the prospectus of the investment fund, but rather a discussion that reflects any changes in risk level of the investment fund over the financial year.*

### **1.4 Performance**

Provide a discussion of the performance of the investment fund during the financial year to which the MDFP pertains, including a discussion of the significant components of, and changes to, the statement of financial highlights and past performance.

#### *INSTRUCTION:*

*Provide an analysis of any ratios reported in the statement of financial highlights, and discuss any changes to those ratios since the previous MDFP.*

## **1.5 Recent Developments**

Provide a discussion of the developments affecting the investment fund during the financial year to which the MDFP pertains, including, if applicable, a discussion of

- (a) unusual or infrequent events or transactions, economic changes and relevant market conditions that affected performance;
- (b) estimated effects of changes in accounting policies adopted subsequent to year end;
- (c) any changes to, or change of control of, the manager of the investment fund or a portfolio adviser of the investment fund; and
- (d) any reorganizations, mergers or similar transactions affecting the fund.

## **1.6 Forward-Looking Information**

Provide forward-looking information, including

- (a) strategic position of the investment fund going forward; and
- (b) any known material trends, commitments, events or uncertainties that might reasonably be expected to affect the investment fund; and
- (c) the effects of any planned mergers or other material transactions.

### *INSTRUCTION:*

*A forward-looking MDFP explains past events, decisions, circumstances and performance in the context of whether they are reasonably likely to have a material impact on future performance. It also describes not only anticipated future events, decisions, circumstances, opportunities and risks that management considers reasonably likely to materially impact future performance, but also matters such as management's vision, strategy and targets.*

*Forward-looking disclosure involves anticipating a future trend or event or anticipating a less predictable effect of a known event, trend or uncertainty. This other forward-looking information is to be distinguished from presently known information that is reasonably expected to have a material effect on future performance.*

**Item 2 Financial Highlights**

**2.1 Financial Highlights**

- (1) Include selected financial highlights for the investment fund from the audited financial statements in the form of the following tables, appropriately completed, and introduced using the following words:

“The following tables show selected key financial information about the Fund and are intended to help you understand the Fund’s financial performance for the past [insert number]<sup>1</sup> years. Certain information is derived from the Fund’s audited annual financial statements. Please see the front page for information about how you can obtain the Fund’s annual or interim financial statements.”

*The Fund’s Net Asset Value per [Unit/Share]*

	[insert year]	[insert year]	[insert year]	[insert year]	[insert year]
Net Asset Value, beginning of year	\$	\$	\$	\$	\$
total revenue	\$	\$	\$	\$	\$
total expenses	\$	\$	\$	\$	\$
realized gains (losses) for the period	\$	\$	\$	\$	\$
unrealized gains (losses) for the period	\$	\$	\$	\$	\$
<b>Total increase (decrease) from operations<sup>2</sup></b>	\$	\$	\$	\$	\$
<b>Distributions:</b>					
From net income	\$	\$	\$	\$	\$
From dividends	\$	\$	\$	\$	\$
From realized gain	\$	\$	\$	\$	\$
Return of capital	\$	\$	\$	\$	\$
<b>Total Annual Distributions<sup>(1)</sup></b>	\$	\$	\$	\$	\$
<b>Net asset value at [insert last day of financial year] of year shown</b>	\$	\$	\$	\$	\$

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

<sup>1</sup> Provide financial information to a maximum of five years.

<sup>2</sup> The first six rows of this table are new and are included to provide investors or potential investors with sufficient information to understand the MDFP.

*Ratios and Supplemental Data*

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

- (1) *This information is provided as at [insert date of end of financial year] of the year shown.*
- (2) *Management expense ratio is based on total expenses for the stated period and is expressed as an annualized percentage of daily average net assets during the period.*
- (3) *The Fund's portfolio turnover rate indicates how actively the Fund's portfolio adviser manages its portfolio investments. A portfolio turnover rate of 100% is equivalent to the Fund buying and selling all of the securities in its portfolio once in the course of the year. The higher a fund's portfolio turnover rate in a year, the greater the trading costs payable by the fund in the year, and the greater the chance of an investor receiving taxable capital gains in the year. There is not necessarily a relationship between a high turnover rate and the performance of a fund.*
- (2) Derive the selected financial information in the tables referred to in subsection (1) from the audited annual financial statements of the investment fund.
- (3) The table should be appropriately modified for corporate investment funds.
- (4) Realized and unrealized gains and losses should distinguish between gains or losses from securities versus gains or losses from foreign exchange.
- (5) The selected financial information must be shown individually for each class, if a multi-class fund.
- (6) Provide per unit or per share amounts to the nearest cent, and provide percentage amounts to two decimal places.
- (7) Provide the selected financial information required by this Item in chronological order for each of the five most recently completed financial years of the investment fund for which audited financial statements have been filed, with the information for the most recent financial year in the first column on the left<sup>3</sup> of the table.
- (8) If the investment fund has merged with another fund, include in the table only the financial information of the continuing fund.
- (9) Calculate the management expense ratio of the investment fund as required by Part 16 of National Instrument 81-102. Include a brief description of the method of calculating the management expense ratio.

<sup>3</sup> Direction of table changed from left to right.

- (10) If the basis of the calculation of the management fees or of the other fees, charges or expenses that are charged to the investment fund is changed or is proposed to be changed or a new fee is introduced or proposed to be introduced, and if the change would have had an effect on the management expense ratio for the last completed financial year of the investment fund if the change had been in effect throughout that financial year, disclose the effect of the change on the management expense ratio in a note to the appropriate table.
- (11) Do not include disclosure concerning portfolio turnover rate for a money market fund.

*INSTRUCTIONS:*

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

**Item 3 Past Performance**

**3.1 General**

- (1) In responding to the requirements of this Item, an investment fund shall comply with sections 15.2, 15.3, 15.9, 15.10, 15.11 and 15.14 of National Instrument 81-102 Mutual Funds as if those sections applied to the annual management report of fund performance.
- (2) Despite the specific requirements of this Item, performance data shall not be provided for any period if the investment fund was not a reporting issuer at all times during the period.
- (3) Set out in footnotes to the chart or table required by this Item the assumptions relevant to the calculation of the performance information, and include a statement of the significance of the assumption that distributions are reinvested for taxable investments.
- (4) Despite subsection (1), investment funds that are not mutual funds in the jurisdiction shall not make the assumption that all distributions made by

the fund in the period shown were reinvested in additional securities of the fund.

- (5) In the introduction to the chart or table required by this Item, or in a general introduction to the “Past Performance” section, indicate, as applicable, that
  - (a) the returns or performance information shown assume that all distributions made by the investment fund in the periods shown were reinvested in additional securities of the mutual fund;
  - (b) the return or performance information do not take into account sales, redemption, distribution or other optional charges that would have reduced returns or performance; and
  - (c) how the investment fund has performed in the past does not necessarily indicate how it will perform in the future.
- (6) The disclosure required in subsection (5) should be appropriately modified for investment funds that are not mutual funds in the jurisdiction.
- (7) Use a linear scale for each axis of the bar chart required by this Item.
- (8) The y-axis for the bar chart shall start at 0.

### **3.2 Year-by-Year Returns**

- (1) Provide a bar chart, under the heading “Past Performance” and under the sub-heading “Year-by-Year Returns”, that shows, in chronological order with the most recent year on the right of the bar chart, the annual total return, calculated as provided under subsection (2), of the investment fund for the lesser of
  - (a) each of the ten most recently completed financial years; and
  - (b) each of the completed financial years in which the investment fund has been in existence and which the investment fund was a reporting issuer.
- (2) Calculate the annual total return of the investment fund for a year in accordance with the requirements of Part 15 of National Instrument 81-102.
- (3) Provide an introduction to the bar chart that



- (a) indicates that the bar chart shows the investment fund's annual performance for each of the years shown, and illustrates how the investment fund's performance has changed from year to year; and
- (b) indicates that the bar chart shows, in percentage terms, how much an investment made on [first day of financial year] in each financial year would have grown or decreased by [last day of financial year] in that year.

### **3.3 Annual Compound Returns**

- (1) If the investment fund is not a money market fund, disclose, in the form of a table, under the sub-heading "Annual Compound Returns"
  - (a) the investment fund's past performance for the 10, five, three and one year periods ended on the last day of the fund's financial year; and
  - (b) if the investment fund was a reporting issuer for more than one and less than ten years, the investment fund's past performance since the inception of the investment fund.
- (2) Calculate the compound total return in accordance with the requirements of Part 15 of National Instrument 81-102.

### **Item 4 Summary of Portfolio Investments**

- (1) Include, in the form of a table, a summary of portfolio investments as at the end of the financial year of the investment fund to which the annual management report of fund performance pertains.
- (2) The summary of portfolio investments
  - (a) shall break down the entire portfolio of the investment fund into appropriate subgroups, and shall show the percentage of the aggregate net asset value of the investment fund constituted by each subgroup;
  - (b) shall disclose the current value of securities in any one issuer if more than one percent of the aggregate net asset value of the investment fund is invested in securities of that issuer; and
  - (c) may disclose the current value of securities in any one issuer if less than one percent of the aggregate net asset value of the investment fund is invested in securities of that issuer.
- (3) Provide disclosure of

- (a) the number of securities held as of end of the financial year;
  - (b) the number of securities that individually comprise more than five percent of the aggregate net asset value of the investment fund; and
  - (c) the number of securities that individually comprise more than one percent of the aggregate net asset value of the investment fund.
- (4) At the option of the investment fund, supplementary disclosure of the investment portfolio may be included.

*INSTRUCTIONS:*

- (1) *The summary of portfolio investments is designed to allow the reader an easily accessible snapshot of the portfolio of the investment fund as at the end of the financial year for which the annual management report of fund performance is prepared. As with the other components of the annual management report of fund performance, care should be taken to ensure that the information in the summary of portfolio investments is presented in an easily accessible and understandable way.*
- (2) *The Canadian securities regulatory authorities have not prescribed the names of the categories into which the portfolio should be broken down. An investment fund should use the most appropriate categories given the nature of the fund. If appropriate, an investment fund may use more than one breakdown, for instance showing the portfolio of the investment fund broken down according to security type, industry, geographical locations, etc. However, each categorization shall be complete, showing 100 percent of the aggregate net assets of the investment fund.*
- (3) *In addition to the table, the disclosure may also be presented in the form of a pie chart.*
- (4) *If a top fund invests substantially all of its assets directly or indirectly (through the use of specified derivatives) in one bottom fund or one RSP clone fund, only list the largest holdings of the bottom fund by percentage of net assets of the bottom fund, as of the period end of the top fund, and state the percentage of the net assets of the bottom fund that are invested in each of those holdings. Such listing shall be accompanied by a warning to the effect that the information contained in the list may change due to the ongoing portfolio transactions of the bottom fund and a statement on how more current information may be obtained by investors, if available.*
- (5) *If the investment fund is a top fund that invests in other investment funds, a statement must be made to the effect that the simplified prospectus and*

*other information about the other investment funds are available on the internet at www.sedar.com.”*

**Item 5 Other Material Information**

Provide any other material information relating to the investment fund not otherwise required to be disclosed by this Part.

**PART C CONTENT REQUIREMENTS FOR QUARTERLY MANAGEMENT REPORT OF FUND PERFORMANCE**

**Item 1 Management Discussion of Fund Performance**

**1.1 Results of Operations**

Provide an update of the analysis of the investment fund's results of operation provided in the MDFP in the most recent annual or quarterly management report of fund performance. Discuss any material changes to any of the components listed in paragraphs (a) to (h) in Item 1.2 of Part B of Form 81-106F1.

**1.2 Performance**

Discuss the performance of the investment fund over the financial quarter to which the quarterly management report of fund performance pertains, including, but not limited to, a discussion of the significant components of and changes to the statement of financial highlights and past performance.

**1.3 Significant Developments**

If there have been any significant developments affecting the investment fund since the most recent annual or quarterly management report of fund performance, discuss those developments and their impact on the investment fund.

**1.4 Forward-Looking Information**

If the manager of the investment fund believes that the forward-looking information contained in the most recent annual or quarterly management report of fund performance of the investment fund is not accurate, provide an update of that information.

*INSTRUCTIONS:*

- (1) *The general discussion concerning the nature of MDFP contained in the General Instructions to Form 81-106F1 is applicable to the MDFP provided under this Form in a quarterly management report of fund performance. Generally speaking, the Canadian securities regulatory authorities expect the MDFP contained in a quarterly management report*

*of fund performance to be briefer than that contained in an annual management report of fund performance. The MDFP in a quarterly management report of fund performance is intended to update the reader on developments since the date of the most recent annual or quarterly management report of fund performance, and it is not necessary to restate all of the information contained in the most recent annual MDFP.*

- (2) *The MDFP in a quarterly management report of fund performance should deal with the financial quarter to which the quarterly management report of fund performance pertains.*

**Item 2 Financial Highlights**

**2.1 Financial Highlights**

- (1) Provide the disclosure required by Item 2.1 of Part B of this Form for
  - (a) the financial quarter to which the quarterly management report of fund performance pertains,
  - (b) the current year to date total, and
  - (c) the previous financial year end.
- (2) Update any significant changes in the portfolio turnover rate from the information contained in the most recent annual or quarterly management report of fund performance of the investment fund.

*INSTRUCTIONS:*

*Present the disclosure for each period listed in (1) in the order presented, with the information from the financial quarter to which the quarterly management report of fund performance pertains at the left.*

*Investment funds are reminded that the management expense ratio must be calculated on a 12-month basis, and so updates of the management expense ratio over a partial financial year of an investment fund are not permitted by Part 16 of NI 81-102.*

**Item 3 Past Performance**

Include a bar chart prepared in accordance with Item 3 of Part B of this Form, except that the period covered by the bar chart shall end at the end of the financial quarter of the investment fund to which the quarterly management report of fund performance pertains, rather than at the period end required by Item 3 of Part B of this Form.

**Item 4            Summary of Portfolio Investments**

- (1)     Include a summary of portfolio investments as at the end of the financial quarter of the investment fund to which the quarterly management report of fund performance pertains.
- (2)     The summary of portfolio investments shall be prepared in accordance with Item 3 of Part B of this Form.

**Item 5            Other Material Information**

Provide any other material information relating to the investment fund in the financial quarter not otherwise required to be disclosed by this Part.

**NATIONAL INSTRUMENT 81-106  
INVESTMENT FUND CONTINUOUS DISCLOSURE  
FORM 81-106F1  
CONTENTS OF ANNUAL AND QUARTERLY MANAGEMENT REPORT OF FUND  
PERFORMANCE**

**TABLE OF CONTENTS**

		<b>Page</b>
<b>PART A</b>	<b>GENERAL .....</b>	<b>3</b>
Item 1	General Requirements .....	3
Item 2	Front Page Disclosure .....	4
<b>PART B</b>	<b>CONTENT REQUIREMENTS FOR ANNUAL MANAGEMENT REPORT OF FUND PERFORMANCE .....</b>	<b>5</b>
Item 1	Management Discussion of Fund Performance .....	5
Item 2	Financial Highlights .....	8
Item 3	Past Performance .....	10
Item 4	Summary of Portfolio Investments .....	12
Item 5	Other Material Information .....	14
<b>PART C</b>	<b>CONTENT REQUIREMENTS FOR QUARTERLY MANAGEMENT REPORT OF FUND PERFORMANCE .....</b>	<b>14</b>
Item 1	Management Discussion of Fund Performance .....	14
Item 2	Financial Highlights .....	15
Item 3	Past Performance .....	15
Item 4	Summary of Portfolio Investments .....	16
Item 5	Other Material Information .....	16

**AMENDMENT TO  
NATIONAL INSTRUMENT 81-101  
MUTUAL FUND PROSPECTUS DISCLOSURE,  
FORM 81-101F1 CONTENTS OF SIMPLIFIED PROSPECTUS AND  
FORM 81-101F2 CONTENTS OF ANNUAL INFORMATION FORM**

**PART 1 AMENDMENTS TO NATIONAL INSTRUMENT 81-101 MUTUAL FUND PROSPECTUS DISCLOSURE**

**1.1 Amendments to National Instrument 81-101 Mutual Fund Prospectus Disclosure**

(1) National Instrument 81-101 Mutual Fund Prospectus Disclosure is amended by this Part of this Instrument.

(2) Section 3.1 is amended by the addition of the following after paragraph 3 :

“4. The most recently filed annual management report of fund performance of the mutual fund, filed either before or after the date of the simplified prospectus.

5. The most recently filed quarterly management report of fund performance of the mutual fund that was filed before or after the date of the simplified prospectus and that pertains to a period after the period to which the annual management report of fund performance then incorporated by reference in the simplified prospectus pertains.”.

**PART 2 AMENDMENTS TO FORM 81-101F1 CONTENTS OF SIMPLIFIED PROSPECTUS**

**2.1 Amendments to Form 81-101F1 Contents of Simplified Prospectus**

(1) Form 81-101F1 Contents of Simplified Prospectus is amended by this Part of this Instrument.

(2) Item 3.1 of Part A is amended by the deletion of the third bullet point of Item 3.1 and the substitution of the following:

“• Additional information about the Fund is available in the following documents:

- the Annual Information Form,
- the most recently filed annual financial statements,
- any interim financial statements filed after those annual financial statements,
- the most recently filed annual management report of fund performance, and

- any quarterly management report of fund performance filed after that annual management report of fund performance.

These documents are incorporated by reference into this Simplified Prospectus, which means that they legally form part of this document just as if they were printed as a part of this document. You can get a copy of those documents, at your request, and at no cost, by calling [toll-free/collect] [insert the toll-free telephone number or telephone number where collect calls are accepted, as required by section 3.4 of the Instrument], or from your dealer.”.

(3) Item 3.2 of Part A is amended by the deletion of the third bullet point of Item 3.2 and the substitution of the following:

“• Additional information about each Fund is available in the following documents:

- the Annual Information Form,
- the most recently filed annual financial statements,
- any interim financial statements filed after those annual financial statements,
- the most recently filed annual management report of fund performance, and
- any quarterly management report of fund performance filed after that annual management report of fund performance.

These documents are incorporated by reference into this document, which means that they legally form part of this document just as if they were printed as a part of this document. You can get a copy of those documents, at your request, and at no cost, by calling [toll-free/collect] [insert the toll-free telephone number or telephone number where collect calls are accepted, as required by section 3.4 of the Instrument], or from your dealer.”.

(4) Items 8 and 11 of Part B are deleted.

(5) Item 13 of Part B is amended by :

(a) the deletion of Item 13.1; and

(b) the deletion of subsection 13.2(1) and the substitution of the following:

“(1) Under the heading “Fund Expenses Indirectly Borne by Investors”, provide an example of the share of the expenses of the mutual fund indirectly borne by investors, containing the information and based on the assumptions described in (2).”.



### **PART 3 AMENDMENTS TO FORM 81-101F2 CONTENTS OF ANNUAL INFORMATION FORM**

#### **3.1 Amendments to Form 81-101F2 Contents of Annual Information Form**

(1) Form 81-101F2 Contents of Annual Information Form is amended by this Part of this Instrument.

(2) Item 15 is amended by the addition of the following Instruction at the end of that Item:

”INSTRUCTION:

*The disclosure required under Item 15(1) regarding executive compensation for management functions carried out by employees of a mutual fund may be made in accordance with the disclosure requirements of Form 51-102F6 Statement of Executive Compensation.”*

### **PART 4 EFFECTIVE DATE**

#### **4.1 Effective Date**

This Instrument comes into force on the date that National Instrument 81-106 Investment Fund Continuous Disclosure comes into force.

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

**PART 1 AMENDMENTS**

**1.1 Amendments**

- (1) Companion Policy 81-101CP Mutual Fund Prospectus Disclosure is amended by this Amendment.
- (2) Section 2.4 is deleted and substituted by the following :

**“2.4 Financial Statements and Management Reports of Fund Performance –** The Instrument contemplates that the mutual fund’s most recently audited financial statements, and any interim statements filed after those audited statements, as well as the mutual fund’s most recently filed annual management report of fund performance, and any quarterly management report of fund performance filed after that annual management report, will be provided upon request to any person or company requesting them. Like the annual information form, these financial statements and management reports of fund performance are incorporated by reference into the simplified prospectus. The result is that future filings will be incorporated by reference into the simplified prospectus, while superseding the financial statements and management reports of fund performance previously filed.”

**PART 2 EFFECTIVE DATE**

**2.1 Effective Date**

This Amendment comes into force on the date that National Instrument 81-106 Investment Fund Continuous Disclosure comes into force.

**AMENDMENT TO  
NATIONAL INSTRUMENT 81-102  
MUTUAL FUNDS**

**PART 1 AMENDMENTS**

**1.1 Amendments**

- (1) National Instrument 81-102 Mutual Funds is amended by this Instrument.
- (2) Section 1.1 is amended by
  - (a) the deletion of the definition of “significant change” and the substitution of the following:

““significant change” has the meaning ascribed to that term in National Instrument 81-106 Investment Fund Continuous Disclosure;”;
  - (b) the deletion of the definition of “report to securityholders” and the substitution of the following:

““report to securityholders” means a report that includes annual or interim financial statements, or an annual or quarterly management report of fund performance, and that is delivered to securityholders of a mutual fund;”;
  - (c) the addition of the following as Item 6 to paragraph (b) of the definition of “sales communication”:

“6. Annual or quarterly management report of fund performance;”; and
  - (d) the deletion of the definition of “timely disclosure requirements”.
- (3) Section 5.6 is amended by the deletion of paragraph 5.6(1)(g) and the substitution of the following:

“(g) the mutual 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 mutual fund or of the mutual fund;”.
- (4) Section 5.10 is deleted.
- (5) Part 17 is deleted.

## **PART 2 EFFECTIVE DATE**

### **2.1 Effective Date**

This Instrument comes into force on the date that National Instrument 81-106 Investment Fund Continuous Disclosure comes into force.

**AMENDMENT TO  
COMPANION POLICY 81-102CP  
MUTUAL FUNDS**

**PART 1 AMENDMENTS**

**1.1 Amendments**

- (1) Companion Policy 81-102CP is amended by this Amendment.
- (2) Subsection 3.2(3) is amended by deleting the words “section 5.10 of the Instrument” in the last sentence of the subsection and substituting the words “Part 11 of National Instrument 81-106 Investment Fund Continuous Disclosure”.
- (3) Subsection 7.3(2) is amended by deleting the words “paragraph 5.1(g) and section 5.10 of the Instrument” in the last sentence of the subsection and substituting the words “paragraph 5.1(g) of the Instrument and Part 11 of National Instrument 81-106 Investment Fund Continuous Disclosure”.
- (4) Section 7.4 is deleted.
- (5) Sections 14.2, 14.3, 14.4 and 14.5 are deleted.

**PART 2 EFFECTIVE DATE**

**2.1 Effective Date**

This Amendment comes into force on the date that National Instrument 81-106 Investment Fund Continuous Disclosure comes into force.

**AMENDMENT TO  
NATIONAL INSTRUMENT 13-101  
SYSTEM FOR ELECTRONIC DOCUMENT ANALYSIS AND RETRIEVAL (SEDAR)**

**PART 1 AMENDMENTS**

**1.1 Amendments**

(1) National Instrument 13-101 System for Electronic Document Analysis and Retrieval (SEDAR) is amended by this Instrument.

(2) Appendix A is amended by

(a) the deletion of the following item from part I B. and part II B.(a):

“8. Annual Filing of a Reporting Issuer BC, Alta, Sask, Ont and  
(Form 28 – British Columbia, Alberta, NS  
Ontario, Nova Scotia and Form 26 –  
Saskatchewan)”

and the substitution of the following to part I B. and part II B.(a):

“8(a). Annual Management Report of Fund Performance  
8(b). Quarterly Management Report of Fund Performance”; and

(b) the addition of the following to part I B.:

“14. Report of Management Company – Transactions BC, Alta, Sask, Ont,  
with related persons or companies NS and Nfld  
(Form 81-903F – British Columbia,  
Form 38 – Alberta and Ontario,  
Form 36 – Saskatchewan,  
Form 39 – Nova Scotia, and  
Form 37 – Newfoundland)”.

**PART 2 EFFECTIVE DATE**

**2.1 Effective Date**

This Instrument comes into force on the date that National Instrument 81-106 Investment Fund Continuous Disclosure comes into force.