

## Notice and Request for Comment

### Proposed Amendments to National Instrument 81-106 *Investment Fund Continuous Disclosure*, Form 81-106F1 and Companion Policy 81-106CP *Investment Fund Continuous Disclosure* and Related Amendments

June 1, 2007

#### Introduction

The Canadian Securities Administrators (CSA or we), are publishing for comment proposed amendments to:

- National Instrument 81-106 *Investment Fund Continuous Disclosure* (the Rule),
- Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* (the Form), and
- Companion Policy 81-106CP *Investment Fund Continuous Disclosure* (the Policy).

The Rule and the Form are together referred to as the Instrument.

We are also publishing for comment proposed amendments to:

- National Instrument 81-102 *Mutual Funds* (NI 81-102) and Companion Policy 81-102CP,
- Form 81-101F2 *Contents of Annual Information Form*, and
- proposed National Instrument 41-101 *General Prospectus Requirements* (NI 41-101) (a corresponding amendment to the one proposed for Form 81-101F2 is also proposed for the long form prospectus rule, which was published for comment on December 22, 2006).

We are publishing all of the proposed amendments with this Notice. You can also find the proposed amendments on websites of CSA members, including

- [www.bcsc.bc.ca](http://www.bcsc.bc.ca)
- [www.albertasecurities.com](http://www.albertasecurities.com)
- [www.sfsc.gov.sk.ca](http://www.sfsc.gov.sk.ca)
- [www.msc.gov.mb.ca](http://www.msc.gov.mb.ca)
- [www.osc.gov.on.ca](http://www.osc.gov.on.ca)
- [www.lautorite.qc.ca](http://www.lautorite.qc.ca)

#### Substance and purpose of the amendments

##### *Background*

The Instrument, which came into force on June 1, 2005, harmonized continuous disclosure (CD) requirements among Canadian jurisdictions and replaced most existing local CD requirements.

It sets out the disclosure obligations of investment funds for financial statements, management reports of fund performance, material change reporting, information circulars, proxies and proxy solicitation, delivery obligations, proxy voting disclosure and other CD-related matters.

The proposed amendments primarily serve two purposes: (1) to modify the requirements regarding the calculation of net asset value following the introduction of section 3855 *Financial Instruments – Recognition and Measurement* of the CICA Handbook (s. 3855); and (2) to clarify or correct certain provisions of the Instrument.

Section 3855 mirrors an international accounting standard and applies to all industries. The new accounting requirements set out in s. 3855, which is effective for fiscal years beginning on or after October 1, 2006, provide more specific guidance on how to measure financial instruments at fair value for financial statement purposes when fair value measurement is required.

#### *Implications of s. 3855*

To comply with the guidance in s. 3855, investment funds would have needed to change how they value a large portion of the securities in their portfolios, particularly those that are traded on a recognized exchange. These securities would need to be valued at bid or ask price on each valuation day, whereas now they are predominantly valued at closing price.

The Rule currently requires investment funds to calculate net asset value in accordance with Canadian generally accepted accounting principles (GAAP). Maintaining this requirement after the introduction of s. 3855 would mean that investment funds would have to change long-standing industry valuation practices. The CSA granted an exemption until September 30, 2007 permitting investment funds to calculate net asset value for purposes other than financial statements without giving effect to s. 3855. CSA members will likely need to consider extending the exemption.

In December 2006 in a written submission to the CSA, the Investment Funds Institute of Canada stated that requiring investment funds to change their current valuation practice would not be in the best interests of securityholders for a number of reasons, including:

- generally, the bid price will be lower than closing price, which will decrease the value of the units of the fund when the change is implemented
- sophisticated investors could engage in arbitrage when the change is implemented
- the use of bid pricing may tend to cause ongoing systematic dilution of existing securityholders (portfolio securities purchased with new money are acquired at a price between bid and ask during the day, but the net asset value of the fund would be valued at bid at the end of the day)
- changing the manner in which net asset value is calculated would alter the commercial bargain made by current investors
- the change to bid pricing would require cost, time, and effort to modify existing systems and operations
- bid prices may not be available in all markets

- Canadian investment funds would be valued differently than funds in other countries, most notably the U.S. where the prevailing practice is to use closing price.

In addition to considering these submissions, we researched approaches in other countries and independently assessed the potential impact of s. 3855. We accept the industry's submissions and think that amendments to the Instrument are necessary in order to avoid potentially adverse consequences to investment fund securityholders due to the current link between the requirements in the Instrument for calculating net asset value and the changes to Canadian GAAP created by s. 3855.

#### *Proposed approach*

The proposed amendments will permit investment funds to have two different net asset values: one for financial statements, which will be prepared in accordance with Canadian GAAP (and referred to as “net assets”); and another for all other purposes, including unit pricing (referred to as “net asset value”). We propose to require a reconciliation between net assets and net asset value, and disclosure of how the valuation principles and practices established by the investment fund manager for the purposes of calculating net asset value differ from those required under Canadian GAAP.

We propose to remove the requirement in the Rule to calculate net asset value in accordance with Canadian GAAP and replace it with a requirement to fair value assets and liabilities. For this purpose, fair value of assets and liabilities will mean the current market value based on reported prices and quotations in an active market. When the current market value is not available or the manager determines that it is unreliable, fair value will mean a value that is fair and reasonable as determined by the manager.

We propose to mandate this approach to fair value instead of maintaining a link to Canadian GAAP for net asset value calculations as this approach maintains the principles of the existing requirement while allowing investment funds to maintain their current valuation practices. Although the calculation of net asset value will no longer be tied to Canadian GAAP, investment funds will be required to comply with the fair value standard established in the Rule. For the majority of investment funds, this should not be a significant change to their current valuation practices, while it ensures that the industry is subject to a more consistent standard than existed before the Instrument came into force.

We consulted with the investment fund industry throughout the process of developing our proposed approach and we understand that the industry is supportive.

#### **Summary of proposed amendments**

We summarized the significant proposed amendments in Appendix A. This is not a complete list of all the amendments.

We are publishing amending instruments as follows:

- for the Rule (Appendix B)
- for the Form (Appendix C)

- for the Policy (Appendix D)
- for NI 81-101 (Appendix E)
- for NI 81-102 (Appendix F)
- for 81-102CP (Appendix G)
- for proposed NI 41-101 (Appendix H)

We are also publishing black-lined versions of the Instrument and Policy that show the proposed changes (Appendix I).

### **Alternatives considered**

We considered other alternatives to address the issues created by the introduction of s. 3855:

#### *No change to the Instrument*

This option would have required investment funds to continue calculating net asset value in accordance with Canadian GAAP. We rejected it because of the implications of s. 3855 discussed above under “Substance and purpose of the amendments”.

#### *Qualified audit opinions*

This option would have permitted investment funds to continue to calculate net asset value in accordance with existing practice and file qualified audit opinions with their financial statements because that calculation would not be in accordance with Canadian GAAP. The qualified opinion would indicate that the investment fund had calculated net asset value in accordance with Canadian GAAP except for parts of s. 3855. This option was rejected because of potential investor concern about a qualified audit opinion and because it would have created problems for investment funds subject to other requirements (for example, in their constating documents or other applicable statutes) that they have unqualified financial statements. This option would have resulted in the Canadian investment fund industry being the only one where participants file qualified statements, and could have created a negative impression of the industry both domestically and internationally.

#### *Other bases of accounting*

One variation of this option would have permitted investment funds to prepare financial statements (and calculate net asset value) in accordance with U.S. GAAP. This option would have permitted investment funds to continue to calculate net asset value in accordance with existing practice, but have the advantage that the audit opinion would not be qualified because U.S. GAAP allows the use of closing prices. This alternative was rejected because of concerns about whether adequate expert knowledge of U.S. rules exists in the Canadian investment fund industry and in the audit firms. There is also additional uncertainty as to how U.S. GAAP will align with international financial reporting standards in the future.

A second variation of this option would have allowed investment funds to prepare financial statements (and calculate net asset value) in accordance with a disclosed basis of accounting, other than GAAP. Under this option, the audit opinion would not have been qualified. We also rejected this option because financial statements prepared on this basis would not be general purpose financial statements and their use would be severely restricted to specified users, which may or may not include current and future investors.

*GAAP except for “bid/ask”*

This option would have essentially maintained the status quo – investment funds would file financial statements prepared in accordance with Canadian GAAP, and would have calculated a different net asset value in accordance with Canadian GAAP, except for the specific provisions of s. 3855 to use bid/ask prices to value actively traded securities. This option was rejected because the introduction of s. 3855 illustrated how future changes to Canadian GAAP could negatively affect investment funds and their securityholders. As a result, the CSA determined that maintaining a link to Canadian GAAP for non-financial statement purposes (such as the calculation of net asset value for fund pricing) could create on-going practical issues. There is the possibility that Canadian GAAP might change again as a result of further changes to international standards.

**Anticipated costs and benefits**

The proposed amendments to the calculation of net asset value are intended to avoid additional costs. If we do not amend the requirements regarding the calculation of net asset value, the investment fund industry will incur costs to modify their systems and operations so as to comply with s. 3855. In some cases these costs could be significant and any costs that are incurred could be passed along to securityholders.

We do not anticipate that the proposed requirement to fair value an investment fund’s assets and liabilities will result in increased costs. Prior to the introduction of s. 3855, investment funds were required to value their portfolio in accordance with the fair value principles articulated in Accounting Guideline 18 *Investment Companies*. The fair value standard included in the proposed amendments is intended to codify the industry’s current practice, essentially maintaining the status quo.

Some of the proposed amendments are intended to only clarify or correct certain provisions of the Instrument. We believe that they will not add any additional costs, and will generate benefits because ambiguities in the Instrument will be eliminated.

**Related amendments**

***Local Amendments***

We propose to amend Form 81-101F2 (annual information form for mutual funds) to add a requirement to disclose the differences between the valuation principles and practices established by the manager and those in Canadian GAAP. We also propose to make a corresponding amendment for the long form prospectus rule, proposed NI 41-101, which was published for comment on December 22, 2006. If proposed NI 41-101 is not adopted as a final rule, we will make consequential amendments to local rules (for example, Ontario Securities Commission Rule 41-501 *General Prospectus Requirements*) to include a disclosure requirement that corresponds to the one proposed for Form 81-101F2.

**Unpublished materials**

In proposing the amendments, we have not relied on any significant unpublished study, report or other written materials.

## **Request for Comments**

We welcome your comments on the proposed amendments.

Please submit your comments in writing on or before August 31, 2007. If you are not sending your comments by email, you should also send a diskette containing your submission (in Windows format, Word).

Address your submission to all of the CSA member commissions, as follows:

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission – Securities Division  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
New Brunswick Securities Commission  
Registrar of Securities, Prince Edward Island  
Nova Scotia Securities Commission  
Newfoundland and Labrador Securities Commission  
Registrar of Securities, Northwest Territories  
Registrar of Securities, Yukon Territory  
Registrar of Securities, Nunavut

Deliver your comments **only** to the addresses that follow. Your comments will be forwarded to the remaining CSA member jurisdictions.

John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West  
19<sup>th</sup> Floor, Box 55  
Toronto, Ontario M5H 3S8  
e-mail: [requestforcomment@osc.gov.on.ca](mailto:requestforcomment@osc.gov.on.ca)

Anne-Marie Beaudoin  
Directrice du secrétariat  
Autorité des marchés financiers  
Tour de la Bourse  
800, square Victoria  
C.P. 246, 22<sup>e</sup> étage  
Montréal, Québec H4Z 1G3  
Fax: (514) 864-6381  
e-mail: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period.

## Questions

Please refer your questions to any of:

Vera Nunes  
Senior Legal Counsel, Investment Funds  
Ontario Securities Commission  
(416) 593-2311  
[vnunes@osc.gov.on.ca](mailto:vnunes@osc.gov.on.ca)

Stacey Barker  
Accountant, Investment Funds  
Ontario Securities Commission  
(416) 593-2391  
[sbarker@osc.gov.on.ca](mailto:sbarker@osc.gov.on.ca)

Raymond Chan  
Senior Accountant, Investment Funds  
Ontario Securities Commission  
(416) 593-8128  
[rchan@osc.gov.on.ca](mailto:rchan@osc.gov.on.ca)

Noreen Bent  
Manager and Senior Legal Counsel  
British Columbia Securities Commission  
(604) 899-6741 or 1-800-373-6393 (in B.C. and Alberta)  
[nbent@bcsc.bc.ca](mailto:nbent@bcsc.bc.ca)

Christopher Birchall  
Senior Securities Analyst  
British Columbia Securities Commission  
(604) 899-6722 or 1-800-373-6393 (in B.C. and Alberta)  
[cbirchall@bcsc.bc.ca](mailto:cbirchall@bcsc.bc.ca)

Cynthia Martens  
Legal Counsel  
Alberta Securities Commission  
(403) 297-4417  
[cynthia.martens@seccom.ab.ca](mailto:cynthia.martens@seccom.ab.ca)

Wayne Bridgeman  
Senior Analyst, Corporate Finance  
Manitoba Securities Commission  
(204) 945-4905  
[Wayne.Bridgeman@gov.mb.ca](mailto:Wayne.Bridgeman@gov.mb.ca)

Jacques Doyon  
Senior Investment Funds Analyst  
Autorité des marchés financiers  
(514) 395-0337, ext. 4474  
[jacques.doyon@lautorite.qc.ca](mailto:jacques.doyon@lautorite.qc.ca)

Pierre Martin  
Senior Legal Counsel, Service de la réglementation  
Autorité des marchés financiers  
(514) 395-0337, ext. 4375  
[pierre.martin@lautorite.qc.ca](mailto:pierre.martin@lautorite.qc.ca)

The text of the proposed amendments follows or can be found on a CSA member website.

## APPENDIX A

### SUMMARY OF PROPOSED AMENDMENTS

#### The Rule

##### *Part 1 Definitions and Applications*

###### Section 1.1

- amend the definition of “net asset value” to include a reference to Part 14 of the Rule

The term “net asset value” will mean the value calculated in accordance with Part 14 of the Rule, which is the value to be used for all purposes other than financial statements (for example, purchases and redemptions of the investment fund’s securities). The term “net assets” will mean net assets as determined under Canadian GAAP, which is the amount to be used for financial statements and certain information derived from the financial statements (for example, certain disclosure in the management reports of fund performance).

##### *Part 2 Financial Statements*

###### Section 2.9

- correct the requirements for interim financial statements in a transition year and a new financial year by removing the reference to statements of investment portfolio as these statements are not prepared on a comparative basis

###### Section 2.10

- clarify the requirement for a change in legal structure notice by indicating that this notice must be filed if the investment fund terminates

##### *Part 3 Financial Disclosure Requirements*

###### Section 3.1

- change the term “net asset value” to “net assets” on the statement of net assets

###### Section 3.2

- add a requirement to show revenue from repurchase and reverse repurchase transactions as a separate line item on the statement of operations
- add a requirement to show commissions and other portfolio transaction costs as a separate line item on the statement of operations

As s. 3855 requires portfolio transaction costs to be expensed, we have added a line item to the statement of operations for this disclosure and have removed the requirement to show this amount in the notes to the financial statements. Portfolio transaction costs continue to be excluded from the management expense ratio.

### Section 3.5

- add a look-through requirement to the statement of investment portfolio for investment funds substantially invested in only one underlying fund

This is consistent with the existing requirement for the summary of investment portfolio in the management report of fund performance and quarterly portfolio disclosure.

### Section 3.6

- remove the requirement to show commissions and other transactions costs in the notes to the financial statements as this will be shown on the statement of operations (see section 3.2 above)
- add a requirement to provide a reconciliation in the notes to the financial statements between net asset value at the date of the financial statements and net assets as shown on the financial statements

## *Part 9 Annual Information Form*

### Section 9.2

- clarify the requirement for filing an annual information form – an investment fund must file an annual information form if it has not filed a prospectus within its last financial year

## *Part 10 Proxy Voting Disclosure for Portfolio Securities Held*

### Section 10.3

- clarify that the proxy voting record must be maintained for meetings of all publicly held companies

## *Part 14 Calculation of Net Asset Value*

### Section 14.2

- remove the requirement that investment funds calculate their net asset value in accordance with Canadian GAAP, and replace it with a requirement to determine a fair value for the investment fund's assets and liabilities
- add a requirement to establish written policies and procedures regarding the fair valuation of the investment fund's assets and liabilities

## *Part 15 Calculation of Management Expense Ratio*

### Sections 15.1 and 15.2

- exclude commissions and other portfolio transaction costs from the calculation of the management expense ratio

### *Part 18 Effective Date and Transition*

Sections 18.2, 18.3, 18.4 and 18.5

- remove transitional provisions that are no longer necessary

### **The Form**

#### *Part A Instructions and interpretation*

Item 1 – General

- add paragraph (f) to explain the difference between the term “net assets” (used only for references to financial statements) and “net asset value” (used for all purposes other than financial statements)

#### *Part B Content Requirements for Annual Management Report of Fund Performance*

Item 3 – Financial Highlights

- amend the financial highlights tables so that “The Fund’s Net Assets per [Unit/Share]” table contains information derived from the financial statements, while the “Ratios and Supplemental Data” table is based on the fund’s net asset value (usually calculated daily for conventional mutual funds)
- change the references to “net asset value” to “net assets” as appropriate

As there may be a difference between the net asset value at the end of the last financial year and the net assets at the beginning of the new financial year, investment funds may add an explanation of those differences to the financial highlights tables.

Item 5 – Summary of Investment Portfolio

- change the references to “net assets” to “net asset value” as appropriate

### **The Policy**

The proposed amendments to the Policy reflect the changes to the Instrument, and add guidance to Part 9 concerning the requirement to calculate net asset value by determining a fair value for the investment fund’s assets and liabilities. The proposed amendments to the Policy also confirm that brokerage commissions and other portfolio transaction costs are not included in the management expense ratio (section 10.1).

### **Prospectus Disclosure**

We propose requiring an investment fund to disclose the differences between the valuation principles and practices established by the manager and those in Canadian GAAP.

## APPENDIX B

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

#### AMENDMENT INSTRUMENT

1. Section 1.1 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by repealing the definition of “net asset value” and substituting the following:

““net asset value” means the value of the total assets of the investment fund less the value of the total liabilities of the investment fund, as at a specific date, determined in accordance with Part 14;”
2. Section 2.9 of NI 81-106 *Investment Fund Continuous Disclosure* is amended
  - (a) in subparagraph (4)(a)(i) by striking out “and a statement of investment portfolio”; and
  - (b) in subparagraph (4)(b)(i) by striking out “and a statement of investment portfolio”.
3. Section 2.10 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by
  - (a) repealing paragraph (a) and substituting the following:

“(a) the investment fund terminating or ceasing to be a reporting issuer;” and
  - (b) repealing paragraph (h) and substituting the following:

“(h) if applicable, the names of each party that terminated or ceased to be a reporting issuer following the transaction and of each continuing entity;”.
4. Section 3.1 of NI 81-106 *Investment Fund Continuous Disclosure* is amended in item 15 by striking out “net asset value” and substituting “net assets”.
5. Section 3.2 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by
  - (a) adding the following after item 4:

“4.1 revenue from repurchase and reverse repurchase transactions.”; and
  - (b) adding the following after item 10:

“10.1 commissions and other portfolio transaction costs.”.

6. Section 3.5 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by adding the following after subsection (8):

“(8.1) If an investment fund invests substantially all of its assets directly, or indirectly through the use of derivatives, in securities of one other investment fund, the investment fund must disclose in the statement of investment portfolio or the notes to that statement the holdings of the other investment fund.”

7. Section 3.6 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by

(a) repealing subparagraph 3.6(1)3. and substituting the following:

“3. to the extent the amount is ascertainable, the soft dollar portion of the total commissions and other portfolio transaction costs paid or payable to dealers by the investment fund, where the soft dollar portion is the amount paid or payable for goods and services other than order execution.”; and

(b) adding the following after subparagraph 3.6(1)4.:

“5. a reconciliation of the net assets and net assets per security in the financial statements to the net asset value and net asset value per security, as at the date of the financial statements, and an explanation of the differences between these amounts.”.

8. Subsection 3.11(2) of NI 81-106 *Investment Fund Continuous Disclosure* is amended by striking out “ “net asset value per security” ” and substituting “ “net assets per security” ”.

9. Subsection 8.2(c) of NI 81-106 *Investment Fund Continuous Disclosure* is amended by striking out “net asset value” and substituting “net assets”.

10. Section 8.4 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by striking out “net asset value” and substituting “net assets”.

11. Section 9.2 of NI 81-106 *Investment Fund Continuous Disclosure* is repealed and the following is substituted:

**“9.2 Requirement to File Annual Information Form –** An investment fund must file an annual information form if the investment fund has not filed a prospectus during the last 12 months preceding its financial year end.”

12. Section 10.3 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by striking out “reporting issuer” and substituting “reporting issuer or the equivalent of a reporting issuer in a foreign jurisdiction”.

13. Section 14.2 of NI 81-106 *Investment Fund Continuous Disclosure* is amended

- (a) by repealing subsection (1) and substituting the following:
    - “(1) The net asset value of an investment fund must be calculated using the fair value of the investment fund’s assets and liabilities.
  - (b) by adding the following after subsection (1):
    - “(1.1) The net asset value of an investment fund must include income and expenses of the investment fund accrued up to the date of calculation of the net asset value.
    - (1.2) For the purposes of subsection (1), fair value means
      - (a) the market value based on reported prices and quotations in an active market, or
      - (b) if the market value is not available, or the manager of the investment fund believes that it is unreliable, a value that is fair and reasonable in all the relevant circumstances.
    - (1.3) The manager of an investment fund must
      - (a) establish and maintain appropriate written policies and procedures for determining the fair value of the investment fund’s assets and liabilities; and
      - (b) consistently follow those policies and procedures.
    - (1.4) The manager of an investment fund must maintain a record of every determination of fair value and the reasons supporting that determination.”;
  - (c) in subsection (2) by striking out “Despite subsection (1), for” and substituting “For”; and
  - (d) in subsection (5) by striking out “Despite subsection (3)” and substituting “Despite paragraph (3)(a)”.
14. Section 15.1 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by repealing clause (1)(a)(i)(A) and substituting the following:
- “(A) total expenses of the investment fund, excluding commissions and other portfolio transaction costs, before income taxes, for the financial year or interim period, as shown on its statement of operations; and”.

15. Section 15.2 of NI 81-106 *Investment Fund Continuous Disclosure* is amended by
  - (a) repealing subparagraph (1)(a)(i) and substituting the following:
    - “(i) multiplying the total expenses of each underlying investment fund, excluding commissions and other portfolio transaction costs, before income taxes, for the financial year or interim period, by”; and
  - (b) repealing paragraph (1)(b) and substituting the following:
    - “(b) the total expenses of the investment fund, excluding commissions and other portfolio transaction costs, before income taxes, for the period.”.
16. Sections 18.2, 18.3, 18.4 and 18.5 of NI 81-106 *Investment Fund Continuous Disclosure* are repealed.
17. This Instrument comes into force on \_\_\_\_\_.

## APPENDIX C

### FORM 81-106F1 CONTENTS OF ANNUAL AND INTERIM MANAGEMENT REPORT OF FUND PERFORMANCE

#### AMENDMENT INSTRUMENT

1. Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* is amended in Item 1 of Part A by adding the following after subsection (e):

**“(f) Terminology**

All references to “net assets” or “net assets per security” in this Form are references to net assets in accordance with Canadian GAAP as presented in the financial statements of the investment fund. All references to “net asset value” or “net asset value per security” in this Form are references to net asset value as determined in accordance with Part 14 of the Instrument.

Investment funds must use net assets as shown on the financial statements in the “*The Fund’s Net Assets per [Unit/Share]*” table. All other calculations for the purposes of the MRFP must be made using net asset value.”.

2. Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* is amended in Item 3 of Part B by
  - (a) striking out the sentence “This information is derived from the Fund’s audited annual financial statements.” at the end of the introduction in subsection 3.1(1);
  - (b) repealing the “*The Fund’s Net Asset Value (NAV) per [Unit/Share]*” table in subsection 3.1(1) and substituting the following:

**The Fund’s Net Assets per [Unit/Share] <sup>(1)</sup>**

	[insert year]				
Net Assets, beginning of year	\$	\$	\$	\$	\$
<b>Increase (decrease) from operations:</b>					
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 income (excluding dividends)	\$	\$	\$	\$	\$
From dividends	\$	\$	\$	\$	\$
From capital gains	\$	\$	\$	\$	\$
Return of capital	\$	\$	\$	\$	\$
<b>Total Annual Distributions <sup>(3)</sup></b>	\$	\$	\$	\$	\$
<b>Net assets at [insert last day of financial year] of year shown</b>	\$	\$	\$	\$	\$

(1) *This information is derived from the Fund’s audited annual financial statements. The net assets per security presented in the financial statements differs from the net asset value calculated for fund pricing purposes. [An explanation of these differences can be found in the notes to the financial statements./This difference is due to [explain].]*

(2) *Net assets and distributions are based on the actual number of [units/shares] outstanding at the relevant time. The increase/decrease from operations is based on the weighted average number of [units/shares] outstanding over the financial period.*

(3) *Distributions were [paid in cash/reinvested in additional [units/shares] of the Fund], or both.*

(c) repealing the “*Ratios and Supplemental Data*” table in subsection 3.1(1) and substituting the following:

**Ratios and Supplemental Data**

	[insert year]				
Total net asset value (000's) <sup>(1)</sup>	\$	\$	\$	\$	\$
Number of [units/shares] outstanding <sup>(1)</sup>					
Management expense ratio <sup>(2)</sup>	%	%	%	%	%
Management expense ratio before waivers or absorptions	%	%	%	%	%
Trading expense ratio <sup>(3)</sup>	%	%	%	%	%
Portfolio turnover rate <sup>(4)</sup>	%	%	%	%	%
Net asset value per [unit/share]	\$	\$	\$	\$	\$
Closing market price [if applicable]	\$	\$	\$	\$	\$

- (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 (excluding commissions and other portfolio transaction costs) for the stated period and is expressed as an annualized percentage of daily average net asset value during the period.*
- (3) *The trading expense ratio represents total commissions and other portfolio transaction costs expressed as an annualized percentage of daily average net asset value during the period.*
- (4) *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.*
- (d) repealing subsection 3.1(2);
- (e) repealing subsection 3.1(6) and substituting the following:
- “(6) Except for net assets, net asset value and distributions, calculate per unit/share values on the basis of the weighted average number of unit/shares outstanding over the financial period.”;
- (f) repealing subsection 3.1(12) and substituting the following:

- “(12) (a) Calculate the trading expense ratio by dividing
- (i) the total commissions and other portfolio transaction costs disclosed in the statement of operations; by
  - (ii) the same denominator used to calculate the management expense ratio.
- (b) If an investment fund invests in securities of other investment funds, calculate the trading expense ratio using the methodology required for the calculation of the management expense ratio in section 15.2 of the Instrument.”;
- (g) repealing subsection 3.1(13) and substituting the following:
- “(13) Provide the closing market price only if the investment fund is traded on an exchange.”; and
- (h) repealing the introduction to the “*Financial & Operating Highlights (with comparative figures)*” table in section 3.2 and substituting the following:
- “An investment fund that is a scholarship plan must comply with Item 3.1, except that the following table must replace “The Fund’s Net Assets per [Unit/Share]” table and the “Ratios and Supplemental Data” table.”.
3. Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* is amended in Item 4 of Part B by striking out “or” in paragraph 4.3(1)(a) and substituting “and”.
4. Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* is amended in Item 5 of Part B by
- (a) striking out “net assets” and substituting “net asset value” in paragraph (2)(b);
  - (b) striking out “net assets” and substituting “net asset value” in paragraph (2)(d);
  - (c) striking out “another” and substituting “one other” in Instruction (8); and
  - (d) striking out “net assets” and substituting “net asset value” in Instruction (8).
5. This Instrument comes into force on \_\_\_\_\_.

## APPENDIX D

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

#### AMENDMENT INSTRUMENT

1. Section 2.1 of Companion Policy 81-106CP *Investment Fund Continuous Disclosure* is amended by repealing subsection (1).
2. Section 2.9 of Companion Policy 81-106CP *Investment Fund Continuous Disclosure* is repealed.
3. Part 9 of Companion Policy 81-106CP *Investment Fund Continuous Disclosure* is amended by
  - (a) striking out the heading “PUBLICATION OF NET ASSET VALUE PER SECURITY” and substituting the heading “NET ASSET VALUE”; and
  - (b) by adding the following after section 9.1:
    - “**9.2 Fair Value Guidance** – Section 14.2 of the Instrument requires an investment fund to calculate its net asset value based on the fair value of the investment fund’s assets and liabilities. While investment funds are required to comply with the definition of “fair value” in the Instrument when calculating net asset value, they may also look to the Handbook for guidance on the measurement of fair value. The fair value principles articulated in the Handbook can be applied by investment funds when valuing assets and liabilities.
    - 9.3 Meaning of Fair Value** – The Handbook defines fair value as being the amount of the consideration that would be agreed upon in an arm’s length transaction between knowledgeable, willing parties who are under no compulsion to act. Accordingly, fair value should not reflect the amount that would be received or paid in a forced transaction, involuntary liquidation or distress sale.
    - 9.4 Determination of Fair Value**
      - (1) A market is generally considered active when quoted prices are readily and regularly available from an exchange, dealer, broker, industry group, pricing service or regulatory agency, and those prices reflect actual and regularly occurring market transactions on an arm’s length basis.

(2) A market is not considered to be active, and prices derived from it may be unreliable for valuation purposes, if, at the time the investment fund begins to calculate its net asset value, any of the following circumstances are present:

- markets on which portfolio securities are principally traded closed several hours earlier (e.g. some foreign markets may close as much as 15 hours before the time the investment fund begins to calculate its net asset value)
- trading is halted
- events occur that unexpectedly close entire markets (e.g. natural disasters, power blackouts, public disturbances, or similar major events)
- markets are closed due to scheduled holidays
- the security is illiquid and trades infrequently.

If an investment fund manager determines that an active market does not exist for a security, the manager should consider whether the last available quoted market price is representative of fair value. If a significant event (i.e. one that may impact the value of the portfolio security) has occurred between the time the last quoted market price was established and the time the investment fund begins to calculate its net asset value, the last quoted market price may not be representative of fair value.

(3) Whether a particular event is a significant event for a security depends on whether the event may affect the value of the security. Generally, significant events fall into one of three categories: (i) issuer specific events – e.g. the resignation of the CEO or an after-hours earnings announcement, (ii) market events – e.g. a natural disaster, a political event, or a significant governmental action like raising interest rates, and (iii) volatility events – e.g. a significant movement in North American equity markets that may directly impact the market prices of securities traded on overseas exchanges.

Whether a market movement is significant is a matter to be determined by the manager through the establishment of tolerance levels which it may choose to base on, for example, a specified intraday and/or interday percentage movement of a specific index, security or basket of securities. In all cases, the appropriate triggers

should be determined based on the manager's own due diligence and understanding of the correlations relevant to each investment fund's portfolio.

**9.5 Fair Value Techniques** – The CSA do not endorse any particular fair value technique as we recognize that this is a constantly evolving process. However, whichever technique is used, it should be applied consistently for a portfolio security throughout the fund complex, reviewed for reasonableness on a regular basis, and approved by the manager's board of directors. The manager should also consider whether its valuation process is a conflict of interest matter as defined in NI 81-107.

**9.6 Valuation Policies and Procedures** – The valuation policies and procedures should describe the process for monitoring significant events or other situations that could call into question whether a quoted market price is representative of fair value. They should also describe the methods by which the manager will review and test valuations to evaluate the quality of the prices obtained as well as the general functioning of the valuation process.”.

4. Section 10.1 of Companion Policy 81-106CP *Investment Fund Continuous Disclosure* is amended by
  - (a) striking out “of all types” in subsection (2); and
  - (b) repealing subsection (4) and substituting the following:

“While brokerage commissions and other portfolio transaction costs are expenses of an investment fund for accounting purposes, they are not included in the MER. These costs are reflected in the trading expense ratio.”
5. Appendix B of Companion Policy 81-106CP *Investment Fund Continuous Disclosure* is amended by
  - (a) striking out the title “CONTACT ADDRESSES FOR FILING OF NOTICES” and substituting the title “CONTACT ADDRESSES”;
  - (b) in the address for the Alberta Securities Commission, striking out “Attention: Director, Capital Markets” and substituting “Attention: Corporate Finance”;
  - (c) striking out the address for the Manitoba Securities Commission and substituting the following:

“Manitoba Securities Commission  
500 – 400 St. Mary Avenue  
Winnipeg, Manitoba  
R3C 4K5  
Attention: Corporate Finance”; and

- (d) striking out “Securities Commission of Newfoundland and Labrador” and substituting “Newfoundland and Labrador Securities Commission”.
6. This Instrument comes into force on \_\_\_\_\_.

**APPENDIX E**

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

**AMENDMENT INSTRUMENT**

1. Form 81-101F2 *Contents of Annual Information Form* is amended in Item 6 by adding the following after subsection (1):

“(1.1) If the valuation principles and practices established by the manager differ from Canadian GAAP, describe the differences.”.
2. This Instrument comes into force on \_\_\_\_\_.

**APPENDIX F**

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

**AMENDMENT INSTRUMENT**

1. Section 1.1 of NI 81-102 *Mutual Funds* is amended by adding the following after the definition of “mutual fund conflict of interest reporting requirements”:

““net asset value” means the value of the total assets of the investment fund less the value of the total liabilities of the investment fund, as at a specific date, determined in accordance with Part 14 of National Instrument 81-106 *Investment Fund Continuous Disclosure*.”.

2. Section 9.4 of NI 81-102 *Mutual Funds* is amended by repealing subsection (3).
3. Section 10.4 of NI 81-102 *Mutual Funds* is amended by repealing subsection (4).
4. This Instrument comes into force on \_\_\_\_\_.

**APPENDIX G**

**COMPANION POLICY 81-102CP-  
TO NATIONAL INSTRUMENT 81-102 *MUTUAL FUNDS***

**AMENDMENT INSTRUMENT**

1. Section 2.15 of Companion Policy 81-102CP *Mutual Funds* is amended by striking out “(which include a statement of portfolio transactions)” in subsection (4).
2. This Instrument comes into force on \_\_\_\_\_.

## APPENDIX H

### AMENDMENT TO PROPOSED NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS* FORM 41-101F2 *INFORMATION REQUIRED IN AN INVESTMENT FUND* *PROSPECTUS*

This Appendix sets out an amendment to proposed National Instrument 41-101 *General Prospectus Requirements* (NI 41-101) which was published by the CSA for comment on December 22, 2006. If approved, this amendment will be incorporated into proposed NI 41-101 when that instrument is approved and adopted in final form. If proposed NI 41-101 is not adopted, this amendment will be incorporated into Ontario Securities Commission Rule 41-502 – *Prospectus Requirements for Mutual Funds*.

Proposed amendment to proposed NI 41-101:

Form 41-101F2 *Information Required in an Investment Fund Prospectus* is amended in Item 23.1 by

- (a) adding the following after subsection (a):
  - “(b) If the valuation principles and practices established by the manager differ from Canadian GAAP, describe the differences; and”; and
- (b) reordering subsection “(b)” as subsection “(c)”.

## **APPENDIX I**

### **BLACKLINES**

Black-lined versions showing the proposed amendments to:

- National Instrument 81-106 *Investment Fund Continuous Disclosure*
- Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance*
- Companion Policy 81-106CP

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

**(BLACK-LINED)**

**PART 1      DEFINITIONS AND APPLICATIONS**

- 1.1    Definitions
- 1.2    Application
- 1.3    Interpretation
- 1.4    Language of Documents

**PART 2      FINANCIAL STATEMENTS**

- 2.1    Comparative Annual Financial Statements and Auditor's Report
- 2.2    Filing Deadline for Annual Financial Statements
- 2.3    Interim Financial Statements
- 2.4    Filing Deadline for Interim Financial Statements
- 2.5    Approval of Financial Statements
- 2.6    Acceptable Accounting Principles
- 2.7    Acceptable Auditing Standards
- 2.8    Acceptable Auditors
- 2.9    Change in Year End
- 2.10   Change in Legal Structure
- 2.11   Filing Exemption for Mutual Funds that are Non-Reporting Issuers
- 2.12   Disclosure of Auditor Review of Interim Financial Statements

**PART 3      FINANCIAL DISCLOSURE REQUIREMENTS**

- 3.1    Statement of Net Assets
- 3.2    Statement of Operations
- 3.3    Statement of Changes in Net Assets
- 3.4    Statement of Cashflows
- 3.5    Statement of Investment Portfolio
- 3.6    Notes to Financial Statements
- 3.7    Inapplicable Line Items
- 3.8    Disclosure of Securities Lending Transactions
- 3.9    Disclosure of Repurchase Transactions
- 3.10   Disclosure of Reverse Repurchase Transactions
- 3.11   Scholarship Plans

**PART 4      MANAGEMENT REPORTS OF FUND PERFORMANCE**

- 4.1    Application
- 4.2    Filing of Management Reports of Fund Performance
- 4.3    Filing of Annual Management Report of Fund Performance for an Investment Fund that is a Scholarship Plan
- 4.4    Contents of Management Reports of Fund Performance
- 4.5    Approval of Management Reports of Fund Performance

**PART 5 DELIVERY OF FINANCIAL STATEMENTS AND MANAGEMENT REPORTS OF FUND PERFORMANCE**

- 5.1 Delivery of Certain Continuous Disclosure Documents
- 5.2 Sending According to Standing Instructions
- 5.3 Sending According to Annual Instructions
- 5.4 General
- 5.5 Websites

**PART 6 QUARTERLY PORTFOLIO DISCLOSURE**

- 6.1 Application
- 6.2 Preparation and Dissemination

**PART 7 BINDING AND PRESENTATION**

- 7.1 Binding of Financial Statements and Management Reports of Fund Performance
- 7.2 Multiple Class Investment Funds

**PART 8 INDEPENDENT VALUATIONS FOR LABOUR SPONSORED OR VENTURE CAPITAL FUNDS**

- 8.1 Application
- 8.2 Exemption from Requirement to Disclose Individual Current Values for Venture Investments
- 8.3 Disclosure Concerning Independent Valuator
- 8.4 Content of Independent Valuation
- 8.5 Independent Valuator's Consent

**PART 9 ANNUAL INFORMATION FORM**

- 9.1 Application
- 9.2 Requirement to File Annual Information Form
- 9.3 Filing Deadline for Annual Information Form
- 9.4 Preparation and Content of Annual Information Form

**PART 10 PROXY VOTING DISCLOSURE FOR PORTFOLIO SECURITIES HELD**

- 10.1 Application
- 10.2 Requirement to Establish Policies and Procedures
- 10.3 Proxy Voting Record
- 10.4 Preparation and Availability of Proxy Voting Record

**PART 11 MATERIAL CHANGE REPORTS**

- 11.1 Application
- 11.2 Publication of Material Change

**PART 12 PROXY SOLICITATION AND INFORMATION CIRCULARS**

- 12.1 Application
- 12.2 Sending of Proxies and Information Circulars
- 12.3 Exemption
- 12.4 Compliance with National Instrument 51-102

**PART 13 CHANGE OF AUDITOR DISCLOSURE**

- 13.1 Application
- 13.2 Change of Auditor

**PART 14 CALCULATION OF NET ASSET VALUE**

- 14.1 Application
- 14.2 Calculation, Frequency and Currency
- 14.3 Portfolio Transactions
- 14.4 Capital Transactions

**PART 15 CALCULATION OF MANAGEMENT EXPENSE RATIO**

- 15.1 Calculation of Management Expense Ratio
- 15.2 Fund of Funds Calculation

**PART 16 ADDITIONAL FILING REQUIREMENTS**

- 16.1 Application
- 16.2 Additional Filing Requirements
- 16.3 Voting Results
- 16.4 Filing of Material Contracts

**PART 17 EXEMPTIONS**

- 17.1 Exemption

**PART 18 EFFECTIVE DATE AND TRANSITION**

- 18.1 Effective Date
- 18.2 ~~Transition [repealed]~~
- 18.3 ~~Filing of Financial Statements and Management Reports of Fund Performance [repealed]~~
- 18.4 ~~Filing of Annual Information Form [repealed]~~
- 18.5 ~~Initial Delivery of Annual Management Report of Fund Performance [repealed]~~
- 18.6 Existing Exemptions

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

**PART 1      DEFINITIONS AND APPLICATIONS**

**1.1      Definitions** - In this Instrument

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

“current value” means, for an asset held by, or a liability of, an investment fund, the value calculated in accordance with Canadian GAAP;

“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;

“EVCC” means an employee venture capital corporation that does not have a restricted constitution, and is registered under Part 2 of the *Employee Investment Act* (British Columbia), R.S.B.C. 1996 c. 112, and whose business objective is making multiple investments;

“independent valuation” means a valuation of the assets and liabilities, or of the venture investments, of a labour sponsored or venture capital fund that contains the opinion of an independent valuator as to the current value of the assets and liabilities, or of the venture investments, and that is prepared in accordance with Part 8;

“independent valuator” means a valuator that is independent of the labour sponsored or venture capital fund and that has appropriate qualifications;

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

“interim period” means, in relation to an investment fund,

- (a) a period of at least three months that ends six months before the end of a financial year of the investment fund, or
- (b) in the case of a transition year of the investment fund, a period commencing on the first day of the transition year and ending six months after the end of its old financial year;

“investment fund” means a mutual fund or a non-redeemable investment fund, and, for greater certainty in British Columbia, includes an EVCC and a VCC;

“labour sponsored or venture capital fund” means an investment fund that is

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

“management expense ratio” means the ratio, expressed as a percentage, of the expenses of an investment fund to its average net asset value, calculated in accordance with Part 15;

“management fees” means the total fees paid or payable by an investment fund to its manager or one or more portfolio advisers or sub-advisers, including incentive or performance fees, but excluding operating expenses of the investment fund;

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

“material change” means, in relation to an investment fund,

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

“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 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, but does not include a private mutual fund;

“National Instrument 51-102” means National Instrument 51-102 *Continuous Disclosure Obligations*;

“net asset value” means the ~~current~~ value of the total assets of the investment fund less the ~~current~~ value of the total liabilities of the investment fund, as at a specific date, determined in accordance with Part 14;

“non-redeemable investment fund” means an issuer,

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

“quarterly portfolio disclosure” means the disclosure prepared in accordance with Part 6;

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

“scholarship plan” means an arrangement under which contributions to education savings plans are pooled to provide scholarship awards to designated beneficiaries;

“transition year” means the financial year of an investment fund in which a change of year end occurs;

“VCC” means a venture capital corporation registered under Part 1 of the *Small Business Venture Capital Act* (British Columbia), R.S.B.C. 1996 c. 429 whose business objective is making multiple investments; and

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

## **1.2 Application**

- (1) Except as otherwise provided in this Instrument, this Instrument applies to
  - (a) an investment fund that is a reporting issuer; and
  - (b) subject to subsection (2), a mutual fund in the jurisdiction.
- (2) Despite paragraph (1)(b), in Alberta, British Columbia, Manitoba and Newfoundland and Labrador, this Instrument does not apply to a mutual fund that is not a reporting issuer.
- (3) In Saskatchewan, this Instrument does not apply to a Type B corporation within the meaning of *The Labour-sponsored Venture Capital Corporations Act* (Saskatchewan).
- (4) In Québec, this Instrument does not apply to a reporting issuer organized under
  - (a) an Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) R.S.Q., chapter F-3.2.1;
  - (b) an Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., chapter F-3.1.2); or
  - (c) an Act constituting Capital régional et coopératif Desjardins, Loi constituant Capital régional et coopératif Desjardins (R.S.Q., chapter C-6.1).

## **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 the purposes of this Instrument.
- (2) Terms defined in National Instrument 81-102 *Mutual Funds*, Multilateral Instrument 81-104 *Commodity Pools* and National Instrument 81-105 *Mutual Fund Sales Practices* and used in this Instrument have the respective meanings ascribed to them in those Instruments except that references in those definitions to “mutual fund” must be read as references to “investment fund”.

## **1.4 Language of Documents**

- (1) A document that is required to be filed under this Instrument must be prepared in French or English.

- (2) If an investment fund files a document in French or in English, and a translation of the document into the other language is sent to a securityholder, the investment fund must file the translated document not later than when it is sent to the securityholder.
- (3) In Québec, the linguistic obligations and rights prescribed by Québec law must be complied with.

## **PART 2 FINANCIAL STATEMENTS**

### **2.1 Comparative Annual Financial Statements and Auditor's Report**

- (1) An investment fund must file annual financial statements for the investment fund's most recently completed financial year that include
  - (a) a statement of net assets as at the end of that financial year and a statement of net assets as at the end of the immediately preceding financial year;
  - (b) a statement of operations for that financial year and a statement of operations for the immediately preceding financial year;
  - (c) statement of changes in net assets for that financial year and a statement of changes in net assets for the immediately preceding financial year;
  - (d) a statement of cashflows for that financial year and a statement of cashflows for the immediately preceding financial year, unless it is not required by Canadian GAAP;
  - (e) a statement of investment portfolio as at the end of that financial year; and
  - (f) notes to the annual financial statements.
- (2) Annual financial statements filed under subsection (1) must be accompanied by an auditor's report.

**2.2 Filing Deadline for Annual Financial Statements** - The annual financial statements and auditor's report required to be filed under section 2.1 must be filed on or before the 90<sup>th</sup> day after the investment fund's most recently completed financial year.

**2.3 Interim Financial Statements** - An investment fund must file interim financial statements for the investment fund's most recently completed interim period that include

- (a) a statement of net assets as at the end of that interim period and a statement of net assets as at the end of the immediately preceding financial year;
- (b) a statement of operations for that interim period and a statement of operations for the corresponding period in the immediately preceding financial year;
- (c) a statement of changes in net assets for that interim period and a statement of changes in net assets for the corresponding period in the immediately preceding financial year;
- (d) a statement of cashflows for and as at the end of that interim period and a statement of cashflows for the corresponding period in the immediately preceding financial year, unless it is not required by Canadian GAAP;
- (e) a statement of investment portfolio as at the end of that interim period; and
- (f) notes to the interim financial statements.

**2.4 Filing Deadline for Interim Financial Statements** - The interim financial statements required to be filed under section 2.3 must be filed on or before the 60<sup>th</sup> day after the end of the most recent interim period of the investment fund.

#### **2.5 Approval of Financial Statements**

- (1) The board of directors of an investment fund that is a corporation must approve the financial statements of the investment fund before those financial statements are filed or made available to securityholders or potential purchasers of securities of the investment fund.
- (2) 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, must approve the financial statements of the investment fund, before those financial statements are filed or made available to securityholders or potential purchasers of securities of the investment fund.

**2.6 Acceptable Accounting Principles** – The financial statements of an investment fund must be prepared in accordance with Canadian GAAP as applicable to public enterprises.

#### **2.7 Acceptable Auditing Standards**

- (1) Financial statements that are required to be audited must be audited in accordance with Canadian GAAS.

- (2) Audited financial statements must be accompanied by an auditor's report prepared in accordance with Canadian GAAS and the following requirements:
1. The auditor's report must not contain a reservation.
  2. The auditor's report must identify all financial periods presented for which the auditor has issued an auditor's report.
  3. If the investment fund has changed its auditor and a comparative period presented in the financial statements was audited by a different auditor, the auditor's report must refer to the former auditor's report on the comparative period.
  4. The auditor's report must identify the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

**2.8 Acceptable Auditors** - An auditor's report must be prepared and signed by a person or company that is authorized to sign an auditor's report by the laws of a jurisdiction of Canada, and that meets the professional standards of that jurisdiction.

**2.9 Change in Year End**

- (1) This section applies to an investment fund that is a reporting issuer.
- (2) Section 4.8 of National Instrument 51-102 applies to an investment fund that changes its financial year end, except that
  - (a) a reference to "interim period" must be read as "interim period" as defined in this Instrument;
  - (b) a requirement under National Instrument 51-102 to include specified financial statements must be read as a requirement to include the financial statements required under this Part; and
  - (c) a reference to "filing deadline" in subsection 4.8(2) of National Instrument 51-102 must be read as a reference to the filing deadlines provided for under section 2.2 and 2.4 of this Instrument.
- (3) Despite section 2.4, an investment fund is not required to file interim financial statements for any period in a transition year if the transition year is less than nine months in length.
- (4) Despite subsections 4.8(7) and (8) of National Instrument 51-102,

- (a) for interim financial statements for an interim period in the transition year, the investment fund must include as comparative information
  - (i) a statement of net assets ~~and a statement of investment portfolio~~ as at the end of its old financial year; and
  - (ii) a statement of operations, a statement of changes in net assets, and, if applicable, a statement of cashflows, for the interim period of the old financial year;
- (b) for interim financial statements for an interim period in a new financial year, the investment fund must include as comparative information
  - (i) a statement of net assets ~~and a statement of investment portfolio~~ as at the end of the transition year; and
  - (ii) a statement of operations, a statement of changes in net assets, and, if applicable, a statement of cashflows, for the period that is one year earlier than the interim period in the new financial year.

## 2.10

**Change in Legal Structure** - If an investment fund that is a reporting issuer is party to an amalgamation, arrangement, merger, winding-up, reorganization or other transaction that will result in

- (a) the investment fund terminating or ceasing to be a reporting issuer,
- (b) another entity becoming an investment fund,
- (c) a change in the investment fund's financial year end, or
- (d) a change in the name of the investment fund,

the investment fund must, as soon as practicable, and in any event not later than the deadline for the first filing required by this Instrument following the transaction, file a notice stating:

- (e) the names of the parties to the transaction;
- (f) a description of the transaction;
- (g) the effective date of the transaction;
- (h) if applicable, the names of each party that terminated or ceased to be a reporting issuer following the transaction and of each continuing entity;

- (i) if applicable, the date of the investment fund's first financial year end following the transaction; and
- (j) if applicable, the periods, including the comparative periods, if any, of the interim and annual financial statements required to be filed for the investment fund's first financial year following the transaction.

**2.11 Filing Exemption for Mutual Funds that are Non-Reporting Issuers - A** mutual fund that is not a reporting issuer is exempt from the filing requirements of section 2.1 for a financial year or section 2.3 for an interim period if

- (a) the mutual fund prepares the applicable financial statements in accordance with this Instrument;
- (b) the mutual fund delivers the financial statements to its securityholders in accordance with Part 5 within the same time periods as if the financial statements were required to be filed;
- (c) the mutual fund has advised the regulator or securities regulatory authority that it is relying on this exemption not to file its financial statements; and
- (d) the mutual fund has included in a note to the financial statements that it is relying on this exemption not to file its financial statements.

**2.12 Disclosure of Auditor Review of Interim Financial Statements**

- (1) This section applies to an investment fund that is a reporting issuer.
- (2) If an auditor has not performed a review of the interim financial statements required to be filed, the interim financial statements must be accompanied by a notice indicating that the interim financial statements have not been reviewed by an auditor.
- (3) If an investment fund engaged an auditor to perform a review of the interim financial statements required to be filed and the auditor was unable to complete the review, the interim financial statements must be accompanied by a notice indicating that the auditor was unable to complete a review of the interim financial statements and the reasons why.
- (4) If an auditor has performed a review of the interim financial statements required to be filed and the auditor has expressed a reservation in the auditor's interim review report, the interim financial statements must be accompanied by a written review report from the auditor.

**PART 3 FINANCIAL DISCLOSURE REQUIREMENTS**

**3.1 Statement of Net Assets** - The statement of net assets of an investment fund must disclose the following as separate line items, each shown at current value:

1. cash, term deposits and, if not included in the statement of investment portfolio, short term debt instruments.
2. investments.
3. accounts receivable relating to securities issued.
4. accounts receivable relating to portfolio assets sold.
5. accounts receivable relating to margin paid or deposited on futures or forward contracts.
6. amounts receivable or payable in respect of derivatives transactions, including premiums or discounts received or paid.
7. deposits with brokers for portfolio securities sold short.
8. accrued expenses.
9. accrued incentive arrangements or performance compensation.
10. portfolio securities sold short.
11. liabilities for securities redeemed.
12. liabilities for portfolio assets purchased.
13. income tax payable.
14. total net assets and securityholders' equity and, if applicable, for each class or series.
15. net assets ~~value~~ per security, or if applicable, per security of each class or series.

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

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

4. revenue from securities lending.
- 4.1 revenue from repurchase and reverse repurchase transactions.
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.
- 10.1 commissions and other portfolio transaction costs.
11. securityholder reporting costs.
12. capital tax.
13. 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.
14. provision for income tax.
15. net investment income or loss for the period.
16. realized gains or losses.
17. unrealized gains or losses.
18. increase or decrease in net assets from operations and, if applicable, for each class or series.
19. increase or decrease in net assets from operations per security or, if applicable, per security of each class or series.

**3.3** **Statement of Changes in Net Assets** - The statement of changes in net assets of an investment fund must disclose, for each class or series, 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. aggregate amounts paid on redemption of securities of the investment fund.
5. securities issued on reinvestment of distributions.
6. distributions, showing separately the amount distributed out of net investment income and out of realized gains on portfolio assets sold, and return of capital.
7. net assets at the end of the period reported upon.

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

1. net investment income or loss.
2. proceeds of disposition of portfolio assets.
3. purchase of portfolio assets.
4. proceeds from the issuance of securities of the investment fund.
5. aggregate amounts paid on redemption of securities of the investment fund.
6. compensation paid in respect of the sale of securities of the investment fund.

**3.5 Statement of Investment Portfolio**

- (1) The statement of investment portfolio of an investment fund must disclose the following for each portfolio asset held or sold short:
  1. the name of the issuer of the portfolio asset.
  2. a description of the portfolio asset, including
    - (a) for an equity security, the name of the class of the security.
    - (b) for a debt instrument not included in paragraph (c), all characteristics commonly used commercially to identify the instrument, including the name of the instrument, the interest rate of the instrument, the maturity date of the instrument, whether the instrument is convertible or exchangeable and, if used to identify the instrument, the priority of the instrument.

- (c) for a debt instrument referred to in the definition of “money market fund” in National Instrument 81-102 *Mutual Funds*, the name, interest rate and maturity date of the instrument.
  - (d) for a portfolio asset not referred to in paragraph (a), (b) or (c), the name of the portfolio asset and the material terms and conditions of the portfolio asset commonly used commercially in describing the portfolio asset.
- 3. the number or aggregate face value of the portfolio asset.
- 4. the cost of the portfolio asset.
- 5. the current value of the portfolio asset.
- (2) For the purposes of subsection (1), disclosure for a long portfolio must be segregated from the disclosure for a short portfolio.
- (3) For the purposes of subsection (1) and subject to subsection (2), disclosure must be aggregated for portfolio assets having the same description and issuer.
- (4) Despite subsection (1) and (3) and subject to subsection (2), the information referred to in subsection (1) may be provided in the aggregate for those short term debt instruments that
  - (a) are issued by a bank listed in Schedule I, II or III to the *Bank Act* (Canada) or a loan corporation or trust corporation registered under the laws of a jurisdiction, or
  - (b) have achieved an investment rating within the highest or next highest categories of ratings of each approved credit rating organization.
- (5) If an investment fund discloses short term debt instruments as permitted by subsection (4), the investment fund must disclose separately the aggregate short term debt instruments denominated in any currency if the aggregate exceeds 5% of the total short term debt.
- (6) If an investment fund holds positions in derivatives, the investment fund must disclose in the statement of investment portfolio or the notes to that statement,
  - (a) for long and short positions in options,

- (i) the quantity of the underlying interest, the number of options, the underlying interest, the strike price, the expiration month and year, the cost and the current value, and
    - (ii) if the underlying interest is a future, information about the future in accordance with subparagraph (i);
  - (b) for positions in futures and forwards, the number of futures and forwards, the underlying interest, the price at which the contract was entered into, the delivery month and year and the current value;
  - (c) for positions in swaps, the number of swap contracts, the underlying interest, the principal or notional amount, the payment dates, and the current value; and
  - (d) if a rating of a counterparty has fallen below the approved credit rating level.
- (7) If applicable, the statement of investment portfolio included in the financial statements of the investment fund, or the notes to the statement of investment portfolio, must identify the underlying interest that is being hedged by each position taken by the investment fund in a derivative.
- (8) An investment fund may omit the information required by subsection (1) about mortgages from a statement of investment portfolio if the statement of investment portfolio discloses
- (a) the total number of mortgages held;
  - (b) the aggregate 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.
- (8.1) If an investment fund invests substantially all of its assets directly, or indirectly through the use of derivatives, in securities of one other

investment fund, the investment fund must disclose in the statement of investment portfolio or the notes to that statement the holdings of the other investment fund.

- (9) An investment fund must maintain records of all portfolio transactions undertaken by the investment fund.

### 3.6 Notes to Financial Statements

- (1) The notes to the financial statements of an investment fund must 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, the method used.
  2. 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.
  3. ~~(a) total commissions and other transaction costs paid or payable to dealers by the investment fund for its portfolio transactions during the period reported upon; and~~
    - ~~(b) to the extent the amount is ascertainable, separate disclosure of the soft dollar portion of the total commissions and other portfolio transaction costs paid or payable to dealers by the investment fund~~ these payments,

where the soft dollar portion is the amount paid or payable for goods and services other than order execution.

4. the total cost of distribution of the investment fund's securities recorded in the statement of changes in net assets.
5. a reconciliation of the net assets and net assets per security in the financial statements to the net asset value and net asset value per security, as at the date of the financial statements, and an explanation of the differences between these amounts.

- (2) If not disclosed elsewhere in the financial statements, an investment fund that borrows money must, in a note to the financial statements, disclose the minimum and maximum amount borrowed during the period to which the financial statements or management report of fund performance pertain.

**3.7 Inapplicable Line Items** - Despite the requirements of this Part, an investment fund may omit a line item from the financial statements for any matter that does not apply to the investment fund or for which the investment fund has nothing to disclose.

### **3.8 Disclosure of Securities Lending Transactions**

- (1) An investment fund must disclose, in the statement of investment portfolio included in the financial statements of the investment fund, or in the notes to the financial statements,
  - (a) the aggregate dollar value of portfolio securities that were lent in the securities lending transactions of the investment fund that are 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 are outstanding as at the date of the financial statements.
- (2) The statement of net assets of an investment fund that has received cash collateral from a securities lending transaction that is outstanding as of the date of the financial statements must disclose separately
  - (a) the cash collateral received by the investment fund; and
  - (b) the obligation to repay the cash collateral.
- (3) The statement of operations of an investment fund must disclose income from a securities lending transaction as revenue.

### **3.9 Disclosure of Repurchase Transactions**

- (1) An investment fund, in the statement of investment portfolio included in the financial statements of the investment fund, or in the notes to that statement, must, for a repurchase transaction of the investment fund that is outstanding as at the date of the statement, disclose
  - (a) the date of the transaction;
  - (b) the expiration date of the transaction;
  - (c) the nature and current value of the portfolio securities sold by the investment fund;
  - (d) the amount of cash received and the repurchase price to be paid by the investment fund; and
  - (e) the current value of the sold portfolio 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 is outstanding as of the date of the statement of net assets must disclose separately the obligation of the investment fund to repay the collateral.
- (3) The statement of operations of an investment fund must disclose income from the use of the cash received on a repurchase transaction as revenue.
- (4) The information required by this section may be presented on an aggregate basis.

### **3.10 Disclosure of Reverse Repurchase Transactions**

- (1) An investment fund, in the statement of investment portfolio or in the notes to that statement, must, for a reverse repurchase transaction of the investment fund that is outstanding as at the date of the statement, disclose
  - (a) the date of the transaction;
  - (b) the expiration date of the transaction;
  - (c) the total dollar amount paid by the investment fund;
  - (d) the nature and current value or principal amount of the portfolio securities received by the investment fund; and
  - (e) the current value of the purchased portfolio 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 is outstanding as of the date of the financial statements must disclose separately the reverse repurchase agreement relating to the transaction at current value.
- (3) The statement of operations of an investment fund must disclose income from a reverse repurchase transaction as revenue.
- (4) The information required by this section may be presented on an aggregate basis.

### **3.11 Scholarship Plans**

- (1) In addition to the requirements of this Part, an investment fund that is a scholarship plan must disclose, as of the end of its most recently completed financial year, a separate statement or schedule to the financial statements that provides
  - (a) a summary of education savings plans and units outstanding by year of eligibility, including
    - (i) disclosure of the number of units by year of eligibility for the opening units, units purchased, units forfeited and the ending units,
    - (ii) disclosure of the principal amounts and the accumulated income per year of eligibility, and their total balances, and
    - (iii) a reconciliation of the total balances of the principal amounts and the accumulated income in the statement or schedule to the statement of net assets of the scholarship plan;
  - (b) the total number of units outstanding; and
  - (c) a statement of scholarship awards paid to beneficiaries, and a reconciliation of the amount of scholarship awards paid with the statement of operations.
- (2) Despite the requirements of sections 3.1 and 3.2, an investment fund that is a scholarship plan may omit the “net assets ~~value~~ per security” and “increase or decrease in net assets from operations per security” line items from its financial statements.

## **PART 4 MANAGEMENT REPORTS OF FUND PERFORMANCE**

### **4.1 Application** - This Part applies to an investment fund that is a reporting issuer.

**4.2 Filing of Management Reports of Fund Performance** - An investment fund, other than an investment fund that is a scholarship plan, must file an annual management report of fund performance for each financial year and an interim management report of fund performance for each interim period at the same time that it files its annual financial statements or its interim financial statements for that financial period.

**4.3 Filing of Annual Management Report of Fund Performance for an Investment Fund that is a Scholarship Plan** - An investment fund that is a scholarship plan must file an annual management report of fund performance for each financial year at the same time that it files its annual financial statements.

**4.4 Contents of Management Reports of Fund Performance** - A management report of fund performance required by this Part must

- (a) be prepared in accordance with Form 81-106F1; and
- (b) not incorporate by reference information from any other document that is required to be included in a management report of fund performance.

**4.5 Approval of Management Reports of Fund Performance**

- (1) The board of directors of an investment fund that is a corporation must approve the management report of fund performance of the investment fund before the report is filed or made available to a holder or potential purchaser of securities of the investment fund.
- (2) 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, must approve the management report of fund performance of the investment fund before the report is filed or made available to a holder or potential purchaser of securities of the investment fund.

## **PART 5 DELIVERY OF FINANCIAL STATEMENTS AND MANAGEMENT REPORTS OF FUND PERFORMANCE**

**5.1 Delivery of Certain Continuous Disclosure Documents**

- (1) In this Part, “securityholder” means a registered holder or beneficial owner of securities issued by an investment fund.
- (2) Subject to section 5.2 or section 5.3, an investment fund must send to a securityholder, by the filing deadline for the document, the following:
  - (a) annual financial statements;

- (b) interim financial statements;
  - (c) if required to be prepared by the investment fund, the annual management report of fund performance;
  - (d) if required to be prepared by the investment fund, the interim management report of fund performance.
- (3) An investment fund must apply the procedures set out in National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* when complying with this Part.
- (4) Despite subsection (3), National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* does not apply to an investment fund with respect to a requirement under this Part if the investment fund has the necessary information to communicate directly with a beneficial owner of its securities.

## **5.2 Sending According to Standing Instructions**

- (1) Subsection 5.1(2) does not apply to an investment fund that requests standing instructions from a securityholder in accordance with this section and sends the documents listed in subsection 5.1(2) according to those instructions.
- (2) An investment fund relying on subsection 5.2(1) must send, to each securityholder, a document that
- (a) explains the choices a securityholder has to receive the documents listed in subsection 5.1(2);
  - (b) solicits instructions from the securityholder about delivery of those documents; and
  - (c) explains that the instructions provided by the securityholder will continue to be followed by the investment fund until they are changed by the securityholder.
- (3) If a person or company becomes a securityholder of an investment fund, the investment fund must solicit instructions in accordance with subsection (2) from the securityholder as soon as reasonably practicable after the investment fund accepts a purchase order from the securityholder.
- (4) An investment fund must rely on instructions given under this section until a securityholder changes them.
- (5) At least once a year, an investment fund must send each securityholder a reminder that

- (a) the securityholder is entitled to receive the documents listed in subsection 5.1(2);
- (b) the investment fund is relying on delivery instructions provided by the securityholder;
- (c) explains how a securityholder can change the instructions it has given; and
- (d) the securityholder can obtain the documents on the SEDAR website and on the investment fund's website, if applicable, and by contacting the investment fund.

### **5.3 Sending According to Annual Instructions**

- (1) Subsection 5.1(2) does not apply to an investment fund that requests annual instructions from a securityholder in accordance with this section and sends the documents listed in subsection 5.1(2) according to those instructions.
- (2) Subsection (1) does not apply to an investment fund that has previously relied on subsection 5.2(1).
- (3) An investment fund relying on subsection 5.3(1) must send annually to each securityholder a request form the securityholder may use to instruct the investment fund as to which of the documents listed in subsection 5.1(2) the securityholder wishes to receive.
- (4) The request form described in subsection (3) must be accompanied by a notice explaining that
  - (a) the securityholder is providing delivery instructions for the current year only; and
  - (b) the documents are available on the SEDAR website and on the investment fund's website, if applicable, and by contacting the investment fund.

### **5.4 General**

- (1) If a securityholder requests any of the documents listed in subsection 5.1(2), an investment fund must send a copy of the requested documents by the later of
  - (a) the filing deadline for the requested document; and
  - (b) ten calendar days after the investment fund receives the request.

- (2) An investment fund must not charge a fee for sending the documents referred to in this Part and must ensure that securityholders can respond without cost to the solicitations of instructions required by this Part.
- (3) Investment funds under common management may solicit one set of delivery instructions from a securityholder that will apply to all of the investment funds under common management held by that securityholder.
- (4) Despite subsection 7.1(3), for the purposes of delivery to a securityholder, an investment fund may bind its management report of fund performance with the management report of fund performance for one or more other investment funds if the securityholder holds each investment fund.

**5.5** **Websites** - An investment fund that is a reporting issuer and that has a website must post to the website any documents listed in subsection 5.1(2) no later than the date that those documents are filed.

## **PART 6 QUARTERLY PORTFOLIO DISCLOSURE**

**6.1** **Application** - This Part applies to an investment fund that is a reporting issuer, other than a scholarship plan or a labour sponsored or venture capital fund.

### **6.2 Preparation and Dissemination**

- (1) An investment fund must prepare quarterly portfolio disclosure that includes
  - (a) a summary of investment portfolio prepared in accordance with Item 5 of Part B of Form 81-106F1 as at the end of
    - (i) each period of at least three months that ends three or nine months before the end of a financial year of the investment fund; or
    - (ii) in the case of a transition year of the investment fund, each period commencing on the first day of the transition year and ending either three, nine or twelve months, if applicable, after the end of its old financial year; and
  - (b) the total net asset value of the investment fund as at the end of the periods specified in (a)(i) or (ii).
- (2) An investment fund that has a website must post to the website the quarterly portfolio disclosure within 60 days of the end of the period for which the quarterly portfolio disclosure was prepared.
- (3) An investment fund must promptly send the most recent quarterly portfolio disclosure, without charge, to any securityholder of the

investment fund, upon a request made by the securityholder 60 days after the end of the period to which the quarterly portfolio disclosure pertains.

## **PART 7 BINDING AND PRESENTATION**

### **7.1 Binding of Financial Statements and Management Reports of Fund Performance**

- (1) An investment fund must not bind its financial statements with the financial statements of another investment fund in a document unless all information relating to the investment fund is presented together and not intermingled with information relating to the other investment fund.
- (2) Despite subsection (1), if a document contains the financial statements of more than one investment fund, the notes to the financial statements may be combined and presented in a separate part of the document.
- (3) An investment fund must not bind its management report of fund performance with the management report of fund performance for another investment fund.

### **7.2 Multiple Class Investment Funds**

- (1) An investment fund that has more than one class or series of securities outstanding that are referable to a single portfolio must prepare financial statements and management reports of fund performance that contain information concerning all of the classes or series.
- (2) If an investment fund has more than one class or series of securities outstanding, the distinctions between the classes or series must be disclosed in the financial statements and management reports of fund performance.

## **PART 8 INDEPENDENT VALUATIONS FOR LABOUR SPONSORED OR VENTURE CAPITAL FUNDS**

**8.1 Application** - This Part applies to a labour sponsored or venture capital fund that is a reporting issuer.

**8.2 Exemption from Requirement to Disclose Individual Current Values for Venture Investments** - Despite item 5 of subsection 3.5(1), a labour sponsored or venture capital fund is exempt from the requirement to present separately in a statement of investment portfolio the current value of each venture investment that does not have a market value if

- (a) the labour sponsored or venture capital fund discloses in the statement of investment portfolio

- (i) the cost amounts for each venture investment,
  - (ii) the total cost of the venture investments,
  - (iii) the total adjustment from cost to current value of the venture investments, and
  - (iv) the total current value of the venture investments;
- (b) the labour sponsored or venture capital fund discloses in the statement of investment portfolio tables showing the distribution of venture investments by stage of development and by industry classification including
- (i) the number of venture investments in each stage of development and industry class,
  - (ii) the total cost and aggregate current value of the venture investments for each stage of development and industry class, and
  - (iii) the total cost and aggregate current value of venture investments for each stage of development and industry class as a percentage of total venture investments;
- (c) for a statement of investment portfolio contained in annual financial statements, the labour sponsored or venture capital fund has obtained an independent valuation relating to the value of the venture investments or to the net assets ~~value~~ of the fund and has filed the independent valuation concurrently with the filing of the annual financial statements;
- (d) for a statement of investment portfolio contained in interim financial statements, the labour sponsored or venture capital fund obtained and filed the independent valuation referred to in paragraph (c) in connection with the preparation of the most recent annual financial statements of the labour sponsored or venture capital fund; and
- (e) the labour sponsored or venture capital fund has disclosed in the applicable financial statements that an independent valuation has been obtained as of the end of the applicable financial year.

**8.3 Disclosure Concerning Independent Valuator** - A labour sponsored or venture capital fund that obtains an independent valuation must include, in the statement of investment portfolio contained in its annual financial statements, or in the notes to the annual financial statements,

- (a) a description of the independent valuator's qualifications, and
- (b) a description of any past, present or anticipated relationship between the independent valuator and the labour sponsored or venture capital fund, its manager or portfolio adviser.

**8.4 Content of Independent Valuation** - An independent valuation must provide the aggregate current value of the venture investments or the net assets ~~value~~ of the labour sponsored or venture capital fund as at the fund's financial year end.

**8.5 Independent Valuator's Consent** - A labour sponsored or venture capital fund obtaining an independent valuation must

- (a) obtain the independent valuator's consent to its filing; and
- (b) include a statement in the valuation report, signed by the independent valuator, in substantially the following form:

“We refer to the independent valuation of the [net assets/venture investments] of [name of labour sponsored or venture capital fund] as of [date of financial year end] dated •. We consent to the filing of the independent valuation with the securities regulatory authorities.”

## **PART 9 ANNUAL INFORMATION FORM**

**9.1 Application** - This Part applies to an investment fund that is a reporting issuer.

**9.2 Requirement to File Annual Information Form** - An investment fund must file an annual information form if the investment fund ~~has~~ ~~does not~~ ~~filed~~ ~~have~~ ~~a~~ ~~current~~ prospectus during the last 12 months preceding ~~as at~~ its financial year end.

**9.3 Filing Deadline for Annual Information Form** - An investment fund required under section 9.2 to file an annual information form must file the annual information form no later than 90 days after the end of its most recently completed financial year.

### **9.4 Preparation and Content of Annual Information Form**

- (1) An annual information form required to be filed under section 9.2 must be prepared as of the end of the most recently completed financial year of the investment fund to which it pertains.
- (2) An annual information form required to be filed must be prepared in accordance with Form 81-101F2, except that
  - (a) a reference to “mutual fund” must be read as a reference to “investment fund”;

- (b) General Instructions (3), (10) and (14) of Form 81-101F2 do not apply;
  - (c) subsections (3), (4) and (6) of Item 1.1 of Form 81-101F2 do not apply;
  - (d) subsections (3), (4) and (6) of Item 1.2 of Form 81-101F2 do not apply;
  - (e) Item 5 of Form 81-101F2 must be completed in connection with all of the securities of the investment fund;
  - (f) Item 15 of Form 81-101F2 does not apply to an investment fund that is a corporation; and
  - (g) Items 19, 20, 21 and 22 of Form 81-101F2 do not apply.
- (3) An investment fund required to file an annual information form must at the same time file copies of all material incorporated by reference in the annual information form that it has not previously filed.

**PART 10 PROXY VOTING DISCLOSURE FOR PORTFOLIO SECURITIES HELD**

**10.1 Application** – This Part applies to an investment fund that is a reporting issuer.

**10.2 Requirement to Establish Policies and Procedures**

- (1) An investment fund must establish policies and procedures that it will follow to determine whether, and how, to vote on any matter for which the investment fund receives, in its capacity as securityholder, proxy materials for a meeting of securityholders of an issuer.
- (2) The policies and procedures referred to in subsection (1) must include
  - (a) a standing policy for dealing with routine matters on which the investment fund may vote;
  - (b) the circumstances under which the investment fund will deviate from the standing policy for routine matters;
  - (c) the policies under which, and the procedures by which, the investment fund will determine how to vote or refrain from voting on non-routine matters; and
  - (d) procedures to ensure that portfolio securities held by the investment fund are voted in accordance with the instructions of the investment fund.

- (3) An investment fund that has not prepared an annual information form in accordance with Part 9 or in accordance with National Instrument 81-101 *Mutual Fund Prospectus Disclosure* must include a summary of the policies and procedures required by this section in its prospectus.

**10.3 Proxy Voting Record** - An investment fund must maintain a proxy voting record that includes, for each time that the investment fund receives, in its capacity as securityholder, materials relating to a meeting of securityholders of a reporting issuer or the equivalent of a reporting issuer in a foreign jurisdiction,

- (a) the name of the issuer;
- (b) the exchange ticker symbol of the portfolio securities, unless not readily available to the investment fund;
- (c) the CUSIP number for the portfolio securities;
- (d) the meeting date;
- (e) a brief identification of the matter or matters to be voted on at the meeting;
- (f) whether the matter or matters voted on were proposed by the issuer, its management or another person or company;
- (g) whether the investment fund voted on the matter or matters;
- (h) if applicable, how the investment fund voted on the matter or matters; and
- (i) whether votes cast by the investment fund were for or against the recommendations of management of the issuer.

**10.4 Preparation and Availability of Proxy Voting Record**

- (1) An investment fund must prepare a proxy voting record on an annual basis for the period ending on June 30 of each year.
- (2) An investment fund that has a website must post the proxy voting record to the website no later than August 31 of each year.
- (3) An investment fund must promptly send the most recent copy of the investment fund's proxy voting policies and procedures and proxy voting record, without charge, to any securityholder upon a request made by the securityholder after August 31.

## **PART 11 MATERIAL CHANGE REPORTS**

**11.1 Application** - This Part applies to an investment fund that is a reporting issuer.

### **11.2 Publication of Material Change**

- (1) If a material change occurs in the affairs of an investment fund, the 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;
  - (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) the term “material change” must be read as “material change” under this Instrument;
    - (ii) “section 7.1 of National Instrument 51-102” in Item 3 of Part 2 must be read as a reference to “section 11.2 of National Instrument 81-106”;
    - (iii) “subsection 7.1(2) or (3) of National Instrument 51-102” in Item 6 of Part 2 must be read as a reference to “subsection 11.2(2) or (3) of National Instrument 81-106”;
    - (iv) “subsection 7.1(5) of National Instrument 51-102” in Items 6 and 7 of Part 2 must be read as a reference to “subsection 11.2(4) of National Instrument 81-106”; and
    - (v) “executive officer of your company” in Item 8 of Part 2 must be read as a reference to “officer of the investment fund or of the manager of the investment fund”; and
  - (d) file an amendment to its prospectus or simplified prospectus that discloses the material change in accordance with the requirements of securities legislation.
- (2) If
  - (a) in the opinion of the board of directors or trustee of an investment fund or the manager, and if that opinion is arrived at in a

reasonable manner, the disclosure required by subsection (1) would be unduly detrimental to the investment fund's interest; or

- (b) the material change
  - (i) consists of a decision to implement a change made by senior management of the investment fund or senior management of the manager of the investment fund who believe that confirmation of the decision by the board of directors or persons acting in a similar capacity is probable; and
  - (ii) senior management of the investment fund or senior management of the manager of the investment fund has no reason to believe that persons with knowledge of the material change have made use of that knowledge in purchasing or selling securities of the investment fund,

the investment fund may, instead of complying with subsection (1), immediately file the report required under paragraph (1)(c) marked to indicate that it is confidential, together with written reasons for non-disclosure.

- (3) Subsection (1) does not apply to an investment fund in Québec if
  - (a) senior management of the investment fund has reasonable grounds to believe that disclosure as required by subsection (1) 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;
  - (b) the investment fund immediately files the report required under paragraph (1)(c) marked so as to indicate that it is confidential, together with written reasons for non-disclosure; and
  - (c) the investment fund complies with subsection (1) when the circumstances that justify non-disclosure cease to exist.
- (4) If a report has been filed under subsection (2), the investment fund must advise the regulator or securities regulatory authority in writing within ten days of the initial filing of the report if it believes the report should continue to remain confidential and every 10 days thereafter until the material change is generally disclosed in the manner referred to in subsection (1) or, if the material change consists of a decision of the type referred to in paragraph (2)(b), until that decision has been rejected by the board of directors of the investment fund or the board of directors of the manager of the investment fund.

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

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

**12.1 Application** - This Part applies to an investment fund that is a reporting issuer.

### **12.2 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 registered holders of the investment fund, management or the manager must, at the same time as or before giving that notice, send to each registered holder 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 registered holders of an investment fund must
  - (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 registered holder 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, at the same time as or before the solicitation, send a completed Form 51-102F5 and a form of proxy to each registered holder whose proxy is solicited.
- (3) In Québec, subsections (1) and (2) apply, adapted as required, to a meeting of holders of debt securities of an investment fund that is a reporting issuer in Québec, whether called by management of the investment fund or by the trustee of the debt securities.

### **12.3 Exemption**

- (1) Subsection 12.2(2) does not apply to a solicitation by a person or company in respect of securities of which the person or company is the beneficial owner.
- (2) Paragraph 12.2(2)(b) does not apply to a solicitation if the total number of securityholders whose proxies are solicited is not more than 15.

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

**12.4** **Compliance with National Instrument 51-102** - A person or company that solicits proxies under section 12.2 must comply with sections 9.3 and 9.4 of National Instrument 51-102 as if those sections applied to the person or company.

## **PART 13 CHANGE OF AUDITOR DISCLOSURE**

**13.1** **Application** - This Part applies to an investment fund that is a reporting issuer.

**13.2** **Change of Auditor** - Section 4.11 of National Instrument 51-102 applies to an investment fund that changes its auditor, except that references in that section to the “board of directors” are to be read as references to,

- (a) if the investment fund is a corporation, the “board of directors of the investment fund”, or
- (b) if the investment fund is a trust, the “trustee or trustees or another person or company authorized by the constating documents of the investment fund”.

## **PART 14 CALCULATION OF NET ASSET VALUE**

**14.1** **Application** - This Part applies to an investment fund that is a reporting issuer.

### **14.2 Calculation, Frequency and Currency**

(1) The net asset value of an investment fund must be calculated using the fair value of the investment fund’s assets and liabilities, in accordance with Canadian GAAP.

(1.1) The net asset value of an investment fund must include income and expenses of the investment fund accrued up to the date of calculation of the net asset value.

(1.2) For the purposes of subsection (1), fair value means

- (a) the market value based on reported prices and quotations in an active market, or
- (b) if the market value is not available, or the manager of the investment fund believes that it is unreliable, a value that is fair and reasonable in all the relevant circumstances.

(1.3) The manager of an investment fund must

- (a) establish and maintain appropriate written policies and procedures for determining the fair value of the investment fund's assets and liabilities; and
- (b) consistently follow those policies and procedures.

(1.4) The manager of an investment fund must maintain a record of every determination of fair value and the reasons supporting that determination.

- (2) ~~Despite subsection (1), for~~ For the purposes of calculating net asset value for purchases and redemptions of its securities as required by Parts 9 and 10 of National Instrument 81-102 *Mutual Funds*, a labour sponsored or venture capital fund that has included a deferred charge for sales commissions in the calculation may continue to do so, provided that
  - (a) the calculation reflects the amortization of this deferred charge over the remaining amortization period, and
  - (b) the labour sponsored or venture capital fund ceased adding to this deferred charge by December 31, 2003.
- (3) The net asset value of an investment fund must be calculated,
  - (a) if the investment fund does not use specified derivatives, at least once in each week; or
  - (b) if the investment fund uses specified derivatives, at least once every business day.
- (4) A mutual fund that holds securities of other mutual funds must have dates for the calculation of net asset value that are compatible with those of the other mutual funds.
- (5) Despite ~~paragraph subsection (3)(a),~~ an investment fund that, at the date that this Instrument comes into force, calculates net asset value no less frequently than once a month may continue to calculate net asset value at least as frequently as it does at that date.
- (6) The net asset value of an investment fund must be calculated in the currency of Canada or in the currency of the United States of America or both.
- (7) An investment fund that arranges for the publication of its net asset value in the financial press must ensure that its current net asset value is provided on a timely basis to the financial press.

**14.3 Portfolio Transactions** - The net asset value of an investment fund must include each purchase or sale of a portfolio asset no later than in the next calculation of the net asset value after the date the purchase or sale becomes binding.

**14.4 Capital Transactions** - The investment fund must include each issue or redemption of a security of the investment fund in the next calculation of net asset value the investment fund makes after the calculation of net asset value used to establish the issue or redemption price.

## **PART 15 CALCULATION OF MANAGEMENT EXPENSE RATIO**

### **15.1 Calculation of Management Expense Ratio**

- (1) An investment fund may disclose its management expense ratio only if the management expense ratio is calculated for the financial year or interim period of the investment fund and if it is calculated by
  - (a) dividing
    - (i) the aggregate of
      - (A) total expenses of the investment fund, excluding commissions and other portfolio transaction costs, before income taxes, for the financial year or interim period, as shown on its statement of operations; and
      - (B) any other fee, charge or expense of the investment fund that has the effect of reducing the investment fund's net asset value;
    - by
    - (ii) the average net asset value of the investment fund for the financial year or interim period, obtained by
      - (A) adding together the net asset values of the investment fund as at the close of business of the investment fund on each day during the financial year or interim period on which the net asset value of the investment fund has been calculated, and
      - (B) dividing the amount obtained under clause (A) by the number of days during the financial year or interim period on which the net asset value of the investment fund has been calculated; and
  - (b) multiplying the result obtained under paragraph (a) by 100.

- (2) If any fees and expenses otherwise payable by an investment fund in a financial year or interim period were waived or otherwise absorbed by a member of the organization of the investment fund, the investment fund must disclose, in a note to the disclosure of its management expense ratio, details of
  - (a) what the management expense ratio would have been without any waivers or absorptions;
  - (b) the length of time that the waiver or absorption is expected to continue;
  - (c) whether the waiver or absorption can be terminated at any time by the member of the organization of the investment fund; and
  - (d) any other arrangements concerning the waiver or absorption.
- (3) Investment fund expenses rebated by a manager or an investment fund to a securityholder must not be deducted from total expenses of the investment fund in determining the management expense ratio of the investment fund.
- (4) An investment fund that has separate classes or series of securities must calculate a management expense ratio for each class or series, in the manner required by this section, modified as appropriate.
- (5) The management expense ratio of an investment fund for a financial period of less than or greater than twelve months must be annualized.
- (6) If an investment fund provides its management expense ratio to a service provider that will arrange for public dissemination of the management expense ratio,
  - (a) the investment fund must provide the management expense ratio calculated in accordance with this Part; and
  - (b) the requirement to provide note disclosure contained in subsection (2) does not apply if the investment fund indicates, as applicable, that fees have been waived, expenses have been absorbed, or that fees or expenses were paid directly by investors during the period for which the management expense ratio was calculated.

## **15.2 Fund of Funds Calculation**

- (1) For the purposes of subparagraph 15.1(1)(a)(i), the total expenses for a financial year or interim period of an investment fund that invests in securities of other investment funds is equal to the sum of

- (a) the total expenses incurred by the investment fund that are for the period for which the calculation of the management expense ratio is made and that are attributable to its investment in each underlying investment fund, as calculated by
    - (i) multiplying the total expenses of each underlying investment fund, excluding commissions and other portfolio transaction costs, before income taxes, for the financial year or interim period, by
    - (ii) the average proportion of securities of the underlying investment fund held by the investment fund during the financial year or interim period, calculated by
      - (A) adding together the proportion of securities of the underlying investment fund held by the investment fund on each day in the period, and
      - (B) dividing the amount obtained under clause (A) by the number of days in the period; and
  - (b) the total expenses of the investment fund, excluding commissions and other portfolio transaction costs, before income taxes, for the period.
- (2) An investment fund that has exposure to one or more other investment funds through the use of derivatives in a financial year or interim period must calculate its management expense ratio for the financial year or interim period in the manner described in subsection (1), treating each investment fund to which it has exposure as an “underlying investment fund” under subsection (1).
  - (3) Subsection (2) does not apply if the derivatives do not expose the investment fund to expenses that would be incurred by a direct investment in the relevant investment funds.
  - (4) Management fees rebated by an underlying fund to an investment fund that invests in the underlying fund must be deducted from total expenses of the underlying fund if the rebate is made for the purpose of avoiding duplication of fees between the two investment funds.

## **PART 16      ADDITIONAL FILING REQUIREMENTS**

**16.1      Application** - This Part applies to an investment fund that is a reporting issuer.

**16.2 Additional Filing Requirements** - If an investment fund sends to its securityholders any disclosure document other than those required by this Instrument, the investment fund must file a copy of the document on the same date as, or as soon as practicable after, the date on which the document is sent to its securityholders.

**16.3 Voting Results** - An investment fund must, promptly following a meeting of securityholders at which a matter was submitted to a vote, file a report that discloses, for each matter voted upon

- (a) a brief description of the matter voted upon and the outcome of the vote; and
- (b) if the vote was conducted by ballot, the number and percentage of votes cast, which includes votes cast in person and by proxy, for, against, or withheld from, each vote.

**16.4 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, must 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 17 EXEMPTIONS**

### **17.1 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.

## **PART 18 EFFECTIVE DATE AND TRANSITION**

**18.1 Effective Date** - This Instrument comes into force on June 1, 2005.

**18.2 Transition** - ~~Despite section 18.1, this Instrument applies to~~

- (a) ~~annual financial statements and annual management reports of fund performance for financial years that end on or after June 30, 2005;~~

- (b) ~~for investment funds in existence on June 1, 2005, interim financial statements and interim management reports of fund performance for interim periods that end after the financial years determined in paragraph (a);~~
- (c) ~~quarterly portfolio disclosure for periods that end on or after June 1, 2005;~~
- (d) ~~annual information forms for financial years ending on or after June 30, 2005;~~
- (e) ~~proxy voting records for the annual period beginning July 1, 2005; and~~
- (f) ~~proxy solicitation and information circulars from and after July 1, 2005. [repealed]~~

**18.3 Filing of Financial Statements and Management Reports of Fund Performance**—~~Despite section 2.2 and section 4.2, the first annual financial statements and the first annual management report of fund performance that are required to be prepared in accordance with this Instrument must be filed on or before the 120<sup>th</sup> day after the end of the financial year of the investment fund to which they pertain. [repealed]~~

**18.4 Filing of Annual Information Form**—~~Despite section 9.3, the first annual information form to be prepared under this Instrument must be filed on or before the 120<sup>th</sup> day after the end of the financial year of the investment fund to which it pertains. [repealed]~~

**18.5 Initial Delivery of Annual Management Report of Fund Performance**—~~Despite Part 5, an investment fund must send to each securityholder, by the filing deadline, its first annual management report of fund performance with an explanation of the new continuous disclosure requirements, including the availability of quarterly portfolio disclosure and proxy voting disclosure. [repealed]~~

## **18.6 Existing Exemptions**

- (1) An investment fund that has obtained an exemption or waiver from, or approval under, securities legislation, National Policy 39, National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, National Instrument 81-102 *Mutual Funds*, National Instrument 81-104 *Commodity Pools* or National Instrument 81-105 *Mutual Fund Sales Practices* relating to its continuous disclosure obligations is exempt from any substantially similar provision of this Instrument to the same extent and on the same conditions, if any, as contained in the exemption, waiver or approval, unless the regulator or securities regulatory authority has revoked that

exemption, waiver or approval under authority provided to it in securities legislation.

- (2) An investment fund must, at the time that it first intends to rely on subsection (1) in connection with a filing requirement under this Instrument, inform the securities regulatory authority in writing of
  - (a) the general nature of the prior exemption, waiver or approval and the date on which it was granted; and
  - (b) the provision in respect of which the prior exemption, waiver or approval applied and the substantially similar provision of this Instrument.

**FORM 81-106F1**  
***CONTENTS OF ANNUAL AND INTERIM MANAGEMENT REPORT OF FUND***  
***PERFORMANCE***

**(BLACK-LINED)**

**PART A      INSTRUCTIONS AND INTERPRETATION**

- Item 1      General
- Item 2      Management Discussion of Fund Performance

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

- Item 1      First Page Disclosure
- Item 2      Management Discussion of Fund Performance
- Item 3      Financial Highlights
- Item 4      Past Performance
- Item 5      Summary of Investment Portfolio
- Item 6      Other Material Information

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

- Item 1      First Page Disclosure
- Item 2      Management Discussion Of Fund Performance
- Item 3      Financial Highlights
- Item 4      Past Performance
- Item 5      Summary of Investment Portfolio
- Item 6      Other Material Information

**FORM 81-106F1**  
**CONTENTS OF ANNUAL AND INTERIM MANAGEMENT REPORT OF FUND**  
**PERFORMANCE**

**PART A      INSTRUCTIONS AND INTERPRETATION**

**Item 1          General**

**(a)      The Form**

The Form describes the disclosure required in an annual or interim management report of fund performance (MRFP) of an investment fund. Each item of the Form outlines disclosure or format requirements. Instructions to help you comply with these requirements are printed in italic type.

**(b)      Plain Language**

An MRFP must state the required information concisely and in plain language (as defined in National Instrument 81-101 *Mutual Fund Prospectus Disclosure*). Refer to Part 1 of Companion Policy 81-106CP for a discussion concerning plain language and presentation.

When preparing an MRFP, respond as simply and directly as is reasonably possible and include only as much information as is necessary for readers to understand the matters for which you are providing disclosure.

**(c)      Format**

Present the MRFP in a format that assists readability and comprehension. The Form generally does not mandate the use of a specific format to achieve these goals, except in the case of disclosure of financial highlights and past performance as required by Items 3 and 4 of each of Parts B and C of the Form; that disclosure must be presented in the format specified in the Form.

An MRFP must use the headings and sub-headings shown in the 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. Disclosure provided in response to any item does not need to be repeated elsewhere. The interim MRFP must use the same headings as used in the annual MRFP.

The Form does not prohibit including information beyond what the Form requires. An investment fund may include artwork and educational material (as defined in National Instrument 81-101 *Mutual Fund Prospectus Disclosure*) in its annual and interim MRFP. However, an investment fund must take reasonable care to ensure that including such material does not obscure the required information and does not lengthen the MRFP excessively.

**(d) Focus on Material Information**

You do not need to disclose information that is not material. You do not need to respond to any item in this Form that is inapplicable and you may omit negative answers.

**(e) What is Material?**

Would a reasonable investor's decision to buy, sell or hold securities of an investment fund likely be influenced or changed if the information in question was omitted or misstated? If so, the information is material. This concept of materiality is consistent with the financial reporting notion of materiality contained in the Handbook. In determining whether information is material, take into account both quantitative and qualitative factors.

**(f) Terminology**

All references to "net assets" or "net assets per security" in this Form are references to net assets in accordance with Canadian GAAP as presented in the financial statements of the investment fund. All references to "net asset value" or "net asset value per security" in this Form are references to net asset value as determined in accordance with Part 14 of the Instrument.

Investment funds must use net assets as shown on the financial statements in the "*The Fund's Net Assets per [Unit/Share]*" table. All other calculations for the purposes of the MRFP must be made using net asset value.

**Item 2 Management Discussion of Fund Performance**

The management discussion of fund performance is an analysis and explanation that is designed to complement and supplement an investment fund's financial statements. The discussion is the equivalent to the corporate management discussion and analysis (MD&A) with specific modifications for investment funds. It provides the manager of an investment fund with the opportunity to discuss the investment fund's position and financial results for the relevant period. The discussion 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 and future prospects.

Focus the management discussion on material information about the performance of the investment fund, with particular emphasis on known material trends, commitments, events, risks or uncertainties that the manager reasonably expects to have a material effect on the investment fund's future performance or investment activities.

The description of the disclosure requirements is intentionally general. This Form contains a minimum number of specific instructions in order to allow, as well as encourage, investment funds to discuss their activities in the most appropriate manner and to tailor their comments to their individual circumstances.

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

**Item 1**      **First Page Disclosure**

The first page of an annual MRFP must 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 investment 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] or SEDAR at [www.sedar.com](http://www.sedar.com).

Securityholders may also contact us using one of these methods to request a copy of the investment fund’s proxy voting policies and procedures, proxy voting disclosure record, or quarterly portfolio disclosure.”

*INSTRUCTION:*

*If the MRFP is bound with the financial statements of the investment fund, modify the first page wording appropriately.*

**Item 2**      **Management Discussion of Fund Performance**

**2.1**      **Investment Objective and Strategies**

Disclose under the heading “Investment Objective and Strategies” a brief summary of the fundamental investment objective and strategies of the investment fund.

*INSTRUCTION:*

*Disclosing the fundamental investment objective provides investors with a reference point for assessing the information contained in the MRFP. It must be a concise summary of the fundamental investment objective and strategies of the investment fund, and not merely copied from the prospectus.*

**2.2**      **Risk**

Disclose under the heading “Risk” a discussion of how changes to the investment fund over the financial year affected the overall level of risk associated with an investment in the investment 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.*

*Consider how the changes in the risks associated with an investment in the investment fund affect the suitability or investor risk tolerance stated in the prospectus or offering document. All investment funds should refer to Items 9 and 10 of Part B of Form 81-101F1 as if those sections applied to them.*

**2.3 Results of Operations**

- (1) Under the heading “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 a discussion of
  - (a) any material changes in investments in specific portfolio assets and overall asset mix from the previous period;
  - (b) how the composition and changes to the composition of the investment portfolio relate to the investment fund’s fundamental investment objective and strategies or to changes in the economy, markets or unusual events;
  - (c) unusual trends in redemptions or sales and the effect of these on the investment fund;
  - (d) significant components and changes to the components of revenue and expenses;
  - (e) risks, events, trends and commitments that had a material effect on past performance; and
  - (f) unusual or infrequent events or transactions, economic changes and market conditions that affected performance.
  
- (2) An investment fund that borrows money, other than immaterial operating overdrafts, must disclose,
  - (a) the minimum and maximum amount borrowed during the period;
  - (b) the percentage of net assets of the investment fund that the borrowing represented as of the end of the period;
  - (c) how the borrowed money was used; and
  - (d) the terms of the borrowing arrangements.

**INSTRUCTION:**

*Explain the nature of and reasons for changes in your investment fund's performance. Do not simply disclose the amount of change in a financial statement item from period to period. Avoid the use of boilerplate language. Your discussion should assist the reader to understand the significant factors that have affected the performance of the investment fund.*

**2.4 Recent Developments**

Under the heading "Recent Developments" discuss the developments affecting the investment fund, including

- (a) known changes to the strategic position of the investment fund;
- (b) known material trends, commitments, events or uncertainties that might reasonably be expected to affect the investment fund;
- (c) changes to the manager or portfolio adviser, or change of control of the manager, of the investment fund;
- (d) the effects of any actual or planned reorganizations, mergers or similar transactions; and
- (e) the estimated effects of changes in accounting policies adopted subsequent to year end.

**INSTRUCTION:**

- (1) *Preparing the management discussion necessarily involves some degree of prediction or projection. The discussion must describe anticipated events, decisions, circumstances, opportunities and risks that management considers reasonably likely to materially impact performance. It must also describe management's vision, strategy and targets.*
- (2) *There is no requirement to provide forward-looking information. If any forward-looking information is provided, it 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 also discuss any forward-looking information disclosed for a prior period which, in light of intervening events and absent further explanations, may be misleading.*

**2.5 Related Party Transactions**

Under the heading "Related Party Transactions" discuss any transactions involving related parties to the investment fund.

*INSTRUCTIONS:*

- (1) *In determining who is a related party, investment funds should look to the Handbook. In addition, related parties include the manager and portfolio adviser (or their affiliates) and a broker or dealer related to any of the investment fund, its manager or portfolio adviser.*
- (2) *When discussing related party transactions, include the identity of the related party, the relationship to the investment fund, the purpose of the transaction, the measurement basis used to determine the recorded amount and any ongoing commitments to the related party.*
- (3) *Related party transactions include portfolio transactions with related parties of the investment fund. When discussing these transactions, include the dollar amount of commission, spread or any other fee that the investment fund paid to any related party in connection with a portfolio transaction.*

**Item 3 Financial Highlights**

**3.1 Financial Highlights**

- (1) Provide selected financial highlights for the investment fund under the heading “Financial Highlights” 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] years. ~~This information is derived from the Fund’s audited annual financial statements.~~

*The Fund's Net Assets Value (NAV) per [Unit/Share]* <sup>(1)</sup>

	[insert year]				
Net Assets Value, beginning of year	\$	\$	\$	\$	\$
<b>Increase (decrease) from operations:</b>					
total revenue	\$	\$	\$	\$	\$
total expenses	\$	\$	\$	\$	\$
realized gains (losses) for the period	\$	\$	\$	\$	\$
unrealized gains (losses) for the period	\$	\$	\$	\$	\$
<b>Total increase (decrease) from operations</b> <sup>(2)</sup>	\$	\$	\$	\$	\$
<b>Distributions:</b>					
From income (excluding dividends)	\$	\$	\$	\$	\$
From dividends	\$	\$	\$	\$	\$
From capital gains	\$	\$	\$	\$	\$
Return of capital	\$	\$	\$	\$	\$
<b>Total Annual Distributions</b> <sup>(3)</sup>	\$	\$	\$	\$	\$
<b>Net assets value at [insert last day of financial year] of year shown</b>	\$	\$	\$	\$	\$

- (1) This information is derived from the fund's audited annual financial statements. The net assets per security presented in the financial statements differs from the net asset value calculated for fund pricing purposes. [An explanation of these differences can be found in the notes to the financial statements./This difference is due to [explain].]
- (2) Net assets value and distributions are based on the actual number of [units/shares] outstanding at the relevant time. The increase/decrease from operations is based on the weighted average number of [units/shares] outstanding over the financial period.
- (3) Distributions were [paid in cash/reinvested in additional [units/shares] of the Fund], or both.

*Ratios and Supplemental Data*

	[insert year]				
<u>Total Net assets value (000's)</u> <sup>(1)</sup>	\$	\$	\$	\$	\$
Number of [units/shares] outstanding <sup>(1)</sup>					
Management expense ratio <sup>(2)</sup>	%	%	%	%	%
Management expense ratio before waivers or absorptions	%	%	%	%	%
<u>Trading expense ratio</u> <sup>(3)</sup>	%	%	%	%	%
<u>Portfolio turnover rate</u> <sup>(4)</sup>	%	%	%	%	%
<u>Net asset value per [unit/share]</u>	\$	\$	\$	\$	\$
Closing market price or pricing NAV, [if applicable]	\$	\$	\$	\$	\$

- (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 (excluding commissions and other portfolio transaction costs) for the stated period and is expressed as an annualized percentage of daily average net assets value during the period.

- (3) The trading expense ratio represents total commissions and other portfolio transaction costs expressed as an annualized percentage of daily average net asset value during the period. 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.
- (4) 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. The trading expense ratio represents total commissions and other portfolio transaction costs expressed as an annualized percentage of daily average net assets during the period.
- (2) ~~Derive the selected financial information from the audited annual financial statements of the investment fund. [repealed]~~
- (3) Modify the table appropriately for corporate investment funds.
- (4) Show the financial highlights individually for each class or series, if a multi-class fund.
- (5) Provide per unit or per share amounts to the nearest cent, and provide percentage amounts to two decimal places.
- (6) Except for net assets, net asset value and distributions, calculate per unit/share values on the basis of the weighted average number of unit/shares outstanding over the financial period.
- (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 of the table.
- (8) If the investment fund has merged with another investment fund, include in the table only the financial information of the continuing investment fund.
- (9) Calculate the management expense ratio of the investment fund as required by Part 15 of the Instrument. Include a brief description of the method of calculating the management expense ratio in a note to the table.
- (10) If the investment fund,
- (a) changed, or proposes to change, the basis of the calculation of the management fees or of the other fees, charges or expenses that are charged to the investment fund; or
- (b) introduces or proposes to introduce a new fee,

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 “Ratios and Supplemental Data” table.

- (11) Do not include disclosure concerning portfolio turnover rate for a money market fund.
- (12) (a) Calculate the trading expense ratio by dividing
- (i) the total commissions and other portfolio transaction costs disclosed in the statement of operations notes to the financial statements; by
  - (ii) the same denominator used to calculate the management expense ratio.
- (b) If an investment fund invests in securities of other investment funds, calculate the trading expense ratio using the methodology required for the calculation of the management expense ratio in section 15.2 of the Instrument.
- (13) Provide the closing market price only if the investment fund is traded on an exchange. ~~If the investment fund is a labour sponsored or venture capital fund provide the pricing NAV per security if different than the NAV for accounting purposes.~~

*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 portfolio securities having a remaining term to maturity on the date of acquisition by the investment fund of one year or less.*
- (2) *Further to instruction (1), include:*
- (a) *proceeds from a short sale in the value of the portfolio securities sold during the period;*
  - (b) *the cost of covering a short sale in the value of portfolio securities purchased during the period;*

- (c) *premiums paid to purchase options in the value of portfolio securities purchased during the period; and*
  - (d) *premiums received from the sale of options in the value of the portfolio securities sold during the period.*
- (3) *If the investment fund acquired the assets of another investment fund in exchange for its own shares during the financial year in a purchase-of-assets transaction, exclude from the calculation of portfolio turnover rate the value of securities acquired and sold to realign the fund’s portfolio. Adjust the denominator of the portfolio turnover computation to reflect these excluded purchases and sales and disclose them in a footnote.*

### 3.2 Scholarship Plans

An investment fund that is a scholarship plan must comply with Item 3.1, except that the following table must replace “The Fund’s Net Assets ~~Value~~ per [Unit/Share]” table and the “Ratios and Supplemental Data” table.

*Financial & Operating Highlights (with comparative figures)*

	[insert year]				
<b>Balance Sheet</b>					
Total Assets	\$	\$	\$	\$	\$
Net Assets	\$	\$	\$	\$	\$
% change of Net Assets	%	%	%	%	%
<b>Statement of Operations</b>					
Scholarship Awards	\$	\$	\$	\$	\$
Canadian Education Savings Grant	\$	\$	\$	\$	\$
Net investment income	\$	\$	\$	\$	\$
<b>Other</b>					
Total number of [agreements/units] in plans					
% change in the total number of agreements	%	%	%	%	%

### 3.3 Management Fees

Disclose the basis for calculating the management fees paid by the investment fund and a breakdown of the services received in consideration of the management fees, as a percentage of management fees.

**INSTRUCTION:**

*The disclosure must list the major services paid for out of the management fees, including portfolio adviser compensation, trailing commissions and sales commissions, if applicable.*

## **Item 4 Past Performance**

### **4.1 General**

- (1) In responding to the requirements of this Item, an investment fund must 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 MRFP.
- (2) Despite the specific requirements of this Item, do not provide performance data 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) In a general introduction to the “Past Performance” section, indicate, as applicable, that
  - (a) the performance information shown assumes that all distributions made by the investment fund in the periods shown were reinvested in additional securities of the investment fund;
  - (b) the performance information does 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.
- (5) Use a linear scale for each axis of the bar chart required by this Item.
- (6) The x-axis must intersect the y-axis at 0 for the “Year-by-Year Returns” bar chart.

### **4.2 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 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) 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 the first day of each financial year would have grown or decreased by the last day of each financial year.
  - (3) If the investment fund holds short portfolio positions, show separately the annual total return for both the long portfolio positions and the short portfolio positions in addition to the overall total return.

### **4.3 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 ten, five, three and one year periods ended on the last day of the investment fund's financial year; ~~and or~~
  - (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) Include in the table, for the same periods for which the annual compound returns of the investment fund are provided, the historical annual compound total returns or changes of
  - (a) one or more appropriate broad-based securities market indices; and
  - (b) at the option of the investment fund, one or more non-securities indices or narrowly-based market indices that reflect the market sectors in which the investment fund invests.
- (3) Include a brief description of the broad-based securities market index (or indices) and provide a discussion of the relative performance of the investment fund as compared to that index.
- (4) If the investment fund includes in the table an index that is different from the one included in the most recently filed MRFP, explain the reasons for

the change and include the disclosure required by this Item for both the new and former indices.

- (5) Calculate the annual compound return in accordance with the requirements of Part 15 of National Instrument 81-102.
- (6) If the investment fund holds short portfolio positions, show separately the annual compound returns for both the long and the short portfolio positions in addition to the overall annual compound returns.

**INSTRUCTIONS:**

- (1) *An “appropriate broad-based securities market index” is one that*
  - (a) *is administered by an organization that is not affiliated with any of the mutual fund, its manager, portfolio adviser or principal distributor, unless the index is widely recognized and used; and*
  - (b) *has been adjusted by its administrator to reflect the reinvestment of dividends on securities in the index or interest on debt.*
- (2) *It may be appropriate for an investment fund that invests in more than one type of security to compare its performance to more than one relevant index. For example, a balanced fund may wish to compare its performance to both a bond index and an equity index.*
- (3) *In addition to the appropriate broad-based securities market index, the investment fund may compare its performance to other financial or narrowly-based securities indices (or a blend of indices) that reflect the market sectors in which the investment fund invests or that provide useful comparatives to the performance of the investment fund. For example, an investment fund could compare its performance to an index that measured the performance of certain sectors of the stock market (e.g. communications companies, financial sector companies, etc.) or to a non-securities index, such as the Consumer Price Index, so long as the comparison is not misleading.*

**4.4 Scholarship Plans**

An investment fund that is a scholarship plan must comply with this Item, except that year-by-year returns and annual compound returns must be calculated based on the scholarship plan’s total portfolio adjusted for cash flows.

**Item 5 Summary of Investment Portfolio**

- (1) Include, under the heading “Summary of Investment Portfolio”, a summary of the investment fund’s portfolio as at the end of the financial year of the investment fund to which the annual MRFP pertains.

- (2) The summary of investment portfolio
  - (a) must break down the entire portfolio of the investment fund into appropriate subgroups, and must show the percentage of the aggregate net asset value of the investment fund constituted by each subgroup;
  - (b) must disclose the top 25 positions held by the investment fund, each expressed as a percentage of net assets value of the investment fund;
  - (c) must disclose long positions separately from short positions; and
  - (d) must disclose separately the total percentage of net assets value represented by the long positions and by the short positions.
- (3) Indicate that the summary of investment portfolio may change due to ongoing portfolio transactions of the investment fund and a quarterly update is available.

*INSTRUCTIONS:*

- (1) *The summary of investment portfolio is designed to give 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 MRFP pertains. As with the other components of the annual MRFP, care should be taken to ensure that the information in the summary of investment portfolio 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.*
- (3) *Instead of a table, the disclosure required by (2)(a) of this Item may be presented in the form of a pie chart.*
- (4) *If the investment fund owns more than one class of securities of an issuer, those classes should be aggregated for the purposes of this Item, however, debt and equity securities of an issuer must not be aggregated.*
- (5) *Portfolio assets other than securities should be aggregated if they have substantially similar investment risks and profiles. For instance, gold certificates should be aggregated, even if they are issued by different financial institutions.*

- (6) *Treat cash and cash equivalents as one separate discrete category.*
- (7) *In determining its holdings for purposes of the disclosure required by this Item, an investment fund should, for each long position in a derivative that is held by the investment fund for purposes other than hedging and for each index participation unit held by the investment fund, consider that it holds directly the underlying interest of that derivative or its proportionate share of the securities held by the issuer of the index participation unit.*
- (8) *If an investment fund invests substantially all of its assets directly or indirectly (through the use of derivatives) in securities of one ~~another~~ fund, list only the 25 largest holdings of the other investment fund by percentage of net assets value of the other investment fund, as disclosed by the other investment fund as at the most recent quarter end.*
- (9) *If the investment fund invests in other investment funds, include a statement to the effect that the prospectus and other information about the underlying investment funds are available on the internet at [www.sedar.com](http://www.sedar.com).*

## **Item 6 Other Material Information**

Provide any other material information relating to the investment fund not otherwise required to be disclosed by this Part, including information required to be disclosed pursuant to an order or exemption received by the investment fund.

## **PART C CONTENT REQUIREMENTS FOR INTERIM MANAGEMENT REPORT OF FUND PERFORMANCE**

### **Item 1 First Page Disclosure**

The first page of an interim MRFP must contain disclosure in substantially the following words:

“This interim management report of fund performance contains financial highlights, but does not contain either interim or annual financial statements of the investment 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] or SEDAR at [www.sedar.com](http://www.sedar.com).

Securityholders may also contact us using one of these methods to request a copy of the investment fund’s proxy voting policies and procedures, proxy voting disclosure record, or quarterly portfolio disclosure.”

**INSTRUCTION:**

*If the MRFP is bound with the financial statements of the investment fund, modify the first page wording appropriately.*

**Item 2 Management Discussion of Fund Performance**

**2.1 Results of Operations**

Update the analysis of the investment fund's results of operations provided in the most recent annual MRFP. Discuss any material changes to any of the components listed in Item 2.3 of Part B.

**2.2 Recent Developments**

If there have been any significant developments affecting the investment fund since the most recent annual MRFP, discuss those developments and their impact on the investment fund, in accordance with the requirements of Item 2.4 of Part B.

**2.3 Related Party Transactions**

Provide the disclosure required by Item 2.5 of Part B.

**INSTRUCTIONS:**

- (1) *If the first MRFP you file in this Form is not an annual MRFP, you must provide all the disclosure required by Part B, except for Items 3 and 4, in the first MRFP.*
- (2) *The discussion in an interim MRFP is intended to update the reader on material developments since the date of the most recent annual MRFP. You may assume the reader has access to your annual MRFP, so it is not necessary to restate all of the information contained in the most recent annual discussion.*
- (3) *The discussion in an interim MRFP should deal with the financial period to which the interim MRFP pertains.*

**Item 3 Financial Highlights**

- (1) Provide the disclosure required by Item 3.1 of Part B, with an additional column on the left of the table representing the interim period.
- (2) Provide the disclosure required by Item 3.3 of Part B of the form.

**INSTRUCTION:**

*If the distributions cannot be allocated by type at the end of the interim period, provide only total distributions by unit/share.*

**Item 4 Past Performance**

Provide a bar chart prepared in accordance with Item 4.2 of Part B, and include the total return calculated for the interim period.

**Item 5 Summary of Investment Portfolio**

- (1) Include a summary of investment portfolio as at the end of the financial period to which the interim MRFP pertains.
- (2) The summary of investment portfolio must be prepared in accordance with Item 5 of Part B.

**Item 6 Other Material Information**

Provide any other material information relating to the investment fund not otherwise required to be disclosed by this Part including information required to be disclosed pursuant to an order or exemption received by the investment fund.

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

**(BLACK-LINED)**

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

- 1.1 Purpose
- 1.2 Application
- 1.3 Definitions
- 1.4 Plain Language Principles
- 1.5 Signature and Certificates
- 1.6 Filings on SEDAR
- 1.7 Corporate Law Requirements

**PART 2 FINANCIAL STATEMENTS**

- 2.1 Interrelationship of Financial Statements with Canadian GAAP
- 2.2 Filing Deadline for Annual Financial Statements and Auditor's Report
- 2.3 Timing and Content of Interim Financial Statements
- 2.4 Length of Financial Year
- 2.5 Contents of Statement of Operations
- 2.6 Disclosure of Soft Dollars
- 2.7 Accounting for Securities Lending Transactions
- 2.8 Change in Year End
- 2.9 ~~Change in Legal Structure~~ [repealed]
- 2.10 Mutual Funds that are Non-Reporting Issuers

**PART 3 AUDITORS AND THEIR REPORTS**

- 3.1 Acceptable Auditor
- 3.2 Reservations in an Auditor's Report
- 3.3 Auditor's Involvement with Management Reports of Fund Performance
- 3.4 Auditor Involvement with Interim Financial Statements

**PART 4 DELIVERY OF FINANCIAL STATEMENTS AND MANAGEMENT REPORTS OF FUND PERFORMANCE**

- 4.1 Delivery Instructions
- 4.2 Communication with Beneficial Owners
- 4.3 Binding
- 4.4 Electronic Delivery

**PART 5 INDEPENDENT VALUATIONS**

- 5.1 Independent Valuations
- 5.2 Independent Valuers

**PART 6 PROXY VOTING DISCLOSURE FOR PORTFOLIO SECURITIES HELD**

- 6.1 Proxy Voting Disclosure
- 6.2 Proxy Voting Policies and Procedures

**PART 7 MATERIAL CHANGE**

- 7.1 Material Changes
- 7.2 Confidential Material Change Report

**PART 8 INFORMATION CIRCULARS**

- 8.1 Sending of Proxies and Information Circulars

**PART 9 PUBLICATION OF NET ASSET VALUE PER SECURITY**

- 9.1 Publication of Net Asset Value Per Security
- 9.2 Fair Value Guidance
- 9.3 Meaning of Fair Value
- 9.4 Determination of Fair Value
- 9.5 Fair Value Techniques
- 9.6 Valuation Policies and Procedures

**PART 10 CALCULATION OF MANAGEMENT EXPENSE RATIO**

- 10.1 Calculation of Management Expense Ratio

APPENDIX A EXAMPLES OF FILING REQUIREMENTS FOR CHANGES IN YEAR END

APPENDIX B CONTACT ADDRESSES FOR FILING OF NOTICES

# 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 (the Policy) is to help you understand how the Canadian securities regulatory authorities (CSA or we) interpret or apply certain provisions of National Instrument 81-106 *Investment Fund Continuous Disclosure* (the Instrument).

### 1.2 Application

- (1) The Instrument applies to investment funds. The general nature of an investment fund is that the money invested in it is professionally managed on the basis of a stated investment policy, usually expressed in terms of investment objectives and strategies, and is invested in a portfolio of securities. The fund has the discretion to buy and sell investments within the constraints of its investment policy. Investment decisions are made by a manager or portfolio adviser acting on behalf of the fund. An investment fund provides a means whereby investors can have their money professionally managed rather than making their own decisions about investing in individual securities.
- (2) An investment fund generally does not seek to obtain control of or become involved in the management of companies in which it invests. Exceptions to this include labour sponsored or venture capital funds, where some degree of involvement in the management of the investees is an integral part of the investment strategy.

Investment funds can be distinguished from holding companies, which generally exert a significant degree of control over the companies in which they invest. They can also be distinguished from the issuers known as “Income Trusts” which generally issue securities that entitle the holder to net cash flows generated by (i) an underlying business owned by the trust or other entity, or (ii) the income-producing property owned by the trust or other entity. Examples of entities that are not investment funds are business income trusts, real estate investment trusts and royalty trusts.

- (3) Investment funds that meet the definition of “mutual fund” in securities legislation – generally because their securities are redeemable on demand or within a specified period after demand at net asset value per security – are referred to as mutual funds. Other investment funds are generally referred to as non-redeemable investment funds. The definition of “non-redeemable investment fund” included in this instrument summarises the concepts discussed above. Because of their similarity to mutual funds, they are subject to similar reporting requirements. Examples include

closed-end funds, funds traded on exchanges with limited redeemability, certain limited partnerships investing in portfolios of securities such as flow-through shares, and scholarship plans (other than self-directed RESPs as defined in OSC Rule 46-501 *Self-Directed Registered Education Savings Plans*).

- (4) Labour sponsored and venture capital funds may or may not be considered to be mutual funds depending on the requirements of the provincial legislation under which they are established (for example, shares of Ontario labour sponsored funds are generally redeemable on demand, while shares of British Columbia employee venture capital corporations are not). Nevertheless, these issuers are investment funds and must comply with the general disclosure rules for investment funds as well as specific requirements for labour sponsored and venture capital funds included in Part 8 of this Instrument.

### 1.3 **Definitions**

- (1) A term used in the Instrument and defined in the securities statute of a local jurisdiction has the meaning given to it in that statute unless (a) the definition in that statute is restricted to a specific portion of the statute that does not govern continuous disclosure, or (b) the context otherwise requires.
- (2) For instance, the term “material change” is defined in local securities legislation of most jurisdictions. The CSA consider the meaning given to this term in securities legislation to be substantially similar to the definition set out in the Instrument.

### 1.4 **Plain Language Principles** - The CSA believe that plain language will help investors understand an investment fund’s disclosure documents so that they can make informed investment decisions. You can achieve this by

- using short sentences
- using definite, everyday language
- using the active voice
- avoiding unnecessary words
- organizing the document into clear, concise sections, paragraphs and sentences
- avoiding jargon
- using personal pronouns to speak directly to the reader

- avoiding reliance on glossaries and defined terms unless it helps to understand the disclosure
- using technical terms only where necessary and explaining those terms clearly
- avoiding boilerplate wording
- using concrete terms and examples
- using charts and tables where it makes the disclosure easier to understand.

**1.5** **Signature and Certificates** - The directors, trustee or manager of an investment fund are not required to file signed or certified continuous disclosure documents. They are responsible for the information in the investment fund's disclosure documents whether or not a document is signed or certified, and it is an offence under securities legislation to make a false or misleading statement in any required document.

**1.6** **Filings on SEDAR** - 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)*.

**1.7** **Corporate Law Requirements** - Some investment funds may be subject to requirements of corporate law that address matters similar to those addressed by the Instrument, and which may impose additional or more onerous requirements. For example, applicable corporate law may require investment funds to deliver annual financial statements to securityholders. This Instrument cannot provide exemptions from these requirements.

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

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

- (1) ~~The Instrument requires investment funds to prepare their financial statements and management reports of fund performance and to calculate their net asset value in accordance with both Canadian GAAP and the Instrument. [repealed]~~
- (2) Canadian GAAP provides some general requirements for the preparation of financial statements that apply to investment fund financial statements. Canadian GAAP does not contain detailed requirements for the contents of investment fund financial statements. The CSA believe that an investment fund's financial statements must include certain information, at a minimum, in order to provide full disclosure. The Instrument sets out these minimum requirements. When preparing these documents, include any additional information necessary to ensure that all material

information concerning the financial position and results of the investment fund is disclosed.

- (3) Handbook Section 1100 *Generally Accepted Accounting Principles* has changed the definition of what was considered to be Canadian GAAP. Prior to the introduction of Section 1100, the investment funds industry relied on paragraph 1000.60(a), which permitted accounting policies that “are generally accepted by virtue of their use in similar circumstances by a significant number of entities in Canada.” This is no longer the case as Section 1100 requires the application of all relevant primary sources of Canadian GAAP. Accounting Guideline 18 *Investment Companies* provides specific guidance on certain topics. When no relevant primary source of Canadian GAAP is available, professional judgement and the concepts described in Section 1000 should be used to set accounting policies consistent with Canadian GAAP.

- 2.2 **Filing Deadline for Annual Financial Statements and Auditor’s Report** - Section 2.2 of the Instrument sets out the filing deadline for annual financial statements. While section 2.2 of the Instrument does not address the auditor’s report date, investment funds are encouraged to file their annual financial statements as soon as possible after the date of the auditor’s report.
- 2.3 **Timing and Content of Interim Financial Statements** - Handbook Section 1751 *Interim Financial Statements* requires that interim financial statements include each of the headings and subtotals included in the most recent annual financial statements. In addition, the principles of paragraph 14 of Section 1751 should be applied to the requirements in section 3.6 of the Instrument regarding the notes to the financial statements.
- 2.4 **Length of Financial Year** - For the purposes of the Instrument, unless otherwise expressly provided, references to a financial year apply regardless of the length of that year. The first financial year of an investment fund commences on the date of its incorporation or organization and ends at the close of that year.
- 2.5 **Contents of Statement of Operations** - The amount of fund expenses waived or paid by the manager or portfolio adviser of the investment fund disclosed in the statement of operations excludes amounts waived or paid due to an expense cap that would require securityholder approval to change.
- 2.6 **Disclosure of Soft Dollars** - The notes to the financial statements of an investment fund must contain disclosure of soft dollar amounts when such amounts are ascertainable. When calculating these amounts, investment funds should include the quantifiable value of goods and services, beyond the amount attributed to order execution, received directly from the dealer executing the fund’s portfolio transactions, or from a third party.

## 2.7 **Accounting for Securities Lending Transactions**

- (1) Section 3.8 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 manager treats the original securities as if they had not 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 assets of the investment fund if the non-cash collateral cannot be sold or repledged. If the investment fund lender receives cash collateral, 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, subsequent reinvestment, and obligation to repay the collateral are recorded on the books of the investment fund.

## 2.8 **Change in Year End**

- (1) The change in year end reporting requirements are adopted from National Instrument 51-102, with appropriate modifications to reflect that investment funds report on a six month interim period.
- (2) The definition of “interim period” in the Instrument differs from the definition of this term in National Instrument 51-102. An investment fund cannot have more than one interim period in a transition year.
- (3) Interim financial statements for the new financial year will have comparatives from the corresponding months in the preceding year, whether or not they are from the transition year or from the old financial year, they were previously prepared or not, or they straddle a year-end.

- (4) If an investment fund voluntarily reports on a quarterly basis, it should follow the requirements set out in National Instrument 51-102 for a change in year end, with appropriate modifications.
- (5) Appendix A to this Policy outlines the financial statement filing requirements under section 2.9 of the Instrument for an investment fund that changes its year end.

**2.9** ~~**Change in Legal Structure**—Section 2.10 of the Instrument requires a reporting issuer to file a notice if it has been involved in certain restructuring transactions. This notice should be filed with the securities regulatory authority or regulator in the applicable jurisdictions at the addresses set out in Appendix B to this Policy.~~ [repealed]

**2.10** **Mutual Funds that are Non-Reporting Issuers** - The requirement in subsection 2.11(c) to advise the applicable regulator or securities regulatory authority of a mutual fund's reliance on the financial statement filing exemption provided in section 2.11 of the Instrument can be satisfied by a one-time notice.

### **PART 3** **AUDITORS AND THEIR REPORTS**

**3.1** **Acceptable Auditor** - Securities legislation in most jurisdictions prohibits a regulator or securities regulatory authority from issuing a receipt for a prospectus if it appears that a person or company who has prepared any part of the prospectus, or is named as having prepared or certified a report used in connection with a prospectus, is not acceptable.

Investment funds that are reporting issuers, and their auditors, should refer to National Instrument 52-108 *Auditor Oversight* for requirements relating to auditor oversight by the Canadian Public Accountability Board.

#### **3.2** **Reservations in an Auditor's Report**

- (1) The Instrument generally prohibits an auditor's report from containing a reservation, qualification of opinion, or other similar communication that would constitute a reservation under Canadian GAAS.
- (2) Part 17 of the Instrument permits the regulator or securities regulatory authority to grant exemptive relief from the Instrument, including the requirement that an auditor's report not contain a reservation, qualification of opinion or other similar communication that would constitute a reservation under Canadian GAAS. However, we believe that such exemptive relief should not be granted if the reservation, qualification of opinion or other similar communication is
  - (a) due to a departure from accounting principles permitted by the Instrument, 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,
  - (ii) is imposed or could reasonably be eliminated by management, or
  - (iii) could reasonably be expected to be recurring.

**3.3 Auditor's Involvement with Management Reports of Fund Performance -** Investment funds' auditors are expected to comply with Handbook Section 7500 *Auditor Association with Annual Reports, Interim Reports and Other Public Documents*, when preparing the annual and interim management reports of fund performance required by the Instrument.

**3.4 Auditor Involvement with Interim Financial Statements**

- (1) The board of directors of an investment fund that is a corporation or the trustees of an investment fund that is a trust, in discharging their responsibilities for ensuring reliable interim financial statements, should consider engaging an external auditor to carry out a review of the interim financial statements.
- (2) Section 2.12 of the Instrument requires an investment fund to disclose if an auditor has not performed a review of the interim financial statements, to disclose if an auditor was unable to complete a review and why, and to file a written report from the auditor if the auditor performed a review and expressed a reservation in the auditor's interim review report. No positive statement is required when an auditor performed a review and provided an unqualified communication. If an auditor was engaged to perform a review on interim financial statements applying review standards set out in the Handbook, and the auditor was unable to complete the review, the investment fund's disclosure of the reasons why the auditor was unable to complete the review should normally include a discussion of
  - (a) inadequate internal control,
  - (b) a limitation on the scope of the auditor's work, or
  - (c) a failure of management to provide the auditor with written representations the auditor believes are necessary.
- (3) The terms "review" and "written review report" used in section 2.12 of the Instrument refer to the auditor's review of and report on interim financial statements using standards for a review of interim financial statements by the auditor as set out in Handbook Section 7050 *Auditor Review of Interim Financial Statements*.

- (4) The Instrument does not specify the form of notice that should accompany interim financial statements that have not been reviewed by the auditor. The notice accompanies, but does not form part of, the interim financial statements. We expect that the notice will normally be provided on a separate page appearing immediately before the interim financial statements, in a manner similar to an audit report that accompanies annual financial statements.

## **PART 4 DELIVERY OF FINANCIAL STATEMENTS AND MANAGEMENT REPORTS OF FUND PERFORMANCE**

### **4.1 Delivery Instructions**

- (1) The Instrument gives investment funds the following choices for the delivery of financial statements and management reports of fund performance:
  - (a) send these documents to all securityholders;
  - (b) obtain standing instructions from securityholders with respect to the documents they wish to receive; or
  - (c) obtain annual instructions from securityholders by sending them an annual request form they can use to indicate which documents they wish to receive.

The choices are intended to provide some flexibility concerning the delivery of continuous disclosure documents to securityholders. However, the Instrument specifies that once an investment fund chooses option (b), it cannot switch back to option (c) at a later date. The purpose of this requirement is to encourage investment funds to obtain standing instructions and to ensure that if a securityholder provides standing instructions, the investment fund will abide by those instructions unless the securityholder specifically changes them.

- (2) When soliciting delivery instructions from a securityholder, an investment fund can deem no response from the securityholder to be a request by the securityholder to receive all, some or none of the documents listed in subsection 5.1(2) of the Instrument. When soliciting delivery instructions, an investment fund should make clear what the consequence of no response will be to its securityholders.
- (3) Investment funds should solicit delivery instructions sufficiently ahead of time so that securityholders can receive the requested documents by the relevant filing deadline. Securityholders should also be given a reasonable amount of time to respond to a request for instructions. Investment funds should provide securityholders with complete contact information for the

investment fund, including a toll-free telephone number or a number for collect calls.

- (4) Investment funds under common management can solicit one set of delivery instructions from a securityholder that will apply to all of the funds in the same fund family that the securityholder owns. If a securityholder has given an investment fund standing delivery instructions and then later acquires the securities of another investment fund managed by the same manager, the newly acquired fund can rely on those standing instructions.
- (5) The Instrument requires investment funds to deliver the quarterly portfolio disclosure and the proxy voting record to securityholders upon request, but does not require investment funds to solicit delivery instructions from securityholders with respect to this disclosure. Investment funds are obligated to state on the first page of their management reports of fund performance that this disclosure is available.

**4.2**      **Communication with Beneficial Owners** – Generally, investment funds must apply the procedures set out in National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* for the purposes of Part 5 of the Instrument, but an exemption from National Instrument 54-101 is available to investment funds that have beneficial owner information.

We recognize that different types of investment funds have different access to beneficial owner information (for example, mutual funds are more likely to have beneficial owner information than exchange-traded funds) and that the procedures in National Instrument 54-101 may not be efficient for every investment fund. Therefore, we intend the provisions in Part 5 of the Instrument to provide investment funds with flexibility to communicate directly with the beneficial owners of their securities.

**4.3**      **Binding** – For the purposes of delivery to a securityholder, the Instrument permits more than one management report of fund performance to be bound together if the securityholder owns all of the funds to which the management reports relate. There is no prohibition in the Instrument against binding the management report of fund performance with the financial statements for one investment fund for the purposes of delivering these documents to a securityholder who has requested them.

**4.4**      **Electronic Delivery** - Any documents required to be sent under the Instrument may be sent by electronic delivery, as long as such delivery is made in compliance with National Policy 11-201 *Delivery of Documents by Electronic Means* and, in Quebec, Quebec Staff Notice *The Delivery of Documents by Electronic Means*. In particular, the annual reminder required by section 5.2 and the request form required by section 5.3 of the Instrument may be given in electronic form and may be combined with other notices. Request forms and

notices may alternatively be sent with account statements or other materials sent to securityholders by an investment fund.

## **PART 5 INDEPENDENT VALUATIONS**

### **5.1 Independent Valuations**

- (1) Part 8 of the Instrument is designed to address the concerns raised by labour sponsored or venture capital funds that disclosing a fair value for their venture investments may disadvantage the private companies in which they invest. Section 8.2 permits alternative disclosure by a labour sponsored or venture capital fund of its statement of investment portfolio. Labour sponsored or venture capital funds must disclose the individual securities in which they invest, but 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 or venture capital fund has obtained an independent valuation in accordance with Part 8 of the Instrument.
- (2) The CSA expect the independent valuator's report to provide either a number or a range of values which the independent valuator considers to be a fair and reasonable expression of the value of the venture investments or of the net asset value of the labour sponsored or venture capital fund. The independent valuation should include a critical review of the valuation methodology and an assessment of whether it was properly applied. A report on compliance with stated valuation policies and practices cannot take the place of an independent valuation.

The valuation report should disclose the scope of the review, including any limitations on the scope, and the implications of these limitations on the independent valuator's conclusion.

- (3) The independent valuator should refer to the reporting standards of the Canadian Institute of Chartered Business Valuators for guidance.
- (4) A labour sponsored or venture capital fund obtaining an independent valuation should furnish the independent valuator with access to its manager, advisers and all material information in its possession relevant to the independent valuation.

### **5.2 Independent Valuers**

- (1) It is a question of fact as to whether a valuator is independent of the labour sponsored or venture capital fund. In determining the independence of the valuator, a number of factors may be relevant, including whether
  - (a) the valuator or an affiliated entity has a material financial interest in future business in respect of which an agreement, commitment

or understanding exists involving the fund or a person or company listed in paragraph (2)(a); or

- (b) the valuator or its affiliated entity is a lender of a material amount of indebtedness to any of the issuers of the fund's illiquid investments.

(2) The CSA would generally consider a valuator not to be independent of a labour sponsored or venture capital fund where

- (a) the valuator or an affiliated entity of the valuator is
  - (i) the manager of the fund,
  - (ii) a portfolio adviser of the fund,
  - (iii) an insider of the fund,
  - (iv) an associate of the fund,
  - (v) an affiliated entity of the fund, or
  - (vi) an affiliated entity of any of the persons or companies named in this paragraph (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 its affiliated entity, a financial incentive in respect of the conclusions reached in the valuation; or
- (c) the valuator or an affiliated entity of the valuator has a material investment in the labour sponsored or venture capital fund or in a portfolio asset of the fund.

## **PART 6 PROXY VOTING DISCLOSURE FOR PORTFOLIO SECURITIES HELD**

### **6.1 Proxy Voting Disclosure**

- (1) An investment fund's manager, acting on the investment fund's behalf, has the right and obligation to vote proxies relating to the investment fund's portfolio securities. As a practical matter, the manager may delegate this function to the investment fund's portfolio adviser as part of the adviser's general management of investment fund assets. In either case, the manager or portfolio adviser voting proxies on behalf of an investment fund must do so in a manner consistent with the best interests of the fund and its securityholders.
- (2) Because of the substantial institutional voting power held by investment funds, the increasing importance of the exercise of that power to securityholders, and the potential for conflicts of interest with respect to the exercise of proxy voting, we believe that investment funds should disclose their proxy voting policies and procedures, and should make their actual proxy voting records available to securityholders.
- (3) The Instrument requires that the investment fund establish policies and procedures for determining whether, and how, to vote on any matter for which the investment fund receives proxy materials for a meeting of securityholders of an issuer. The CSA consider an investment fund to "receive" a document when it is delivered to any service provider or to the investment fund in respect of securities held beneficially by the investment fund. Proxy materials may be delivered to a manager, a portfolio adviser or sub-adviser, or a custodian. All of these deliveries are considered delivered "to" the investment fund.
- (4) The Instrument requires an investment fund to maintain an annual proxy voting record as of June 30 and to post this to the fund's website if it has one. However, investment funds may choose to disclose their proxy votes throughout the course of the year, and may also choose to disclose how they intend to vote prior to the shareholder meeting.

### **6.2 Proxy Voting Policies and Procedures**

- (1) Section 10.2 of the Instrument sets out, in general terms, what the securities regulatory authorities consider to be minimum policies and procedures for the proxy voting process. Investment funds are responsible for adopting any additional policies relevant to their particular situation. For example, investment funds should consider whether they require any specific policies dealing with shareholder meetings of issuers resident in other countries.
- (2) An investment fund sometimes needs to vote securities held by it in order to protect its interests in connection with corporate transactions or

developments relating to the issuers of its portfolio securities. The manager and portfolio adviser, or the agent of the investment fund administering a securities lending program on behalf of the investment fund, should monitor corporate developments relating to portfolio securities that are loaned by the investment fund in securities lending transactions, and take all necessary steps to ensure that the investment fund can exercise a right to vote the securities when necessary.

## **PART 7 MATERIAL CHANGE**

**7.1 Material Changes** - Determining whether a change is a material change will depend on the specific facts and circumstances surrounding the change. However, the CSA is of the view that

- (a) the change of portfolio adviser of an investment fund will generally constitute a material change for the investment fund, and
- (b) the departure of a high-profile individual from the employ of a portfolio adviser of an investment fund may constitute a material change for the investment fund, depending on how prominently the investment fund featured that individual in its marketing. An investment fund that emphasized the ability of a particular individual to encourage investors to purchase the fund could not later take the position that the departure of that individual was immaterial to investors and therefore not a material change.

**7.2 Confidential Material Change Report** - The CSA are of the view that in order for an investment fund to file a confidential material change report under Section 11.2 of the Instrument, the investment fund or its manager should advise insiders of the prohibition against trading during the filing period of a confidential material change report and must also take steps to monitor trading activity.

## **PART 8 INFORMATION CIRCULARS**

**8.1 Sending of Proxies and Information Circulars** - Investment funds are reminded that National Instrument 54-101 prescribes certain procedures relating to the delivery of proxy-related materials sent to beneficial owners of securities.

## **PART 9 ~~PUBLICATION OF NET ASSET VALUE PER SECURITY~~**

**9.1 Publication of Net Asset Value Per Security** – An investment fund that arranges for the publication of its net asset value per security should calculate its net asset value per security and make the results of that calculation available to the financial press as quickly as is commercially practicable. An investment fund should attempt to meet the deadlines of the financial press for publication in order to ensure that its net asset values per security are publicly available as quickly as possible.

**9.2 Fair Value Guidance** – Section 14.2 of the Instrument requires an investment fund to calculate its net asset value based on the fair value of the investment fund's assets and liabilities. While investment funds are required to comply with the definition of "fair value" in the Instrument when calculating net asset value, they may also look to the Handbook for guidance on the measurement of fair value. The fair value principles articulated in the Handbook can be applied by investment funds when valuing assets and liabilities.

**9.3 Meaning of Fair Value** – The Handbook defines fair value as being the amount of the consideration that would be agreed upon in an arm's length transaction between knowledgeable, willing parties who are under no compulsion to act. Accordingly, fair value should not reflect the amount that would be received or paid in a forced transaction, involuntary liquidation or distress sale.

**9.4 Determination of Fair Value**

(1) A market is generally considered active when quoted prices are readily and regularly available from an exchange, dealer, broker, industry group, pricing service or regulatory agency, and those prices reflect actual and regularly occurring market transactions on an arm's length basis.

(2) A market is not considered to be active, and prices derived from it may be unreliable for valuation purposes, if, at the time the investment fund begins to calculate its net asset value, any of the following circumstances are present:

- markets on which portfolio securities are principally traded closed several hours earlier (e.g. some foreign markets may close as much as 15 hours before the time the investment fund begins to calculate its net asset value)
- trading is halted
- events occur that unexpectedly close entire markets (e.g. natural disasters, power blackouts, public disturbances, or similar major events)
- markets are closed due to scheduled holidays
- the security is illiquid and trades infrequently.

If an investment fund manager determines that an active market does not exist for a security, the manager should consider whether the last available quoted market price is representative of fair value. If a significant event (i.e. one that may impact the value of the portfolio security) has occurred between the time the last quoted market price was established and the time

the investment fund begins to calculate its net asset value, the last quoted market price may not be representative of fair value.

- (3) Whether a particular event is a significant event for a security depends on whether the event may affect the value of the security. Generally, significant events fall into one of three categories: (i) issuer specific events – e.g. the resignation of the CEO or an after-hours earnings announcement, (ii) market events – e.g. a natural disaster, a political event, or a significant governmental action like raising interest rates, and (iii) volatility events – e.g. a significant movement in North American equity markets that may directly impact the market prices of securities traded on overseas exchanges.

Whether a market movement is significant is a matter to be determined by the manager through the establishment of tolerance levels which it may choose to base on, for example, a specified intraday and/or interday percentage movement of a specific index, security or basket of securities. In all cases, the appropriate triggers should be determined based on the manager's own due diligence and understanding of the correlations relevant to each investment fund's portfolio.

**9.5** **Fair Value Techniques** – The CSA do not endorse any particular fair value technique as we recognize that this is a constantly evolving process. However, whichever technique is used, it should be applied consistently for a portfolio security throughout the fund complex, reviewed for reasonableness on a regular basis, and approved by the manager's board of directors. The manager should also consider whether its valuation process is a conflict of interest matter as defined in NI 81-107.

**9.6** **Valuation Policies and Procedures** – The valuation policies and procedures should describe the process for monitoring significant events or other situations that could call into question whether a quoted market price is representative of fair value. They should also describe the methods by which the manager will review and test valuations to evaluate the quality of the prices obtained as well as the general functioning of the valuation process.

## **PART 10 CALCULATION OF MANAGEMENT EXPENSE RATIO**

### **10.1 Calculation of Management Expense Ratio**

- (1) Part 15 of the Instrument sets out the method to be used by an investment fund to calculate its management expense ratio (MER). The requirements apply in all circumstances in which an investment fund calculates and discloses an MER. This includes disclosure in a sales communication, a prospectus, an annual information form, financial statements, a management report of fund performance or a report to securityholders.

- (2) Paragraph 15.1(1)(a) requires the investment fund to use its "total expenses" before income taxes for the relevant period as the basis for the calculation of MER. Total expenses, before income taxes, include interest charges and taxes ~~of all types~~, including sales taxes, GST and capital taxes payable by the investment fund. Canadian GAAP currently permits an investment fund to deduct withholding taxes from the income to which they apply. Accordingly, withholding taxes are not recorded as "total expenses" on the investment fund's income statement and need not be included in its MER calculation.

Non-optional fees paid directly by investors in connection with the holding of an investment fund's securities do not have to be included in the MER calculation, which differs from the previous requirement in NI 81-102.

- (3) The CSA recognize that an investment fund may incur fees and charges that are not included in total expenses, but that reduce the net asset value and the amount of investable assets of the investment fund. Sales commissions paid by an investment fund in connection with the sale of the investment fund's securities are an example of such fees and charges. We believe that these fees and charges should be reflected in the MER of the investment fund.
- (4) While brokerage commissions ~~Brokerage charges~~ and other portfolio transaction costs are expenses of an investment fund for accounting purposes, they are not included in the MER. These costs are reflected in the trading expense ratio ~~considered to be part of total expenses as they are included in the cost of purchasing, or netted out of the proceeds from selling, portfolio assets.~~
- (5) In its management report of fund performance, an investment fund must disclose historical MERs for five years calculated in accordance with Part 15. If the investment fund has not calculated the historical MERs in the manner required by the Instrument, we are of the view that the change in the method of calculating the MER should be treated in a manner similar to a change in accounting policy under Handbook Section 1506 *Accounting Changes*. Under Canadian GAAP, a change in accounting policy requires a retroactive restatement of the financial information for all periods shown. However, the Handbook acknowledges that there may be circumstances where the data needed to restate the financial information is not reasonably determinable.

If an investment fund retroactively restates its MER for any of the five years it is required to show, the investment fund should describe this restatement in the first document released and in the first management report of fund performance in which the restated MERs are reported.

If an investment fund does not restate its MER for prior periods because, based on specific facts and circumstances, the information required to do so is not reasonably determinable, the MER for all financial periods ending after the effective date of the Instrument must be calculated in accordance with Part 15. In this case, the investment fund must also disclose

- (i) that the method of calculating MER has changed, specifying for which periods the MER has been calculated in accordance with the change;
- (ii) that the investment fund has not restated the MER for specified prior periods;
- (iii) the impact that the change would have had if the investment fund had restated the MER for the specified prior periods (for example, would the MER have increased or decreased and an estimate of the increase or decrease); and
- (iv) a description of the main differences between an MER calculated in accordance with the Instrument and the previous calculations.

The disclosure outlined above should be provided for all periods presented until such time as all MERs presented are calculated in accordance with the Instrument.

**APPENDIX A                      EXAMPLES OF FILING REQUIREMENTS FOR  
CHANGES IN YEAR END**

The following examples assume the old financial year ended on December 31, 20X0

<b>Transition Year</b>	<b>Comparative Annual Financial Statements to Transition Year</b>	<b>New Financial Year</b>	<b>Comparative Annual Financial Statements to New Financial Year</b>	<b>Interim Periods for Transition Year</b>	<b>Comparative Interim Periods to Transition Year</b>	<b>Interim Periods for New Financial Year</b>	<b>Comparative Interim Periods to New Financial Year</b>
<b>Up to 3 months</b>							
3 months ended 3/31/X1	12 months ended 12/31/X0	3/31/X2	3 months ended 3/31/X1 and 12 months ended 12/31/X0	Not applicable	Not applicable	6 months ended 9/30/X1	6 months ended 9/30/X0
<b>4 to 6 months</b>							
6 months ended 6/30/X1	12 months ended 12/31/X0	6/30/X2	6 months ended 6/30/X1 and 12 months ended 12/31/X0	Not applicable	Not applicable	6 months ended 12/31/X1	6 months ended 12/31/X0
<b>7 or 8 months</b>							
8 months ended 8/31/X1	12 months ended 12/31/X0	8/31/X2	8 months ended 8/31/X1 and 12 months ended 12/31/X0	Not applicable	Not applicable	6 months ended 2/28/X2	6 months ended 2/28/X1
<b>9 to 11 months</b>							
11 months ended 11/30/X1	12 months ended 12/31/X0	11/30/X2	11 months ended 11/30/X1	6 months ended 6/30/X1	6 months ended 6/30/X0	6 months ended 5/31/X2	6 months ended 5/31/X1
<b>11 to 15 months</b>							
15 months ended 3/31/X2	12 months ended 12/31/X0	3/31/X3	15 months ended 3/31/X2	6 months ended 6/30/X1	6 months ended 6/30/X0	6 months ended 9/30/X2	6 months ended 9/30/X1

**APPENDIX B CONTACT ADDRESSES FOR FILING OF NOTICES**

**Alberta Securities Commission**

4<sup>th</sup> Floor  
300 – 5<sup>th</sup> Avenue S.W.  
Calgary, Alberta  
T2P 3C4  
Attention: Corporate Finance Director, Capital Markets

**British Columbia Securities Commission**

P.O. Box 10142, Pacific Centre  
701 West Georgia Street  
Vancouver, British Columbia  
V7Y 1L2  
Attention: Financial Reporting

**Manitoba Securities Commission**

500 430 – 400 405 St. Mary Avenue Broadway  
Winnipeg, Manitoba  
R3C 4K5 3L6  
Attention: Corporate Finance

**New Brunswick Securities Commission**

606 - 133 Prince William Street  
Saint John, NB  
E2L 2B5  
Attention: Corporate Finance

~~**Securities Commission of Newfoundland and Labrador**~~  
**Securities Commission**

P.O. Box 8700  
2<sup>nd</sup> Floor, West Block  
Confederation Building  
75 O’Leary Avenue  
St. John’s, NFLD  
A1B 4J6  
Attention: Director of Securities

**Department of Justice, Northwest Territories**

Legal Registries  
P.O. Box 1320  
1<sup>st</sup> Floor, 5009-49<sup>th</sup> Street  
Yellowknife, NWT X1A 2L9  
Attention: Director, Legal Registries

**Nova Scotia Securities Commission**

2<sup>nd</sup> Floor, Joseph Howe Building  
1690 Hollis Street  
Halifax, Nova Scotia B3J 3J9  
Attention: Corporate Finance

**Department of Justice, Nunavut**

Legal Registries Division  
P.O. Box 1000 – Station 570  
1<sup>st</sup> Floor, Brown Building  
Iqaluit, NT X0A 0H0  
Attention: Director, Legal Registries Division

**Ontario Securities Commission**

Suite 1903, Box 55  
20 Queen Street West  
Toronto, ON M5H 3S8  
Attention: Continuous Disclosure, Investment Funds

**Registrar of Securities, Prince Edward Island**

P.O. Box 2000  
95 Rochford Street, 5<sup>th</sup> Floor,  
Charlottetown, PEI  
C1A 7N8  
Attention: Registrar of Securities

**Autorité des marchés financiers**

800 Square Victoria, 22<sup>nd</sup> Floor  
P.O. Box 246, Tour de la Bourse  
Montréal, Québec  
H4Z 1G3  
Attention: Direction des marchés des capitaux

**Saskatchewan Financial Services Commission – Securities  
Division**

6<sup>th</sup> Floor,  
1919 Saskatchewan Drive  
Regina, SK S4P 3V7  
Attention: Deputy Director, Corporate Finance

**Registrar of Securities, Government of Yukon**

Corporate Affairs J-9

P.O. Box 2703

Whitehorse, Yukon

Y1A 5H3

Attention: Registrar of Securities