



Province of Saskatchewan

Registrar of Regulations	
Filed	JAN 06 2021
SR	1/2021

Minister's Order

The Minister of Justice and Attorney General, pursuant to section 7 of *The Securities Commission (Regulation Procedures) Regulations*, approves *The Securities Commission (Adoption of National Instruments) (NI 81-105, NI 41-101 and NI 81-101) Amendment Regulations, 2020* in accordance with the attached Schedule.

Dated at the City of Regina, the 29 day of December, 2020.

acting [Signature]
Minister of Justice and Attorney General

(For administrative purposes only)

Authority: *The Securities Commission (Regulation Procedures) Regulations - section 7*



Province of Saskatchewan

Commission Order

The Financial and Consumer Affairs Authority of Saskatchewan, pursuant to section 154 of *The Securities Act, 1988*, makes *The Securities Commission (Adoption of National Instruments) (NI 81-105, NI 41-101 and NI 81-101) Amendment Regulations, 2020* in accordance with the attached Schedule.

Dated at the City of Regina, the 17 day of December, 2020.

Chairperson
Financial and Consumer Affairs Authority of Saskatchewan

(For administrative purposes only)

Authority: *The Securities Act, 1988* - section 154

SCHEDULE

Title

1 These regulations may be cited as *The Securities Commission (Adoption of National Instruments) (NI 81-105, NI 41-101 and NI 81-101) Amendment Regulations, 2020*.

RRS c S-42.2 Reg 3 amended

2 *The Securities Commission (Adoption of National Instruments) Regulations* are amended in the manner set forth in these regulations.

Part III amended

3(1) Part III of the Appendix is amended in the manner set forth in this section.

(2) Section 1.1 is amended by adding the following definition in alphabetical order:

“ **‘suitability determination’** means a determination or other assessment required to be made under any of the following:

(a) section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

(b) the rules of the Investment Industry Regulatory Organization of Canada named in Appendix G of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* that are in effect, as amended from time to time, and that correspond to section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

(c) a rule or policy of the Mutual Fund Dealers Association of Canada named in Appendix H of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* that are in effect, as amended from time to time, and that correspond to section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.”.

(3) The following subsection is added after subsection 2.2(2):

“(3) Despite subsection (2), a participating dealer may not solicit or accept a payment of a trailing commission from a member of the organization of the mutual fund, in connection with securities of the mutual fund held in an account of a client of the participating dealer, if the participating dealer was not required to make a suitability determination in respect of the client in connection with those securities”.

APPROVED
LEGISLATIVE DRAFTING SECTION

October 15, 2020 - 10:21 a.m.

(4) Section 3.2 is amended:

(a) in subsection (1):

(i) in the portion preceding clause (a) by striking out “in money that is based upon the aggregate value of securities of the mutual fund held in accounts of clients of the participating dealer as at a particular time or during a particular period,”;

(ii) in paragraph (a) by striking out “the trade” and substituting “a trade in securities of the mutual fund by a client of the participating dealer”; and

(iii) by adding the following paragraph after paragraph (a):

“(a.1) the amount of the trailing commission is based on the value of securities of the mutual fund held in an account of the client as at a particular time or during a particular period”; and

(b) by adding the following subsection after subsection (3):

“(4) Despite subsection (1), no member of the organization of a mutual fund may pay a trailing commission to a participating dealer in connection with securities of the mutual fund held in an account of a client of the participating dealer if the member knows or ought reasonably to know that the participating dealer was not required to make a suitability determination in respect of the client in connection with those securities”.

Part V amended

4(1) Part V of the Appendix is amended in the manner set forth in this section.

(2) Subsection 3.2.01(4) is amended:

(a) by striking out “or” after subparagraph (a)(ii);

(b) by adding “or” after paragraph (b); and

(c) by adding the following paragraph after paragraph (b):

“(c) section 3.2.04.1 applies.”.

(3) The following section is added after section 3.2.04:

“3.2.04.1 Delivery of Fund Facts Documents for No-Trailing-Commission Switches

(1) In this section,

‘no-trailing-commission switch’ means, in respect of a client of a participating dealer, a purchase of securities of a class or series of a mutual fund in respect of which an investment fund manager does not pay the participating dealer a trailing commission immediately following a redemption of securities of another class or series of the mutual fund in respect of which the investment fund manager pays the participating dealer a trailing commission, if all of the following apply:

- (a) the aggregate value of the securities purchased is the same as the aggregate value of the securities redeemed;
- (b) there are no material differences between the class or series of securities purchased and the class or series of securities redeemed other than the rate of management fees charged in respect of the two classes or series;
- (c) the participating dealer, who executed the purchase and redemption of the securities, was not required by securities legislation or the rules of an SRO applicable to the dealer to make a suitability determination in respect of the client in connection with those securities;

‘suitability determination’ has the same meaning as in section 1.1 of National Instrument 81-105 *Mutual Fund Sales Practices*.

(2) Despite subsection 3.2.01(1), a dealer is not required to deliver to the purchaser of a security of a mutual fund the most recently filed fund facts document for the applicable class or series of securities of the mutual fund in connection with a no-trailing-commission switch”.

Part XII amended

5 PART 3C, “Delivery of ETF Facts Documents for Investment Funds”, of Part XII of the Appendix is amended by adding the following section after section 3C.2:

“3C.2.1 Delivery of ETF facts documents for no-trailing-commission ETF switches

(1) In this section,

‘no-trailing-commission ETF switch’ means, in respect of a client of a participating dealer, a purchase of securities of a class or series of an ETF in respect of which an investment fund manager does not pay the participating dealer a trailing commission immediately following a redemption of securities of another class or series of the ETF in respect of which the investment fund manager pays the participating dealer a trailing commission, if all of the following apply:

- (a) the aggregate value of the securities purchased is the same as the aggregate value of the securities redeemed;

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(b) there are no material differences between the class or series of securities purchased and the class or series of securities redeemed other than the rate of management fees charged in respect of the two classes or series;

(c) the participating dealer, who executed the purchase and redemption of the securities, was not required by securities legislation or the rules of an SRO applicable to the dealer to make a suitability determination in respect of the client in connection with those securities;

'suitability determination' has the same meaning as in section 1.1 of National Instrument 81-105 *Mutual Fund Sales Practices*.

(2) Despite subsection 3C.2(2), a dealer is not required to deliver or send to the purchaser of a security of an ETF the most recently filed ETF facts document for the applicable class or series of securities of the ETF in connection with a no-trailing-commission ETF switch.”.

Coming into force

6(1) Subject to subsections (2) and (3), these regulations come into force on December 31, 2020.

(2) Subject to subsection (3), if these regulations are filed with the Registrar of Regulations after December 31, 2020, these regulations come into force on the day on which they are filed with the Registrar of Regulations.

(3) Subsections 3(3) and (4) come into force on June 1, 2022.