



Province of Saskatchewan

Registrar of Regulations

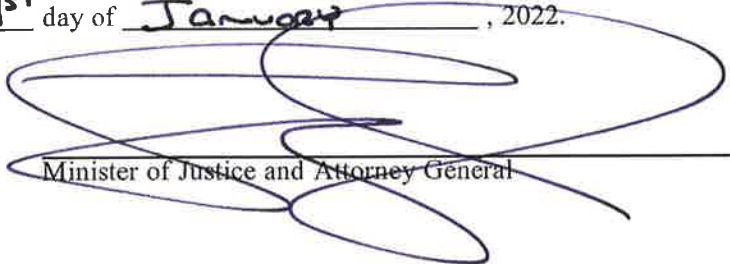
Filed FEB 08 2022

SR 1/2022

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 31-103, NI 41-101, NI 45-106, NI 81-101, NI 81-102, NI 81-106 and NI 81-107) Amendment Regulations, 2022* in accordance with the attached Schedule.

Dated at the City of Regina, the 31st day of January, 2022.


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 31-103, NI 41-101, NI 45-106, NI 81-101, NI 81-102, NI 81-106 and NI 81-107) Amendment Regulations, 2022* in accordance with the attached Schedule.

Dated at the City of Regina, the 21st day of January, 2022.

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 31-103, NI 41-101, NI 45-106, NI 81-101, NI 81-102, NI 81-106 and NI 81-107) Amendment Regulations, 2022.*

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.

Appendix, Part V amended

3(1) National Instrument 81-101 *Mutual Fund Prospectus Disclosure* in Part V of the Appendix is amended in the manner set forth in this section.

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

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

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

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

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

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

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

APPROVED
LEGISLATIVE DRAFTING SECTION

January 4, 2022 - 9:41 a.m.

SECURITIES COMMISSION (ADOPTION OF NATIONAL INSTRUMENTS)
(NI 31-103, NI 41-101, NI 45-106, NI 81-101, NI 81-102, NI 81-106
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(3) Section 2.3 is amended:

(a) by repealing subparagraph (1)(b)(ii) and substituting the following:

“(ii) a personal information form for all of the following:

- (A) each director and executive officer of the mutual fund;
- (B) each promoter of the mutual fund;
- (C) if the promoter is not an individual and is not the manager of the mutual fund, each director and executive officer of the promoter.”;

(b) by adding the following subsection after subsection (1):

“(1.0.1) Despite subparagraph 2.3(1)(b)(ii), a mutual fund is not required to deliver a personal information form for an individual referred to in subparagraph (1)(b)(ii) if the individual has submitted a Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* under National Instrument 33-109 *Registration Information*.”;

(c) by repealing subparagraph (2)(b)(iv) and substituting the following:

“(iv) a personal information form for all of the following:

- (A) each director and executive officer of the mutual fund;
- (B) each promoter of the mutual fund;
- (C) if the promoter is not an individual and is not the manager of the mutual fund, each director and executive officer of the promoter, and”;

(d) by adding the following subsection after subsection (2):

“(2.0.1) Despite subparagraph 2.3(2)(b)(iv), a mutual fund is not required to deliver a personal information form for an individual referred to in subparagraph (2)(b)(iv) if the individual has submitted a Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* under National Instrument 33-109 *Registration Information*.”.

(4) Subsection 3.2.01(4) is amended:

(a) by repealing subparagraph (a)(ii) and substituting the following:

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

(b) by repealing paragraphs (b) and (c) and substituting the following:

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

“(c) section 3.2.04 or 3.2.04.1 applies.”.

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(5) Sections 3.2.03 and 3.2.04 are repealed and the following substituted:

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

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

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

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

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

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

(6) Section 3.2.05 is repealed and the following substituted:

“3.2.05 Delivery of Fund Facts Document for Automatic Switch Programs

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

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

(7) The following section is added after section 3.2.05:

“3.2.06 Electronic Delivery of the Fund Facts Document

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

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(8) Subsection 5.2(4) is amended:

(a) in the portion preceding paragraph (a) by striking out “3.2.03, or 3.2.04” and substituting “3.2.03, or 3.2.05”; and

(b) in paragraph (c) by striking out “3.2.03, or 3.2.04” and substituting “3.2.03, or 3.2.05”.

(9) Part 7 is amended by adding the following sections after section 7:

“7.1 Transition for portfolio rebalancing plans and automatic switch programs

(1) For the purposes of sections 3.2.03 and 3.2.05 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, as amended by section 4 and section 6 of *The Securities Commission (Adoption of National Instruments) (NI 31-103, NI 41-101, NI 45-106, NI 81-101, NI 81-102, NI 81-106 and NI 81-107) Amendment Regulations, 2022* the first purchase of a security of a mutual fund made pursuant to a portfolio rebalancing plan or an automatic switch program on or after January 5, 2022 is considered to be the first purchase under the plan or program, as applicable.

(2) Subsection (1) does not apply to a portfolio rebalancing plan or an automatic switch program established before January 5, 2022, if a notice providing information substantially similar to the notice referred to in paragraph 3.2.03(c) or 3.2.05(c) of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* as amended by *The Securities Commission (Adoption of National Instruments) (NI 31-103, NI 41-101, NI 45-106, NI 81-101, NI 81-102, NI 81-106 and NI 81-107) Amendment Regulations, 2022* was delivered or sent to the purchaser between January 5, 2021 and January 5, 2022.

“7.2 Expiration of exemptions and waivers

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

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

(10) Appendix C, Form 81-101F3 Contents of Fund Facts Document is amended:

(a) in the GENERAL INSTRUCTIONS that precede Part I by repealing subsection (10) and substituting the following:

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

(b) in Part I:

(i) in Item 3:

(A) by repealing subsections (4) and (5) and substituting the following:

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

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

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

(B) by adding the following subsection after subsection (5):

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

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

(ii) in Item 4:

(A) by repealing subsection (3) and substituting the following:

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

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

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

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

- (a) the identity of the person or company providing the guarantee or insurance;
- (b) a brief description of the material terms of the guarantee or insurance, including the maturity date of the guarantee or insurance.”; **and**

(iii) in Item 5:

(A) by repealing subsections (1) to (4) and substituting the following:

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

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

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

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

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

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

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

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

This chart shows how [name of class/series of securities described in the fund facts document] [units/shares] of the fund performed in each of the past [insert number of calendar years shown in the bar chart required under paragraph (a)]. The fund dropped in value in [for the particular years shown in the bar chart required under paragraph (a), insert the number of years in which the value of the mutual fund dropped] of the [insert number of calendar years shown in the bar chart required in paragraph (a)] years. The range of returns and change from year to year can help you assess how risky the fund has been in the past. It does not tell you how the fund will perform in the future.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) 10 years, and

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

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

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

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

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

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

(B) by adding the following subsection after section (1):

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

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

(C) under the heading *INSTRUCTIONS* by repealing subsection (5).

(11) The following Appendix is added after Appendix C:

“APPENDIX D

Fund Facts Automatic Switch Program Information for Section 3.2.05

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

- (a) the heading under Item 1(c.1) of Part I includes the name of each class or series of securities of the mutual fund in the automatic switch program;
- (b) the brief introduction to the fund facts document under Item 1(e) of Part I includes the name of each class or series of securities of the mutual fund in the automatic switch program;
- (c) Item 2 of Part I includes the fund codes of each of the classes or series of securities of the mutual fund in the automatic switch program;
- (d) Item 2 of Part I includes, for each class or series of securities of the mutual fund in the automatic switch program, the date the securities of the class or series first became available to the public;
- (e) Item 2 of Part I includes the management expense ratio of only the class or series of securities of the mutual fund in the automatic switch program with the highest management fee;

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(f) Item 2 of Part I includes the minimum investment amount and each additional investment amount of only the class or series of securities of the mutual fund in the automatic switch program with the highest management fee;

(g) the 'Quick Facts' table referred to in Item 2 of Part I includes a footnote that states all of the following:

(i) that the fund facts document pertains to all of the classes or series of securities of the mutual fund in the automatic switch program;

(ii) that further details about the automatic switch program are disclosed in the 'How much does it cost?' section of the fund facts document;

(iii) that further details about the minimum investment amount applicable to each of the classes or series of securities of the mutual fund in the automatic switch program are disclosed in the fee decrease table under the sub-heading 'Fund expenses' of the fund facts document;

(iv) that the management expense ratio of each of the classes or series of securities of the mutual fund in the automatic switch program is disclosed in the 'Fund expenses' section of the fund facts document;

(h) Item 5(1) of Part I includes all of the following as part of the introduction:

(i) under the heading 'How has the fund performed?', the name of only the class or series of securities of the mutual fund with the highest management fees;

(ii) a statement explaining that the performance for each of the classes or series of securities of the mutual fund in the automatic switch program will be similar to the performance of the class or series of securities of the mutual fund with the highest management fee, but will vary as a result of the difference in fees, as set out in the fee decrease table under the sub-heading 'Fund expenses';

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

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

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

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

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

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

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

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- (D) a statement that information about the progressively lower management fees for the classes or series of securities of the mutual fund in the automatic switch program is available in the fee decrease table under the sub-heading 'Fund expenses' of the fund facts document;
- (E) a statement that further details about the automatic switch program are disclosed in specific sections of the simplified prospectus of the mutual fund;
- (F) a statement that purchasers should speak to their representative for more information about the automatic switch program;
- (k) Item 1(1.2) of Part II, under the sub-heading 'Sales charges', includes the names of each class or series of securities of the mutual fund in the automatic switch program in the introduction, if applicable;
- (l) if the mutual fund is not newly established, Item 1(1.3)(2) of Part II includes all of the following:
- (i) the management expense ratio and fund expenses of each of the classes or series of securities of the mutual fund in the automatic switch program or, if certain expense information is not available for a particular class or series of securities, the words 'not available' in the corresponding part of the table;
 - (ii) a row in the 'Annual rate' table
 - (A) in which the first column states 'For every \$1,000 invested, this equals:', and
 - (B) that discloses the respective equivalent dollar amounts of the fund expenses of each class or series of securities of the mutual fund in the automatic switch program included in the table for every \$1,000 invested;
- (m) Item 1(1.3)(2) of Part II includes, at the end of the disclosure under the sub-heading 'Fund expenses', all of the following:
- (i) a table that includes
 - (A) the name of, and minimum investment amounts associated with, each class or series of securities of the mutual fund in the automatic switch program, and
 - (B) the combined management and administration fee decrease of each class or series of securities of the mutual fund in the automatic switch program from the management fee of the class or series of securities of the mutual fund with the highest management fee, disclosed as a percentage;
 - (ii) an introduction to the table referred to in subparagraph (i) stating that the table sets out the combined management and administration fee decrease of each class or series of securities of the mutual fund in the automatic switch program from the management fee of the class or series of securities of the mutual fund with the highest management fee;
- (n) if all the classes or series of securities of the mutual fund in the automatic switch program are not newly established, Item 1(1.3)(3) of Part II includes all of the following:
- (i) a statement that the class or series of securities of the mutual fund with the highest management fee has the highest management fee among all of the classes or series of securities of the mutual fund in the automatic switch program;

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- (ii) a statement above the ‘Annual rate’ table required under Item 1(1.3)(2) of Part II stating ‘As of [the date of the most recently-filed management report of fund performance], the fund expenses were as follows:’;
- (o) if some of the classes or series of securities of the mutual fund in the automatic switch program are newly established, Item 1(1.3)(3) of Part II includes all of the following:
- (i) a statement that the class or series of securities of the mutual fund with the highest management fee has the highest management fee among all of the classes or series of securities of the mutual fund in the automatic switch program;
 - (ii) a statement disclosing that the fund expenses information is not available for certain classes or series of securities of the mutual fund in the automatic switch program because they are new;
 - (iii) a statement above the ‘Annual rate’ table required under Item 1(1.3)(2) of Part II stating ‘As of [the date of the most recently filed management report of fund performance], the fund expenses were as follows:’;
- (p) if the mutual fund is newly established, Item 1(1.3)(4) of Part II includes all of the following:
- (i) a statement that the class or series of securities of the mutual fund with the highest management fee has the highest management fee among all of the classes or series of securities of the mutual fund in the automatic switch program;
 - (ii) the rate of the management fee of only the class or series of securities of the mutual fund with the highest management fee;
 - (iii) a statement that the operating expenses and trading costs are not yet available because the mutual fund is new.”.

Appendix, Part VI amended

4(1) National Instrument 81-102 *Investment Funds* in Part VI of the Appendix is amended in the manner set forth in this section.

(2) Section 1.1 is amended:

(a) by repealing the definition of “designated rating” and substituting the following:

“ ‘**designated rating**’ means a credit rating from a designated rating organization listed below, from a DRO affiliate of an organization listed below, from a designated rating organization that is a successor credit rating organization of an organization listed below or from a DRO affiliate of the successor credit rating organization, that is at or above one of the following corresponding rating categories, or that is at or above a category that replaces one of the following corresponding rating categories, if

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

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(b) no designated rating organization listed below, no DRO affiliate of an organization listed below, no designated rating organization that is a successor credit rating organization of an organization listed below and no DRO affiliate of such successor credit rating organization, has rated the security or instrument in a rating category that is not referred to in this definition:

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

”;

(b) by striking out “and” after the definition of “underlying interest”;

(c) by striking out “.” and substituting “;” after the definition of “underlying market exposure”; and

(d) by adding the following definitions in alphabetical order:

“‘U.S. AICPA GAAS’ has the same meaning as in section 1.1 of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

“‘U.S. GAAP’ has the same meaning as in section 1.1. of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*;

“‘U.S. PCAOB GAAS’ has the same meaning as in section 1.1. of National Instrument 52-107 *Acceptable Accounting Principles and Auditing Standards*.”.

(3) Section 1.2 is amended by adding the following subsection after subsection (2):

“(2.1) Despite subsection (1), section 2.5.1 also applies to an investment fund that is not a reporting issuer.”.

(4) The following section is added after section 2.5:

“2.5.1 Investments in Other Investment Funds by Funds Not Reporting Issuers

(1) In this section, ‘significant interest’ and ‘substantial security holder’ have the meaning,

(a) except in British Columbia, ascribed to those terms in the investment fund conflict of interest investment restrictions, and

(b) in British Columbia, ascribed to those terms in section 2 of BC Instrument 81-513 *Self-Dealing*.

(2) The investment fund conflict of interest investment restrictions and the investment fund conflict of interest reporting requirements do not apply to an investment fund that is not a reporting issuer and that purchases or holds securities of another investment fund that is not a reporting issuer if

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- (a) the investment fund's securities are distributed solely under an exemption from the prospectus requirement,
- (b) the purchase or holding is in accordance with paragraphs 2.5(2)(b), (d), (e) and (f),
- (c) the other investment fund prepares annual financial statements for its most recently completed financial year, and obtains an auditor's report with respect to those statements, within 90 days after the end of that financial year,
- (d) the other investment fund prepares interim financial statements for its most recently completed interim period within 60 days after the end of that interim period,
- (e) the audited annual financial statements referred to in paragraph (c) and the interim financial statements referred to in paragraph (d) are prepared in accordance with Canadian GAAP applicable to publicly accountable enterprises, IFRS or U.S. GAAP,
- (f) the audited annual financial statements referred to in paragraph (c) are audited in accordance with Canadian GAAS, International Standards on Auditing, U.S. AICPA GAAS or U.S. PCAOB GAAS and the auditor's report referred to in paragraph (c) expresses an unmodified or unqualified opinion, as applicable,
- (g) the other investment fund complies with section 2.4,
- (h) the other investment fund has the same redemption and valuation dates as the investment fund,
- (i) any purchase of the other fund's securities is made at a price that equals the net asset value per security of the other fund calculated in accordance with section 14.2 of National Instrument 81-106 *Investment Fund Continuous Disclosure*,
- (j) before an investor purchases securities of the investment fund, the investor is provided a document that discloses
 - (i) that the fund may purchase securities of other related funds from time to time,
 - (ii) that the manager of the fund is any of the following, as applicable:
 - (A) the manager of each of the other funds;
 - (B) the portfolio adviser of each of the other funds;
 - (C) an affiliate of the manager of each of the other funds;
 - (D) an affiliate of the portfolio adviser of each of the other funds,
 - (iii) the approximate or maximum percentage of net assets of the fund that is intended to be invested in securities of the other fund,
 - (iv) the fees, expenses and any performance or special incentive distributions payable by the other fund,

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- (v) the process or criteria used to select the other fund,
 - (vi) for each officer, director or substantial security holder of the fund's manager, or of the fund, that has a significant interest in the other fund, the approximate amount of the significant interest that each officer, director or substantial securityholder holds in the other fund expressed as a percentage of the other fund's net asset value, and any conflicts of interest or potential conflicts of interest,
 - (vii) if the officers, directors and substantial securityholders of the fund's manager or of the fund, in aggregate, hold a significant interest in the other fund,
 - (A) the actual or approximate amount of the significant interest they hold, on an aggregate basis, expressed as a percentage of the other fund's net asset value, and
 - (B) any conflicts of interest or potential conflicts of interest, and
 - (viii) that investors are entitled to receive, on request and free of charge,
 - (A) a copy of the offering memorandum or other similar disclosure document of each other fund, if available, and
 - (B) the audited annual financial statements, accompanied by an auditor's report, and interim financial statements, if any, relating to each other fund, and
 - (k) investors are informed annually of their right to receive, on request and free of charge, a copy of the documents referred to in subparagraph (j)(viii).
- (3) The investment fund conflict of interest investment restrictions and the investment fund conflict of interest reporting requirements do not apply to an investment fund that is not a reporting issuer and that purchases or holds securities of another investment fund if the other investment fund is a reporting issuer and the purchase or holding is in accordance with section 2.5.”.

(5) Subsection 4.1(4) is repealed and the following substituted:

“(4) Subsection (1) does not apply to an investment in a class of securities of a reporting issuer if,

- (a) at the time of the investment,
 - (i) the independent review committee of the dealer managed investment fund has approved the transaction in accordance with subsection 5.2(2) of NI 81-107, and
 - (ii) the distribution of securities of the reporting issuer is made by prospectus or under an exemption from the prospectus requirement;
- (b) during the 60 days after the period referred to in subsection (1), any of the following apply:
 - (i) the investment is made on an exchange on which the securities of the reporting issuer are listed and traded;

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(ii) if the security is a debt security that does not trade on an exchange, the ask price is readily available and the price paid is not higher than the available ask price of the debt security at the time of the investment, and

(c) no later than the time the dealer managed investment fund files its annual financial statements, the manager of the dealer managed investment fund files the particulars of each investment made by the dealer managed investment fund during its most recently completed financial year.”.

(6) Subparagraph 5.3(2)(a)(iii) is repealed and the following substituted:

“(iii) all of the following apply to the reorganization or transfer of assets of the investment fund:

(A) subparagraph 5.6(1)(a)(i), clause 5.6(1)(a)(ii)(A), subparagraph 5.6(1)(a)(iii) and subparagraph 5.6(1)(a)(iv);

(B) subparagraph 5.6(1)(b)(i);

(C) paragraph 5.6(1)(c);

(D) paragraph 5.6(1)(d);

(E) paragraph 5.6(1)(g);

(F) paragraph 5.6(1)(h);

(G) paragraph 5.6(1)(i);

(H) paragraph 5.6(1)(j);

(I) paragraph 5.6(1)(k);”.

(7) Subsection 5.4(2) is repealed and the following substituted:

“(2) The notice referred to in subsection (1) must contain or be accompanied by the following:

(a) a statement in an information circular that includes all of the following:

(i) a description of the change or transaction proposed to be made or entered into;

(ii) in the case of a matter referred to in paragraph 5.1(1)(a) or (a.1), the effect that the change would have had on the management expense ratio of the investment fund if the change were in effect throughout the investment fund’s last completed financial year;

(iii) in the case of a matter referred to in paragraph 5.1(1)(b),

(A) all material information regarding the business, management and operations of the new manager, including, for greater certainty, details of the history and background of its executive officers and directors within the 5 years preceding the date of the notice or statement,

(B) a description of all material effects the change will have on the business, operations or affairs of the investment fund,

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(C) a description of all material effects the change will have on the investment fund's securityholders, and

(D) a description of any material changes made to any material contract regarding the administration of the investment fund;

(iv) the date of the proposed implementation of the change or transaction;

(b) all information and documents required to be sent in order to comply with the applicable proxy solicitation provisions of securities legislation for the meeting.”.

(8) Subsection 5.5(1) is amended:

(a) by repealing paragraphs (a) and (a.1);

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

(c) by repealing paragraph (c).

(9) Subsection 5.6(1) is amended by repealing paragraphs (a) and (b) and substituting the following:

“(a) the investment fund is being reorganized with, or its assets are being transferred to, another investment fund to which this Instrument applies, and all of the following apply:

(i) the other investment fund is managed by the manager, or an affiliate of the manager, of the investment fund;

(ii) either of the following apply:

(A) a reasonable person would consider the other investment fund to have substantially similar fundamental investment objectives and valuation procedures, and a substantially similar fee structure, to those of the investment fund;

(B) if the other investment fund has different fundamental investment objectives or valuation procedures or a different fee structure, the following apply:

(I) the manager reasonably believes that the transaction is in the best interests of the investment fund despite the differences;

(II) the circular referred to in subparagraph (f)(i) includes disclosure of the differences and explains why the manager is of the belief that the transaction is in the best interests of the investment fund despite the differences;

(iii) the other investment fund is not in default of any requirement of securities legislation;

(iv) the other investment fund is a reporting issuer in the local jurisdiction and, if it is a mutual fund, has a current prospectus in the local jurisdiction;

“(b) either of the following apply:

(i) the transaction is a ‘qualifying exchange’ within the meaning of section 132.2 of the ITA or is a tax-deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the ITA;

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(ii) if the transaction is not a 'qualifying exchange' within the meaning of section 132.2 of the ITA or a tax-deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the ITA, the following apply:

(A) the manager reasonably believes that the transaction is in the best interests of the investment fund despite the tax treatment of the transaction;

(B) the circular referred to in subparagraph (f)(i)

(I) discloses that the transaction is not a 'qualifying exchange' within the meaning of section 132.2 of the ITA or a tax-deferred transaction under subsection 85(1), 85.1(1), 86(1) or 87(1) of the ITA,

(II) discloses the reason why the transaction is not structured so that subparagraph (i) applies, and

(III) explains why the manager is of the belief that the transaction is in the best interests of the investment fund despite the tax treatment of the transaction;”.

(10) Paragraphs 5.7(1)(a) and (c) are repealed.

(11) The second row of Appendix D is amended by striking out:

“ All Jurisdictions

ss. 13.5(2)(a) and (b) of National Instrument 31-103
*Registration Requirements, Exemptions and Ongoing
Registrant Obligations*

”;

and substituting:

“ All Jurisdictions

Paragraphs 13.5(2)(a) and (b) of National Instrument
31-103 *Registration Requirements, Exemptions and
Ongoing Registrant Obligations* and subsection
4.1(2) of this Instrument

”.

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(12) Appendix E is repealed and the following substituted:

“APPENDIX E

Investment Fund Conflict of Interest Reporting Requirements

Jurisdiction	Securities Legislation Reference
Alberta	Paragraph 191(1)(a) of the <i>Securities Act</i> (Alberta)
British Columbia	Paragraph 9(a) of BC Instrument 81-513 <i>Self-Dealing</i>
New Brunswick	Paragraph 143(1)(a) of the <i>Securities Act</i> (New Brunswick)
Newfoundland and Labrador	Paragraph 118(1)(a) of the <i>Securities Act</i> (Newfoundland and Labrador)
Nova Scotia	Paragraph 125(1)(a) of the <i>Securities Act</i> (Nova Scotia)
Ontario	Item 117(1)1 of the <i>Securities Act</i> (Ontario)
Saskatchewan	Clause 126(1)(a) of <i>The Securities Act, 1988</i> (Saskatchewan)

Appendix, Part XII amended

5(1) National Instrument 41-101 *General Prospectus Requirements* in Part XII of the Appendix is amended in the manner set forth in this section.

(2) Part 3C is amended by adding the following sections after section 3C.2.1:

“3C.2.2 Delivery of ETF facts documents for subsequent purchases under a pre-authorized purchase plan or a portfolio rebalancing plan

(1) In this section:

‘portfolio rebalancing plan’ has the same meaning as in section 1.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*;

‘pre-authorized purchase plan’ has the same meaning as in section 1.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

(2) Despite subsection 3C.2(2), a dealer is not required to deliver or send to the purchaser the most recently filed ETF facts document for the applicable class or series of securities of the ETF in connection with a purchase of a security of an ETF made pursuant to a pre-authorized purchase plan or a portfolio rebalancing plan if all of the following apply:

(a) the purchase is not the first purchase under the plan;

(b) the dealer has provided a notice to the purchaser that states

(i) that the purchaser will not receive an ETF facts document after the date of the notice, unless the purchaser specifically requests the document,

(ii) that the purchaser is entitled to receive upon request, at no cost to the purchaser, the most recently filed ETF facts document by calling a specified toll-free number, or by sending a request by mail or e-mail to a specified address or e-mail address,

(iii) how to access the ETF facts document electronically,

(iv) that the purchaser will not have a right of withdrawal under securities legislation for subsequent purchases of a security of an ETF under the plan, but will continue to have a right of action if there is a misrepresentation in the prospectus or any document incorporated by reference into the prospectus, and

(v) that the purchaser may terminate the plan at any time;

(c) at least annually during the term of the plan, the dealer notifies the purchaser in writing of how the purchaser can request the most recently filed ETF facts document;

(d) the dealer delivers or sends the most recently filed ETF facts document to the purchaser if the purchaser requests the document.

“3C.2.3 Delivery of ETF facts documents for managed accounts and permitted clients

(1) In this section:

‘managed account’ has the same meaning as in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

‘permitted client’ has the same meaning as in section 1.1 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

(2) Despite subsection 3C.2(2), a dealer is not required to deliver or send to the purchaser the most recently filed ETF facts document for the applicable class or series of securities of the ETF in connection with the purchase of a security of the ETF if either of the following apply:

(a) the purchase is made in a managed account;

(b) the purchaser is a permitted client that is not an individual.

“3C.2.4 Delivery of ETF facts documents for automatic switch programs

(1) In this section:

‘automatic switch’ has the same meaning as in section 1.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*;

‘automatic switch program’ has the same meaning as in section 1.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

(2) Despite subsection 3C.2(2), a dealer is not required to deliver or send to the purchaser the most recently filed ETF facts document for the applicable class or series of securities of the ETF in connection with the purchase of a security of the ETF made as an automatic switch pursuant to an automatic switch program if all of the following apply:

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

(3) Subsection 3C.3(1) is amended by striking out “3C.2” wherever it appears and substituting “3C.2, 3C.2.2 or 3C.2.4”.

(4) Sections 3C.6 and 3C.7 are repealed and the following substituted:

“3C.6 Dealer as agent

- (1) For the purpose of this Part, a dealer acts as agent of the purchaser if the dealer is acting solely as agent of the purchaser with respect to the purchase and sale in question and has not received and has no agreement to receive compensation from or on behalf of the vendor with respect to the purchase and sale.
- (2) Subsection (1) does not apply in Ontario.
- (3) Subsection (1) does not apply in Québec.
- (4) Subsection (1) does not apply in British Columbia.

“3C.7 Purchaser’s right of action for failure to deliver or send

- (1) A purchaser has a right of action if an ETF facts document is not delivered or sent as required by subsection 3C.2(2), as the purchaser would otherwise have when a prospectus is not delivered or sent as required under securities legislation and, for that purpose, an ETF facts document is a prescribed document under the statutory right of action.
- (2) In Alberta, instead of subsection (1), section 206 of the *Securities Act* (Alberta) applies.

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- (3) In Manitoba, instead of subsection (1), section 141.2 of the *Securities Act* (Manitoba) applies and the ETF facts document is a prescribed document for the purposes of section 141.2.
- (4) In Nova Scotia, instead of subsection (1), section 141 of the *Securities Act* (Nova Scotia) applies.
- (5) In Ontario, instead of subsection (1), section 133 of the *Securities Act* (Ontario) applies.
- (6) In Québec, instead of subsection (1), section 214.1 of the *Securities Act* (Québec) applies.
- (7) In British Columbia, for the purpose of subsection (1), ‘statutory right of action’ means section 135 of the *Securities Act* (British Columbia).
- (8) In Saskatchewan, instead of subsection (1), section 141 of *The Securities Act, 1988* applies.”.

(5) Section 9.1 is amended:

(a) by repealing subparagraph (1)(b)(ii) and substituting the following:

“(ii) Personal Information Form and Authorization to Collect, Use and Disclose Personal Information – a completed personal information form for,

- (A) each director and executive officer of the issuer,
- (B) each promoter of the issuer, and
- (C) if the promoter is not an individual,
- (I) in the case of an issuer that is not an investment fund, each director and executive officer of the promoter, and
- (II) in the case of an issuer that is an investment fund, and the promoter is not the manager of the investment fund, each director and executive officer of the promoter; and”;

(b) by adding the following subsection after subsection (1):

“(1.1) Despite subparagraph 9.1(1)(b)(ii), an investment fund is not required to deliver a personal information form for an individual referred to in subparagraph (1)(b)(ii) if the individual has submitted a Form 33-109F4 *Registration of Individuals and Review of Permitted Individuals* under National Instrument 33-109 *Registration Information*.”.

(6) Part 20 is amended by adding the following sections after section 20.4:

“20.5 Expiration of exemptions and waivers

- (1) Any exemption from or waiver of a provision of National Instrument 41-101 *General Prospectus Requirements* in relation to ETF facts document delivery requirements in section 3C.2(2) for ETFs in a pre-authorized purchase plan, portfolio rebalancing plan or an automatic switch program expires on January 5, 2022.
- (2) In British Columbia, subsection (1) does not apply.

“20.6 Transition for pre-authorized purchase plans, portfolio rebalancing plans and automatic switch programs

(1) In this section,

‘automatic switch’ has the same meaning as in section 1.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*;

‘automatic switch program’ has the same meaning as in section 1.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*;

‘portfolio rebalancing plan’ has the same meaning as in section 1.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*;

‘pre-authorized purchase plan’ has the same meaning as in section 1.1 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*.

(2) For the purposes of section 3C.2.2 and 3C.2.4 of National Instrument 41-101 *General Prospectus Requirements*, as enacted by *The Securities Commission (Adoption of National Instruments) (NI 31-103, NI 41-101, NI 45-106, NI 81-101, NI 81-102, NI 81-106 and NI 81-107) Amendment Regulations, 2022*, the first purchase of a security of an ETF made pursuant to a pre-authorized purchase plan, portfolio rebalancing plan or an automatic switch program on or after January 5, 2022 is considered to be the first purchase under the plan or program, as applicable.

(3) Subsection (1) does not apply to a pre-authorized purchase plan, portfolio rebalancing plan or an automatic switch program established before January 5, 2022 if a notice providing information substantially similar to the notice referred to in paragraph 3C.2.2(2)(c) or 3C.2.4(2)(c) of National Instrument 41-101 *General Prospectus Requirements*, as enacted by *The Securities Commission (Adoption of National Instruments) (NI 31-103, NI 41-101, NI 45-106, NI 81-101, NI 81-102, NI 81-106 and NI 81-107) Amendment Regulations, 2022*, was delivered or sent to the purchaser between January 5, 2021 and January 5, 2022”.

(7) The following Appendix is added after Appendix E:

“APPENDIX F

ETF Facts Automatic Switch Program Information for Section 3C.2.4

For the purposes of paragraph 3C.2.4(2)(e), ‘ETF facts automatic switch program information’ means a completed Form 41-101F4 *Information Required* in an ETF Facts Document modified as follows:

- (a) the heading under Item 1(d) of Part I includes the name of each class or series of securities of the ETF in the automatic switch program;
- (b) the brief introduction to the ETF facts document under Item 1(h) of Part I includes the name of each class or series of securities of the ETF in the automatic switch program;
- (c) Item 2(1) of Part I includes, for each class or series of securities of the ETF in the automatic switch program, the date the securities of the class or series first became available to the public;
- (d) Item 2(1) of Part I includes the management expense ratio of only the class or series of securities of the ETF in the automatic switch program with the highest management fee;
- (e) the ‘Quick Facts’ table referred to in Item 2(1) of Part 1 includes a footnote that states all of the following:

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- (i) that the ETF facts document pertains to all of the classes or series of securities of the ETF in the automatic switch program;
 - (ii) that further details about the automatic switch program are disclosed in the 'How much does it cost?' section of the ETF facts document;
 - (iii) that further details, about the minimum investment amount applicable to each of the classes or series of securities of the ETF in the automatic switch program, are disclosed in the fee decrease table under the sub-heading 'ETF expenses' of the ETF facts document;
 - (iv) that the management expense ratio of each of the classes or series of securities of the ETF in the automatic switch program is disclosed in the 'ETF expenses' section of the ETF facts document;
- (f) Item 2(2) of Part I includes the ticker symbols of each of class or series of securities of the ETF in the automatic switch program;
- (g) Item 2(2) of Part I includes the average daily volume of only the class or series of securities of the ETF in the automatic switch program with the highest management fee;
- (h) Item 2(2) of Part I includes the number of days traded of only the class or series of securities of the ETF in the automatic switch program with the highest management fee;
- (i) Item 2(3) of Part I includes the market price of only the class or series of securities of the ETF in the automatic switch program with the highest management fee;
- (j) Item 2(3) of Part I includes the net asset value of only the class or series of securities of the ETF in the automatic switch program with the highest management fee;
- (k) Item 2(3) of Part I includes the average bid-ask spread of only the class or series of securities of the ETF in the automatic switch program with the highest management fee;
- (l) Item 5(1) of Part I includes all of the following as part of the introduction:
- (i) under the heading 'How has the ETF performed?', the name of only the class or series of securities of the ETF with the highest management fees;
 - (ii) a statement explaining that the performance for each of the classes or series of securities of the ETF in the automatic switch program will be similar to the performance of the class or series of securities of the ETF with the highest management fee, but will vary as a result of the difference in fees, as set out in the fee decrease table under the sub-heading 'ETF expenses';
- (m) Item 5(3), (4) and (5) of Part I, under the sub-headings 'Year-by-year returns', 'Best and worst 3-month returns', and 'Average return', includes the required performance data relating only to the class or series of securities of the ETF with the highest management fee;
- (n) Item 1(1.1) of Part II includes all of the following:
- (i) under the heading 'How much does it cost?', in the introductory statement, the name of each class or series of securities of the ETF in the automatic switch program;
 - (ii) as a part of the introductory statement, a summary of the automatic switch program that includes all of the following:

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- (A) an explanation that the automatic switch program offers separate classes or series of securities of the ETF that charge progressively lower management fees;
 - (B) an explanation of the scenarios in which the automatic switches will be made, including, for greater certainty, the scenario in which automatic switches will be made due to the purchaser no longer meeting the minimum investment amount for a particular class or series of securities of the ETF;
 - (C) a statement that a purchaser will not pay higher management fees as a result of the automatic switches than those charged to the class or series of securities of the ETF with the highest management fee;
 - (D) a statement that information about the progressively lower management fees for the classes or series of securities of the ETF in the automatic switch program is available in the fee decrease table under the sub-heading 'ETF expenses' of the ETF facts document;
 - (E) a statement that further details about the automatic switch program are disclosed in specific sections of the prospectus of the ETF;
 - (F) a statement that purchasers should speak to their representative for more information about the automatic switch program;
- (o) if the ETF is not newly established, Item 1(1.3)(2) of Part II includes all of the following:
- (i) the management expense ratio and ETF expenses of each of the classes or series of securities of the ETF in the automatic switch program or, if certain expense information is not available for a particular class or series of securities, the words 'not available' in the corresponding part of the table;
 - (ii) a row in the 'Annual rate' table
 - (A) in which the first column states 'For every \$1,000 invested, this equals:', and
 - (B) that discloses the respective equivalent dollar amounts of the ETF expenses of each class or series of securities of the ETF in the automatic switch program included in the table for every \$1,000 invested;
- (p) Item 1(1.3)(2) of Part II includes, at the end of the disclosure under the sub-heading 'ETF expenses', all of the following:
- (i) a table that includes
 - (A) the name of, and minimum investment amounts associated with, each class or series of securities of the ETF in the automatic switch program, and
 - (B) the combined management and administration fee decrease of each class or series of securities of the ETF in the automatic switch program from the management fee of the class or series of securities of the ETF with the highest management fee, disclosed as a percentage;
 - (ii) an introduction to the table referred to in subparagraph (i) stating that the table sets out the combined management and administration fee decrease of each class or series of securities of the ETF in the automatic switch program from the management fee of the class or series of securities of the ETF with the highest management fee;

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- (q) if all the classes or series of securities of the ETF in the automatic switch program are not newly established, Item 1(1.3)(3) of Part II includes all of the following:
- (i) a statement that the class or series of securities of the ETF with the highest management fee has the highest management fee among all of the classes or series of securities of the ETF in the automatic switch program;
 - (ii) a statement above the ‘Annual rate’ table required under Item 1(1.3)(2) of Part II stating ‘As of [the date of the most recently filed management report of fund performance], the ETF expenses were as follows:’;
- (r) if some of the classes or series of securities of the ETF in the automatic switch program are newly established, Item 1(1.3)(3) of Part II includes all of the following:
- (i) a statement that the class or series of securities of the ETF with the highest management fee has the highest management fee among all of the classes or series of securities of the ETF in the automatic switch program;
 - (ii) a statement disclosing that the ETF expenses information is not available for certain classes or series of securities of the ETF in the automatic switch program because they are new;
 - (iii) a statement above the ‘Annual rate’ table required under Item 1(1.3)(2) of Part II stating ‘As of [the date of the most recently filed management report of fund performance], the ETF expenses were as follows:’;
- (s) if the ETF is newly established, Item 1(1.3)(4) of Part II includes all of the following:
- (i) a statement that the class or series of securities of the ETF with the highest management fee has the highest management fee among all of the classes or series of securities of the ETF in the automatic switch program;
 - (ii) the rate of the management fee of only the class or series of securities of the ETF with the highest management fee;
 - (iii) a statement that the operating expenses and trading costs are not yet available because the ETF is new.”.

(8) Form 41-101F4 Information Required in an ETF Facts Document is amended by repealing subsection (11) of the General Instructions and substituting the following:

“(11) Unless the exception in section 3C.2.4 of National Instrument 41-101 General Prospectus Requirements applies, an ETF facts document must disclose information about only one class or series of securities of an ETF. ETFs that have more than one class or series that are referable to the same portfolio of assets must prepare a separate ETF facts document for each class or series.”.

Appendix, Part XL amended

6(1) National Instrument 81-106 *Investment Fund Continuous Disclosure* in Part XL of the Appendix is amended in the manner set forth in this section.

(2) Section 1.1 is amended:

(a) by repealing the definition of “designated rating” and substituting the following:

“‘designated rating’ has the same meaning as in National Instrument 81-102 *Investment Funds*;” and

January 4, 2022 - 9:41 a.m.

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(b) by adding the following definitions in alphabetical order:

“**information circular**” means a document prepared in accordance with Form 51-102F5 *Information Circular*;

“**intermediary**” has the same meaning as in section 1.1 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*;

“**meeting**” means, except in sections 10.2, 10.3 and 16.3, a meeting of securityholders of an investment fund;

“**NOBO**” has the same meaning as in section 1.1 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*;

“**notice-and-access**” means the delivery procedures referred to in section 12.2.1;

“**notification of meeting and record dates**” has the same meaning as in section 1.1 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*;

“**proximate intermediary**” has the same meaning as in section 1.1 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*;

“**proxy-related materials**” means securityholder materials relating to a meeting that a person or company that solicits proxies is required under corporate law or securities legislation to send to a registered holder or beneficial owner of the securities of an investment fund;

“**send**” includes to deliver or forward, or arrange to deliver or forward, by any means;

“**stratification**” means procedures whereby a paper copy of the information circular and, if applicable, the financial statements of the investment fund are included with the documents required to be sent in order to use notice-and-access under section 12.2.1;”.

(3) The following sections are added after section 12.2:

12.2.1 **Notice-and-access** – A person or company that solicits proxies from a registered holder of securities of an investment fund under subsection 12.2(2) of this Instrument, or sends proxy-related materials to beneficial owners of an investment fund under section 2.7 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*, must not use notice-and-access to send proxy-related materials to the registered holder or beneficial owner unless all of the following apply:

(a) the registered holder or beneficial owner is sent a notice that contains only the following information:

(i) the date, time and location of the meeting;

(ii) a description of each matter or group of related matters identified in the form of proxy to be voted on, unless that information is already included in the form of proxy, in Form 54-101F6 *Request for Voting Instructions Made by Reporting Issuer* or in Form 54-101F7 *Request for Voting Instructions Made by Intermediary*, that is sent to the registered holder or beneficial owner under paragraph (b);

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- (iii) the website addresses for SEDAR and the non-SEDAR website where the proxy-related materials are posted;
 - (iv) a reminder to review the information circular before voting;
 - (v) an explanation of how to obtain a paper copy of the information circular and, if applicable, the financial statements of the investment fund, from the person or company soliciting proxies;
 - (vi) a plain-language explanation of notice-and-access that includes the following information:
 - (A) if stratification is used, a list of the types of registered holders or beneficial owners who will receive paper copies of the information circular and, if applicable, the financial statements of the investment fund;
 - (B) the estimated date and time by which a request for a paper copy of the information circular and, if applicable, the financial statements of the investment fund, is to be received in order for the registered holder or beneficial owner to receive the paper copy in advance of any deadline for the submission of the proxy or the voting instructions for the meeting, and the date of the meeting;
 - (C) an explanation of how the registered holder or beneficial owner is to return the proxy or the voting instructions, including any deadline for return of the proxy or the voting instructions;
 - (D) the sections of the information circular where disclosure regarding each matter or group of related matters identified in the notice can be found;
 - (E) a toll-free telephone number the registered holder or beneficial owner can call to get information about notice-and-access;
- (b) by prepaid mail, courier or the equivalent,
- (i) the registered holder is sent the notice, and a form of proxy for use at the meeting, at least 30 days before the date of the meeting, and
 - (ii) the beneficial owner is sent the notice and a Form 54-101F6 or Form 54-101F7, using the procedures referred to in section 2.9 or 2.12 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*, as applicable;
- (c) the proxy-related materials are sent at least 30 days, and no more than 50 days, before the date of the meeting;
- (d) if proxy-related materials are sent directly to a NOBO using notice-and-access, the notice and, if applicable, any paper copies of information circulars and financial statements, are sent at least 30 days before the date of the meeting;
- (e) if proxy-related materials are sent indirectly to a beneficial owner using notice-and-access, the notice and, if applicable, any paper copies of information circulars or financial statements are sent to any proximate intermediary,

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- (i) at least 3 business days before the 30th day before the date of the meeting, in the case of proxy-related materials that are to be sent on by the proximate intermediary by first class mail, courier or the equivalent, and
- (ii) at least 4 business days before the 30th day before the date of the meeting, in the case of proxy-related materials that are to be sent on by the proximate intermediary using any other type of prepaid mail;
- (f) in the case of a solicitation by or on behalf of management of the investment fund, or if another person or company soliciting proxies has requested a meeting, the notification of meeting and record dates is filed on SEDAR and that filing occurs on the same date that the notification of meeting and record dates is sent under subsection 2.2(1) of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*;
- (g) public electronic access to the information circular, the notice and the form of proxy is provided on or before the date that the notice is sent to the registered holder or beneficial owner, as follows:
- (i) the documents are filed on SEDAR;
- (ii) the documents are posted for no less than one year on
- (A) the investment fund's designated website, in the case of a solicitation by or on behalf of management of the investment fund, and
- (B) a website other than SEDAR, in the case of a solicitation by or on behalf of any other person or company;
- (h) a toll-free telephone number is provided for use by the registered holder or beneficial owner to request a paper copy of the information circular and, if applicable, the financial statements of the investment fund at any time
- (i) following the date that the notice is sent to the registered holder or beneficial owner, and
- (ii) on or before the date of the meeting, including any adjournment;
- (i) if a request for a paper copy of the information circular and, if applicable, the financial statements of the investment fund is received by telephone using the toll-free telephone number provided in the notice or by any other means, a paper copy of the document requested is sent free of charge by the person or company to the registered holder or beneficial owner at the address specified in the request,
- (i) in the case of a request received before the date of the meeting, within 3 business days after receiving the request, by first class mail, courier or the equivalent, and
- (ii) in the case of a request received on or after the date of the meeting, and within one year of the date the information circular is filed on SEDAR, within 10 calendar days after receiving the request, by prepaid mail, courier or the equivalent;
- (j) the notice is not sent with any other document other than the following:
- (i) a form of proxy, Form 54-101F6 or Form 54-101F7;

- (ii) if financial statements of the investment fund are to be presented at the meeting, the financial statements;
- (iii) if the meeting is to approve a reorganization of the investment fund with another investment fund as contemplated by paragraph 5.1(1)(f) of National Instrument 81-102 *Investment Funds*, Form 81-101F3 *Contents of Fund Facts Document* or Form 41-101F4 *Information Required in an ETF Facts Document* for the continuing investment fund;
- (k) the notice is not combined with any document other than a form of proxy, Form 54-101F6 or Form 54-101F7;
- (l) the information circular discloses that proxy-related materials are being sent to registered holders or beneficial owners of the investment fund using notice-and-access, and if stratification is used, the types of registered holders or beneficial owners who will receive paper copies of the information circular and, if applicable, the financial statements of the investment fund;
- (m) the cost of sending the information circular and, if applicable, the financial statements of the investment fund, to a registered holder or beneficial owner, if a paper copy is requested by the registered holder or beneficial owner, is paid by the manager of the investment fund or other person or company soliciting proxies that is not the investment fund.

“12.2.2 Restrictions on Information Gathering

- (1) A person or company using notice-and-access that receives a request for a paper copy of the information circular or the financial statements of the investment fund, through the toll-free telephone number provided in the notice referred to in paragraph 12.2.1(a) or by any other means, must not
 - (a) ask for any information about the person or company making the request, other than the name and address to which the information circular and, if applicable, the financial statements are to be sent, or
 - (b) disclose or use the name or address of the person or company making the request for any purpose other than sending the information circular or the financial statements of the investment fund.
- (2) A person or company that posts proxy-related materials to a website under subparagraph 12.2.1(g)(ii) must not collect information that can be used to identify a person or company that has accessed the website.

“12.2.3 Posting Materials on Non-SEDAR Website

- (1) A person or company that posts proxy-related materials to a website under subparagraph 12.2.1(g)(ii) must also post on the website all of the following:
 - (a) any disclosure regarding the meeting that the person or company has sent to registered holders or beneficial owners;
 - (b) any written communications the person or company has made available to the public regarding each matter or group of matters to be voted on at the meeting, whether or not the communications were sent to registered holders or beneficial owners.

(2) For greater certainty, a person or company that posts proxy-related materials on a website under subparagraph 12.2.1(g)(ii) must do so in a manner and format that permits an individual with a reasonable level of computer skill and knowledge to easily do all of the following:

- (a) access, read and search the materials;
- (b) download and print the materials.

“12.2.4 Record Date for Notice of Meeting, Abridgement of Time and Notification of Meeting Date and Record Date

(1) A person or company that solicits proxies from a registered holder or beneficial owner using notice-and-access, in the case of solicitation by or on behalf of management of an investment fund, must

(a) despite paragraph 2.1(b) of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*, set or request a record date for notice of the meeting that is no fewer than 40 days before the date of the meeting,

(b) specify in the notification of meeting and record dates sent under section 2.2 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* that proxy-related materials are being sent to registered holders or beneficial owners using notice-and-access, and

(c) not abridge the time prescribed under paragraph 2.1(b), subsection 2.2(1) or subsection 2.5(1) of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* unless the person or company

(i) complies with paragraphs 2.20 (a) to (c) of that Instrument, and

(ii) sends the notification of meeting and record dates sent under section 2.2 of that Instrument at least 3 business days before the record date for notice of the meeting.

(2) In the case of a person or company not referred to in subsection (1) that requests a meeting, the person or company must request the following:

(a) a record date for notice of the meeting that is no fewer than 40 days before the date of the meeting;

(b) that the notification of meeting and record dates sent under section 2.2 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer* state that proxy-related materials are being sent to registered holders or beneficial owners using notice-and-access.

“12.2.5 Consent to Other Delivery Methods – For greater certainty, section 12.2.1 does not

(a) prevent a registered holder or beneficial owner from consenting to the use of other delivery methods to send proxy-related materials,

(b) terminate or modify a consent that a registered holder or beneficial owner previously gave to a person or company regarding the use of other delivery methods to send proxy-related materials to the registered holder or beneficial owner, or

(c) prevent a person or company that solicits proxies, an intermediary or any other person or company from sending proxy-related materials to a registered holder or beneficial owner using a method to which the registered holder or beneficial owner has consented prior to January 5, 2022.

“12.2.6 Instructions to Receive Paper Copies

(1) Despite section 12.2.1, an investment fund or its manager or management may obtain standing instructions from a registered holder of securities of the investment fund, and an intermediary may obtain standing instructions from a client that is a beneficial owner of securities of the investment fund, that a paper copy of the information circular or the financial statements of the investment fund be sent to the registered holder or beneficial owner in all cases when using notice-and-access in respect of a meeting of the investment fund.

(2) If an investment fund or its manager or management has obtained standing instructions from a registered holder under subsection (1), the investment fund, its manager or management must do all of the following:

(a) include with the notice referred to in paragraph 12.2.1(a) any paper copies of information circulars or financial statements of the investment fund referred to in the registered holder’s standing instructions;

(b) notify the registered holder, by including a statement in the notice referred to in paragraph 12.2.1(a) or by another method, of the means by which the registered holder may revoke the registered holder’s standing instructions.

(3) If an intermediary has obtained standing instructions from a beneficial owner under subsection (1), the intermediary must do all of the following:

(a) if the investment fund or its manager or management is sending proxy-related materials directly under section 2.9 of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*, indicate in the NOBO list provided to the investment fund or its manager or management, those NOBOs who have provided standing instructions under subsection (1) as at the date the NOBO list is generated;

(b) if the intermediary is sending proxy-related materials to a beneficial owner on behalf of an investment fund or its manager or management using notice-and-access, request appropriate quantities of paper copies of the information circular and, if applicable, the financial statements of the investment fund, from the investment fund or its manager or management, for forwarding to beneficial owners who have provided standing instructions to be sent paper copies;

(c) include with the notice a description, or otherwise inform the beneficial owner of, the means by which the beneficial owner may revoke the beneficial owner’s standing instructions.

“12.2.7 Compliance with National Instrument 51-102 and National Instrument 54-101

(1) A person or company that solicits proxies must comply with the following:

(a) Items 7.12 and 9.9 of Form 54-101F2 *Request for Beneficial Ownership Information*;

(b) Form 54-101F5 *Electronic Format for NOBO List*.

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(2) For the purposes of subsection (1), ‘notice-and-access’ and ‘stratification’, as used in Items 7.12 and 9.9 of Form 54-101F2 and in Form 54-101F5, have the same meaning as in this Instrument.”

(4) Part 18 is amended by adding the following section after section 18.6:

“18.7 Transitional

Before September 6, 2022, if an investment fund has not designated a website as its designated website, the reference to ‘designated website’ in paragraph 12.2.1(g) of National Instrument 81-106 *Investment Fund Continuous Disclosure* must be read as a reference to the investment fund’s or its manager’s website”.

Appendix, Part XLIII amended

7 National Instrument 45-106 *Prospectus Exemptions* in Part XLIII of the Appendix is amended in section 1.1 by repealing the definition of “designated rating” and substituting the following:

“‘**designated rating**’ has the same meaning as in National Instrument 81-102 *Investment Funds*.”

Appendix, Part XLV amended

8(1) National Instrument 81-107 *Independent Review Committee for Investment Funds* in Part XLV of the Appendix is amended in the manner set forth in this section.

(2) Section 1.1 is amended by adding the following subsections after subsection (2):

“(3) Despite subsection (1), sections 6.1 to 6.5 also apply to an investment fund that is not a reporting issuer.

“(4) Despite subsection (1), sections 6.1 and 6.5 also apply in respect of a managed account.”

(3) The *Commentary* below section 1.1 is amended by adding the following at the end of paragraph 2:

“Part 6, however, provides exemptions that may be relied on in connection with certain trades involving managed accounts and investment funds that are not reporting issuers.”.

(4) The *Commentary* below section 2.2 is amended by adding the following paragraph after paragraph 4:

“5 The CSA do not consider a manager’s organization of an investment fund (such as the initial setting of fees or the initial choice of service providers) to be subject to IRC review, unless the manager’s decisions give rise to a conflict of interest concerning the manager’s obligations to existing investment funds within the manager’s fund family. However, the CSA expect the manager will establish policies and procedures for any conflict of interest matters arising from the investment fund’s organization or otherwise and refer to the IRC these policies and procedures and any decisions related to such matters.

It is anticipated that the manager will wish to engage the IRC early in the establishment of any new investment fund to ensure the IRC is adequately informed of potential new conflicts of interest.”.

(5) The *Commentary* below section 5.1 is amended by adding the following paragraph after paragraph 4:

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“5 The CSA do not consider the expenses incurred by existing investment funds in establishing an IRC under this Instrument to be caught in section 5.1 of NI 81-107. We do not view section 5.1 as intending to capture the costs associated with compliance by an investment fund with new regulatory requirements.”.

(6) Paragraph 5.2(1)(b) is repealed and the following substituted:

“(b) a transaction in securities of an issuer described in any of the following:

- (i) subsection 6.2(1);
- (ii) subsection 6.3(1);
- (iii) subsection 6.4(1);
- (iv) subsection 6.5(1);”.

(7) Section 6.1 is amended:

(a) in clause (1)(a)(i)(C) by striking out “is quoted; or” and substituting “is quoted, or”;

(b) by adding the following clause after clause (1)(a)(i)(C):

“(D) the last sale price as defined under the Universal Market Integrity Rules of the Investment Industry Regulatory Organization of Canada, as amended from time to time; or”;

(c) by adding the following paragraph after paragraph (1)(a):

“(a.1) ‘**managed account**’ means an account, or an investment portfolio, that is managed by a portfolio manager or portfolio adviser on behalf of a client under an investment management agreement but does not include

(i) an account of a ‘responsible person’ as defined in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, or

(ii) an account of an investment fund; and”;

(d) by repealing subsections (2) to (5) and substituting the following:

“(2) A portfolio manager of a managed account or a portfolio manager of an investment fund, including, for greater certainty, an investment fund that is not a reporting issuer, may purchase a security of an issuer from, or sell a security of an issuer to, another investment fund, including, for greater certainty, an investment fund that is not a reporting issuer, managed by the same manager or an affiliate of the manager, if, at the time of the transaction,

(a) the portfolio manager, on behalf of the investment fund or managed account, is purchasing from or selling to another investment fund that is a reporting issuer or, if the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 for the purpose of approving the transaction,

(b) the independent review committee has approved the transaction under subsection 5.2(2),



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(c) the investment management agreement for the managed account authorizes the purchase or sale of the security,

(d) the bid and ask price of the security is readily available,

(e) the investment fund receives no consideration and the only cost for the transaction is the nominal cost incurred by the investment fund to print or otherwise display the trade,

(f) the transaction is executed at the current market price of the security, and

(g) the transaction is subject to market integrity requirements.

“(3) With respect to a purchase or sale of a security referred to in subsection (2), National Instrument 21-101 *Marketplace Operation*, and Parts 6 and 8 of National Instrument 23-101 *Trading Rules*, do not apply to any of the following:

(a) a portfolio manager or portfolio adviser of an investment fund, including for greater certainty, an investment fund that is not a reporting issuer;

(b) a portfolio manager or portfolio adviser of a managed account;

(c) an investment fund, including for greater certainty, an investment fund that is not a reporting issuer;

(d) a managed account.

“(4) With respect to a purchase or sale of a security referred to in subsection (2), the inter-fund self-dealing investment prohibitions do not apply to any of the following:

(a) a portfolio manager or portfolio adviser of an investment fund, including for greater certainty, an investment fund that is not a reporting issuer;

(b) a portfolio manager or portfolio adviser of a managed account;

(c) an investment fund, including for greater certainty, an investment fund that is not a reporting issuer;

(d) a managed account.

“(5) With respect to a purchase or sale of a security referred to in subsection (2), the dealer registration requirement does not apply to a portfolio manager or portfolio adviser of an investment fund, including, for greater certainty, an investment fund that is not a reporting issuer.”.

(8) by adding the following subsection after subsection (2):

“(2.1) An investment fund, or a portfolio manager on behalf of a managed account, referred to in subsection (2), must keep records in accordance with the record-keeping requirements applicable to registered firms set out in sections 11.5 and 11.6 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.”.

(9) The *Commentary* below section 6.1 is amended:

(a) by repealing paragraph 2 and substituting the following:

“2 This section is intended to exempt investment funds, including investment funds that are not reporting issuers and managed accounts, from the prohibitions in the securities legislation and certain regulations that preclude inter-fund trades. It is not intended to apply to securities issued by an investment fund that are purchased by another fund within the same fund family. The CSA are of the view that this section applies to inter-fund trades between fund families of the same manager provided the purchase or sale is made in accordance with subsection (2).

Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC’s responsibilities for investment funds that are not reporting issuers beyond that.

The portfolio manager or portfolio adviser of a managed account must obtain the authorization of its client to conduct inter-fund trades in the investment management agreement in order to be eligible to rely upon the exemption.”;

(b) in paragraph 7 by striking out “Clause (2)(c)” and substituting “Clause 2(d)”;

(c) in paragraph 8 by striking out “clause (2)(f)” and substituting “clause 2(g)”; and

(d) by repealing paragraph 9 and substituting the following:

“9 Subsection 2.1 sets expectations regarding the records of the investment fund must keep of its inter-fund trades made in reliance on this section. These records should comply with the recordkeeping requirements applicable to registered firms as set out in sections 11.5 and 11.6 of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations.”.

(10) Section 6.2 is repealed and the following substituted:

“6.2 Transactions in securities of related issuers

(1) An investment fund, including for greater certainty, an investment fund that is not a reporting issuer, may make or hold an investment in the security of an issuer related to it, to its manager or to an entity related to its manager, if,

(a) at the time the investment is made,

(i) in the case of an investment made by an investment fund that is not a reporting issuer,

(A) the manager of the investment fund has appointed an independent review committee that complies with sections 3.7 and 3.9 for the purpose of approving the investment, and

(B) the independent review committee has approved the investment in compliance with subsection 5.2(2), and

(ii) in the case of an investment made by an investment fund that is a reporting issuer, the investment fund’s independent review committee has approved the investment in compliance with subsection 5.2(2), and



(b) the purchase is made on an exchange on which the securities of the issuer are listed and traded.

(2) After an investment referred to in subsection (1) is made, and no later than the time the investment fund files its annual financial statements, the manager of the investment fund must file the particulars of the investment with the securities regulatory authority or regulator.

(3) The investment fund conflict of interest investment restrictions do not apply to an investment fund, including, for greater certainty, an investment fund that is not a reporting issuer, with respect to an investment fund referred to in subsection (1) if the investment is made in accordance with that subsection.

(4) For the purpose of subsection (3), ‘investment fund conflict of interest investment restrictions’ has the meaning ascribed to that term in National Instrument 81-102 *Investment Funds*.”.

(11) The Commentary below section 6.2 is amended:

(a) in paragraph 1:

(i) by striking out “mutual funds” and substituting “investment funds”; and

(ii) by adding “including investment funds that are not reporting issuers,” after “elsewhere in Canada.”; and

(b) in paragraph 2 by adding the following after the second paragraph:

“Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC’s responsibilities for investment funds that are not reporting issuers beyond that.”.

(12) The following sections and Commentaries are added after section 6.2:

“6.3 Transactions in securities of related issuers – Secondary market non-exchange traded debt securities

(1) An investment fund, including, for greater certainty, an investment fund that is not a reporting issuer, may make an investment in the secondary market in a non-exchange traded debt security of an issuer related to it, to its manager or to an entity related to the manager, and continue to hold the debt security, if the conditions set out in subsection (2) are satisfied.

(2) For the purposes of subsection (1), an investment fund may make an investment in a debt security referred to in subsection (1) if,

(a) at the time the investment is made,

(i) in the case of an investment made by an investment fund that is not a reporting issuer,

(A) the manager of the investment fund has appointed an independent review committee that complies with sections 3.7 and 3.9 for the purpose of approving the investment, and

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- (B) the independent review committee has approved the investment in compliance with subsection 5.2(2), and
- (ii) in the case of an investment made by an investment fund that is a reporting issuer, the investment fund's independent review committee has approved the investment in compliance with subsection 5.2(2),
- (b) at the time the investment is made, the debt security has a designated rating as defined in paragraph (b) of the definition of 'designated rating' in National Instrument 44-101 *Short Form Prospectus Distributions*,
- (c) in the case of an investment made on a marketplace, the price paid for the debt security is not more than the price for the debt security determined in accordance with the requirements of that marketplace,
- (d) in the case of an investment that is not made on a marketplace, the price paid for the debt security is not more than
- (i) the price at which an arm's length seller is willing to sell the debt security,
- (ii) the price quoted publicly, immediately before the investment is made, by an independent marketplace, or
- (iii) the price quoted, immediately before the investment is made, by an arm's length purchaser or seller of the debt security, and
- (e) the investment is subject to the applicable 'market integrity requirements' as defined in section 6.1, if any.
- (3) After an investment referred to in subsection (2) is made, and no later than the time the investment fund files its annual financial statements, the manager of the investment fund must file the particulars of the investment with the securities regulatory authority or regulator.
- (4) The investment fund conflict of interest investment restrictions do not apply to an investment fund, including, for greater certainty, an investment fund that is not a reporting issuer, with respect to an investment referred to in subsection (2) if the investment is made in accordance with that subsection.
- (5) For the purpose of subsection (4), 'investment fund conflict of interest investment restrictions' has the meaning ascribed to that term in National Instrument 81-102 *Investment Funds*.

“Commentary

1. *This section is intended to relieve investment funds, including investment funds that are not reporting issuers, from the prohibitions in the securities legislation of each securities regulatory authority that preclude investments in debt securities of related issuers that do not trade on an exchange. Because these securities do not trade on an exchange, paragraphs (2)(c) and (2)(d) impose alternative criteria to help ensure the investments occur at a fair and objective price.*
2. *This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.*

Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, for the funds that are not reporting issuers, the IRC must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that.

3. The designated rating referred to in this section is the 'designated rating' as defined in paragraph (b) of its definition in National Instrument 44-101 Short Form Prospectus Distributions. Fund managers should note that the definition of designated rating in paragraph (b) of National Instrument 44-101 Short Form Prospectus Distributions also identifies the specific Designated Rating Organizations that are contemplated for the purpose of determining the designated rating.

4. This section contemplates that the manager will comply with the applicable reporting requirements under securities legislation for each purchase. The filing referred to in subsection (3) should be filed on the SEDAR group profile number of the investment fund, as a continuous disclosure document.

5. If an IRC gives its approval for the investment fund to purchase securities of an issuer described in this section, and then subsequently withdraws its approval for additional purchases, the CSA will not consider the continued holding of the securities to be subject to paragraph 1.2(b) of the Instrument. However, we will expect the manager to consider whether continuing to hold those securities is a conflict of interest matter that paragraph 1.2(a) of the Instrument would require the manager to refer to the IRC.

“6.4 Transactions in securities of related issuers – Primary market distributions of long-term debt securities

(1) An investment fund, including, for greater certainty, an investment fund that is not a reporting issuer, may make an investment in a long-term debt security of an issuer related to it, to its manager or to an entity related to the manager, if the investment is made under a distribution of the long-term debt security of that issuer, and continue to hold the debt security, if,

(a) at the time the investment is made,

(i) in the case of an investment made by an investment fund that is not a reporting issuer,

(A) the manager of the investment fund has appointed an independent review committee that complies with sections 3.7 and 3.9 for the purpose of approving the investment, and

(B) the independent review committee has approved the investment in compliance with subsection 5.2(2), and

(ii) in the case of an investment made by an investment fund that is a reporting issuer, the investment fund's independent review committee has approved the investment in compliance with subsection 5.2(2),

(iii) the debt security has a term to maturity greater than 365 days,

(iv) the debt security is not asset-backed commercial paper,

(v) the debt security has a designated rating as defined in paragraph (b) of the definition of 'designated rating' in National Instrument 44-101 *Short Form Prospectus Distributions*,

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- (vi) the distribution is for at least \$100 million, and
- (vii) at least two purchasers that are arm's length purchasers, including, for greater certainty, 'independent underwriters' within the meaning of National Instrument 33-105 *Underwriting Conflicts*, have collectively purchased at least 20% of the distribution,
- (b) the price paid for the long-term debt security is not higher than the lowest price paid by any arm's length purchaser that participates in the distribution, and
- (c) immediately after the investment is made,
- (i) the investment fund holds no more than 5% of its net assets in long-term debt securities of the issuer, and
- (ii) the investment fund, together with other investment funds managed by the manager, hold no more than 20% of the long-term debt securities issued in the distribution.
- (2) After an investment referred to in subsection (1) is made, and no later than the time the investment fund files its annual financial statements, the manager of the investment fund must file the particulars of the investment with the securities regulatory authority or regulator.
- (3) The investment fund conflict of interest investment restrictions do not apply to an investment fund, including, for greater certainty, an investment fund that is not a reporting issuer, with respect to an investment referred to in subsection (2) if the investment is made in accordance with that subsection.
- (4) For the purpose of subsection (3), 'investment fund conflict of interest investment restrictions' has the meaning ascribed to that term in National Instrument 81-102 *Investment Funds*.

“Commentary

1. This section is intended to relieve investment funds, including investment funds that are not reporting issuers, from the prohibitions in the securities legislation of each securities regulatory authority that preclude investments in debt securities of related issuers under primary treasury offerings or distributions by those issuers. The additional conditions in this section to IRC approval are designed to mitigate the risk of the related issuer using the investment funds as captive financing vehicles and impose alternative criteria to help ensure the investments occur at a fair and objective price.

2. This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.

Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, for the funds that are not reporting issuers, the IRC must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that.

3. *The designated rating referred to in this section is the 'designated rating' as defined in paragraph (b) of its definition in National Instrument 44-101 Short Form Prospectus Distributions. Fund managers should note that the definition of designated rating in paragraph (b) of National Instrument 44-101 Short Form Prospectus Distributions also identifies the specific Designated Rating Organizations that are contemplated for the purpose of determining the designated rating.*

4. *This section contemplates that the manager will comply with the applicable reporting requirements under securities legislation for each purchase. The filing referred to in subsection 6.4(2) should be filed on the SEDAR group profile number of the investment fund, as a continuous disclosure document.*

5. *If an IRC gives its approval for the investment fund to purchase securities of an issuer described in this section, and then subsequently withdraws its approval for additional purchases, the CSA will not consider the continued holding of the securities to be subject to paragraph 1.2(b) of the Instrument. However, we will expect the manager to consider whether continuing to hold those securities is a conflict of interest matter that paragraph 1.2(a) of the Instrument would require the manager to refer to the IRC.*

“6.5 Transactions in debt securities with a related dealer – principal trades in debt securities

(1) A portfolio manager or portfolio adviser, acting on behalf of an investment fund, including, for greater certainty, an investment fund that is not a reporting issuer, or acting on behalf of a managed account as defined in section 6.1, may cause the investment fund or managed account to purchase a debt security of any issuer from, or sell a debt security of any issuer to, a dealer related to the portfolio manager, acting for its own account, if, at the time of the transaction,

(a) in the case of an investment fund that is not a reporting issuer,

(i) the manager of the investment fund has appointed an independent review committee that complies with sections 3.7 and 3.9 for the purpose of approving the transaction, and

(ii) the independent review committee has approved the transaction in compliance with subsection 5.2(2),

(b) in the case of an investment fund that is a reporting issuer, the investment fund's independent review committee has approved the transaction in compliance with subsection 5.2(2),

(c) the investment management agreement for the managed account authorizes the purchase or sale of the debt security,

(d) the bid and ask price of the security transacted is readily available,

(e) the purchase is not executed at a price that is higher than the available ask price or the sale is not executed at a price that is lower than the available bid price, and

(f) the purchase or sale is subject to the applicable market integrity requirements as defined in section 6.1.

(2) An investment fund, or a portfolio manager on behalf of a managed account referred to in subsection (1), must keep records in accordance with the record-keeping requirements applicable to registered firms set out in sections 11.5 and 11.6 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*.

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(3) With respect to a purchase or sale of a security referred to in subsection (1), the inter-fund self-dealing investment prohibitions do not apply to any of the following:

- (a) a portfolio manager or portfolio adviser of an investment fund, including for greater certainty, an investment fund that is not a reporting issuer;
- (b) a portfolio manager or portfolio adviser of a managed account;
- (c) an investment fund, including for greater certainty, an investment fund that is not a reporting issuer;
- (d) a managed account.

“Commentary

1. The term ‘inter-fund self-dealing investment prohibitions’ is defined in section 1.5 of this Instrument. For the purposes of this section, it is intended to capture the prohibitions in the securities legislation and certain regulations of each securities regulatory authority regarding trades in securities between an investment fund or a managed account and a related dealer acting as principal for its own account.

This section is intended to relieve investment funds, including managed accounts and investment funds that are not reporting issuers, from the inter-fund self-dealing prohibitions in connection with principal trades in debt securities. Because debt securities do not generally trade on an exchange, the additional conditions in this section to IRC approval impose alternative criteria to help ensure the investments occur at a fair and objective price.

Paragraph 1(d) requires that the market quotations for the transactions be transparent. The CSA expect that if the price information is publicly available from a marketplace, newspaper or through a data vendor, for example, this will be the price. If the price is not publicly available, the CSA expect the investment fund to obtain at least one quote from an independent, arm's-length purchaser or seller, immediately before the purchase or sale.

2. This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.

Funds that are not reporting issuers must appoint an IRC for the purpose of approving principal trades in debt securities in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that. The portfolio manager or portfolio adviser of a managed account must obtain the authorization of its client to conduct principal trades with a related dealer in the investment management agreement in order to be eligible to rely upon the exemption.

3. Subsection (2) sets out the minimum expectations regarding the records an investment fund must keep of its trades made in reliance on this section. The records should be detailed and sufficient to establish a proper audit trail of the transactions.”.

(13) The Commentary below section 7.2 is amended by repealing paragraph 1.

(14) The Commentary below section 8.2 is repealed.

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**(15) Appendix B INTER-FUND SELF-DEALING CONFLICT OF INTEREST PROVISIONS
is repealed and the following substituted:**

“APPENDIX B

INTER-FUND SELF-DEALING CONFLICT OF INTEREST PROVISIONS

JURISDICTION	LEGISLATION REFERENCE
Alberta	Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
British Columbia	Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
Manitoba	Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
New Brunswick	Paragraph 144(1)(b) of the <i>Securities Act</i> (New Brunswick) Subsection 11.7(6) of Local Rule 31-501 <i>Registration Requirements</i> Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
Newfoundland and Labrador	Paragraph 119(2)(b) of the <i>Securities Act</i> (Newfoundland and Labrador) Subsection 103(6) of Reg. 805/96 Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
Northwest Territories	Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
Nova Scotia	Paragraph 126(2)(b) of the <i>Securities Act</i> (Nova Scotia) Subsection 32(6) of the General Securities Rules Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
Nunavut	Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
Ontario	Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>
Prince Edward Island	Paragraph 13.5(2)(b) of National Instrument 31-103 <i>Registration Requirements, Exemptions and Ongoing Registrant Obligations</i> and section 4.2 of National Instrument 81-102 <i>Investment Funds</i>


January 4, 2022 - 9:41 a.m.

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JURISDICTION

LEGISLATION REFERENCE

Quebec

Paragraph 13.5(2)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and section 4.2 of National Instrument 81-102 *Investment Funds*

Saskatchewan

Paragraph 13.5(2)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and section 4.2 of National Instrument 81-102 *Investment Funds*

Yukon

Paragraph 13.5(2)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* and section 4.2 of National Instrument 81-102 *Investment Funds*

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Appendix, Part XLIX amended

9 National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* in Part XLIX of the Appendix is amended in section 1.1 by repealing the definition of “designated rating” and substituting the following:

“ ‘**designated rating**’ has the same meaning as in National Instrument 81-102 *Investment Funds*”.

Coming into force

10(1) Subject to subsection (2), these regulations come into force on January 5, 2022.

(2) If these regulations are filed with the Registrar of Regulations after January 5, 2022, these regulations come into force on the day on which they are filed with the Registrar of Regulations.