

## REGULATION TO AMEND REGULATION 81-101 RESPECTING MUTUAL FUND PROSPECTUS DISCLOSURE

### Securities Act

(R.S.Q. c. V-1-1, s. 331.1, par. (1), (2), (3), (4.1), (5), (6), (6.1), (6.2), (6.3), (6.4), (8), (9), (11), (14), (19) and (34))

1. Parts 1 to 7 of Regulation 81-101 respecting Mutual Fund Prospectus Disclosure are replaced with the following:

### “PART 1 DEFINITIONS, INTERPRETATION AND APPLICATION

#### 1.1. Definitions

In this Regulation

“business day” means any day other than a Saturday, a Sunday or a statutory holiday;

“commodity pool” means a mutual fund, other than a precious metals fund, that has adopted fundamental investment objectives that permit it to use

(a) specified derivatives other than as permitted by Regulation 81-102 respecting Mutual Funds adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision no. 2001-C-0209 dated May 22, 2001, or

(b) physical commodities other than as permitted by that regulation;

“educational material” means material containing general information about one or more of investing in general, mutual funds, portfolio management, capital markets, retirement savings, income or education saving plans and financial planning, if the material does not promote a particular mutual fund or mutual fund family or the products or services offered by a particular mutual fund or mutual fund family;

“executive officer” means, for a mutual fund, a manager of a mutual fund or a promoter of a mutual fund, an individual who is

(a) a chair, vice-chair or president,

(b) a vice-president in charge of a principal business unit, division or function including sales, finance or product development, or

(c) performing a policy-making function;

“financial year” includes the first completed financial period of a mutual fund beginning with the inception of the mutual fund and ending on the date of its first financial year end;

“fund facts document” means a completed Form 81-101F3 Contents of Fund Facts Document;

“independent review committee” means the independent review committee of the investment fund established under Regulation 81-107 respecting Independent Review Committee for Investment Funds approved by Ministerial Order no. 2006-02 dated October 31, 2006;

“material contract” means, for a mutual fund, a contract listed in the annual information form of the mutual fund in response to Item 16 of Form 81-101F2 Contents of Annual Information Form;

“multiple AIF” means a document containing two or more annual information forms that have been consolidated in accordance with section 5.3;

“multiple SP” means a document containing two or more simplified prospectuses that have been consolidated in accordance with subsection 5.1(1);

“Part A section” means the section of a simplified prospectus that contains the disclosure required by Part A of Form 81-101F1 Contents of Simplified Prospectus;

“Part B section” means the section of a simplified prospectus that contains the disclosure required by Part B of Form 81-101F1;

“Personal Information Form and Authorization” means the Personal Information Form and Authorization of Indirect Collection, Use and Disclosure of Personal Information set out in Appendix A to Regulation 41-101 respecting General Prospectus Requirements approved by Ministerial Order no. 2008-05 dated March 4, 2008;

“plain language” means language that can be understood by a reasonable person, applying a reasonable effort;

“precious metals fund” means a mutual fund that has adopted fundamental investment objectives and received all required regulatory approvals, that permit it to invest in precious metals or in entities that invest in precious metals and that otherwise complies with Regulation 81-102 respecting Mutual Funds;

“single AIF” means an annual information form that has not been consolidated with another annual information form under section 5.3; and

“single SP” means a simplified prospectus that has not been consolidated with another simplified prospectus under subsection 5.1(1).

## **1.2. Interpretation**

Terms defined in Regulation 81-102 respecting Mutual Funds or Regulation 81-105 respecting Mutual Fund Sales Practices adopted by the *Commission des valeurs mobilières du Québec* pursuant to decision no. 2001-C-0212 dated May 22, 2001 and used in this Regulation have the respective meanings ascribed to them in those regulations.

## **1.3. Application**

This Regulation does not apply to mutual funds that are

- (a) labour-sponsored venture capital corporations;
- (b) commodity pools; or
- (c) listed and posted for trading on a stock exchange or quoted on an over-the-counter market.

## **PART 2 DISCLOSURE DOCUMENTS**

### **2.1. Filing of Disclosure Documents**

- (1) A mutual fund

(a) that files a preliminary prospectus must file the preliminary prospectus in the form of a preliminary simplified prospectus prepared in accordance with Form 81-101F1 and concurrently file

(i) a preliminary annual information form prepared and certified in accordance with Form 81-101F2; and

(ii) a preliminary fund facts document for each class or series of securities of the mutual fund prepared in accordance with Form 81-101F3;

(b) that files a *pro forma* prospectus must file the *pro forma* prospectus in the form of a *pro forma* simplified prospectus prepared in accordance with Form 81-101F1 and concurrently file

(i) a *pro forma* annual information form prepared in accordance with Form 81-101F2; and

(ii) a *pro forma* fund facts document for each class or series of securities of the mutual fund prepared in accordance with Form 81-101F3;

(c) that files a prospectus must file the prospectus in the form of a simplified prospectus prepared in accordance with Form 81-101F1 and concurrently file

(i) an annual information form prepared and certified in accordance with Form 81-101F2; and

(ii) a fund facts document for each class or series of securities of the mutual fund prepared in accordance with Form 81-101F3;

(d) that files an amendment to a prospectus

(i) must either

(A) file an amendment to the simplified prospectus and concurrently file an amendment to the related annual information form, or

(B) in circumstances in which changes are made only to an annual information form, file an amendment to the annual information form;

(ii) must, if the amendment relates to a matter that requires a change to the disclosure in the fund facts document, concurrently file an amendment to the fund facts document; and

(iii) must, if the amendment relates to a new class or series of securities of the mutual fund that is referable to the same portfolio of assets, concurrently file a preliminary fund facts document for the new class or series; and

(e) must file an amendment to a fund facts document if a material change occurs that requires a change to the disclosure in the fund facts document.

(2) A mutual fund must not file a prospectus more than 90 days after the date of the receipt for the preliminary prospectus that relates to the prospectus.

## **2.2. Amendments to Disclosure Documents**

(1) An amendment to a simplified prospectus or to an annual information form may consist of either

(a) an amendment that does not fully restate the text of the simplified prospectus or annual information form; or

(b) an amended and restated simplified prospectus or annual information form.

(2) Despite subsection (1), an amendment to the Part B section that is separately bound from the Part A section of a simplified prospectus must be effected only by way of an amended and restated Part B section.

(2.1) An amendment to a fund facts document must be effected only by way of an amended and restated fund facts document.

(3) An amendment to a simplified prospectus or to an annual information form must be identified and dated as follows:

1. For an amendment that does not restate the text of a simplified prospectus or annual information form:

“Amendment No. [insert amendment number] dated [insert date of amendment] to [identify document] dated [insert date of document being amended].”

2. For an amended and restated simplified prospectus, other than an amendment to which subsection (2) applies, or annual information form:

“Amended and Restated [identify document] dated [insert date of amendment], amending and restating [identify document] dated [insert date of document being amended].”

(4) An amendment to a fund facts document must be prepared in accordance with Form 81-101F3 without any further identification and dated as of the date the fund facts document is being amended.

### 2.2.1. Amendment to a Preliminary Simplified Prospectus

(1) Except in Ontario, if, after a receipt for a preliminary simplified prospectus is issued but before a receipt for the simplified prospectus is issued, a material adverse change occurs, an amendment to the preliminary simplified prospectus must be filed as soon as practicable, but in any event within 10 days after the change occurs.

*[Note: In Ontario, subsection S.57(1) of the Securities Act (Ontario) imposes a similar requirement to file an amendment to a preliminary prospectus]<sup>1</sup>*

(1.1) If the amendment to the preliminary simplified prospectus referred to in subsection (1) relates to a matter that is disclosed in the preliminary fund facts document, an amendment to the preliminary fund facts document must be filed concurrently with the amendment to the preliminary simplified prospectus.

#### Note to Reader

**In Ontario, consideration will be given to recommending amendments to the Securities Act (Ontario) that would implement, or facilitate the implementation of, this and other fund facts document related requirements in this Part.**

<sup>1</sup> In Ontario, a number of prospectus related requirements in this Regulation are set out in the Securities Act (Ontario). We have identified carve-outs from the Regulation where a similar requirement is set out in the Securities Act (Ontario). Notes included in this Regulation have been inserted for convenience of reference only and do not form part of this Regulation or have any force or effect as a rule or policy.

(2) The regulator or, in Québec, the securities regulatory authority must issue a receipt for an amendment to a preliminary simplified prospectus as soon as practicable after the amendment is filed.

### **2.2.2. Delivery of Amendments**

(1) Except in Ontario, a mutual fund must deliver an amendment to a preliminary simplified prospectus as soon as practicable to each recipient of the preliminary simplified prospectus according to the record of recipients required to be maintained under securities legislation.

*[Note: In Ontario, subsection 57(3) of the Securities Act (Ontario) imposes similar requirements regarding the delivery of amendments to a preliminary prospectus]*

(2) If, under subsection 2.2.1(1.1), an amendment to a preliminary fund facts document is required to be filed concurrently with an amendment to the preliminary simplified prospectus, the requirement in securities legislation to deliver an amendment to the preliminary simplified prospectus must be satisfied by delivering the amended and restated fund facts document.

### **2.2.3. Amendment to a Simplified Prospectus**

(1) Except in Ontario, if, after a receipt for a simplified prospectus is issued but before the completion of the distribution under the simplified prospectus, a material change occurs, a mutual fund must file an amendment to the simplified prospectus as soon as practicable, but in any event within 10 days after the day the change occurs.

*[Note: In Ontario, subsection 57(1) of the Securities Act (Ontario) imposes a similar obligation to file an amendment to a final prospectus where there has been a material change]*

(1.1) If the amendment to the simplified prospectus referred to in subsection (1) relates to a matter that is disclosed in the fund facts document, an amendment to the fund facts document must be filed concurrently with the amendment to the simplified prospectus.

(2) Except in Ontario, if, after a receipt for a simplified prospectus or an amendment to a simplified prospectus is issued but before the completion of the distribution under the simplified prospectus or the amendment to the simplified prospectus, securities in addition to the securities previously disclosed in the simplified prospectus or the amendment to the simplified prospectus are to be distributed, an amendment to the simplified prospectus disclosing the additional securities must be filed, as soon as practicable, but in any event within 10 days after the decision to increase the number of securities offered.

*[Note: In Ontario, subsection 57(2) of the Securities Act (Ontario) imposes a similar requirement to file an amendment to a prospectus at any time there is a proposed distribution of securities in addition to that disclosed under the prospectus.]*

(2.1) If the amendment to the simplified prospectus referred to in subsection (2) relates to a matter that is disclosed in the fund facts document, an amendment to the fund facts document must be filed concurrently with the amendment to the simplified prospectus.

(3) Except in Ontario, the regulator or, in Québec, the securities regulatory authority must issue a receipt for an amendment to a simplified prospectus filed under this section unless the regulator or, in Québec, the securities regulatory authority considers that there are grounds set out in securities legislation that would cause the regulator or, in Québec, the securities regulatory authority not to issue the receipt for a simplified prospectus.

*[Note: In Ontario, subsection 57(2.1) of the Securities Act (Ontario) imposes a similar obligation for the Director to issue a receipt for an amendment to a prospectus unless there are proper grounds for refusing the receipt.]*

(4) Except in Ontario, the regulator or, in Québec, the securities regulatory authority must not refuse to issue a receipt under subsection (3) without giving the mutual fund that filed the simplified prospectus an opportunity to be heard.

*[Note: In Ontario, subsections 57(2.1) and 61(3) of the Securities Act (Ontario) impose a similar restriction on the Director to refuse to issue a receipt for a prospectus without first giving an issuer an opportunity to be heard.]*

### **2.3. Supporting Documents**

(1) A mutual fund must

(a) file with a preliminary simplified prospectus, a preliminary annual information form and a preliminary fund facts document

(i) a copy of the preliminary annual information form certified in accordance with Part 5.1,

(ii) a submission to the jurisdiction and appointment of an agent for service of process of the manager of the mutual fund in the form set out in Appendix C to Regulation 41-101 respecting General Prospectus Requirements, if the manager of the mutual fund is incorporated, continued or organized under the laws of a foreign jurisdiction or resides outside of Canada,

(iii) a copy of any material contract and a copy of any amendment to a material contract that have not previously been filed, other than a contract entered into in the ordinary course of business,

(iv) a copy of the following documents and a copy of any amendment to the following documents that have not previously been filed:

(A) by-laws or other corresponding instruments currently in effect,

(B) any securityholder or voting trust agreement that the mutual fund has access to and that can reasonably be regarded as material to an investor in securities of the mutual fund, and

(C) any other contract of the mutual fund that creates or can reasonably be regarded as materially affecting the rights or obligations of the mutual fund's securityholders generally, and

(v) any other supporting documents required to be filed under securities legislation; and

(b) at the time a preliminary simplified prospectus, preliminary annual information form and preliminary fund facts document are filed, deliver or send to the securities regulatory authority

(i) for

(A) a new mutual fund, a copy of a draft opening balance sheet of the mutual fund, and

(B) an existing mutual fund, a copy of the latest audited financial statements of the mutual fund,

(ii) personal information in the form of the Personal Information Form and Authorization for:

(A) each director and executive officer of the mutual fund,  
 (B) each director and executive officer of the manager of the mutual fund,

(C) each promoter of the mutual fund, and

(D) if the promoter is not an individual, each director and executive officer of the promoter,

unless

(E) a completed Personal Information Form and Authorization,

(F) before March 17, 2008, a completed authorization in

(I) the form set out in Appendix B of Regulation 44-101 respecting Short Form Prospectus Distributions approved by Ministerial Order no. 2005-24 dated November 30, 2005,

(II) the form set out in Form 41-501F2 of Rule 41-501 General Prospectus Requirements and Forms ((2000), 23 OSCB (Supp.) 765) of the Ontario Securities Commission, or

(III) the form set out in Appendix A of Québec Regulation Q-28 respecting General Prospectus Requirements adopted by decision no. 2001-C-0390 dated August 14, 2001, or

(G) before March 17, 2008, a completed personal information form or authorization in a form substantially similar to a personal information form or authorization in clause (E) or (F), as permitted under securities legislation,

was previously delivered in connection with the simplified prospectus of another mutual fund managed by the manager of the mutual fund,

(iii) a signed letter to the regulator or, in Québec, the securities regulatory authority from the auditor of the mutual fund prepared in accordance with the form suggested for this circumstance by the Handbook, if a financial statement of the mutual fund incorporated by reference in the preliminary simplified prospectus is accompanied by an unsigned auditor's report,

(iv) a signed letter to the regulator or, in Québec, the securities regulatory authority from the manager of the mutual fund specifying the Flesch-Kincaid grade level of the fund facts document, and

(v) any other supporting documents required to be delivered or sent to the securities regulatory authority under securities legislation.

(2) A mutual fund must

(a) file with a *pro forma* simplified prospectus, a *pro forma* annual information form and a *pro forma* fund facts document

(i) a copy of any material contract of the mutual fund, and a copy of any amendment to a material contract of the mutual fund, not previously filed,

(ii) a submission to the jurisdiction and appointment of an agent for service of process of the manager of the mutual fund in the form set out in Appendix C to Regulation 41-101 respecting General Prospectus Requirements, if the manager of the mutual fund is incorporated, continued or organized under the laws of a foreign jurisdiction or resides outside of Canada and if that document has not already been filed, and

(iii) any other supporting documents required to be filed under securities legislation; and

(b) at the time a *pro forma* simplified prospectus, *pro forma* annual information form and *pro forma* fund facts document are filed, deliver or send to the securities regulatory authority

(i) a copy of the *pro forma* simplified prospectus, blacklined to show changes and the text of deletions from the latest simplified prospectus previously filed,

(ii) a copy of the *pro forma* annual information form, blacklined to show changes and the text of deletions from the latest annual information form previously filed,

(ii.1) a copy of the *pro forma* fund facts document, blacklined to show changes and the text of deletions from the most recently filed fund facts document,

(iii) a copy of a draft of each material contract of the mutual fund, and a copy of each draft amendment to a material contract of the mutual fund, in either case not yet executed but proposed to be executed by the time of filing of the simplified prospectus,

(iv) personal information in the form of the Personal Information Form and Authorization for:

(A) each director and executive officer of the mutual fund,  
(B) each director and executive officer of the manager of the mutual fund,

(C) each promoter of the mutual fund, and

(D) if the promoter is not an individual, each director and executive officer of the promoter,

unless

(E) a completed Personal Information Form and Authorization,

(F) before March 17, 2008, a completed authorization in

(I) the form set out in Appendix B of Regulation 44-101 respecting Short Form Prospectus Distributions,

(II) the form set out in Form 41-501F2 of Rule 41-501 General Prospectus Requirements and Forms of the Ontario Securities Commission, or



(III) the form set out in Appendix A of Québec Regulation Q-28 respecting General Prospectus Requirements, or

(G) before March 17, 2008, a completed personal information form or authorization in a form substantially similar to a personal information form or authorization in clause (E) or (F), as permitted under securities legislation,

was previously delivered in connection with a simplified prospectus of the mutual fund or another mutual fund managed by the manager of the mutual fund,

(v) a signed letter to the regulator or, in Québec, the securities regulatory authority from the manager of the mutual fund specifying the Flesch-Kincaid grade level of the fund facts document, and

(vi) any other supporting documents required to be delivered or sent to the securities regulatory authority under securities legislation.

(3) A mutual fund must

(a) file with a simplified prospectus, an annual information form and a fund facts document

(i) a copy of any material contract, and a copy of any amendment to a material contract, of the mutual fund and not previously filed,

(ii) for a new mutual fund, a copy of the audited balance sheet of the mutual fund,

(iii) a copy of the annual information form certified in accordance with Part 5.1,

(iv) a submission to the jurisdiction and appointment of an agent for service of process of the manager of the mutual fund in the form set out in Appendix C to Regulation 41-101 respecting General Prospectus Requirements, if the manager of the mutual fund is incorporated, continued or organized under the laws of a foreign jurisdiction or resides outside of Canada and if that document has not already been filed,

(v) any consents required by section 2.6,

(vi) a copy of each report or valuation referred to in the simplified prospectus, for which a consent is required to be filed under section 2.6 and that has not previously been filed, and

(vii) any other supporting documents required to be filed under securities legislation; and

(b) at the time a simplified prospectus is filed, deliver or send to the securities regulatory authority

(i) a copy of the simplified prospectus, blacklined to show changes and the text of deletions from the preliminary or *pro forma* simplified prospectus,

(ii) a copy of the annual information form, blacklined to show changes and the text of deletions from the preliminary or *pro forma* annual information form,

(ii.1) a copy of the fund facts document, blacklined to show changes and the text of deletions from the most recently filed fund facts document,

(iii) details of any changes to the personal information required to be delivered under subparagraph (1)(b)(ii) or (2)(b)(iv), in the form of the Personal Information Form and Authorization, since the delivery of that information in connection with the filing of the simplified prospectus of the mutual fund or another mutual fund managed by the manager,

(iv) a signed letter to the regulator from the manager of the mutual fund specifying the Flesch-Kincaid grade level of the fund facts document, and

(v) any other supporting documents required to be delivered or sent to the securities regulatory authority under securities legislation.

(4) A mutual fund must

(a) file with an amendment to a simplified prospectus and an amendment to the annual information form

(i) a copy of the amendment to the annual information form certified in accordance with Part 5.1,

(ii) any consents required by section 2.6,

(iii) a copy of any material contract of the mutual fund, and a copy of any amendment to a material contract of the mutual fund, not previously filed,

(iii.1) if the amendment relates to a matter that requires a change to the disclosure in the fund facts document, an amendment to the fund facts document, and

(iv) any other supporting documents required to be filed under securities legislation;

(b) at the time an amendment to a simplified prospectus is filed, deliver or send to the securities regulatory authority

(i) if the amendment to the simplified prospectus is in the form of an amended and restated simplified prospectus, a copy of that document blacklined to show changes and the text of deletions from the simplified prospectus,

(ii) if the amendment to the annual information form is in the form of an amended and restated annual information form, a copy of the amended annual information form, blacklined to show changes and the text of deletions from the annual information form,

(ii.1) if an amendment to the fund facts document is filed, a copy of the fund facts document, blacklined to show changes and the text of deletions from the most recently filed fund facts document,

(iii) details of any changes to the personal information required to be delivered under subparagraph (1)(b)(ii), (2)(b)(iv) or (3)(b)(iii), in the form of the Personal Information Form and Authorization, since the delivery of that information in connection with the filing of the simplified prospectus of the mutual fund or another mutual fund managed by the manager, and

(iv) any other supporting documents required to be delivered or sent to the securities regulatory authority under securities legislation.

(5) A mutual fund must

(a) file with an amendment to an annual information form in circumstances in which the corresponding simplified prospectus is not amended

- (i) a copy of the amendment to the annual information form certified in accordance with Part 5.1,
  - (ii) any consents required by section 2.6,
  - (iii) a copy of any material contract of the mutual fund, and a copy of any amendment to a material contract of the mutual fund, not previously filed,
  - (iii.1) if the amendment relates to a matter that requires changes to the disclosure in the fund facts document, an amendment to the fund facts document, and
  - (iv) any other supporting documents required to be filed under securities legislation; and
- (b) at the time an amendment to an annual information form is filed, deliver or send to the securities regulatory authority
- (i) details of any changes to the personal information required to be delivered under subparagraph (1)(b)(ii), (2)(b)(iv) or (3)(b)(iii), in the form of the Personal Information Form and Authorization, since the delivery of that information in connection with the filing of the simplified prospectus of the mutual fund or another mutual fund managed by the manager,
  - (ii) if the amendment is in the form of an amended and restated annual information form, a copy of the amended and restated annual information form blacklined to show changes and the text of deletions from the annual information form,
  - (ii.1) if an amendment to a fund facts document is filed, a copy of the fund facts document, blacklined to show changes and the text of deletions from the most recently filed fund facts document, and
  - (iii) any other supporting documents required to be delivered or sent to the securities regulatory authority under securities legislation.
- (5.1) A mutual fund must
- (a) in circumstances in which the corresponding simplified prospectus is not amended, file with an amendment to a fund facts document
    - (i) an amendment to the corresponding annual information form, certified in accordance with Part 5.1, and
    - (ii) any other supporting documents required to be filed under securities legislation; and
  - (b) at the time an amendment to a fund facts document is filed, deliver or send to the securities regulatory authority
    - (i) details of any changes to the personal information required to be delivered under subparagraph (1)(b)(ii), (2)(b)(iv) or (3)(b)(iii), in the form of the Personal Information Form and Authorization, since the delivery of that information in connection with the filing of the simplified prospectus of the mutual fund or another mutual fund managed by the manager,
    - (ii) a copy of the amended and restated fund facts document blacklined to show changes and the text of deletions from the most recently filed fund facts document; and

(iii) any other supporting documents required to be delivered or sent to the securities regulatory authority under securities legislation.

(6) Despite any other provision of this section, a mutual fund may

(a) omit or mark to be unreadable certain provisions of a material contract or an amendment to a material contract filed under this section

(i) if the manager of the mutual fund reasonably believes that disclosure of those provisions would be seriously prejudicial to the interests of the mutual fund or would violate confidentiality provisions, and

(ii) if a provision is omitted or marked to be unreadable under subparagraph (i), the mutual fund must include a description of the type of information that has been omitted or marked to be unreadable immediately after the provision that is omitted or marked to be unreadable in the copy of the material contract or amendment to the material contract filed by the mutual fund; and

(b) delete commercial or financial information from the copy of an agreement of the mutual fund, its manager or trustee with a portfolio adviser or portfolio advisers of the mutual fund filed under this section if the disclosure of that information could reasonably be expected to

(i) prejudice significantly the competitive position of a party to the agreement, or

(ii) interfere significantly with negotiations in which parties to the agreement are involved.

### 2.3.1. Voluntary Updating of Fund Facts Document

(1) A mutual fund may file an updated fund facts document that brings up to date the disclosure in the fund facts document at regular intervals of either six months or three months following the date of the fund facts document that is filed with the simplified prospectus.

(2) If a mutual fund files an updated fund facts document under subsection (1), the mutual fund must file a fund facts document for each class or series of securities of the mutual fund.

(3) A fund facts document filed in accordance with this section must be filed by the mutual fund within 30 days of the end of the period for which the updated fund facts document was prepared.

#### Issues for Comment

**1. We are considering allowing fund managers greater flexibility to provide more current information to investors, by not restricting how frequently a fund manager may file an updated fund facts document. What are your views? How would this impact compliance with the requirement to deliver the most recently filed fund facts document?**

### 2.3.2. Websites

If a mutual fund, the mutual fund's family, or the manager has a website, the mutual fund must post to the website of the mutual fund, the mutual fund's family or

the manager a fund facts document filed under this Part no later than the date that the document is filed.

#### **2.4. Simplified Prospectus**

A simplified prospectus is a prospectus for the purposes of securities legislation.

#### **2.5. Lapse Date**

(1) This section does not apply in Ontario.

(2) In this section, “lapse date” means, with reference to the distribution of a security that has been qualified under a simplified prospectus, the date that is 12 months after the date of the most recent simplified prospectus relating to the security.

(3) A mutual fund must not continue the distribution of a security to which the prospectus requirement applies after the lapse date unless the mutual fund files a new simplified prospectus that complies with securities legislation and a receipt for that new simplified prospectus is issued by the regulator or, in Québec, the securities regulation authority.

(4) Despite subsection (3), a distribution may be continued for a further 12 months after a lapse date if,

(a) the mutual fund delivers a *pro forma* simplified prospectus not less than 30 days before the lapse date of the previous simplified prospectus;

(b) the mutual fund files a new final simplified prospectus not later than 10 days after the lapse date of the previous simplified prospectus; and

(c) a receipt for the new final simplified prospectus is issued by the regulator or, in Québec, the securities regulatory authority within 20 days after the lapse date of the previous simplified prospectus.

(5) The continued distribution of securities after the lapse date does not contravene subsection (3) unless and until any of the conditions of subsection (4) are not complied with.

(6) Subject to any extension granted under subsection (7), if a condition in subsection (4) is not complied with, a purchaser may cancel a purchase made in a distribution after the lapse date in reliance on subsection (4) within 90 days after the purchaser first became aware of the failure to comply with the condition.

(7) The regulator or, in Québec, the securities regulatory authority may, on an application of a mutual fund, extend, subject to such terms and conditions as it may impose, the times provided by subsection (4) where in its opinion it would not be prejudicial to the public interest to do so.

*[In Ontario, section 62 of the Securities Act (Ontario) imposes similar requirements regarding refiling of prospectuses.]*

#### **2.6. Consents of Experts**

(1) A mutual fund must file the written consent of

(a) any solicitor, auditor, accountant, engineer, or appraiser;

(b) any notary in Québec; and

(c) any person whose profession or business gives authority to a statement made by that person

if that person is named in a simplified prospectus or an amendment to a simplified prospectus, directly or, if applicable, in a document incorporated by reference,

(d) as having prepared or certified any part of the simplified prospectus or the amendment;

(e) as having opined on financial statements from which selected information included in the simplified prospectus has been derived and which audit opinion is referred to in the simplified prospectus directly or in a document incorporated by reference; or

(f) as having prepared or certified a report, valuation, statement or opinion referred to in the simplified prospectus or the amendment, directly or in a document incorporated by reference.

(2) The consent referred to in subsection (1) must

(a) be filed no later than the time the simplified prospectus or the amendment to the simplified prospectus is filed or, for the purposes of future financial statements that have been incorporated by reference in a simplified prospectus, no later than the date that those financial statements are filed;

(b) state that the person being named consents

(i) to being named, and

(ii) to the use of that person's report, valuation, statement or opinion;

(c) refer to the report, valuation, statement or opinion stating the date of the report, valuation, statement or opinion; and

(d) contain a statement that the person being named

(i) has read the simplified prospectus, and

(ii) has no reason to believe that there are any misrepresentations in the information contained in it that are

(A) derived from the report, valuation, statement or opinion, or

(B) within the knowledge of the person as a result of the services performed by the person in connection with the report, financial statements, valuation, statement or opinion.

(3) In addition to any other requirement of this section, the consent of an auditor or accountant must also state

(a) the dates of the financial statements on which the report of the auditor or accountant is made; and

(b) that the auditor or accountant has no reason to believe that there are any misrepresentations in the information contained in the simplified prospectus that are

(i) derived from the financial statements on which the auditor or accountant has reported, or

(ii) within the knowledge of the auditor or accountant as a result of the audit of the financial statements.

(4) Subsection (1) does not apply to an approved rating organization that issues a rating to the securities being distributed under the simplified prospectus.

## **2.7. Language of Documents**

(1) A mutual fund must file a simplified prospectus and any other document required to be filed under this Regulation in French or in English.

(2) In Québec, a simplified prospectus and any document required to be incorporated by reference into a simplified prospectus must be in French or in French and English.

(3) Despite subsection (1), if a mutual fund files a document only in French or only in English but delivers to a securityholder or prospective securityholder a version of the document in the other language, the mutual fund must file that other version not later than when it is first delivered to the securityholder or prospective securityholder.

## **2.8. Statement of Rights**

Except in Ontario, a simplified prospectus must contain a statement of the rights given to a purchaser under securities legislation in case of a failure to deliver the simplified prospectus or in case of a misrepresentation in the simplified prospectus.

*[Note: In Ontario, section 60 of the Securities Act (Ontario) imposes a similar requirement for the inclusion of a statement of rights in a prospectus.]*

## **2.9. Cancellation Right**

(1) The rights described in this subsection do not apply to a purchase of a security of a mutual fund:

(a) the right given under securities legislation other than in this Regulation to withdraw from a purchase within a specified time following receipt of the prospectus by the purchaser; and

(b) except in Ontario, the right given under securities legislation other than in this Regulation to rescind a purchase within a specified time following receipt of the confirmation of trade for the purchase by the purchaser.

*[Note : In Québec, the right to withdraw a purchase will be facilitated by the coming into force of proposed changes to section 30 of the Securities Act (Québec) as proposed by the Targeted Act Amendments.]*

(2) Except in Ontario, a purchaser of a security of a mutual fund may cancel a purchase by giving notice to the dealer from whom the purchase was made within two business days of receipt of the confirmation of trade for the purchase.

(3) A purchaser who cancels a purchase under subsection (2) is entitled to receive the lesser of the net asset value of the securities at the time of purchase and the net asset value of the securities at the time the right is exercised.

*[Note: In Ontario, the Securities Act (Ontario) provides a similar right that allows a purchase of a mutual fund security to be rescinded for purchases not exceeding \$50,000.]*

(4) The notice required by subsection (2) must be in writing, and may be given in person, by prepaid mail, by fax, electronically or other means.

*[Note: In Ontario, the Securities Act (Ontario) imposes similar requirements regarding the notice of rescission.]*

(5) Except in British Columbia, a trade confirmation sent by prepaid or registered mail shall be deemed conclusively to have been received 7 business days after being sent by the person to whom it was addressed.

*[Note: In Ontario and in British Columbia, the Securities Act (Ontario) and the Securities Act (British Columbia), respectively, impose a similar deemed receipt provision.]*

(6) Every dealer from whom a purchase of a security of a mutual fund was made must within a reasonable period reimburse the purchaser who has exercised the cancellation right under this section for all sales charges and fees arising from the purchase that was cancelled.

*[Note: In Ontario, the Securities Act (Ontario) imposes a similar obligation on the dealer to reimburse to the purchaser any costs associated with the transaction.]*

(7) Except in British Columbia and Québec, no action may be commenced to enforce the right to cancel a purchase created by this section more than 180 days after the date of the transaction that gave rise to the cancellation right.

*[Note: In Ontario and in British Columbia, the Securities Act (Ontario) and the Securities Act (British Columbia), respectively, set out a similar limitation to rescind a purchase. In Québec, the Securities Act (Québec) provides no authority to include a limitation period regarding a civil action in a regulation.]*

#### **Note to Reader**

**We intend to recommend the harmonization of cancellation rights in all jurisdictions. Some jurisdictions may require legislative amendments in order to achieve this harmonization.**

### **PART 3 DOCUMENTS INCORPORATED BY REFERENCE AND DELIVERY TO SECURITYHOLDERS**

#### **3.1. Documents Incorporated by Reference**

The following documents must, by means of a statement to that effect, be incorporated by reference into, and form part of, a simplified prospectus:

1. The most recently filed fund facts document for the mutual fund, filed either concurrently with or after the date of the simplified prospectus.
2. The annual information form that is filed concurrently with the simplified prospectus.
3. The most recently filed comparative annual financial statements of the mutual fund, together with the accompanying report of the auditor, filed either before or after the date of the simplified prospectus.
4. The most recently filed interim financial statements of the mutual fund that were filed before or after the date of the simplified prospectus and that pertain to a period after the period to which the annual financial statements then incorporated by reference in the simplified prospectus pertain.



5. The most recently filed annual management report of fund performance of the mutual fund that was filed before or after the date of the simplified prospectus.

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

### **3.1.1. Audit of Financial Statements**

Any financial statements, other than interim financial statements, incorporated by reference in a simplified prospectus must meet the audit requirements in Part 2 of Regulation 81-106 respecting Investment Fund Continuous Disclosure approved by Ministerial Order no. 2005-05 dated May 19, 2005.

### **3.1.2. Review of Unaudited Financial Statements**

Any unaudited financial statements incorporated by reference in a simplified prospectus at the date of filing of the simplified prospectus must have been reviewed in accordance with the relevant standards set out in the Handbook for a review of financial statements by the mutual fund's auditor or a review of financial statements by a public accountant.

### **3.1.3. Approval of Financial Statements and Related Documents**

A mutual fund must not file a simplified prospectus unless each financial statement and each management report of fund performance incorporated by reference in the simplified prospectus has been approved in accordance with the requirements in Part 2 and Part 4 of Regulation 81-106 respecting Investment Fund Continuous Disclosure.

## **3.2. Delivery of Fund Facts Document**

(1) The requirement under securities legislation other than in this Regulation to deliver or send a preliminary prospectus of a mutual fund to a person must be satisfied by delivering or sending the preliminary fund facts document for the mutual fund in accordance with Part 3A.

(2) The requirement under securities legislation other than in this Regulation to deliver or send a prospectus of a mutual fund to a person must be satisfied by delivering or sending the most recently filed fund facts document for the mutual fund in accordance with Part 3A.

### **Note to Reader**

**Some jurisdictions may require legislative amendments if the delivery of the fund facts document is to take the place of delivery of the simplified prospectus. An alternative approach may be to require the simplified prospectus to be delivered with the fund facts document, or for the fund facts document to become the simplified prospectus.**

(3) Except in Ontario, any dealer distributing a security during the waiting period must

(a) send a copy of the preliminary simplified prospectus to each prospective purchaser who indicates an interest in purchasing the security and requests a copy of such preliminary simplified prospectus; and

(b) maintain a record of the names and addresses of all persons and companies to whom the preliminary simplified prospectus has been forwarded.

*[Note: in Ontario, sections 66 and 67 of the Securities Act (Ontario) impose similar requirements regarding the distribution of a preliminary prospectus and maintaining a distribution list.]*

(3.1) If a dealer is required to send a copy of the preliminary simplified prospectus during the waiting period as described in subsection (3), delivery of the preliminary simplified prospectus must be satisfied by delivering the preliminary fund facts document for the mutual fund in accordance with Part 3A.

### **3.2.1. Liability of Dealer**

(1) Except in Ontario, the right of rescission or damages against a dealer given to a purchaser of a security to whom a prospectus was required to be sent or delivered but was not sent or delivered in compliance with securities legislation does not apply to a purchase of a security of a mutual fund.

*[Note: In Ontario, the Securities Act (Ontario) imposes a similar requirement regarding the liability for failure to deliver or send a prospectus.]*

(2) Except in Ontario, a purchaser of a security to whom a fund facts document was required to be sent or delivered but was not sent or delivered in compliance with securities legislation has a right of rescission or damages against the dealer who failed to comply with the requirement.

(3) In the case of an action for rescission under subsection (2),

(a) a purchaser of a security of a mutual fund may rescind a purchase by giving notice to the dealer from whom the purchase was made;

(b) the notice required by paragraph (a) must be in writing, and may be given in person, by prepaid mail, by fax, electronically or other means; and

(c) every dealer from whom a purchase of a security of a mutual fund was made must within a reasonable period reimburse the purchaser who has exercised the rescission right under this section for all sales charges and fees arising from the purchase that was rescinded.

(4) Except in British Columbia and Québec, no action may be commenced to enforce a right under this section more than,

(a) in the case of an action for rescission, 180 days after the date of the transaction that gave rise to the cause of action; or

(b) in the case of an action for damages, the earlier of

(i) 180 days after the purchaser first had knowledge of the facts giving rise to the cause of action, or

(ii) three years after the date of the transaction that gave rise to the cause of action.

*[Note: In Ontario and in British Columbia, the Securities Act (Ontario) and the Securities Act (British Columbia) set out a similar limitation to commence an action for*

*rescission or damages for failure to deliver or send a prospectus. In Québec, the Securities Act (Québec) provides no authority to include a limitation period regarding a civil action in a regulation.]*

#### **Note to Reader**

**If delivery of the fund facts document is to satisfy the prospectus delivery requirements under securities legislation, some jurisdictions may require legislative amendments in order to preserve an investor's right to damages or to rescind a purchase, in the event that the fund facts document is not sent or delivered.**

**In Ontario, consideration will be given to recommending changes to the Securities Act (Ontario) to implement, or facilitate the implementation of, the new fund facts document related requirements under this Part.**

### **3.3. Documents to be Delivered or Sent upon Request**

(1) A mutual fund must deliver or send to any person that requests the fund facts document or simplified prospectus of the mutual fund or any of the documents incorporated by reference into the simplified prospectus, a copy of the fund facts document, simplified prospectus or requested document.

(2) A mutual fund must deliver or send, to any person that requests the annual information form of the mutual fund, the most recently filed fund facts document and the current simplified prospectus of the mutual fund with the annual information form, unless the mutual fund has previously delivered or sent that fund facts document and simplified prospectus to that person.

(3) A mutual fund must deliver or send all documents requested under this section within three business days of receipt of the request and free of charge.

### **3.4. Toll-Free Telephone Number or Collect Telephone Calls**

A mutual fund must have a toll-free telephone number for, or accept collect telephone calls from, persons that want to receive a copy of the simplified prospectus of the mutual fund and any or all documents incorporated by reference into the simplified prospectus.

### **3.5. Soliciting Expressions of Interest Prohibited**

Neither a multiple SP that includes both a *pro forma* simplified prospectus and a preliminary simplified prospectus nor a multiple AIF that includes both a *pro forma* annual information form and a preliminary annual information form shall be used to solicit expressions of interest.

## **PART 3A DELIVERY OF FUND FACTS DOCUMENT**

### **3A.1. Definitions**

In this Part,

“initial purchase” means an order or subscription for a security of a class or series of securities of a mutual fund if, immediately before the purchase, that class or series of securities of the mutual fund is not held by the purchaser; and

“order execution-only service” means the acceptance and execution by a dealer of an order to purchase or subscribe for a security that the dealer has not

recommended and that the dealer has made no determination as to the appropriateness or suitability of such purchase for the purchaser.

### **3A.2. Delivery of Fund Facts Document**

(1) A dealer who receives an order or subscription for an initial purchase of a security of a mutual fund must, before entering into an agreement with the purchaser resulting from the order or subscription,

(a) deliver or send to the purchaser the most recently filed fund facts document for the mutual fund; and

(b) bring the fund facts document to the attention of the purchaser.

(2) For greater certainty, a dealer who receives an order or subscription for a purchase of a security of a mutual fund that is not an initial purchase is not required to deliver or send a fund facts document before entering into an agreement with the purchaser resulting from the order or subscription.

#### **Issues for Comment**

**2. The intention of the requirement to ‘bring the fund facts document to the attention of the purchaser’ is to link for the investor the information in the fund facts document to a particular purchase. In subsection 7.3(3) of the Policy Statement we have provided guidance on this requirement. Is this guidance sufficient?**

**3. In response to comments, we are considering requiring delivery of the fund facts document for subsequent purchases – either in instances where the investor does not have the most recently filed fund facts document, or in all instances with the confirmation of trade. What are your views? Would this approach make it easier to comply with the delivery requirements?**

**What if this could result in the removal of the annual option to receive a fund facts document? Would this approach be more useful for investors? More practical for dealers?**

### **3A.3. Timing of Delivery**

(1) Subsection 3A.2(1) does not apply to an initial purchase if

(a) the purchase is through an order execution-only service; or

(b) the conditions in subsection (2) are satisfied in respect of the purchase and the purchaser has expressly communicated to the dealer that the purchaser does not want to receive the fund facts document before entering into the agreement to purchase.

(2) The conditions in this subsection are satisfied in respect of a purchase if

(a) the purchase

(i) is of a security of a money market fund; or

(ii) is not recommended by the dealer; and

(b) prior to the communication referred to in paragraph (1)(b), the dealer has informed the purchaser of the existence and purpose of the fund facts document and has

explained that the purchaser may choose to receive it before entering into the agreement to purchase.

(3) If a fund facts document is not delivered or sent to the purchaser before an initial purchase, the dealer must deliver or send to the purchaser the most recently filed fund facts document for the mutual fund with the confirmation of trade for the purchase.

#### **Issues for Comment**

**4. In response to comments, we are considering allowing delivery of the fund facts document with the confirmation of trade in instances where the investor expressly communicates they want the purchase to be completed immediately, and it is not reasonably practicable for the dealer to deliver or send the fund facts document before the purchase is completed. We request comment on this approach.**

**If we made this change, what information should an investor receive before the purchase? In addition to delivery of the fund facts document with the trade confirmation, we think that at least some type of oral communication about the fund facts document would be necessary. What specific information should be conveyed in each instance to satisfy this aspect of delivery?**

**Are there alternatives to this approach?**

#### **3A.4. Methods of Delivery**

(1) The requirement under this Part to deliver or send a fund facts document is satisfied by a dealer by giving the fund facts document in person or delivering or sending the fund facts document by prepaid or registered mail, by fax, electronically or other means.

(2) In subsection (1) "other means" does not include oral delivery.

(3) For the purpose of this section, except in British Columbia, if the fund facts document is sent by prepaid or registered mail, the fund facts document is deemed conclusively to have been received 7 business days after being sent by the dealer to whom it was addressed.

#### **3A.5. Annual Option to Receive Fund Facts Document**

(1) A dealer must obtain instructions from each of the dealer's clients as to whether the client wants to receive a copy of the most recently filed fund facts document for each class or series of securities of the mutual fund held in the client's account with the dealer.

(2) A dealer must deliver or send on an annual basis to a client the most recently filed fund facts document for each security of a mutual fund held in the client's account with the dealer in accordance with the instructions referred to in subsection (1).

(3) A dealer must not charge a fee for delivering or sending the fund facts document under this section and must ensure that clients can respond without cost to any solicitations of instruction.

(4) Despite section 5.4, for the purposes of delivery under this section, a dealer may bind a fund facts document of a mutual fund with one or more fund facts document of other mutual funds if the client holds each of those mutual funds.

**Note to Reader**

**If we move to requiring delivery of the fund facts document for some or all subsequent purchases, as canvassed in Issue for Comment 2, we would consider removing the requirement of the annual option to receive the fund facts document.**

**PART 4 PLAIN LANGUAGE AND PRESENTATION****4.1. Plain Language and Presentation**

(1) A simplified prospectus, annual information form and fund facts document must be prepared using plain language and in a format that assists in readability and comprehension.

(2) A simplified prospectus

(a) must present all information briefly and concisely;

(b) must present the items listed in the Part A section of Form 81-101F1 and the items listed in the Part B section of Form 81-101F1 in the order stipulated in those parts;

(c) may, unless the Part B section is being bound separately from the Part A section as permitted by subsection 5.2(1), place the Part B section of the simplified prospectus in any location in the simplified prospectus;

(d) must use the headings and sub-headings stipulated in Form 81-101F1, and may use sub-headings in items for which no sub-headings are stipulated;

(e) must contain only educational material or the information that is specifically mandated or permitted by Form 81-101F1; and

(f) must not incorporate by reference into the simplified prospectus, from any other document, information that is required to be included in a simplified prospectus.

(3) A fund facts document must

(a) be prepared for each class and each series of securities of a mutual fund;

(b) present the items listed in the Part I section of Form 81-101F3 and the items listed in the Part II section of Form 81-101F3 in the order stipulated in those parts;

(c) use the headings and sub-headings stipulated in Form 81-101F3;

(d) contain only the information that is specifically required or permitted to be in Form 81-101F3;

(e) not incorporate by reference information that is required to be included in a fund facts document;

(f) present the information required by Form 81-101F3 at a grade level of 6.0 or less on the Flesch-Kincaid grade level scale; and

(g) not exceed three pages in length.

#### **4.2. Preparation in the Required Form**

Despite provisions in securities legislation relating to the presentation of the content of a prospectus, a simplified prospectus, annual information form and fund facts document must be prepared in accordance with this Regulation.

### **PART 5 PACKAGING**

#### **5.1. Combinations of Documents**

(1) A simplified prospectus must not be consolidated with one or more other simplified prospectuses to form a multiple SP unless the Part A sections of each simplified prospectus are substantially similar.

(2) A multiple SP must be prepared in accordance with the applicable requirements of Form 81-101F1.

(3) If materials or documents are attached to, or bound with, a simplified prospectus or a multiple SP

(a) the simplified prospectus or multiple SP must be the first document contained in the package; and

(b) no pages must come before the simplified prospectus or multiple SP in the package other than, at the option of the mutual fund, a general front cover and a table of contents pertaining to the entire package.

#### **5.2. Separate Binding of Part B Sections of a Multiple SP**

(1) The Part B sections of a multiple SP may be bound separately from the Part A section of that document.

(2) If a Part B section of a multiple SP is bound separately from the Part A section of the multiple SP

(a) all of the Part B sections of the multiple SP must be bound separately from the Part A section; and

(b) all or some of the Part B sections may be bound together with each other or separately.

#### **5.3. Annual Information Forms**

(1) An annual information form must be consolidated with one or more other annual information forms into a multiple AIF if the related simplified prospectuses are consolidated into a multiple SP.

(2) A multiple AIF must be prepared in accordance with the applicable requirements of Form 81-101F2.

#### **5.4. Combinations of Fund Facts Documents**

(1) For the purposes of delivering a fund facts document under securities legislation, a fund facts document of a mutual fund may only be attached to or bound with one or more fund facts documents of other mutual funds if the binding is not so extensive as to cause a reasonable person to question whether the binding prevents the information from being presented in a simple, accessible and comparable format.

**Issue for Comment**

**5. In response to comments, we are proposing some limited binding of fund facts documents. In section 4.1.5 of the Policy Statement we have provided guidance on this provision. Is this guidance sufficient? Do you agree with this approach?**

(2) Despite subsection (1), if a fund facts document is delivered electronically, a fund facts document must not be attached to or bound with another fund facts document.

(3) If delivered with the confirmation of trade, a fund facts document of a mutual fund may be attached to, or bound with, one or more of the following documents:

- (a) Confirmation of trade.
- (b) Simplified prospectus.
- (c) Documents incorporated by reference in the simplified prospectus.
- (d) Educational material.
- (e) Account application documents.
- (f) Registered tax plan applications and documents.
- (g) One or more fund facts.

(4) If any of the material or documents referred to in subsection (3) is attached to, or bound with, one or more fund facts documents

(a) the fund facts document for the mutual fund or mutual funds purchased must be the first document or documents contained in the package; and

(b) no pages must come before the fund facts documents in the package other than the confirmation of trade and, at the option of the mutual fund, a general front cover and a table of contents pertaining to the entire package.

(5) For the purposes of filing a fund facts document under securities legislation, a fund facts document may only be attached to, or bound with, other fund facts documents of a mutual fund in a simplified prospectus, or, if a multiple SP, other fund facts documents of mutual funds combined in the multiple SP.

## **PART 5.1 CERTIFICATES**

### **5.1.1. Interpretation**

For the purposes of this Part,

“manager certificate form” means a certificate in the form set out in Item 20 of Form 81-101F2 and attached to the annual information form,

“mutual fund certificate form” means a certificate in the form set out in Item 19 of Form 81-101F2 and attached to the annual information form,

“principal distributor certificate form” means a certificate in the form set out in Item 22 of Form 81-101F2 and attached to the annual information form, and

“promoter certificate form” means a certificate in the form set out in Item 21 of Form 81-101F2 and attached to the annual information form.



### 5.1.2. Date of Certificates

The date of the certificates required by this Regulation must be within 3 business days before the filing of the preliminary simplified prospectus, the simplified prospectus, the amendment to the simplified prospectus, the amendment to the annual information form or the amendment to the fund facts document, as applicable.

### 5.1.3. Certificate of the Mutual Fund

(1) Except in Ontario, a simplified prospectus of a mutual fund must be certified by the mutual fund.

*[Note: In Ontario, section 58 of the Securities Act (Ontario) imposes a similar requirement that a prospectus contain a certificate of the issuer.]*

(2) A mutual fund must certify its simplified prospectus in the form of the mutual fund certificate form.

### 5.1.4. Certificate of Principal Distributor

A simplified prospectus of a mutual fund must be certified by each principal distributor in the form of the principal distributor certificate form.

### 5.1.5. Certificate of the Manager

A simplified prospectus of a mutual fund must be certified by the manager of the mutual fund in the form of the manager certificate form.

### 5.1.6. Certificate of Promoter

(1) Except in Ontario, a simplified prospectus of a mutual fund must be certified by each promoter of the mutual fund.

*[Note: In Ontario, subsection 58(1) of the Securities Act (Ontario) imposes a similar requirement that a prospectus contain a certificate signed by each promoter of the issuer.]*

(2) A prospectus certificate required under this Regulation or other securities legislation to be signed by a promoter must be in the form of the promoter certificate form.

(3) Except in Ontario, the regulator or, in Québec, the securities regulatory authority may require any person who was a promoter of the mutual fund within the two preceding years to sign a certificate in the promoter certificate form.

*[Note: In Ontario, subsection 58(6) of the Securities Act (Ontario) provides the Director with similar discretion to require a person or company who was a promoter of the issuer within the two preceding years to sign a prospectus certificate, subject to such conditions as the Director considers proper.]*

(4) Despite subsection (3), in British Columbia, the powers of the regulator with respect to the matters described in subsection (3) are set out in the *Securities Act* (British Columbia).

(5) Except in Ontario, with the consent of the regulator or, in Québec, the securities regulatory authority, a certificate of a promoter for a simplified prospectus may be signed by an agent duly authorized in writing by the person required to sign the certificate.

*[Note: In Ontario, subsection 58(7) of the Securities Act (Ontario) provides the Director with similar discretion to permit the certificate to be signed by an agent of a promoter.]*

#### **5.1.7. Certificates of Corporate Mutual Funds**

(1) Except in Ontario, if the mutual fund is a company, the certificate of the mutual fund required under section 5.1.3 must be signed

(a) by the chief executive officer and the chief financial officer of the mutual fund; and

(b) on behalf of the board of directors of the mutual fund, by

(i) any two directors of the mutual fund, other than the persons referred to in paragraph (a) above, or

(ii) if the mutual fund has only three directors, two of whom are the persons referred to in paragraph (a) above, all the directors of the mutual fund.

(2) Except in Ontario, if the regulator or, in Québec, the securities regulatory authority is satisfied that either or both of the chief executive officer or chief financial officer cannot sign a certificate in a simplified prospectus, the regulator or, in Québec, the securities regulatory authority may accept a certificate signed by another officer.

*[Note: In Ontario, section 58 of the Securities Act (Ontario) imposes similar requirements regarding who must sign the issuer certificate.]*

### **PART 6 EXEMPTION**

#### **6.1. Grant of Exemption**

(1) The regulator or the securities regulatory authority may grant an exemption from the provisions of this Regulation, in whole or in part, subject to such conditions or restrictions that may be imposed in the exemption.

(2) Despite subsection (1), in Ontario only the regulator may grant such an exemption.

#### **6.2. Evidence of Exemption by Securities Regulatory Authority**

(1) Subject to subsection (2) and without limiting the manner in which the granting of an exemption may be evidenced, an exemption from a provision of this Regulation other than from subsection 2.7(2) is evidenced by the issuance of a receipt for a final prospectus, a final fund facts document or an amendment to a final prospectus.

(2) The issuance of a receipt for a final prospectus or an amendment to a final prospectus is not evidence that an exemption has been granted unless

(a) the person that sought the exemption sent to the regulator or, in Québec, the securities regulatory authority with the filing of a *pro forma* or preliminary simplified prospectus, fund facts document and annual information form, or at least 10 days before the issuance of the receipt in the case of an amendment, a letter or memorandum describing the matters relating to the exemption and indicating why consideration should be given to the granting of the exemption, and

(b) the regulator or, in Québec, the securities regulatory authority has not before, or concurrently with, the issuance of the receipt sent notice to the person that sought the exemption, that the exemption sought may not be evidenced in the manner set out in subsection (1).

### 6.3. Existing Exemptions

(1) Except in British Columbia, any exemption or waiver from, or approval under, securities legislation relating to the prospectus delivery requirements under securities legislation expires two years after the date that this Regulation comes into force.

(2) For greater certainty, subsection (1) applies only in relation to the prospectus delivery of mutual funds to which this Regulation applies.

#### Note to Reader

**In British Columbia, it is anticipated that any existing exemptions or waivers from, or approvals under, securities legislation relating to the prospectus delivery of mutual funds to which this Regulation applies will be revoked by order.**

## PART 7 EFFECTIVE DATE AND TRANSITION

### 7.1. Effective Date

This Regulation comes into force on *(insert the date of coming into force of this Regulation)*.

### 7.2. Transition

(1) A mutual fund for which a preliminary simplified prospectus or *pro forma* simplified prospectus is filed, or for which a receipt is obtained, before the date that this Regulation comes into force is exempt from the filing requirements of this Regulation if it complies with the filing requirements under securities legislation in effect

(a) at the date of the issuance of a receipt for a preliminary simplified prospectus or the date of filing the *pro forma* simplified prospectus, as applicable, or

(b) at the date of issuance of a receipt for the final prospectus.

(2) For greater clarity, subsection (1) applies only in relation to the one time filing and receipt for a security of a mutual fund which occurs before the date that this Regulation comes into force.

(3) Despite section 7.1, the prospectus delivery requirements under securities legislation in effect before the date that this Regulation comes into force continue to apply to the distribution of a security of a mutual fund until two years after the date this Regulation comes into force.

(4) A simplified prospectus that is delivered or sent under subsection (3) must comply with the packaging requirements under Part 5 of the Regulation in effect before the date that this Regulation comes into force.

(5) Despite section 7.1, the withdrawal and rescission rights under securities legislation in effect before the date that this Regulation comes into force continue to apply to the distribution of a security of a mutual fund until two years after the date this Regulation comes into force.

(6) Despite section 7.1, the cancellation right under section 2.9 does not apply until two years after the date this Regulation comes into force.

**Issues for Comment**

**6. Is the transitional period for delivery of the fund facts document appropriate? If not, what period would be appropriate and why?**

**7. Depending on the comments we receive, we may decide to proceed with finalizing some parts of the Regulation while continuing to consult on other parts. For example, we may be able to move forward sooner with the requirement to prepare and file a fund facts document and have it posted to the website. If this were to occur, we would provide a reasonable transition period before anyone has to comply with the fund facts document requirements and we would consider a shorter transitional period for delivery. What are your views on this approach? What period would be appropriate?**

**7.3. Transitional Delivery of Fund Facts Document**

(1) The prospectus delivery requirements under securities legislation that apply for a period of two years after the date that this Regulation comes into force may be satisfied by delivering or sending the most recently filed fund facts document prepared in accordance with Form 81-101F3 in the time prescribed under securities legislation.

(2) The withdrawal and rescission rights in effect before the date that this Regulation comes into force continue to apply to a fund facts document delivered or sent under subsection (1) until two years after the date this Regulation comes into force.

(3) For greater certainty, a fund facts document that is delivered or sent under subsection (1) must comply with the packaging requirements under subsection 5.4(3) of this Regulation.

**Note to Reader**

**If the necessary legislative amendments in some jurisdictions to preserve investor rights for delivery of the fund facts document are not in place for this transitional period, an alternative transitional approach may be to allow the fund facts document to be delivered with the simplified prospectus.**

**7.4. Initial Delivery of Fund Facts Document**

Despite Part 3A, a dealer must deliver or send the most recently filed fund facts document to a purchaser of a security of a mutual fund with the confirmation of trade for the first purchase of the class or series of securities of the mutual fund following the date the prospectus delivery requirements under the Regulation come into force.”.

**Note to Reader**

**If we decide to require delivery of the fund facts document for subsequent purchases with the confirmation of trade, this section will be removed.**

2. Form 81-101F1 of the Regulation is amended:

(1) in Part A:

(a) by replacing, in item 3.1, the third bullet point with the following:

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

- the Annual Information Form;
- the most recently filed Fund Facts;
- the most recently filed annual financial statements;
- any interim financial statements filed after those annual financial statements;
- the most recently filed annual management report of fund performance;
- any interim management report of fund performance filed after that annual management report of fund performance.

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

(b) by replacing, in item 3.2, the third bullet point with the following:

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

- the Annual Information Form;
- the most recently filed Fund Facts;
- the most recently filed annual financial statements;
- any interim financial statements filed after those annual financial statements;
- the most recently filed annual management report of fund performance;
- any interim management report of fund performance filed after that annual management report of fund performance.

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

(c) by replacing item 11 with the following:

**“Item 11      *Statement of Rights***

Provide a brief explanation, under the heading “What are your Legal Rights?”, of an investor’s statutory rights of rescission and damages, including the right of action for misrepresentations contained in the simplified prospectus and in any documents

incorporated by reference into the simplified prospectus, in substantially the following words:

“Securities legislation gives you the right to cancel your purchase within 48 hours of receiving confirmation of your order.

Securities legislation in some provinces and territories also allows you to cancel an agreement to buy mutual fund [units/shares] and get your money back, or to make a claim for damages, if the Simplified Prospectus, Fund Facts, Annual Information Form or financial statements misrepresent any facts about the Fund. These rights must usually be exercised within certain time limits.

For more information, refer to the securities legislation of your province or territory or consult your lawyer.””;

(d) in item 14:

(i) by replacing, in paragraph (2), the first bullet point with the following:

“• Additional information about the Fund[s] is available in the Fund[’s/s’] Annual Information Form, Fund Facts, management reports of fund performance and financial statements. These documents are incorporated by reference into this Simplified Prospectus, which means that they legally form part of this document just as if they were printed as a part of this document.”;

(ii) by replacing paragraph (3) with the following:

“(3) For a multiple SP in which the Part A section is bound separately from the Part B sections, state, in substantially the following words:

“A complete simplified prospectus for the mutual funds listed on this cover consists of this document and an additional disclosure document that provides specific information about the mutual funds in which you are investing. This document provides general information applicable to all of the [name of mutual fund family] funds. When you request a simplified prospectus, you must be provided with the additional disclosure document.””;

(2) in Part B:

(a) by adding, after item 9, the following:

***Item 9.1 Investment Risk Classification Methodology***

(1) Briefly describe the methodology used by the manager for the purpose of identifying the investment risk level of the mutual fund as required by Item 5(2) in Part I of 81-101F3.

(2) State how frequently the investment risk level of the mutual fund is reviewed.

(3) Disclose that the methodology that the manager uses to identify the investment risk level of the mutual fund is available on request, at no cost, by calling [toll-free/collect call telephone number] or by writing to [address].

***INSTRUCTION:***

*Include a brief description of the formulas, methods or criteria used by the manager of the mutual fund in identifying the investment risk level of the mutual fund.”;*

(b) in item 10, by adding, after paragraph (1) of the instructions, the following:

*“(1.1) Briefly describe how the manager has determined the level of investor risk tolerance that would be appropriate for investment in the mutual fund.”.*

3. Form 81-101F2 of the Regulation is amended:

(1) by replacing paragraph (1) of item 19 with the following:

“(1) Include a certificate of the mutual fund that states:

(a) for a simplified prospectus and annual information form,

“This annual information form, together with the simplified prospectus and the documents incorporated by reference into the simplified prospectus, constitute full, true and plain disclosure of all material facts relating to the securities offered by the simplified prospectus, as required by the securities legislation of [insert the jurisdictions in which qualified] and do not contain any misrepresentations.”

(b) for an amendment to a simplified prospectus or annual information form that does not restate the simplified prospectus or annual information form,

“This amendment no. [specify amendment number and date], together with the [amended and restated] annual information form dated [specify], [amending and restating the annual information form dated [specify],] [as amended by (specify prior amendments and dates)] and the [amended and restated] simplified prospectus dated [specify], [amending and restating the simplified prospectus dated [specify],] [as amended by (specify prior amendments and dates)] and the documents incorporated by reference into the [amended and restated] simplified prospectus, [as amended,] constitute full, true and plain disclosure of all material facts relating to the securities offered by the [amended and restated] simplified prospectus, [as amended,] as required by the securities legislation of [insert the jurisdictions in which qualified] and do not contain any misrepresentations.”, and

(c) for an amendment that amends and restates a simplified prospectus or annual information form,

“This amended and restated annual information form dated [specify], amending and restating the annual information form dated [specify] [,as amended by (specify prior amendments and dates)], together with the [amended and restated] simplified prospectus dated [specify] [, amending and restating the simplified prospectus dated [specify]] [,as amended by (specify prior amendments and dates)] and the documents incorporated by reference into the [amended and restated] simplified prospectus, [as amended,] constitute full, true and plain disclosure of all material facts relating to the securities offered by the [amended and restated] simplified prospectus, [as amended,] as required by the securities legislation of [insert the jurisdictions in which qualified] and do not contain any misrepresentations.”;

(2) by replacing paragraph (1) of item 22 with the following:

“(1) Include a certificate of the principal distributor of the mutual fund that states:

“To the best of our knowledge, information and belief, this annual information form, the financial statements of the fund [specify] for the financial period ended [specify] and the auditors’ report on those financial statements, together with the simplified prospectus and the fund facts document dated [specify], constitute full, true and

plain disclosure of all material facts relating to the securities offered by the simplified prospectus and do not contain any misrepresentation.””;

(3) by replacing, in paragraph (2) of item 24, the first bullet point with the following:

““• Additional information about the Fund[s] is available in the Fund[’s/s’] Fund Facts, management reports of fund performance and financial statements.””.

4. The Regulation is amended by adding, after Form 81-101F2, the following:

**“FORM 81-101F3  
CONTENTS OF FUND FACTS DOCUMENT**

***GENERAL INSTRUCTIONS:***

*General*

(1) *This Form describes the disclosure required in a fund facts document for a mutual fund. Each Item of this Form outlines disclosure requirements. Instructions to help you provide this disclosure are in italic type.*

(2) *Terms defined in Regulation 81-101 respecting Mutual Fund Prospectus Disclosure, Regulation 81-102 respecting Mutual Funds, Regulation 81-105 respecting Mutual Fund Sales Practices or Regulation 81-106 respecting Investment Fund Continuous Disclosure and used in this Form have the meanings that they have in those regulations.*

(3) *A fund facts document must state the required information concisely and in plain language. To ensure ease of readability, the fund facts document must be written at a Flesch-Kincaid grade level of 6.0 or less.*

(4) *Respond as simply and directly as is reasonably possible. Include only the information necessary for a reasonable investor to understand the fundamental and particular characteristics of the mutual fund.*

(5) *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure requires the fund facts document to be presented in a format that assists in readability and comprehension. This Form does not mandate the use of a specific format or template to achieve these goals. However, mutual funds must use, as appropriate, tables, captions, bullet points or other organizational techniques that assist in presenting the required disclosure clearly and concisely.*

(6) *This Form does not mandate the use of a specific font size or style but the font must be legible. Where the fund facts document is made available online, information must be presented in a way that is capable of being printed in a readable format.*

(7) *A fund facts document can be produced in colour or in black and white, and in portrait or landscape orientation.*

(8) *A fund facts document must contain only the information that is specifically mandated or permitted by this Form. In addition, each Item must be presented in the order and under the heading or sub-heading stipulated in this Form.*

(9) *A fund facts document must not contain design elements (e.g., graphics, photos, artwork) that detract from the information disclosed in the document.*



*Contents of a Fund Facts Document*

(10) *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 treat each class or series as a separate mutual fund for purposes of this Form.*

**Issue for Comment:**

**1. In response to comments, we have provided some flexibility in the proposed amendments to Regulation 81-101 respecting Mutual Fund Prospectus Disclosure for a fund facts document to be attached to, or bound with, one or more fund facts documents of other mutual funds. To date, however, we have not seen a sample fund facts document that contains multiple class or series disclosure that meets the principle of providing investors with information in a simple, accessible and comparable format as set out in Framework 81-406: Point of Sale Disclosure for Mutual Funds and Segregated Funds (Framework).**

**For us to consider allowing flexibility to permit a single fund facts document per mutual fund, we request sample fund facts documents that demonstrate multiple class or series information presented in a manner consistent with the principles of the Framework.**

(11) *The fund facts document must be prepared on letter-size paper and must consist of two Parts: Part I and Part II.*

(12) *The fund facts document must begin with the responses to the Items in Part I of this Form. These responses must contain specific information about the mutual fund to which the fund facts document pertains.*

(13) *Part I must be followed by the responses to the Items in Part II of this Form. These responses must contain information about costs of buying and owning the mutual fund, dealer compensation, the cancellation right and how to get additional information about the mutual fund.*

(14) *Each of Part I and Part II must not exceed one page in length, unless the required information in any section causes the disclosure to exceed this limit. Where this is the case, a fund facts document must not exceed a total of 3 pages in length.*

(15) *A mutual fund must not attach or bind other documents to a fund facts document, except those documents permitted under section 5.4 of Regulation 81-101 respecting Mutual Fund Prospectus Disclosure.*

*Consolidation of Fund Facts Document into a Multiple Fund Facts Document*

(16) *Fund facts documents must not be consolidated with each other to form a multiple fund facts document, except as permitted by section 5.4 of Regulation 81-101 respecting Mutual Fund Prospectus Disclosure. When a multiple fund facts document is permitted under the Regulation, a mutual fund must provide information about each of the mutual funds described in the document on a fund-by-fund or catalogue basis and must set out for each mutual fund separately the information required by this Form. Each fund facts document must start on a new page.*

*Multi-Class Mutual Funds*

(17) *As provided in Regulation 81-102 respecting Mutual Funds, a section, part, class or series of a class of securities of a mutual fund that is referable to a separate*

*portfolio of assets is considered to be a separate mutual fund. Those principles apply to Regulation 81-101 respecting Mutual Fund Prospectus Disclosure and this Form.*

## **PART I INFORMATION ABOUT THE FUND**

### **Item 1 Introduction**

Include at the top of the first page a heading consisting of:

- (a) the title "Fund Facts";
- (b) the name of the manager of the mutual fund;
- (c) the name of the mutual fund to which the fund facts document pertains and, if the mutual fund has more than one class or series of securities, the name of the class or series covered in the fund facts document; and
- (d) the date of the document.

#### **INSTRUCTION:**

*The date for a fund facts document that is filed with a preliminary simplified prospectus or simplified prospectus must be the date of the certificate contained in the related annual information form. The date for a fund facts document that is filed with a pro forma simplified prospectus must be the date of the anticipated simplified prospectus. The date for a fund facts document that is updated quarterly or semi-annually must be the date on which it was filed.*

### **Item 2 Quick Facts**

Under the heading "Quick Facts", include disclosure in the form of the following table:

<b>Date fund created:</b> (see instruction 1)	<b>Portfolio manager:</b> (see instruction 4)
<b>Total value on [date]:</b> (see instruction 2)	<b>Distributions:</b> (see instruction 5)
<b>Management expense ratio (MER):</b> (see instruction 3)	<b>Minimum investment:</b> (see instruction 6)

#### **INSTRUCTIONS:**

(1) *Use the date that the securities of the class or series of the mutual fund described in the fund facts document first became available to the public.*

(2) *Specify the total net assets as at a date within 30 days before the date of the fund facts document. The amount disclosed must take into consideration all classes or series that are referable to the same portfolio of assets. For a newly established mutual fund, simply state that this information is not available because it is a new mutual fund.*

(3) *Use the management expense ratio (MER) disclosed in the most recently filed management report of fund performance (MRFP) for the mutual fund. The MER must be net of fee waivers or absorptions and, despite section 15.1(2) of Regulation 81-106 respecting Investment Fund Continuous Disclosure, need not include any additional disclosure about the waivers or absorptions. For a newly established mutual fund that cannot comply with s. 15.1(1) of Regulation 81-106 respecting Investment Fund Continuous Disclosure, state that the MER is not available because it is a new mutual fund.*

**Issue for Comment**

**2. We are considering whether it is more appropriate to require disclosure of the MER without any waivers or absorptions, since there is no guarantee such waivers or absorptions will continue. Do you agree with this approach?**

(4) *Specify the name of the company or companies providing portfolio management services to the mutual fund. The mutual fund may also include the name of the specific individual(s) responsible for portfolio selection.*

(5) *Include disclosure under this element of the “Quick Facts” only if distributions are a fundamental feature of the mutual fund. Disclose the expected frequency and timing of distributions. If there is a targeted amount for distributions, the mutual fund may include this information as well.*

(6) *Specify both the minimum amount for an initial investment and for each additional investment. This can include minimum amounts for pre-authorized contribution plans.*

**Item 3 Investments of the Fund**

(1) Briefly set out under the heading “What does the fund invest in?” a description of the fundamental nature of the mutual fund, or the fundamental features of the mutual fund that distinguish it from other mutual funds.

(2) For an index mutual fund,

(a) disclose the name or names of the permitted index or permitted indices on which the investments of the index mutual fund are based, and

(b) briefly describe the nature of that permitted index or those permitted indices.

(3) Include an introduction to the information provided in response to subsection (4) and subsection (5) using wording similar to the following:

“The charts below give you a snapshot of the fund’s investments on [insert date]. The fund’s investments will change.”.

(4) Include under the sub-heading “Top 10 investments [date]” a table disclosing:

(a) the top 10 positions held by the mutual fund;

(b) the total number of positions; and

(c) the percentage of net asset value of the mutual fund represented by the top 10 positions.

(5) 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.

**INSTRUCTIONS:**

(1) *Include in the information under “What does this fund invest in?” a description of what the mutual fund primarily invests in, or intends to primarily invest in, or that its name implies that it will primarily invest in, such as*

(a) *particular types of issuers, such as foreign issuers, small capitalization issuers or issuers located in emerging market countries;*

(b) *particular geographic locations or industry segments; or*

(c) *portfolio assets other than securities.*

(2) *Include a particular investment strategy only if it is an essential aspect of the mutual fund, as evidenced by the name of the mutual fund or the manner in which the mutual fund is marketed.*

(3) *If a mutual fund's stated objective is to invest primarily in Canadian securities, specify the maximum exposure to investments in foreign markets.*

(4) *The information under "Top 10 investments" and "Investment mix" is intended to give a snapshot of the composition of the mutual fund's investment portfolio. The information required to be disclosed under these sub-headings must be as at a date within 30 days before the date of the fund facts document. The date shown must be the same as the one used in Item 2 for the total value of the mutual fund.*

(5) *If the mutual fund owns more than one class of securities of an issuer, those classes should be aggregated for the purposes of this Item, however, debt and equity securities of an issuer must not be aggregated.*

(6) *Portfolio assets other than securities should be aggregated if they have substantially similar investment risks and profiles. For instance, gold certificates should be aggregated, even if they are issued by different financial institutions.*

(7) *Treat cash and cash equivalents as one separate discrete category.*

(8) *In determining its holdings for purposes of the disclosure required by this Item, a mutual fund should, for each long position in a derivative that is held by the mutual fund for purposes other than hedging and for each index participation unit held by the mutual fund, consider that it holds directly the underlying interest of that derivative or its proportionate share of the securities held by the issuer of the index participation unit.*

(9) *If a mutual fund invests substantially all of its assets directly or indirectly (through the use of derivatives) in securities of one other mutual fund, list only the 10 largest holdings of the other mutual fund and show the percentage of net asset value of the other mutual fund represented by the top 10 positions, as disclosed by the other mutual fund in its most recent fund facts document.*

(10) *Indicate whether any of the mutual fund's top 10 positions are short positions.*

(11) *Each investment mix chart or table must show a breakdown of the mutual fund's investment portfolio into appropriate subgroups and the percentage of the aggregate net asset value of the mutual fund constituted by each subgroup. The names of the subgroups are not prescribed and can include security type, industry segment or geographic location. The mutual fund should use the most appropriate categories given the nature of the mutual fund. The choices made must be consistent with disclosure provided under "Summary of Investment Portfolio" in the mutual fund's MRFP.*

(12) *In presenting the investment mix of the mutual fund, consider the most effective way of conveying the information to investors. All tables or charts must be clear and legible.*

(13) *For new mutual funds where the information required to be disclosed under "Top 10 investments" and "Investment mix" is not available, include the required sub-*

*headings and provide a brief statement explaining why the required information is not available.*

#### **Item 4 Past Performance**

(1) Under the heading “How has the fund performed?” include an introduction using wording similar to the following:

“This section tells you how the fund has performed over the past [insert the lesser of 10 years or the number of completed calendar years] years. Returns are after the MER has been deducted. These expenses reduce the returns you get on your investment.

It’s important to note that this doesn’t tell you how the fund will perform in the future. Also, your actual return will depend on your personal tax situation.”.

(2) Under the sub-heading “Average return” show

(a) the final value, of a hypothetical \$1,000 investment in the mutual fund as at the end of the period that ends within 30 days before the date of the fund facts document and consists of the lesser of

- (i) 10 years, or
- (ii) the time since inception of the mutual fund;

and

(b) the annual compounded rate of return that would equate the initial \$1,000 investment to the final value.

(3) Under the sub-heading “Year-by-year returns” provide 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.

(4) Provide an introduction to the bar chart indicating

- (a) that the bar chart shows the mutual fund’s annual performance for each of the years shown; and
- (b) for the particular years shown, the number of years in which the value of the mutual fund dropped.

#### **INSTRUCTIONS**

(1) *In responding to the requirements of this Item, a mutual fund must comply with the relevant sections of Part 15 of Regulation 81-102 respecting Mutual Funds as if those sections applied to a fund facts document.*

(2) *Use a linear scale for each axis of the bar chart required by this Item.*

(3) *The x-axis and y-axis for the bar chart required by this Item must intersect at 0.*

(4) A mutual fund that distributes different classes or series of securities that are referable to the same portfolio of assets must only show performance data related to the specific class or series of securities being described in the fund facts document.

(5) If the information required to be disclosed under this Item for “Average return” and “Year-by-year returns” is not reasonably available, include the required sub-headings and provide a brief statement explaining why the required information is not available. For information under “Average return”, this will generally be the case for a mutual fund that has been distributing securities under a simplified prospectus for less than 12 consecutive months. For information under “Year-by-year returns”, this will generally be the case for a mutual fund that has been distributing securities under a simplified prospectus for less than one calendar year.

(6) The dollar amount shown under “Average return” may be rounded up to the nearest dollar.

(7) The percentage amounts shown under “Average return” and “Year-by-year returns” may be rounded up to the nearest decimal place.

#### **Item 5 Risks**

(1) Under the heading “How risky is it?” provide an introduction using wording similar to the following:

“When you invest in a fund, the value of your investment can go down as well as up.”.

(2) Using the investment risk classification methodology set out in the mutual fund’s simplified prospectus, identify the mutual fund’s investment risk level on the following scale:

Low	Low to Medium	Medium	Medium to High	High
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#### **INSTRUCTIONS:**

(1) Based upon the investment risk classification methodology adopted by the manager of the mutual fund, identify where the mutual fund fits on the continuum of investment risk levels by showing the full investment risk scale and highlighting the applicable category on the scale. A brief explanation of the mutual fund’s risk level may also be included.

(2) Where the mutual fund is a new mutual fund and it is not possible for the manager of the mutual fund to apply its investment risk classification methodology to the mutual fund, include a statement explaining that it is a new mutual fund and use the chart to indicate the investment risk level that the manager of the mutual fund would expect for the mutual fund.

#### **Issues for Comment:**

**3. In response to comments, including concerns raised by investors and the Investment Funds Institute of Canada (IFIC) of the use of its risk scale, we are proposing for the manager to identify the mutual fund’s risk level on a prescribed scale set out in the fund facts document, based upon the risk classification methodology adopted by the manager.**

**We request comment on whether this approach achieves our objective to provide investors with a simple and comparable presentation of the level of**

**investment risk associated with the mutual fund. Are there alternatives to achieve this objective?**

**4. We would like feedback on whether the band we've prescribed for the scale is appropriate. Are there better ways to describe the range of investment risk for a mutual fund?**

**5. We recognize that managers with similar type mutual funds may adopt different methodologies to identify the mutual fund's risk level on the scale prescribed. We would like your view on whether this will detract from our objective to provide a simple and comparable presentation of the level of investment risk. Should we consider requiring a particular type of risk classification methodology be used? If so, what methodology would be appropriate?**

**6. In response to comments, we are considering allowing the disclosure in this section to be supplemented with a brief description of the key risks associated with an investment in the mutual fund. We request feedback on this approach. Should we limit this risk disclosure? If so, how?**

#### **Item 6 Guarantee**

(1) Under the heading "Are there any guarantees?", if the mutual fund has an insurance or guarantee feature protecting all or some of the principal amount of an investment in the mutual fund:

(a) identify the person providing the guarantee or insurance;

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

(2) If the mutual fund does not have any guarantee or insurance, state in wording similar to the following:

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

#### **INSTRUCTION:**

*If applicable, state that the guarantee or insurance does not apply to the amount of any redemptions before the maturity date of the guarantee or before the death of the securityholder and that redemptions before that date would be based on the net asset value of the mutual fund at the time.*

#### **Item 7 Suitability**

Provide a brief statement of the suitability of the mutual fund for particular investors under the heading "Who is this fund for?". Describe the characteristics of the investor for whom the mutual fund may or may not be an appropriate investment, and the portfolios for which the mutual fund is and is not suited.

#### **INSTRUCTION:**

*If the mutual fund is particularly unsuitable for certain types of investors or for certain types of investment portfolios, emphasize this aspect of the mutual fund. Disclose both the types of investors who should not invest in the mutual fund, with regard to investments on both a short- and long-term basis, and the types of portfolios that should not invest in the mutual fund. If the mutual fund is particularly suitable for investors who have particular investment objectives, this can also be disclosed.*

## **PART II COSTS, RIGHTS AND OTHER INFORMATION**

### **Item 1 Costs of Buying, Owning and Selling the Fund**

#### **1.1. Introduction**

(1) Under the heading “How much does it cost?”, state using wording similar to the following:

“The following tables show the fees and expenses you could pay to buy, own and sell [name of the class or series of securities covered in the fund facts document] [units/shares] of the fund.”.

(2) If applicable, state that

- the mutual fund has other classes or series of securities;
- the fees and expenses for each class or series of securities of the mutual fund are different; and
- the investor should ask about other classes or series of securities that may be suitable for the investor.

#### **1.2. Illustrations of Different Sales Charge Options**

(1) For a mutual fund with multiple sales charge options, include an introduction under the sub-heading “Sales charges” using wording similar to the following:

“You have to choose a sales charge option when you buy the fund. Ask about the pros and cons of each option.”.

(2) Provide information about the sales charges payable by an investor under the available sales charge options in the form of the following table:

<b>Sales charge option</b>	<b>What you pay</b>	<b>How it works</b>
(see instruction 1)	(see instruction 2)	(see instruction 3)

(3) If the mutual fund has only one sales charge option, replace the introductory statement required in paragraph (1) above with a statement highlighting the sales charge option applicable to the mutual fund.

(4) If the mutual fund does not have any sales charges, replace the introductory statement and the table required in paragraph (1) and paragraph (2) above with a general statement explaining that no sales charges apply.

#### **INSTRUCTIONS:**

(1) *The mutual fund must disclose all sales charge options (e.g., initial sales charge, deferred sales charge) that apply to the class or series being described in the fund facts document. It is not necessary to disclose sales charge options that do not apply to the series or class to which the fund facts document relates.*

(2) *Specify each sales charge option as a percentage. For an initial sales charge, include a range for the amount that can be charged, if applicable. For a deferred sales charge, provide the full sales charge schedule.*

(3) *Provide a brief overview of the key elements of how each sales charge option works including:*



- *whether the amount payable is negotiable;*
- *whether the amount payable is deducted from the amount paid at the time of purchase or from the amount received at the time of sale;*
- *who pays and who receives the amount payable under each sales charge option.*

*In the case of a deferred sales charge, the disclosure must also briefly state:*

- *any amount payable as an upfront sales commission;*
- *who pays and who receives the amount payable as the upfront sales commission;*
- *any free redemption amount and key details about how it works;*
- *whether switches can be made without incurring a sales charge; and*
- *how the amount paid by an investor at the time of a redemption of securities is calculated, for example, whether it is based on the net asset value of those securities at the time of redemption or another time.*

### **1.3. Ongoing fund expenses**

(1) Under the sub-heading “Ongoing fund expenses” include an introduction using wording similar to the following:

“You don’t pay these expenses directly. They affect you because they reduce the return you get on your investment.”.

(2) Provide information about the MER of the mutual fund in the form of the following table:

	<b>Annual rate (as a % of the fund’s value)</b>
<b>Management fee</b> The fund pays a management fee to [insert name of manager of the mutual fund].	(see instruction 1)
<b>Operating expenses</b> These are the costs of the fund, other than trading costs.	(see instruction 2)
<b>Management expense ratio (MER)</b> This is the total of the management fee and operating expenses. (see instruction 3)	(see instruction 4)

(3) If the mutual fund pays an incentive fee that is determined by the performance of the mutual fund, provide a brief statement disclosing the amount of the fee and the circumstances where the mutual fund will pay it.

(4) If the manager of the mutual fund or another member of the mutual fund’s organization pays trailing commissions, include a brief description of these commissions under the sub-heading “Trailing commission”.

(5) The description of trailing commissions must include a statement in substantially the following words:

“The trailing commission is paid out of the management fee. The trailing commission is paid for as long as you own the fund.”

**INSTRUCTIONS:**

(1) *The percentage disclosed must correspond to the percentage shown in the fee table in the simplified prospectus.*

(2) *The amount included for operating expenses is the amount arrived at by subtracting the management fee from the MER.*

(3) *Use the same MER that is disclosed in Item 2 of Part I of this Form.*

(4) *The description of trailing commissions must briefly and concisely explain the purpose of the commission, how the commissions are paid and the range of the rates of the commission for each sales charge option.*

**Issue for Comment:**

**7. To better convey the impact on the investor of sales charges and ongoing fund expenses, we are considering requiring an illustration of the amounts payable in dollars and cents. What are your views?**

**8. We are also considering whether to require disclosure in the fund facts document of the trading expense ratio (TER), to provide investors with a more complete picture of the costs associated with an investment in a mutual fund. We request feedback on this proposal.**

**1.4. Other Fees**

(1) Under the sub-heading “Other fees” provide an introduction using wording similar to the following:

“You may have to pay other fees when you sell or switch [units/shares] of the fund.”

(2) Provide information about the amount of fees, other than sales charges, payable by an investor when they sell or switch units or shares of the mutual fund, substantially in the form of the following table:

<b>Fee</b>	<b>What you pay</b>
(see instruction 1)	(see instruction 2)

**INSTRUCTIONS:**

(1) *Under this Item, it is only necessary to include fees that apply to the particular series or class of the mutual fund. Examples include short-term trading fee, switch fee and change fee. If there are no other fees associated with selling or switching units or shares of the mutual fund, replace the table with a statement to this effect.*

(2) *Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee.*

**Item 2 Cancellation Right**

(1) Under the heading “What if I change my mind?” state in substantially the following words:

“• You can cancel most investments up to two days after you receive the trade confirmation.

cancel.

- You have to tell your investment firm in writing that you want to

- You'll get back the amount you invested, or less if the value of the fund has gone down.

- You'll also get back any sales charges and fees you paid.”.

### **Item 3 More Information About the Fund**

(1) Under the heading “For more information” state in substantially the following words:

“This Fund Facts may not have all the information you want. You can ask for the fund’s simplified prospectus and other disclosure documents, which have more detailed information. These documents and the Fund Facts make up the fund’s legal documents.”.

(2) State the name, address and toll-free telephone number of the manager of the mutual fund. If applicable, also state the e-mail address and website of the manager of the mutual fund.”.

**5.** This Regulation comes into force on *(insert the date of coming into force of this Regulation)*.