

REGULATION TO AMEND REGULATION 81-102 MUTUAL FUNDS

Securities Act
(R.S.Q., c. V-1.1)

1. Section 1.1 of Regulation 81-102 Mutual Funds is amended:

(1) by adding the following after the definition of “illiquid asset”:

““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 (*indicate the number and date of the ministerial order approving the regulation*);”;

(2) by replacing the definition of “manager” with the following:

““manager” means a person or company that directs the business, operations and affairs of a mutual fund;”

(3) by replacing the definition of “mutual fund conflict of interest investment restrictions” with the following:

““mutual fund conflict of interest investment restrictions” means the provisions of securities legislation that

(a) prohibit a mutual fund from knowingly making or holding an investment in any person or company who is a substantial securityholder, as defined in securities legislation, of the mutual fund, its management company, manager or distribution company;

(b) prohibit a mutual fund from knowingly making or holding an investment in any person or company in which the mutual fund, alone or together with one or more related mutual funds, is a substantial securityholder, as defined in securities legislation;

(c) prohibit a mutual fund from knowingly making or holding an investment in an issuer in which any person or company who is a substantial securityholder of the mutual fund, its management company, manager or distribution company, has a significant interest, as defined in securities legislation;

(d) prohibit a mutual fund, a responsible person as defined in securities legislation, a portfolio adviser or a registered person acting under a management contract from knowingly causing any investment portfolio managed by it, or a mutual fund, to invest in, or prohibit a mutual fund from investing in, any issuer in which a responsible person, as defined in securities legislation, is an officer or director unless the specific fact is disclosed to the mutual fund, securityholder or client, and where securities legislation requires it, the written consent of the client to the investment is obtained before the purchase;

(e) prohibit a mutual fund, a responsible person as defined in securities legislation, or a portfolio adviser knowingly causing any investment portfolio managed by it to subscribe for, purchase or sell, or prohibit a mutual fund from subscribing for, purchasing or selling, the securities of any issuer from or to the account of a responsible person, as defined in securities legislation, an associate of a responsible person or the portfolio adviser; and;

(f) prohibit a portfolio adviser or a registered person acting under a management contract from subscribing for or buying securities on behalf of a mutual fund, where his or her own interest might distort his or her judgment, unless the specific fact is disclosed to the client and the written consent of the client to the investment is obtained before the subscription or purchase;”.

2. Section 4.1 of the Regulation is amended by adding the following after subsection (3):

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

(a) the independent review committee of the dealer managed mutual fund has approved the transaction under subsection 5.2(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds;

(b) in a class of debt securities of an issuer other than a class of securities referred to in subsection (3), the security has been given, and continues to have, an approved rating by an approved credit rating organization;

(c) in any other class of securities of an issuer,

(i) the distribution of the securities is made by prospectus filed with one or more securities regulatory authorities or regulators in Canada, and;

(ii) during the 60-day period referred to in subsection (1) the investment in the securities is made on an exchange on which these securities are listed and traded; and

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

(5) The corresponding provisions contained in securities legislation referred to in Appendix C do not apply with respect to an investment in a class of securities of an issuer referred to in subsection (4) if the investment is made in accordance with that subsection.”.

3. Section 4.3 of the Regulation is amended by renumbering the paragraph entitled “Exception” as subsection (1) and adding the following subsection after subsection (1):

“(2) Section 4.2 does not apply to a purchase or sale of a class of debt securities by a mutual fund from, or to, another mutual fund managed by the same manager or an affiliate of the manager, if, at the time of the transaction

(a) the mutual fund is purchasing from, or selling to, another mutual fund to which Regulation 81-107 respecting Independent Review Committee for Investment Funds applies;

(b) the independent review committee of the mutual fund has approved the transaction under subsection 5.2(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds;

(c) the transaction complies with subsection 6.1(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds.”.

4. Section 5.1 of the Regulation is amended by repealing paragraph (d).

5. Section 5.3 of the Regulation is amended by adding the following after subsection (1):

“(2) Despite section 5.1, the approval of securityholders of a mutual fund is not required to be obtained for a change referred to in paragraph 5.1(f) if

(a) the independent review committee of the mutual fund has approved the change under subsection 5.2(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds;

(b) the mutual fund is being reorganized with, or its assets are being transferred to, another mutual fund to which this Regulation and Regulation 81-107 respecting Independent Review Committee for Investment Funds apply and that is managed by the manager, or an affiliate of the manager, of the mutual fund;

(c) the reorganization or transfer of assets of the mutual fund complies with the criteria in paragraphs 5.6(1)(a), (b), (c), (d), (g), (h) and (i) and subsection 5.6(2);

(d) the simplified prospectus of the mutual fund discloses that, although the approval of securityholders may not be obtained before making the change, securityholders will be sent a written notice at least 60 days before the effective date of the change; and

(e) the notice referred to in paragraph (d) to securityholders is sent 60 days before the effective date of the change.”.

6. The Regulation is amended by adding the following after section 5.3:

“5.3.1 Change of Auditor of the Mutual Fund

The auditor of the mutual fund may not be changed unless

(a) the independent review committee of the mutual fund has approved the change under subsection 5.2(2) of Regulation 81-107 respecting Independent Review Committee for Investment Funds;

(b) the simplified prospectus of the mutual fund discloses that, although the approval of securityholders may not be obtained before making the change, securityholders will be sent a written notice at least 60 days before the effective date of the change; and

(c) the notice referred to in paragraph (b) to securityholders is sent 60 days before the effective date of the change.”.

7. The Regulation is amended by adding the following after Appendix B-3:

“APPENDIX C

**PROVISIONS CONTAINED IN SECURITIES LEGISLATION FOR THE PURPOSE OF
SUBSECTION 4.1(5) – PROHIBITED INVESTMENTS**

JURISDICTION	SECURITIES LEGISLATION REFERENCE
Alberta	Section 9 of Alberta Securities Commission Policy 7.1
British Columbia	Section 81 of the <i>Securities Rules</i>
Newfoundland and Labrador	Section 191 of Reg 805/96”
New Brunswick	Section 13.2 of Local Rule 31-501, <i>Registration Requirements</i>
Nova Scotia	Section 67 of the General Securities Rules
Ontario	Section 227 of Reg. 1015
Quebec	Sections 236 and 237.1 of the <i>Securities Regulation</i>

8. The Regulation is amended by replacing the words “gérant”, “le gérant”, “du gérant”, “au gérant” and “son gérant”, wherever they appear in the French text, with the words “société de gestion”, “la société de gestion”, “de la société de gestion”, “à la société de gestion” and “sa société de gestion”, respectively, and making the necessary changes, except in the expression “courtier gérant”.

9. This Regulation comes into force on November 1, 2006.