CHANGES TO *POLICY STATEMENT TO REGULATION 81-102 RESPECTING INVESTMENT FUNDS*

1. Section 2.1 of *Policy Statement to Regulation 81-102 respecting Investment Funds* is changed by replacing all occurrences of "garantie", in the French text of subparagraph (5) of paragraph (2), by "sûreté".

2. Section 2.13.1 of the Policy Statement is changed by adding, after paragraph (3), the following:

"(4)   The term "crypto asset" is not defined in the Regulation, but for the purposes of the Regulation, the Canadian securities regulatory authorities will generally consider a crypto asset to include any digital representation of value that uses cryptography and distributed ledger technology, or a combination of similar technology, to record transactions.".

3. The Policy Statement is changed by inserting, after section 3.3, the following:

"**3.3.01.   Investing in Crypto Assets**

Subsection 2.3(1.3) of the Regulation provides an exception to the general prohibition on mutual funds investing in crypto assets in paragraph 2.3(1.2)(j) to permit alternative mutual funds to invest in crypto assets provided the crypto asset is either (a) listed for trading or (b) is the underlying interest in a specified derivative that is listed for trading, on an exchange that has been recognized by a securities regulatory authority in Canada. Subsection 2.3(2) provides a similar exception for non-redeemable investment funds. For greater clarity, this is not intended to restrict investment funds to only purchasing crypto assets through a recognized exchange. It is meant to be the criteria to determine whether a fund can invest in a particular type of crypto asset. Funds will continue to be permitted to acquire crypto assets from other sources, such as crypto asset trading platforms, provided the crypto asset qualifies under the criteria set out in subsection 2.3(1.3) and subject to any other existing requirements that may impact how an investment fund acquires its portfolio assets.".

4. Section 3.7 of the Policy Statement is changed:

(1)   in paragraph (1):

(a)   by replacing "la garantie", in the French text of subparagraph (b), by "le bien déposé à titre de sûreté";

(b)   by replacing "garantie", in the French text of subparagraph (c), by "sûreté";

(2)   by replacing "garantie", in the French text of paragraph (2), by "constitution de sûreté;

(3)   by replacing "garantie", in the French text of paragraph (3), by "sûreté";

(4)   by replacing "d'utiliser des lettres de crédit irrévocables en garantie", in the French text of paragraph (4), by "fournir des lettres de crédit irrévocables à titre de sûreté";

(5)   by replacing all occurrences of "garanties", in the French text of paragraphs (6) and (11), by "sûretés";

(6)   in paragraph (13):

(a)   by replacing, in the French text of subparagraph (e), "touchant la garantie" by "touchant la constitution de sûreté" and "la nature de la garantie" by "la nature de la sûreté";

(b)   by replacing "en garantie", in the French text of subparagraph (f), by "à titre de sûreté".

5. Section 8.1 of the Policy Statement is changed:

(1)   by inserting, at the beginning of first paragraph, "(1)";

(2)   by adding, after the first paragraph, the following paragraphs:

"(2)   The Canadian securities regulatory authorities expect that custodians and sub-custodians responsible for the custody of portfolio assets that are crypto assets implement policies and procedures that address the unique risks concerning safeguarding of crypto assets compared to other asset types. We also expect that investment fund managers take note of these policies and procedures in conducting their due diligence on custodians or sub-custodians to hold crypto assets for an investment fund, consistent with their fiduciary obligations. Examples of what we understand to be industry best practices may include, but are not limited to:

(a)   having specialist expertise and infrastructure relating to the custody of crypto assets;

(b)   storing private cryptographic keys to the investment fund's crypto assets in segregated wallets separate from wallets the custodian or sub-custodian uses for its other customers so that unique public and private keys are maintained on behalf of an investment fund and visible on the blockchain;

(c)   maintaining books and records in a way that enables the investment fund, at any time, to confirm its transactions and ownership of the crypto assets it holds. Custody and record-keeping controls (e.g., reconciliation to the blockchain) that ensure investors' crypto assets exist, are appropriately segregated and protected, and that ensure transactions with respect to those assets are verifiable, should be maintained;

(d)   using hardware devices to hold private cryptographic keys that are subject to robust physical security practices, with effective systems and processes for private key backup and recovery;

(e)   using effective cybersecurity solutions that minimise single point of failure risk, such as the use of multi-signature wallets;

(f)   maintaining robust systems and practices for the receipt, validation, review, reporting and execution of instructions from the investment fund;

(g)   maintaining website security measures that include two-factor authentication, strong password requirements that are cryptographically hashed, encryption of user information and other state-of-the-art measures to secure client information and protect the custodian and sub-custodian's website from hacking attempts;

(h)   maintaining robust cyber and physical security practices for their operations, including appropriate internal governance and controls, risk management and business continuity practices;

(i)   maintaining insurance with respect to the crypto assets in their custody that is reasonable and appropriate. The Canadian securities regulatory authorities expect investment fund managers to use their best judgment, consistent with their fiduciary obligation to the investment fund, to determine whether the insurance maintained by the custodian or sub-custodian is satisfactory in the circumstances, which would include a consideration of whether the amount and nature of the insurance is consistent with standard industry practices where applicable.

"(3)   For the purposes of section 6.5.1, the Canadian securities regulatory authorities generally consider offline storage to mean the storage of private cryptographic keys in a manner that prevents any connection to the internet.".

6.   Section 8.3 of the Policy Statement is changed:

(1)   by inserting, at the beginning of the first paragraph, "(1)";

(2)   by adding, after the first paragraph, the following paragraphs:

"(2)   Subsection 6.7(1.1) requires a custodian or sub-custodian of an investment fund that holds portfolio assets of that investment fund that are crypto assets to obtain a report prepared by a public accountant to assess its internal management and controls. The Canadian securities regulatory authorities would consider obtaining a System and Organization Controls 2 Type II report, generally referred to as a "SOC-2 Type II" report, prepared in accordance with the framework developed by the American Institute of Certified Public Accountants, to satisfy this requirement.

"(3)   We are not prescribing a specific 12-month period the report required under subsection 6.7(1.1) must refer to. However, we expect that report will generally refer to the same 12-month period each year, similar to how other types of annual reporting, such as financial reporting is provided.".