

## **AMENDMENTS TO COMPANION POLICY 81-105: MUTUAL FUND SALES PRACTICES**

1. *Companion Policy 81-105: Mutual Fund Sales Practices* is amended by replacing the title with the following:

**“POLICY STATEMENT TO REGULATION 81-105 RESPECTING MUTUAL FUND SALES PRACTICES”.**

2. This Companion Policy is amended by replacing section 1.1 with the following:

### **“1.1. Purpose**

The purpose of this Policy is to state the views of the Canadian securities regulatory authorities on various matters relating to *Regulation 81-105 respecting Mutual Fund Sales Practices* (chapter V-1.1, r. 41) (the “Regulation”), including

- (a) a discussion of the general approach taken by the Canadian securities regulatory authorities in, and the general regulatory purpose for, the Regulation;
- (b) the interpretation of various terms used in the Regulation; and
- (c) examples of some of the matters described in the Regulation.”.

3. This Companion Policy is amended by inserting, after section 4.1, the following:

### **“4.1.1. Payment of money**

Except for payments specifically permitted under Parts 3 and 5 of the Regulation, section 2.1 of the Regulation prohibits members of the organization of a mutual fund from making payments of money to participating dealers or their representatives in connection with the distribution of securities of the mutual fund.

### **“4.1.2. Means of payment**

The Canadian securities regulatory authorities are of the view that the Regulation does not preclude members of the organization of a mutual fund from facilitating the payment by a mutual fund investor to a participating dealer of a sales commission in connection with the purchase of mutual fund securities that is negotiated and agreed to exclusively between those two parties. For example, the participating dealer may remit to the member the gross proceeds of an investor’s purchase of mutual fund securities from which the member may then deduct and remit the sales commission to the participating dealer on the investor’s behalf pursuant to instructions received from the dealer.”.

4. Section 5.1 of the Companion Policy is amended replacing “Paragraphs 3.1(b) and 3.2(b) of the Instrument require the disclosure of the method of calculation used in determining the amount of sales commissions and” with “Paragraph 3.2(1)(b) of the Regulation requires the disclosure of the method of calculation used in determining the amount of”.

5. Section 5.2 of the Companion Policy is amended by replacing “Subparagraphs 3.1(c)(iii) and 3.2(1)(d)(iii) of the Instrument prevent” with “Subparagraph 3.2(1)(d)(iii) of the Regulation prevents”.

6. This Companion Policy is amended by adding, after section 5.3, the following:

**“5.4. Restriction on payment and acceptance of trailing commissions where no suitability determination made**

Subsection 3.2(4) prohibits members of the organization of a mutual fund from paying trailing commissions to participating dealers who do not make a suitability determination for a client in connection with securities of the mutual fund held in an account of the client. Correspondingly, subsection 2.2(2) of the Regulation permits participating dealers to solicit and accept only those payments that members are permitted to make under Parts 3 and 5. Consequently, participating dealers who are not subject to the obligation to make a suitability determination under *Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations* (chapter V 1.1, r. 10) or corresponding SRO rules may not solicit or accept trailing commission payments from members of the organization of a mutual fund. Consistent with this restriction, participating dealers and members of the organization of a mutual fund should establish a process under which a participating dealer is required to confirm to the member that it has made a suitability determination for a client as a prerequisite to the receipt of trailing commission payments. In addition, members of the organization of a mutual fund should make available to participating dealers not making a suitability determination in respect of a client, a class or series of securities of a mutual fund that does not pay trailing commissions, which the dealer should offer to the client.”.

7. This Companion Policy is amended by replacing, wherever they appear, the words “the Instrument” with the words “the Regulation” and the words “person or company” with the word “person”, and making the necessary changes.