

REGULATION TO AMEND REGULATION 81-105 RESPECTING MUTUAL FUND SALES PRACTICES

Securities Act
(chapter V-1.1, s. 331.1, par. (16), (26) and (34))

1. Section 1.1 of Regulation 81-105 respecting Mutual Fund Sales Practices (chapter V-1.1, r. 41), amended by Regulation to amend Regulation 81-105 respecting Mutual Fund Sales Practices adopted by Ministerial Order No. 2020-10 dated 20 April 2020, is again amended by adding, after the definition of the expression “representative”, the following:

““suitability determination” means a determination or other assessment required to be made under any of the following:

(a) section 13.3 of Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations (chapter V-1.1, r. 10);

(b) the rules of the Investment Industry Regulatory Organization of Canada named in Appendix G of Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations that are in effect, as amended from time to time, and that correspond to section 13.3 of Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations;

(c) a rule or policy of the Mutual Fund Dealers Association of Canada named in Appendix H of Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations that are in effect, as amended from time to time, and that correspond to section 13.3 of Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations.”.

2. Section 2.2 of the Regulation is amended by adding, after paragraph (2), the following:

“(3) Despite subsection (2), a participating dealer may not solicit or accept a payment of a trailing commission from a member of the organization of the mutual fund, in connection with securities of the mutual fund held in an account of a client of the participating dealer, if the participating dealer was not required to make a suitability determination in respect of the client in connection with those securities.”.

3. Section 3.2 of the Regulation is amended:

(1) in paragraph (1):

(a) by deleting, in the text preceding subparagraph (a), the words “in money that is based upon the aggregate value of securities of the mutual fund held in accounts of clients of the participating dealer as at a particular time or during a particular period,”;

(b) by replacing, in subparagraph (a), the word “the trade” with the words “a trade in securities of the mutual fund by a client of the participating dealer”;

(c) by inserting, after subparagraph (a), the following:

“(a.1) the amount of the trailing commission is based on the value of securities of the mutual fund held in an account of the client as at a particular time or during a particular period;”;

(2) by adding, after paragraph (3), the following:

“(4) Despite subsection (1), no member of the organization of a mutual fund may pay a trailing commission to a participating dealer in connection with securities of the mutual fund held in an account of a client of the participating dealer if the member knows or

ought reasonably to know that the participating dealer was not required to make a suitability determination in respect of the client in connection with those securities.”.

4. Effective dates

(1) The provisions of this Regulation listed in column 1 of the following table come into force on the date set out in column 2 of the table:

Column 1: Provisions of this Regulation	Column 2: Date
Section 1	31 December 2020
Sections 2 and 3	1 June 2022

(2) In Saskatchewan, despite paragraph (1), if these regulations are filed with the Registrar of Regulations after the effective dates indicated in column 2, these regulations come into force on the day on which they are filed with the Registrar of Regulations.