

Notice of publication
*Regulation to amend Regulation 81-106 respecting Investment Fund
Continuous Disclosure,
Amendments to Policy Statement to Regulation 81-106 respecting
Investment Fund Continuous Disclosure
and Related Amendments*

October 3, 2013

Introduction

The Canadian Securities Administrators (the CSA or we) are making amendments to:

- *Regulation 81-106 respecting Investment Fund Continuous Disclosure*, including Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* (the Regulation) and
- *Policy Statement to Regulation 81-106 respecting Investment Fund Continuous Disclosure* (the Policy Statement).

We are also making consequential amendments to:

- Form 41-101F2 *Information Required in an Investment Fund Prospectus*,
- *Regulation 81-101 respecting Mutual Fund Prospectus Disclosure*,
- *Policy Statement to Regulation 81-101 respecting Mutual Fund Prospectus Disclosure*,
- *Regulation 81-102 respecting Mutual Funds*,
- *Policy Statement to Regulation 81-102 respecting Mutual Funds*, and
- *Regulation 81-104 respecting Commodity Pools*.

The amendments and consequential amendments (together, the Amendments) accommodate the transition of financial reporting for investment funds to International Financial Reporting Standards (IFRS). The Amendments have been adopted, or are expected to be adopted, by each member of the CSA.

Provided all necessary ministerial approvals are obtained, the Amendments will come into force on January 1, 2014.

Substance and Purpose

The Amendments require investment funds, for financial years beginning on or after January 1, 2014, to prepare financial statements in accordance with Canadian GAAP applicable to publicly accountable enterprises and to report compliance with IFRS. We have also updated the accounting terms and phrases in the Regulation to reflect IFRS as incorporated into the Handbook of the Canadian Institute of Chartered Accountants (the Handbook).

Background

The Regulation is a nationally harmonized set of continuous disclosure requirements for investment funds. The Regulation currently requires investment funds to prepare financial statements in accordance with Canadian generally accepted accounting principles (GAAP) which are established by the Canadian Accounting Standards Board (AcSB) and published in the Handbook. Following a period of consultation, the AcSB adopted a strategic plan in 2006 to move financial reporting for Canadian publicly accountable enterprises to IFRS as issued by the International Accounting Standards Board (IASB).

We published proposed amendments to the Regulation for comment on October 16, 2009 (the 2009 Proposal)¹ as part of a series of notices that proposed changes to securities legislation relating to the changeover to IFRS. The final changes for reporting issuers, other than investment funds, and registrants were published in 2010 to coincide with the transition of most publicly accountable enterprises to IFRS for financial years beginning on or after January 1, 2011.

However, the AcSB provided investment companies, as defined in and applying Accounting Guideline 18 *Investment Companies* (AcG-18), with a deferral of the mandatory changeover date for three years until January 1, 2014. This deferral applied to “investment funds” as defined in securities legislation. The deferral was intended to allow the IASB’s exception from consolidation for investment entities to be in place prior to the adoption of IFRS by investment companies in Canada.

The CSA provided notice of this deferral in CSA Staff Notice 81-320 *Update on International Financial Reporting Standards for Investment Funds*, originally published in October 2010, and updated in March 2011 and March 2012.

Exception from Consolidation for Investment Funds

IFRS 10 *Consolidated Financial Statements* requires an entity to consolidate investments that it controls. This requirement would have required investment funds to produce potentially confusing disclosure as historically, all investment fund portfolio positions were shown at fair value. In 2010, the IASB announced that it would propose that investment companies be exempt from consolidation and instead measure an investment in a subsidiary at fair value through profit and loss.

The consolidation issue for investment funds was largely resolved when the IASB issued *Investment Entities (Amendments to IFRS 10, IFRS 12 and IAS 27)* on October 31, 2012. These revisions provide investment entities with an exception from consolidating entities that they control. The term “investment entities” is defined in IFRS 10, and in our view, will capture the majority of “investment funds” as defined in securities legislation. However, while we have not yet identified an investment fund that will not qualify as an “investment entity”, we acknowledge that this may be a possibility.

¹ These proposals were published in French on March 12, 2010 by the Autorité des marchés financiers and the New Brunswick Securities Commission (now the Financial and Consumer Services Commission (New Brunswick)).

Subsequent to the publication of this exception, we reviewed and revised the 2009 Proposal, after considering the developments at the IASB, together with the submissions received by the CSA during the comment period and in additional consultations with preparers and auditors of investment fund financial statements.

Summary of Written Comments Received by the CSA

During the comment period on the 2009 Proposal, we received submissions from 11 commenters. We have considered the comments received and thank all of the commenters for their input. The names of the commenters and a summary of their comments, together with our responses, are contained in Appendix B to this Notice.

Summary of Changes to the Proposed Regulation/Policy Statement

After considering the comments received and engaging in additional consultations, we have made some revisions to the 2009 Proposal published for comment. Those revisions are reflected in the amending regulations that we are publishing concurrently with this Notice. As these changes are not material, we are not republishing the Amendments for a further comment period. Appendix A to this Notice contains a summary of the key changes made to the 2009 Proposal.

Local Matters

An appendix is being published in any local jurisdiction that is making related changes to local securities laws, including local notices or other policy instruments in that jurisdiction. It also includes any additional information that is relevant to that jurisdiction only.

Materials Published

Appendix A – Summary of Changes to the 2009 Proposal
Appendix B – Summary of Public Comments Received by the CSA

Questions

Please refer your questions to any of the following:

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Appendix A

Summary of Changes to the 2009 Proposal

This Appendix sets out the key changes that we made to the 2009 Proposal. We have provided our rationale for the changes in the Summary of Public Comments contained in Appendix B to this Notice.

General

- We changed the IFRS changeover date to January 1, 2014. The Regulation now distinguishes between requirements for financial years beginning on or after January 1, 2014 and financial years that began before the changeover date.
- For sections that are in common with *Regulation 51-102 respecting Continuous Disclosure Obligations*, *Policy Statement to Regulation 51-102 respecting Continuous Disclosure Obligations* and *Regulation 52-107 respecting Acceptable Accounting Principles and Auditing Standards* (together, the Corporate Regulations), we made modifications to mirror the final IFRS amendments to the Corporate Regulations published on December 10, 2010.

Regulation 81-106 respecting Investment Fund Continuous Disclosure

Part 2 Financial Statements

Section 2.7 – Acceptable Auditing Standards

- Section 2.7 of *Regulation 81-106 respecting Investment Fund Continuous Disclosure* lists required elements in an auditor's report. The Auditing and Assurance Standards Board adopted International Standards on Auditing as Canadian Auditing Standards (CAS) for audits of financial statements for periods ending on or after December 14, 2010. As we did not amend the terminology for an auditor's report at the time that CAS was introduced, we are not making amendments now for financial years beginning before January 1, 2014 so as not to create any retroactive reporting obligations by auditors. New subsection 2.7(3), relating to financial years beginning on or after January 1, 2014, reflects the CAS auditor's report.

Section 2.7 continues to require that an auditor's report be prepared in accordance with Canadian GAAS, which is defined in *Regulation 14-101 respecting Definitions* as generally accepted auditing standards determined with reference to the Handbook.

Part 3 Financial Disclosure Requirements

Section 3.2 – Statement of Comprehensive Income

- In response to comments, we removed line item 15 “net investment income or loss for the period” because IFRS already requires an entity to present subtotals in the statement of

comprehensive income when such presentation is relevant to an understanding of the entity's financial performance.

- In response to comments, we modified line item 17.1 because return of capital is not a financing cost, when the investment fund's own securities are classified as financial liabilities. (Refer to section 3.3 below.)

Section 3.3 – Statement of Changes in Financial Position

- In response to comments, we moved “return of capital” to line item 6.1 to distinguish it from the types of distributions that may represent financing costs, if the investment fund's own securities are classified as financial liabilities.

Section 3.5 – Statement of Investment Portfolio

- We did not proceed with the proposal to present a non-consolidated statement of investment portfolio because, based on our analysis and feedback from stakeholders, it appears that most investment funds as defined in securities legislation will qualify as investment entities as defined in the amendments to IFRS 10 *Consolidated Financial Statements*, issued on October 31, 2012. Accordingly, these investment funds will not be required to consolidate entities that they control and, instead, will measure an investment in a subsidiary at fair value through profit or loss.

Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance*

Part B Content Requirements for Annual Management Report of Fund Performance

Item 3 – Financial Highlights

- We did not proceed with the proposal to show financial highlights on a non-consolidated basis as it appears that most investment funds will not be required to consolidate entities that they control. (Refer to section 3.5 above.)

Policy Statement to Regulation 81-106

We modified the amendments to the Policy Statement to reflect the changes to the Regulation and explain the CSA's approach to the transition from Canadian GAAP currently used by investment funds to IFRS.

Part 2 Financial Statements

Section 2.5.1 – Disclosure of Investment Portfolio

- We clarified that the statement of investment portfolio may be referred to as a schedule, but that it must still be audited.

Section 2.7 – Disclosure of Securities Lending Transactions

- We removed the discussion of accounting principles pertaining to securities lending transactions as the requirements for recognition and measurement of these transactions are set out in IFRS.

Part 9 Net Asset Value

Section 9.2 – Fair Value Guidance

- We clarified the difference between “fair value” as defined in the Regulation and the requirement to determine “current value” for financial statement purposes.

Section 9.3 – Meaning of Fair Value

- We removed the reference to the Handbook definition of fair value as repeating this definition in the Policy Statement is unnecessary. The Policy Statement continues to indicate that investment funds may look to the principles in the Handbook for guidance on the measurement of fair value when calculating net asset value.

Consequential Amendments

Form 41-101F2 Information Required in an Investment Fund Prospectus, subsection 3.6(4) and section 11.1

- We modified the description of MER to be consistent with the Regulation.

Regulation 81-102 respecting Mutual Funds, Appendix B-1, Appendix B-2 and Appendix B-3

- We modified the compliance reports to reflect CAS auditor’s reports in a compliance framework.