

## REGULATION TO AMEND REGULATION 81-107 RESPECTING INDEPENDENT REVIEW COMMITTEE FOR INVESTMENT FUNDS

Securities Act

(chapter V-1.1, s. 331.1, par. (3), (11), (16) and (34))

1. Section 1.1 of Regulation 81-107 respecting Independent Review Committee for Investment Funds (chapter V-1.1, r. 43) is amended by replacing, in paragraph (1), the word “This” with the words “Except as provided in Part 6, this”.

2. Section 1.6 of the Regulation is amended by replacing, in the French text, the words “l’activité, les opérations” with the words “l’entreprise, les activités”.

3. Section 6.1 of the Regulation is amended:

(1) in paragraph (1):

(a) in subparagraph (i) of subparagraph (a):

(i) by replacing, in clause (C), “is quoted; or” with “is quoted, or”;

(ii) by inserting, after clause (C), the following:

“(D) the “last sale price” as defined under the Universal Market Integrity Rules of the Investment Industry Regulatory Organization of Canada, as amended from time to time; or,”;

(b) by adding, after subparagraph (b), the following, and making the necessary changes:

“(c) “managed account” means an account, or an investment portfolio, that is not an account of a responsible person, as defined under Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations (chapter V-1.1, r. 10), or an account of an investment fund, that is managed by a portfolio manager or portfolio adviser on behalf of a client under an investment management agreement.”;

(2) in paragraph (2):

(a) by replacing the text preceding subparagraph (a) with the following:

“(2) The portfolio manager of a managed account or an investment fund, including an investment fund that is not a reporting issuer, may purchase a security of any issuer from, or sell a security of any issuer to, another investment fund, including an investment fund that is not a reporting issuer, managed by the same manager or an affiliate of the manager, if, at the time of the transaction”;

(b) by replacing subparagraph (a) with the following:

“(a) the investment fund or managed account is purchasing from, or selling to, another investment fund that is a reporting issuer or, if the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Regulation for the purpose of approving the transaction”;

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

“(b.1) the investment management agreement for the managed account authorizes the purchase or sale of the security”;

(d) by inserting, in subparagraph (g) and after the words “investment fund”, “, or portfolio manager on behalf of the managed account,”;

(3) by inserting, in paragraph (3) and after the words “of an investment fund”, the words “including a managed account and an investment fund that is not a reporting issuer,”;

(4) by inserting, in paragraph (4) and after the words “of an investment fund”, the words “including a managed account and an investment fund that is not a reporting issuer,”.

**4. Section 6.2 of the Regulation is amended:**

(1) in paragraph (1):

(a) by inserting, in the text preceding subparagraph (a) and after the words “investment fund”, “, including an investment fund that is not a reporting issuer,”;

(b) by inserting, before subparagraph (i) of subparagraph (a), the following, and making the necessary changes:

“(0.i) the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Regulation for the purpose of approving the transaction;”;

(2) by inserting, in paragraph (2) and after the words “do not apply to an investment fund”, “, including an investment fund that is not a reporting issuer,”.

**5. The Regulation is amended by adding, after section 6.2, the following:**

**“6.3. Transactions in securities of related issuers – Secondary market non-exchange traded debt securities**

(1) An investment fund, including an investment fund that is not a reporting issuer, may make or hold an investment in a non-exchange traded debt security of an issuer related to it, its manager, or an entity related to the manager, in the secondary market if all of the following apply:

(a) where the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Regulation for the purpose of approving the transaction;

(b) the independent review committee has approved the investment under subsection 5.2(2);

(c) the debt security has been given, and continues to have, at the time of purchase, a “designated rating”, as defined under Regulation 44-101 respecting Short Form Prospectus Distributions (chapter V-1.1, r. 16);

(d) the price for the debt security is not more than

(i) where the purchase occurs on a marketplace, the price for the non-exchange traded debt security, determined in accordance with the requirements of that marketplace, and

(ii) where the purchase does not occur on a marketplace, either of the following:

(I) the price at which an arm’s length seller is willing to sell the security;

(II) the price quoted publicly by an independent marketplace or the price quoted, immediately before the purchase, by an arm’s length purchaser or seller;

(e) the transaction complies with any applicable “market integrity requirements” as defined in section 6.1;

(f) no later than the time the investment fund files its annual financial statements, the manager of the investment fund files with the regulator, except in Québec, or the securities regulatory authority, the particulars of the investment.

(2) The investment fund conflict of interest investment restrictions do not apply to an investment fund, including an investment fund that is not a reporting issuer, with respect to an investment referred to in subsection (1) if the investment is made in accordance with that subsection.

(3) In subsection (2), “investment fund conflict of interest investment restrictions” has the meaning ascribed to that term in Regulation 81-102 respecting Investment Funds (chapter V-1.1, r. 39).

#### **“6.4. Transactions in securities of related issuers – Primary market distributions of long-term debt securities**

(1) An investment fund, including an investment fund that is not a reporting issuer, may make or hold an investment in a long-term debt security of an issuer related to it, its manager, or an entity related to the manager, under a distribution of the long-term debt security of that issuer if all of the following apply:

(a) where the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Regulation for the purpose of approving the transaction;

(b) the independent review committee has approved the investment under subsection 5.2(2);

(c) the debt security has a term to maturity greater than 365 days and is not asset-backed commercial paper and has been given, and continues to have, at the time of purchase a designated rating by a designated rating organization as defined under Regulation 44-101 respecting Short Form Prospectus Distributions (chapter V-1.1, r. 16);

(d) the size of the distribution is at least \$100 million;

(e) at least 2 purchasers who are independent, arm’s length purchasers, which may include “independent underwriters” within the meaning of Regulation 33-105 respecting Underwriting Conflicts (chapter V-1.1, r. 11), collectively purchase at least 20% of the distribution;

(f) following its purchase, the investment fund would not have more than 5% of its net assets invested in long-term debt securities of that issuer;

(g) following the purchase, the investment fund, together with other investment funds managed by the manager, hold no more than 20% of the long-term debt securities issued in the distribution;

(h) the price paid for the long-term debt security is no higher than the lowest price paid by any of the arm’s length purchasers who participate in the distribution;

(i) no later than the time the investment fund files its annual financial statements, the manager of the investment fund files with the regulator, except in Québec, or the securities regulatory authority, the particulars of the investment.

(2) The investment fund conflict of interest investment restrictions do not apply to an investment fund, including an investment fund that is not a reporting issuer, with respect to an investment referred to in subsection (1) if the investment is made in accordance with that subsection.

(3) In subsection (2), “investment fund conflict of interest investment restrictions” has the meaning ascribed to that term in Regulation 81-102 respecting Investment Funds (chapter V-1.1, r. 39).

**“6.5. Transactions in debt securities with a related dealer – principal trades in debt securities**

(1) The portfolio manager or portfolio adviser, acting on behalf of an investment fund, including an investment fund that is not a reporting issuer, or acting on behalf of a managed account as defined in section 6.1, may cause the investment fund or managed account to purchase a debt security of any issuer from, or sell a debt security of any issuer to, a dealer related to the portfolio manager, acting for its own account, if at the time of the transaction all of the following apply:

(a) where the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Regulation for the purpose of approving the transaction;

(b) the independent review committee has approved the transaction under subsection 5.2(2);

(c) the investment management agreement for the managed account authorizes the purchase or sale of the debt security;

(d) the bid and ask price of the security transacted is readily available;

(e) a purchase is not executed at a price which is higher than the available ask price and a sale is not executed at a price which is lower than the available bid price;

(f) the purchase or sale complies with any applicable “market integrity requirements” as defined in section 6.1;

(g) the investment fund, or portfolio manager on behalf of the managed account, keeps written records, including a record of each purchase and sale of securities, the parties to the trade, and the terms of the purchase or sale

(i) in a reasonably accessible place, for 2 years after the end of the fiscal year in which the trade occurred, and,

(ii) for a further 3 years after the end of that fiscal year.

(2) The inter-fund self-dealing investment prohibitions do not apply to a portfolio manager or portfolio adviser of an investment fund, or an investment fund, with respect to a purchase or sale of a security referred to in subsection (1) if the purchase or sale is made in accordance with that subsection.”.

**6.** Appendix B of the Regulation is amended by inserting, at the end of the text in each row of the column entitled “**SECURITIES LEGISLATION REFERENCE**”, “and section 4.2 of Regulation 81-102 respecting Investment Funds”.

**7.** This Regulation comes into force on *(insert here the date of coming into force of this Regulation)*.