AMENDMENTS TO *POLICY STATEMENT TO REGULATION 81-107 RESPECTING INDEPENDENT REVIEW COMMITTEE FOR INVESTMENT FUNDS*

1. Section 1.1 of *Policy Statement to Regulation 81-107 respecting Independent Review Committee for Investment Funds* is amended by adding, at the end of paragraph 2, the following sentence:

"Part 6, however, provides exemptions that may be relied on in connection with certain trades involving managed accounts and investment funds that are not reporting issuers.".

2. Section 2.2 of the Policy Statement is amended by adding, after paragraph 4, the following:

"5. The CSA do not consider a manager's organization of an investment fund (such as the initial setting of fees or the initial choice of service providers) to be subject to IRC review, unless the manager's decisions give rise to a conflict of interest concerning the manager's obligations to existing investment funds within the manager's fund family. However, the CSA expect the manager will establish policies and procedures for any conflict of interest matters arising from the investment fund's organization or otherwise and refer to the IRC these policies and procedures and any decisions related to such matters.

It is anticipated that the manager will wish to engage the IRC early in the establishment of any new investment fund to ensure the IRC is adequately informed of potential new conflicts of interest.".

3. Section 5.1 of the Policy Statement is amended by adding, after paragraph 4, the following:

"5. The CSA do not consider the expenses incurred by existing investment funds in establishing an IRC under the Regulation to be caught in section 5.1 of the Regulation. We do not view section 5.1 as intending to capture the costs associated with compliance by an investment fund with new regulatory requirements.".

4. Section 6.1 of the Policy Statement is amended:

(1) by replacing paragraph 2 with the following:

"2. Section 6.1 of the Regulation is intended to exempt investment funds, including investment funds that are not reporting issuers and managed accounts, from the prohibitions in the securities legislation and certain regulations that preclude inter-fund trades. It is not intended to apply to securities issued by an investment fund that are purchased by another fund within the same fund family. The CSA are of the view that this section applies to inter-fund trades between fund families of the same manager provided the purchase or sale is made in accordance with subsection (2).

Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Regulation. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that.

The portfolio manager or portfolio adviser of a managed account must obtain the authorization of its client to conduct inter-fund trades in the investment management agreement in order to be eligible to rely upon the exemption.";

(2) by replacing, in paragraph 7, "Paragraph 2(c)" with "Paragraph 2(d)";

(3) by replacing, in paragraph 8, "paragraph 2(f)" with "paragraph 2(g)";

(4) by replacing paragraph 9 with the following:

"Subsection 2.1 sets expectations regarding the records of the investment fund must keep of its inter-fund trades made in reliance on this section. These records should comply with the recordkeeping requirements applicable to registered firms as set out in sections 11.5 and 11.6

of *Regulation 31-103 respecting Registration Requirements, Exemptions and Ongoing Registrant Obligations* (chapter V-1.1, r. 10).".

5. Section 6.2 of the Policy Statement is amended:

(1) by replacing, in paragraph 1, the words "mutual funds elsewhere in Canada" with the words "investment funds elsewhere in Canada, including investment funds that are not reporting issuers,";

(2) by inserting, after the second paragraph of paragraph 2, the following:

"Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Regulation. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that.".

6. The Policy Statement 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**

Commentary to section 6.3 of the Regulation

1. This section is intended to relieve investment funds, including investment funds that are not reporting issuers, from the prohibitions in the securities legislation of each securities regulatory authority that preclude investments in debt securities of related issuers that do not trade on an exchange. Because these securities do not trade on an exchange, paragraphs (2)(c) and (d) impose alternative criteria to help ensure the investments occur at a fair and objective price.

2. This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.

Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, for the funds that are not reporting issuers, the IRC must comply with sections 3.7 and 3.9 of the Regulation. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that.

3. The designated rating referred to in this section is the "designated rating" as defined in paragraph (b) of its definition in *Regulation 44-101 respecting Short Form Prospectus Distributions* (chapter V-1.1, r. 16). Fund managers should note that the definition of designated rating in paragraph (b) of *Regulation 44-101 respecting Short Form Prospectus Distributions* also identifies the specific Designated Rating Organizations that are contemplated for the purpose of determining the designated rating.

4. This section contemplates that the manager will comply with the applicable reporting requirements under securities legislation for each purchase. The filing referred to in subsection (3) should be filed on the SEDAR group profile number of the investment fund, as a continuous disclosure document.

5. If an IRC gives its approval for the investment fund to purchase securities of an issuer described in this section, and then subsequently withdraws its approval for additional purchases, the CSA will not consider the continued holding of the securities to be subject to paragraph 1.2(b) of the Regulation. However, we will expect the manager to consider whether continuing to hold those securities is a conflict of interest matter that paragraph 1.2(a) of the Regulation would require the manager to refer to the IRC.

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

Commentary to section 6.4 of the Regulation

1. This section is intended to relieve investment funds, including investment funds that are not reporting issuers, from the prohibitions in the securities legislation of each securities regulatory authority that preclude investments in debt securities of related issuers under primary treasury offerings or distributions by those issuers. The additional conditions in this section to IRC approval are designed to mitigate the risk of the related issuer using the investment funds as captive financing vehicles and impose alternative criteria to help ensure the investments occur at a fair and objective price.

2. This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.

Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, for the funds that are not reporting issuers, the IRC must comply with sections 3.7 and 3.9 of the Regulation. It is up to the IRC and the manager to tailor the IRC’s responsibilities for investment funds that are not reporting issuers beyond that.

3. The designated rating referred to in this section is the “designated rating” as defined in paragraph (b) of its definition in *Regulation 44-101 respecting Short Form Prospectus Distributions*. Fund managers should note that the definition of designated rating in paragraph (b) of *Regulation 44-101 respecting Short Form Prospectus Distributions* also identifies the specific Designated Rating Organizations that are contemplated for the purpose of determining the designated rating.

4. This section contemplates that the manager will comply with the applicable reporting requirements under securities legislation for each purchase. The filing referred to in subsection 6.4(2) should be filed on the SEDAR group profile number of the investment fund, as a continuous disclosure document.

5. If an IRC gives its approval for the investment fund to purchase securities of an issuer described in this section, and then subsequently withdraws its approval for additional purchases, the CSA will not consider the continued holding of the securities to be subject to paragraph 1.2(b) of the Regulation. However, we will expect the manager to consider whether continuing to hold those securities is a conflict of interest matter that paragraph 1.2(a) of the Regulation would require the manager to refer to the IRC.

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

Commentary to section 6.5 of the Regulation

1. The term “inter-fund self-dealing investment prohibitions” is defined in section 1.5 of this Regulation. For the purposes of this section, it is intended to capture the prohibitions in the securities legislation and certain regulations of each securities regulatory authority regarding trades in securities between an investment fund or a managed account and a related dealer acting as principal for its own account.

This section is intended to relieve investment funds, including managed accounts and investment funds that are not reporting issuers, from the inter-fund self-dealing prohibitions in connection with principal trades in debt securities. Because debt securities do not generally trade on an exchange, the additional conditions in this section to IRC approval impose alternative criteria to help ensure the investments occur at a fair and objective price.

2. This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities

regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.

Funds that are not reporting issuers must appoint an IRC for the purpose of approving principal trades in debt securities in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Regulation. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that. The portfolio manager or portfolio adviser of a managed account must obtain the authorization of its client to conduct principal trades with a related dealer in the investment management agreement in order to be eligible to rely upon the exemption.

3. Subsection (2) sets out the minimum expectations regarding the records an investment fund must keep of its trades made in reliance on this section. The records should be detailed, and sufficient to establish a proper audit trail of the transactions.".

7. Sections 7.2 and 8.2 of the Policy Statement are repealed.