

APPENDIX C

Schedule 6

Companion Policy 81-101CP to National Instrument 81-101 Mutual Fund Prospectus Disclosure

AMENDMENT INSTRUMENT

This is an unofficial consolidation of Companion Policy 81-101CP to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*. No part of this document represents an official statement of law.

1. Companion Policy 81-101CP to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* is amended by this Instrument.

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**Companion Policy 81-101CP to National Instrument 81-101
Mutual Fund Prospectus Disclosure**

PART 1 PURPOSE OF THE COMPANION POLICY

1.1 Purpose of the Companion Policy - The purpose of this Companion Policy is to state the views of the Canadian Securities Administrators (CSA or we) on various matters relating to the Instrument, including,

- (a) a discussion of the general approach taken by the CSA in, and the general regulatory purpose for, the Instrument;
- (b) explanation and discussion of various parts of the Instrument; and
- (c) examples of some matters described in the Instrument.

PART 2 PURPOSE AND GENERAL APPROACH OF THE INSTRUMENT

2.1 Purpose of the Instrument

(1) The purpose of the Instrument is to ensure that the disclosure regime for mutual funds provides investors with disclosure documents that clearly and concisely state information that investors should consider in connection with an investment decision about the mutual fund, while recognizing that investors have differing needs in receiving disclosure.

(2) The disclosure regime for mutual funds is built on three main principles:

- providing investors with key information about a mutual fund;
- providing the information in a simple, accessible and comparable format; and
- providing the information before investors make their decision to buy.

(3) We use the following approaches in the Instrument to achieve the principles referred to in subsection (2):

1. The Instrument has been designed to ensure that investors receive disclosure documents that will be helpful to them, and to permit some flexibility in designing those documents in order to assist investors.

2. The Instrument requires a mutual fund summary document called the ‘fund facts’, which contains key information about a mutual fund. The fund facts document is intended to provide investors with sufficient information about the potential benefits, risks and costs of investing in a mutual fund.

3. The Instrument further permits the use of two other disclosure documents by a mutual fund: a simplified prospectus and an annual information form, which are available on request, and that, together with the financial statements, the management reports of fund performance and the fund facts document, contain full, true and plain disclosure about the mutual fund. These documents are available to investors to provide more detailed information about a mutual fund.

4. The Instrument requires, in subsection 4.1(1), that the simplified prospectus, fund facts document and annual information form be prepared using plain language and in a format that assists in readability and comprehension. The Instrument and related forms provide detailed requirements on the content and format of these documents.

5. The Instrument recognizes that investors have differing needs in receiving mutual fund disclosure and provides for flexibility in delivery of the fund facts document based on the type of purchase and who is initiating the transaction.

(4) Mutual funds, managers and participants in the mutual fund industry should prepare disclosure documents and carry out delivery in a manner that is consistent with the spirit and intent of the Instrument.

2.1.1 Fund Facts Document

(1) The Instrument requires each investor in a mutual fund to receive a fund facts document for the initial purchase of the mutual fund. An ‘initial purchase’ is defined in the Instrument. The fund facts document must be in plain language, generally fit on both sides of one page, and highlight key information important to investors, including performance, risk and cost. The fund facts document is incorporated by reference into the simplified prospectus.

(2) The Instrument and Form 81-101F3 (the “FF Form”) set out detailed requirements on the content and format of a fund facts document, while allowing some flexibility to accommodate different kinds of mutual funds. The requirements are designed to ensure that the information in a fund facts document of a mutual fund is clear, concise, understandable and easily comparable with information in the fund facts document of other mutual funds.

2.2 Simplified Prospectus

(1) A simplified prospectus is the prospectus for the purposes of securities legislation. While the Instrument specifies that the requirement under securities legislation to deliver the prospectus is satisfied by delivery of the fund facts document, an investor may request to receive the simplified prospectus, or any document incorporated by reference into the simplified prospectus.

(2) The Instrument and Form 81-101F1 (the “SP Form”) set out detailed requirements on the content and format of a simplified prospectus. The requirements are designed to ensure that the information about a mutual fund in a simplified prospectus is clear, concise, understandable, well-organized and easily comparable with other mutual funds.

2.3 Annual Information Form

(1) The Instrument requires that a supplemental disclosure document, the annual information form, will be provided to any person on request. The annual information form is incorporated by reference into the simplified prospectus.

(2) Information contained in the related simplified prospectus will generally not be repeated in an annual information form except as necessary to make the annual information form comprehensible as an independent document. In general, an annual information form is intended to provide disclosure about different matters than those discussed in the fund facts document and simplified prospectus, such as information concerning the internal operations of the manager of the mutual fund, which may be of assistance or interest to some investors.

(3) The Instrument and Form 81-101F2 (the “AIF Form”) allow for more flexibility in the preparation of an annual information form than is the case with a simplified prospectus. The rules pertaining to the order in which information is to be disclosed in an annual information form are not as stringent as for a fund facts document or a simplified prospectus. An annual information form may include information not specifically required by the AIF Form.

2.4 Financial Statements and Management Reports of Fund Performance – The Instrument contemplates that the mutual fund’s most recently audited financial statements, and any interim statements filed after those audited statements, as well as the mutual fund’s most recently filed annual management report of fund performance, and any interim management report of fund performance filed after that annual management report, will be provided upon request to any person or company requesting them. Like the fund facts document and the annual information form, these financial statements and management reports of fund performance are incorporated by reference into the simplified prospectus. The result is that future filings will be incorporated by reference into the simplified prospectus, while superseding the financial statements and management reports of fund performance previously filed.

2.5 Filing and Delivery of Documents

(1) Section 2.3 of the Instrument distinguishes between documents that are required by securities legislation to be “filed” with the securities regulatory authority and those that must be “delivered” or “sent” to the securities regulatory authority. Documents that are “filed” are on the public record, and documents that are “delivered” or “sent” are not necessarily on the public record. All documents required to be filed under the Instrument must be filed in accordance with National Instrument 13-101 *System for Electronic Document Analysis and Retrieval (SEDAR)*.

(2) Section 1.1 of the Instrument defines “business day” as any day other than a Saturday, Sunday or a statutory holiday. In some cases, a statutory holiday may only be a statutory holiday in one jurisdiction. The definition of business day should be applied in each local jurisdiction in which a prospectus is being filed. For example, section 5.1.2 of the Instrument states that the date of the certificate in a simplified prospectus must be within 3 business days before the filing of the simplified prospectus. For example, the certificates in the simplified prospectus are dated Day 1. Day 2 is a statutory holiday in Québec but not in Alberta. If the simplified prospectus is

filed in both Alberta and Québec, it must be filed no later than Day 4 in order to comply with the requirement in section 5.1.2 of the Instrument, despite the fact that Day 2 was not a business day in Québec. If the simplified prospectus is filed only in Québec, it could be filed on Day 5.

2.6 Supporting Documents

(1) Subsection 2.3(6) of the Instrument permits the filing of certain material contracts from which certain commercial or financial information was deleted in order to be kept confidential. We think that information such as fees and expenses and non-competition clauses is the type of information that could be kept confidential under this provision. In these cases, the benefits of disclosing that information to the public are outweighed by the potentially adverse consequences of disclosure for mutual fund managers and portfolio advisers. However, the basic terms of these agreements must be included in the contracts that are filed. These terms would include the provisions relating to the term and termination of the agreements and the rights and responsibilities of the parties to the agreements.

2.7 Amendments

(1) Paragraph 2.1(1)(d) of the Instrument requires an amendment to an annual information form to be filed whenever an amendment to a simplified prospectus is filed. Similarly, subsection 2.3(5.1) of the Instrument requires an amendment to an annual information form to be filed whenever an amendment to a fund facts document is filed. If the substance of the amendment to the fund facts document or to the simplified prospectus would not require a change to the text of the annual information form, the amendment to the annual information form would consist only of the certificate page referring to the mutual fund to which the amendment to the fund facts document or the simplified prospectus pertains.

(2) Paragraph 2.1(1)(e) of the Instrument requires a mutual fund to file an amendment to a fund facts document when a material change to the mutual fund occurs that requires a change to the disclosure in the fund facts document. This mirrors the requirement in paragraph 11.2(1)(d) of National Instrument 81-106 *Investment Fund Continuous Disclosure*. We would not generally consider changes to the top 10 investments, investment mix or year-by-year returns of the mutual fund to be material changes. However, changes to the mutual fund's investment objective and risk profile would generally constitute a material change under securities legislation.

(3) The commercial copies of an amended and restated simplified prospectus, annual information form and fund facts document can be created by reprinting the entire document or by using stickers on an existing document that provide the new text created by the amendment. If stickers are used, one sticker will be required for the substance of the amendments and a separate sticker will be required for the cover page of the document that describes the type and date of the document, as applicable.

(4) The requirements in section 2.2 of the Instrument apply to both an amendment to a full simplified prospectus and an amendment only to a Part A or Part B section of a simplified prospectus in cases where the Part A and Part B sections are bound separately. Section 2.2 of the Instrument requires amendments to various parts of a multiple SP to be evidenced as follows:

1. Multiple SP with Part A and the Part B sections bound together. An amendment to either or both of the Part A or Part B sections could be in the form of a free standing amending instrument that would be delivered to investors with the rest of the multiple SP. The amending instrument would be identified, in accordance with subsection 2.2(3) of the Instrument, as “Amendment No. [insert number], dated [date of amendment] to the simplified prospectus document for the [name of funds] dated [date of original document]”. Or, the amendment could be in the form of a restated and amended multiple SP document, identified as such in accordance with subsection 2.2(3).

2. Multiple SP with Part A and the Part B sections are bound separately. If there is an amendment to the Part A section of the document but not to a Part B section, the amendment could be in the form of an amending document or an amended and restated Part A document. An amending document could be identified as “Amendment No. [insert number], dated [date of amendment], to the Part A section of the simplified prospectuses of the [name of funds] dated [original date of multiple SP]”, and the amended and restated Part A document could be identified as “Amended and Restated Simplified Prospectuses dated [date of amendment] of the [name of funds], amending and restating the Simplified Prospectuses dated [original date of document].”.

3. In the circumstances described in paragraph 2 above, no amendment is required to be made to the Part B sections of the multiple SP. The footer required by Item 1 of Part B of Form 81-101F1 to be contained on the bottom of each page of a Part B section will continue to show the date of the original Part A document. For this reason, the amended Part A document must be identified in a way that shows the date of the amendments and the original date of the document so that investors know it relates to the corresponding Part B sections.

4. If there is an amendment to a Part B section of a multiple SP with Part A and Part B sections bound separately, the amendment must be made by way of an amended and restated Part B document, whether or not an amendment is being made to the Part A section. If no amendment to the Part A section is being made, no amendment is required to the Part A document. The amended and restated Part B document will include a statement in the footer required by Item 1 of Part B of Form 81-101F1 that identifies the document as a document that amends and restates the original Part B document.

(5) Subsection 2.2(2.1) of the Instrument requires an amendment to a fund facts document to be in the form of a restated and amended fund facts document. An amended fund facts document does not have to be otherwise identified, except for the date of the amendment.

(6) An amendment to a prospectus of a mutual fund, even if it amends and restates the prospectus, does not change the date under Canadian securities legislation by which the mutual fund must renew the prospectus. That date, which is commonly referred to as the “lapse date” for the prospectus, remains that date established under securities legislation. An amendment to a fund facts document will not change the lapse date for the prospectus.

(7) Securities legislation provides that no person or company shall distribute securities, unless a preliminary prospectus and a prospectus have been filed and receipts have been issued by the

securities regulatory authority or regulator. We interpret this requirement to also apply to mutual funds. If a mutual fund adds a new class or series of securities to a simplified prospectus that is referable to a new separate portfolio of assets, a preliminary simplified prospectus must be filed, together with a preliminary annual information form and preliminary fund facts document. However, if the new class or series of securities is referable to an existing portfolio of assets, the new class or series may be added by an amendment to the simplified prospectus. In this circumstance, a preliminary fund facts document for the new class or series must still be filed, as set out in subparagraph 2.1(1)(d)(iii) of the Instrument.

2.8 Websites – The Instrument requires in section 2.3.2 that a mutual fund post its fund facts document to the website of the mutual fund, the mutual fund’s family or manager, as applicable. A fund facts document should remain on the website at least until the posting of the next fund facts document for the mutual fund. A fund facts document should be displayed in an easily visible and accessible location on the website and presented in a format that is convenient for both reading online and printing on paper.

PART 3 PLAIN LANGUAGE AND PRESENTATION

3.1 Plain Language - Subsection 4.1(1) of the Instrument requires that a simplified prospectus, annual information form and fund facts document be written in plain language. The reason for using “plain language” is to communicate in a way that ensures the audience can immediately understand what you tell them. The plain language approach focuses on the needs and abilities of the audience to ensure that the content of a communication is relevant, the organization of the information is logical, the language is appropriate and the presentation is visually appealing.

Mutual funds should consider the following plain language techniques in preparing their documents:

- Organize the document into clear, concise sections, paragraphs and sentences
- Use:
 - common everyday words
 - technical, legal and business terms only when unavoidable and provide clear and concise explanations for them
 - the active voice
 - short sentences and paragraphs
 - a conversational and personal tone
 - examples and illustrations to explain abstract concepts
- Avoid:
 - superfluous words
 - unnecessary technical, legal and business jargon
 - vague boilerplate wording
 - glossaries and defined terms unless they aid in understanding the disclosure
 - abstractions by using more concrete terms or examples
 - excessive detail

- multiple negatives

3.2 Presentation

(1) Subsection 4.1(1) of the Instrument requires that a simplified prospectus, annual information form and fund facts document be presented in a format that assists in readability and comprehension. The Instrument and related forms also set out certain aspects of a simplified prospectus, annual information form and fund facts document that must be presented in a required format, requiring some information to be presented in the form of tables, charts or diagrams. Within these requirements, mutual funds have considerable flexibility in the format used for simplified prospectuses, annual information forms and fund facts documents.

The formatting of documents can contribute substantially to the ease with which the document can be read and understood. Mutual funds should consider using the following formatting ideas when preparing their documents:

- reasonably-sized, easy-to-read typefaces
- headings that are clearly differentiated from the body text
- bulleted or numbered lists
- margins, boxes or shading to highlight information or for supplementary information
- tables, graphs and diagrams for complex information
- “question and answer” format to organize information
- sufficient white space on each page
- images, colour, lines and other graphical elements
- avoiding the use of upper-case, bold, italic or underlining in blocks of text
- avoiding full-justified margins.

(2) We think documents would be easier to read and understand with the use of the design features set out in subsection (1). The use of logos and pictures that accurately depict aspects of the mutual fund industry, the mutual fund or mutual fund family or products and services offered by the mutual fund family may also aid in comprehension and readability. However, mutual funds should exercise caution when using design features in their documents, as excessive use or crowding of design features might make the documents more difficult to read or understand.

(2.1) Subsection 4.1(3) of the Instrument requires the information in a fund facts document be written overall at a grade level of 6.0 or less on the Flesch-Kincaid grade level scale. The Flesch-Kincaid grade level scale is a methodology that rates the readability of a text to a corresponding

grade level. For the purposes of the Instrument, the Flesch-Kincaid score of a document may be determined by the use of Flesch-Kincaid tests built into commonly used word processing programs.

(3) On occasion, we have seen amendments to simplified prospectuses prepared in highly legal and technical styles. For example, some amendments merely reference specific lines or sections of a simplified prospectus that are being amended, without providing the reader with a restated section or an explanation for the changes. In addition, some amendments have been presented in the form of photocopies of some other documents, such as meeting materials, with the word “amendment” written on the top of the photocopy. We think that these approaches are inappropriate ways of amending a simplified prospectus, annual information form or fund facts document under the Instrument.

Material changes to mutual funds must be described in a format that assists in readability and comprehension, as required by subsection 4.1(1) of the Instrument. Therefore, amendments should be expressed clearly, and in a manner that enables the reader to easily read and understand both the amendment and the revised sections of the relevant document. This manner of expression may require the preparation of either an amended and restated simplified prospectus or annual information form or a clearly worded amendment insert for the existing simplified prospectus or annual information form. Any amendment to a fund facts document must be in the form of an amended and restated fund facts document.

PART 4 THE MULTIPLE SP

4.1 General Provisions Relating to a Multiple SP

(1) A consolidated “simplified prospectus” pertaining to a number of mutual funds is in law a number of separate simplified prospectuses, one simplified prospectus for each mutual fund. Further, a receipt issued by the securities regulatory authority in connection with a consolidated “simplified prospectus” in law represents a separate receipt for the simplified prospectus pertaining to each mutual fund. The Instrument and the SP Form make clear that a simplified prospectus under the Instrument pertains to one mutual fund and use the term “multiple SP” to refer to a document that contains more than one simplified prospectus.

(2) Under the Instrument, a simplified prospectus consists of two sections: a Part A section, which provides introductory information about the mutual fund, general information about mutual funds and information applicable to the mutual funds managed by the mutual fund organization, and a Part B section, which contains specific information about the mutual fund.

(3) The Instrument states that simplified prospectuses must not be consolidated to form a multiple SP unless the Part A section of each simplified prospectus is substantially similar. We think the term “substantially similar” would be applicable in this context if there is a high degree of similarity between the Part A sections of the simplified prospectuses that are proposed to be consolidated. This option would be available generally to mutual funds in the same mutual fund family that are administered by the same entities and operated in the same manner. There may be

some deviation among the disclosure that would be provided for some of the mutual funds; those deviations have been largely contemplated by the SP Form.

(4) In order to maximize flexibility for mutual funds and managers and improve the accessibility of disclosure provided to investors, the Instrument allows the Part B sections of a multiple SP to be bound separately from the Part A section. In addition, the Instrument permits the physical separation of each Part B section that pertains to a different mutual fund. This would permit an investor to be provided with a Part A section that described the mutual fund family and mutual fund organization generally, and only the mutual fund-specific disclosure that relates to the mutual fund or mutual funds in which the investor is interested. This approach could permit a “back pocket” approach in which the Part B sections of a simplified prospectus could be inserted in a pocket of the Part A section of the document.

(5) The Instrument contains no restrictions on how many simplified prospectuses can be consolidated into a multiple SP.

4.2 Adding Additional Funds to a Multiple SP

(1) Mutual funds may create and file a document that contains both a pro forma simplified prospectus and a preliminary simplified prospectus in order to include the disclosure of a new mutual fund in documents that already pertain to existing mutual funds.

(2) It is also possible to add a new mutual fund to a multiple SP that contains final simplified prospectuses. In this circumstance, an amended multiple SP and multiple AIF containing disclosure of the new mutual fund, as well as a new fund facts document for each class or series of the new mutual fund would be filed. The preliminary filing would constitute the filing of a preliminary simplified prospectus, fund facts document and annual information form for the new mutual fund and a draft amended and restated simplified prospectus and annual information form for each existing mutual fund. Once comments concerning the document had been cleared, a final filing of the documents could be made; these documents would be a simplified prospectus, annual information form and fund facts document for the new mutual fund and an amended and restated simplified prospectus and annual information form for each previously existing mutual fund. An amendment to an existing fund facts document would generally not be necessary.

(3) An amendment to a prospectus of a mutual fund does not change the “lapse date” of the prospectus under Canadian securities legislation. Mutual funds are encouraged to pay particular attention to this issue when following the procedures described in subsection (2).

PART 4.1 THE FUND FACTS DOCUMENT

4.1.1 General Purposes- The general purposes of the disclosure regime for mutual funds and of the fund facts document are described in section 2.1 of this Policy. This Part provides guidance to preparers of the fund facts document in meeting those purposes.

A sample fund facts document is set out in Appendix A to this Policy. The sample is provided for illustrative purposes only.

4.1.2 Multiple Class Mutual Funds – The purpose for the requirements on the content and format of a fund facts document is to give investors the opportunity to easily compare the key information of one mutual fund to another. For many mutual funds, the class or series may affect not only the management expense ratio and performance, but a number of other considerations as well, such as minimum investment amounts, distributions, suitability, dealer compensation and sales charge options. For this reason the Instrument requires a fund facts document to be prepared for each class and each series of a mutual fund that is referable to the same portfolio of assets.

4.1.3 Filings

(1) Section 2.1 of the Instrument requires that a fund facts document for each class and series of the securities of a mutual fund be filed concurrently with the mutual fund's simplified prospectus and annual information form.

(2) Section 2.3.1 of the Instrument allows a mutual fund to periodically update the disclosure in a fund facts document by filing on SEDAR an updated fund facts in accordance with the section. These filings do not require the issuance of a receipt and are in addition to any required filing under Part 2 of the Instrument.

(3) The most recently filed fund facts document for a mutual fund is incorporated by reference into the simplified prospectus under section 3.1 of the Instrument, with the result that any fund facts document filed under the Instrument after the date of receipt for the simplified prospectus supersedes the fund facts document previously filed. Section 3.2 of the Instrument specifies that a dealer must deliver the most recently filed fund facts document for a mutual fund in accordance with Part 3A to satisfy the prospectus delivery requirements under securities legislation.

(4) Section 2.3.2 of the Instrument requires a fund facts document filed under Part 2 of the Instrument to be posted by the mutual fund to the website of the mutual fund, the mutual fund's family or manager's website. Only a fund facts document that satisfies delivery under the Instrument should be posted to a website. A preliminary or pro forma fund facts document, for example, should not be posted.

4.1.4 Additional Information – Paragraph 4.1(3)(d) of the Instrument requires a fund facts document to include only information that is specifically mandated or permitted by the required FF Form.

4.1.5 Combinations of Fund Facts Documents

(1) For the purposes of delivery, section 5.4(1) of the Instrument allows a fund facts document to be attached to, or bound with, one or more fund facts documents, provided the size of the document does not make the presentation of the information inconsistent with the principles of simplicity, accessibility and comparability. For example, a fund facts document may be attached to, or bound with, fund facts documents of several classes or series of securities of the same mutual fund, several mutual funds from the same fund family, or several mutual funds of a similar type from different fund families. In making this determination, mutual funds, managers and participants in the mutual fund industry should consider the ability of an investor to easily find and link the information that is relevant to the particular mutual funds they are considering or have bought, and whether a reasonable person in the circumstance would come to the same conclusion. We think a document with more than 10 fund facts documents bound together may discourage an investor from reading a fund facts document and obscure key information which is inconsistent with the principles of simplicity, accessibility and comparability.

(2) When delivery of the fund facts document occurs with the confirmation of trade for the purchase, subsections 5.4(3) and (4) of the Instrument permit a fund facts document to be attached to, or bound with, certain other materials or documents provided the fund facts documents are located first in any package.

(3) To facilitate the filing requirements for a fund facts document under securities legislation, section 5.4(5) of the Instrument allows a fund facts document to be attached to, or bound with, other fund facts documents of a mutual fund in a single SP or, if a multiple SP, other mutual funds which are combined in the multiple SP.

(4) Section 5.4(2) of the Instrument specifies that a fund facts document that is delivered electronically must not be attached or bound with another fund facts document. For the purposes of delivery, we think that an electronic link or directing the investor to a file containing multiple fund facts documents could constrain an investor's ability to download the file, find and print the specific fund facts document.

4.1.6 Format - The Instrument requires a mutual fund to use the headings and sub-headings stipulated in the Instrument and the FF Form.

PART 5 THE SIMPLIFIED PROSPECTUS

5.1 General Purposes - The general purposes of a simplified prospectus are described in section 2.1 of this Policy. In light of those purposes, the CSA wish to bring a number of matters to the attention of the preparers of simplified prospectuses.

5.2 Catalogue Approach - The Instrument requires that a multiple SP must present the fund-specific, or Part B, disclosure about each fund using a catalogue approach, with the disclosure about each mutual fund presented separately from the disclosure about each other mutual fund. This requirement is a key element of the disclosure regime created by the Instrument and related forms so the catalogue approach should be strictly followed.

5.2.1 Accessibility of a Simplified Prospectus –Mutual funds, managers, principal distributors and participating dealers should encourage investors who want more information about a mutual fund to both request and read the simplified prospectus and any of the documents incorporated by reference into the simplified prospectus. The Instrument requires that a simplified prospectus or any of the documents incorporated by reference be sent within three business days of a request.

5.3 Additional Information

(1) Paragraph 4.1(2)(a) of the Instrument provides that a simplified prospectus must provide all information briefly and concisely. Paragraph 4.1(2)(e) of the Instrument requires that a simplified prospectus include only educational material or information that is specifically mandated or permitted by the required SP Form.

(2) Item 12 of Part A and Item 14 of Part B of Form 81-101F1 permit disclosure of information required or permitted by securities legislation or by an order or ruling of the securities regulatory authority pertaining to the mutual fund that is not otherwise required to be disclosed by Form 81-101F1. This addition has been made to ensure that such information is not technically prohibited from being included in a simplified prospectus by paragraph 4.1(2)(e) of the Instrument. Instruction (1) to Item 12 of Part A of Form 81-101F1 contains examples of the type of disclosure that may be appropriately included under these Items.

5.4 Inclusion of Educational Material

(1) Paragraph 4.1(2)(e) of the Instrument permits the inclusion of educational material in a simplified prospectus. There are no requirements as to the location of any educational material; however, the CSA recommend that educational material contained in a simplified prospectus be close to mandated disclosure to which the educational material substantively relates.

(2) It is noted that educational material contained in a simplified prospectus is subject to the general requirements of the Instrument and therefore should be presented in a manner consistent with the rest of the simplified prospectus. That is, the educational material should be concise, clear and not so lengthy as to detract from the clarity or presentation of the balance of the simplified prospectus.

(3) The definition of “educational material” contained in section 1.1 of the Instrument excludes material that promotes a particular mutual fund or mutual fund family or the products or services offered by the mutual fund or mutual fund family. A mutual fund, mutual fund family or those products or services may be referred to in educational material as an example so long as the reference does not result in the promotion of those entities, products or services. Mutual funds should ensure that any material included within, attached to or bound with a simplified prospectus is educational material within the meaning of this definition.

5.5 Format - The CSA emphasize that a simplified prospectus is required to use the headings and specified sub-headings exactly as they are set out in the Instrument. For sections for which

no sub-heading is specified, a simplified prospectus is permitted to include sub-headings, under the required headings, if it is so desired.

PART 6 THE ANNUAL INFORMATION FORM

6.1 General Purposes - The general purposes of an annual information form are described in section 2.1 of this Policy. In light of those purposes, the CSA wish to bring a number of matters to the attention of the preparers of annual information forms.

6.2 Consolidation of Annual Information Forms - Subsection 5.3(1) of the Instrument requires the consolidation of annual information forms into a multiple AIF if the related simplified prospectuses are consolidated into a multiple SP. It is noted that the Instrument does not prevent the consolidation of annual information forms even if the related simplified prospectuses are not consolidated. Therefore, a mutual fund organization may prepare, for instance, one multiple AIF that pertains to all of its mutual funds, even if the simplified prospectuses for those mutual funds are not fully or even partially consolidated.

6.3 Additional Material

(1) The Instrument and AIF Form do not prohibit the inclusion in an annual information form of information not specifically required by the AIF Form. Among other things, a mutual fund may therefore include educational information in an annual information form. Additional material in an annual information form is, however, subject to the general requirements contained in subsection 4.1(1) of the Instrument that all information must be presented in plain language and in a format that assists in readability and comprehension.

(2) The CSA remind mutual funds that if they include additional information, such as educational material, in an annual information form, they should ensure that the material is not included primarily for purpose of promotion. An annual information form is designed to be easily understandable to investors and less legalistic in its drafting than traditional prospectuses, but it still constitutes part of a prospectus under securities legislation.

PART 7 DELIVERY

7.1 Delivery

(1) Under section 3.2 of the Instrument, delivery of a fund facts document to an investor for an initial purchase in a mutual fund will satisfy the prospectus delivery requirements in securities legislation. There is no requirement to deliver the simplified prospectus, any document incorporated by reference into the simplified prospectus or any document for subsequent purchases in a mutual fund, unless an investor requests it. However, a dealer may adopt a practice of routinely providing investors or potential investors with a fund facts document. Similarly, a mutual fund may adopt a practice of routinely providing investors or potential investors with a fund facts document, simplified prospectus, annual information form, financial statements and management reports of fund performance if it so chooses.

(2) The CSA encourage mutual funds, managers, principal distributors and participating dealers to make disclosure documents, particularly the fund facts document, available to potential investors as soon as possible in the sales process, in advance of any requirements contained in the Instrument or securities legislation, either directly or through dealers and others involved in selling mutual fund securities to investors.

(3) Nothing in the Instrument prevents disclosure documents to be prepared in other languages, provided they are delivered or sent in addition to any disclosure document filed and delivered in accordance with the Instrument. We would consider such documents to be sales communications.

(4) We do not consider the requirements of section 3.4 of the Instrument to be exclusive. Mutual funds are therefore encouraged to inform investors that they may use the mutual fund's website and e-mail addresses to request further information and additional documents.

7.2 Delivery of the Fund Facts Document

(1) The delivery of the fund facts document is a key component to the three principles discussed in subsection 2.1(2) of this Policy.

(2) The CSA recognize that investors will have differing needs in receiving disclosure documents. The timing of delivery of the fund facts document, therefore, depends on the type of purchase and who is initiating the purchase. A central factor is the distinction between investors who rely on a dealer's recommendation and those who do their own research and simply want to execute a trade. In this way, the timing of the delivery of the fund facts document is based largely on the nature of an investor's relationship with their dealer and on the circumstances of the purchase.

(3) Part 3A of the Instrument requires delivery of the most recently filed fund facts document before the initial purchase of a mutual fund (except for money market mutual funds) that is recommended by a dealer. An investor can choose to receive the fund facts document with the trade confirmation, instead of before the purchase, for an initial purchase of a money market mutual fund or for an initial purchase of any type of mutual fund that is not recommended by the dealer. An investor who makes an initial purchase of a mutual fund through an order execution-only service will receive the fund facts document with the trade confirmation.

A flow chart summarizing the delivery requirements is set out in Appendix B to this Policy.

(4) The most recently filed fund facts document is the fund facts document filed with the simplified prospectus and annual information form, or any fund facts document filed in accordance with securities legislation after that date, for example, an amended fund facts document or updated fund facts document.

(5) In accordance with existing practices, dealers must establish internal policies and procedures to ensure delivery of the fund facts document occurs in accordance with Part 3A. Dealers must maintain evidence of delivery of the fund facts document, as well as client instructions that

waive delivery of the fund facts document, as permitted by the Instrument. We think that existing dealer practices to maintain evidence of required disclosures will be sufficient to document delivery of the fund facts document.

(6) The term “order execution-only service” is defined in paragraph 3A.1 of the Instrument. This includes trades executed through discount brokerages, or through full service dealers that offer an order execution-only service.

(7) Nothing in Part 3A of the Instrument is intended to detract from existing duties on dealers, including know-your-client and suitability obligations and a general duty to deal fairly, honestly and in good faith.

7.3 Initial Purchases

(1) The term “initial purchase” is defined in paragraph 3A.1 of the Instrument. If an investor held a mutual fund, sold it all and bought the same mutual fund later, the CSA would consider that purchase to be an initial purchase. If an investor purchases a new class or series of a security of a mutual fund currently held, we would also consider that purchase to be an initial purchase. Switches from one mutual fund to another mutual fund will be an initial or subsequent purchase depending on whether the investor already holds the class or series of the mutual fund being purchased.

(2) Under section 3A.2 of the Instrument, two conditions must be met to satisfy the delivery of the fund facts document for an initial purchase of a security of a mutual fund. Before entering the agreement to purchase:

- the dealer must deliver the most recently filed fund facts document to the investor; and
- once delivered, the dealer must bring the fund facts document to the attention of the investor.

(3) To satisfy the requirement to bring a fund facts document to the attention of the investor, a dealer will need to convey sufficient information about the purpose of a fund facts document to enable a reasonable investor to link the fund facts document to the purchase they are considering. Dealers should maintain adequate records to evidence that disclosure about the fund facts document has been brought to the attention of investors in compliance with paragraph 3A.2(1)(b) of the Instrument.

7.4 Subsequent Purchases - Subsection 3A.2(2) of the Instrument specifies that a dealer does not have to deliver a fund facts document for an order or subscription for a purchase of a mutual fund that is not an initial purchase, as defined in the Instrument. For the purposes of Part 3A of the Instrument, a subsequent purchase is the purchase of more units or shares of a mutual fund currently held in the investor’s account. This would include purchases made under a pre-authorized purchase plan and switches under an asset allocation plan.

7.5 Dealer Recommended and Non-Recommended Purchases

(1) Except for the purchase of a money market mutual fund, the timing of delivery of the fund facts document depends on who is initiating the transaction. To meet the delivery requirements in section 3A.3 of the Instrument, a dealer must determine whether a particular purchase of a mutual fund by an investor has been recommended by the dealer or not. In making this determination, a dealer should consider whether a reasonable person in the circumstance would come to the same conclusion. For example, if an investor makes an investment decision based on his or her own research, and solicits the dealer to simply execute the trade, the CSA would consider that purchase not to be recommended by the dealer.

(2) The CSA recognize that the specific facts of a transaction will determine whether a purchase is identified as dealer recommended or non-recommended. Dealers should look to industry best practices, as well as regulatory guidance, in making this determination. Dealers should establish policies and procedures to ensure purchases of mutual funds are appropriately classified and recorded either as dealer recommended purchases or non-recommended purchases.

(3) Under section 3A.3 of the Instrument an investor may waive the requirement of delivery of the fund facts document before entering into the agreement to purchase and choose to receive the fund facts document with the trade confirmation in two circumstances:

- when the dealer recommends the initial purchase of a money market fund; and
- when the initial purchase is initiated by the investor

(4) Before an investor may waive delivery of a fund facts document in the circumstances referred to in subsection (3), paragraph 3A.3(2)(b) of the Instrument requires the dealer to have conveyed to the investor sufficient information about the fund facts document for the investor to determine when they wish to receive the fund facts document. This may include describing the purpose of the fund facts document, the type of information it contains and advising investors that they are entitled to receive and review the fund facts document before entering into the agreement to purchase the mutual fund. Dealers should maintain adequate records to evidence that disclosure about the fund facts document has been provided to investors in compliance with paragraph 3A.3(1)(b).

(5) In the instances where an investor has the option to waive delivery of the fund facts document before entering into an agreement to purchase a mutual fund, this waiver should occur with each initial purchase.

(6) Subsection 3A.3(3) of the Instrument requires that the most recently filed fund facts document must be delivered with the trade confirmation for all initial purchases of a mutual fund for which delivery of the fund facts document is not required before entering into the agreement to purchase.

7.6 Methods of Delivery

(1) The method of delivering a fund facts document is flexible. Part 3A of the Instrument contemplates that a dealer may deliver a fund facts document in person, by mail, by fax, electronically or by other means. The CSA do not consider oral delivery or the availability of the fund facts document alone to satisfy delivery under the Instrument.

(2) When a dealer is required to deliver or send a fund facts document before the agreement to purchase, the Instrument does not prescribe the timing. What constitutes delivery ‘before’ is intended to be flexible, provided it occurs within a reasonable timeframe of the investor making the investment decision. Investors must be able to find information about the mutual fund and link it to a particular purchase they are considering at a later date.

7.7 Electronic Delivery

(1) Any fund facts document required to be delivered or sent under Part 3A of the Instrument may be sent by electronic delivery. Electronic delivery may include sending an electronic copy of a fund facts document directly to the investor as an attachment or link, or directing the investor to a specific fund facts document on a website.

(2) Simply making the fund facts document available on a website or referring an investor to a website address with the fund facts document does not constitute delivery under the Instrument, even if the investor consents to that method of delivery. ‘Directing’ an investor to a fund facts document on a website would generally involve the dealer providing real-time instruction to an investor to locate the fund facts document, or providing an internet link that takes the investor to the specific fund facts document.

(3) For the delivery to be effective, electronic access to a fund facts document must not be burdensome or overly complicated for investors. Accordingly, we consider it unlikely that ‘directing’ an investor to a specific fund facts document on www.sedar.com or an equivalent third party provider will constitute delivery under the Instrument. For electronic delivery, the dealer should ensure an investor can view the fund facts document.

(4) In addition to the requirements in the Instrument and the guidance in this section, dealers may want to refer to National Policy 11-201 *Delivery of Documents by Electronic Means* and, in Québec, *Notice 11-201 Relating to The Delivery of Documents by Electronic Means* for additional guidance.

7.8 Annual Option to Receive Fund Facts Document

(1) The CSA recognize that some investors may find it useful to receive updated fund facts document annually. Accordingly, section 3A.5 of the Instrument requires a dealer to deliver or send annually, in accordance with a client’s instructions, the most recently filed fund facts document for each mutual fund held by the client in an account with the dealer.

(2) The section gives dealers flexibility in how they solicit delivery instructions from clients. A dealer may obtain annual instructions, standing instructions or use any means it has at its disposal to obtain instructions from clients. The section does not prescribe the timing of the annual delivery. The CSA anticipate that dealers will choose to deliver to clients any applicable fund facts document on an annual basis concurrently with other documents or information being sent to clients.

(3) When soliciting delivery instructions from a client, a dealer can deem no response from the client to be a request by the client to receive all, some or none of the fund facts documents for each mutual fund held by the client. Dealers should make clear what the consequence of no response will be to the client.

(4) Dealers should give clients a reasonable amount of time to respond to a request for instructions. Dealers should provide clients with complete contact information for the dealer, including a toll-free telephone number or a number for collect calls and an email address.

(5) Subsection 3A.5(4) of the Instrument permits the fund facts documents for all of the mutual funds held by the client to be bound together. There is no prohibition against binding a fund facts document with other materials or documents when delivering a fund facts document to a client who has requested it.

(6) Dealers should establish policies and procedures to demonstrate they have used appropriate and reasonable means to solicit delivery instructions from clients and effect delivery.

7.9 Delivery of Documents by a Mutual Fund - Section 3.3 of the Instrument requires that a mutual fund deliver or send to a person or company, upon request, a simplified prospectus or documents incorporated by reference. The CSA are of the view that compliance with this specifically-mandated requirement by an unregistered entity is not a breach of the registration requirements of securities legislation.

7.10 Delivery of Non-Educational Material - The Instrument and related forms contain no restrictions on the delivery of non-educational material such as promotional brochures with the simplified prospectus and annual information form. This type of material may, therefore, be delivered with, but cannot be included within the simplified prospectus or annual information form. Section 5.4 of the Instrument sets out what materials or documents are permitted to be included with, wrapped around or attached or bound to, the fund facts document for the purposes of delivery under the Instrument.

7.11 Failure to Deliver – Section 3.2.1 of the Instrument provides for a right of rescission or damages against a dealer who fails to deliver the fund facts document in accordance with the Instrument within 180 days after the date of the transaction. In the case of an action for rescission under that section, a purchaser is entitled to receive the net asset value of the securities at the time of purchase and must be reimbursed for all sales charges and fees arising from the purchase.

PART 8 COMMENTARY ON INVESTMENT AND RELATED DISCLOSURE

8.1 Investment Disclosure - The FF Form and SP Form require detailed disclosure concerning a number of aspects of the investment approach taken by a mutual fund, including disclosure concerning fundamental investment objectives, investment strategies, and risk and risk management. The CSA emphasize the importance that they attach to these disclosure documents, and note that, for many mutual funds, the best persons to prepare and review the disclosure are the portfolio advisers of the mutual fund. Therefore, we highly recommend that those persons play an important role in the preparation and review of this disclosure.

8.2 Portfolio Advisers – The AIF Form requires disclosure concerning the extent to which investment decisions are made by particular individuals employed by a portfolio adviser or by committee. Section 10.3(3)(b) of the AIF Form requires certain information about the individuals principally responsible for the investment portfolio of the mutual fund. Part 11 of National Instrument 81-106 *Investment Fund Continuous Disclosure* requires a simplified prospectus and a fund facts document to be amended if a material change occurs in the affairs of the mutual fund that results in a change to the disclosure in the simplified prospectus and fund facts document. Reference is made to section 7.1 of Companion Policy 81-106CP *Investment Fund Continuous Disclosure* for a discussion of when a departure of a high-profile individual from a portfolio adviser of a mutual fund may constitute a material change for the mutual fund. If the departure is not a material change for the mutual fund, there is no requirement to amend a simplified prospectus, subject to the general requirement that a simplified prospectus contain full, true and plain disclosure about the mutual fund.

PART 9 NEED FOR MULTIPLE OR SEPARATE APPLICATIONS

9.1 Need for Multiple or Separate Applications

(1) A person or company that obtains an exemption from a provision of the Instrument need not apply again for the same exemption at the time of each simplified prospectus, annual information form and fund facts document refiling unless there has been some change in an important fact relating to the granting of the exemption.

(2) The principle described in subsection (1) does not necessarily apply to applications required to be made under the Regulations to the Securities Act (Quebec) for relief from provisions of those Regulations that are substantially similar to those contained in the Instrument. In that case, an application may be required with each refiling of a simplified prospectus, annual information form and fund facts document of a mutual fund.

(3) In Quebec, it may be necessary to apply for exemptions from the equivalent sections in the Act and the Regulations.

PART 10 CANCELLATION RIGHTS

10.1 General Purposes – Securities legislation provides investors with the opportunity to change their mind after buying a mutual fund, a so-called cooling-off period. Securities

legislation also provides investors with recourse if the disclosure documents contain incomplete or inaccurate information, or if the investor does not receive the fund facts document as required under the Instrument.

10.2 Cancellation Right

(1) Section 2.9 of the Instrument gives investors a right to cancel a mutual fund purchase within two business days after receiving the trade confirmation by providing written notice to their dealer. In Ontario, a similar right allows a purchase of a mutual fund security to be rescinded for purchases not exceeding \$50,000. This right of rescission expires 180 days after the date of the purchase.

(2) Under subsection 2.9(3) of the Instrument, an investor will get back the lesser of the amount of the net asset value of the securities of the mutual fund on the day of the original investment and the net asset value of the securities of the mutual fund on the day the investor exercises the cancellation right. Net asset value on the day of exercise will be calculated like any other transaction. The section specifies that the investor will get back any costs associated with the purchase, such as sales charges. An investor exercising this right must not pay any redemption fees or short-term trading fees.

PART 11 TRANSITION

11.1 Transition

(1) Part 7 of the Instrument provides for a transitional period after the Instrument comes into force. Any mutual fund that files a preliminary or pro forma prospectus after the effective date of the Instrument is required to file a fund facts document. The CSA anticipate that all mutual funds that existed before the Instrument came into force will file a fund facts document as part of the mutual funds' renewal process following the effective date of the Instrument.

(2) The requirement to deliver the fund facts document in accordance with the Instrument does not apply until two years after the date the Instrument comes into force. Until this date, the prospectus delivery requirements under securities legislation in effect before the effective date of the Instrument apply. This includes the timing of delivery. During the two-year transition period, a simplified prospectus that is delivered or sent must comply with the packaging requirements of the Instrument in effect before the effective date of the Instrument.

(3) Section 7.3 of the Instrument gives a dealer the option of satisfying the prospectus delivery requirements under securities legislation during the two-year transition period for the delivery requirements under the Instrument by delivering or sending the most recently filed fund facts document instead of the simplified prospectus. Delivery of the fund facts document during this transition period is in accordance with the prospectus delivery requirements under securities legislation in effect before the effective date of the Instrument. Therefore, delivery of the fund facts document is not required to be before the time of purchase. A fund facts document delivered or sent during this period must comply with the binding requirements of section 5.4 of the Instrument.

(4) Part 7 of the Instrument specifies that the withdrawal and rescission rights under securities legislation in effect before the date that the Instrument comes into force will continue to apply to the delivery of the simplified prospectus or the fund facts document during the two-year transition period for the delivery requirements under the Instrument.

(5) To comply with transitional delivery of the fund facts document referred to in subsection (3), the most recently filed fund facts document for the purposes of delivery is the fund facts document filed with the simplified prospectus and annual information form, or any fund facts subsequently filed in accordance with the Instrument after that date, for example, an amended fund facts or updated fund facts.

(6) Although the Instrument contemplates an initial purchase to be the purchase of a mutual fund not currently held in an investor's account, section 7.4 of the Instrument requires that a dealer deliver or send the most recently filed fund facts document in accordance with Part 3A for the first purchase of any mutual fund that occurs following the date the Instrument comes into force. This transitional provision applies to all first purchases of a mutual fund whether or not held in the investor's account and whether or not the fund facts document was delivered during the transitional period.

2. This Policy comes into force on ●.