

**6.1.2 Proposed National Instrument 81-106 Investment Fund Continuous Disclosure**

**PROPOSED  
NATIONAL INSTRUMENT 81-106  
INVESTMENT FUND CONTINUOUS DISCLOSURE**

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**PROPOSED  
NATIONAL INSTRUMENT 81-106  
INVESTMENT FUND CONTINUOUS DISCLOSURE**

**PART 1            DEFINITIONS AND APPLICATIONS**

**1.1        Definitions** - In this Instrument

“annual management report of fund performance” means a document prepared in accordance with Part B of Form 81-106F1;

“current value” means, for an asset held by, or a liability of, an investment fund,

- (a)        the market value, or
- (b)        if the market value is not readily available, the fair value;

“education savings plan” means an agreement between one or more persons and another person or organization, in which the other person or organization agrees to pay or cause to be paid, to or for one or more beneficiaries designated in connection with the agreement, scholarship awards to further the beneficiaries’ education;

“group scholarship plan” means an arrangement under which contributions to education savings plans are pooled to provide educational assistance payments to designated beneficiaries who are not related by blood or adoption within the meaning of the ITA;

“independent valuation” means a valuation of either or both of the assets and liabilities of an investment fund that contains the opinion of an independent valuator as to the current value of the assets or liabilities, and that is prepared in accordance with Part 8;

“independent valuator” means a valuator that is independent of the investment fund and who has appropriate qualifications;

“interim management report of fund performance” means a document prepared in accordance with Part C of Form 81-106F1;

“interim period” means, in relation to an investment fund:

- (a)        a period of at least three months that ends six months before the end of a financial year of the investment fund, or
- (b)        in the case of a transition year of the investment fund, a period commencing on the first day of the transition year and ending six months after the end of its old financial year;

“investment fund” means a mutual fund or a non-redeemable investment fund;

“labour sponsored or venture capital fund” means an investment fund that is

- (a)        a labour sponsored investment fund corporation or a labour sponsored venture capital corporation under provincial legislation,
- (b)        an employee venture capital corporation that does not have a restricted constitution, and is registered under Part 2 of the British Columbia Employee Investment Act, RSBC 1996 Ch. 112, and whose business objective is making multiple investments,
- (c)        a venture capital corporation registered under Part 1 of the British Columbia Small Business Venture Capital Act, RSBC 1996 Ch. 429 whose business objective is making multiple investments, or
- (d)        a registered or prescribed labour sponsored venture capital corporation as defined in the ITA;

“management fees” means the total fees paid or payable by an investment fund to its manager or one or more portfolio advisers, including incentive or performance fees, but excluding audit fees, directors’ fees, custodial fees and legal fees;

“management report of fund performance” means an annual management report of fund performance or an interim management report of fund performance;

“manager” means, in relation to an investment fund, a person or company who directs the affairs of the investment fund;

“material change” means, in relation to an investment fund,

- (a) a change in the business, operations or affairs of the investment fund that would be considered important by a reasonable investor in determining whether to purchase or continue to hold securities of the investment fund, or
- (b) a decision to implement a change referred to in paragraph (a) made
  - (i) by the board of directors of the investment fund or the board of directors of the manager of the investment fund or other persons acting in a similar capacity,
  - (ii) by senior management of the investment fund who believe that confirmation of the decision by the board of directors or such other persons acting in a similar capacity is probable, or
  - (iii) by senior management of the manager of the investment fund who believe that confirmation of the decision by the board of directors of the manager or such other persons acting in a similar capacity is probable;

“material contract” means, for an investment fund, a document that the investment fund would be required to list in an annual information form under Item 16 of Form 81-101F2 if the investment fund filed a simplified prospectus under National Instrument 81-101 *Mutual Fund Prospectus Disclosure*;

“mutual fund in the jurisdiction” means an incorporated or unincorporated mutual fund that is a reporting issuer in, or that is organized under the laws of, the local jurisdiction;

“net asset value” means, for an investment fund as at a specific date, the current value of the total assets of the investment fund less the current value of the total liabilities of the investment fund, as at that date, calculated in accordance with Canadian GAAP;

“non-redeemable investment fund” means, in a jurisdiction except Ontario, an issuer

- (a) where contributions of securityholders are pooled for investment,
- (b) where securityholders do not have day-to-day control over the management and investment decisions of the issuer, whether or not they have the right to be consulted or to give directions, and
- (c) whose securities do not entitle the securityholder to receive on demand, or within a specified period after demand, an amount computed by reference to the value of a proportionate interest in the whole or in part of the net assets of the issuer;

“non-redeemable investment fund” means, in Ontario, an issuer

- (a) whose primary purpose is to invest money provided by its securityholders,
- (b) that does not invest for the purpose of exercising effective control, seeking to exercise effective control or being actively involved in the management of the issuers in which it invests, other than mutual funds or other non-redeemable investment funds, and
- (c) that is not a mutual fund;

“quarterly portfolio disclosure” means the disclosure prepared in accordance with Part 6;

“related party” means, in relation to a mutual fund, a person or company listed in section 4.2 of National Instrument 81-102 *Mutual Funds*;

“scholarship award” means any amount, other than a refund of contributions, that is paid or payable directly or indirectly to further the education of a beneficiary designated under an education savings plan;

“transition year” means the financial year of an investment fund in which a change of year-end occurs; and

“venture investment” means an investment in a private company or an investment made in accordance with the requirements of provincial labour sponsored or venture capital fund legislation or the ITA.

## 1.2 Application

- (1) Except as specifically provided otherwise in this Instrument, this Instrument applies to
  - (a) an investment fund that is a reporting issuer; and
  - (b) a mutual fund in the jurisdiction.
- (2) Despite subsection (1), in Alberta, British Columbia, Manitoba and Newfoundland and Labrador, this Instrument does not apply to a mutual fund that is not a reporting issuer, irrespective of the jurisdiction in which the mutual fund is organized.
- (3) In Saskatchewan, this Instrument does not apply to a Type B corporation within the meaning of The Labour-sponsored Venture Capital Corporations Act (Saskatchewan).
- (4) In Québec, this Instrument does not apply to a reporting issuer organized under:
  - (a) an Act to establish the Fonds de solidarité des travailleurs du Québec (F.T.Q.) R.S.Q., chapter F-3.2.1;
  - (b) an Act to establish Fondation, le Fonds de développement de la Confédération des syndicats nationaux pour la coopération et l'emploi (R.S.Q., chapter F-3.1.2);
  - (c) an Act constituting Capital régional et coopératif Desjardins, Loi constituant Capital régional et coopératif Desjardins (R.S.Q., chapter C-6.1).

## 1.3 Interpretation

- (1) Each section, part, class or series of a class of securities of an investment fund that is referable to a separate portfolio of assets is considered to be a separate investment fund for purposes of this Instrument.
- (2) Terms defined in National Instrument 81-102 *Mutual Funds*, Multilateral Instrument 81-104 *Commodity Pools* and National Instrument 81-105 *Mutual Fund Sales Practices* and used in this Instrument have the respective meanings ascribed to them in those Instruments except that references in those definitions to “mutual fund” must be read as references to “investment fund”.

## 1.4 Language of Documents

- (1) A document that is required to be filed under this Instrument must be prepared in French, English or both.
- (2) If an investment fund files a document in French or in English, there is a translation of the document into the other language, and the translation is delivered to securityholders, the investment fund must file the translated document not later than when it is first delivered to securityholders.
- (3) In Québec, the linguistic obligations and rights prescribed by Québec law must be complied with.

## PART 2 FINANCIAL STATEMENTS

### 2.1 Annual Financial Statements and Auditor's Report

- (1) An investment fund must file annual financial statements for the investment fund's most recently completed financial year that include
  - (a) a statement of net assets as at the end of that financial year and a comparative statement of net assets as at the end of the immediately preceding financial year;
  - (b) a statement of operations for that financial year and a comparative statement of operations for the immediately preceding financial year;

- (c) if required by Canadian GAAP, a statement of cashflows for that financial year and a comparative statement of cashflows for the immediately preceding financial year;
  - (d) if a statement of cashflows is not required by Canadian GAAP, a statement of changes in net assets for that financial year and a comparative statement of changes in net assets for the immediately preceding financial year;
  - (e) a statement of investment portfolio as at the end of that financial year; and
  - (f) notes to the annual financial statements.
- (2) Annual financial statements filed under subsection (1) must be accompanied by an auditor's report.

**2.2 Filing Deadline for Annual Financial Statements** - The annual financial statements and auditor's report required to be filed under section 2.1 must be filed on or before the 90<sup>th</sup> day after the investment fund's most recently completed financial year.

**2.3 Interim Financial Statements** - An investment fund must file interim financial statements for the investment fund's most recently completed interim period that include

- (a) a statement of net assets as at the end of that interim period and a comparative statement of net assets as at the end of the immediately preceding financial year;
- (b) a statement of operations for that interim period and a comparative statement of operations for the corresponding period in the immediately preceding financial year;
- (c) if required by Canadian GAAP, a statement of cashflows for and as at the end of that interim period and a comparative statement of cashflows for the corresponding period in the immediately preceding financial year;
- (d) if a statement of cashflows is not required by Canadian GAAP, a statement of changes in net assets for that interim period and a comparative statement of changes in net assets for the corresponding period in the immediately preceding financial year;
- (e) a statement of investment portfolio as at the end of that interim period; and
- (f) notes to the interim financial statements.

**2.4 Filing Deadline for Interim Financial Statements** - The interim financial statements required to be filed under section 2.3 must be filed on or before the 45<sup>th</sup> day after the end of the most recent interim period of the investment fund.

**2.5 Approval of Financial Statements**

- (1) The board of directors of an investment fund that is a corporation must approve the financial statements of the investment fund before those financial statements are filed or made available to holders or potential purchasers of securities of the investment fund; and
- (2) The manager or the trustee or trustees of an investment fund that is a trust, or another person or company authorized to do so by the constating documents of the investment fund, must approve the financial statements of the investment fund, before those financial statements are filed or made available to holders or potential purchasers of securities of the investment fund.

**2.6 Acceptable Accounting Principles**

- (1) The financial statements of an investment fund must be prepared in accordance with Canadian GAAP.
- (2) The financial statements of an investment fund must be prepared in accordance with the same accounting principles for all periods presented.
- (3) The notes to the financial statements of an investment fund must identify the accounting principles used to prepare the financial statements.

## 2.7 Acceptable Auditing Standards

- (1) Financial statements that are required by securities legislation to be audited must be audited in accordance with Canadian GAAS.
- (2) Audited financial statements must be accompanied by an auditor's report prepared in accordance with Canadian GAAS and the following requirements:
  1. The auditor's report must not contain a reservation.
  2. The auditor's report must identify all financial periods presented for which the auditor has issued an auditor's report.
  3. If the investment fund has changed its auditor and one or more of the comparative periods presented in the financial statements was audited by a different auditor, the auditor's report must refer to any former auditor's report(s) on the comparative periods.
  4. The auditor's report must identify the auditing standards used to conduct the audit and the accounting principles used to prepare the financial statements.

**2.8 Acceptable Auditors** - An auditor's report must be prepared and signed by a person or company that is authorized to sign an auditor's report by the laws of a jurisdiction of Canada, and that meets the professional standards of that jurisdiction.

## 2.9 Change in Year End

- (1) Section 4.8 of National Instrument 51-102 *Continuous Disclosure Obligations* applies to an investment fund that changes its financial year end, except that:
  - (a) a reference to "reporting issuer" must be read as a reference to "investment fund";
  - (b) a reference to "interim period" must be read as "interim period" as defined in this Instrument;
  - (c) a requirement under National Instrument 51-102 to include specified financial statements must be read as a requirement to include the financial statements required under this Part; and
  - (d) a reference to "filing deadline" in subsection 4.8(2) of National Instrument 51-102 must be read as a reference to the filing deadlines provided for under section 2.2 and 2.4 of this Instrument.
- (2) Despite section 2.4, an investment fund is not required to file interim financial statements for any period in a transition year if the transition year is less than nine months in length.
- (3) Despite subsections 4.8(7) and (8) of National Instrument 51-102,
  - (a) for interim financial statements for an interim period in the transition year, the investment fund must include as comparative information, information for the interim period of the old financial year; and
  - (b) for interim financial statements for an interim period in a new financial year, the investment fund must include as comparative information, information for the period that is one year earlier than the interim period in the new financial year.

**2.10 Change in Legal Structure** - If an investment fund that is a reporting issuer is party to an amalgamation, arrangement, merger, winding-up, reorganization or other transaction that will result in

- (a) the investment fund ceasing to be a reporting issuer,
- (b) another entity becoming an investment fund,
- (c) a change in the investment fund's financial year end, or
- (d) a change in the name of the investment fund,



the investment fund must, as soon as practicable, and in any event not later than the deadline for the first filing required by this Instrument following the transaction, file a notice stating:

- (e) the names of the parties to the transaction;
- (f) a description of the transaction;
- (g) the effective date of the transaction;
- (h) if applicable, the names of each party that ceased to be a reporting issuer subsequent to the transaction and of each continuing entity;
- (i) the date of the investment fund's first financial year end subsequent to the transaction; and
- (j) the periods, including the comparative periods, if any, of the interim and annual financial statements required to be filed for the investment fund's first financial year subsequent to the transaction.

## **2.11 Exemption and Requirements for Mutual Funds that are Non-Reporting Issuers**

- (1) A mutual fund that is not a reporting issuer is exempt from the filing requirements of section 2.1 for a financial year or section 2.3 for an interim period if:
  - (a) the mutual fund prepares the applicable financial statements in accordance with this Instrument;
  - (b) the mutual fund delivers the financial statements to its securityholders in accordance with Part 5;
  - (c) the mutual fund has advised the applicable regulator or securities regulatory authority that it is relying on this exemption not to file its financial statements; and
  - (d) the mutual fund has included in a note to the applicable financial statements that it is relying on this exemption not to file its financial statements.
- (2) The manager of a mutual fund that is not a reporting issuer must provide to the regulator or securities regulatory authority any financial statements of the mutual fund prepared under this Instrument promptly upon request.

## **2.12 Disclosure of Auditor Review of Interim Financial Statements**

- (1) This section applies only to an investment fund that is a reporting issuer.
- (2) If an auditor has not performed a review of the interim financial statements required to be filed, the interim financial statements must be accompanied by a notice indicating that the financial statements have not been reviewed by an auditor.
- (3) If an investment fund engaged an auditor to perform a review of the interim financial statements required to be filed and the auditor was unable to complete the review, the interim financial statements must be accompanied by a notice indicating that the auditor was unable to complete a review of the interim financial statements and the reasons why the auditor was unable to complete the review.
- (4) If an auditor has performed a review of the interim financial statements required to be filed, and the auditor has expressed a reservation in the auditor's interim review report, the interim financial statements must be accompanied by a written review report from the auditor.

## **PART 3 FINANCIAL DISCLOSURE REQUIREMENTS**

**3.1 Statement of Net Assets** - The statement of net assets of an investment fund must disclose, at a minimum, the following as separate line items, each shown at current value:

- 1. cash, term deposits and, if not included in the statement of investment portfolio, short term debt instruments.
- 2. investments.

3. accounts receivable relating to securities sold.
4. accounts receivable relating to portfolio assets sold.
5. accounts receivable relating to margin paid or deposited on futures or forward contracts.
6. amounts receivable and/or payable in respect of derivatives transactions, including premiums or discounts received or paid.
7. deposits with brokers for securities sold short.
8. accrued expenses.
9. investments sold short.
10. liabilities for portfolio assets purchased.
11. liabilities for securities redeemed.
12. income tax payable.
13. total net assets and securityholders' equity.
14. net asset value per security.

### **3.2 Statement of Operations**

- (1) The statement of operations of an investment fund must disclose, at a minimum, the following information as separate line items:
1. dividend revenue.
  2. interest revenue.
  3. income from derivatives.
  4. revenue from securities lending.
  5. management fees, excluding incentive or performance fees.
  6. incentive or performance fees.
  7. audit fees.
  8. directors' or trustees' fees.
  9. custodial fees.
  10. legal fees.
  11. securityholder information costs.
  12. dividends received on securities sold short.
  13. capital tax.
  14. amounts that would otherwise have been payable by the investment fund that were waived or paid by the manager or a portfolio adviser of the investment fund.
  15. provision for income tax.
  16. net investment income or loss for the period.

17. realized gains or losses.
  18. unrealized gains or losses.
  19. increase or decrease in net assets from operations.
- (2) In addition to the requirements of subsection (1), the statement of operations of a commodity pool must include
- (a) the aggregate amount of realized net gain or net loss on positions liquidated during the period;
  - (b) the change in unrealized net gain or net loss on open positions during the period; and
  - (c) the aggregate amount of net gain or net loss, including interest, from all other transactions in which the commodity pool engaged during the period.

**3.3 Statement of Changes in Net Assets** - The statement of changes in net assets of an investment fund must disclose, at a minimum, the following as separate line items:

1. net assets at the beginning of the period to which the statement applies.
2. increase or decrease in net assets from operations.
3. proceeds from the issuance of securities of the investment fund.
4. aggregate amounts paid on redemption of securities of the investment fund.
5. securities issued on reinvestment of distributions.
6. distributions, showing separately the amount out of net investment income, out of realized gains on portfolio securities sold, and return of capital.
7. net assets at the end of the period reported upon.

**3.4 Statement of Cashflows** - The statement of cashflows of an investment fund must disclose, at a minimum, the following as separate line items:

1. net investment income (loss).
2. proceeds on disposition of portfolio assets.
3. purchase of portfolio assets.
4. proceeds from issue of securities of the investment fund.
5. aggregate amounts paid on redemption of securities of the investment fund.
6. if applicable, compensation paid in respect of the sale of securities of the investment fund.

**3.5 Statement of Investment Portfolio**

- (1) The statement of investment portfolio of an investment fund must disclose, at a minimum, the following for each portfolio asset held or sold short:
1. The name of the issuer of the portfolio asset.
  2. A description of the portfolio asset, including
    - (a) for an equity security, the name of the class of the security;
    - (b) for a debt instrument not included in paragraph (c), all characteristics commonly used commercially to identify the instrument, including the name of the instrument, the interest rate of the instrument, the maturity date of the instrument, whether the instrument is

- convertible or exchangeable and, if used to identify the instrument, the priority of the instrument.
- (c) for a debt instrument referred to in the definition of “money market fund” in National Instrument 81-102 *Mutual Funds*, the name, interest rate and maturity date of the instrument.
  - (d) for a portfolio asset not referred to in paragraph (a), (b) or (c), the name of the portfolio asset and the material terms and conditions of the portfolio asset commonly used commercially in describing the portfolio asset.
- 3. The number or aggregate face value for the portfolio asset.
  - 4. The cost of the portfolio asset.
  - 5. The current value of the portfolio asset.
- (2) For purposes of subsection (1), disclosure for a long portfolio must be segregated from the disclosure for a short portfolio.
  - (3) For purposes of subsection (1) and subject to subsection (2), disclosure must be aggregated for portfolio assets having the same description and issuer.
  - (4) Despite subsection (1) and (3) and subject to subsection (2), the information referred to in subsection (1) may be provided only in the aggregate for those short term debt instruments that are issued by a bank listed in Schedule I, II or III to the *Bank Act* (Canada) or a loan corporation or trust corporation registered under the laws of a jurisdiction, or that have achieved an investment rating within the highest or next highest categories of ratings of each approved credit rating organization.
  - (5) If an investment fund discloses short term debt instruments as permitted by subsection (4), the investment fund
    - (a) must break down the disclosure by currency of issue, and
    - (b) must disclose separately the aggregate short term debt instruments denominated in any currency.
  - (6) If an investment fund holds positions in derivatives, the investment fund must disclose in the statement of investment portfolio or the notes to that statement:
    - (a) for long and short positions in options, the quantity of the underlying interest per option, the number of options, the underlying interest, the strike price, the expiration month and year, the cost and the current value;
      - (i) if the underlying interest is a future, include disclosure of the future in accordance with this subsection;
    - (b) for positions in futures and forwards, the number of futures and forwards, the underlying interest, the price at which the contract was entered into, the delivery month and year and the current value;
    - (c) for positions in swaps, the number of swap contracts, the underlying interest, the principal or notional amount, the payment dates, and the current value; and
    - (d) if applicable, the fact that a rating of a counterparty has fallen below the approved credit rating level.
  - (7) If applicable, the statement of investment portfolio included in the financial statements of the investment fund, or the notes to the statement of investment portfolio, must identify, by notation, the underlying interest that is being hedged by each position taken by the investment fund in a specified derivative.
  - (8) An investment fund may omit the information required by subsection (1) about mortgages from a statement of investment portfolio if the statement of investment portfolio instead discloses
    - (a) the total number of mortgages held;

- (b) the aggregate current value of mortgages held;
- (c) a breakdown of mortgages, by reference to number and current value among mortgages insured under the *National Housing Act* (Canada), insured conventional mortgages and uninsured conventional mortgages;
- (d) a breakdown of mortgages, by reference to number and current value, among mortgages that are pre-payable and those that are not pre-payable; and
- (e) a breakdown of mortgages, by reference to number, current value, amortized cost and outstanding principal value, among groups of mortgages having contractual interest rates varying by no more than one quarter of one percent.

### 3.6 Notes to Financial Statements

- (1) The notes to the financial statements of an investment fund must disclose, at a minimum, the following:
  - 1. the basis for determining current value and cost of portfolio assets, and, if a method of determining cost other than by reference to the average cost of the portfolio assets is used, disclosure of the method used.
  - 2. details of portfolio transactions with related parties of the investment fund, including the dollar amount of commission, spread or any other fee that the investment fund paid to any related party in connection with a portfolio transaction.
  - 3. if the investment fund has outstanding more than one class or series of securities ranking equally against its net assets, but differing in other respects,
    - (a) the number of authorized securities of each class or series,
    - (b) the number of securities of each class or series that have been issued and are outstanding.
    - (c) the differences between the classes or series, including differences in sales charges, and management fees.
    - (d) the method used to allocate income and expenses, and realized and unrealized capital gains and losses, to each class;
    - (e) the fee arrangements for any class-level expenses paid to affiliates; and
    - (f) transactions involving the issue or redemption of securities of the investment fund undertaken in the period for each class of securities to which the financial statements pertain.
  - 4. details of the total commission paid to dealers by the investment fund for its portfolio transactions during the period reported upon, including dollar amount of commissions paid and soft dollar transactions.
  - 5. the basis for calculating the management fees paid by the investment fund and a breakdown of the services received in consideration of the management fees, as a percentage of management fees.
  - 6. details of amounts that would otherwise have been payable by the investment fund that were waived or paid by the manager or a portfolio adviser of the investment fund.
- (2) An investment fund that borrows money must, in a note to the financial statements and in the management reports of fund performance, disclose the following:
  - 1. the minimum and maximum amount borrowed during the period to which the financial statements or management report of fund performance pertain.
  - 2. the percentage of net assets of the investment fund that the borrowing represented as of the end of the period.

3. how the borrowed money was used.
4. details of the terms of the borrowing arrangements.

**3.7 Inapplicable Line Items** - Despite the requirements of this Part, an investment fund may omit from the financial statements a line item for any matter that does not apply to the investment fund or for which the investment fund has nothing to disclose.

**3.8 Disclosure of Securities Lending Transactions**

- (1) An investment fund must disclose, in the statement of investment portfolio included in the financial statements of the investment fund, or in the notes to the financial statements
  - (a) the aggregate dollar value of securities that were lent in the securities lending transactions of the investment fund that are outstanding as at the date of the financial statements; and
  - (b) the type and aggregate amount of collateral received by the investment fund under securities lending transactions of the investment fund that are outstanding as at the date of the financial statements.
- (2) The statement of net assets of an investment fund that has received cash collateral in securities lending transactions that is outstanding as of the date of the financial statements must disclose separately
  - (a) the cash collateral received by the investment fund; and
  - (b) the obligation to repay the cash collateral.
- (3) The statement of operations of an investment fund must disclose income from securities lending transactions as revenue.

**3.9 Disclosure of Repurchase Transactions**

- (1) An investment fund, in the statement of investment portfolio included in the financial statements of the investment fund, or in the notes to that statement, must, for the repurchase transactions of the investment fund that are outstanding as at the date of the statement, disclose
  - (a) the date of the transaction;
  - (b) the expiration date of the transaction;
  - (c) the nature and current value of the securities sold by the investment fund;
  - (d) the amount of cash received and the repurchase price to be paid by the investment fund; and
  - (e) the current value of the sold securities as at the date of the statement.
- (2) The statement of net assets of an investment fund that has entered into a repurchase transaction that is outstanding as of the date of the statement of net assets must disclose separately the obligation of the investment fund to repay the collateral.
- (3) The statement of operations of an investment fund must disclose income from the use of the cash received on repurchase transactions as revenue.
- (4) The information required by this section may be presented on an aggregate basis.

**3.10 Disclosure of Reverse Repurchase Transactions**

- (1) An investment fund, in the statement of investment portfolio included in the financial statements of the investment fund or in the notes to that statement, must, for each reverse repurchase transaction of the investment fund that is outstanding as at the date of the statement, disclose
  - (a) the date of the transaction;
  - (b) the expiration date of the transaction;

- (c) the total dollar amount paid by the investment fund;
  - (d) the nature and value or principal amount of the securities received by the investment fund; and
  - (e) the current value of the purchased securities as at the date of the statement.
- (2) The statement of net assets of an investment fund that has entered into a reverse repurchase transaction that is outstanding as of the date of the financial statements must disclose separately the reverse repurchase agreement relating to the transaction at current value.
- (3) The statement of operations of an investment fund must disclose income from reverse repurchase transactions as revenue.
- (4) The information required by this section may be presented on an aggregate basis.

### **3.11 Incentive Arrangements**

- (1) The statement of net assets of an investment fund must disclose the current value of an incentive arrangement or compensation.
- (2) The statement of operations of an investment fund must disclose changes in the amount referred to in subsection (1) as a separate line item.

### **3.12 Group Scholarship Plans** - In addition to the requirements of this Part, an investment fund that is a group scholarship plan must disclose, as of the end of its most recently completed financial year

- (a) a separate statement or schedule to the financial statements that provides
  - (i) a summary of scholarship agreements and units outstanding by year of maturity, including
    - (A) disclosure of the number of units by year of maturity for the opening units, units purchased, units forfeited and the ending units,
    - (B) disclosure of the principal amounts and the accumulated income per year of maturity, and their total balances, and
    - (C) a reconciliation of the total balances of the principal amounts and the accumulated income in the schedule to the statement of net assets of the scholarship plan,
  - (ii) the total number of units, and
  - (iii) a statement of scholarship awards paid to beneficiaries, and a reconciliation of the amount of scholarships paid with the statement of operations; and
- (b) if the plan has matured, a separate statement or schedule to the financial statements that describes the educational assistance payments paid per unit to qualified beneficiaries under the plan.

## **PART 4 MANAGEMENT REPORTS OF FUND PERFORMANCE**

- 4.1 Application** - This Part applies only to an investment fund that is a reporting issuer.
- 4.2 Filing of Management Reports of Fund Performance** - An investment fund, other than an investment fund that is a group scholarship plan, must file an annual management report of fund performance for each financial year and an interim management report of fund performance for each interim period at the same time that it files its annual financial statements or its interim financial statements for that financial period.
- 4.3 Filing of Annual Management Report of Fund Performance for an Investment Fund that is a Group Scholarship Plan** - An investment fund that is a group scholarship plan must file an annual management report of fund performance for each financial year at the same time that it files its annual financial statements.
- 4.4 Contents of Management Reports of Fund Performance** - A management report of fund performance required by this Part must

- (a) be prepared in accordance with Form 81-106F1; and
- (b) not incorporate by reference information from any other document that is required to be included in a management report of fund performance.

#### **4.5 Approval of Management Reports of Fund Performance**

- (1) The board of directors of an investment fund that is a corporation must approve the management reports of fund performance of the investment fund before the management reports of fund performance are filed or made available to holders or potential purchasers of securities of the investment fund.
- (2) The manager or the trustee or trustees of an investment fund that is a trust, or another person or company authorized to do so by the constating documents of the investment fund, must approve the management reports of fund performance of the investment fund before the management reports of fund performance are filed or made available to holders or potential purchasers of securities of the investment fund.

### **PART 5 DELIVERY OF FINANCIAL STATEMENTS AND MANAGEMENT REPORTS OF FUND PERFORMANCE**

#### **5.1 Delivery of Certain Continuous Disclosure Documents**

- (1) An investment fund must send to registered holders and beneficial owners of securities issued by it
  - (a) annual financial statements;
  - (b) interim financial statements;
  - (c) if required to be prepared by the investment fund, annual management report of fund performance; and
  - (d) if required to be prepared by the investment fund, interim management report of fund performance.
- (2) An investment fund is exempt from the requirements of subsection (1) if
  - (a) the investment fund sends the requested documents according to the standing instruction procedures set out in section 5.2; or
  - (b) the investment fund sends the requested documents according to the annual instruction procedures set out in section 5.3.
- (3) An investment fund may send the required documents according to section 5.3 only if it is impracticable for it to send the documents according to section 5.2.

#### **5.2 Sending According to Standing Instructions**

- (1) This section applies only to an investment fund that is sending the documents listed in subsection 5.1(1) to the registered holders and beneficial owners of its securities in accordance with this section.
- (2) An investment fund must send the documents listed in subsection 5.1(1) to each registered holder and beneficial owner of its securities in accordance with instructions received, or deemed to have been received, from the registered holder or beneficial owner as to
  - (a) whether the registered holder or beneficial owner wishes to receive any of the documents of the investment fund described in subsection 5.1(1); and
  - (b) which of those documents the registered holder or beneficial owner wishes to receive.
- (3) For each person or company that was a registered holder or beneficial owner of securities issued by it before this Instrument came into force, an investment fund must send, within three months after this Instrument came into force, the registered holder or beneficial owner a document that explains the choices a registered holder or beneficial owner has to receive the documents listed in subsection 5.1(1) and that solicits instructions from the registered holder or beneficial owner about delivery of those documents.



- (4) For each person or company that becomes a registered holder or beneficial owner of securities of the investment fund after this Instrument comes into force, an investment fund must solicit instructions concerning the sending of the documents listed in subsection 5.1(1), at the time that the investment fund first accepts a purchase order from a registered holder or beneficial owner.
- (5) For the purposes of this section, the following are instructions from a registered holder or beneficial owner:
  - 1. Instructions actually given by the registered holder or beneficial owner to the investment fund in response to a solicitation under this section.
  - 2. Instructions given, or deemed to have been given, to the manager of the investment fund in connection with another investment fund having the same manager as the investment fund.
  - 3. The operation of any provision that has been clearly explained in a document sent by the investment fund to the registered holder or beneficial owner that deems non-response by the registered holder or beneficial owner to be a response as described in paragraph 6(a) or (b).
  - 4. Any instructions previously received by the investment fund or another investment fund having the same manager as the investment fund under National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*.
- (6) Despite subsection (5), an investment fund may send a registered holder or beneficial owner a document that explains how a securityholder can choose to receive the documents in subsection 5.1(1) and that either
  - (a) deems no response to the document to be a request by the securityholder to receive all or some of the documents in subsection 5.1(1); or
  - (b) deems no response to the document to be a request by the securityholder to receive none of the documents in subsection 5.1(1).
- (7) A registered holder or beneficial owner may change any instructions it has given or is deemed to have given by advising the investment fund.
- (8) An investment fund must rely on instructions given, or deemed to have been given, under this section until the registered holder or beneficial owner changes them.
- (9) At least annually, an investment fund must send each registered holder and beneficial owner of securities issued by it a reminder
  - (a) to the effect that the investment fund is sending documents to the registered holder or beneficial owner because of instructions given, or deemed to have been given, by the registered holder or beneficial owner; and
  - (b) that explains how a registered holder or beneficial owner may change the instructions it has given, or is deemed to have given.

### **5.3 Sending According to Annual Instructions**

- (1) This section applies only to an investment fund that is sending the documents listed in subsection 5.1(1) to a registered holder or beneficial owner in accordance with this section.
- (2) An investment fund using the procedure described in this section must annually send to each registered holder and beneficial owner of its securities a request form under which the registered holder or beneficial owner may instruct the investment fund
  - (a) whether the registered holder or beneficial owner wishes to receive any of the documents of the investment fund described in subsection 5.1(1); and
  - (b) which of those documents the registered holder or beneficial owner wishes to receive.
- (3) An investment fund must send the request form referred to in subsection (2) in each financial year of the investment fund by the earlier of

- (a) the date in the financial year the investment fund first sends a registered holder or beneficial owner a written communication; or
- (b) the date that is six months after the end of the previous financial year of the investment fund.

#### 5.4 General

- (1) An investment fund must send the documents referred to in subsection 5.1(1) to registered holders or beneficial owners no later than ten days after filing those documents.
- (2) An investment fund must not charge a fee for sending the documents referred to in this Part and must ensure that registered holders and beneficial owners can respond without cost to the requests referred to in this Part.
- (3) An investment fund that complies with this Part is exempt from the requirements of securities legislation to send the applicable documents for a financial year to registered holders of its securities.
- (4) An investment fund that complies with this Part is exempt from the financial statement delivery requirements of National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*.

**5.5 Websites** - An investment fund that is a reporting issuer and that has a website must post to the website any documents referred to in subsection 5.1(1) no later than the date that those documents are filed.

### PART 6 QUARTERLY PORTFOLIO DISCLOSURE

**6.1 Application** - This Part applies only to an investment fund that is a reporting issuer but does not apply to a group scholarship plan or a labour sponsored or venture capital fund.

#### 6.2 Preparation and Dissemination

- (1) An investment fund must prepare a summary of investment portfolio in accordance with Item 5 of Part B of Form 81-106F1 as at the end of
  - (a) each period of at least three months that ends three or nine months before the end of a financial year of the investment fund; and
  - (b) in the case of a transition year of the investment fund, each period commencing on the first day of the transition year and ending either three, nine or twelve months, if applicable, after the end of its old financial year.
- (2) An investment fund must determine its total net asset value as at the end of the periods specified in paragraph (1)(a) and (b).
- (3) An investment fund that has a website must post to the website the quarterly portfolio disclosure within 45 days of the end of the period for which the quarterly portfolio disclosure was prepared.
- (4) An investment fund must deliver to its securityholders, without charge, the quarterly portfolio disclosure upon request.

### PART 7 FINANCIAL DISCLOSURE - GENERAL

**7.1 Books and Records** - An investment fund must maintain records of all portfolio transactions undertaken by the investment fund.

#### 7.2 Documents Available on Request

- (1) Unless the investment fund has previously delivered or sent the relevant document to that person or company, an investment fund that is a reporting issuer must deliver or send to any person or company, on request, and without charge,
  - (a) the most recent annual or interim financial statements of the investment fund,
  - (b) the most recent annual or interim management reports of fund performance,

- (c) the most recent annual information form prepared under this Instrument, and
  - (d) the most recent quarterly portfolio disclosure prepared under this Instrument.
- (2) An investment fund must deliver or send all documents requested under this section by the later of
  - (a) the filing deadline for the document requested; and
  - (b) ten days after receipt of the request.

**7.3 Toll-Free Telephone Number or Collect Telephone Calls** - An investment fund that is a reporting issuer must have a toll-free telephone number for, or accept collect telephone calls from, persons or companies that want to receive a copy of any or all of the documents described in subsection 7.2(1).

**7.4 Binding of Financial Statements and Management Reports of Fund Performance**

- (1) An investment fund may not bind its financial statements with the financial statements of another investment fund in a document unless all information relating to the investment fund is presented together and not intermingled with information relating to the other investment fund.
- (2) Despite subsection (1), if a single document contains financial statements of more than one investment fund, the investment fund may combine information in the notes to the financial statements and present it in a separate part of the document.
- (3) An investment fund may not bind its management report of fund performance with the management report of fund performance for another investment fund.

**7.5 Multiple Class Investment Funds**

- (1) An investment fund that has more than one class or series of security outstanding that is referable to a single portfolio may
  - (a) prepare separate financial statements and management reports of fund performance for each class or series; or
  - (b) combine the information concerning all of the classes or series into one set of financial statements and management reports of fund performance.
- (2) An investment fund that combines information concerning all of its classes or series of securities in one set of financial statements and management reports of fund performance must disclose in those documents any distinctions between the classes or series of securities.

**PART 8 INDEPENDENT VALUATIONS FOR LABOUR SPONSORED OR VENTURE CAPITAL FUNDS**

**8.1 Application** - This Part applies only to a labour sponsored or venture capital fund that is a reporting issuer.

**8.2 Exemption from Requirement to Disclose Individual Current Values for certain Portfolio Assets** - Despite paragraph 5 of subsection 3.5(1), a labour sponsored or venture capital fund is exempt from the requirement to present separately in a statement of investment portfolio the current value of each venture investment that does not have an easily ascertainable market value if

- (a) the labour sponsored or venture capital fund discloses in the statement of investment portfolio
  - (i) the cost amounts for each venture investment,
  - (ii) the total cost of the venture investments,
  - (iii) the total adjustment from cost to current value of the venture investments, and
  - (iv) the total current value of the venture investments that are fair valued;

- (b) the labour sponsored or venture capital fund discloses in the statement of investment portfolio a table showing the distribution of venture investments by stage of development and industry classification and that includes
  - (i) the number of venture investments in each stage of development and industry class,
  - (ii) the cost and current value of the venture investments for each stage of development and industry class, and
  - (iii) the cost and current value of venture investments as a percentage of total venture investments for each stage of development and industry class;
- (c) for a statement of investment portfolio contained in annual financial statements, the labour sponsored or venture capital fund has obtained an independent valuation relating to the net asset value of the fund and filed the independent valuation concurrently with the filing of the annual financial statements containing the statement of investment portfolio;
- (d) for a statement of investment portfolio contained in interim financial statements, the labour sponsored or venture capital fund obtained and filed the independent valuation referred to in paragraph (c) in connection with the preparation of the most recent annual financial statements of the labour sponsored or venture capital fund; and
- (e) the labour sponsored or venture capital fund has disclosed in the applicable financial statements that an independent valuation has been obtained as of the end of the applicable financial year.

**8.3 Disclosure Concerning Valuator** - A labour sponsored or venture capital fund that obtains an independent valuation of its net asset value must include, in the statement of investment portfolio contained in its annual financial statements, or the notes to the annual financial statements,

- (a) a description of any past, present or anticipated relationship between the valuator and the labour sponsored or venture capital fund, its manager or portfolio adviser; and
- (b) a description of the compensation paid or to be paid to the valuator.

**8.4 Subject Matter of Independent Valuation** - An independent valuation must provide, as of the year end, the valuation, in aggregate, of the net asset value of the labour sponsored or venture capital fund.

**8.5 Filing of Valuation Report** - Subject to section 8.6, a labour sponsored or venture capital fund that obtains an independent valuation must file a copy of the valuation report concurrently with the filing of its annual financial statements.

**8.6 Valuator's Consent** - A labour sponsored or venture capital fund obtaining an independent valuation must

- (a) obtain the independent valuator's consent to its filing; and
- (b) include a statement, signed by the independent valuator, in substantially the following form:

"We refer to the independent valuation of the net assets of (indicate name of labour sponsored or venture capital fund) as of (date) dated •. We consent to the filing of the independent valuation with the securities regulatory authorities."

## **PART 9 ANNUAL INFORMATION FORM**

**9.1 Application** - This Part applies only to an investment fund that is a reporting issuer.

**9.2 Requirement to File an Annual Information Form** - An investment fund must file an annual information form under this Instrument if

- (a) the investment fund does not have a current prospectus; and
- (b) the investment fund is not required by corporate law to hold an annual meeting of its securityholders.

**9.3 Filing Deadline for an Annual Information Form** - An investment fund required under section 9.2 to file an annual information form must file the annual information form no later than 90 days after the end of its most recently completed financial year.

**9.4 Preparation of an Annual Information Form**

- (1) An annual information form required to be filed under section 9.2 must be prepared as of the end of the most recently completed financial year of the investment fund to which it pertains.
- (2) An annual information form required to be filed under section 9.2 must be prepared in accordance with Form 81-101F2, except that:
  - (a) General Instructions (3), (10), (11), (12) and (14) of Form 81-101F2 do not apply;
  - (b) Subsections (3) and (6) of Item 1.1 of Form 81-101F2 do not apply;
  - (c) Item 1.2 of Form 81-101F2 does not apply;
  - (d) Item 5 of Form 81-101F2 must be completed in connection with all of the securities of the investment fund;
  - (e) Item 15 of Form 81-101F2 does not apply to an investment fund that is a corporation; and
  - (f) Items 19, 20, 21 and 22 of Form 81-101F2 do not apply.
- (3) An investment fund required under section 9.2 to file an annual information form must at the same time file copies of all material incorporated by reference in the annual information form that it has not previously filed.

**PART 10 PROXY VOTING DISCLOSURE FOR SECURITIES HELD**

**10.1 Application** – This Part applies only to an investment fund that is a reporting issuer.

**10.2 Requirement to Establish Policies and Procedures**

- (1) An investment fund must establish policies and procedures to be followed by it in determining whether, and how, to vote on any matter for which the investment fund receives, in its capacity as securityholder, proxy materials for a meeting of securityholders of an issuer.
- (2) The policies and procedures referred to in subsection (1) must include, at a minimum,
  - (a) the establishment by the investment fund of a standing policy for dealing with routine matters on which the investment fund may vote;
  - (b) the circumstances under which the investment fund will deviate from the standing policy for routine matters referred to in paragraph (a);
  - (c) the policies under which, and the procedures by which, the investment fund will determine how to vote or refrain from voting on non-routine matters;
  - (d) the establishment of procedures to ensure that securities held by the investment fund are voted in accordance with the instructions of the investment fund; and
  - (e) the establishment of procedures to advise securityholders of the investment fund on changes to the policies and procedures provided for in this section.
- (3) Investment funds that do not prepare an annual information form in accordance with Part 9 or in accordance with NI 81-101 *Mutual Fund Prospectus Disclosure*, must include a summary of the policies and procedures required by this section in their prospectus.

### 10.3 Proxy Voting Record

- (1) An investment fund must maintain a proxy voting record that includes, at a minimum, for each time that the investment fund receives, in its capacity as securityholder, proxy materials relating to a meeting of securityholders of an issuer,
  - (a) the name of the issuer;
  - (b) the exchange ticker symbol of the securities, unless not readily available to the investment fund;
  - (c) the CUSIP number for the securities;
  - (d) the meeting date;
  - (e) a brief identification of the matter or matters to be voted on at the meeting;
  - (f) whether the matter or matters voted on was proposed by the issuer, its management or another person or company;
  - (g) whether the investment fund voted on the matter or matters;
  - (h) if applicable, how the investment fund voted on the matter or matters; and
  - (i) whether votes cast by the investment fund were for or against the recommendations of management of the issuer.

### 10.4 Preparation and Availability of Proxy Voting Record

- (1) An investment fund must prepare a proxy voting record on an annual basis for the period ending on June 30 of each calendar year.
- (2) An investment fund must promptly deliver or send a copy of the investment fund's proxy voting policies and procedures and proxy voting record, free of charge, to any securityholder of the investment fund upon a request made by the securityholder more than 60 days after the end of the period to which the proxy voting record pertains.

## PART 11 MATERIAL CHANGE REPORTS

**11.1 Application** - This Part applies only to an investment fund that is a reporting issuer.

### 11.2 Publication of Material Change

- (1) If a material change occurs in the affairs of an investment fund, that investment fund must:
  - (a) promptly issue and file a news release that is authorized by an executive officer of the manager of the investment fund and that discloses the nature and substance of the material change;
  - (b) post all disclosure made under paragraph (a) on the website of the investment fund or the investment fund manager;
  - (c) as soon as practicable, but in any event no later than 10 days after the date on which the change occurs, file a report containing the information required by Form 51-102F3, except that a reference in Form 51-102F3 to:
    - (i) the term "material change" must be read as a "material change" under this Instrument;
    - (ii) "section 7.1 of National Instrument 51-102" in Item 3 of Part 2 must be read as a reference to "section 11.2 of National Instrument 81-106";
    - (iii) "subsection 7.1(2) or (3) of National Instrument 51-102" in Item 6 of Part 2 must be read as a reference to "subsection 11.2(2) or (3) of National Instrument 81-106";

- (iv) “subsection 7.1(5) of National Instrument 51-102” in Items 6 and 7 of Part 2 must be read as a reference to “subsection 11.2(4) of National Instrument 81-106”; and
    - (v) “executive officer of your company” in Item 8 of Part 2 must be read as a reference to “officer of the investment fund or of the manager of the investment fund”.
  - (d) file an amendment to its prospectus or simplified prospectus that discloses the material change in accordance with the requirements of securities legislation as if the amendment were required to be filed under securities legislation.
- (2) If:
- (a) in the opinion of the board of directors or trustee of an investment fund or the manager, and if that opinion is arrived at in a reasonable manner, the disclosure required by subsection (1) would be unduly detrimental to the investment fund's interest; or
  - (b) the material change
    - (i) consists of a decision to implement a change made by senior management of the investment fund or senior management of the manager of the investment fund who believe that confirmation of the decision by the board of directors or persons acting in a similar capacity is probable; and
    - (ii) senior management of the investment fund or senior management of the manager of the investment fund has no reason to believe that persons with knowledge of the material change have made use of that knowledge in purchasing or selling securities of the investment fund,
- the investment fund may, instead of complying with subsection (1), immediately file only the report required under subsection (1)(c) marked to indicate that it is confidential, together with written reasons for non-disclosure.
- (3) Subsection (1) does not apply to an investment fund in Québec if
- (a) senior management of the investment fund has reasonable grounds to believe that disclosure as required by subsection (1) would be seriously prejudicial to the interests of the investment fund and that no transaction in securities of the investment fund has been or will be carried out on the basis of the information not generally known;
  - (b) the investment fund immediately files the report required under paragraph (1)(c) marked so as to indicate that it is confidential, together with written reasons for non-disclosure; and
  - (c) the investment fund complies with subsection (1) when the circumstances that justify non-disclosure cease to exist.
- (4) If a report has been filed under subsection (1)(c), the investment fund must advise the applicable regulator or securities regulatory authority in writing within ten days of the initial filing of the report if it believes the report should continue to remain confidential and every 10 days thereafter until the material change is generally disclosed in the manner referred to in subsection (1) or, if the material change consists of a decision of the type referred to in paragraph (2)(b), until that decision has been rejected by the board of directors of the investment fund or the board of directors of the manager of the investment fund.
- (5) Despite filing a report under subsection (1)(c), an investment fund must promptly and generally disclose the material change in the manner referred to in subsection (1) upon the investment fund becoming aware, or having reasonable grounds to believe, that a person or company is purchasing or selling securities of the investment fund with knowledge of the material change that has not been generally disclosed.

## **PART 12 PROXY SOLICITATION AND INFORMATION CIRCULARS**

**12.1 Application** - This Part applies only to an investment fund that is a reporting issuer.

## 12.2 Sending of Proxies and Information Circulars

- (1) If management of an investment fund or the manager of an investment fund gives or intends to give notice of a meeting to securityholders of the investment fund, management or the manager must, at the same time as or before giving that notice, send to each securityholder who is entitled to notice of the meeting a form of proxy for use at the meeting.
- (2) A person or company that solicits proxies from securityholders of an investment fund must:
  - (a) in the case of a solicitation by or on behalf of management of the investment fund, send with the notice of meeting to each securityholder whose proxy is solicited a completed Form 51-102F5; or
  - (b) in the case of a solicitation by or on behalf of any person or company other than management of the investment fund, concurrently with or before the solicitation, send a completed Form 51-102F5 and a form of proxy to each securityholder whose proxy is solicited.
- (3) In Québec, subsections (1) and (2) apply, adapted as required, to a meeting of holders of debt securities of an investment fund that is a reporting issuer in Québec, whether called by management of the investment fund or by the trustee of the debt securities.

## 12.3 Exemption

- (1) Paragraph 12.2(2)(b) does not apply to a solicitation if the total number of securityholders whose proxies are solicited is not more than 15.
- (2) For the purposes of subsection (1), two or more persons or companies who are joint registered owners of one or more securities are considered to be one securityholder.

**12.4 Compliance with National Instrument 51-102** - A person or company that solicits proxies under section 12.2 must do so in compliance with the requirement of sections 9.3 and 9.4 of National Instrument 51-102 *Continuous Disclosure Obligations* as if those sections applied to the person or company, and as if references in those sections to "a reporting issuer" were references to "an investment fund".

## PART 13 CHANGE OF AUDITOR DISCLOSURE

**13.1 Application** - This Part applies only to an investment fund that is a reporting issuer.

**13.2 Change of Auditor** - An investment fund must not change its auditor unless it complies with section 4.11 of National Instrument 51-102 *Continuous Disclosure Obligations* as if that section applied to the investment fund, and as if

- (a) references in that section to "a reporting issuer" are references to "an investment fund"; and
- (b) references in that section to the "board of directors" are references to the "directors of the investment fund, or the directors of the manager of the investment fund, as applicable".

## PART 14 CALCULATION OF NET ASSET VALUE

**14.1 Application** - This Part applies only to an investment fund that is a reporting issuer.

### 14.2 Calculation, Frequency and Currency

- (1) The net asset value of an investment fund must be calculated in accordance with Canadian GAAP.
- (2) Despite subsection (1), a labour sponsored or venture capital fund that, at the date this Instrument comes into force, has a deferred charge in its statement of net assets relating to sales commissions that have been paid by the labour sponsored or venture capital fund, may continue to amortize this deferred asset over the remaining amortization period, provided the labour sponsored or venture capital fund ceased adding to this deferred charge by December 31, 2003.
- (3) The net asset value of an investment fund must be calculated
  - (a) if the investment fund does not use derivatives, at least once in each week; or



- (b) if the investment fund uses derivatives, at least once every business day.
- (4) A mutual fund that holds securities of other mutual funds must have dates for the calculation of net asset value that are compatible with those of the other mutual funds.
- (5) Despite subsection (3), an investment fund that, at the date that this Instrument comes into force, calculates net asset value no less frequently than once a month may continue to calculate net asset value at least as frequently as it does at that date.
- (6) The net asset value of an investment fund must be calculated in the currency of Canada or in the currency of the United States of America or both.
- (7) An investment fund that arranges for the publication of its net asset value in the financial press must ensure that its current net asset value is provided on a timely basis to the financial press.
- (8) Subsection (2) does not apply in British Columbia, Manitoba or Québec.

**14.3 Portfolio Transactions** - The net asset value of an investment fund must include each purchase or sale of a portfolio asset no later than in the next calculation of the net asset value after the date the purchase or sale becomes binding.

**14.4 Capital Transactions** - The investment fund must include each issue or redemption of a security of the investment fund in the next calculation of net asset value the investment fund makes after the calculation of net asset value used to establish the issue or redemption price.

## **PART 15 CALCULATION OF MANAGEMENT EXPENSE RATIO**

### **15.1 Calculation of Management Expense Ratio**

- (1) An investment fund may disclose its management expense ratio only if the management expense ratio is calculated for the financial year or interim period of the investment fund and if it is calculated by
  - (a) dividing
    - (i) the aggregate of
      - (A) total expenses of the investment fund, before income taxes, for the financial year or interim period as shown on its statement of operations; and
      - (B) any other fee, charge or expense of the investment fund that has the effect of reducing the investment fund's net asset value;
    - by
    - (ii) the average net asset value of the investment fund for the financial year or interim period, obtained by
      - (A) adding together the net asset values of the investment fund as at the close of business of the investment fund on each day during the financial year or interim period on which the net asset value of the investment fund has been calculated, and
      - (B) dividing the amount obtained under clause (A) by the number of days during the financial year or interim period on which the net asset value of the investment fund has been calculated; and
  - (b) multiplying the result obtained under paragraph (a) by 100.
- (2) If any fees and expenses otherwise payable by an investment fund in a financial year or interim period were waived or otherwise absorbed by a member of the organization of the investment fund, the investment fund must disclose, in a note to the disclosure of its management expense ratio, details of
  - (a) what the management expense ratio would have been without any waivers or absorptions;

- (b) the length of time that the waiver or absorption is expected to continue;
  - (c) whether the waiver or absorption can be terminated at any time by the member of the organization of the investment fund; and
  - (d) any other arrangements concerning the waiver or absorption.
- (3) The management expense ratio must exclude all non-optional fees, charges and expenses paid directly by investors of an investment fund in connection with the holding of securities of the investment fund during the period to which the disclosed management expense ratio relates provided there is appropriate disclosure of
  - (a) the type of fees paid directly by investors, including the services expected to be received; and
  - (b) an estimate of the amount of fees to be paid directly by investors, expressed as a percentage of net asset value. If the aggregate amount of a non-optional fee, charge and expense payable directly by investors of an investment fund in connection with the holding of securities of the investment fund during the period to which the disclosed management expense ratio relates is not ascertainable, the investment fund must include the maximum amount of the non-optional investor fee that could have been paid by those investors.
- (4) Investment fund expenses rebated by a manager or an investment fund to a securityholder must not be deducted from total expenses of the investment fund in determining the management expense ratio of the investment fund.
- (5) An investment fund that has separate classes or series of securities must calculate a management expense ratio for each class or series, in the manner required by this section, modified as appropriate.
- (6) The management expense ratio of an investment fund for a financial period of less than or greater than twelve months must be annualized.
- (7) If an investment fund provides its management expense ratio to a service provider that will arrange for public dissemination of the management expense ratio,
  - (a) the investment fund must provide the management expense ratio calculated in accordance with this Part; and
  - (b) the requirements to provide note disclosure contained in subsections (2) and (3) do not apply if the investment fund indicates, as applicable, that management fees have been waived or that management fees were paid directly by investors during the period for which the management expense ratio was calculated.

## 15.2 Fund of Funds Calculation

- (1) For the purposes of subparagraph 15.1(1)(a)(i), the total expenses for a financial year or interim period of an investment fund that invests in securities of other investment funds is equal to the sum of
  - (a) the total expenses incurred by the investment fund that are for the period that the calculation of the management expense ratio is made and that are attributable to its investment in each underlying investment fund, as calculated by
    - (i) multiplying the total expenses of each underlying investment fund before income taxes for the financial year or interim period, by
    - (ii) the average proportion of securities of the underlying investment fund held by the investment fund during the financial year or interim period, calculated by
      - (A) adding together the proportion of securities of the underlying investment fund held by the investment fund on each day in the period, and
      - (B) dividing the amount obtained under clause (A) by the number of days in the period;
  - (b) the total expenses of the investment fund, before income taxes, for the period.

- (2) An investment fund that has exposure to one or more other investment funds through the use of derivatives in a financial year or interim period must calculate its management expense ratio for the financial year or interim period in the manner described in subsection (1), treating each investment fund to which it has exposure as an “underlying investment fund” under subsection (1).
- (3) Subsection (2) does not apply if the derivatives do not expose the investment fund to expenses that would be incurred by a direct investment in the relevant investment funds.
- (4) Management fees rebated by an underlying fund to an investment fund that invests in the underlying fund must be deducted from total expenses of the underlying fund if the rebate is made for the purpose of avoiding duplication of fees between the two investment funds.

## **PART 16 ADDITIONAL FILING REQUIREMENTS**

**16.1 Application** - This Part applies only to an investment fund that is a reporting issuer.

### **16.2 Additional Filing Requirements**

- (1) An investment fund must file a copy of any document that it is required by this Instrument to send to its securityholders, except documents sent under section 2.11, Part 6 and Part 10.
- (2) An investment fund must file the document referred to in subsection (1) on the same date as, or as soon as practicable after, the date on which the investment fund sends the document to its securityholders.

**16.3 Voting Results** - An investment fund must, promptly following a meeting of securityholders at which a matter was submitted to a vote, file a report that discloses, for each matter voted upon

- (a) A brief description of the matter voted upon and the outcome of the vote; and
- (b) If the vote was conducted by ballot, the number and percentage of votes cast, which includes votes cast in person and by proxy, for, against, or withheld from each vote.

**16.4 Filing of Material Contracts** - An investment fund that is not subject to National Instrument 81-101 *Mutual Fund Prospectus Disclosure* or securities legislation that imposes a similar requirement must file a copy of any material contract of the investment fund not previously filed, or any amendment to any material contract of the investment fund not previously filed

- (a) with the final prospectus of the investment fund; or
- (b) upon the execution of the material contract or amendment.

## **PART 17 EXEMPTIONS**

### **17.1 Exemption**

- (1) The regulator or securities regulatory authority may grant an exemption from this Instrument, in whole or in part, subject to such conditions or restrictions as may be imposed in the exemption.
- (2) Despite subsection (1), in Ontario only the regulator may grant an exemption from any part of this Instrument.

## **PART 18 EFFECTIVE DATE AND TRANSITIONAL**

**18.1 Effective Date** - This Instrument comes into force on •.

**18.2 Financial Statements** - This Instrument applies to

- (a) annual financial statements and annual management reports of fund performance for financial years of an investment fund that end on or after December 31, 2004;
- (b) interim financial statements and interim management reports of fund performance for interim periods that end after the period determined in paragraph (a); and

- (c) quarterly portfolio disclosure for periods that end on or after the date that this Instrument comes into force.

### **18.3 Filing of Financial Statements and Management Reports of Fund Performance**

- (1) Despite section 2.2 and section 4.2, the first annual financial statements and the first annual management report of fund performance that are required to be prepared in accordance with this Instrument must be filed on or before the 120<sup>th</sup> day after the end of the financial year of the investment fund to which they pertain.
- (2) Despite section 2.4 and section 4.2, the first interim financial statements and the first interim management report of fund performance that are required to be prepared in accordance with this Instrument must be filed on or before the 60<sup>th</sup> day after the end of the interim period of the investment fund to which they pertain.

**18.4 Filing of Annual Information Form** - Despite section 9.3, the first annual information form to be prepared under this Instrument must be filed on or before the 120<sup>th</sup> day after the end of the financial year of the investment fund to which it pertains.

**18.5 Initial Delivery of Annual Management Report of Fund Performance** - Despite Part 5, an investment fund must deliver to each securityholder the annual management report of fund performance for the first financial year end of the investment fund after the effective date of this Instrument together with an explanation of the new continuous disclosure requirements, including the availability of quarterly portfolio disclosure.

**18.6 Revocation of Exemptions** - An investment fund that has obtained an exemption or waiver from, or approval under, securities legislation, National Policy 39, National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, National Instrument 81-102 *Mutual Funds*, National Instrument 81-104 *Commodity Pools* or National Instrument 81-105 *Mutual Fund Sales Practices* relating to its continuous disclosure obligations may not, after •, 2004, rely on the exemption, waiver or approval to the extent that reliance would be inconsistent with this Instrument.

**PROPOSED  
COMPANION POLICY 81-106 CP TO NATIONAL INSTRUMENT 81-106  
INVESTMENT FUND CONTINUOUS DISCLOSURE**

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**PROPOSED  
COMPANION POLICY 81-106CP TO NATIONAL INSTRUMENT 81-106  
INVESTMENT FUND CONTINUOUS DISCLOSURE**

**PART 1 PURPOSE AND APPLICATION OF THE COMPANION POLICY**

**1.1 Purpose**

The purpose of this Companion Policy (the Policy) is to help you understand how the Canadian securities regulatory authorities (CSA) interpret or apply certain provisions of National Instrument 81-106 Investment Fund Continuous Disclosure (the Instrument).

**1.2 Application**

- (1) The Instrument applies to investment funds, including scholarship plans and non-redeemable investment funds. These funds have similar characteristics to mutual funds and so are subject to similar reporting requirements. In some jurisdictions, the Instrument applies to mutual funds in the jurisdiction that are non-reporting issuers.
- (2) An investment fund includes group scholarship plans.

**1.3 Definitions**

- (1) A term used in the Instrument and defined in the securities statute of a local jurisdiction has the meaning given to it in that statute unless:
  - (a) the definition in that statute is restricted to a specific portion of the statute that does not govern continuous disclosure, or
  - (b) the context otherwise requires.
- (2) For instance, the term “material change” is defined in local securities legislation of most jurisdictions. The CSA consider the meaning given to this term in securities legislation to be substantially similar to the definition set out in the Instrument.

**1.4 Plain Language Principles**

The CSA believe that plain language will help investors understand an investment funds’ disclosure documents so that they can make informed investment decisions. We encourage investment funds to adopt the following plain language principles in preparing documents filed under the Instrument:

- use short sentences
- use definite, concrete, everyday language
- use the active voice and avoid multiple negatives
- avoid unnecessary words
- organize the document into clear, concise sections, paragraphs and sentences
- avoid legal or business jargon
- use strong verbs
- use personal pronouns to speak directly to the reader
- avoid reliance on glossaries and defined terms unless it helps to understand the disclosure
- avoid vague boilerplate wording
- use concrete terms or examples

- avoid excessive detail
- use charts, tables and examples where it makes disclosure easier to understand.

If technical or business terms are required, use clear and concise explanations.

- 1.5 Signature and Certificates** - The directors of an investment fund or the manager or the trustee of an investment fund are not required to file signed or certified continuous disclosure documents. They are responsible for the information in the investment fund's disclosure documents whether or not a document is signed or certified, and it is an offence under securities legislation to make a false or misleading statement in any required document.
- 1.6 Filings on SEDAR** - 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).
- 1.7 Corporate Law Requirements** - Investment funds may be subject to requirements of corporate law that address matters similar to those addressed by the Instrument, and which may impose additional or more onerous requirements. For example, applicable corporate law may still require investment funds to deliver annual financial statements to securityholders.

## **PART 2 FINANCIAL STATEMENTS**

### **2.1 Interrelationship of Financial Statements with Canadian GAAP**

- (1) The Instrument requires investment funds to prepare their annual and interim financial statements, their annual and interim management reports of fund performance and their NAV in accordance with both Canadian GAAP and the Instrument.
- (2) Canadian GAAP provides some general requirements for the preparation of financial statements that apply to investment fund financial statements. Canadian GAAP does not contain detailed requirements for the contents of investment fund financial statements. The CSA believe that an investment fund's financial statements should include certain information, at a minimum, in order to provide full disclosure. The Instrument sets out these minimum requirements. Persons preparing these documents should include any other additional information required to ensure that all material information concerning the financial position or results of the investment fund is disclosed.
- (3) Fund managers are reminded that Handbook section 1100 - Generally Accepted Accounting Principles has changed the definition of what is considered to be Canadian GAAP. Prior to the introduction of section 1100, the investment funds industry has relied on paragraph 1000.60(a), which provides for accounting policies that "are generally accepted by virtue of their use in similar circumstances by a significant number of entities in Canada".

Where industry accounting practices were not in conflict with the italicized recommendations, but were in conflict with non-italicized paragraphs of the Handbook, it was argued that the practices would still be considered Canadian GAAP if they were industry standards. This is no longer the case with section 1100. Generally, an entity has to apply all relevant primary sources of Canadian GAAP under section 1100. When no relevant primary source of Canadian GAAP is available, professional judgement and the concepts described in Section 1000 are to be used to determine accounting policies that are consistent with the primary sources of Canadian GAAP.

- (4) Since the Instrument does not define market value and fair value, persons preparing an investment fund's financial statements should refer to the definitions in the Handbook.

- 2.2 Filing Deadline for Annual Financial Statements and Auditor's Report** - Section 2.2 of the Instrument sets out the filing deadline for annual financial statements. While section 2.2 of the Instrument does not address the auditor's report date, investment funds are encouraged to file their annual financial statements as soon as practicable after the date of the auditor's report. The delivery obligations set out in Part 5 of the Instrument require that the financial statements be sent to securityholders within 10 days of being filed.

- 2.3 Timing and Content of Interim Financial Statements** - The Instrument also requires interim financial statements to be prepared in accordance with both Canadian GAAP and the Instrument. For example, Section 1751 Interim Financial Statements of the Handbook requires that the interim financial statements include, at a minimum:

- (1) each of the headings and subtotals included in the most recent annual financial statements; and

- (2) the specific disclosures required by Section 1751.

**2.4 Financial Statements in the First Year of Operation** - For the purposes of the Instrument, unless otherwise expressly provided, references to a financial year apply regardless of the length of that year. In addition, the first financial year of a reporting issuer commences on the date of its incorporation or organization and ends at the close of that year.

**2.5 Contents of Statement of Operations** - The disclosure of the amount of fund expenses waived or paid by the manager or portfolio adviser of the investment fund in the statement of operations excludes those amounts waived or paid due to an expense cap that would require securityholder approval to change.

**2.6 Delivery of Continuous Disclosure Documents**

- (1) Before the implementation of the Instrument, securities legislation of most Canadian jurisdictions required investment funds to deliver annual and, in certain circumstances, interim financial statements to securityholders concurrent with filing. The Instrument eliminates this mandatory delivery, but enables an investor to receive the financial statements and management reports of fund performance the investor chooses to receive by requiring an investment fund to deliver these documents, without charge, according to the investor's request.
- (2) The Instrument provides the following choices for the delivery of financial statements and management reports of fund performance:
  - (a) send these documents to all securityholders;
  - (b) obtain standing instructions from securityholders with respect to the documents they wish to receive; or
  - (c) send an annual request form to securityholders asking them to indicate which documents they wish to receive.

If an investment fund chooses option (b), it must send an annual reminder to securityholders explaining how their standing instructions can be changed. If option (c) is chosen, the documents only have to be delivered to those securityholders who return the request form.

Section 5.1 specifies that if an investment fund chooses option (b), it cannot switch to option (c) at a later date. Investment funds that choose option (c) should switch to option (b) as soon as it is practicable for them to do so.

- (3) Investment funds must also provide the quarterly portfolio disclosure required by Part 6 of the Instrument to securityholders upon request.
- (4) Eliminating the delivery requirement enables investment funds governed by either the federal or provincial corporate statutes to take advantage of provisions in these statutes that allow companies not to deliver annual financial statements to securityholders who have elected not to receive them.
- (5) In certain cases the Instrument requires the delivery of certain notices and request forms to securityholders. Investment funds are reminded of the provisions of National Policy 11-201 Delivery of Documents by Electronic Means and Quebec Staff Notice - The Delivery of Documents by Electronic Means. In particular, it is noted that the annual notice required by section 5.3 and the request form required by section 5.2 of the Instrument may be given in electronic form and may be combined with other notices. Request forms and notices may alternatively be sent with account statements or other materials sent to securityholders by an investment fund.

**2.7 Change in Year End**

- (1) The change in year end reporting requirements are adopted from National Instrument 51-102, with appropriate modifications to reflect that investment funds report on a six month interim period.
- (2) The definition of "interim period" in the Instrument differs from the definition of this term in National Instrument 51-102. An investment fund cannot have more than one interim period in a transition year.



- (3) Interim financial statements for the new financial year will have comparatives from the corresponding months in the preceding year, regardless if they are from the transition year or from the old financial year, if they were previously prepared or not, or if they straddle a year-end.
- (4) If an investment fund voluntarily reports on a quarterly basis, the investment fund must follow the requirements set out in National Instrument 51-102, with appropriate modifications.
- (5) Appendix A to this Policy is a chart outlining the financial statement filing requirements under section 2.9 of the Instrument if an investment fund changes its year end.

**2.8 Change in Legal Structure** - Section 2.10 of the Instrument requires a reporting issuer to file a notice if the issuer has been party to certain restructuring transactions. That notice should be filed with the securities regulatory authority or regulator in the applicable jurisdictions at the addresses set out in Appendix B of this Policy.

### **PART 3 AUDITORS AND THEIR REPORTS**

**3.1 Acceptable Auditor** - The securities legislation in most jurisdictions prohibits a regulator or securities regulatory authority from issuing a receipt for a prospectus if it appears that a person or company who has prepared any part of the prospectus or is named as having prepared or certified a report used in connection with a prospectus is not acceptable.

**3.2 Canadian Auditors** - The Instrument requires that the financial statements of an investment fund that are required to be audited must be prepared in accordance with Canadian GAAP and audited in accordance with Canadian GAAS. Section 2.8 of the Instrument requires that the auditor's report be prepared and signed by a person or company authorized to do so by the laws and professional standards of a jurisdiction.

#### **3.3 Reservations in an Auditor's Report**

- (1) The Instrument generally prohibits an auditor's report from containing a reservation, qualification, or other similar communication that would constitute a reservation under Canadian GAAS.
- (2) Part 17 of the Instrument permits the regulator or securities regulatory authority to grant exemptive relief from the Instrument, including the requirement that an auditor's report not contain a reservation, qualification or other similar communication that would constitute a reservation under Canadian GAAS. However, staff of the CSA believe that such exemptive relief will not likely be recommended where the reservation, qualification or other similar communication is:
  - (a) due to a departure from accounting principles permitted by the Instrument; or
  - (b) due to a limitation in the scope of the auditor's examination that:
    - (i) results in the auditor being unable to form an opinion on the financial statements as a whole;
    - (ii) is imposed or could reasonably be eliminated by management; or
    - (iii) could reasonably be expected to be recurring.

#### **3.4 Auditor's Report - Multiple Class Funds**

- (1) To satisfy the requirement to produce audited annual financial statements, an investment fund that has more than one class or series outstanding must ensure that the annual financial statements for each class or series are audited. If the investment fund is preparing separate financial statements for each class or series, it should ensure that the auditor's report for each set of financial statements pertains specifically to the relevant class or series, but also indicates that the investment fund as a whole has been reported on for the same period without reservation.
- (2) It is expected that once an investment fund makes an initial decision as to whether to prepare separate or combined financial statements or management reports of fund performance for its classes or series of securities, it will continue with the same approach for subsequent financial periods in order to ensure that the financial statements and management reports of fund performance for different financial periods are easily comparable. The CSA expect investment funds to explain, in notes to financial statements or in a

management report of fund performance, the reasons for any change in approach taken from one financial period to another.

**3.5 Auditor's Involvement with the Annual Management Reports of Fund Performance** - Investment funds' auditors are expected to comply with section 7500 – The Auditor's Involvement with the Annual Reports, of the Handbook, in connection with the preparation of the annual management reports of fund performance required by the Instrument.

**3.6 Auditor Involvement with Interim Financial Statements**

- (1) The board of directors of an investment fund or the manager or the trustees of an investment fund that is a trust, in discharging its responsibilities for ensuring the reliability of interim financial statements, should consider engaging an external auditor to carry out a review of such financial statements.
- (2) Section 2.12 of the Instrument requires an investment fund to disclose if an auditor has not performed a review of the interim financial statements or has performed a review and expressed a qualified or adverse communication or denied any assurance. No positive statement is required when an auditor has performed a review and provided an unqualified communication.
- (3) Where an investment fund's annual financial statements are audited in accordance with Canadian GAAS, the terms "review" and "written review report" used in section 2.12 of the Instrument refer to the auditor's review of and report on interim financial statements using standards for a review of interim financial statements by the auditor as set out in the Handbook.

**PART 4 OTHER PROVISIONS**

**4.1 Accounting for Securities Lending Transactions**

- (1) Section 3.8 of the Instrument imposes certain reporting requirements on investment funds in connection with any securities lending transactions entered into by the investment fund. These requirements were included to ensure that all securities lending transactions are accounted for on the same basis.

The general accounting principle concerning whether a given transaction is a recordable transaction is based on determining whether risk and rewards have transferred in the transaction. The substance of a securities lending transaction is that the manager treats the original securities as if they have never been lent. The investment fund must be able to call the original securities back at any time, and the securities returned must be the same or substantially the same as the original securities. These conditions reduce the risk of the investment fund not being able to transact the original securities. The original securities remain on the books of the investment fund.

- (2) The accounting treatment of the collateral in a securities lending transaction depends on the ability of the lender to control what happens with the collateral. If non-cash collateral is received by the investment fund, the collateral is not reflected on the statement of net assets of the investment fund if the non-cash collateral cannot be sold or repledged. If the investment fund lender receives cash collateral, the investment fund has the ability to either hold or reinvest the cash. The lender has effective control over the cash, even though it uses an agent to effect the reinvestment on its behalf. The cash collateral, subsequent reinvestment, and obligation to repay the collateral are recorded on the books of the investment fund.

**4.2 Incentive Arrangements**

- (1) Investment funds use many different incentive arrangements to compensate the manager or portfolio adviser. Generally these incentive arrangements take the form of performance fees, based on the relative performance of the investment fund as compared to a benchmark. However, incentive arrangements may take the form of a performance fee based on the absolute performance of the investment fund, options or interests in the underlying portfolio, or dividends. The CSA recognize that there are different incentive arrangements but are of the view that they should be valued at current value whenever the investment fund calculates its NAV and that any adjustments be accounted for as a liability and an expense.
- (2) The statement of operations of an investment fund will recognize changes in the amount of the liability referred to in subsection (1) as an expense. Since the calculation of the management expense ratio is based on total expenses as determined in the statement of operations, the management expense ratio will include the incentive arrangement expense.

#### 4.3 Costs of Distribution of Securities

- (1) It is the view of the CSA that all costs and expenses associated with the issue and distribution of securities of an investment fund that distributes its securities on a continuous basis should be recognized as expenses in the statement of operations of the investment fund in the period in which they were incurred.
- (2) Section 3.3 of National Instrument 81-102 prohibits a mutual fund from paying for the costs of incorporation or organization of the mutual fund. However, where this restriction does not apply, an investment fund may pay security issue costs for prospectuses, which may include costs associated with legal fees relating to the preparation of a prospectus, costs associated with the distribution of the securities of the investment fund, including underwriting, agency or similar costs, the cost of printing a prospectus, any fees that may be paid to have the securities of an exchange traded fund listed or quoted on a marketplace, and the cost of tax opinions relating to the issue of securities.
- (3) The CSA consider it important that investors fully understand the costs associated with the ownership of securities of an investment fund. For this reason, the CSA have set out their views in subsection (1) in order to ensure that costs associated with the continuous distribution of securities are shown as expenses of the investment fund on the statement of operations for the financial period in which they are incurred, and are not deferred and amortized to retained earnings, or charged directly to capital.
- (4) Non-redeemable investment funds that offer their securities on a one time offering basis should account for the initial offering costs as a capital transaction in accordance with Capital Transactions, Section 3610 of the Handbook. The amount of the costs should be disclosed separately in the financial statements of the fund for at least the period in which the relevant costs are incurred. Initial offering costs are all costs incurred to complete an offering, including costs of preparing and printing the prospectus, legal expenses, marketing expenses and agents' fees. It is not appropriate for such costs to be deferred and recognized as an asset to be amortized to either income or retained earnings over the life of the fund.

- 4.4 Trailing Commissions** - Trailing fees or commissions are those fees paid to dealers over time based on the client assets maintained in the fund. The manager normally pays these fees, although exemptions have been given to certain labour sponsored funds for the fund to pay these fees. In the view of the CSA, an investment fund that is permitted to pay, by way of an exemptive order, costs associated with securityholders holding securities of the investment fund, must recognize those costs as an expense in the period in which they were incurred.

### PART 5 INDEPENDENT VALUATIONS

#### 5.1 Independent Valuations

- (1) Part 8 of the Instrument is designed to address the concerns raised by labour sponsored or venture capital funds that disclosing a fair value for their venture investments may potentially disadvantage the private companies in which they invest.
- (2) Section 8.2 permits alternative disclosure by a labour sponsored or venture capital fund of its statement of investment portfolio.
- (3) Labour sponsored or venture capital funds must disclose the individual securities in which they invest, but may aggregate all changes from costs of the venture investments, thereby only showing an aggregate adjustment from cost to fair value for these securities.
- (4) This alternative disclosure is only permitted if the labour sponsored or venture capital fund has obtained an independent valuation in accordance with Part 8 of the Instrument. The CSA are of the view that a report on compliance with stated valuation policies and practices cannot take the place of an independent valuation.
- (5) The CSA expect the independent valuator's report to provide either a number or range of values which the independent valuator considers to be a fair expression of the NAV of the labour sponsored or venture capital fund.
- (6) An investment fund obtaining an independent valuation should, at the request of the valuator, promptly furnish the valuator with access to the investment fund manager and its advisers and to all material information in their possession relevant to the independent valuation. The valuator is expected to use that access to perform a comprehensive review and analysis of information upon which the independent valuation is based. The valuator should form its own independent views of the reasonableness of this information, including any

forecasts or projections or other measurements of the expected future performance of the enterprise, and of any of the assumptions upon which it is based, and adjust the information accordingly.

- (7) The disclosure in the valuation of the scope of review should include a description of any limitation on the scope of the review and the implications of the limitation on the valuator's conclusion.
- (8) The person or company responsible for obtaining an independent valuation should work in co-operation with the valuator to ensure that the requirements of the Instrument are satisfied.

## **5.2 Independent Valuators**

- (1) The Instrument provides that it is a question of fact as to whether a valuator is independent of the investment fund. In determining the independence of the valuator from the investment fund, a number of factors may be relevant, including whether
  - (a) the valuator or an affiliated entity of it has a material financial interest in future business in respect of which an agreement, commitment or understanding exists involving the investment fund or a person or company listed in paragraph (2)(a);
  - (b) the valuator or its affiliated entity is a lender of a material amount of indebtedness to any of the issuers of the investment fund's illiquid investments.
- (2) The CSA would generally consider a valuator not to be independent of an investment fund where
  - (a) the valuator or an affiliated entity of the valuator is
    - (i) the manager of the investment fund,
    - (ii) a portfolio adviser of the investment fund,
    - (iii) an insider of the investment fund,
    - (iv) an associate of the investment fund,
    - (v) an affiliated entity of the investment fund, or
    - (vi) an affiliated entity of any of the persons or companies named in this clause (a); or
  - (b) the compensation of the valuator or an affiliated entity of the valuator depends in whole or in part upon an agreement, arrangement or understanding that gives the valuator, or an affiliated entity of the valuator, a financial incentive in respect of the conclusions reached in the formal valuation;
  - (c) the valuator or an affiliated entity of the valuator has a material investment in the investment fund or a portfolio asset of the investment fund.
- (3) Investment funds are reminded that the Canadian Institute of Chartered Accountants (CICA) also sets independence standards that should be considered when determining whether the valuator could be considered to be independent.

## **PART 6 PROXY VOTING DISCLOSURE FOR SECURITIES HELD**

### **6.1 Proxy Voting Disclosure**

- (1) Investment funds are formed as corporations or trusts and must be operated for the benefit of their securityholders. Because an investment fund is the beneficial owner of its portfolio securities, the investment fund's manager, acting on the investment fund's behalf, has the right and the obligation to vote proxies relating to the investment fund's portfolio securities. As a practical matter, however, the manager may delegate this function to the investment fund's portfolio adviser as part of the adviser's general management of investment fund assets, subject to the continuing oversight of the manager.

The manager owes a fiduciary duty to act in the best interest of the investment fund. This fiduciary duty extends to all functions undertaken on the investment fund's behalf, including the voting of proxies relating to

the investment fund's portfolio securities. A portfolio adviser voting proxies on behalf of an investment fund, therefore, must also do so in a manner consistent with the best interests of the fund and its securityholders.

- (2) Traditionally, investment funds have been viewed as largely passive investors, reluctant to challenge corporate management on issues such as corporate governance. Investment funds have often followed the so-called "Wall Street rule," according to which an investor should either vote as management recommends or, if dissatisfied with management, sell the security. In recent years, however, some investment funds, along with other institutional investors, have become more assertive in exercising their proxy voting responsibilities. The increased assertiveness by investment funds in the voting of proxies may have a number of causes. In some instances, investment funds hold such large positions in a particular issuer that they cannot easily sell their holdings if the issuer's management is performing poorly. Also, the investment policies of investment funds that track an index typically do not permit them to sell poorly performing investments, and therefore these investment funds may become active in corporate governance in order to maximize value for their securityholders.
- (3) In some situations, the interests of an investment fund's securityholders may conflict with those of its portfolio adviser with respect to proxy voting. This may occur, for example, when an investment fund's adviser also manages or seeks to manage the pension assets of a company whose securities are held by the investment fund. In these situations, an investment fund's adviser may have an incentive to support management recommendations to further its business interests.
- (4) In spite of the substantial institutional voting power held by investment funds, the increasing importance of the exercise of that power to investment fund securityholders, and the potential for conflicts of interest with respect to the exercise of investment fund proxy voting power, limited information has been available regarding how investment funds vote their proxies. The CSA believe that investment funds should disclose their proxy voting policies and procedures, and should make their actual voting records available.
- (5) The Instrument requires that the investment fund establish policies and procedures for determining whether, and how, to vote on any matter for which the investment fund receives proxy materials for a meeting of securityholders of an issuer. The CSA consider an investment fund to "receive" a document when it is delivered to any service provider or to the investment fund in respect of securities held beneficially by the investment fund. Proxy materials may be delivered to a manager, a portfolio adviser or sub-adviser, or a custodian. All of these deliveries are considered delivered "to" the investment fund.
- (6) Section 10.2 of the Instrument sets out, in general terms, what the securities regulatory authorities consider to be minimum policies and procedures for the proxy voting process. Securityholders are entitled to receive on request the full proxy voting policies and procedures, in addition to the proxy voting record.

## **PART 7 MATERIAL CHANGE**

- 7.1 Material Change** - The CSA are of the view that in order for an investment fund to file a confidential material change report under Section 11.2 of the Instrument, the investment fund or its manager must advise insiders of the prohibition against trading during the filing period of a confidential material change report and must also take steps to monitor trading activity.

## **PART 8 INFORMATION CIRCULARS**

- 8.1 Sending of Proxies and Information Circulars** - An investment fund is required to send the proxy-related materials referred to in Part 12 of the Instrument to their securityholders in accordance with the requirements of National Instrument 54-101.

## **PART 9 PUBLICATION OF NET ASSET VALUE PER SECURITY**

- 9.1 Publication of Net Asset Value Per Security** - Subsection 14.2(7) of the Instrument requires an investment fund that arranges for the publication of its net asset value per security in the financial press to ensure that its current net asset value per security is provided on a timely basis to the financial press. This provision ensures that an investment fund takes steps to calculate the net asset value per security as quickly as is commercially practicable following the valuation date or time, and to make the results of that calculation available to the financial press as quickly as is commercially practicable. An investment fund should, to the extent practicable, attempt to meet the deadlines of the financial press for publication in order to ensure that its net asset values per security are publicly available as quickly as possible.

**PART 10            CALCULATION OF MANAGEMENT EXPENSE RATIO****10.1      Calculation of Management Expense Ratio**

- (1) Part 15 of the Instrument sets out the method to be used by an investment fund in calculating its management expense ratio (MER). The requirements contained in Part 15 are applicable in all circumstances in which an investment fund calculates and discloses a management expense ratio. This includes disclosure in a sales communication, a prospectus, an annual information form, financial statements, a management report of fund performance or in a report to securityholders.
- (2) Paragraph 15.1(1)(a) requires the investment fund to use its "total expenses" before income taxes for the relevant period as the basis for the calculation of management expense ratio. Total expenses, before income taxes, will include interest charges and taxes of all types, including sales taxes, GST and capital taxes payable by the investment fund. Canadian GAAP currently would permit an investment fund to deduct withholding taxes from the income to which they apply. Accordingly, withholding taxes would not be recorded as "total expenses" on the investment fund's income statement and need not be included in its MER calculation.
- (3) The CSA recognize that an investment fund may incur fees and charges that are not included in the "total expenses" yet these fees and charges reduce the net asset value of the fund and reduce the amount of investable assets of the investment fund. Sales commissions paid by an investment fund are an example of such fees and charges. It is the view of the CSA that these fees and charges should be reflected in the MER of the investment fund.
- (4) Brokerage charges are not considered to be part of total expenses as they are included in the cost of purchasing, or netted out of the proceeds from selling, portfolio securities.
- (5) Investment funds are expected to disclose the 5 year historical MERs shown in the financial highlights to be calculated in accordance with Part 15. If the investment fund has not calculated the historical MERs in a manner similar to that required by the Instrument, the CSA are of the view that the change in the method of calculating the MER of an investment fund should be treated in a manner which is similar to a change in accounting policy under section 1506 of the Handbook. Under Canadian GAAP, a change in accounting policy requires a retroactive restatement of the financial information for all periods shown. However, the Handbook acknowledges that there may be circumstances where the data needed to restate the financial information is not reasonably determinable.
  - (a) If an investment fund retroactively restates its MER for the five years required to be shown in its management report of fund performance, the investment fund should describe this restatement in the first such documents released in which the restated amounts are reported.
  - (b) If an investment fund does not restate its MER for prior periods because, based on its specific facts and circumstances, the information required to do so is not reasonably determinable, the MER for all financial periods ending after the effective date of the Instrument must be calculated in accordance with Part 15.
  - (c) The investment fund must also disclose:
    - (i) that the method of calculating MER has changed, specifying for which periods the MER has been calculated in accordance with the change;
    - (ii) that the investment fund has not restated the MER for specified prior periods;
    - (iii) the impact that the change would have had if the investment fund had restated the MER for the specified prior periods. For example, would the MER have increased or decreased if the MER had been restated? If possible, provide an estimate of the increase or decrease if the MER had been restated; and
    - (iv) a description of the main differences between an MER calculated in accordance with the Instrument and the previous calculations.

The disclosure outlined above should be provided for all periods presented until such time as all MERs presented are calculated in accordance with the Instrument.

**APPENDIX A    EXAMPLES OF FILING REQUIREMENTS FOR CHANGES IN YEAR END**

The following examples assume the old financial year ended on December 31, 20X0

<b>Transition Year</b>	<b>Comparative Annual Financial Statements to Transition Year</b>	<b>New Financial Year</b>	<b>Comparative Annual Financial Statements to New Financial Year</b>	<b>Interim Periods for Transition Year</b>	<b>Comparative Interim Periods to Transition Year</b>	<b>Interim Periods for New Financial Year</b>	<b>Comparative Interim Periods to New Financial Year</b>
<b>Up to 3 months</b>							
3 months ended 3/31/X1	12 months ended 12/31/X0	3/31/X2	3 months ended 3/31/X1 and 12 months ended 12/31/X0	Not applicable	Not applicable	6 months ended 9/30/X1	6 months ended 9/30/X0
<b>4 to 6 months</b>							
6 months ended 6/30/X1	12 months ended 12/31/X0	6/30/X2	6 months ended 6/30/X1 and 12 months ended 12/31/X0	Not applicable	Not applicable	6 months ended 12/31/X1	6 months ended 12/31/X0
<b>7 or 8 months</b>							
8 months ended 8/31/X1	12 months ended 12/31/X0	8/31/X2	8 months ended 8/31/X1 and 12 months ended 12/31/X0	Not applicable	Not applicable	6 months ended 2/28/X2	6 months ended 2/28/X1
<b>9 to 11 months</b>							
11 months ended 11/30/X1	12 months ended 12/31/X0	11/30/X2	11 months ended 11/30/X1	6 months ended 6/30/X1	6 months ended 6/30/X0	6 months ended 5/31/X2	6 months ended 5/31/X1
<b>11 to 15 months</b>							
15 months ended 3/31/X2	12 months ended 12/31/X0	3/31/X3	15 months ended 3/31/X2	6 months ended 6/30/X1	6 months ended 6/30/X0	6 months ended 9/30/X2	6 months ended 9/30/X1

## **APPENDIX B     CONTACT ADDRESSES FOR FILING OF NOTICES**

### **Alberta Securities Commission**

4<sup>th</sup> Floor  
300 – 5<sup>th</sup> Avenue S.W.  
Calgary, Alberta  
T2P 3C4  
Attention: Director, Capital Markets

### **British Columbia Securities Commission**

P.O. Box 10142, Pacific Centre  
701 West Georgia Street  
Vancouver, British Columbia  
V7Y 1L2  
Attention: Financial Reporting

### **Manitoba Securities Commission**

1130 – 405 Broadway  
Winnipeg, Manitoba  
R3C 3L6  
Attention: Corporate Finance

### **Office of the Administrator, New Brunswick**

P.O. Box 5001  
133 Prince William Street, Suite 606  
Saint John, NB  
E2L 4Y9  
Attention: Minister of Finance

### **Securities Commission of Newfoundland**

P.O. Box 8700  
2<sup>nd</sup> Floor, West Block  
Confederation Building  
75 O'Leary Avenue  
St. John's, NFLD  
A1B 4J6  
Attention: Director of Securities

### **Department of Justice, Northwest Territories**

Legal Registries  
P.O. Box 1320  
1<sup>st</sup> Floor, 5009-49<sup>th</sup> Street  
Yellowknife, NWT X1A 2L9  
Attention: Director, Legal Registries

### **Nova Scotia Securities Commission**

2<sup>nd</sup> Floor, Joseph Howe Building  
1690 Hollis Street  
Halifax, Nova Scotia B3J 3J9  
Attention: Corporate Finance

### **Department of Justice, Nunavut**

Legal Registries Division  
P.O. Box 1000 – Station 570  
1<sup>st</sup> Floor, Brown Building  
Iqaluit, NT X0A 0H0  
Attention: Director, Legal Registries Division

### **Ontario Securities Commission**

Suite 1903, Box 55  
20 Queen Street West  
Toronto, ON M5H 3S8  
Attention: Continuous Disclosure, Corporate Finance



**Registrar of Securities, Prince Edward Island**

P.O. Box 2000  
95 Rochford Street, 5<sup>th</sup> Floor,  
Charlottetown, PEI  
C1A 7N8  
Attention: Registrar of Securities

**Autorité des marchés financiers**

800 Square Victoria, 22<sup>nd</sup> Floor  
P.O. Box 246, Tour de la Bourse  
Montréal, Québec  
H4Z 1G3  
Attention: Directrice des marchés des capitaux

**Saskatchewan Financial Services Commission – Securities Division**

6<sup>th</sup> Floor,  
1919 Saskatchewan Drive  
Regina, SK S4P 3V7  
Attention: Deputy Director, Corporate Finance

**Registrar of Securities, Government of Yukon**

Corporate Affairs J-9  
P.O. Box 2703  
Whitehorse, Yukon  
Y1A 5H3  
Attention: Registrar of Securities

**PROPOSED  
NATIONAL INSTRUMENT 81-106  
INVESTMENT FUND CONTINUOUS DISCLOSURE  
FORM 81-106F1  
CONTENTS OF ANNUAL AND INTERIM MANAGEMENT REPORT OF FUND PERFORMANCE**

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**PROPOSED  
NATIONAL INSTRUMENT 81-106  
INVESTMENT FUND CONTINUOUS DISCLOSURE  
FORM 81-106F1  
CONTENTS OF ANNUAL AND INTERIM MANAGEMENT REPORT OF FUND PERFORMANCE**

**PART A            INSTRUCTIONS AND INTERPRETATION**

**Item 1    General Requirements**

**(a)        The Form**

The Form describes the disclosure required in an annual management report of fund performance or an interim management report of fund performance of an investment fund. Each item of the Form outlines disclosure or format requirements. Instructions to help you comply with these requirements are printed in *italic type*.

**(b)        Plain Language**

A management report of fund performance must state the required information concisely and in plain language. Refer to Part 1 of Companion Policy 81-106CP for a discussion concerning plain language and presentation.

When preparing a management report of fund performance, respond as simply and directly as is reasonably possible and include only as much information as is necessary for readers to understand the matters for which disclosure is provided.

**(c)        Format**

A management report of fund performance should be presented in a format that assists its readability and comprehension. The Form generally does not mandate the use of a specific format to achieve these goals, except in the case of disclosure of financial highlights and past performance as required by Items 3 and 4 of each of Parts B and C of the Form; that disclosure must be presented in the format specified in the Form.

A management report of fund performance must use the headings and sub-headings shown in the Form. Within this framework, investment funds are encouraged to use, as appropriate, tables, captions, bullet points or other organizational techniques that assist in presenting the required disclosure clearly and concisely. Disclosure provided in response to any item does not need to be repeated elsewhere. The interim management report of fund performance should use the same headings as used in the annual management report of fund performance.

National Instrument 81-106, or the Form, does not prohibit including information beyond what the Form requires. Therefore, an investment fund may include artwork and educational material (as defined in National Instrument 81-101) in its annual and interim management report of fund performance. However, an investment fund should take care to ensure that including such material does not obscure the required information.

Investment funds should also ensure that the inclusion of additional information does not lengthen the management report of fund performance excessively. It is expected that, under normal circumstances, the text of an annual management report of fund performance will be approximately 4 pages in length and that the text of an interim management report of fund performance will be approximately 2 pages in length.

**(d)        Focus on Material Information**

You do not need to disclose information that is not material. Exercise your judgement when determining whether information is material.

You do not need to respond to any item in this Form that is inapplicable and you may omit negative answers.

**(e)        What is Material?**

Would a reasonable investor's decision to buy, sell or hold securities of an investment fund likely be influenced or changed if the information in question was omitted or misstated? If so, the information is likely material. This concept of materiality is consistent with the financial reporting notion of materiality contained in the Handbook.

Investment funds are not required to disclose information that is not material. Materiality is a matter of judgement in particular circumstances and should generally be determined in relation to an item's significance to investors and other users of the information. An item of information, or an aggregate of items, is considered material in the context of an investment fund if it is

probable that its omission or misstatement would influence or change an investment decision with respect to the investment fund's securities. In determining whether information is material, take into account both quantitative and qualitative factors.

## **Item 2 Management Discussion of Fund Performance**

The management discussion of fund performance (MDFP) is an analysis and explanation that is designed to supplement an investment fund's financial statements. The MDFP is the equivalent to the corporate management discussion and analysis (MD&A) with specific modifications for investment funds. The MDFP provides the manager of an investment fund with the opportunity to discuss the investment fund's current financial results, position and future prospects. The MDFP is intended to give a reader the ability to look at the investment fund through the eyes of management by providing both a historical and prospective analysis of the investment activities and operations of the investment fund. Coupled with the financial highlights, this information should enable readers to better assess the investment fund's performance, position and future prospects.

Focus the MDFP on material information about the performance of the investment fund, with particular emphasis on known material trends, commitments, events, risks or uncertainties that the manager reasonably expects to have a material effect on the investment fund's future performance or investment activities.

The nature of the disclosure required under the MDFP section is intentionally general. This Form contains a minimum of specific instructions in order to allow, as well as encourage, investment funds to discuss their investments in the most appropriate manner and to tailor their comments to their individual circumstances.

## **PART B CONTENT REQUIREMENTS FOR ANNUAL MANAGEMENT REPORT OF FUND PERFORMANCE**

### **Item 1 First Page Disclosure**

The front page of an annual management report of fund performance must contain disclosure in substantially the following words:

"This annual management report of fund performance contains financial highlights but does not contain the complete annual financial statements of the investment fund. You can get a copy of the annual financial statements at your request, and at no cost, by calling [toll-free/collect call telephone number], by writing to us at [insert address] or by visiting our website at [insert address] or SEDAR at [www.sedar.com](http://www.sedar.com).

Securityholders may also contact us using one of these methods to request a copy of the investment fund's proxy voting policies and procedures, proxy voting disclosure record, or quarterly portfolio disclosure relating to the investment fund."

### **Item 2 Management Discussion of Fund Performance**

#### **2.1 Investment Objective and Strategies**

Disclose under the heading "Investment Objective and Strategies" a brief summary of the fundamental investment objective and strategies of the investment fund.

#### **INSTRUCTION:**

*Disclosing the fundamental investment objective provides investors with a reference point in order to assess the information contained in the management report of fund performance. It should be a concise summary of the fundamental investment objective and strategies of the investment fund, and not merely copied from the prospectus.*

#### **2.2 Risk**

Disclose under the heading "Risk" a discussion of how any material or significant changes to the investment fund over the financial year affected the overall level of risk associated with an investment in the investment fund.

#### **INSTRUCTION:**

*Ensure that the discussion is not merely a repeat of information contained in the prospectus of the investment fund, but rather a discussion that reflects any changes in risk level of the investment fund over the financial year.*

*Consider how the changes in the risks associated with an investment in the investment fund affect the suitability or investor risk tolerance stated in the prospectus or offering document. All investment funds should refer to Items 9 and 10 of Part B of Form 81-101F1 as if those sections applied to them.*

## 2.3 Results of Operations

- (1) Under the heading "Results of Operations" provide a summary of the results of operations of the investment fund for the financial year to which the MDFP pertains, including, if applicable, a discussion of
  - (a) any material changes in investments in specific securities and overall asset mix from the previous period;
  - (b) how the composition and changes throughout the financial year to the composition of the investment portfolio of the investment fund relate to the investment fund's fundamental investment objective and strategies or to changes in the economy, markets or unusual events;
  - (c) unusual trends such as higher than usual redemptions or sales and the effect of these on the investment fund;
  - (d) significant components and significant changes to the components of revenue and expenses;
  - (e) risks, events, uncertainties, trends and commitments that had a material effect on past performance or that are likely to have a material effect on future performance; and
  - (f) details of transactions involving related parties to the investment fund.
- (2) In addition to the foregoing, an investment fund that borrows money, excluding immaterial operating overdrafts, must disclose,
  - (a) the minimum and maximum amount borrowed during the period;
  - (b) the percentage of net assets of the investment fund that the borrowing represented as of the end of the period;
  - (c) how the borrowed money was used; and
  - (d) details of the terms of the borrowing arrangements.

### INSTRUCTION:

*Explain the nature of and reasons for changes in your investment fund's performance. Do not simply disclose the amount of change in a financial statement item from period to period. Avoid the use of boilerplate language. Your discussion should assist the reader to understand trends, events, transactions and expenditures.*

## 2.4 Recent Developments

Under the heading "Recent Developments" discuss the developments affecting the investment fund during the financial year to which the MDFP pertains, including, if applicable,

- (a) unusual or infrequent events or transactions, economic changes and relevant market conditions that affected performance;
- (b) estimated effects of changes in accounting policies adopted subsequent to year end;
- (c) any changes to, or change of control of, the manager of the investment fund or a portfolio adviser of the investment fund; and
- (d) any reorganizations, mergers or similar transactions affecting the investment fund.

## 2.5 Other Information

Provide a discussion of

- (a) the strategic position of the investment fund;
- (b) any known material trends, commitments, events or uncertainties that might reasonably be expected to affect the investment fund; and

- (c) the effects of any planned mergers or other material transactions.

**INSTRUCTION:**

- (1) *The MDFP should explain past events, decisions, circumstances and performance in the context of whether they are reasonably likely to have a material impact on potential future performance. It should also describe not only anticipated events, decisions, circumstances, opportunities and risks that management considers reasonably likely to materially impact performance, but also management's vision, strategy and targets.*
- (2) *Preparing your MDFP necessarily involves some degree of prediction or projection. For example, the MDFP requires a discussion of known trends or uncertainties that have had or that the investment fund reasonably expects will have favourable or unfavourable effects on performance.*
- (3) *All forward-looking information must contain a statement that the information is forward-looking, a description of the factors that may cause actual results to differ materially from the forward-looking information, your material assumptions and appropriate risk disclosure and cautionary language.*
- (4) *You must discuss any forward-looking information disclosed in the MDFP for a prior period that, in light of intervening events and absent further explanations, may be misleading. If the basis for any forward-looking information previously provided has changed, discuss the change and how it revises any previous forward-looking statements.*

**Item 3 Financial Highlights**

**3.1 Financial Highlights**

- (1) Provide selected financial highlights for the investment fund under the heading "Financial Highlights" in the form of the following tables, appropriately completed, and introduced using the following words:

"The following tables show selected key financial information about the Fund and are intended to help you understand the Fund's financial performance for the past [insert number] years. This information is derived from the Fund's audited annual financial statements. Please see the front page for information about how you can obtain the Fund's annual or interim financial statements."

*The Fund's Net Asset Value per [Unit/Share]*

	[insert year]	[insert year]	[insert year]	[insert year]	[insert year]
Net Asset Value, beginning of year	\$	\$	\$	\$	\$
total revenue	\$	\$	\$	\$	\$
total expenses	\$	\$	\$	\$	\$
realized gains (losses) for the period	\$	\$	\$	\$	\$
unrealized gains (losses) for the period	\$	\$	\$	\$	\$
<b>Total increase (decrease) from operations</b>	\$	\$	\$	\$	\$
<b>Distributions:</b>					
From income (excluding dividends)	\$	\$	\$	\$	\$
From dividends	\$	\$	\$	\$	\$
From capital gains	\$	\$	\$	\$	\$
Return of capital	\$	\$	\$	\$	\$
<b>Total Annual Distributions<sup>(1)</sup></b>	\$	\$	\$	\$	\$
<b>Net asset value at [insert last day of financial year] of year shown</b>	\$	\$	\$	\$	\$

- (1) *Distributions were [paid in cash/reinvested in additional [units/shares] of the Fund], or both.*

## Ratios and Supplemental Data

	[insert year]	[insert year]	[insert year]	[insert year]	[insert year]
Net assets (000's) <sup>(1)</sup>	\$	\$	\$	\$	\$
Number of [units/shares] outstanding <sup>(1)</sup>					
Management expense ratio <sup>(2)</sup>	%	%	%	%	%
Portfolio turnover rate <sup>(3)</sup>	%	%	%	%	%
Number of investments held					
Closing market price, if applicable	\$	\$	\$	\$	\$

- (1) This information is provided as at [insert date of end of financial year] of the year shown.
- (2) Management expense ratio is based on total expenses for the stated period and is expressed as an annualized percentage of daily average net assets during the period.
- (3) The Fund's portfolio turnover rate indicates how actively the Fund's portfolio adviser manages its portfolio investments. A portfolio turnover rate of 100% is equivalent to the Fund buying and selling all of the securities in its portfolio once in the course of the year. The higher a fund's portfolio turnover rate in a year, the greater the trading costs payable by the fund in the year, and the greater the chance of an investor receiving taxable capital gains in the year. There is not necessarily a relationship between a high turnover rate and the performance of a fund.
- (2) Derive the selected financial information in the tables referred to in subsection (1) from the audited annual financial statements of the investment fund.
- (3) Modify the table appropriately for corporate investment funds.
- (4) Realized and unrealized gains and losses should distinguish between gains or losses from securities versus gains or losses from foreign exchange.
- (5) The financial highlights must be shown individually for each class, if a multi-class fund.
- (6) Provide per unit or per share amounts to the nearest cent, and provide percentage amounts to two decimal places.
- (7) Calculate per unit values on the basis of the weighted average number of units outstanding over the financial year.
- (8) Provide the selected financial information required by this Item in chronological order for each of the five most recently completed financial years of the investment fund for which audited financial statements have been filed, with the information for the most recent financial year in the first column on the left of the table.
- (9) If the investment fund has merged with another investment fund, include in the table only the financial information of the continuing investment fund.
- (10) Calculate the management expense ratio of the investment fund as required by Part 15 of National Instrument 81-106. Include a brief description of the method of calculating the management expense ratio in a note to the table.
- (11) If the investment fund,
- changed, or proposes to change, the basis of the calculation of the management fees or of the other fees, charges or expenses that are charged to the investment fund; or
  - introduces or proposes to introduce a new fee,
- and if the change would have had an effect on the management expense ratio for the last completed financial year of the investment fund if the change had been in effect throughout that financial year, disclose the effect of the change on the management expense ratio in a note to the "Ratios and Supplemental Data" table.
- (12) Do not include disclosure concerning portfolio turnover rate for a money market fund.

- (13) A group scholarship plan must comply with this Item, as amended by Item 3.2.
- (14) Provide the closing market price only if the investment fund is traded on an exchange.

**INSTRUCTIONS:**

- (1) Calculate the investment fund's portfolio turnover rate by dividing the lesser of the amounts of the cost of purchases and proceeds of sales of portfolio securities for the financial year by the average of the value of the portfolio securities owned by the investment fund in the financial year. Calculate the monthly average by totalling the values of portfolio securities as at the beginning and end of the first month of the financial year and as at the end of each of the succeeding 11 months and dividing the sum by 13. Exclude from both numerator and denominator amounts relating to all securities having a remaining term to maturity on the date of acquisition by the investment fund of one year or less.
- (2) If the investment fund acquired the assets of another investment fund in exchange for its own shares during the financial year in a purchase-of-assets transaction, exclude from the calculation of portfolio turnover rate the value of securities acquired and sold to realign the Fund's portfolio. Adjust the denominator of the portfolio turnover computation to reflect these excluded purchases and sales and disclose them in a footnote.
- (3) Include:
- (a) proceeds from a short sale in the value of the portfolio securities sold during the period;
  - (b) the cost of covering a short sale in the value of portfolio securities purchased during the period;
  - (c) premiums paid to purchase options in the value of portfolio securities purchased during the period; and
  - (d) premiums received from the sale of options in the value of the portfolio securities sold during the period.

**3.2 Group Scholarship Plans**

An investment fund that is a group scholarship plan must comply with Item 3.1, except that the following table must replace "The Fund's Net Asset Value per [Unit/Share]" table and the "Ratios and Supplemental Data" table.

	[insert year]	[insert year]	[insert year]	[insert year]	[insert year]
<b>Financial &amp; Operating Highlights (with comparative figures)</b>					
<b>Balance Sheet</b>					
Total Assets	\$	\$	\$	\$	\$
Net Assets	\$	\$	\$	\$	\$
% change of Net Assets	%	%	%	%	%
<b>Statement of Operations</b>					
Education Assistance Payments	\$	\$	\$	\$	\$
Canadian Education Savings Grant	\$	\$	\$	\$	\$
Net investment income	\$	\$	\$	\$	\$
<b>Other</b>					
Total number of agreements in plans					
% change in the total number of agreements	%	%	%	%	%

**Item 4 Past Performance****4.1 General**

- (1) In responding to the requirements of this Item, an investment fund must comply with sections 15.2, 15.3, 15.9, 15.10, 15.11 and 15.14 of National Instrument 81-102 Mutual Funds as if those sections applied to the annual management report of fund performance.
- (2) Despite the specific requirements of this Item, do not provide performance data for any period if the investment fund was not a reporting issuer at all times during the period.



- (3) Set out in footnotes to the chart or table required by this Item the assumptions relevant to the calculation of the performance information, and include a statement of the significance of the assumption that distributions are reinvested for taxable investments.
- (4) In a general introduction to the "Past Performance" section, indicate, as applicable, that
  - (a) the performance information shown assumes that all distributions made by the investment fund in the periods shown were reinvested in additional securities of the mutual fund;
  - (b) the performance information does not take into account sales, redemption, distribution or other optional charges that would have reduced returns or performance; and
  - (c) how the investment fund has performed in the past does not necessarily indicate how it will perform in the future.
- (5) Despite subsections (3) and (4), investment funds that are traded on an exchange must not make the assumption that all distributions made by the investment fund in the period shown were reinvested in additional securities of the investment fund.
- (6) Use a linear scale for each axis of the bar chart required by this Item.
- (7) The x-axis must intersect the y-axis at 0 for the "Year-by-Year Returns" bar chart.

#### **4.2 Year-by-Year Returns**

- (1) Provide a bar chart, under the heading "Past Performance" and under the sub-heading "Year-by-Year Returns", that shows, in chronological order with the most recent year on the right of the bar chart, the annual total return of the investment fund for the lesser of
  - (a) each of the ten most recently completed financial years; and
  - (b) each of the completed financial years in which the investment fund has been in existence and which the investment fund was a reporting issuer.
- (2) Provide an introduction to the bar chart that
  - (a) indicates that the bar chart shows the investment fund's annual performance for each of the years shown, and illustrates how the investment fund's performance has changed from year to year; and
  - (b) indicates that the bar chart shows, in percentage terms, how much an investment made on [first day of financial year] in each financial year would have grown or decreased by [last day of financial year] in that year.
- (3) If the investment fund holds short portfolio positions, show separately the annual total return for both the long portfolio positions and the short portfolio positions in addition to the overall total return.
- (4) Disclose the best and worst total return of the investment fund for any six-month period during the periods shown by the bar chart. A discussion of the events around these best and worst periods may be included.

#### **4.3 Annual Compound Returns**

- (1) If the investment fund is not a money market fund, disclose, in the form of a table, under the sub-heading "Annual Compound Returns"
  - (a) the investment fund's past performance for the ten, five, three and one year periods ended on the last day of the investment fund's financial year; or
  - (b) if the investment fund was a reporting issuer for more than one and less than ten years, the investment fund's past performance since the inception of the investment fund.
- (2) Include in the table, for the same periods for which the annual compound returns of the investment fund are provided, the historical annual compound total returns or changes of

- (a) one or more appropriate broad-based securities market indices; and
  - (b) at the option of the investment fund, one or more non-securities indices or narrowly-based market indices that reflect the market sectors in which the investment fund invests.
- (3) Include a brief description of the broad-based securities market index (or indices) and provide a discussion of the relative performance of the investment fund as compared to that index.
- (4) If the investment fund includes in the table an index that is different from the one included in the most recently filed management report of fund performance, explain the reasons for the change and include the disclosure required by this Item for both the new and former indices.
- (5) Calculate the annual compound return in accordance with the requirements of Part 15 of National Instrument 81-102.
- (6) If the investment fund holds short portfolio positions, show separately the annual compound returns for both the long and the short portfolio positions in addition to the overall annual compound returns.

**INSTRUCTIONS:**

- (1) *An “appropriate broad-based securities market index” is one that*
  - (a) *is administered by an organization that is not affiliated with any of the mutual fund, its manager, portfolio adviser or principal distributor, unless the index is widely recognized and used; and*
  - (b) *has been adjusted by its administrator to reflect the reinvestment of dividends on securities in the index or interest on debt.*
- (2) *It may be appropriate for an investment fund that invests in more than one type of security to compare its performance to more than one relevant index. For example, a balanced fund may wish to compare its performance to both a bond index and an equity index.*
- (3) *In addition to the appropriate broad-based securities market index, the investment fund may compare its performance to other financial or narrowly-based securities indices (or a blend of indices) that reflect the market sectors in which the investment fund invests or that provide useful comparatives to the performance of the investment fund. For example, an investment fund could compare its performance to an index that measured the performance of certain sectors of the stock market (e.g. communications companies, financial sector companies, etc.) or to a non-securities index, such as the Consumer Price Index, so long as the comparison is not misleading.*

**4.4 Group Scholarship Plans**

An investment fund that is a group scholarship plan must comply with this Item, except that year-by-year returns and annual compound returns must be calculated based on the group scholarship plan's total portfolio adjusted for cash flows.

**Item 5 Summary of Investment Portfolio**

- (1) Include, under the heading “Summary of Investment Portfolio”, a table summarizing the investment fund's portfolio as at the end of the financial year of the investment fund to which the annual management report of fund performance pertains.
- (2) The summary of investment portfolio
  - (a) must break down the entire portfolio of the investment fund into appropriate subgroups, and must show the percentage of the aggregate net asset value of the investment fund constituted by each subgroup; and
  - (b) must disclose the top 25 long positions and the top 25 short positions held by the investment fund, expressed as a percentage of net assets of the investment fund.

- (3) Indicate that the summary of investment portfolio may change due to ongoing portfolio transactions of the investment fund and a quarterly update is available. Provide a toll-free/collect call telephone number, address and website which holders can use to request the quarterly disclosure.
- (4) For purposes of this Item, disclosure for a long portfolio of the investment fund must be segregated from the disclosure for a short portfolio.

**INSTRUCTIONS:**

- (1) *The summary of investment portfolio is designed to give the reader an easily accessible snapshot of the portfolio of the investment fund as at the end of the financial year for which the annual management report of fund performance pertains. As with the other components of the annual management report of fund performance, care should be taken to ensure that the information in the summary of investment portfolio is presented in an easily accessible and understandable way.*
- (2) *The Canadian securities regulatory authorities have not prescribed the names of the categories into which the portfolio should be broken down. An investment fund should use the most appropriate categories given the nature of the fund. If appropriate, an investment fund may use more than one breakdown, for instance showing the portfolio of the investment fund broken down according to security type, industry, geographical locations, etc.*
- (3) *In addition to the table, the disclosure may also be presented in the form of a pie chart.*
- (4) *If the investment fund owns more than one class of securities of an issuer, those classes should be aggregated for the purposes of this Item, however, debt and equity securities of an issuer must not be aggregated.*
- (5) *Portfolio assets other than securities should be aggregated if they have substantially similar investment risks and profiles. For instance, gold certificates should be aggregated, even if they are issued by different financial institutions.*
- (6) *Treat cash and cash equivalents as one separate discrete category.*
- (7) *In making the determinations of its holdings for purposes of the disclosure required by this Item, an investment fund should, for each long position in a derivative that is held by the investment fund for purposes other than hedging and for each index participation unit held by the investment fund, consider that it holds directly the underlying interest of that derivative or its proportionate share of the securities held by the issuer of the index participation unit.*
- (8) *If an investment fund invests substantially all of its assets directly or indirectly (through the use of derivatives) in securities of another fund, list only the 25 largest holdings of the other investment fund by percentage of net assets of the other investment fund, as disclosed by the other investment fund as at the most recent quarter end.*
- (9) *If the investment fund invests in other investment funds, include a statement to the effect that the prospectus and other information about the underlying investment funds are available on the internet at [www.sedar.com](http://www.sedar.com).*

**Item 6 Other Material Information**

Provide any other material information relating to the investment fund not otherwise required to be disclosed by this Part, including information required to be disclosed pursuant to an order or exemption received by the investment fund.

**PART C CONTENT REQUIREMENTS FOR INTERIM MANAGEMENT REPORT OF FUND PERFORMANCE**

**Item 1 First Page Disclosure**

The first page of an interim management report of fund performance must contain disclosure in substantially the following words:

"This interim management report of fund performance contains financial highlights, but does not contain either interim or annual financial statements of the investment fund. You can get a copy of the interim or annual financial statements at your request, and at no cost, by calling [toll-free/collect call telephone number], by writing to us at [insert address] or by visiting our website at [insert address] or SEDAR at [www.sedar.com](http://www.sedar.com).

Securityholders may also contact us using one of these methods to request a copy of the investment fund's proxy voting policies and procedures, proxy voting disclosure record, or quarterly portfolio disclosure relating to the investment fund."

## **Item 2 Management Discussion of Fund Performance**

### **2.1 Results of Operations**

Provide an update of the analysis of the investment fund's results of operations provided in the MDFP in the most recent annual management report of fund performance. Discuss any material changes to any of the components listed in Item 2.3 of Part B of this Form.

### **2.2 Significant Developments**

If there have been any significant developments affecting the investment fund since the most recent annual management report of fund performance, discuss those developments and their impact on the investment fund.

### **2.3 Other Information**

If the manager of the investment fund believes that the information contained in the most recent annual management report of fund performance of the investment fund provided in response to Item 2.5 of Part B of this form is not accurate, provide an update of that information.

#### **INSTRUCTIONS:**

- (1) *The general discussion concerning the nature of MDFP contained in Part A of this Form applies to the MDFP provided under this Form in an interim management report of fund performance. Generally speaking, the Canadian securities regulatory authorities expect the interim MDFP to be briefer than that contained in an annual management report of fund performance. The MDFP in an interim management report of fund performance is intended to update the reader on developments since the date of the most recent annual management report of fund performance, and it is not necessary to restate all of the information contained in the most recent annual MDFP.*
- (2) *The MDFP in an interim management report of fund performance should deal with the financial period to which the interim management report of fund performance pertains.*
- (3) *In responding to this Item, you may assume the reader has access to your annual management report of fund performance. You do not have to duplicate the discussion and analysis of financial condition in your annual management report of fund performance.*

## **Item 3 Financial Highlights**

Provide the disclosure required by Item 3.1 of Part B of this Form, with an additional column representing the interim period.

#### **INSTRUCTION:**

*Present the disclosure for each period listed in Item (1) in chronological order, with the information for the financial period to which the interim management report of fund performance pertains in the first column on the left of the table.*

## **Item 4 Past Performance**

Provide a bar chart prepared in accordance with Item 4 of Part B of this Form, and include the total return calculated for the interim period.

## **Item 5 Summary of Investment Portfolio**

- (1) Include a summary of investment portfolio as at the end of the financial period of the investment fund to which the interim management report of fund performance pertains.
- (2) The summary of investment portfolio must be prepared in accordance with Item 5 of Part B of this Form.

**Item 6 Other Material Information**

Provide any other material information relating to the investment fund in the interim period not otherwise required to be disclosed by this Part including information required to be disclosed pursuant to an order or exemption received by the investment fund.