

## APPENDIX A

### SUMMARY OF PUBLIC COMMENTS ON FRAMEWORK 81-406

Table of Contents	
PART	Title
Part I	Background
Part II	Comments on delivery
Part III	Comments on fund facts
Part IV	Investor rights comments
Part V	Other comments
Part VI	List of commenters

#### Part I – Background

##### Summary of Comments

On October 24, 2008, the Canadian Securities Administrators (CSA) published a notice seeking comment on *Framework 81-406: Point of Sale Disclosure for Mutual Funds and Segregated Funds* (Framework). The comment period expired December 23, 2008. We received submissions from 46 commenters, which are listed in Part VI.

The CSA sought feedback from all stakeholders on issues related to implementation of the Framework and its principles in advance of publishing proposed changes to existing securities laws for first comment. We have considered all comments received and have made some changes in response to the comments.

We wish to thank all those who took the time to comment. The comments we received are summarized below.

**Part II - Comments on delivery**

<u>Issue</u>	<u>Sub-Issue</u>	<u>Comments</u>	<u>Responses</u>
<p><b>General comments on delivery</b></p>	<p><i>General comments</i></p>	<p>Support for the Framework’s proposal for delivery of the fund facts before or at the point of sale (POS) was divided almost unanimously among industry and investor commenters.</p> <p>Most industry commenters continued to express concerns with POS delivery. Some even questioned why we propose to take away the choice that exists today for investors of receiving information before or after the point of sale.</p> <p>However, we also heard from two investor advocate commenters who expressed strong support for providing investors with clear, meaningful and simplified information before or at the time they make their decision to invest in a mutual fund. One of these commenters remarked that professional advisers should welcome the opportunity to educate and inform their clients, and regretted seeing the fund industry’s resistance to meaningful, timely disclosure. Any advisory firm that is unable or unwilling to provide</p>	<p>We remain committed to the principles set out in the Framework for providing investors with meaningful information about a mutual fund when they need it most – typically before they make their decision to invest.</p> <p>We know that investors are generally not reading, understanding or using the disclosure that is currently required to be delivered to them. We believe the Framework’s proposals will give investors the opportunity to make more informed decisions.</p> <p>We think the revisions to delivery in the Framework still achieve our vision, while better meeting the needs of investors and accommodating various business models of dealers. We are, however, continuing to consider other ways to improve the delivery proposals and are seeking specific feedback on various aspects of the delivery requirements.</p>

		<p>fundamental fund information at the time of sale, we were told, should be excluded from providing advice to trusting retail fund investors.</p> <p>Yet, this same commenter stated that the proposals contained in the Framework are far off what was originally contemplated. Unless substantive investor-protection changes are made, it was suggested the existing prospectus system would be a better alternative for investors.</p>	
	<p><b><i>Disruption of the sales process</i></b></p>	<p>Some commenters told us the delivery requirements will disrupt the sales process, particularly in situations where the transaction is time-sensitive (i.e. at the end of the day or the last day of RRSP season).</p> <p>We were told purchases could be negatively impacted due to price fluctuations over the days it takes to receive the fund facts.</p> <p>If timing was a constraint, one commenter remarked investors will choose to invest in a fund for which the adviser has the fund facts on hand, rather than delay the trade.</p> <p>Commenters further stated the approach to delivery does not accommodate the variety</p>	<p>In response to comments, we are seeking specific feedback on what ‘time-sensitive’ circumstances may be appropriate for allowing an investor to waive delivery of the fund facts before the purchase is completed, and under what terms.</p>

		<p>of investor types and investment styles that exist. We were told the added step of delivery is likely to disrupt, annoy and even confuse the investor.</p> <p>One commenter stated an investor may simply want to conclude a trade and not agree that additional information would be helpful or necessary.</p> <p>This commenter further remarked that the approach to delivery does not take into account investors who are out of the country and who may not have access to fax machines or computers. These investors will be severely constrained in how they can trade or manage their mutual fund investment portfolios at potentially important times.</p>	
	<p><b><i>Regulatory arbitrage</i></b></p>	<p>We were also told by many commenters that the delivery requirements would disadvantage mutual funds in relation to other investment products that are less regulated and do not have pre-sale disclosure obligations, which may in turn result in fewer funds and fewer fund families for investors to choose from.</p> <p>However, one commenter did acknowledge that its business model would</p>	<p>It is outside of the scope of this project to consider point of sale disclosure for other types of investment funds.</p> <p>We do not disagree, however, with the commenters who told us that the principles set out in the Framework for point of sale disclosure could apply to other types of investment products. We would welcome additional feedback on this.</p>

		<p>prevent its agents from selling products other than mutual funds.</p> <p>A couple of commenters noted that some members of the CSA have indicated an intention to address product arbitrage concerns by implementing a similar “point of sale” regime for other types of securities. One of these commenters urged the CSA to provide a firm commitment to address competitive concerns in the near term.</p> <p>One commenter asked us to consider expanding the fund facts concept to cover higher-risk products, like hedge funds, limited partnerships, universal life insurance policies and asset-backed commercial paper (ABCP).</p> <p>Another commenter remarked POS disclosure might make mutual funds look worse in the eyes of consumers, who may think a product without POS disclosure has less risk.</p>	<p>However, we disagree with the commenters who indicated that POS delivery for mutual funds will result in investors being sold alternative products. We think mutual funds are a suitable investment product for many investors, and we would expect dealers to continue to recommend mutual funds to these investors.</p> <p>We expect disclosure for all types of investment funds will evolve with time, and we anticipate that point of sale disclosure for mutual funds and segregated funds may provide a platform for future regulatory reform.</p> <p>We note that POS delivery already exists for principal protected notes, and there is a trend internationally toward POS disclosure for investment fund products.</p>
	<p><b><i>Reduced product choice</i></b></p>	<p>A few commenters suggested that the delivery requirements would cause dealers to narrow their product shelf in order to ensure that they have sufficient copies of fund facts to be able to effect transactions</p>	<p>We think the wide range of options available for delivering the fund facts provides dealers with sufficient flexibility to accommodate existing business models. We were encouraged</p>

		<p>on a timely basis for their clients. This would especially be the case for smaller dealers, or firms who mostly deal with their clients in person.</p> <p>Another commenter remarked dealers may have less incentive to place new funds on their list of approved products if it requires producing and distributing additional fund facts.</p> <p>It was further suggested that advisers may attempt to reduce the potential burdens of the Framework by limiting the number and variety of funds that they offer.</p>	<p>to hear from a service provider to the mutual fund industry that the technology is available to assist in the production, distribution and delivery of the fund facts.</p>
	<p><b><i>Impact on independent fund companies</i></b></p>	<p>A number of commenters strongly stated that the delivery requirement will put independent fund companies that rely on third party distribution at a competitive disadvantage.</p> <p>These commenters told us that bank branch distribution would be advantaged because the compliance systems for bank-owned distributors, coupled with the often face-to-face in person meetings between bank personnel and investors, means that these distributors would be able to comply with POS delivery without undue difficulty as compared to third party distributors who</p>	<p>In response to comments, we will be continuing to consider ways of addressing specific implementation issues related to POS delivery, while still achieving the principles set out in the Framework.</p> <p>We have specifically asked for feedback on certain aspects of the delivery requirements.</p>

		<p>may deal with their clients by telephone or other non-face-to-face means.</p> <p>A few commenters also noted dealers may not want to manage such a large volume of documents and therefore may reduce the number of funds or series they offer from independent fund companies.</p>	
	<p><b><i>Failure to recognize the role of advisers</i></b></p>	<p>Some commenters remarked that the Framework does not recognize the unique relationships that exist between advisers and clients, and that it casts doubt on their role, since an investor dealing “direct” is not required to receive the fund facts, whereas a client relying on advice must.</p> <p>One commenter additionally noted that while written information about a particular fund or funds is important, a continued regulatory focus on, and recognition of, the importance of the “know-your-client”, “know-your-product” and suitability rules in the context of mutual fund investing through registered dealers is equally, if not more, important.</p>	<p>Nothing in the Framework or the amendments to NI 81-101 is intended to detract from the central role of the adviser. The focus of this initiative is to develop a harmonized, more effective disclosure regime for mutual funds and segregated funds.</p> <p>We think POS delivery builds on an adviser’s existing obligation to determine suitability of all purchases of a mutual fund. We anticipate that the fund facts will become a tool used by advisers to assist in the sales process.</p>
	<p><b><i>Impact on telephone and mobile sales</i></b></p>	<p>We were asked to remain mindful of the multiple channels of sales distribution that exist. One commenter stressed the importance of regulatory policy not</p>	<p>As noted above, in response to comments we will be continuing to consider ways of addressing specific implementation issues related to POS</p>

		<p>inadvertently disadvantaging one sales channel over another since this could result in reduced competition and choice for consumers.</p> <p>A number of commenters told us that the delivery requirements will have a substantial impact on investors and the firms who choose to transact by phone, since there will be situations where the investor does not have easy access to a fax or e-mail and will not be able to complete the transaction until the fund facts is received.</p> <p>We were told by some of these commenters that a significant proportion of mutual fund sales are conducted by telephone. For example, approximately 85%-90% of full-service dealer mutual fund transactions and approximately 10%-15% of mutual fund dealer transactions are completed by telephone.</p> <p>Two commenters stated a two-step sales process, where the investor first speaks to a salesperson by phone, then obtains the fund facts and finally calls the salesperson a second time to complete the transaction, is incompatible with the expectations of many investors who expect to have their</p>	<p>delivery.</p> <p>In particular, we are seeking specific feedback on what circumstances would be appropriate for allowing an investor to waive delivery of the fund facts before the purchase is completed, and under what terms. We are interested in understanding how such a waiver is envisaged for telephone and mobile sales.</p>
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		<p>order carried out immediately when providing instructions over the phone.</p> <p>We were also told a similar challenge may face investors serviced by mobile salespeople who travel to clients and who may not be able to carry or print the fund facts for every mutual fund offered, or that an investor might ultimately purchase.</p>	
<p><b>Compliance</b></p>	<p><i>Cost and complexity of compliance</i></p>	<p>We were told that the delivery requirements are cumbersome and impractical, and that they will result in increased compliance costs, particularly for small dealers.</p> <p>These costs, we were reminded by a number of commenters, can be expected to ultimately impact investors through either a) reductions in service and access to mutual funds, especially for investors of more modest means, or b) an increase in costs borne by investors.</p> <p>Some commenters stated that the Framework will effectively require dealers to track, at a minimum: (i) the delivery and receipt of the fund facts, (ii) whether a trade was “adviser recommended” or “investor initiated”, (iii) whether the trade was an initial or subsequent trade in a</p>	<p>It is not intended that the audit trail for delivery of the fund facts be more onerous than a dealer’s existing compliance mechanisms to record and maintain evidence of required disclosure and client trade instructions.</p> <p>We currently contemplate a two-year transition period for delivery of the fund facts following the effective date of the amendments. This is to provide sufficient time for implementation of compliance systems. We are seeking specific feedback on the appropriateness of this transition period, as well as on the anticipated costs of implementation.</p> <p>We have met regularly with the Investment Industry Regulatory Organization of Canada (IIROC) and the Mutual Fund Dealers Association of</p>

		<p>fund, (iv) whether the trade was for a money market fund, and (v) whether a client has opted to receive annual delivery of the fund facts.</p> <p>Other commenters remarked that POS delivery will place a tremendous administrative burden on advisers, who now will be required to fulfil the regulatory delivery requirement previously fulfilled by the dealer's back offices.</p> <p>A number of commenters expressed concern that it would be time-consuming and expensive to develop and implement compliance and audit systems to accommodate the various exemptions and waivers around delivery.</p> <p>The burden and challenges will likely be similar, stated one commenter, to those currently facing dealers with respect to the new Principal Protected Notes (PPN) legislation, which came into force on July 1, 2008.</p> <p>A few commenters stated that although the Framework says that dealers are not expected to obtain acknowledgement of receipt of the fund facts from investors, in the event of a dispute, it would be difficult</p>	<p>Canada (MFDA) to discuss compliance issues and to identify implementation issues.</p>
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		<p>to confirm compliance without obtaining some form of written acknowledgment from the investor. This would be particularly onerous for advisers over brokers who do not currently obtain client signatures evidencing delivery, remarked one commenter.</p> <p>Another commenter, however, stated that investor acknowledgement is not necessary or warranted and should not even be addressed in any legislative amendments, national instruments rules or regulations, or in any companion policies or staff notices. This commenter suggested that delivery of a fund facts should be analogous to delivery of prospectuses, which do not require an investor acknowledgement since, if sent by mail, they are deemed to be received after a certain period of time.</p> <p>Finally, a commenter warned that unmanageable delivery requirements could give rise to trends of non-compliance.</p>	
	<p><b><i>Availability of technology solutions</i></b></p>	<p>Yet, despite the nuances to the delivery requirements, we were told by one commenter, a service provider to the mutual fund industry, that the technology is available for the creation, production,</p>	<p>We are encouraged to hear that technological solutions are available to address possible implementation challenges related to POS delivery. We are hopeful that the detail set out in the</p>

		distribution, delivery, tracking and auditing of the fund facts.	amendments to NI 81-101 will promote additional feedback on solutions to the implementation issues that have been raised.
	<b><i>Need for CSA guidance and SRO consistency in approach</i></b>	One commenter requested that we provide guidance as to what would constitute best industry practices to track delivery. Still other commenters noted that without knowing what proof of delivery requirements will be imposed on dealers by self-regulatory organizations (SROs), it is difficult to understand what the implications of proving delivery of the fund facts will be on operational systems and compliance procedures. We were urged to engage with the SROs to ensure consistent expectations on proof of delivery.	As noted above, we do not intend the audit trail for delivery of the fund facts to be more onerous than a dealer's existing compliance mechanisms to record and maintain evidence of disclosure and client trade instructions. The amendments to NI 81-101 are flexible to allow a dealer to establish internal policies and procedures based upon the dealer's particular business model.  We agree that a consistent regulatory approach toward evidence of delivery is important. We have met regularly with IIROC and the MFDA since the publication of the Framework to discuss implementation and oversight issues. We expect to continue to meet with the SROs to ensure a consistent approach to monitoring delivery.
	<b><i>Need for a long implementation</i></b>	A few commenters remarked that an extended transition period for industry stakeholders to integrate fund facts delivery into the sales process would have	The amendments to NI 81-101 contemplate a staged implementation, with some aspects of the Framework coming into force sooner. We currently

		<p>the benefit of allowing enough time to develop sufficient compliance tracking systems.</p>	<p>propose a two-year transition period for delivery of the fund facts following the effective date of the amendments to NI 81-101. During this period, we anticipate the fund facts will be prepared and filed, posted onto the websites of the manager and/or mutual fund and possibly delivered under current securities legislation in satisfaction of delivery of the simplified prospectus.</p> <p>We are seeking specific feedback on the appropriateness of the transition period.</p>
<p><b>Specific aspects of the delivery proposal</b></p>	<p><i>Flexibility in the delivery requirements</i></p>	<p>While some industry commenters recognized the efforts of the Joint Forum to make the Framework more accommodating and efficient, one commenter remarked that delivery requirements based on the variables outlined in the Framework (i.e., adviser recommended or not, money market fund or other, etc.) are likely to be confusing to both investors and advisers.</p> <p>Another commenter expressed concern that these allowances were simply amendments to a regulatory initiative that, from the outset, prioritized the physical delivery of documents over the principle of providing meaningful and effective disclosure.</p>	<p>We propose no change at this time. The revisions to delivery in the Framework are in response to comments from both industry and investor advocates that a ‘one-size-fits-all’ delivery model does not reflect the types of relationships dealers have with their clients or the various business models of dealers.</p> <p>We are seeking specific feedback on how to address various aspects of this approach while still accommodating the needs of investors and dealers.</p> <p>The Companion Policy (CP) to NI 81-101 clarifies that in instances where an investor has the option to waive delivery</p>

		<p>For greater certainty, one commenter requested that firms be provided with the option to require delivery of the fund facts at POS, rather than permit waivers and delivery with the trade confirmation.</p> <p>Another commenter asked for clarification of whether we expect the choice of delivery (when available) to be sought on a per trade basis from the investor or in the form of standing instructions for the investor's account.</p> <p>One commenter stated that where the fund facts is sent with the trade confirmation, the requirement to send the fund facts must apply not only to dealers but also to fund managers for accounts opened in client name. This would be in compliance with sections 5.4.1 of the MFDA Rules and section 36 (7) of the <i>Ontario Securities Act</i>.</p>	<p>of the fund facts before or at POS, this will occur on a per trade basis.</p> <p>Where the manager sends the trade confirmation in accordance with securities legislation, we agree with the comment that the manager should also be permitted to deliver the fund facts when its delivery is required to accompany the confirmation. The amendments to NI 81-101 clarify this.</p> <p>Finally, nothing in the Framework or the amendments to NI 81-101 prevents a dealer from choosing in all instances to deliver the fund facts before or at the POS.</p>
	<p><b><i>Delivery for subsequent purchases of a fund</i></b></p>	<p>A number of commenters were pleased with the elimination of the requirement to deliver a fund facts before or at the POS for subsequent purchases of, or switches into, a fund currently held in the investor's account.</p>	<p>We are reconsidering the requirement to deliver the fund facts before a subsequent purchase – either in instances where there has been a more recently filed fund facts, or in each instance with the confirmation of trade. We are seeking specific feedback on</p>

		<p>We also received support to not require delivery of a fund facts for subsequent purchases of the same fund if there have not been any material changes.</p> <p>One commenter, however, remarked that if there is no requirement to deliver an amended fund facts for a subsequent purchase, this would not be consistent with the principle of providing investors with the most up-to-date information in connection with a purchase of fund securities. This commenter recommended delivery of the fund facts for subsequent purchases, but allowing such delivery to be suppressed based on whether an investor has previously received the current fund facts - as is presently done for the delivery of simplified prospectuses.</p>	<p>this.</p>
	<p><b><i>Delivery for money market funds</i></b></p>	<p>While most commenters were pleased to see that the Framework no longer requires delivery of a fund facts before or at the POS for purchases of a money market fund, an investor advocate stated the fund facts should be delivered for all categories of funds, including money market funds, noting the recent issues related to money market fund exposure to ABCP.</p> <p>One commenter suggested we should go</p>	<p>We do not propose any change. We think the flexibility on delivery of the fund facts for purchases of money market mutual funds appropriately responds to commenters who asked for a mechanism for investors who may want immediate execution of a trade, particularly during RRSP season.</p>

		<p>even further, making the fund facts for money market funds delivered with the trade confirmation in all cases.</p> <p>Another commenter expressed concern that a waiver would introduce a two-step process which may not always be in the investor's best interest. This could actually increase their costs if the intent is to invest the money in a different investment vehicle shortly after the initial money market purchase.</p>	
	<p><b><i>Delivery for order execution-only accounts</i></b></p>	<p>While a few commenters agreed with exempting trades made through "order execution-only" accounts (such as accounts held with discount brokers) from the requirement to deliver a fund facts before or at the POS, one commenter remarked it failed to understand the underlying principles behind the decision to exempt order execution brokers from the pre-trade delivery requirement.</p> <p>We were told the lesser delivery burden imposed upon execution-only dealers will put full-service dealers at a competitive disadvantage, and may drive some investors away from advice and risk management and more to a do-it-yourself model.</p>	<p>The delivery requirements in the Framework recognize that investors have differing needs in receiving fund disclosure. A key element is the distinction between investors who rely on a dealer's recommendation and those who rely on their own research and judgement when making their purchase decision before contacting their dealer.</p> <p>Delivery of the fund facts before or at POS builds on the existing obligations of full-service dealers to 'know your client' and determine suitability, regardless of who initiates the transaction. The same suitability obligation does not apply to order execution-only accounts. For purchases</p>



			<p>through these accounts, investors have no expectation of receiving advice or having someone assess the suitability of a product since they rely on their own research and judgement when making investment decisions.</p> <p>Investors who initiate purchases through a full-service dealer may choose to receive the fund facts with the trade confirmation. In this way, we do not think that full-service dealers will be at a competitive disadvantage.</p>
	<p><b><i>Adviser recommended vs. investor-initiated trades</i></b></p>	<p>We were told by a commenter that the inclusion of a distinction between “adviser-recommended” and “investor-initiated” transactions was a noteworthy improvement to the Framework.</p> <p>Yet, another commenter remarked that basing delivery on whether the salesperson recommended the fund or the investor initiated the purchase will likely lead to a number of disputes, creating a new risk for investors and the industry and exposing retail investors to abuse.</p> <p>This commenter stated that in cases where an adviser asserts the sale is “investor-initiated”, clients should, in principle, be</p>	<p>The delivery requirements build on existing rules and policies that apply to dealers. Dealers that provide advice currently have an obligation to ensure that the advisers who work for them assess the suitability of all purchases of a fund by a client, regardless of who initiates the transaction. We consider SRO guidance on this topic to be very helpful, and we will continue to discuss with IIROC and the MFDA what, if any, additional guidance is warranted.</p> <p>We reiterate that we do not intend the audit trail for delivery of the fund facts to be more onerous than a dealer’s existing compliance mechanisms to</p>

		<p>sold low cost F-class funds due to adviser disengagement.</p> <p>A few commenters indicated that, in the absence of clear definitions and guidance as to the meaning of “investor-initiated” and “adviser-recommended” trades, dealers would likely find it difficult to classify a trade. One commenter suggested substituting the terms “adviser-recommended” and “investor-initiated” with industry-used terms “solicited” and “unsolicited” orders.</p> <p>Some of these commenters asked for further clarification on who would make the determination of whether a solicited or unsolicited trade resulted in advice being given and how advisers would keep track of such determinations.</p> <p>A number of commenters remarked that, in order to avoid any doubts and potential repercussions for non-compliance, firms may choose to avoid the risk of misclassifying a trade by either setting an impossibly high threshold for a trade to be considered investor-initiated, or simply opt to ensure their advisers deliver the fund facts in every instance.</p>	<p>record and maintain evidence of disclosure and client trade instructions. As noted above, nothing in the Framework or the amendments to NI 81-101 prevents a dealer from choosing in all instances to deliver the fund facts before or at the POS.</p> <p>It is outside the scope of this project to mandate the sale of specific classes of a mutual fund for an investor-initiated trade.</p>
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	<p><b><i>Fund facts previously delivered</i></b></p>	<p>A few commenters asked us to clarify the Framework proposal that delivery may be satisfied by “referring an investor to a particular fund facts previously delivered, as long as it is current and the investor can easily find and link the information to the particular purchase they are considering”.</p>	<p>The amendments to NI 81-101 clarify that delivery of the fund facts for initial purchases of a mutual fund recommended by a dealer must occur <i>before</i> or at the POS. We have purposefully left the point in time before the sale that delivery must occur flexible. The CP to NI 81-101 specifies that we expect that for delivery to be satisfied, the fund facts delivered will be current and delivery will have taken place within a reasonable timeframe of the investor making the investment decision, so that the investor is able to make the connection between the information and the particular purchase they are considering.</p>
	<p><b><i>Annual delivery of fund facts</i></b></p>	<p>We were told by some commenters that requiring dealers to give investors the annual option to receive the fund facts for all funds held would be onerous and very difficult for dealers to implement and track. Most of these commenters</p>	<p>The annual delivery option for investors was intended as an alternative to commenters who asked that we eliminate the requirement for delivery of the fund facts for all subsequent purchases.</p>

		<p>suggested that the availability of Fund facts on websites is a viable alternative to the annual option delivery requirement.</p> <p>Alternatively, if we pursue an annual delivery option, one of these commenters told us dealers should be allowed to ask investors for instructions at the same time as the initial purchase is being made. This could be supplemented by dealers providing investors with an annual notice regarding the availability of fund facts similar to what fund managers currently do for Management Reports of Fund Performance (MRFPs) and financial statements.</p> <p>Three commenters suggested that mutual fund managers be required to give investors the option to annually receive a fund facts for each of their holdings, particularly fund managers that have opened accounts in client name. This option would make it operationally easier to satisfy delivery because mutual fund managers already deliver to investors other documents such as MRFPs and prospectuses.</p> <p>Two commenters stated that giving investors the option to receive the fund</p>	<p>We do not prescribe in the amendments to NI 81-101 how dealers must solicit delivery instructions from clients. A dealer may obtain annual instructions, standing instructions or use any means to obtain instructions. We also do not prescribe the timing of the annual delivery.</p> <p>In response to comments, we are reconsidering the usefulness of an annual delivery option in comparison with requiring delivery of the fund facts for some or all subsequent purchases. We are seeking specific feedback on this.</p>
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	<p><b><i>Delivery of simplified prospectus</i></b></p>	<p>We were asked to clarify that when an investor requests a prospectus, the investor need not repeat the request each year since negative option delivery doesn't work.</p> <p>Another commenter stated that, although the fund facts provides useful information, the Simplified Prospectus provides additional important information and should continue to be provided to investors either at the point of sale or with the trade confirmation. Since this is a current requirement, there would be no additional burden placed on the mutual fund industry.</p>	<p>NI 81-101 will continue to require the mutual fund to deliver the simplified prospectus on request. As noted above, there is nothing in the amendments to NI 81-101 that restrict a dealer from providing information in addition to the fund facts at any time, including adopting a practice of routinely providing investors with the simplified prospectus.</p> <p>We do not propose to require delivery of the simplified prospectus with the fund facts. Although we agree with the commenter that the simplified prospectus contains useful information, we know that investors have trouble finding and understanding the</p>

			<p>information because it is a long and complex document. We think the fund facts provides meaningful information about the mutual fund in a simple, accessible and comparable format for investors to use to inform their investment decision.</p> <p>In response to comments, we have revised the disclosure in the fund facts to give greater emphasis that the fund facts may not have all the information an investor wants, and that more detailed information about the mutual fund is available in the simplified prospectus and other disclosure documents.</p>
<p><b>Electronic delivery</b></p>	<p><i>Use of e-mail</i></p>	<p>We were told by a few commenters that there are a number of operational concerns related to e-mail delivery (e.g., wrong e-mail address, firewalls, privacy of information, uncertainty of receipt, etc.) which likely will prevent dealers from using e-mail to deliver the fund facts. A trade association remarked that a number of its members have indicated that they have internal policies that prohibit the distribution of client documents via e-mail or fax for security reasons.</p>	<p>We have been surprised by the comments that operational concerns may prevent electronic delivery. We continue to think electronic delivery provides dealers with flexibility to accommodate the needs of investors and their business models.</p> <p>We disagree with the comments that proof of electronic delivery will impede its use. We further disagree with the comment that electronic delivery negates the value of POS delivery.</p>

		<p>One of these commenters suggested the resolution may be to allow electronic or paper delivery of the fund facts without attempting to prescribe in detail how this is to be achieved.</p> <p>Another commenter asked us to undertake a study of the percentage of the investing population that has access to e-mail by geographic location across Canada.</p> <p>One commenter suggested that the technological inability to prove that a document or notice delivered electronically to a client was received by that client may be a reason why dealers have been reluctant to embrace electronic delivery under <i>National Policy 11-201 – Delivery of Documents by Electronic Means</i>. In order to make electronic delivery viable, this commenter suggested the following:</p> <ul style="list-style-type: none"> <li>• dealers should not have the option of denying electronic delivery of documents contemplated by NP 11-201 to their clients</li> <li>• dealers should be under no obligation to establish receipt by their clients of electronically delivered documents, rather they should simply have to be able to demonstrate that the documents</li> </ul>	<p>As previously noted, we do not intend the audit trail for delivery of the fund facts to be more onerous than a dealer's existing compliance mechanisms to record and maintain evidence of disclosure and client trade instructions. We also remind commenters that National Policy 11-201 – <i>Delivery of Documents by Electronic Means</i> (NP 11-201) and, in Quebec, Quebec Staff Notice 11-201 <i>The Delivery of Documents by Electronic Means</i> set out additional guidance for evidencing delivery.</p>
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		<p>have been sent</p> <ul style="list-style-type: none"> <li>• delivery of documents should be deemed to have occurred following a set period of time after they have been sent by the dealer (e.g. 12 hours).</li> </ul> <p>Yet, one investor advocate commenter objected to allowing electronic delivery to be met by merely providing an e-mail link to the document or by e-mailing the document itself without requiring any client-adviser discussion on costs, risks or suitability. We were told this was effectively “access equals disclosure” and would negate the value of POS delivery.</p>	
	<p><b><i>Directing the investor to the fund’s or fund manager’s website</i></b></p>	<p>We did, however, hear from another investor advocate who told us electronic delivery should only be permitted by sending an electronic copy of the fund facts, or at the very least, sending an email with a direct link to the relevant fund facts. This commenter was not supportive of the proposal in the Framework to allow delivery to be met by directing an investor to the relevant fund facts on a website.</p> <p>While other commenters generally expressed approval for this proposal, we were asked for clarification on a number of</p>	<p>We do not propose a change. As noted above, we think the flexibility afforded by electronic delivery, particularly the ability to direct an investor to the relevant fund facts on a website, will facilitate the needs of investors and various business models of dealers.</p> <p>The CP to NI 81-101 clarifies that simply making the fund facts available on a website or referring an investor to a website address with the fund facts will not constitute delivery.</p>



		<p>points.</p> <p>A few commenters asked us to clarify how “directing the investor to the relevant fund facts on the ... website” is satisfied. We were asked if the following would suffice:</p> <ul style="list-style-type: none"> <li>• providing an internet ‘link’ that takes the investor to the fund facts</li> <li>• providing a series of instructions to the investor to access the fund facts</li> <li>• providing the website address to a client and, following a designated time for the client to access the fund facts and reply, proceeding to execute the trade</li> <li>• providing a verbal reference on a per transaction basis to a specific link.</li> </ul> <p>One commenter noted providing verbal instructions to a website could spare clients who choose to transact over the telephone from having their transaction delayed while they wait for delivery of the fund facts.</p> <p>However, we were also told that expecting the adviser to have all of the links to each particular fund facts readily available is not practical, and a verbal reference may not</p>	<p>We think ‘directing’ an investor would generally involve the dealer providing real-time instruction to the investor on how to locate the fund facts, or providing an internet link that takes the investor to the specific fund facts. In all instances, a dealer must ensure the investor can view it.</p>
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		<p>be a sufficient audit or compliance trail, unless the conversation is taped.</p> <p>One commenter suggested allowing dealers to refer the client to the location of the website once when transactions are in the same fund.</p>	
	<p><b><i>Access-equals delivery</i></b></p>	<p>A number of commenters asked us to continue to explore ‘access equals delivery’ for investors who are willing and able to access disclosure electronically at their own convenience. We were told this approach would be the most efficient way to ensure the goals of the Framework are met.</p> <p>One of these commenters urged us to recognize the validity of website postings and recommended that, at the very least, investors be given a choice on how (or whether) they wish to receive a disclosure document, including the choice to access the document on a website. This could be done, noted another commenter, at account opening. This commenter called to our attention that the SEC has recently adopted a similar protocol with respect to delivery of proxy materials.</p> <p>Still another commenter proposed that we</p>	<p>We disagree with the comments and propose no change. We do not consider ‘access equals delivery’ to meet the principles set out in the Framework.</p>

		<p>permit dealers to alert clients as to the location of fund facts documents posted on a manager or dealer website with no requirement for subsequent notifications as notification each time might be seen as repetitive by some investors.</p>	
<p><b>Approach to implementation</b></p>	<p><i>Need for consistency between mutual funds and segregated funds</i></p>	<p>We were asked by a few commenters to make efforts to ensure that the process of implementation by the CSA, the Canadian Council of Insurance Regulators (CCIR) and the provinces and territories occurs in a coordinated, harmonized and streamlined fashion.</p>	<p>Every effort will be made to ensure a coordinated and harmonized implementation of the principles and concepts set out in the Framework. It is expected that the Joint Forum will monitor the progress of the CSA and CCIR, particularly to ensure harmonization.</p>
<p><i>Support for staged implementation</i></p>		<p>Most commenters expressed support for the alternative implementation approach proposed by the Investment Funds Institute of Canada (IFIC).</p> <p>In response to what IFIC anticipates will be at least two or more years before completion of the rulemaking process, it proposed the following to make the fund facts available sooner to investors:</p> <ul style="list-style-type: none"> <li>• the CSA first issue a rule that deals only with the fund facts and requires it be available on websites</li> <li>• next industry will work with regulators on an accelerated</li> </ul>	<p>After much consideration, we have decided to proceed with publication of detailed amendments to NI 81-101 mandating all aspects of the Framework - the fund facts and its delivery. We think the publication of detailed requirements will elicit the specific feedback we need to properly consider and address implementation issues.</p> <p>Based on this feedback, we will be in a better position to assess what aspects of the Framework require further consideration, and whether it's appropriate to implement the</p>

		<p>process for substituting the delivery of the fund facts in place of the existing delivery of the prospectus</p> <ul style="list-style-type: none"> <li>the industry will then work with the CSA on the development of a final rule on POS disclosure.</li> </ul> <p>One commenter remarked that once the fund facts is available online, there might be reason to conclude that the Framework will have achieved its main objectives.</p>	<p>Framework in stages.</p>
<p><b>Alternatives</b></p>	<p><b><i>Make POS delivery optional</i></b></p>	<p>A few commenters strongly encouraged us to consider a more flexible approach to delivery.</p> <p>It was suggested investors could receive the fund facts with the trade confirmation, and be provided with the choice of whether or not to receive the fund facts before or at the POS. One commenter told us that research and industry data indicate the majority of investors would likely choose to waive delivery of the fund facts until after the sale, particularly where they have a relationship with a financial adviser.</p> <p>One commenter suggested that, where practicable, the fund facts be delivered at POS and where it is not practicable, the fund facts be delivered as soon as possible</p>	<p>We strongly believe that a disclosure regime focused on providing investors with meaningful information when they need it most will be more effective for investors because it will give them the opportunity to make more informed decisions. As a result, we are not considering moving away from this vision.</p> <p>As noted above, however, we will continue to consider ways of addressing specific implementation issues related to POS delivery, while still achieving the principles set out in the Framework.</p> <p>We have specifically asked for feedback on certain aspects of the delivery requirements, including what ‘time</p>
<p><b><i>Require POS as soon as practicable</i></b></p>			

	<p><b>Waivers</b></p>	<p>after POS but no later than the mailing of the related trade confirmation to the investor.</p> <p>We were asked to consider an additional waiver for clients who wish to conduct a trade from a remote location, such as a cottage without internet access. Such a waiver could be available for limited time periods to deal with specific situations.</p> <p>Another commenter suggested that the first time an investor transacts with their adviser for the purchase of a mutual fund, the investor should be given the fund facts and the option to waive delivery of the fund facts for all future purchases of any fund. This commenter suggested investors be required to take the proactive step of providing their dealer with written confirmation waiving receipt of future fund facts.</p>	<p>sensitive' circumstances would be appropriate for allowing an investor to waive delivery of the fund facts before the purchase is completed, and under what terms.</p>
	<p><b>Deemed delivery</b></p>	<p>To avoid substantial modifications to the sales process, one commenter suggested allowing the following sequence of events to satisfy delivery:</p> <ul style="list-style-type: none"> <li>• the adviser recommends a particular fund to a client;</li> <li>• the client agrees to place a specific order for the fund;</li> </ul>	<p>Consistent with existing securities legislation for delivery of the simplified prospectus, the amendments to NI 81-101 state that a fund facts will be deemed received within a specified time when sent by prepaid or registered mail.</p> <p>The deemed receipt of the fund facts in</p>

		<ul style="list-style-type: none"> <li>the adviser arranges for the fund facts to be delivered electronically to the client; and</li> <li>after delivery has deemed to occur, the trade is processed unless the client has otherwise informed the adviser.</li> </ul> <p>This commenter stated such an approach would ensure that the sales process is not significantly altered or delayed. This commenter also noted that, as a mutual fund manager, it viewed mutual fund investments as long-term investments and, therefore, would not be terribly concerned by the limited loss of market exposure (e.g. 1 day) that the client might be subject to under such an approach.</p>	<p>no way circumvents the obligations on a dealer when delivery of the fund facts is required before or at POS. Dealers must deliver the fund facts before entering into an agreement with the purchaser, and once delivered must bring the fund facts to the attention of the investor. Accordingly, the sequence of events proposed by the commenter would not satisfy delivery.</p>
	<p><b><i>Fund manager delivers fund facts</i></b></p>	<p>One commenter submitted that we allow mutual fund managers to deliver the fund facts document on behalf of dealers where appropriate.</p>	<p>We agree. We are not opposed to allowing the manager to deliver the fund facts in accordance with existing practices under securities legislation. As noted above, in instances where the manager sends the trade confirmation in accordance with securities legislation, we agree the manager should also be permitted to deliver the fund facts when its delivery is required to accompany the confirmation.</p>

<p><b>Binding of fund facts</b></p>		<p>One commenter suggested that funds should be permitted to bind their fund facts with those of other funds under common management.</p> <p>Another commenter agreed with this suggestion, remarking investors may consider that they are better served by having access to a document that compares and contrasts different mutual funds in a fund family in order to understand the full range of investment options.</p> <p>Still another commenter suggested we allow all the fund facts for all the funds purchased by an investor on a given day to be bound or packaged with the trade confirmation with respect to those purchases. This, we were told, would allow investors to receive a relevant personalized package of all their transactions on a single day, and have the potential to reduce the cost of printing and postage for dealers.</p>	<p>The amendments to NI 81-101 provide some flexibility for a fund facts to be attached to, or bound with, one or more fund facts of other mutual funds for the purposes of delivery.</p>
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**Part III – Fund facts comments**

<u>Issue</u>	<u>Sub-Issue</u>	<u>Comments</u>	<u>Responses</u>
<b>General support for fund facts</b>		Most industry and investor commenters indicated their support of the aim to improve disclosure for mutual fund investors and to make it easier for investors to have an appropriate level of understanding of the potential benefits, risks and costs of investing in a fund and to be able to meaningfully compare one fund with another.	We appreciate the support for the fund facts document.
<b>Part 1 of fund facts</b>			
<b>Quick facts</b>	<i>Date fund created</i>	Two commenters sought clarification on whether the section Date Fund Created is intended to show the date the fund was created, the date the fund was first offered under a simplified prospectus, or the date the specific series or class of the fund was created.	We have clarified in the Instructions to Form 81-101F3 (the FF Form) that Date Fund Created is the date the securities of the class or series first became available to the public.
	<i>Total value</i>	One commenter asked us to clarify whether the section Total Value is intended to show the value of the fund or the value of the specific series of the fund.	The FF Form clarifies that Total Value should include all classes or series referable to the same portfolio, as at a date within 30 days before the date of the fund facts.



	<b>MER</b>	<p>One commenter suggested defining MER on the first page of the fund facts, while another commenter suggested removing MER from the Quick Facts section since it also appears under the Ongoing fund expenses section.</p> <p>To minimize the need to update the fund facts, a commenter suggested the MER and the costs of a fund be derived from year-end financial statements.</p>	<p>We do not propose any change to the placement of MER in the fund facts. We continue to think it is appropriate to show the MER in the Quick Facts table and describe it in more detail under Ongoing Fund Expenses.</p> <p>We agree with the commenter that the MER disclosed should be as current as possible. The Instructions to the FF Form specify that the MER be derived from the most recently filed MRFP for the mutual fund.</p>
	<b>Portfolio manager</b>	<p>It was recommended by a commenter to reserve space in the Quick Facts section to accommodate funds with multiple portfolio managers or sub-advisers.</p>	<p>We have provided sufficient flexibility in the FF Form to accommodate the disclosure of required information, including the disclosure of multiple portfolio managers or sub-advisers.</p>
	<b>Distributions</b>	<p>One commenter stated the section Distributions could be misleading, since distributions are not guaranteed. This commenter suggested additional wording such as “aim or intend to distribute annually, monthly or quarterly...” be added or, alternatively, disclosure that distributions and their frequency are not guaranteed be added.</p>	<p>The Instructions to the FF Form specify that the disclosure of the frequency and timing of distributions should only be included if distributions are a fundamental feature of the mutual fund.</p> <p>We think that the disclosure under Distributions, when read together with the disclosure under Are There Any Guarantees?, will give investors an accurate description of the mutual fund.</p>

	<b>Minimum investment</b>	<p>We were also asked to clarify whether the Minimum Investment section would need to include the minimums for (a) preauthorized contributions; (b) systematic withdrawal plans; and (c) account balances.</p>	<p>The FF Form provides sufficient flexibility to permit the inclusion of minimums for preauthorized contributions under Minimum Investment if desired.</p>
<p><b>What does the fund invest in?</b></p>	<p><b>What does the fund invest in?</b></p>	<p>We received strong feedback from several commenters that the fundamental investment objectives as well as investment strategies of the fund should be included under the section “What Does The Fund Invest In?”.</p> <p>One of these commenters said that without this information, it would be difficult for investors to assess the reasonableness of the fees and expenses charged.</p> <p>Another of these commenters added that there could be liability for failure to provide a concise description of the investment objective, as it is the most important information an investor should have before making an informed investment decision.</p>	<p>We do not agree that it is necessary to disclose verbatim in the fund facts the investment objectives and strategies set out in the mutual fund’s simplified prospectus.</p> <p>The FF Form requires the disclosure under What Does The Fund Invest In? to be a brief description of the fundamental investment objectives and strategies of the mutual fund. In this regard, the Instructions to the FF Form mirror Item 6 of Form 81-101F1 <i>Contents of Simplified Prospectus</i> (Form 81-101F1), Part B. While the FF Form does not specifically preclude repeating the investment objectives and strategies set out in the simplified prospectus, the Instructions to the FF Form specify required information must be presented concisely and in plain language, with an overall Flesch-Kincaid grade level score of 6.0 or less.</p>
	<p><b>Top 10 investments, Total investments &amp;</b></p>	<p>We were asked to clarify any restrictions for the ‘as of’ date of the information under the</p>	<p>The disclosure under these sections is intended to provide investors with a</p>

	<b>Investment mix -Date of information</b>	<p>Top 10 Investments and Investment Mix section.</p> <p>One commenter suggested that funds be allowed to use the most recent quarterly portfolio breakdown prepared in accordance with section 6.2 of NI 81-106 for Top 10 Investments to eliminate fund managers preparing this information at different times. This commenter noted that if the fund facts is dated as of the annual prospectus filing date, neither the information under Top 10 Investments or Investment Mix could be provided as of that same date.</p>	<p>snapshot of the mutual fund's investments at a particular point in time.</p> <p>The Instructions to the FF Form clarify that the information under Top 10 Investments and Investment Mix be disclosed as at a date within 30 days before the date of the fund facts.</p>
	<b>Top 10 investments, Total investments &amp; Investment mix - Content</b>	<p>One commenter requested we mandate percentages accompany the investments under the section Top 10 Holdings.</p> <p>Two other commenters suggested adding disclosure under Top 10 Holdings to indicate that the list is subject to change.</p> <p>We were also asked to clarify whether the Top 10 Investments and Total Investments would be prepared on a consolidated issuer basis or by issue.</p> <p>One commenter suggested that any guidance or instructions for the Top 10 Investments and Investment Mix sections be in line with</p>	<p>We are satisfied that the disclosure meets its stated purpose to provide a snapshot of the composition of the mutual fund's investment portfolio. Accordingly, we propose no change.</p> <p>The FF Form requires each position in the Top 10 to be calculated in a manner that is consistent with the Summary of Investment Portfolio in the MRRP.</p> <p>The FF Form provides flexibility in the use of subgroups in the Investment Mix charts or tables. In this regard, the Instructions to the FF Form mirror Item 5 of Form 81-106F1. The FF Form</p>

		<p>the instructions in Item 5 of Form 81-106F1.</p> <p>Another commenter said disclosure about Investment Mix should not be mandated, as different categories may be more appropriate for some funds than others.</p>	<p>further requires a statement indicating that the information is subject to change.</p>
<p><b>How has the fund performed?</b></p>	<p><i>General feedback</i></p>	<p>One commenter asked why the fund facts contains performance disclosure when the information is available in other sources, including a fund's MRFP and in reports readily available to dealers and sales representatives, such as Morningstar.</p> <p>Another commenter asked if there would be flexibility to describe fund performance. This commenter noted that certain types of funds have objectives other than total returns (e.g., to generate regular, tax efficient distributions) and providing only performance disclosure may not give investors sufficient information to properly compare their options.</p>	<p>We have included performance disclosure in the fund facts in response to research which indicates investors want this information before making a decision to buy.</p> <p>The bar graph under How Has The Fund Performed? is intended to highlight potential volatility and variability in the returns of the mutual fund. To meet the Framework principle of comparability, we do not propose to allow flexibility in the presentation of this information.</p>
	<p><i>Content</i></p>	<p>One commenter suggested including a general statement regarding price volatility, and that the price of funds is subject to change and is not guaranteed.</p> <p>One commenter suggested adding a table showing compounded annual returns for the</p>	<p>The disclosure under How Has The Fund Performed must be shown for the specific series or class being described in the fund facts.</p> <p>The FF Form requires a general statement on price volatility and</p>

		<p>previous 1, 3, 5 and 10 year periods in comparison with the fund's benchmark.</p> <p>Another commenter asked for clarification on how the section applies to classes and series which have not been issued to the public at all.</p> <p>Finally, one commenter urged us to include a performance comparison to an index benchmark, which this commenter considers a key assessment tool to validate if the active fund manager adds value.</p> <p>This same commenter also suggested that after-tax returns be shown, since fund turnover and total expense ratio (TER) information will not be provided.</p>	<p>guarantees, including that actual return will depend on an individual's tax situation.</p> <p>After much consideration, we have concluded not to require additional comparative performance information. We are concerned that this would undermine our goal of a simple and concise summary of key information. This information, however, is available to investors in the mutual fund's MRFP.</p> <p>We are, however, considering the inclusion in the fund facts of the Total Expense Ratio that a mutual fund must disclose in its MRFP and are seeking specific feedback on this point.</p>
	<p><b><i>Date of information</i></b></p>	<p>We were asked to clarify whether the information under How has the Fund Performed? is intended to be presented annually based on a calendar year-end or on the fund's year-end. One commenter strongly recommended that for information to be comparable, performance information should be displayed on a calendar basis even if other information (Top 10 Investments, Investment Mix) is reported as at the date of the fund facts.</p>	<p>We agree that past performance information in the fund facts should be comparable. The Instructions to the FF Form clarifies that this information must be displayed on a calendar basis.</p>

	<p><b><i>Average return - Content</i></b></p>	<p>A commenter who supports the Average Return section made a number of comments on its content. The commenter recommended the section should be in the form of a graph that shows not only the “end amount after 10 years” but also the path followed to arrive at the end result. Additionally, the wording in the section should be altered to: “This works out to an average annual compound return of 10.5% per year” to avoid any confusion that \$1,705 divided by 10 equals 17.05%.</p> <p>This commenter also suggested the information be re-introduced in a fund’s MRFPP, since it seems inconsistent to have information in a “summary document” that is not contained in the more detailed legal document.</p>	<p>We propose no change to the disclosure. We continue to think that the bar graph is sufficient to illustrate to investors potential volatility and variability in the returns of the mutual fund. The FF Form clarifies that the annual compounded rate of return is to be disclosed. No specific wording is mandated</p> <p>It is outside of the scope of this project to reconsider MRFPP disclosure.</p>
	<p><b><i>Year-by-year returns - Content</i></b></p>	<p>Several commenters stated they did not think the wording under the Year-By-Year Returns section about investor loss of money is a fair representation. These commenters told us there needs to be a distinction made between paper losses and realized losses.</p> <p>One of these commenters suggested alternative wording: “Three out of ten calendar years, the value of the fund declined over the course of a calendar year”. Another of these commenters asked if the</p>	<p>The FF Form clarifies that the statement under Year-By-Year Returns must indicate the number of years in which the value of the mutual fund dropped. No specific wording is mandated.</p>

		<p>wording would be prescribed or left to funds to craft.</p>	
<p><b>How risky is it?</b></p>	<p><i>Content</i></p>	<p>One commenter stated that the risk table seems simplistic and capable of a wide range of interpretation by fund managers, such that it will be of very little use for an investor. The commenter also noted that risk is limited to risk of loss of principal, yet this is not the only form of risk. For example, for funds that are likely to be held for longer periods, purchasing power risk can be an equal or greater concern. This was echoed by another commenter, who remarked that a number of risks such as political risk, securities lending risk currency risk and even governance risk are not captured.</p> <p>Another commenter stated that the IFIC risk scale is solely a function of the variability in fund returns. This commenter recommended that fund specific risks be included under the “How Risky Is It?” section.</p> <p>An investor advocate expressed concern about allowing fund companies to rate the relative riskiness of their funds on a sliding scale based on a volatility metric created by a fund industry lobbyist. Investors will be left in the dark, we were told, about the fund’s true risks. As alternatives, the</p>	<p>In response to the commenters, including concerns raised by investors and IFIC of the use of its risk scale, we have revised How Risky Is It? from the Framework to no longer mandate the use by the mutual fund manager of the IFIC Fund Risk Classification Model.</p> <p>The FF Form requires the manager of the mutual fund to provide a risk rating for each mutual fund based upon the risk classification methodology adopted by the manager. The manager must then identify the mutual fund’s risk level on a scale prescribed in the FF Form made up of five categories ranging from low to high.</p> <p>It is our view that the use of a prescribed scale will promote comparability of risk across mutual funds. The consequential amendments require a description in the simplified prospectus of the methodology used by the manager of the mutual fund in arriving at its determination of the mutual fund’s investment risk level.</p>

		<p>commenter recommended using the worst 12-month return if the fund has been around for at least 10 years, using Beta or alternatively, a return to the use of the fund categories.</p> <p>This commenter also suggested reinstating the <i>Statement of Portfolio Transactions</i> as it provided tremendous insight into the portfolio managers' behaviour.</p>	<p>Since this is a departure from the Framework, we are seeking specific feedback on this proposed approach, including whether a description of key risks should be included under this section.</p> <p>It is outside the scope of this project to reconsider MRFP disclosure.</p>
<p><b>Are there any guarantees?</b></p>		<p>One commenter expressed concern that the disclosure under the section Are There Any Guarantees? could give investors a negative perception of funds. This commenter suggested replacing the wording with the disclosure set out under item 4(3) of Form 81-101F1 Part A. The commenter remarked that the reference to guarantees should relate to an investor's investments in a fund rather than to the fund itself.</p>	<p>We do not agree with this comment. We think the existence (or not) of a guarantee by the mutual fund is important information for investors before they make their decision to buy. Accordingly, we propose no change.</p>
<p><b>Who is this fund for?</b></p>	<p><i>General feedback</i></p>	<p>One commenter cautioned against the use of broad explicit warning statements in the section "Who Is This Fund For?". This commenter noted suitability is the obligation of the adviser and suitability language in the simplified prospectus is designed as a guide for both the adviser and the client. Accordingly, the commenter recommended any suitability disclosure be balanced in tone</p>	<p>We propose no change to the disclosure. This information is consistent with the disclosure currently required in the mutual fund's simplified prospectus. In this regard, the Instructions to the FF Form mirror Item 10 of Form 81-101F1, Part B.</p>



	<b>Content</b>	and take into account the role of the adviser.	
		<p>Two commenters expressed concern that encapsulating the most significant risks associated with a fund within one warning statement is very challenging and overly simplistic. One of these commenters asked us to provide guidance on the length of any warning statements and the types of risks that we expect addressed. The other commenter suggested the inclusion of a table with the “risk spectrum” that categorizes mutual funds from the safest (money market funds) to those with the highest risk (sector or foreign funds) and shows where this particular mutual fund fits on this spectrum.</p> <p>Another commenter suggested moving away from the statements “Don’t buy this fund if you need a steady source of income from your investment” to a more factual approach by adding a bullet to the section Investors Who: that says “● Seek growth in capital more so than a regular stream of income”.</p>	<p>We propose no change to the disclosure. As noted above, the disclosure under Who Is This Fund For? is substantially similar to the current disclosure in the mutual fund’s simplified prospectus.</p>

**Part 2 of fund facts**

<b>Fee disclosure</b>	<b>Content</b>		
<b>Sales charges</b>	<i>Deferred sales charges</i>	<p>We were told DSC costs and the annual 10% free redemption may be different amongst fund managers. Accordingly, we should allot space to allow a brief description of calculation methods.</p>	<p>The Instructions to the FF Form requires a description of how a deferred sales charge is calculated. We have provided sufficient flexibility in the FF Form to accommodate this required information.</p>
<b>Ongoing fund expenses</b>	<i>Operating expenses</i>	<p>We were told that for the vast majority of funds, operating expenses are not fixed and fund managers should be permitted to explain the types of expenses a fund can incur.</p> <p>This commenter also asked for confirmation that independent review committee (IRC) services and its associated costs are not required to be in the fund facts.</p> <p>One commenter recommended disclosure of the long term impact of costs on portfolio</p>	<p>We propose no change to the disclosure. The information required under Ongoing Fund Expenses is intended to provide investors with a general overview of the components of the MER, and illustrate that operating expenses will reduce their investment return. A more detailed explanation of the operating expenses of the mutual fund is available in other disclosure documents.</p>

<p><b>Other fees</b></p>	<p><i>Content</i></p>	<p>performance.</p> <p>One commenter recommended that we not limit the “Other fees” section to exclude such fees as performance fees, maintenance fees, trustee fees, registered plan fees, NSF charges, wiring fees and other specialty fees as these may also be relevant to investors in deciding to purchase a fund. We were told by this commenter to give fund managers the flexibility to determine what other fees are relevant.</p>	<p>We propose no change to the disclosure. The intention of Other Fees is to highlight to investors before they buy the other fees payable when they sell or purchase units of the mutual fund. Investors can ascertain the other fees associated with the mutual fund in the disclosure under Ongoing Fund Expenses.</p>
<p><b>For more information</b></p>	<p><i>Content</i></p>	<p>We received feedback from several commenters that the fund facts contain a stronger statement as to the summary nature of the disclosure and the availability of other documents, in addition to the simplified prospectus, that contain more detailed disclosure about the investment. Some of these commenters suggested alternative wording to this effect.</p> <p>One commenter stated that the current text is disingenuous, as it implies that the fund facts <i>may</i> not be adequate when in fact it leaves out significant details found only in the prospectus.</p> <p>A few of these commenters recommended</p>	<p>We have revised the disclosure under For More Information to give greater emphasis that the fund facts may not have all the information they want, and that more detailed information about the mutual fund is available in the simplified prospectus and other disclosure documents.</p>

		readers should be specifically referred to the websites where this information is posted, or the internet address. Although one commenter didn't recommend referring the reader to the SEDAR website because of the difficulty in accessing documents on it, another of these commenters did suggest referring to the availability of other disclosure documents on the SEDAR website, in addition to being able to obtain a copy from the dealer.	
<b>French version of fund facts</b>	<i>Use of term "société de placement"</i>	One commenter suggested using the term " <i>firme de courtage</i> " rather than the term " <i>société de placement</i> " as the French equivalent of "investment firm on page 2 of the fund facts because it is a commonly used term.	In response to comments, we suggest the French version of the fund facts use the term " <i>maison de courtage</i> ".
<b>Other fund facts comments</b>			
<b>Overall content of fund facts</b>	<i>Revisiting fund facts upon implementation</i>	One investor advocate suggested that the fund facts document be reviewed by the Joint Forum or CSA upon implementation with a view to amending it and improving the disclosure to investors.	We think the content of the fund facts is a good place to start, and expect the disclosure will evolve with time.
<b>Preparation of fund facts</b>	<i>Level of prescription</i>	While some commenters expressed the need to balance the degree of prescription with flexibility to ensure that the content of the fund facts is relevant and clear, one	We think the FF Form and its Instructions strike the right balance of flexibility and prescription, to allow investors to easily compare funds and

		<p>commenter remarked the greater degree of flexibility in the fund facts content was an improvement that would help benefit its accuracy.</p> <p>One of these commenters suggested fund managers have the flexibility to include items from page 1 on page 2, and vice-versa, as long as they follow the prescribed order for each item.</p> <p>Another suggested we give guidance on the information to be covered in the fund facts while leaving the specific wording to be developed by industry.</p> <p>One of the commenters remarked that excessive prescription will run the risk of making all fund facts appear the same (which would not help inspire investors to read them) and of requiring disclosure a fund manager believes is inappropriate or misleading.</p>	<p>to allow fund managers to describe their funds accurately.</p>
	<p><b><i>Providing additional information in the fund facts</i></b></p>	<p>One commenter asked whether funds with no sales charges or other fees could provide other information about the fund or the fund manager on Page 2.</p> <p>Another commenter suggested allowing an optional section for fund managers to provide additional information that they feel is</p>	<p>After much consideration, we have concluded that the FF Form should contain only the information that is specifically mandated or permitted. We think this approach is necessary to ensure comparability across mutual funds.</p>

		<p>relevant disclosure for investors.</p> <p>Still another commenter – an investor advocate - suggested allowing fund companies some leeway in what they include in the document. This would allow fund companies to include additional factual information that they consider relevant, such as risk factors that can affect performance, benchmarks, worst 12 months performance, management style, and anything else that would allow investors to make an informed analysis.</p>	<p>We remind commenters that neither the Framework nor the amendments to NI 81-101 restrict dealers from providing information in addition to the fund facts, at account opening or at any other time.</p> <p>As noted above, we are seeking specific feedback on the approach to risk disclosure in the fund facts.</p>
	<p><b><i>Tone of document</i></b></p>	<p>It was noted by one commenter that the disclosure under the sections How Risky Is It?, Are There Any Guarantees?, Who Is This Fund For and How Has The Fund Performed? is curiously negative about mutual funds and appears to be quite prescriptive.</p>	<p>We think the FF Form provides sufficient flexibility in the disclosure that accompanies the required information, including the tone and writing style.</p>
	<p><b><i>Readability of fund facts</i></b></p>	<p>One commenter expressed concern with compliance with the Flesch-Kincaid readability test. We were told the rule should clearly allow the use of tests built into commonly used word processing programs to ensure that no additional costs are imposed.</p> <p>This same commenter questioned the appropriateness of the less than grade 6.0 writing level, stating the vast majority of</p>	<p>We disagree with the commenter who questioned the appropriateness of requiring the fund facts be written at a 6.0 or less Flesch-Kincaid grade level.</p> <p>Literacy research indicates that a significant proportion of Canadian adults have serious problems dealing with printed materials or are able to deal only with simple reading tasks.</p>

		<p>Canadians are literate and writing to this level will not allow for an adequate level of information or discussion. It was remarked considerable time for transition will be needed given the current standards of disclosure in the industry.</p> <p>Yet one commenter, supportive of the Flesch-Kincaid readability test, further suggested that a minimum font size be specified to satisfy the reading requirements of seniors. This commenter also remarked that when a print document is converted to pdf, care should be taken to ensure that it is still reader friendly.</p>	<p>Low literacy levels are a major barrier to communication, and we are mindful that the investor base for mutual funds is a large and widely diverse portion of the Canadian population.</p> <p>Research also indicates that levels of investment knowledge and financial capability are generally very low.</p> <p>This research reinforces the need for clear and simple disclosure. In June 2007, we published an extensive list of the research, studies and other sources that staff reviewed and relied on in developing the Framework.</p> <p>Currently there is a requirement to use plain language in many of the mutual fund's disclosure documents. To ensure ease of readability, we think it is appropriate to impose a grade 6.0 or less grade level for the fund facts. We do not think the level of information or discussion will be compromised by adherence to a Flesch-Kincaid grade level. Rather, the information will be presented absent complex legal jargon, providing the disclosure in a simple, accessible and comparable format consistent with the principles of the</p>
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			<p>Framework.</p> <p>Companion Policy 81-101CP to National Instrument 81-101 <i>Mutual Fund Distributions</i> (NI 81-101) clarifies that the use of Flesch-Kincaid tests built into commonly used word processing programs to measure the Flesch-Kincaid grade level score of a fund facts may be relied upon.</p> <p>While a minimum font size for the fund facts is not mandated, the Instructions to the FF Form requires that the font be legible, and that where available online, the fund facts must be presented in a way that is capable of being printed in a readable format on paper. We have also provided sufficient flexibility in the FF Form to accommodate a larger font size.</p>
	<p><b><i>Dealer information vs. fund information</i></b></p>	<p>Two commenters seemed to imply that the CSA should be careful to avoid duplication between the information to be provided in the fund facts (information related to the fund and its management and administration) and the information in the relationship disclosure document in proposed National Instrument 31-103 (distribution information and dealer-specific information, including specific</p>	<p>We are satisfied that the product specific disclosure in the fund facts does not duplicate information required in other regulatory disclosure documents.</p>



		<p>information about the forms of compensation the dealer and adviser are receiving or will receive in respect of fund sales).</p>	
	<p><b>Filing requirements</b></p>	<p>One commenter welcomed the change in the Framework to only require the fund facts to be produced once a year (unless there are material changes) on the same cycle as the simplified prospectus renewal.</p> <p>Another commenter asked, however, that we clarify whether the fund facts will have to be filed initially with the preliminary and/or pro forma prospectus and whether, in such circumstances, the fund facts will be reviewed and commented on by the regulators.</p> <p>One commenter recommended that fund managers be given the flexibility to prepare the fund facts at any point in time in the year because the level of work and resources required to prepare prospectuses and other continuous disclosure documents would make it extremely difficult to simultaneously prepare the fund facts within already compressed timelines and might jeopardize the manager's ability to file and deliver these documents within the required time period. This commenter acknowledged that, should a prospectus amendment be made that would impact the fund facts, the fund facts would</p>	<p>We think the disclosure in the fund facts makes it appropriate for it to be reviewed in conjunction with the mutual fund's filing of its simplified prospectus (SP) and annual information form (AIF). The amendments to NI 81-101 specify that the fund facts be filed at the same time as the mutual fund's SP and AIF and reviewed as part of the mutual fund's prospectus receipt process.</p> <p>The amendments to NI 81-101 also contemplate fund managers having the flexibility to update the information in the fund facts by periodically filing an updated fund facts on SEDAR. The amendments to NI 81-101 further set out when amendments to a fund facts must be filed and reviewed.</p>

		have to be amended as well.	As noted above, we have concluded that the FF Form should contain only the information that is specifically mandated or permitted. We think this approach is necessary to ensure comparability across mutual funds.  In response to comments, the Instructions to the FF Form specifies that if the responses to the required information in each section cause the disclosure to exceed the 2 page limit, the required information may extend to 3 pages in length.
	<b><i>Length of document</i></b>	<p>Two commenters observed that the fund facts template leaves no room to address any other relevant information. Both these commenters requested that the CSA reconsider its position to limit the number of pages of a fund facts and only provide flexibility to those circumstances in which there are multiple sales charge options available.</p> <p>One commenter noted that in November 2008, the SEC announced its own disclosure initiative for mutual funds which provides for a simplified disclosure document which can run 3 or 4 pages and which provides greater disclosure than the fund facts.</p>	<p>We agree. The fund facts may be produced in colour or in black and white.</p>
	<b><i>Production and distribution of fund facts in colour vs. black and white</i></b>	<p>One commenter recommended that dealers be given the choice to deliver the fund facts in colour or in black and white since it would be difficult to deliver colour fund facts in all contemplated delivery methods (e.g. facsimile).</p> <p>One commenter asked us to clarify how the completeness of the information contained in the fund facts would be measured, in order to avoid recourse by an investor.</p> <p>Another commenter suggested the “For More</p>	<p>We disagree with those commenters who expressed concern that delivery of the fund facts creates a lack of certainty regarding the liability of mutual funds and fund managers.</p>
<b>Liability for incomplete or inaccurate information</b>			

		<p>Information” section refer investors to the prospectus to help address the danger that both a client and their adviser rely on the fund facts to the exclusion of the prospectus.</p> <p>One commenter recommended further consultation on the liability of funds and fund managers for the disclosure in the fund facts. We were told the theory behind giving investors a simple two-page document should be that the document is deemed to incorporate by reference all of the other permanent disclosure documents, so that, in effect, investors are deemed to receive the other documents when they receive the fund facts.</p>	<p>The fund facts is incorporated by reference into the simplified prospectus. This means that the existing securities laws apply and any misrepresentation in the fund facts will result in the investor having a statutory right to take action against the mutual fund for rescission or damages.</p> <p>As noted above, we have revised the disclosure under For More Information to give greater emphasis that the fund facts may not have all the information an investor wants, and that more detailed information about the mutual fund is available in the simplified prospectus and other disclosure documents.</p>
<p><b>Rationalization of disclosure requirements</b></p>		<p>Three industry commenters remarked that the fund facts should not simply be an add-on to today’s disclosure documents. Yet, we also heard from an investor advocate that the Simplified Prospectus provides additional important information that should continue to be provided to investors either at the point of sale or with the trade confirmation. Since this is a current requirement, there would be no additional burden placed on the mutual fund industry.</p>	<p>We expect to undertake a review of the current disclosure regime for conventional mutual funds as a second stage of this project. The purpose of that review will be to determine whether unnecessary duplication exists between the SP, AIF and the existing continuous disclosure regime. In particular, we will explore the development of a single foundation document to replace the current SP &amp;</p>

		<p>Two of the industry commenters urged the CSA to complete the task of reviewing the entire disclosure regime for mutual funds to determine whether it can be streamlined at the same time as the fund facts legislation is ready for implementation, so that the costs associated with preparing the current disclosure documents would be reduced, resulting in savings to the fund investors. The other commenter questioned the need for a fund facts at all, given the current complexities of the mutual fund regulation and the additional costs of preparing a fund facts. This commenter noted the current widespread availability of short web-based outlines of funds.</p> <p>One of the commenters further asked us to consider allowing funds in a fund family to combine disclosure into one central foundation document. This foundation document would include a simple and complete discussion of the important material facts about the operations, management, structure and administration of a fund that would not repeat information contained in the continuous disclosure documents. The combination of the foundation document and the continuous disclosure information would allow a fund to disclose all material facts so</p>	<p>AIF in order to provide disclosure that better integrates with the fund facts document.</p> <p>We agree with the commenter who remarked that the SP provides important information. We consider the availability of the SP upon request to be sufficient in conjunction with delivery of the fund facts before an investor makes a decision to purchase.</p>
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		<p>that disclosure would be ‘full, true and plain’ as required by securities laws.</p> <p>Another commenter asked that we consider creating a companion user document to provide additional context and meaning for each element of fund facts information. The document could also explain the pros and cons of different sales charges, and whether such charges can be negotiated. It was suggested this companion document be available free in hard copy and on-line upon request.</p> <p>We were also urged by this commenter to beef up educational materials to enable investors to better understand this complex product and confusing distribution system.</p>	
<p><b>Scope of Framework</b></p>	<p><i>Application to accredited investors, institutional investors and discretionary managed accounts</i></p>	<p>Several commenters told us that they think the fund facts is only appropriate for retail investors, not institutional or accredited investors and investors with discretionary managed accounts. Most of these commenters asked that these investors and, hence, those series/classes of funds sold to them, be excluded from the scope of the rule.</p> <p>One of these commenters suggested fund managers have the flexibility of deciding whether or not to prepare a fund facts for</p>	<p>We do not propose to reconsider the current application of the prospectus delivery requirements under securities legislation. Where there exists an obligation today to deliver the mutual fund’s SP, the amendments to NI 81-101 requires delivery of the fund facts as prescribed.</p>

		institutional class/series funds or any class/series funds offered only through discretionary investment managers.	
	<b><i>Application to fund of funds</i></b>	Two commenters asked us to clarify whether a fund of funds would be treated as an individual mutual fund for which only one fund facts document would be delivered, or whether a Fund Fact for each of the underlying funds would need to be provided.	We do not propose to treat fund of funds disclosure differently than exists today. We expect a fund of funds that discloses top fund specific information under a single Part B to have a single fund facts for each series or class of the top fund.
	<b><i>Application to wrap products and asset allocation services</i></b>	One commenter, noting that the Framework no longer precludes the grouping of fund facts into a consolidated document, asked us to clarify if this could be interpreted to allow dealers to deliver a single consolidated document containing the fund facts for each wrap program or asset allocation service.	In response to comments, the amendments to NI 81-101 provide some flexibility to bind one or more fund facts of mutual funds in the same mutual fund family.
	<b><i>Application to other types of investment products</i></b>	One commenter asked us to confirm if the Framework applies to all investment funds, including those that are required to file a long-form prospectus under National Instrument 41-101. This commenter remarked that the principles in the Framework are equally important for investors in other types of investment funds, including LSVCCs, as they are for investors in mutual funds that use a simplified prospectus.	As previously noted, it is outside the scope of this project to consider a point of sale disclosure for other types of investment funds.  We do not disagree, however, with those commenters who told us that the principles set out in the Framework for point of sale disclosure may have applicability for other types of investment products. We expect

		<p>Three commenters expressed the view that the POS delivery requirement should be simultaneously imposed on other products such as exchange traded funds, closed-end-funds, hedge funds, principal protected notes and securities listed on exchanges. Two of these commenters noted that some of these other investment products can be even more complex than some mutual funds or segregated funds.</p> <p>We were also urged by another commenter to consider including scholarship plans in the draft rules being developed to implement the Framework.</p>	<p>disclosure for all types of investment funds will evolve with time, and we anticipate point of sale disclosure for mutual funds may provide a platform for future regulatory reform.</p>
<p><b>One fund facts per series/class</b></p>	<p><i>Cost and logistical implications</i></p>	<p>Many commenters remarked on the logistical and cost implications for the dealer, as well as to the fund manager to prepare a fund facts for each series or class of units of a fund at least once a year in English and also in French.</p> <p>One of these commenters noted the costs will likely to be passed onto investors in the form of higher management expense ratios.</p> <p>Several of them emphasized the sheer volume of documents will lead to administrative difficulties at the fund manager, dealer and salesperson level, and could potentially lead to errors in delivering the correct fund facts.</p>	<p>We do not propose to make any change at this time. To date, we have not seen a sample fund facts that contains multiple series or class disclosure that meets the Framework principle of providing investors with information in a simple, accessible and comparable format.</p> <p>As discussed above, in response to comments, we have provided some flexibility in the amendments to NI 81-101 for a fund facts to be attached to, or bound with, one or more fund facts of other mutual funds in the same</p>

	<p><b><i>Reducing product choice and product arbitrage</i></b></p>	<p>Two of these commenters noted the increased risk that a dealer may not have all the fund facts at hand when meeting with a client, or have the incorrect fund facts, which would frustrate the sales transaction.</p> <p>We were told advisers typically sell approximately 20 mutual funds from a variety of mutual fund companies. This could result in the adviser needing sufficient inventory of 10 or more separate fund facts for a single fund, representing each series it offers.</p> <p>Finally, one commenter remarked that the mutual fund industry has made significant strides in reducing paper and increasing the use of electronic means. A fund facts per series will be a significant step backwards and will result in more, not less paper being produced in an era when investors want less paper and more electronic access at their convenience.</p> <p>Three commenters remarked that the logistical challenges for dealers and advisers could result in them distributing fewer mutual funds, to better manage the administrative burden. This could reduce investment alternatives, which could have negative price implications for investors. It could also result in advisers</p>	<p>mutual fund family for the purposes of delivery.</p> <p>We have specifically asked for submissions of sample fund facts that demonstrate multiple series or class information presented in a manner consistent with the principles in the Framework.</p>
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	<p><b><i>Improving informed decision making for investors</i></b></p>	<p>and their clients favouring other similarly-regulated products that are less cumbersome to purchase. All of this, we were told, will put mutual funds at a competitive disadvantage relative to these other products.</p> <p>A number of commenters expressed that a single fund facts document per fund with consolidated fees and expenses information for each series would provide investors with a more complete picture of the fund and his or her investment options.</p> <p>Three of these commenters noted that if various series are offered in different fund facts, investors would not be able to easily compare the offerings of different fund companies or be aware of other series of the same fund with lower fees or expenses.</p> <p>Another noted that different fund managers use different letters of the alphabet to name their series, which may make any comparison of funds from different fund families confusing.</p> <p>One commenter remarked that for investors who desire to use electronic means to access a copy of the fund facts in the event they lost the original, multiple series or classes could be very confusing since many investors know</p>	
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	<p><b><i>Alternative to one fund facts per series/class - Provide flexibility</i></b></p>	<p>which funds they own, but not which series or class of the fund they own.</p> <p>Some commenters suggested that if the CSA proceeds with a fund facts at the series level, fund managers be given flexibility to combine more than one series in a fund facts where practicable, and to affix more than one series together where it is reasonable to do so.</p> <p>Two commenters stated that since often only sales charges or compensation is different between series or classes, provided the differences can be clearly and concisely summarized in a single fund facts, it should be allowed.</p> <p>One commenter remarked that the investment objectives, strategy and structure of a fund are set at the fund level and where there is no material difference between series or classes, it should be allowed to combine series and classes. Alternatively, another commenter suggested material terms which are not the same between funds could be highlighted in a combined fund facts.</p> <p>Finally, one commenter suggested that an exemption should be given in situations where the fees are negotiable by the client.</p>
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	<p><i>Alternative to one fund facts per series/class - Specific content</i></p>	<p>In support of accommodating multiple series/class information in a single fund facts, commenters provided us with specific examples of how it could work.</p> <p>One commenter suggested the graph showing the year-by-year returns in the “How has the fund performed?” section could present the returns of different series with different bars in the same graph.</p> <p>One commenter suggested increasing the number of pages of the fund facts to allow for a description of each series.</p> <p>Another commenter suggested that a table could be constructed (as is now done in many Simplified Prospectuses) outlining each series and other purchase options and costs without overly complicating or lengthening the fund facts.</p> <p>This commenter suggested another alternative of providing "representative" information about the performance of the series with the highest MER, for example, and directing investors to review the MRFPP for that fund to see detailed performance information by series if they choose.</p> <p>Still another commenter recommended the</p>	
	<p><i>Alternative to One</i></p>		

	<p><i><b>fund facts per series/class - binding</b></i></p>	<p>CSA allow all series aimed at a particular type of investor (e.g. non-high net worth retail investors) to be grouped in one document.</p> <p>One commenter suggested that funds should be permitted to bind their fund facts with those of other funds under common management.</p> <p>Another commenter agreed with this suggestion, remarking investors may consider that they are better served by having access to a document that compares and contrasts different mutual funds in a fund family in order to understand the full range of investment options.</p>
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**Part IV – Investor rights comments**

<u>Issue</u>	<u>Sub-Issue</u>	<u>Comments</u>	<u>Responses</u>
<b>Investor rights</b>	<i><b>Harmonized cancellation right</b></i>	<p>Most commenters expressed general agreement with the Framework’s proposal to create a single, harmonized cooling-off right for investors.</p> <p>For greater certainty, we were asked to be clear in any rule that this cooling-off</p>	<p>We propose no change. We think the proposed cancellation right in the amendments to NI 81-101 provides investors with a reasonable opportunity to change their mind after buying a mutual fund.</p>

		<p>period supersedes any other withdrawal rights in securities legislation.</p> <p>A few commenters remarked that the inclusion of a 48 hour cooling-off period addresses any concerns regarding “buyer’s remorse” by investors, making it less crucial for the fund facts to be delivered before a purchase.</p> <p>However, an investor advocate told us the proposal is unfair to investors, since unlike the present regulatory framework, an investor will now be exposed to downside risk but will not have the benefit of any increase in the value of the fund on the day that right is exercised. This commenter considered the change a reduction in investor rights. We were asked to retain the existing cooling-off right.</p>	<p>We do not perceive the change from the existing regulatory framework to be a reduction of investor rights. Rather, we consider the remedy under the right to be appropriate in combination with delivery of the fund facts before or at the point of sale, which we anticipate will increase investor awareness of the existence of a cooling-off right.</p>
	<p><b><i>Trigger for cancellation right</i></b></p>	<p>One commenter remarked that the Framework provides greater clarity and certainty for both investors and member firms with the trigger point for the cooling-off right at the receipt of the trade confirmation. Another commenter, however, asked us to clarify the existence of any deeming provisions for the receipt of the trade confirmation, and whether there is any case law concerning the</p>	<p>The trigger for the proposed cancellation right remains the receipt of the trade confirmation. The deeming provision for the delivery of a trade confirmation is consistent with existing securities legislation.</p>

		interpretation of deemed receipt.	
	<b><i>Notice of cancellation</i></b>	We were asked to clarify whether the requirement for the client to provide notification of cancellation in writing would include e-mail, and whether the dealer would be required to confirm receipt of the notice for the cancellation. This commenter remarked that without dealer confirmation, there is a possibility that a client may claim to have alerted the dealer without the dealer having received the notification.	The notification provision for cancelling the purchase has been drafted consistent with existing securities legislation. We do not propose to prescribe dealer policies and procedures for dealing with such notices.
	<b><i>Responsibility for reimbursement of fees in event of cancellation</i></b>	We were asked to confirm that where an investor cancels a mutual fund purchase, the repayment of any early redemption/short term trading fees levied by a mutual fund are reimbursed by the manager and not the dealer.	We do not think it is appropriate to prescribe responsibility for reimbursement of fees in the event of cancellation.
	<b><i>Treating cancellation as a redemption</i></b>	We were also asked by a commenter to clarify the treatment of a cancellation as a redemption. This commenter questioned what would happen in the event of a distribution of revenue during the cooling off period and suggested it be treated as a correction.  This commenter also proposed that when an investor exercises their cancellation	We consider a cancellation to be subject to different considerations from those associated with a redemption request.  We agree with the commenter that it would not be appropriate to automatically switch an investor to another mutual fund after the investor exercises the cancellation right.

		<p>right in respect of Fund B after a switch from Fund A to Fund B, the investor should not be switched back into Fund A since they may no longer want to be invested in Fund A.</p>	
	<p><b><i>Liability for failure to deliver fund facts</i></b></p>	<p>While one commenter expressed agreement with the proposal to amend the current right of action for failure to deliver a simplified prospectus and have it apply only to delivery of a fund facts document, other commenters told us that the Framework exposes mutual funds and their managers to increased risk.</p> <p>A few commenters remarked on the unfairness to the fund manager and the fund of a perpetual right of rescission by the investor in the event of non-delivery of the fund facts, which is completely out of the hands of the fund manager and the fund. We were also told this right will create challenges for dealers in developing a suitable compliance framework, audit trail and adequate record keeping.</p> <p>We were asked to confirm that the obligation to deliver the fund facts lies with the dealer, irrespective of whether the dealer or fund manager is delivering the confirmations, and to include a feature</p>	<p>If delivery of the fund facts is to satisfy the prospectus delivery requirements under securities legislation, some jurisdictions may require legislative amendments in order to preserve an investor's right to damages or rescission in the event that the investor fails to receive a fund facts.</p> <p>We do not agree with those commenters who expressed concern that mutual funds and mutual fund managers will be exposed to increased risks, particularly a perpetual right of rescission. We intend for existing statutory remedies and limitation periods to apply to the failure to deliver the fund facts. Failure to deliver the fund facts at the appropriate time, however, will be a breach of securities legislation, whether or not delivery is cured after the fact.</p> <p>We acknowledge that there may be challenges in developing new compliance mechanisms to adequately</p>

		<p>which enables dealers to cure a failure to deliver the fund facts.</p> <p>Another commenter suggested specifying a reasonable standardized limitation period for an investor to be able to claim a remedy for failure to deliver the fund facts.</p>	<p>audit and ensure compliance with delivery of the fund facts before or at the point of sale. We have asked for specific feedback on the appropriateness of the transition period we propose in the amendments to NI 81-101.</p>
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**Part V – Other comments**

<u>Issue</u>	<u>Sub-Issue</u>	<u>Comments</u>	<u>Responses</u>
<b>Principles-based regulation</b>		<p>We were asked by a couple of commenters to consider adopting a principles-based approach in implementing the Framework. One of these commenters suggested that the benefits of such a form of regulation would include increased regulatory scope, adaptability, and predictability; as well as a reduction in unnecessary regulatory duplication and redundancy.</p>	<p>We think the FF Form and amendments to NI 81-101 strike the right mix of ‘principles’ and ‘prescriptive’ regulation.</p>
<b>Cost-benefit analysis</b>	<i>Benefits marginal</i>	<p>A few commenters remarked that the marginal value to individual investors of requiring that the fund facts be delivered before or at POS, rather than with the trade confirmation, appears small relative to the practical challenges, costs and impairment to service that such a requirement would</p>	<p>We think delivery of the fund facts before or at the point of sale will address the problem that the current disclosure regime for mutual funds is not effective for investors. Investors are not using the information provided in the SP, and they do not have the information at the time</p>



		<p>create.</p> <p>Still other commenters stated that it wasn't clear what regulatory deficiency would be resolved by the delivery requirements or how it would enhance investor protection in an industry in which most fund purchases are made with the assistance of a registered financial adviser. This sentiment was echoed by another commenter, who remarked the Joint Forum has not presented any substantive evidence to support the proposition that delivery of the fund facts is likely to either enhance consumers' decisions, or help them avert bad decisions.</p> <p>One commenter stated that the costs of preparing, filing, and printing the fund facts will far outweigh the cost savings associated with reduced printing of the prospectuses. We were urged by another commenter to rationalize the filing fees payable in respect of all disclosure documents.</p> <p>We were also told that the research conducted by the Joint Forum into investor sentiment about the fund facts must be supplemented by focused cost-benefit analysis and further research into delivery.</p>	<p>they are making their investment decision. By making disclosure more effective, we will give investors the opportunity to make more informed decisions.</p> <p>In June 2007, we published an extensive list of the research, studies and other sources that staff reviewed and relied on in identifying the problems with the current disclosure regime and in developing the Framework. We will consider conducting further research on investor attitudes towards presale delivery.</p> <p>The extent to which investors and industry are affected in terms of benefits and costs is difficult to determine. We anticipate that costs for industry stakeholders will fall into the following categories: preparation of the fund facts, regulatory filings and compliance. We also anticipate that there will be reduction in costs because we expect that the number of SPs that will actually have to be delivered will decrease significantly.</p> <p>We have asked for specific feedback on the anticipated costs and savings</p>
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<p><b>Other</b></p>	<p><i>Use of Term “adviser” in Framework</i></p>	<p>Given that the prospectus delivery requirement is currently an obligation of a dealer and not an adviser, one commenter asked us to clarify that the term “adviser” was used generically in the Framework simply to refer to salespersons rather than the adviser category of registration.</p>	<p>We can confirm that the term “adviser” was used generically in the Framework, and was not intended to refer to the adviser category of registration.</p>

**Part VI – List of commenters**

**Commenters**

- Advocis
- AGF Funds Inc., Brandes Investment Partners, CI investments, Fidelity Investments Canada ULC, Franklin Templeton investments Corp, Invesco Trimark Ltd., and Mackenzie Investments
- AGF Management Limited
- Assante Wealth Management
- Bick Financial Security Corporation
- Blackmont Capital Inc.

- BMO Investments Inc.
- Board of Governors for Investment Funds managed by CI Investments Inc. and United Financial Corporation
- Borden Ladner Gervais LLP
- Brandes Investment Partners & Co.
- Broadridge Financial Solutions Inc.
- Brownstone Investment Planning Inc.
- Canadian Bankers Association
- Canadian Foundation for Advancement of Investor Rights
- Canfin Magellan Investments Inc.
- Capital International Asset Management (Canada), Inc.
- CIBC
- CI Investments Inc.
- Connor Financial Corporation
- Edward Jones
- Federation des caisses Desjardins du Quebec
- Franklin Templeton Investments Corp.
- Fidelity Investments Canada ULC
- Independent Financial Brokers of Canada
- Independent Planning Group Inc.
- International Capital Management
- Invesco Trimark
- Investment Funds Institute of Canada
- Investment Industry Association of Canada
- Investment Planning Counsel
- Investors Group Inc.
- Irwin, White & Jennings on behalf of Growth Works Funds
- John De Goeij
- Keybase Financial Group Inc.
- Mackenzie Financial Corporation

- Manulife Securities Incorporated, Manulife Securities Investment Services Inc. and Manulife Mutual Funds (a division of Elliott & Page Limited)
- MD Funds Management Inc.
- PFSL Investments Canada Ltd.
- Professional Investments (Kingston) Inc.
- RBC Asset Management Inc.
- RBC Dominion Securities Inc., Royal Mutual Funds Inc., and Phillips, Hager & North Investment Funds Ltd.
- RESP Dealers Association of Canada
- Scotia Securities Inc.
- Small Investor Protection Association
- TD Bank Financial Group
- Tradex Management Inc.