

## Appendix J

### Consequential Amendments to the *Securities Rules*

1. *Subsection 1(1) of the Securities Rules, B.C. Reg. 194/97, is amended by*
  - (a) *repealing the definition of “investment issuer”,*
  - (b) *repealing and replacing the definitions of “investment fund” and “non-redeemable investment fund” with the following definitions;*

“investment fund” means an investment fund as defined in NI 81-106,

“non-redeemable investment fund” means a non-redeemable investment fund as defined in NI 81-106,
  - (c) *adding the following definition;*

“NI 81-106 means National Instrument 81-106 *Investment Fund Continuous Disclosure*”,
2. *Subsection 1(2) is amended by repealing the definitions of “auditor’s report”, “Canadian auditor’s report”, “foreign auditor’s report”, and “foreign GAAS”.*
3. *Section 2 is repealed.*
4. *Subsection 3(1) is repealed and replaced by the following:*

**3. Preparation of financial statements** (1) The requirements in subsection (5) do not apply to financial statements if the financial statements are prepared in accordance with NI 52-107,
5. *Subsection 3(4) is repealed and replaced by the following:*

(4) Subject to sections 99, 111(1), 113.1, 113.2, and 144(3), a person that is required to file financial statements under Part 9 of the Act or the regulations relating to that Part must include an audit report.
6. *Subsections 3 (9), (12), (13), and (14) are repealed.*
7. *Subsection 50(1)(g)(i) is amended by replacing “section 145” with “section 145(1)”.*

8. **Section 64(1)(a) is amended by replacing** “section 145” **with** “section 145(1)”.
9. **Section 69 is amended by replacing** “under section 145,” **with** “under section 145(1),”.
10. **Section 98.2 is repealed and replaced by the following:**

**98.2 Alternative certificate of investment fund** (1) If an investment fund is established as a trust, the certificate required to be signed by the investment fund must be signed by

- (a) each individual who is a trustee or by a duly authorized attorney of the individual, or
- (b) the duly authorized signing officer or officers of the trustee, if the trustee of the investment fund is a corporation.

(2) Despite subsection (1), a certificate required to be signed by the trustee of an investment fund, may be signed by any other person if that person is duly authorized to sign the certificate by the declaration of trust or trust agreement establishing the investment fund.

(3) Despite subsections (1) and (2), if the trustee of the investment fund is also its manager, the certificate must state that the certificate is being signed by the person both in the capacity of trustee and manager of the investment fund and must be signed in accordance with section 98.3

(4) An investment fund to which NI 81-101 does not apply, is exempt from paragraphs 68(2)(a) and (b) and subsection 68(3) of the Act if the certificate required by subsection 68(1) of the Act is signed in accordance with this section.

11. **Subsection 98.3(1) is repealed and replaced by the following:**

**98.3 Certificate of Manager** (1) An investment fund to which NI 81-101 does not apply, must contain a certificate from the manager of the investment fund.

12. **Section 111(1) is amended by inserting the words** “of an issuer other than an investment fund” **after the words** “A financial statement included in a prospectus”.
13. **Section 112(1) is amended by replacing** “a mutual fund” **with** “an investment fund”.
14. **Section 112(2) is repealed.**

15. *Section 113 is repealed and replaced by the following:*

**113. Financial statements in a prospectus – investment fund (1)**

Subject to subsections (2) and (3), an investment fund that files a prospectus under the Act must include in the prospectus the annual financial statements and audit report in the form specified by Part 2 and Part 3 of NI 81-106 for the investment fund's 3 most recently completed financial years, or if the investment fund has not completed 3 financial years, for all of its financial years.

(2) An investment fund that is a mutual fund may omit its financial statements for the oldest financial year otherwise required under subsection (1).

(3) If an investment fund's most recent financial year ended within 90 days of the date of the prospectus referred to in subsection (1), the investment fund may treat the previous year as the most recent financial year under subsection (1).

(4) If the investment fund has not completed its first financial year, the fund must include in the prospectus financial statements for the period from the date of the fund's formation to a date not more than 90 days before the date of the prospectus.

16. *Section 113.1 is added as follows:*

**113.1 Interim financial statements – prospectus – investment fund (1)**

An investment fund that files a prospectus must include in the prospectus its financial statements in the form specified by Part 2 and Part 3 of NI 81-106 for the interim period that began immediately after the financial year to which the annual financial statements required to be included in the prospectus under Section 113 relate, if the prospectus is filed 60 days or more after the end of that interim period.

(2) The interim financial statements required by this section may be unaudited.

17. *Section 113.2 is added as follows:*

**113.2 Financial statements exemption – mutual fund -** Despite sections 113 and 113.1, a mutual fund that is subject to NI 81-101 must incorporate by reference in the prospectus the financial statements required to be incorporated in a prospectus under NI 81-101.

18. *Section 114(1)(b) is repealed and replaced by the following:*

(b) an income statement, a statement of retained earnings and a statement of changes in financial position of the acquired business

- (i) for each of its last 5 financial years, and
- (ii) for any part of its subsequent financial year to the date at which the balance sheet required by paragraph (a)(ii) is made up and for the comparative period in the immediately preceding financial year,

19. *Section 144 is repealed and replaced by the following:*

**144. Interim financial statements** (1) A reporting issuer that is not an investment fund must prepare and file the interim financial statements required by NI 51-102.

(2) A reporting issuer that is an investment fund must prepare and file the interim financial statements required by NI 81-106.

(3) The interim financial statements filed under subsection (1) or (2) need not include an auditor's report.

20. *Section 145 is repealed and replaced by the following:*

**145. Annual financial statements** (1) A reporting issuer that is not an investment fund must prepare and file the annual financial statements required by NI 51-102.

(2) A reporting issuer that is an investment fund must prepare and file the annual financial statements required by NI 81-106.

21. *Sections 146, 147, 148, 149, 151, and 152 are repealed.*

22. *Subsection 153(1)(a), (2)(a), and (3) are repealed.*

23. *Subsection 181(2) is amended by replacing "mutual fund" with "investment fund".*

24. *Sections 183 and 184 are repealed.*