

ANNEX D

BLACKLINE SHOWING AMENDMENTS TO NATIONAL INSTRUMENT 31-103 REGISTRATION REQUIREMENTS, EXEMPTIONS AND ONGOING REGISTRANT OBLIGATIONS

1.1 Definitions of terms used throughout this Regulation

In this Instrument (...)

“direct investment fund charge” means an amount charged to a client if the client buys, holds, sells or switches securities of an investment fund, including any federal, provincial or territorial sales taxes paid on that amount, other than, for greater certainty, an amount included in the investment fund’s fund expenses;

“fund expense ratio” means the sum of an investment fund’s management expense ratio and trading expense ratio, expressed as a percentage;

“management expense ratio” has the same meaning as in section 1.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure*;

“newly-established investment fund” means,

- (a) for an investment fund required to file a management report of fund performance, as defined in section 1.1 of National Instrument 81-106 *Investment Fund Continuous Disclosure*, a fund that has not yet filed that report, or
- (b) for an investment fund not referred to in paragraph (a), a fund established less than 12 months before the end of the period covered by the statement or report that is required to be delivered by the registered dealer or registered adviser under section 14.17;

“trading expense ratio” means the ratio, expressed as a percentage, of the total commissions and other portfolio transaction costs incurred by an investment fund to its average net asset value, calculated in accordance with paragraph 12 of item 3 of Part B of Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance* of National Instrument 81-106 *Investment Fund Continuous Disclosure*;

(...)

14.1.1 Duty to provide information – investment fund managers

A registered investment fund manager of an investment fund must, within a reasonable period of time, provide a registered dealer or a registered adviser that has a client that owns securities of the investment fund with the information that is required by the dealer or adviser, in order for the

dealer or adviser to comply with paragraph 14.12(1)(c), subsections 14.14(4) and (5), 14.14.1(2) and 14.14.2(1) and paragraphs 14.17(1)(h), (i), (j), (m), (p), (q), (r) and (t).

The following sections are added to Division 1 after section 14.1.1:

14.1.2 Determination of fund expenses per security

- (1) For the purpose of section 14.1.1, with respect to the information required in respect of paragraph 14.17(1)(i), the registered investment fund manager must provide the fund expenses per security of the applicable class or series of securities of the investment fund for each day that the client owned those securities, expressed in dollars and calculated using the following formula, making any adjustments to A or B that are reasonably necessary to accurately determine C:

$A \times B = C$, where

A = the fund expense ratio for the day of the applicable class or series of securities of the investment fund;

B = the market value of a security for the day of the applicable class or series of securities of the investment fund;

C = the fund expenses per security for the day in dollars for the investment fund class or series of securities.

- (2) Despite section 14.1.1 and subsection (1), unless the investment fund manager reasonably believes that doing so would result in misleading information being reported to clients of the registered dealer or registered adviser, a registered investment fund manager may
- (a) use a reasonable approximation of A or B for the purpose of calculating C in the formula in subsection (1), or
- (b) provide a reasonable approximation of the information required to be provided for the purpose of paragraphs 14.17(1)(i), (j) or (m).
- (3) Despite section 14.1.1 and subsections (1) and (2), in the case of an investment fund that is a newly-established investment fund, the registered investment fund manager is not required to provide the information required under paragraphs 14.17(1)(i), (m) and (r).

(...)

14.1.3 Interpretation of “reasonable approximation” in British Columbia

- (1) In British Columbia, the references to “reasonable” in paragraphs 14.1.2(2)(a) and (b) are to be interpreted as
 - (a) redundancies,
 - (b) included for clarity only, and
 - (c) not affecting the interpretation of other legislation that does not refer to “reasonable” in respect of the same or a similar requirement.
- (2) For greater certainty, for the purposes of paragraph (1)(c), despite a provision in the following Instruments not including a reference to “reasonable” in respect of an approximation or a requirement to approximate, in British Columbia, a value or amount disclosed that is unreasonable does not satisfy the provision:
 - (a) National Instrument 21-101 *Marketplace Operation*;
 - (b) National Instrument 33-109 *Registration Information*;
 - (c) National Instrument 41-101 *General Prospectus Requirements*;
 - (d) National Instrument 44-101 *Short Form Prospectus Distributions*;
 - (e) National Instrument 45-106 *Prospectus Exemptions*;
 - (f) National Instrument 51-102 *Continuous Disclosure Obligations*;
 - (g) National Instrument 54-101 *Communication with Beneficial Owners of Securities of a Reporting Issuer*;
 - (h) National Instrument 55-102 *System for Electronic Disclosure by Insiders (SEDI)*;
 - (i) National Instrument 62-104 *Take-Over Bids and Issuer Bids*;
 - (j) National Instrument 81-102 *Investment Funds*;
 - (k) any other provision of securities legislation that refers to “approximate”, “approximately” or “approximation”.

14.17. Report on charges and other compensation

- (1) For each 12-month period, a registered firm must deliver to a client a report on charges and other compensation containing the following information, except that the first report delivered after a client has opened an account may cover a period of less than 12 months:
 - (a) the registered firm’s current operating charges which might be applicable to

the client's account;

- (b) the total amount of each type of operating charge related to the client's account paid by the client during the period covered by the report, and the total amount of those charges;
- (c) the total amount of each type of transaction charge related to the purchase or sale of securities paid by the client during the period covered by the report, and the total amount of those charges;
- (d) the total amount of the operating charges reported under paragraph (b) and the transaction charges reported under paragraph (c);
- (e) if the registered firm purchased or sold debt securities for the client during the period covered by the report, either of the following:
 - (i) the total amount of any mark-ups, mark-downs, commissions or other service charges the firm applied on the purchases or sales of debt securities;
 - (ii) the total amount of any commissions charged to the client by the firm on the purchases or sales of debt securities and, if the firm applied mark-ups, mark-downs or any service charges other than commissions on the purchases or sales of debt securities, the following notification or a notification that is substantially similar:
- (f) if the registered firm is a scholarship plan dealer, the unpaid amount of any enrolment fee or other charge that is payable by the client;
- (g) the total amount of each type of payment, other than a trailing commission, that is made to the registered firm or any of its registered individuals by a securities issuer or another registrant in relation to registerable services to the client during the period covered by the report, accompanied by an explanation of each type of payment;
- (h) if the registered firm received trailing commissions related to securities owned by the client during the period covered by the report, the following notification or a notification that is substantially similar:

“We received \$[amount] in trailing commissions in respect of securities you owned during the 12-month period covered by this report.

Investment funds pay investment fund managers a fee for managing their funds. The managers pay us ongoing trailing commissions for the services and advice we provide you. The amount of the trailing commission depends on the sales charge option you chose when you purchased the fund. You are not directly charged the trailing commission or the management fee. But, these fees affect you because they reduce the amount of the fund's return to you. Information about management fees and other charges to your investment funds is included in the prospectus, fund facts document for each fund.”;

- (i) the total amount of fund expenses charged to the investment fund by its investment fund manager or any other party, after making the necessary adjustments to add performance fees and deduct fee waivers, rebates or absorptions, in relation to securities of investment funds owned by the client during the period covered by the report, excluding any charges included in the amounts under paragraph (c) or (f);
- (j) the total amount of direct investment fund charges charged to the client by an investment fund, investment fund manager or any other party, in relation to securities of investment funds owned by the client during the period covered by the report, excluding any charges included in the amounts referred to in paragraph (c) or (f);
- (k) the total amount of the fund expenses reported under paragraph (i) and the direct investment fund charges reported under paragraph (j);
- (l) the total amount of the registered firm's charges reported under paragraph (d) and the investment fund expenses and charges reported under paragraph (k);
- (m) the fund expense ratio of each class or series of securities of each investment fund owned by the client during the period covered by the report, including any performance fees and deducting any fee waivers, rebates or absorptions;
- (n) if the client owned investment fund securities during the period covered by the report,
 - (i) the following notification or a notification that is substantially similar, in relation to the total amount of fund expenses reported:

“Fund expenses are made up of the management fee (which includes trailing commissions paid to us), operating expenses and trading costs. You don't pay these expenses directly. They are periodically deducted from the value of your investments by the companies that manage and operate those funds. Different funds have different fund expenses. They affect you because they reduce the fund's returns. These expenses add up over time. Fund expenses are expressed as an annual percentage of the total value of the fund. They correspond to the sum of the fund's management expense ratio (MER) and

trading expense ratio (TER). These costs are already reflected in the current values reported for your fund investments.

The number shown here is the estimated total dollar amount you paid in fund expenses for all the investment funds you owned last year. This amount depends on each of your funds' fund expenses and the amount you invested in each fund.", and

- (ii) the following notification or a notification that is substantially similar, in relation to the fund expense ratios required to be reported under paragraph (m):

"Please refer to the prospectus or fund facts document of each investment fund for more detailed information about fund expenses and fund performance.

Please refer to your latest account statement for more information about the market value and the number of securities of the investment funds you currently own.";

- (o) the following notification or a notification that is substantially similar:

"What can you do with this information? Take action by contacting your advisor to discuss the fees you pay, the impact those fees have on the long-term performance of your portfolio and the value you receive in return. If you are a self-directed investor, consider how fees impact the long-term performance of your portfolio, and possible ways to reduce those costs.";

- (p) if the client owned investment fund securities during the period covered by the report and any deferred sales charges were paid by the client, the following notification or a notification that is substantially similar:

"You paid this cost because you redeemed your units or shares of a fund purchased under a deferred sales charge (DSC) option before the end of the redemption fee schedule and a redemption fee was payable to the investment fund company. Information about these and other fees can be found in the prospectus or fund facts document for each investment fund made available at the time of purchase. The redemption fee was deducted from the redemption amount you received.";

- (q) if the client owned investment fund securities during the period covered by the report and direct investment fund charges, other than deferred sales charges, were charged to the client, a short explanation of the type of fees that were charged;

- (r) if information reported under paragraph (i), (j) or (m) is based on an approximation or any other assumption, a notification that this is the case;

- (s) if any structured product, labour sponsored investment fund or investment fund the securities of which are distributed solely under an exemption from the prospectus requirement was owned by the client during the period covered by the report, the following notification or a notification that is substantially similar:

“Please note that other products you may own or may have owned during the reporting period, such as exempt-market investment funds, labour-sponsored investment funds or structured products, may have embedded fees that are not reported here. You can contact us for more information.”;

- (t) if the securities of an investment fund were owned by the client during the period covered by the report, the manager of the investment fund is incorporated, continued or organized under the laws of a foreign jurisdiction, and the information reported for those securities under paragraphs (i), (j) or (m) is based on information disclosed under the laws of a foreign jurisdiction, the following notification or a notification that is substantially similar:

“This report includes information about the fund expenses and fund expense ratio of foreign investment funds. Please note that this information may not be directly comparable to equivalent information for Canadian investment funds, that may include different types of fees.”;

- (u) if the registered firm knows or has reason to believe that the client paid, to third parties, custodial fees, intermediary fees or interest charges related to securities owned by the client during the period covered by the report and those fees or charges are not required to be reported to the client by a registrant under this section, the following notification or a notification that is substantially similar:

“The costs in this report may not include any fees you pay directly to third parties, including custodial fees, intermediary fees or interest charges that may be deducted from your account. You can contact those service providers for more information.”.

- (2) For the purposes of this section, the information in respect of securities of a client required to be reported under subsection 14.14(5) must be delivered in a separate report on charges and other compensation for each of the client’s accounts.
- (3) For the purposes of this section, the information in respect of securities of a client required to be reported under subsection 14.14.1(1) must be delivered in a report on charges and other compensation for the client’s account through which the securities were transacted.
- (4) Subsections (2) and (3) do not apply if the registered firm provides a report on charges and other compensation that consolidates, into a single report, the required information for more than one of a client’s accounts and any securities of the client required to be reported under subsection 14.14(5) or 14.14.1(1) and if the following apply

- (a) the client has consented in writing to the form of disclosure referred to in this subsection;
 - (b) the consolidated report specifies the accounts and securities with respect to which information is required to be reported under subsection 14.14.1(1).
- (5) This section does not apply to a registered firm in respect of a permitted client that is not an individual.
- (6) The total amount of fund expenses referred to in paragraph (1)(i) must be determined by adding together the daily fund expenses for each class or series of securities of each investment fund owned by the client for each day that the client owned it during the reporting period, using the following formula to calculate the daily fund expenses:

$A \times B = C$, where

A = the fund expenses per security for the day of the applicable class or series of securities of an investment fund calculated in dollars using the formula in subsection 14.1.2(1);

B = the number of securities owned by the client for that day;

C = the daily fund expenses in dollars for a class or series of securities of an investment fund.
- (7) Despite paragraphs (1)(i), (m), and (r), a registered firm may exclude the information required to be reported for an investment fund under those paragraphs if the fund is a newly-established investment fund and the following notification or a notification that is substantially similar is included:

“The total amount of fund expenses reported may not include cost information for newly-established investment funds.”
- (8) Despite paragraphs (1)(i), (j) and (m), if a reasonable approximation was provided by an investment fund manager under subsection 14.1.2 (2), or if the registered firm obtained or determined a reasonable approximation under paragraph 14.17.1(2)(a), the firm may report a reasonable approximation of the information required to be reported under paragraphs (1)(i), (j) and (m).
- (9) For the purposes of paragraphs (1)(i), (j), (m), (n), (p), (q), (r) and (u), subsection (6) and (7), section 14.1.2(3) and section 14.17.1, an investment fund does not include:
 - (a) a labour sponsored investment fund, or
 - (b) an investment fund whose securities are distributed solely under an exemption from the prospectus requirement.

14.17.1 Reporting of fund expenses and direct investment fund charges

- (1) Subject to subsection (2), for the purposes of paragraphs 14.17(1)(i), (j), (m), (p), (q), (r) and (t), the information required to be delivered to clients by a registered dealer or registered adviser must be based on the information provided under section 14.1.1.
- (2) If no information is provided under section 14.1.1, or the registered firm reasonably believes that any part of the information provided pursuant to section 14.1.1 is incomplete or that relying on it would cause information required to be delivered to a client to be misleading, that firm must
 - (a) make reasonable efforts to obtain or determine the information referred to in subsection (1), or obtain or determine a reasonable approximation of that information, by other means, and
 - (b) subject to subsection (3), rely on the information obtained or determined under paragraph (a).
- (3) If the registered firm reasonably believes it cannot obtain or determine information under paragraph (2)(a) that is not misleading, that firm must exclude the information from the calculation of the amount of fund expenses or direct investment fund charges reported to the client, as the case may be, or, in the case of a fund expense ratio, must not report the fund expense ratio, and must disclose that the information is excluded or not reported, as the case may be, in the relevant statement or report.