

## Annex C

### Amendments to National Instrument 81-101 *Mutual Fund Prospectus Disclosure*

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

2. *Section 1.1 is amended by adding the following definitions:*

“managed account” has the meaning ascribed to that term in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“permitted client” has the meaning ascribed to that term in National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;

“pre-authorized purchase plan” means a contract or other arrangement for the purchase of securities of a mutual fund, by payments of a specified amount, on a regularly scheduled basis, and which can be terminated at any time;

3. *Subsections 3.2(2) to (2.3) are repealed.*

4. *The following sections are added:*

#### **3.2.01 Pre-Sale Delivery of Fund Facts Document**

- (1) If securities legislation requires a dealer to deliver or send a prospectus in connection with a purchase of a security of a mutual fund, the dealer must, unless the dealer has previously done so, deliver to the purchaser the fund facts document most recently filed under this Instrument for the applicable class or series of securities of the mutual fund before the dealer accepts an instruction from the purchaser for the purchase of the security.
- (2) In Nova Scotia, a fund facts document is a disclosure document prescribed under subsection 76(1A) of the *Securities Act* (Nova Scotia).
- (3) In Ontario, a fund facts document is a disclosure document prescribed under subsection 71(1.1) of the *Securities Act* (Ontario).
- (4) The requirement under securities legislation to deliver or send a prospectus in connection with a purchase of a security of a mutual fund does not apply if
  - (a) a fund facts document for the applicable class or series of securities of the mutual fund is
    - (i) delivered to the purchaser before the dealer accepts an instruction from the purchaser for the purchase of the security, or
    - (ii) delivered or sent to the purchaser in accordance with section 3.2.02 or 3.2.04

and the conditions set out in the applicable section are satisfied, or

(b) section 3.2.03 applies and the conditions set out in that section are satisfied.

### **3.2.02 Exception to Pre-Sale Delivery of Fund Facts Document**

- (1) Despite subsection 3.2.01(1), a dealer may deliver or send to the purchaser the most recently filed fund facts document for the applicable class or series of securities of the mutual fund not later than midnight on the second business day after entering into the purchase of a security of the mutual fund, if all of the following apply:
  - (a) the purchaser instructs the dealer that the purchase must be completed immediately or by a specified time;
  - (b) it is not reasonably practicable for the dealer to deliver the fund facts document before the time specified by the purchaser under paragraph (a);
  - (c) before the instruction from the purchaser for the purchase of a security of the mutual fund is accepted,
    - (i) the dealer informs the purchaser of the existence and purpose of the fund facts document and explains the dealer's obligation to deliver the fund facts document,
    - (ii) the purchaser consents to the dealer delivering or sending the fund facts document after entering into the purchase, and
    - (iii) the dealer verbally discloses to the purchaser a summary of all of the following:
      - (A) the fundamental features of the mutual fund, and what it primarily invests in, as set out under the heading "What does the fund invest in?" in Item 3 of Part I of the fund facts document;
      - (B) the investment risk level of the mutual fund as set out under the heading "How risky is it?" in Item 4 of Part I of the fund facts document;
      - (C) the suitability of the mutual fund for particular investors as set out under the heading "Who is this fund for?" in Item 7 of Part I of the fund facts document;
      - (D) any costs associated with buying, owning and selling a security of the mutual fund as set out under the heading "How much does it cost?" in Item I of Part II of the fund facts document;
      - (E) any applicable withdrawal rights or rescission rights that the purchaser is entitled to under securities legislation, as set out under

the heading “What if I change my mind?” in Item 2 of Part II of the fund facts document.

- (2) For the purposes of subparagraph (1)(c)(ii), the consent must be given in respect of a specific instruction to purchase a security of a mutual fund and, for greater certainty, cannot be in the form of blanket consent from the purchaser.

### **3.2.03 Delivery of Fund Facts for Subsequent Purchases Under a Pre-authorized Purchase Plan**

Despite subsection 3.2.01(1), a dealer is not required to deliver the fund facts document to a purchaser in connection with a purchase of a security of a mutual fund made pursuant to a pre-authorized purchase plan if all of the following apply:

- (a) the purchase is not the first purchase under the plan;
- (b) the dealer has provided a notice to the purchaser that states,
  - (i) subject to paragraph (c), the purchaser will not receive a fund facts document after the date of the notice, unless the purchaser specifically requests it,
  - (ii) the purchaser is entitled to receive upon request, at no cost to the purchaser, the most recently filed fund facts document by calling a specified toll-free number, or by sending a request by mail or e-mail to a specified address or e-mail address,
  - (iii) how to access the fund facts document electronically,
  - (iv) the purchaser will not have a right of withdrawal under securities legislation for subsequent purchases of a security of a mutual fund under the plan, but will continue to have a right of action if there is a misrepresentation in the prospectus or any document incorporated by reference into the prospectus, and
  - (v) the purchaser may terminate the plan at any time;
- (c) at least annually during the term of the plan, the dealer notifies the purchaser in writing of how the purchaser can request the most recently filed fund facts document; and
- (d) the dealer delivers or sends the most recently filed fund facts document to the purchaser if the purchaser requests it.

### **3.2.04 Delivery of Fund Facts for Managed Accounts and Permitted Clients**

Despite subsection 3.2.01(1), a dealer may deliver or send to the purchaser of a security of a mutual fund the most recently filed fund facts document for the applicable class or series of securities of the mutual fund not later than midnight on the second business day after entering into the purchase of a security of the mutual fund if

- (a) the purchase is made in a managed account, or
- (b) the purchaser is a permitted client that is not an individual.

### **3.2.05 Electronic Delivery of the Fund Facts Document**

- (1) If the purchaser of a security of a mutual fund consents, a fund facts document that may be or is required to be delivered or sent under this Part may be delivered or sent electronically.
- (2) For the purposes of subsection (1), a fund facts document may be delivered or sent to the purchaser by means of an e-mail that contains
  - (a) the fund facts document as an attachment, or
  - (b) a hyperlink that leads directly to the fund facts document..

5. *Subsection 3.2.1(1) is amended by replacing “subsection 3.2(2)” with “sections 3.2.01, 3.2.02 or 3.2.04”.*

6. *Subsection 3.2.2(1) is amended by replacing “subsection 3.2(2)” with “sections 3.2.01, 3.2.02 or 3.2.04”.*

7. *Section 5.2 is replaced with the following:*

### **5.2 Combinations of Fund Facts Documents for Delivery Purposes**

- (1) If a fund facts document for a particular class or series of securities of a mutual fund is delivered under subsection 3.2.01(1), the fund facts document must not be combined with any other materials or documents.
- (2) Despite subsection (1), a fund facts document may be combined with one or more other fund facts documents if the combination of documents is not so extensive as to cause a reasonable person to conclude that the combination of documents prevents the information from being presented in a simple, accessible and comparable format.
- (3) Despite subsection (2), if multiple fund facts documents are being delivered electronically at the same time, those fund facts documents cannot be combined into a single e-mail attachment or a single document accessible through a hyperlink.
- (4) A fund facts document delivered or sent under section 3.2.02, 3.2.03, or 3.2.04 must not be combined with any other materials or documents including, for greater certainty, another fund facts document, except one or more of the following:
  - (a) a general front cover pertaining to the package of attached or bound materials and documents;
  - (b) a trade confirmation which discloses the purchase of securities of the mutual fund;

- (c) a fund facts document of another mutual fund if that fund facts document is also being delivered or sent under section 3.2.02, 3.2.03, or 3.2.04;
  - (d) the simplified prospectus or the multiple SP of the mutual fund;
  - (e) any material or document incorporated by reference into the simplified prospectus or the multiple SP of the mutual fund;
  - (f) an account application document;
  - (g) a registered tax plan application or related document.
- (5) If a trade confirmation referred to in paragraph (4)(b) is combined with a fund facts document, any other disclosure documents required to be delivered or sent to satisfy a regulatory requirement for purchases listed in the trade confirmation may be combined with the fund facts document.
- (6) If a fund facts document is combined with any of the materials or documents referred to in subsection (4), a table of contents specifying all documents must be combined with the fund facts document, unless the only other documents combined with the fund facts document are the general front cover permitted under paragraph (4)(a) or the trade confirmation permitted under paragraph (4)(b).
- (7) If one or more fund facts documents are combined with any of the materials or documents referred to in subsection (4), only the general front cover permitted under paragraph (4)(a), the table of contents required under subsection (6) and the trade confirmation permitted under paragraph (4)(b) may be placed in front of the fund facts documents..

**8. Section 5.5 is replaced with the following:**

**5.5 Combinations of Fund Facts Documents for Filing Purposes**

For the purposes of section 2.1, a fund facts document may be combined with another fund facts document of a mutual fund in a simplified prospectus or, if a multiple SP, another fund facts document of a mutual fund combined in the multiple SP..

**Expiration of exemptions and waivers**

9. Any exemption from or waiver of a provision of National Instrument 81-101 *Mutual Fund Prospectus Disclosure* in relation to the prospectus or fund facts document delivery requirements for mutual funds expires on May 30, 2016.

**Transition for pre-authorized purchase plans**

10. (1) For the purposes of section 3.2.03 of National Instrument 81-101 *Mutual Fund Prospectus Disclosure*, as enacted by section 4 of this Instrument, the first purchase of a security of a mutual fund made pursuant to a pre-authorized purchase plan on or after May 30, 2016, is considered to be the first purchase transaction under the plan.

- (2) Subsection (1) does not apply to a pre-authorized purchase plan established prior to May 30, 2016, if a notice in a form substantially similar to the notice contemplated under paragraph 3.2.03(c) was delivered or sent to the purchaser between May 30, 2015 and May 30, 2016.

**Effective date**

11. (1) Subject to subsection (2), this Instrument comes into force on March 11, 2015.

- (2) The provisions of this Instrument listed in column 1 of the following table come into force on the date set out in column 2 of the table:

<b>Column 1: Provisions of this Instrument</b>	<b>Column 2: Date</b>
Sections 3, 4, 5, 6, 7, 8 and 10	May 30, 2016