

**Proposed 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:

“statutory right of action” means,

- (a) in Alberta, paragraph 206(a) of the *Securities Act* (Alberta),
- (b) in British Columbia, section 135 of the *Securities Act* (British Columbia), and
- (c) in New Brunswick, section 155 of the *Securities Act* (New Brunswick);; **and**

“statutory right of withdrawal” means,

- (a) in Alberta, subsection 130(1) of the *Securities Act* (Alberta),
- (b) in British Columbia, subsections 83(3) and (5) of the *Securities Act* (British Columbia), and
- (c) in New Brunswick, subsection 88(2) of the *Securities Act* (New Brunswick);.

3. Section 3.2 is amended by replacing subsection (2) with the following:

(2) Where a prospectus is required under securities legislation to be sent or delivered to a person or company, the fund facts document most recently filed under this Instrument for the applicable class or series of securities must be sent or delivered to the person or company at the same time and in the same manner as otherwise required for the prospectus.

(2.1) The requirement in securities legislation to send or deliver a prospectus does not apply when a fund facts document is sent or delivered under subsection (2).

(2.2) In Ontario, the fund facts document is a disclosure document prescribed under subsection 71(1.1) of the *Securities Act* (Ontario)..

4. The following sections are added after section 3.2:

3.2.1 Fund facts document – purchaser’s right of withdrawal

(1) A purchaser has a right of withdrawal in respect of a fund facts document that was sent or delivered under subsection 3.2(2) as the purchaser would otherwise have when a prospectus is required to be sent or delivered under securities legislation and, for that purpose, a fund facts document is a prescribed document under the statutory right of withdrawal.

(2) In Ontario, instead of subsection (1), subsection 71(2) of the *Securities Act* (Ontario) applies.

- (3) In Québec, instead of subsection (1), section 30 of the *Securities Act* (Québec) applies.

3.2.2 Fund facts document – purchaser’s right of action for failure to send or deliver

- (1) A purchaser has a right of action if a fund facts document is not sent or delivered as required by subsection 3.2(2) as the purchaser would otherwise have when a prospectus is not sent or delivered as required under securities legislation and, for that purpose, a fund facts document is a prescribed document under the statutory right of action.
- (2) In Ontario, instead of subsection (1), section 133 of the *Securities Act* (Ontario) applies.
- (3) In Québec, instead of subsection (1), section 214 of the *Securities Act* (Québec) applies.

5. *Section 3.5 is amended by replacing “must” with “may”.*

6. *Subsection 4.1(1) is amended by replacing “in a format” with “be in a format”.*

7. *Paragraph 5.1(3)5 is repealed.*

8. *The following section is added after section 5.1:*

5.1.1 Combinations of Fund Facts Documents for Delivery Purposes

- (1) For the purposes of section 3.2, a fund facts document may only be attached to, or bound with, one or more of the following documents:
 1. The confirmation of purchase for the mutual fund.
 2. Another fund facts document of a mutual fund to be delivered or sent to satisfy section 3.2.
 3. The simplified prospectus or the multiple SP of the mutual fund.
 4. The annual information form, management reports of fund performance and financial statements of the mutual fund.
- (2) If the documents referred to in subsection (1) are attached to, or bound with, one or more fund facts documents, no pages must come before the fund facts documents in the package other than the confirmation of purchase, front cover or a table of contents pertaining to the entire package..

9. *Section 5.2(1)(b) is amended by replacing “must” with “may”.*

10. *Form 81-101F3 Contents of Fund Facts Document is amended:*

(a) in paragraph (15) of the General Instructions by replacing reference to “section 5.4” with “Part 5”;

(b) by replacing paragraph (16) of the General Instructions with the following:

(16) Fund facts documents must not be consolidated with each other to form a multiple fund facts document, except as permitted by Part 5 of National Instrument 81-101 Mutual Fund Prospectus Disclosure. A multiple fund facts document permitted under the Instrument must provide information about each of the mutual funds described in the document on a fund-by-fund or catalogue basis and must set out for each fund separately the information required to be included in this Form. Each fund facts document must start on a new page.;

c. by replacing item 1(c) of Part I with the following:

(c) the name of the mutual fund to which the fund facts document pertains;

d. by adding the following after item 1(c) of Part I:

(c.1) if the mutual fund has more than one class or series of securities, the name of the class or series described in the fund facts document and, at the option of the mutual fund, any applicable fund identification code for the class or series;;

e. except in British Columbia, by adding “and” at the end of Item 6(1)(a) in Part I;

f. except in British Columbia, in Item 1.3(5) in Part II by replacing “where” with “in which”;

g. by replacing Item 1.4(1) of Part II with the following:

(1) Under the sub-heading “Other fees” provide an introduction using wording similar to the following:

You may have to pay other fees when you buy, hold, sell or switch [units/shares] of the fund.

h. by adding “buy, hold,” before “sell or switch” to Item 1.4(2) of Part II;

i. by replacing Instruction (1) to Item 1.4 of Part II with the following:

(1) *Under this Item, it is necessary to include only those fees that apply to the particular series or class of the mutual fund. Examples include management fees and administration fees payable directly by investors, short-term trading fees, switch fees and change fees. This would also include any requirement for an investor to participate in a fee-based arrangement with their dealer in order to be eligible to purchase the particular class or series of the mutual fund. If there are no other fees associated with buying, holding, selling or switching units or shares of the mutual fund, replace the table with a statement to that effect.;*

j. by replacing Instruction (2) to Item 1.4 of Part II with the following:

- (2) *Provide a brief description of each fee disclosing the amount to be paid as a percentage (or, if applicable, a fixed dollar amount) and state who charges the fee. If the amount of the fee varies so that specific disclosure of the amount of the fee cannot be disclosed, where possible, include the highest possible rate or range for that fee.; and*

k. by replacing Item 2 in Part II with the following:

Item 2: Statement of Rights

Under the heading “What if I change my mind?” state in substantially the following words:

Under securities law in some provinces and territories, you have the right to:

- *withdraw from an agreement to buy mutual funds within two business days after you receive a fund facts document, or*
- *cancel your purchase within 48 hours after you receive confirmation of the purchase.*

In some jurisdictions of Canada, you also have the right to cancel a purchase or claim damages if the simplified prospectus, annual information form, fund facts document or financial statements contain a misrepresentation. You must act within the time limit set by the securities law in the applicable province or territory.

For more information, see the securities law of the province or territory or ask a lawyer..

11. Transition

Any exemption from or waiver of a provision of National Instrument 81-101 Mutual Fund Prospectus Disclosure in relation to the prospectus delivery requirements for mutual funds, or an approval in relation to those requirements, expires on the date that this Instrument comes into force.

12. This Instrument comes into force on •.