

**Notice of Proposed Amendments to  
National Instrument 81-101 Mutual Fund Prospectus Disclosure and  
Form 81-101F2 Contents of Annual Information Form  
and to  
National Instrument 41-101 General Prospectus Requirements and  
Form 41-101F2 Information Required in an Investment Fund Prospectus**

**Substance and Purpose of the Proposed Amendments**

The CSA, with this Notice, are publishing for a 90-day comment period amendments to the following investment fund prospectus disclosure forms (the Forms):

- (a) Form 81-101F2 Contents of Annual Information Form under National Instrument 81-101 Mutual Fund Prospectus Disclosure, and
- (b) Form 41-101F2 Information Required in an Investment Fund Prospectus under National Instrument 41-101 General Prospectus Requirements.

These proposed amendments are consequential to, and are being published concurrently with, the final publication of National Instrument 23-102 Use of Client Brokerage Commissions (NI 23-102).

The substance and purpose of these amendments is to ensure consistency between the disclosure requirements under NI 23-102 relating to client brokerage commissions and similar disclosure prescribed for investment funds in the Forms.

**Summary of the Proposed Amendments to the Forms**

The amendments proposed in Form 81-101F2 consist of a change to an existing disclosure requirement relating to brokerage arrangements involving client brokerage commissions, while the amendments proposed to Form 41-101F2 consist of the addition of a new disclosure item concerning such matters. These amendments are intended to ensure consistency with similar disclosure requirements in NI 23-102.

The disclosure is intended to provide investment fund investors with relevant qualitative information concerning goods and services other than order execution obtained in connection with client brokerage commissions.

This qualitative disclosure is further intended to complement the related quantitative disclosure requirement concerning client brokerage commissions that currently applies to investment funds under National Instrument 81-106 Investment Fund Continuous Disclosure (NI 81-106).

## **Authority for Proposed Amendments (Ontario)**

In those jurisdictions in which the proposed amendments to the Forms are to be adopted or made as rules or regulations, the securities legislation in each of those jurisdictions provides the securities regulatory authority with rule-making or regulation-making authority.

In Ontario, the following provisions of the Securities Act (Ontario) (the Act) provide the Ontario Securities Commission (the OSC) with authority to make the proposed consequential amendments to the Forms:

- Paragraph 143(1)16 of the Act authorizes the OSC to make rules in respect of the distribution of securities, including by establishing requirements in respect of distributions of securities by means of a simplified prospectus or other form of disclosure document.
- Paragraph 143(1)31 of the Act authorizes the OSC to make rules regulating investment funds and the distribution and trading of securities of investment funds, including by prescribing additional disclosure requirements in respect of investment funds.
- Paragraph 143(1)39 of the Act authorizes the OSC to make rules requiring or respecting the media, format, preparation, form, content, execution, certification, dissemination and other use, filing and review of all documents required under or governed by the Act, the regulations or the rules and all documents determined by the regulations or the rules to be ancillary to the documents.

## **Alternatives Considered and Anticipated Costs and Benefits**

The CSA have not considered any alternatives to the proposed amendments as they consider it essential that the amendments be made to ensure consistency between the disclosure requirements pertaining to client brokerage commissions under NI 23-102 and similar disclosure requirements under the Forms.

The revised disclosure requirement will provide investment fund investors with enhanced transparency on how order execution goods and services and research goods and services are obtained in connection with client brokerage commissions paid on the investment fund's portfolio transactions.

Investment funds that use Form 81-101F2 should not incur additional costs in complying with the proposed disclosure requirements given that they are already subject to, and have been complying with, a similar existing disclosure requirement in Form 81-101F2 pertaining to brokerage arrangements and client brokerage commissions.

Investment funds that use Form 41-101F2 may incur additional costs in complying with the proposed disclosure requirements given that these disclosure requirements are new for investment funds that offer securities under the long form prospectus. The CSA are of the view that investment funds using a long form prospectus should be subject to the same qualitative

disclosure requirements pertaining to client brokerage commissions as open-end investment funds using a simplified prospectus (Form 81-101F2), particularly when we consider that the current quantitative disclosure requirement under NI 81-106 is applicable to all types of investment funds.

The CSA expect that the costs entailed in complying with the new disclosure requirements will consist mainly of legal costs associated with the preparation of disclosure documents. For greater detail on the costs that portfolio advisers of investment funds may incur to comply with the requirements of NI 23-102, please refer to the cost-benefit analysis at Appendix B to the Notice of Proposed National Instrument 23-102 Use of Client Brokerage Commissions as Payment for Order Execution Services or Research Services published on January 11, 2008 at (2008) 31 OSCB 489.

### **Unpublished Materials**

In proposing the amendments to the Forms, the CSA have not relied on any significant unpublished study, report, or other material.

### **Request for Comments**

We invite interested parties to make written submissions concerning the proposed consequential amendments.

Please submit your comments in writing before **January 7, 2010**. If you are not sending your comments by fax, mail or hand delivery, please forward an electronic file containing your submission in Word, Windows format.

We cannot keep submissions confidential because securities legislation in certain provinces requires publication of a summary of the written comments received during the comment period.

### **Where to Send Your Comments**

Please address your comments to all of the CSA member commissions, as follows:

British Columbia Securities Commission  
Alberta Securities Commission  
Saskatchewan Financial Services Commission  
Manitoba Securities Commission  
Ontario Securities Commission  
Autorité des marchés financiers  
New Brunswick Securities Commission  
Office of the Attorney General, Prince Edward Island  
Nova Scotia Securities Commission  
Financial Services Regulation Division, Consumer and Commercial Affairs Branch, Department of Government Services, Newfoundland and Labrador  
Registrar of Securities, Government of Yukon

Registrar of Securities, Department of Justice, Government of the Northwest Territories  
Superintendent, Securities Office, Government of Nunavut

Please send your comments **only** to the addresses below. Your comments will be forwarded to the remaining CSA member jurisdictions.

John Stevenson, Secretary  
Ontario Securities Commission  
20 Queen Street West  
Suite 1903, Box 55  
Toronto, Ontario M5H 3S8  
Fax: 416-593-2318  
Email: [jstevenson@osc.gov.on.ca](mailto:jstevenson@osc.gov.on.ca)

Madame Anne-Marie Beaudoin  
Corporate Secretary  
Autorité des marchés financiers  
800, square Victoria, 22<sup>e</sup> étage  
C.P. 246, Tour de la Bourse  
Montréal (Québec) H4Z 1G3  
Fax: 514-864-6381  
Email: [consultation-en-cours@lautorite.qc.ca](mailto:consultation-en-cours@lautorite.qc.ca)

## Questions

Please refer your questions to any of:

Susan Thomas  
Legal Counsel, Investment Funds  
Ontario Securities Commission  
Phone: (416) 593-8076  
Email: [sthamas@osc.gov.on.ca](mailto:sthamas@osc.gov.on.ca)

Vera Nunes  
Assistant Manager, Investment funds  
Ontario Securities Commission  
Phone: (416) 593-2311  
Email: [vnunes@osc.gov.on.ca](mailto:vnunes@osc.gov.on.ca)

Meg Tassie  
Senior Advisor  
British Columbia Securities Commission  
Phone: (604) 899-6819  
Email: [MTassie@bcsc.bc.ca](mailto:MTassie@bcsc.bc.ca)

Ian Kerr  
Senior Legal Counsel  
Alberta Securities Commission  
Phone: (403) 297-4225  
Email: [ian.kerr@asc.ca](mailto:ian.kerr@asc.ca)

Dean Murrison  
Deputy Director, Legal & Registration  
Saskatchewan Financial Services Commission  
Phone: (306) 787-5879  
Email: [dean.murrison@sfsc.gov.sk.ca](mailto:dean.murrison@sfsc.gov.sk.ca)

Barbara Shourounis  
Director  
Saskatchewan Financial Services Commission  
Phone: (306) 787-5842  
Email: [barbara.shourounis@sfsc.gov.sk.ca](mailto:barbara.shourounis@sfsc.gov.sk.ca)

Bob Bouchard  
Director and Chief Administration Officer  
Manitoba Securities Commission  
Phone: (204) 945-2555  
Email: [Bob.Bouchard@gov.mb.ca](mailto:Bob.Bouchard@gov.mb.ca)

Doug Brown  
Director, Commission Secretary  
Manitoba Securities Commission  
Phone: (204) 945-0605  
Email: [Doug.Brown@gov.mb.ca](mailto:Doug.Brown@gov.mb.ca)

Serge Boisvert  
Analyste en réglementation  
Autorité des marchés financiers  
Phone: (514) 395-0337 ext. 4358  
Email: [Serge.Boisvert@lautorite.qc.ca](mailto:Serge.Boisvert@lautorite.qc.ca)

Jacques Doyon  
Senior Investment Funds Analyst  
Autorité des marchés financiers  
Phone: (514) 395-0337 ex. 4474  
Email: [Jacques.Doyon@lautorite.qc.ca](mailto:Jacques.Doyon@lautorite.qc.ca)

Jason Alcorn  
Legal Counsel  
New Brunswick Securities Commission  
Phone: (506) 643-7857  
Email: [jason.alcorn@nbsc-cvmnb.ca](mailto:jason.alcorn@nbsc-cvmnb.ca)

Susan Powell  
Senior Legal Counsel  
New Brunswick Securities Commission  
Phone: (506) 643-7697  
Email: [susan.powell@nbsc-cvmnb.ca](mailto:susan.powell@nbsc-cvmnb.ca)

Katharine Tummon  
Director  
Consumer, Corporate and Insurance Services  
Registrar of Securities, Prince Edward Island  
Phone: (902) 368-4542  
Email: [kptummon@gov.pe.ca](mailto:kptummon@gov.pe.ca)

Shirley Lee  
Securities Analyst  
Nova Scotia Securities Commission  
Phone: (902) 424-5441  
Email: [leesp@gov.ns.ca](mailto:leesp@gov.ns.ca)

Donald MacDougall  
Deputy Superintendent,  
Legal and Enforcement  
Securities Office, Northwest Territories  
Phone: (867) 920-8984  
Email: [Donald\\_macdougall@gov.nt.ca](mailto:Donald_macdougall@gov.nt.ca)

Winston Morris  
Assistant Deputy Minister,  
Consumer and Commercial Affairs and  
Superintendent of Securities  
Newfoundland and Labrador Securities Commission  
Phone: (709) 729-2570  
Email: [Winston.Morris@gov.nl.ca](mailto:Winston.Morris@gov.nl.ca)

Fred Pretorius  
Director of Corporate Affairs  
Superintendent of Securities, Yukon Territory  
Phone: (867) 667-5225  
Email: [Fred.Pretorius@gov.yk.ca](mailto:Fred.Pretorius@gov.yk.ca)

Louis Arki  
Chair, Superintendent  
Securities Office, Government of Nunavut  
Phone: (867) 975-6587  
Email: [larki@gov.nu.ca](mailto:larki@gov.nu.ca)

The text of the proposed amendments follows or can be found on a CSA member website.

October 9, 2009