

**APPENDIX B**  
**Proposed Amendments and Proposed Changes**  
**Schedule 2-I**

**Proposed Amendments to National Instrument 81-107 *Independent Review***  
***Committee for Investment Funds***

1. *National Instrument 81-107 Independent Review Committee for Investment Funds is amended by this Instrument.*
2. *Paragraph 4.4(2)(b) is replaced with the following:*
  - (b) be made available and prominently displayed by the manager on the investment fund's designated website;
3. This Instrument comes into force on [●].

**APPENDIX B**  
**Proposed Amendments and Proposed Changes**  
**Schedule 2-J**

**Proposed Changes to Commentary in National Instrument 81-107 *Independent Review Committee for Investment Funds***

1. *The Commentary to National Instrument 81-107 Independent Review Committee for Investment Funds is changed by this Document.*
2. *Paragraph 2 of the Commentary to section 4.4 is changed*
  - (a) *by replacing “the website of the investment fund, the investment fund family or the manager, as applicable” with “the investment fund’s designated website”, and*
  - (b) *by replacing “on the website” with “on the designated website”.*
3. These changes become effective on [●].

**APPENDIX B**  
**Proposed Amendments and Proposed Changes**

**Schedule 5-C**  
**Proposed Amendments to National Instrument 81-107 *Independent Review***  
***Committee for Investment Funds***

- 1. *National Instrument 81-107 Investment Funds is amended by this Instrument.***
- 2. *Subsection 1.1(1) is amended by replacing “This” with “Except as provided in Part 6, this”.***
- 3. *Section 6.1 is amended***
  - (a) *by replacing “is quoted; or” at the end of clause (1)(a)(i)(C) with “is quoted, or”,***
  - (b) *by adding the following after clause (1)(a)(i)(C):***
    - (D) the “last sale price” as defined under the Universal Market Integrity Rules of the Investment Industry Regulatory Organization of Canada, as amended from time to time; or,**
  - (c) *by deleting “and” after paragraph (1)(a),***
  - (d) *by replacing “securities legislation.” at the end of paragraph (1)(b) with “securities legislation; and”,***
  - (e) *by adding the following after paragraph (1)(b):***
    - (c) “managed account” means an account, or an investment portfolio, that is not an account of a responsible person, as defined under National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*, or an account of an investment fund, that is managed by a portfolio manager or portfolio adviser on behalf of a client under an investment management agreement.,**
  - (f) *by replacing “investment fund” where it first appears in subsection (2) with “managed account or an investment fund, including an investment fund that is not a reporting issuer”,***
  - (g) *adding the following in the first paragraph of subsection (2) after the term “investment fund” where it appears second: “, including an investment fund that is not a reporting issuer,”,***
  - (h) *by replacing paragraph (2)(a) with the following:***

- (a) the investment fund or managed account is purchasing from, or selling to, another investment fund that is a reporting issuer or, if the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Instrument for the purpose of approving the transaction;

*(i) by adding the following after paragraph (2)(b):*

- (b.1) the investment management agreement for the managed account authorizes the purchase or sale of the security;

*(j) by adding the following after “investment fund” in paragraph (2)(g): “, or portfolio manager on behalf of the managed account,” and*

*(k) by adding the following after “investment fund” where it first appears in subsections (3) and (4): “including a managed account and an investment fund that is not a reporting issuer,”.*

#### **4. Section 6.2 is amended**

*(a) by adding “, including an investment fund that is not a reporting issuer,” after “investment fund” in subsection (1),*

*(b) by adding the following before subparagraph (1)(a)(i):*

- (0.i) the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Instrument for the purpose of approving the transaction;

*(c) by replacing “subsection 5.2(2); and” at the end of subparagraph (1)(a)(i) with “subsection 5.2(2);”, and*

*(d) by adding “, including an investment fund that is not a reporting issuer,” after “do not apply to an investment fund” in subsection (2).*

#### **5. The Instrument is amended by adding the following sections:**

##### **6.3 Transactions in securities of related issuers – Secondary market non-exchange traded debt securities**

- (1) An investment fund, including an investment fund that is not a reporting issuer, may make or hold an investment in a non-exchange traded debt security of an issuer related to it, its manager, or an entity related to the manager, in the secondary market if all of the following apply:

- (a) where the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Instrument for the purpose of approving the transaction;
  - (b) the independent review committee has approved the investment under subsection 5.2(2);
  - (c) the debt security has been given, and continues to have, at the time of purchase, a “designated rating”, as defined under National Instrument 44-101 *Short Form Prospectus Distributions*;
  - (d) the price for the debt security is not more than
    - (i) where the purchase occurs on a marketplace, the price for the non-exchange traded debt security, determined in accordance with the requirements of that marketplace, and
    - (ii) where the purchase does not occur on a marketplace, either of the following:
      - (I) the price at which an arm’s length seller is willing to sell the security;
      - (II) the price quoted publicly by an independent marketplace or the price quoted, immediately before the purchase, by an arm’s length purchaser or seller;
  - (e) the transaction complies with any applicable “market integrity requirements” as defined in section 6.1;
  - (f) no later than the time the investment fund files its annual financial statements, the manager of the investment fund files with the securities regulatory authority or regulator, the particulars of the investment.
- (2) The investment fund conflict of interest investment restrictions do not apply to an investment fund, including an investment fund that is not a reporting issuer, with respect to an investment referred to in subsection (1) if the investment is made in accordance with that subsection.
- (3) In subsection (2), “investment fund conflict of interest investment restrictions” has the meaning ascribed to that term in NI 81-102.

#### 6.4 Transactions in securities of related issuers – Primary market distributions of long-term debt securities

- (1) An investment fund, including an investment fund that is not a reporting issuer, may make or hold an investment in a long-term debt security of an issuer related to it, its manager, or an entity related to the manager, under a distribution of the long-term debt security of that issuer if all of the following apply:
  - (a) where the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Instrument for the purpose of approving the transaction;
  - (b) the independent review committee has approved the investment under subsection 5.2(2);
  - (c) the debt security has a term to maturity greater than 365 days and is not asset-backed commercial paper and has been given, and continues to have, at the time of purchase a designated rating by a designated rating organization as defined under NI 44-101 *Short Form Prospectus Distributions*;
  - (d) the size of the distribution is at least \$100 million;
  - (e) at least two purchasers who are independent, arm's length purchasers, which may include "independent underwriters" within the meaning of National Instrument 33-105 *Underwriting Conflicts*, collectively purchase at least 20% of the distribution;
  - (f) following its purchase, the investment fund would not have more than 5% of its net assets invested in long-term debt securities of that issuer;
  - (g) following the purchase, the investment fund, together with other investment funds managed by the manager, hold no more than 20% of the long-term debt securities issued in the distribution;
  - (h) the price paid for the long-term debt security is no higher than the lowest price paid by any of the arm's length purchasers who participate in the distribution;
  - (i) no later than the time the investment fund files its annual financial statements, the manager of the investment fund files with the securities regulatory authority or regulator, the particulars of the investment.

- (2) The investment fund conflict of interest investment restrictions do not apply to an investment fund, including an investment fund that is not a reporting issuer, with respect to an investment referred to in subsection (1) if the investment is made in accordance with that subsection.
- (3) In subsection (2), “investment fund conflict of interest investment restrictions” has the meaning ascribed to that term in National Instrument 81-102 *Investment Funds*.

**6.5 Transactions in debt securities with a related dealer – principal trades in debt securities**

- (1) The portfolio manager or portfolio adviser, acting on behalf of an investment fund, including an investment fund that is not a reporting issuer, or acting on behalf of a managed account as defined in section 6.1, may cause the investment fund or managed account to purchase a debt security of any issuer from, or sell a debt security of any issuer to, a dealer related to the portfolio manager, acting for its own account, if at the time of the transaction all of the following apply:
  - (a) where the investment fund is not a reporting issuer, the manager has appointed an independent review committee that complies with sections 3.7 and 3.9 of this Instrument for the purpose of approving the transaction;
  - (b) the independent review committee has approved the transaction under subsection 5.2(2);
  - (c) the investment management agreement for the managed account authorizes the purchase or sale of the debt security;
  - (d) the bid and ask price of the security transacted is readily available;
  - (e) a purchase is not executed at a price which is higher than the available ask price and a sale is not executed at a price which is lower than the available bid price;
  - (f) the purchase or sale complies with any applicable “market integrity requirements” as defined in section 6.1;
  - (g) the investment fund, or portfolio manager on behalf of the managed account, keeps written records, including a record of each purchase and sale of securities, the parties to the trade, and the terms of the purchase or sale

- (i) in a reasonably accessible place, for two years after the end of the fiscal year in which the trade occurred, and,
  - (ii) for a further three years after the end of that fiscal year.
- (2) The inter-fund self-dealing investment prohibitions do not apply to a portfolio manager or portfolio adviser of an investment fund, or an investment fund, with respect to a purchase or sale of a security referred to in subsection (1) if the purchase or sale is made in accordance with that subsection..

**6. *Appendix B Inter-Fund Self-Dealing Conflict of Interest Provisions is amended by adding the following text in the second column for each jurisdiction: “and section 4.2 of National Instrument 81-102 Investment Funds”.***

7. This Instrument comes into force on [●].



**APPENDIX B**  
**Proposed Amendments and Proposed Changes**

**Schedule 5-D**  
**Proposed Changes to Commentary in National Instrument 81-107 *Independent Review Committee for Investment Funds***

**1. *The Commentary to National Instrument 81-107 Independent Review Committee for Investment Funds is changed by this Document.***

**2. *Commentary 2 to section 1.1 is changed by adding the following:***

*Part 6, however, provides exemptions that may be relied on in connection with certain trades involving managed accounts and investment funds that are not reporting issuers ..*

**3. *Commentary 2 to section 6.1 is changed***

***(a) by adding the following after “investment funds”:***

*, including investment funds that are not reporting issuers and managed accounts,,*

***(b) by adding the following at the end of the first paragraph:***

*The CSA are of the view that this section applies to inter-fund trades between fund families of the same manager provided the purchase or sale is made in accordance with subsection (2),, and*

***(c) by replacing the second paragraph with the following:***

*Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC’s responsibilities for investment funds that are not reporting issuers beyond that.*

*The portfolio manager or portfolio adviser of a managed account must obtain the authorization of its client to conduct inter-fund trades in the investment management agreement in order to be eligible to rely upon the exemption..*

**4. *Commentary 1 to section 6.2 is changed***

***(a) by replacing “mutual funds” with “investment funds”, and***

***(b) by adding “including investment funds that are not reporting issuers,” after “elsewhere in Canada, ”.***

**5. Commentary 2 to section 6.2 is changed by adding the following after the second paragraph:**

*Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that..*

**6. The following is added after section 6.3:**

*1. This section is intended to relieve investment funds, including investment funds that are not reporting issuers, from the prohibitions in the securities legislation of each securities regulatory authority that preclude investments in debt securities of related issuers that do not trade on an exchange. Because these securities do not trade on an exchange, paragraph (d) imposes alternative criteria to help ensure the investments occur at a fair and objective price.*

*2. This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.*

*Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, for the funds that are not reporting issuers, the IRC must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that.*

*3. This section contemplates that the manager will comply with the applicable reporting requirements under securities legislation for each purchase. The filing referred to in paragraph (1)(f) should be filed on the SEDAR group profile number of the investment fund, as a continuous disclosure document.*

*4. If an IRC gives its approval for the investment fund to purchase securities of an issuer described in this section, and then subsequently withdraws its approval for additional purchases, the CSA will not consider the continued holding of the securities to be subject to subsection 1.2(b) of the Instrument. However, we will expect the manager to consider whether continuing to hold those securities is a conflict of interest matter that subsection 1.2(a) of the Instrument would require the manager to refer to the IRC..*

**7. The following is added after section 6.4:**

1. This section is intended to relieve investment funds, including investment funds that are not reporting issuers, from the prohibitions in the securities legislation of each securities regulatory authority that preclude investments in debt securities of related issuers under primary treasury offerings or distributions by those issuers. The additional conditions in this section to IRC approval are designed to mitigate the risk of the related issuer using the investment funds as captive financing vehicles and impose alternative criteria to help ensure the investments occur at a fair and objective price.

2. This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.

Funds that are not reporting issuers must appoint an IRC for the purpose of approving inter-fund trades in order to be eligible to rely upon the exemption. At a minimum, for the funds that are not reporting issuers, the IRC must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that.

3. This section contemplates that the manager will comply with the applicable reporting requirements under securities legislation for each purchase. The filing referred to in paragraph 6.4(1)(i) should be filed on the SEDAR group profile number of the investment fund, as a continuous disclosure document.

4. If an IRC gives its approval for the investment fund to purchase securities of an issuer described in this section, and then subsequently withdraws its approval for additional purchases, the CSA will not consider the continued holding of the securities to be subject to subsection 1.2(b) of the Instrument. However, we will expect the manager to consider whether continuing to hold those securities is a conflict of interest matter that subsection 1.2(a) of the Instrument would require the manager to refer to the IRC..

**8. The following is added after the newly added section 6.5:**

1. The term "inter-fund self-dealing investment prohibitions" is defined in section 1.5 of this Instrument. For the purposes of this section, it is intended to capture the prohibitions in the securities legislation and certain regulations of each securities regulatory authority regarding trades in securities between an investment fund or a managed account and a related dealer acting as principal for its own account.

This section is intended to relieve investment funds, including managed accounts and investment funds that are not reporting issuers, from the inter-fund self-dealing prohibitions in connection with principal trades in debt securities. Because debt securities do not generally trade on an exchange, the additional conditions in this section to IRC approval impose alternative criteria to help ensure the investments occur at a fair and objective price.

*2. This section sets out the minimum conditions for purchases to proceed without regulatory exemptive relief. An IRC may consider including in any approval any terms or conditions in prior exemptive relief orders, waivers or approvals obtained from the securities regulatory authorities. The CSA expect that the IRC may give its approval in the form of a standing instruction as described in section 5.4 to allow the manager greater flexibility in its decisions.*

*Funds that are not reporting issuers must appoint an IRC for the purpose of approving principal trades in debt securities in order to be eligible to rely upon the exemption. At a minimum, the IRC for the funds that are not reporting issuers must comply with sections 3.7 and 3.9 of the Instrument. It is up to the IRC and the manager to tailor the IRC's responsibilities for investment funds that are not reporting issuers beyond that. The portfolio manager or portfolio adviser of a managed account must obtain the authorization of its client to conduct principal trades with a related dealer in the investment management agreement in order to be eligible to rely upon the exemption.*

*3. Paragraph (1)(g) sets out the minimum expectations regarding the records an investment fund must keep of its trades made in reliance on this section. The records should be detailed, and sufficient to establish a proper audit trail of the transactions..*

10. These changes become effective on [●].