

## NPS 39 Mutual Funds

### PREAMBLE

Unless otherwise expressly provided herein or in another policy statement this policy applies to all mutual funds that offer securities pursuant to a prospectus filed under any securities legislation in force in each Province or Territory of Canada. The requirements of this policy are in addition to the requirements of the securities legislation in force in each Province or Territory of Canada where the prospectus of a mutual fund is filed. For example, in the case of a mutual fund which invests more than 10% of its assets in mortgages or which invests in mortgages other than "permitted mortgages" as defined in Section 1.01 of this policy. National Policy 29 will also apply to such mutual fund.

### SECTION 1 - INTERPRETATION

#### SECTION 1.01 - DEFINITIONS

As used in this policy, unless the subject matter or context otherwise requires, the following expressions have the following meanings:

- (1) "approved credit rating" means a credit rating which is equal to or higher than the levels indicated in Schedule I attached to this policy and any other credit rating that may be designated in writing by the securities authorities;
- (2) "Canadian securities" means all securities that are not foreign securities;
- (3) "cash" means
  - (a) cash on deposit at the mutual fund's custodian, or
  - (b) treasury bills or other evidences of indebtedness issued, or fully guaranteed as to principal and interest, by:
    - (i) any of the Federal, Provincial or Territorial Governments of Canada; or
    - (ii) the Government of the United States or any political subdivision thereof, the Government of any sovereign state or any supranational agency, provided that such treasury bills or other evidences of indebtedness have an approved credit rating;all maturing in less than one year;
  - (c) an evidence of deposit, maturing in less than one year, issued, or fully guaranteed as to principal and interest, by:
    - (i) a bank to which the Bank Act (Canada) applies; or
    - (ii) a loan corporation or trust company registered under applicable federal or provincial legislation; or
    - (iii) a foreign financial institutionprovided that the short term debt instruments of such institution have an approved credit rating.

- (4) "cash cover" means cash held by a mutual fund, in addition to any cash required to be held for other purposes, such as redemptions and other positions in permitted derivatives;
- (5) "clearing corporation option" means an option issued by a permitted clearing corporation but does not include an option on futures;
- (6) "commodity", means, whether in the original or a processed state, any agricultural product, forest product, product of the sea, mineral, metal or hydrocarbon fuel product or precious stone or other gem but does not include cash;
- (7) "contractual plan" means any contract or other arrangement for the purchase of securities of a mutual fund by payments over a specified period or by a specified number of payments where the amount deducted for any one of the payments as sales charges is larger than the amount that would have been deducted from such payment for sales charges if deductions had been made from each payment at a constant rate for the duration of the plan;
- (8) "conventional convertible securities", refers to securities of an issuer that are convertible into, or exchangeable for, other securities of the issuer, or an affiliate thereof, provided that the conversion or exchange thereunder cannot be settled or satisfied by a cash payment in lieu thereof;
- (9) "conventional warrants or rights", refers to listed securities of an issuer (other than a clearing corporation) which give the holder the right to purchase additional securities of the issuer, or of an affiliate of the issuer, and none of the obligations of the issuer or its affiliate thereunder can be settled or satisfied by a cash payment in lieu thereof;
- (10) "dealer manager" means
  - (a) any dealer who acts as a portfolio adviser;
  - (b) any portfolio adviser in which any dealer or any partner, director, officer, salesman or principal shareholder of a dealer directly or indirectly has in the aggregate a more than 10% interest; and
  - (c) any partner, director or officer of any portfolio adviser referred to in clause (b);and the expression "dealer" as used in this definition of dealer-manager means a dealer other than a dealer whose activities as a dealer are restricted to acting solely in respect of mutual fund securities;
- (11) "dealer managed mutual fund" means a mutual fund whose portfolio adviser is a dealer manager;
- (12) "debt-like security" means a security (other than a conventional convertible security or a conventional floating rate debt instrument) which evidences an indebtedness of the issuer where (i) the amount of interest and/or principal to be paid to the holder is linked in whole or in part by formula to the appreciation or depreciation in the market price, value or level of one or more underlying interests on a predetermined date or dates, or (ii) where the security provides the holder with a right to convert or exchange the security for the underlying interest or to purchase the underlying interest; provided, however, that for the purposes of this policy, if on the date of initial issue the value of the component which is linked to an underlying interest accounts for less than 20% of the total market value of the

security, the security shall not be considered to be a debt-like security but instead shall be considered to be debt;

- (13) "derivatives" means instruments, agreements or securities the value of which is based upon the market price, value or level of an index, or the market price or value of a security, commodity, economic indicator or financial instrument other than:
- (a) conventional convertible securities;
  - (b) asset backed securities;
  - (c) securities of a mutual fund;
  - (d) index participation units;
  - (e) securities of a non-redeemable fund;
  - (f) government or corporate strip bonds;
  - (g) listed equity dividend shares of subdivided equity or fixed income securities;
- (14) "equivalent debt" shall mean any debt which ranks equally with, or, if there is no such debt, is subordinate to, the claim for payment which may arise under an over--the-counter option, forward contract or debt-like security;
- (15) "foreign securities" means securities issued by an issuer that is constituted under the laws of a jurisdiction other than Canada or a Province or Territory of Canada and carries on a substantial portion of its activities outside of Canada;
- (16) "forward contract" means a contract to:
- (a) make or take delivery of the specified interest underlying the contract; or
  - (b) settle in cash in lieu of delivery;
- at a designated future date at a price agreed upon when the contract is entered into, where the contract is neither traded on a permitted futures exchange nor issued by a permitted clearing corporation;
- (17) "futures contract" means a contract traded on a permitted futures exchange to:
- (a) make or take delivery of the underlying interest of the contract at a future date; or
  - (b) settle the difference between the future value of a specified quantity of the underlying interest at the time that the contract was entered into and its value at the expiration date;
- pursuant to standardized terms and conditions as set out in the by-laws, rules or regulations of the futures exchange upon which the contract is entered into, where trades in such contracts are cleared by a clearing corporation;
- (18) "government securities" means bonds, debentures or other evidences of indebtedness (other than debt-like securities), having a term of one year or more, issued or fully guaranteed as to principal and interest by any of the Federal, Provincial or Territorial

Governments of Canada, or the Government of the United States of America, or the bonds, debentures or other evidences of indebtedness (other than debt-like securities) having an approved credit rating and a term of one year or more, issued or guaranteed by the government of any sovereign state or any supranational agency;

- (19) "hedging" or to "hedge" means to enter into a transaction, or a series of transactions, the intended effect of which, or the intended cumulative effect of which, is the offset or reduction of the risk associated with all or a portion of an existing investment or group of investments. A transaction which offsets or reduces the risk associated with all or a portion of an existing investment, or group of investments, is a transaction, or a series of transactions, of equivalent underlying market exposure that is opposite to the position, or the portion of the position, being hedged. For the transaction to offset or reduce the risk associated with an investment, or group of investments, there must be a high degree of correlation between changes in the market value of the investment, or group of investments, being hedged and the instrument or instruments with which the position is hedged. There need not be complete congruence between the hedging instrument, or instruments, and the position being hedged provided that it is reasonable to regard the one as a hedging instrument for the other, taking into account the closeness of the relationship between fluctuations in the price of the two. It is essential that changes in the price of the hedging instrument do not more than offset the effect of price changes in the investment, or group of investments, being hedged. The term "hedging" shall also include the hedging of all or a portion of the currency exposure of an existing investment or group of investments either directly or by currency cross hedging. The term "hedge" shall mean the investment or position resulting from the activity of hedging.
- (20) "illiquid investments" means the investments which are referred to in Section 2.06;
- (21) "listed" means listed on a stock exchange, options exchange, permitted futures exchange or quoted on the National Association of Securities Dealers Automated Quotation System;
- (22) "listed warrants", means listed securities of an issuer (other than a clearing corporation) which are put or call options, the capital shares of subdivided equity securities, or warrants or rights (including conventional warrants or rights and index and commodity warrants);
- (23) "long position", with respect to:
- (a) clearing corporation options, over-the-counter options and listed warrants, refers to a mutual fund holding a position which entitles the mutual fund to purchase, sell, receive or deliver the underlying interest (or pay or receive cash in lieu thereof);
  - (b) futures and forward contracts, refers to a mutual fund holding a position which obliges the mutual fund to accept delivery of the underlying interest (or pay or receive cash in lieu thereof);
  - (c) call options on futures, refers to a mutual fund holding a position which entitles the mutual fund to elect to assume a long position in futures; and
  - (d) put options on futures, refers to a mutual fund holding a position which entitles the mutual fund to elect to assume a short position in futures.

- (24) "manager" means a person or company who has the power or responsibility to direct the affairs of the mutual fund but does not include a person or company who is not associated or affiliated with the promoter or trustee of the mutual fund and whose duties are limited to managing the investment portfolio of the mutual fund and the provision of investment advice in connection therewith;
- (25) "option on futures" means an option cleared by a clearing corporation and traded on a permitted futures exchange to assume a long or short position in a futures contract;
- (26) "over-the-counter-option" refers to an option which is neither listed nor cleared by a permitted clearing corporation;
- (27) "permitted clearing corporation" means any of the clearing corporations identified in Schedule II hereto, or any other clearing corporation that may be recognized by the securities authorities;
- (28) "permitted derivatives" means clearing corporation options, futures contracts, options on futures, over-the-counter options, forward contracts, debt-like securities and listed warrants;
- (29) "permitted futures exchange" means any of the futures exchanges identified in Schedule III hereto or any other futures exchange designated in writing by the securities authorities;
- (30) "permitted mortgages" means mortgages guaranteed or insured by the Government of Canada or by the Government of any Province of Canada or by any agency of any such Government and includes mortgages insured under the National Housing Act (Canada) or similar provincial statutes;
- (31) "portfolio adviser" means a person or company that provides investment advice pursuant to a contractual arrangement with the mutual fund or its trustees or other legal representative or with the manager of the mutual fund under which the mutual fund is provided with investment advice, alone or together with administrative or management services, for valuable consideration;
- (32) "portfolio securities" includes all cash, gold, permitted derivatives, mortgages and securities owned by the mutual fund;
- (33) "principal distributor" means a person or company through whom securities of a mutual fund are distributed pursuant to a contractual arrangement with the mutual fund or its trustees or other legal representative or with the manager of the mutual fund providing for an exclusive right to distribute the securities of the mutual fund in a particular area or any feature which gives or is intended to give such person or company a material competitive advantage over others in respect of the distribution of the securities of the mutual fund;
- (34) "prospectus" means a conventional prospectus or a simplified prospectus, together with the related annual information form, and all amendments thereto;
- (35) "restricted securities" means securities, the resale of which is restricted or limited by means of a representation, undertaking or agreement by the mutual fund or by the mutual fund's predecessor in title or by law, but "restricted securities" do not include permitted derivatives;
- (36) "short position", with respect to:

- (a) clearing corporation options, over-the-counter options and listed warrants refers to a mutual fund having a position which, at the election of another, obliges the mutual fund to purchase, sell, receive or deliver the underlying interest (or pay or receive cash in lieu thereof);
  - (b) futures and forward contracts refers to a mutual fund holding a position which obliges the mutual fund to deliver the underlying interest (or pay or receive cash in lieu thereof);
  - (c) call options on futures, refers to a mutual fund holding a position which, at the election of another, obliges the mutual fund to assume a short position in futures; and
  - (d) put options on futures, refers to a mutual fund holding a position which, at the election of another, obliges the mutual fund to assume a long position in futures.
- (37) "standard investment restrictions and practices" means the investment restrictions and investment practices set out in Sections 2.04 and 2.05;
- (38) "underlying market exposure" with respect to a position in:
- (a) an option, refers, at any time, to the quantity of the underlying interest of the option position multiplied by the current market value of one unit of such underlying interest, multiplied, in turn, by the option's delta, where delta is a positive or negative number that measures the sensitivity of an option's market value to changes in the value of the underlying interest of the option; or
  - (b) a futures or forward contract, refers, at any time, to the quantity of the underlying interest in respect of such position multiplied by the current market value of one unit of such underlying interest.

## SECTION 1.02 - APPROVAL OF SECURITIES AUTHORITIES

Where this policy contemplates that action may not be taken without the approval of the securities authorities, the approval of the securities authorities to any such action being taken, unless otherwise expressly provided, shall be considered to be given if the action is disclosed in a prospectus and a receipt is issued for the prospectus by the respective securities authorities with which the prospectus is filed, provided that at or prior to the time of filing the prospectus all such matters requiring the approval of the securities authorities are expressly brought to the attention of the securities authorities by means of a separate letter or memorandum addressed to the securities authorities specifying the matters which require the approval of the securities authorities and indicating the reasons why consideration should be given by the securities authorities to granting such approval.

## SECTION 2 - INVESTMENTS

### SECTION 2.01 - INVESTMENT POLICY STATEMENTS

Where a mutual fund intends to:

- (1) invest a specific portion of its assets in Canadian securities or in foreign securities;
- (2) invest in foreign securities;

- (3) invest a specific portion of its assets in a particular type of security (e.g. bonds, common shares, preferred shares, money market instruments);
- (4) concentrate its investments in a particular class or kind of industry;
- (5) invest in property other than securities;
- (6) invest in or use permitted derivatives;

the policy shall be stated in the prospectus of the mutual fund.

#### SECTION 2.02 - QUALIFICATION FOR PLANS REGISTERED UNDER THE INCOME TAX ACT (CANADA)

Where the securities of the mutual fund are or will be a qualified investment within the meaning of the Income Tax Act (Canada) for retirement savings plans, deferred profit sharing plans or other savings plans registered under the Income Tax Act (Canada) and where the mutual fund is or will be recognized as a registered investment within the meaning of such Act, the relevant information and the effect of such qualification shall be disclosed in the prospectus of the mutual fund, together with a statement as to the limitations, if any, imposed by such Act on the portion of such plans which may be invested in the securities of the mutual fund without subjecting such plans to taxes or penalties under such Act.

If the securities of the mutual fund are not or will not be qualified investments for such plans, a statement to that effect shall be made in the prospectus.

#### SECTION 2.03 - "LEGAL FOR LIFE" STATEMENTS

A prospectus may not contain reference to an opinion that the securities issued by the mutual fund are eligible investments for pension funds, insurance companies, trust companies or loan companies governed by specified statutes unless the mutual fund satisfies the securities authorities that the reference to the eligibility opinion is not misleading in the context having regard to the fact that the securities of the mutual fund are being offered for sale on a continuous basis rather than being sold on the fixed date as at which the eligibility opinion is given as well as to any other relevant facts.

#### SECTION 2.04 - INVESTMENT RESTRICTIONS

- (1) A mutual fund shall not without the prior approval of the securities authorities:
  - (a) purchase securities of any issuer, (other than the securities issued or guaranteed by the Government of Canada or an agency thereof or by the Government of any Province of Canada or any agency thereof or by the Government of the United States of America or an agency thereof) if, after giving effect thereto, more than 10% of the net assets of the mutual fund, taken at market value at the time of such purchase, would be invested in the securities of such issuer;
  - (b) purchase securities of any issuer, (other than the securities issued or guaranteed by the Government of Canada or an agency thereof or by the Government of any Province of Canada or any agency thereof or by the Government of the United States of America or an agency thereof) if, after giving effect thereto, the mutual fund would hold more than 10% of any class or series of a class of securities of such issuer, provided that for the purpose of making this determination, all debt obligations of an issuer maturing in less than one year and all unlisted permitted derivatives of an issuer, shall be regarded as a single series of a class of securities;

- (c) purchase real estate;
- (d) purchase mortgages other than permitted mortgages;
- (e) purchase permitted mortgages if following such purchase more than 10% of the total assets of the mutual fund (taken at market value at the time of such purchase) would consist of permitted mortgages;
- (f) purchase restricted securities if following such purchase more than 10% of the total assets of the mutual fund (taken at market value at the time of purchase) would consist of illiquid investments;
- (g) purchase securities for the purpose of exercising control or management of the issuer of such securities;
- (h) purchase gold or gold certificates if following such purchase more than 10% of the total assets of the mutual fund (taken at market value at the time of such purchase) would consist of gold and gold certificates, provided that any purchase of gold certificates shall be restricted to gold certificates issued by an issuer approved by the securities authorities;
- (i) purchase or sell derivatives except for permitted derivatives, and except as specifically permitted by this policy;
- (j) purchase or sell commodities, provided that the restriction herein contained will not restrict the mutual fund from purchasing or selling gold or gold certificates to the extent that such purchase or sale is not otherwise restricted pursuant to Section 2.04(1)(h);
- (k) invest in securities of any other mutual fund, provided that nothing herein contained will prevent a mutual fund from investing in:
  - (i) securities of any other mutual fund where:
    - (A) adequate provisions are made to address any conflicts which result in the mutual funds by reason of such investment and such provisions are described in the prospectus of the mutual fund; and
    - (B) the arrangement between or in respect of the mutual funds is such so as to avoid the duplication of management fees and sales charges and such arrangement is described in the prospectus of the mutual fund; and
    - (C) either such other mutual fund is qualified for sale pursuant to a prospectus which has been filed and accepted in the Provinces or Territories of Canada  
where the securities of the mutual fund are qualified for sale pursuant to a prospectus which has been filed and accepted in such Provinces or Territories of Canada; or
    - (D) the only way that the mutual fund may invest in a foreign country is through a mutual fund established with the approval of the Government of such foreign country and there is disclosure in the prospectus of the mutual fund of the risk factors which may be associated with the investment in foreign countries such as the imposition of foreign investment and exchange control laws and the fact that financial and

other reporting and auditing standards and practices and disclosure may be less extensive than comparable requirements in Canada and the United States; or

- (ii) Toronto 35 Index Participation Units which are listed or are qualified for sale pursuant to a prospectus which has been filed and accepted in the Provinces and Territories of Canada;
- (2) A mutual fund may purchase, sell or otherwise take a position in a permitted derivative for non-hedging purposes, provided that, for the purpose of complying with Section 2.04(1), the mutual fund must determine its exposure to the investment that forms the underlying interest of the permitted derivative by adding:
- (i) the underlying market exposure that the position in the permitted derivative provides to such investment;
- to:
- (ii) the underlying market exposure to such investment provided by other permitted derivatives, if any, held by the mutual fund for non-hedging purposes; and
  - (iii) the exposure represented by the direct holding of such investment, if any, held by the mutual fund, provided that, with respect to a permitted derivative which has underlying market exposure to a stock or bond index that includes the investment as a component, the market exposure that such investment represents in such index shall not be included in the foregoing calculation where the investment represents less than 10% of the stock or bond index.
- (3) The provisions of Section 2.04(1)(d) and (1)(e) do not apply to a mutual fund that is subject to and complies with the provisions of National Policy Statement No. 29.
- (4) With respect to the provisions of Section 2.04(1)(k)(i):
- (a) The securities authorities recommend that representatives of a mutual fund which proposes to invest in another mutual fund approach the securities authorities prior to filing any material to review the adequacy of the provisions proposed to be made to address any conflicts which result in the mutual funds by reason of such investment.
  - (b) The prior approval of the securities authorities is required to be obtained before a mutual fund may:
    - (i) invest more than 10% of its net assets (taken at market value at the time of such investment) in another mutual fund, or
    - (ii) hold more than 10% of any class or series of a class of securities of another mutual fund.

In determining whether or not such approvals will be granted a number of factors will be considered by the securities authorities including what provisions have been or will be made to address concerns such as the compatibility of the fundamental investment objectives of the mutual funds, any conflicts which result in the mutual funds by reason of such investment, the right of securityholders of the mutual fund to receive notice of and to vote upon fundamental changes occurring in the other mutual fund, the arrangements for continuous disclosure materials of the other mutual fund to be provided to the securityholders of the mutual fund, whether or not there are redemption fees or other charges if securityholders of the mutual fund should redeem the securities of the mutual fund which they own in

response to a fundamental change occurring in the other mutual fund. Accordingly, the securities authorities recommend that, if a mutual fund is contemplating an investment in another mutual fund which will exceed the limits referred to in clauses (i) or (ii) of this paragraph, representatives of the mutual fund should approach the securities authorities prior to filing any material to determine whether such an investment would be permitted and if so what conditions would be applicable to such an investment.

#### SECTION 2.05 - INVESTMENT PRACTICES

A mutual fund shall not without the prior approval of the securities authorities:

- (1) pledge any of its assets (except as may be required for posting margin to effect the transactions described in Section 2.07) or mortgage any of its assets or borrow money except as a temporary measure for the purpose of accommodating requests for the redemption of securities issued by the mutual fund while effecting an orderly liquidation of portfolio securities, and then only if after giving effect to such borrowing the outstanding amount of all such borrowings does not exceed 5% of the net assets of the mutual fund taken at market value at the time of such borrowing;
- (2) invest more than 10% of its net assets (taken at market value at the time of investment) in illiquid investments;
- (3) purchase securities on margin, and, for greater certainty, margin pledged on account for positions in permitted derivatives as described in Section 2.07 shall not be deemed to be the purchase of securities on margin for the purpose of this Section 2.05(3);
- (4) sell securities short, other than as specifically permitted by Section 2.07;
- (5) purchase any security which may by its terms require the mutual fund to make a contribution in addition to the payment of the purchase price other than a permitted derivative pursuant to a transaction described in Section 2.07 and provided that this restriction shall not apply to the purchase of securities which are paid for on an instalment basis where the total purchase price and the amount of all such instalments is fixed at the time the first instalment is paid;
- (6) engage in the business of underwriting securities or marketing to the public securities of any other issuer;
- (7) lend money, provided that this restriction shall not apply so as to prevent the purchase of debt obligations;
- (8) lend portfolio securities;
- (9) guarantee the securities or obligations of any other person or corporation;
- (10) purchase securities other than through normal market facilities unless the purchase price approximates the prevailing market price or is negotiated on an arm's length basis;
- (11) contract with the manager or the portfolio adviser or the trustee of the mutual fund or with any director or officer of the mutual fund or of the manager or of the portfolio adviser or of the trustee of the mutual fund or with any of their respective associates or affiliates or with any entity having fewer than 100 participants of record of which any director or officer of the mutual fund may be a director, officer or participant as principals in making purchases or sales of portfolio securities.

## SECTION 2.06 - ILLIQUID INVESTMENTS

The expression "illiquid investments" as used in this policy means investments which may not be readily disposed of in a marketplace where such investments are normally purchased and sold and public quotations in common use in respect thereof are available at an amount at least equal to the amount at which such investments are valued for the purpose of determining the net asset value of the mutual fund. Where in the case of any investment there is no marketplace where such investment may normally be purchased and sold and public quotations in common use in respect thereof are available, such investment will be considered to be an illiquid investment notwithstanding the fact that the manager or the portfolio adviser of a mutual fund or a director or officer of the manager or portfolio adviser of a mutual fund or any of their respective associates or affiliates has agreed to purchase the investment. Examples of illiquid investments include but are not limited to: limited partnership interests that are not listed and securities of a private company. Over-the-counter options entered into for non-hedging purposes are deemed to be illiquid investments. Over-the-counter options entered into for hedging purposes in accordance with this policy are not deemed to be illiquid investments.

## SECTION 2.07 - PERMITTED TRANSACTIONS IN DERIVATIVES

- (1) Where consistent with its expressed investment objectives and not contrary to its investment restrictions and subject to the conditions as herein provided, a mutual fund may:
  - (a) for hedging purposes only;
    - (i) use permitted derivatives;
  - (b) with respect to options, options on futures, listed warrants and debt-like securities which have an options component:
    - (i) purchase clearing corporation options, over-the-counter options, options on futures, listed warrants and debt-like securities which have an options component, provided that not more than 10% of the net assets of the mutual fund, taken at market value at the time of such purchase, would consist of such instruments:
    - (ii) write clearing corporation call options or over-the-counter call options, provided that, as long as the position remains open, the mutual fund holds, and continues to hold:
      - (A) an equivalent quantity of the underlying interest of such options; or
      - (B) a right or obligation to acquire an equivalent quantity of the underlying interest of the options and cash cover in an amount which together with margin on account in respect of such position is not less than the amount, if any, by which the strike price of the right or obligation to acquire the underlying interest exceeds the strike price of the written options; or
      - (C) any combination thereof, from time to time;
    - (iii) write clearing corporation put options or over-the-counter put options, provided that, as long as the position remains open, the mutual fund holds, and continues to hold:

- (A) a right or obligation to sell an equivalent quantity of the underlying interest of the options and cash cover in an amount which together with margin on account in respect of such positions is not less than the amount, if any, by which the strike price of the written options exceeds the strike price of the right or obligation to sell the underlying interest; or
  - (B) cash cover in an amount which, together with margin on account in respect of the options position, is not less than the strike price of the options; or
  - (C) any combination thereof, from time to time.
- (c) with respect to futures, forwards and debt-like securities which have a component which is a long position in a forward contract:
  - (i) open and continue to maintain long positions in futures contracts, forward contracts or debt-like securities which have a component which is a long position in a forward contract, provided that the mutual fund holds, and continues to hold, cash cover in an amount which, together with margin on account in respect of the permitted derivative and the market value of the permitted derivative, is not less than, on a daily marked-to-market basis, the underlying market exposure of the permitted derivative;
  - (ii) open and continue to maintain short positions in futures contracts or forward contracts, provided that the mutual fund holds and continues to hold:
    - (A) an equivalent quantity of the underlying interest of such contracts; or
    - (B) a right or obligation to acquire an equivalent quantity of the underlying interest of the contracts and cash cover together with margin on account in respect of such position in an amount which is not less than the amount, if any, by which the strike price of the right or obligation to acquire the underlying interest exceeds the forward price of such contracts; or
    - (C) any combination thereof, from time to time;
  - (iii) assume the position in the futures contracts underlying options on futures upon the exercise of the option, provided that the mutual fund complies with the other provisions of this paragraph (c).
- (2). In addition to the provisions of Section 2.07(1):
  - (a) a mutual fund that has written a clearing corporation call option or an over-the-counter call option, and, in accordance with sub-paragraph 2.07(1)(b)(ii)(B), holds the right or obligation to acquire an equivalent quantity of the underlying interest, must ensure that the expiry date of the right or obligation to acquire the underlying interest occurs on or after the expiry date of the written call option;

- (b) a mutual fund that has written a clearing corporation put option or an over-the-counter put option, and, in accordance with sub-paragraph 2.07(1)(b)(iii)(A), holds the right or obligation to sell an equivalent quantity of the underlying interest, must ensure that the expiry date of the right or obligation to sell the underlying interest occurs on or after the expiry date of the written put option;
- (c) a mutual fund may not purchase an over-the-counter option or enter into a forward contract unless:
  - (i) the over-the-counter option or forward contract has a term not exceeding three years, and, at the time of the transaction, the over-the-counter option or forward contract, or equivalent debt of the issuer of such option or contract, has an approved credit rating; or
  - (ii) the over-the-counter option or forward contract has a term exceeding three years but not exceeding five years and, at the time of the transaction:
    - (A) the over-the-counter option or forward contract provides the mutual fund with a right, at its election, to eliminate its exposure to the issuer of the over-the-counter option or forward contract after 3 years; and
    - (B) the over-the-counter option or forward contract, or equivalent debt of the other party thereto has, at the time of the transaction, an approved credit rating.

In the event that the credit rating in respect of an over-the-counter option or forward contract, or the credit rating of the equivalent debt of the issuer thereof, falls below the level of approved credit rating during the term thereof, the mutual fund must take such steps as are reasonably required to close out its position in an orderly fashion with respect thereto.

- (3). Notwithstanding anything else provided for in this policy statement, a mutual fund may enter into trades to close out positions in permitted derivatives and the cash cover held to cover the underlying market exposure may be released to the extent a position is closed out.
- (4). In addition to purchases of derivatives permitted under sub-paragraphs 2.07(1)(a) and (b), nothing herein contained will prevent:
  - (a) the acquisition of securities that have attached thereto conventional warrants or rights;
  - (b) the acquisition of securities that are offered in units consisting in part of conventional warrants or rights; or
  - (c) the acquisition of conventional warrants or rights that are issued to the mutual fund as a holder of any security.
- (5). (a) A mutual fund may only invest in or use clearing corporation options and over-the-counter options if the portfolio adviser advising with respect to such investments or uses is registered as an adviser and meets the proficiency

requirements for advising with respect to options in the principal jurisdiction in Canada in which the portfolio adviser carries on its business.

- (b) A mutual fund may only invest in or use futures and options on futures if the portfolio adviser advising with respect to such investments or uses is registered as an adviser in a jurisdiction within Canada where such registration is required and meets the proficiency requirements for advising with respect to futures and options on futures in such jurisdiction.
- (c) Notwithstanding subsections 2.07(5)(a) and (b), a mutual fund may invest in or use clearing corporation options, over-the-counter options, futures and options on futures, as the case may be, provided that:
  - (i) a portfolio adviser of the mutual fund, qualified as provided in paragraphs (a) or (b), as the case may be, receives advice in respect of such investment or use from a portfolio adviser whose principal place of business is located outside of Canada ("non-resident adviser") so long as:
    - (A) the obligations and duties of the non-resident adviser are set out in a written agreement with the portfolio adviser; and
    - (B) the portfolio adviser agrees, in a document providing rights to the mutual fund, to be responsible for the advice received from the non-resident adviser; or
  - (ii) if the mutual fund is advised directly by a non-resident adviser, the mutual fund receives the prior approval of the securities authorities to the use of such non-resident adviser. In applying for such approval the mutual fund must provide the following information:
    - (A) the name of the non-resident adviser;
    - (B) the address of the principal place of business of the non-resident adviser;
    - (C) the assets under the administration of the non-resident adviser;
    - (D) the jurisdictions in which the non-resident adviser is registered, if any;
    - (E) the registration requirements to which the non-resident adviser is subject; and
    - (F) such other information as the securities authorities may require.

In considering whether to grant such approval the securities authorities may require the registration of the non-resident adviser where the non-resident adviser is not registered in a comparable jurisdiction or does not meet proficiency requirements comparable to the requirements in the jurisdictions within Canada that impose a registration requirement and in making such determination the securities authorities may consider whether the non-resident adviser has the equivalent educational qualifications or experience.

- (6). A mutual fund whose constating documents do not prohibit it from using a permitted derivative and which intends to use such a permitted derivative must in its annual information form or prospectus:
- (a) explain how the permitted derivative will be used in conjunction with other securities to achieve the mutual fund's investment and risk objectives; and
  - (b) describe the limits of and risks involved in the mutual fund's intended use of the permitted derivative; and
- provide an abbreviated version of such information in its simplified prospectus.
- (7). A mutual fund using permitted derivatives in accordance with this policy is not required to comply with the rules and policies applicable to a commodity pool and shall not describe itself as a commodity pool or as a vehicle for investors to participate in the speculative trading of, or leveraged investment in, derivatives.
- (8). Writing over-the-counter options and selling forward transactions constitutes distributions of securities for which a prospectus may be required or for which specific or blanket exemptive relief may be necessary under the applicable securities legislation. The mutual fund, as the writer of the over-the-counter option or seller of the forward contract may be, in effect, an issuer distributing securities. Accordingly a mutual fund and its advisers, before writing over-the-counter options or selling forward contracts should ensure that such distribution of derivatives is in compliance with the applicable securities legislation.

## SECTION 2.08 - DISCLOSURE IN PROSPECTUS OF ADHERENCE TO STANDARD INVESTMENT RESTRICTIONS AND PRACTICES

It shall not be necessary to state the standard investment restrictions and practices in a prospectus provided that:

- (1) the prospectus includes a statement to the effect that
  - (i) the mutual fund has adopted the standard investment restrictions and practices;
  - (ii) the standard investment restrictions and practices are deemed to be incorporated in the prospectus; and
  - (iii) a copy of the standard investment restrictions and practices will be provided by or on behalf of the mutual fund to any person requesting the same;
- (2) any investment restrictions or investment practices in addition to the standard investment restrictions and practices that have been adopted by the mutual fund (including any variations from the standard investment restrictions and practices that have been approved by the securities authorities) are set forth in the prospectus.

## SECTION 3 - NEW MUTUAL FUNDS

### SECTION 3.01 - INITIAL INVESTMENT IN A NEW MUTUAL FUND

The initial investment in a new mutual fund shall be at least \$150,000, which investment shall be provided by the manager of the mutual fund or by the portfolio adviser or promoter or sponsor of the mutual fund or

by the directors, officers or shareholders of the manager of the mutual fund or of the portfolio adviser or promoter or sponsor of the mutual fund. The securities issued upon such investment shall not be redeemed until an additional \$500,000 has been received from other investors. Where such initial investment has not been provided, the minimum amount which must be subscribed through a "best efforts offering" is \$500,000. If a mutual fund consists of sections or parts, each section or part is considered to be a separate mutual fund.

#### SECTION 3.02 - PROHIBITION AGAINST REIMBURSEMENT OF ORGANIZATION COSTS

The costs of incorporation or formation and of the initial organization of the mutual fund (including, without limitation, the costs of the preparation and filing of the initial prospectus and the preliminary prospectus filed in connection therewith) shall be borne by either the promoter or the sponsor or the manager of the mutual fund and the mutual fund shall not reimburse any of them for these expenses or assume any of such expenses.

#### SECTION 3.03 - DESIGNATION OF SECURITIES

Securities issued by an unincorporated mutual fund shall be described by a term other than "shares".

#### SECTION 4 - DEALER MANAGED MUTUAL FUNDS

##### SECTION 4.01 - QUALIFICATION OF DEALER MANAGER

Any registered dealer may act as a dealer manager provided that:

- (1) the securities authorities are satisfied that the dealer manager has one or more individuals who are directly responsible for the portfolio management of the mutual fund who would qualify, if separately registered, for registration as an investment counsel and portfolio manager; and
- (2) the dealer manager complies with the laws and policies from time to time promulgated and applicable to portfolio managers.

##### SECTION 4.02 - PROHIBITED INVESTMENTS

A dealer managed mutual fund shall not knowingly make an investment in any class of securities of any issuer<sup>1</sup>

<sup>1</sup> including certain permitted derivatives

, other than those issued or guaranteed by the Government of Canada or by an agency thereof or by the Government of a Province of Canada or by an agency thereof,

- (a) for which any person or company who is a dealer manager of such mutual fund or who is an associate or affiliate of such dealer manager has acted as an underwriter in the distribution of such class of securities of the issuer (except as a member of the selling group distributing 5% or less of the securities underwritten) for a period of at least 60 days following the conclusion of the distribution of the underwritten securities to the public; or
- (b) of which any partner, director, officer or employee of a person or company who is a dealer manager of such mutual fund or any partner, director, officer or employee of any

affiliate or associate of such dealer manager is an officer or director, provided that this prohibition shall not apply where any such partner, director, officer or employee does not:

- (i) participate in the formulation of investment decisions made on behalf of the dealer managed mutual fund,
- (ii) have access prior to implementation to investment decisions made on behalf of the dealer managed mutual fund, and
- (iii) influence (other than through research, statistical and other reports generally available to clients) the investment decisions made on behalf of the dealer managed mutual fund.

It shall not be necessary to state the foregoing provisions in a prospectus if the constating documents of the mutual fund or the laws applicable to the mutual fund contain substantially similar provisions to those set out in this Section 4.02.

#### SECTION 4.03 - DEALER MANAGER ACTING AS PRINCIPAL

Notwithstanding the provisions of Section 2.05(11), the dealer manager of a dealer managed mutual fund or an affiliate or associate of the dealer manager may contract with the dealer managed mutual fund as principal in making purchases or sales of portfolio securities, provided that the price payable for the portfolio securities, in the case of a purchase of portfolio securities, is not more than the ask price of such portfolio securities as reported by any public quotations in common use which may be available and, in the case of a sale of portfolio securities, is not less than the bid price of such portfolio securities as reported by any public quotations in common use which may be available.

#### SECTION 5 - CERTIFICATES

##### SECTION 5.01 - MANAGER TO SIGN PROSPECTUS

In addition to any other certificates that may be required to be signed by any person or body corporate under applicable law, the manager of a mutual fund shall sign the same certificate in a prospectus that is required to be signed by the mutual fund, which certificate shall be signed by the chief executive officer of the manager, by the chief financial officer of the manager, and on behalf of the board of directors of the manager, by any two directors of the manager; other than the foregoing, duly authorized to sign.

Where the manager has only three directors, the certificate shall be signed by all of the directors of the manager.

Where the securities authorities are satisfied upon evidence satisfactory to them that either or both of the chief executive officer or chief financial officer of the manager is for adequate cause not available to sign the certificate, the securities authorities may permit the certificate to be signed by any other responsible officer or officers of the manager in lieu of either or both of the chief executive officer or chief financial officer.

Where the manager of the mutual fund is a body corporate, evidence of the authority of the officers and directors of the manager who sign the certificate on behalf of the manager must be filed with the prospectus.

##### SECTION 5.02 - TRUSTEED MUTUAL FUNDS

Where a mutual fund is established as a trust, the certificate required to be signed by the mutual fund shall be signed as follows:

- (i) where any trustee of the mutual fund is an individual, by each individual who is a trustee or by a duly authorized attorney of such individual, with evidence of such attorney's authority to sign the certificate being filed with the prospectus;
- (ii) where any trustee of the mutual fund is a body corporate, by the duly authorized signing officer(s) of such body corporate, with evidence of the authority of such signing officer(s) to sign the certificate being filed with the prospectus;

provided that, where the declaration of trust established the mutual fund delegates the authority to do so, the certificate required to be signed by the mutual fund may be signed by the person to whom such authority is delegated with evidence of the authority of the person signing the certificate to be filed with the prospectus and, where such signing authority has been delegated to a body corporate, with evidence of the authority of the person signing the prospectus on behalf of the body corporate, also to be filed with the prospectus.

Notwithstanding the foregoing, where any trustee of the mutual fund is also the manager of the mutual fund, the certificate required to be signed by the mutual fund shall, in addition to any other requirements that there may be under applicable law, be signed in the same manner as is prescribed in Section 5.01.

## SECTION 6 - APPROVAL OF SECURITYHOLDERS FOR CERTAIN CHANGES

### SECTION 6.01 - MATTERS REQUIRING SECURITYHOLDER APPROVAL

A meeting of the securityholders of the mutual fund shall be convened to consider and approve:

- (a) a change (other than a change referred to in Section 6.03) in any contract or the entering into of any new contract as a result of which the basis of the calculation of the fees or of other expenses that are charged to a mutual fund could result in an increase in charges to the mutual fund;
- (b) a change of the manager of the mutual fund (other than to an affiliate of the present manager);
- (c) any change in the fundamental investment objectives of the mutual fund;
- (d) any change of auditors;
- (e) any decrease in the frequency of calculating net asset value;
- (f) subject to Section 6.03(3), the commencement of the use by the mutual fund of permitted derivatives.
- (g) any other matter which is required by the constating documents of the mutual fund or by the laws applicable to the mutual fund or by any agreement to be submitted to a vote of the securityholders of the mutual fund;

It shall not be necessary to state the foregoing requirements in a prospectus if the constating documents of the mutual fund or the laws applicable to the mutual fund confer substantially similar rights of approval on securityholders of the mutual fund.

### SECTION 6.02 - APPROVAL OF SECURITYHOLDERS

Unless a greater majority is required by the constating documents of the mutual fund or by the laws applicable to the mutual fund or by any applicable agreement, the approval of the securityholders of the mutual fund shall be deemed to be given if expressed by a resolution passed at a meeting or meetings of the securityholders of the mutual fund duly called and held for the purpose of considering the same by at least a majority of the votes cast.

#### SECTION 6.03 - CIRCUMSTANCES IN WHICH APPROVAL OF SECURITYHOLDERS NOT REQUIRED

The approval of securityholders is not required to be obtained for a change referred to in Section 6.01(a) where:

- (1) the mutual fund contracts at arm's length and with parties other than the manager of the mutual fund or an associate or affiliate of the manager of the mutual fund, for all or part of the services it requires to carry on its operations and the prospectus makes reference to the fact that, although the approval of securityholders will not be obtained before making the changes, securityholders will be given at least 60 days notice before the effective date of any change which is to be made which could result in an increase in charges to the mutual fund and such notice is actually given; or
- (2) the mutual fund has neither a sales charge nor a redemption fee (other than a redemption fee applicable only to redemptions effected within 90 days of the purchase of the securities of the mutual fund) if the prospectus of the mutual fund indicates that securityholders will be given at least 60 days notice before the effective date of any change which is to be made which could result in an increase in charges to the mutual fund and such notice is actually given.

The approval of security holders is not required to be obtained for a change referred to in Section 6.01(f) where:

- (3) a change is made to permit the mutual fund to use permitted derivatives in accordance with this policy, the change would not otherwise require security-holder approval pursuant to Section 6.01, security holders will be given at least 60 days notice of the change before the effective date of any such change, the notice includes the disclosure required by Section 2.07(6) of this policy and such notice is actually given.

#### SECTION 6.04 - FORMALITIES WITH RESPECT TO MEETINGS OF SECURITYHOLDERS

A meeting of securityholders of a mutual fund called to consider any matter referred to in Section 6.01 shall be called on at least 21 days notice and the provisions of National Policy No. 41, to the extent that they are applicable to such meeting, shall be complied with in respect thereof. The notice calling the meeting shall contain or be accompanied by a statement which includes:

- (1) a description of the change proposed and, where the matter is one referred to in Section 6.01(a), the effect that it would have had on the management expense ratio of a mutual fund had the change been in force throughout the mutual fund's last completed financial year;
- (2) the date of the proposed implementation; and
- (3) all other information and documents necessary to comply with the applicable proxy solicitation requirements in respect of such meeting.

#### SECTION 7 - CUSTODIANSHIP OF PORTFOLIO SECURITIES

## SECTION 7.01 - CUSTODIANSHIP OF PORTFOLIO SECURITIES

- (1) Except as provided in Section 7.01(12), all portfolio securities of the mutual fund, must be held under the custodianship of a Canadian custodian that meets the guidelines prescribed in Section 7.02, which custodian is hereinafter referred to as the "Custodian".
- (2) Except as provided in Sections 7.01(3), 7.01(9) and in Section 7.01(12), all portfolio securities of a mutual fund shall be held by the Custodian in Canada.
- (3) Where it is desirable for the purpose of more expeditiously effecting portfolio transactions outside of Canada, the Custodian may hold the relevant portfolio securities of the mutual fund outside of Canada or may appoint sub-custodians to hold such portfolio securities outside of Canada and enter into sub-custodianship agreements with such sub-custodians to provide for the safekeeping of portfolio securities of the mutual fund on terms and conditions similar to the terms and conditions contained in the custodianship agreement between the mutual fund and the Custodian, provided that adequate provision is made in the sub-custodianship agreements for the mutual fund, acting through the Custodian, to enforce its rights in respect thereof and provide further that any sub-custodianship agreement may not permit any further delegation of custodial authority unless the prior written consent of the Custodian and the mutual fund has been given to the specific custodial appointments which are to be made by the sub-custodian. Where any further delegation of custodial authority is made, adequate provision must also be made for the mutual fund, acting through the Custodian and the sub-custodian or sub-custodians, to enforce its rights in respect thereof. The term "sub-custodian" as used in this Section 7 includes any sub-custodian, whether appointed by the Custodian or appointed by a sub-custodian under the authority of the Custodian. Any sub-custodian appointed by or under the authority of the Custodian shall be a sub-custodian which meets the guidelines prescribed in Section 7.03.

All custodianship agreements shall provide that the Custodian shall be required to review on a periodic basis, not less frequently than annually, all custodial arrangements with the sub-custodians appointed by or under the authority of the Custodian to ensure that all custodial arrangements are in compliance with the provisions of this Section 7 and that all sub-custodians so appointed comply with the guidelines prescribed in Section 7.03 for sub-custodians and the Custodian shall make or cause to be made any changes that may be necessary to ensure that all sub-custodians appointed by or under the authority of the Custodian comply with the guidelines prescribed in Section 7.03 for sub-custodians.

- (4) All custodianship agreements shall provide that the Custodian shall, within 60 days following the end of each financial year of the mutual fund, advise the mutual fund in writing of the names and addresses of all sub-custodians appointed by or under the authority of the Custodian and whether to the best of the knowledge and belief of the Custodian after making reasonable enquiry, the sub-custodians comply with the guidelines prescribed in Section 7.03 for sub-custodians and whether the custodial arrangements are in compliance with the provisions of Section 7. A copy of such report shall be filed with the respective securities authorities in the jurisdictions where the securities of the mutual fund are qualified for sale pursuant to a prospectus filed with and accepted by such securities authorities at the time of the annual refiling thereof.
- (5) All custodianship agreements shall provide that, where the portfolio securities are not registered in the name of the mutual fund, they shall be registered in the name of the Custodian or of a sub-custodian or their respective nominees with an account number or other designation in the records of the Custodian or sub-custodian or their respective

nominees sufficient to establish that the beneficial ownership of the portfolio securities is vested in the mutual fund. Where the portfolio securities are issued in bearer form, the custodianship agreement shall provide that such portfolio securities shall be designated or segregated by the Custodian or sub-custodian or their respective nominees so as to establish that the beneficial ownership of such property is vested in the mutual fund. Comparable provisions shall be included in any sub-custodianship agreements entered into by or under the authority of the Custodian.

- (6) All custodianship agreements shall provide, as a minimum standard of care, that the Custodian in carrying out its duties in respect of the safekeeping of the portfolio securities of the mutual fund or in dealing with the portfolio securities of the mutual fund under the instructions of the mutual fund shall exercise at least the same degree of care which the Custodian gives to its own property of a similar kind being kept by the Custodian and must provide that the Custodian shall assume the entire responsibility for loss occasioned by reason of the negligence of or wrongful act of the Custodian's employees, directors or officers. Comparable provisions shall be included in any sub-custodian agreements entered into by or under the authority of the Custodian.
- (7) No custodianship agreement or sub-custodianship agreement may provide for the creation of any mortgage, pledge, hypothec, charge, lien, security interest or other encumbrance of any nature or kind on the portfolio securities except in respect of a claim for payment of the fees and expenses of the Custodian or sub-custodian as the case may be in connection with acting as Custodian or sub-custodian as the case may be.
- (8) No custodianship agreement or sub-custodianship agreement may contain a provision that would require the payment of any fee to the Custodian or sub-custodian in respect of the transfer of the beneficial ownership of portfolio securities of the mutual fund other than the fees and expenses of the Custodian or sub-custodian as the case may be for safekeeping and administrative services in connection with acting as Custodian or sub-custodian as the case may be.
- (9) Where it is desired to permit portfolio securities to be held in a book-based system, the custodianship agreement may provide that the Custodian may arrange for the deposit and delivery of eligible portfolio securities with The Canadian Depository For Securities Limited or the Depository Trust Company or with any other domestic or foreign depository or clearing agency which is incorporated or organized under the laws of a country or a jurisdiction within a country and is duly authorized to operate a book-based system in that country or is duly authorized to operate a transnational book based system. Any book-based system in which the Custodian arranges for the deposit and delivery of eligible portfolio securities shall not for the purposes of this policy statement be considered to be a Custodian or a sub-custodian of the mutual fund. As used herein, the expression "book-based system" means a system for the central handling of securities or equivalent book-based entries pursuant to which system all securities of any particular class or series of any issuer deposited within the system are treated as fungible and may be transferred or pledged by bookkeeping entry without physical delivery of such securities.
- (10) A custodianship agreement and sub-custodianship agreement shall contain such additional provisions as the mutual fund deems necessary or desirable to provide for the safekeeping of the portfolio securities of the mutual fund.
- (11) Upon request, a copy of the Custodianship Agreement and of any sub-custodian agreements entered into by or under the authority of the Custodian shall be delivered to the securities authorities requesting the same.

- (12) (a) Where a mutual fund trades in clearing corporation options, options on futures or futures in accordance with this policy, the mutual fund may deposit portfolio securities or cash as margin in respect of such transactions with a dealer that is a member of a self-regulatory organization that is a participating member of the Canadian Investor Protection Fund, provided that the amount of initial margin so deposited does not, when aggregated with the amount of margin held by the dealer, exceed 10% of the net assets of the mutual fund.
- (b) Where it is desirable for the purpose of more expeditiously effecting trades in clearing corporation options, options on futures or futures outside Canada, the mutual fund may deposit portfolio securities or cash as margin outside Canada in respect of such trades provided that;
- (i) in the case of futures and options on futures, the dealer is a member of a permitted futures exchange or, in the case of clearing corporation options, is a member of a stock exchange, and, as a result, is subject to a regulatory audit;
  - (ii) the dealer through which such trades have been effected and through which margin has been deposited holds such margin in segregated safekeeping such that it would not be available to satisfy the claims of any creditor of such dealer;
  - (iii) the dealer has a net worth, determined from its latest published audited financial statements, in excess of \$50 million; and
  - (iv) the amount of initial margin so deposited does not, when aggregated with the amount of margin held by the dealer, exceed 10% of the net assets of the mutual fund.
- (c) Where a mutual fund trades in over-the-counter options or forward contracts in accordance with this policy, the mutual fund may deposit portfolio securities or cash as margin with the other party to the transaction.

#### SECTION 7.02 - PRESCRIBED GUIDELINES FOR ACTING AS CUSTODIAN

The following institutions may act as a Custodian of portfolio securities of a mutual fund:

- (a) a Canadian chartered bank;
- (b) a trust company incorporated and licensed under the laws of Canada or a Province of Canada having Shareholders' Equity as reported in its audited financial statements for its last completed financial year of not less than \$10,000,000;
- (c) a wholly owned subsidiary of a Canadian chartered bank or of a trust company referred to in clauses (a) and (b) provided that such subsidiary has Shareholders' Equity as reported in its audited financial statements for its last completed financial year of not less than \$10,000,000 or all of the obligations of such subsidiary are unconditionally guaranteed by such bank or trust company.

#### SECTION 7.03 - PRESCRIBED GUIDELINES FOR ACTING AS SUB-CUSTODIAN

The following institutions may act as a sub-custodian of portfolio securities of a mutual fund:

- (a) any institution referred to in Section 7.02;
- (b) a banking institution or trust company incorporated or organized under the laws of a country other than Canada that is regulated as such by that country's government or an agency thereof and that has Shareholders' Equity as reported in its audited financial statements for its last completed financial year of not less than the equivalent in Canadian funds of \$100,000,000;
- (c) a wholly owned subsidiary of a banking institution or trust company referred to in clause (b) provided that such subsidiary has Shareholders' Equity as reported in its audited financial statements for its last completed financial year of not less than the equivalent in Canadian funds of \$100,000,000 or all of the obligations of such subsidiary are unconditionally guaranteed by such bank or trust company.

## SECTION 8 - MANAGEMENT FEES

### SECTION 8.01 - DISCLOSURE OF FEES AND EXPENSES

The prospectus of a mutual fund shall clearly disclose:

- (1) what fees and other charges and expenses are charged to the mutual fund and the basis for the calculation of the same;
- (2) what fees and other charges and expenses are borne by the manager of the mutual fund;
- (3) what fees and other charges and expenses, if any, are charged directly to all securityholders generally, or to any securityholder who participates in a special arrangement such as a contractual plan, a periodic accumulation plan, an open account plan, a withdrawal plan, a registered retirement savings plan, a registered retirement income plan, or exercises an exchange or transfer privilege, and the basis of the calculation of the same.

Any fees and other charges and expenses which are charged directly to securityholders shall be summarized in tabular form in a separate section of the prospectus under the heading "Summary of Fees, Charges and Expenses Payable by the Securityholder" or such variation thereof as is acceptable to the securities authorities. Reference to this table shall be made on the cover page or on the first facing page of the prospectus.

### SECTION 8.02 - INCENTIVE FEES

A mutual fund may not be charged an incentive fee without the prior approval of the securities authorities.

Where an incentive fee is proposed to be charged, it will be necessary to establish an appropriate benchmark or relevant index, satisfactory to the securities authorities, against which performance is to be measured and to provide that if the performance of the mutual fund in any period should not be equal to or exceed such benchmark or index that no incentive fee may be paid in any subsequent period unless and until the performance of the mutual fund on a cumulative basis has equalled or exceeded such benchmark or index.

### SECTION 8.03 - MANAGEMENT EXPENSE RATIO

- (1) The prospectus or the financial statements shall set out in tabular form the management expense ratio for each of the last five completed financial years of the mutual fund,

together with a brief description of the method of calculating the management expense ratio.

- (2) Where the basis of the calculation of fees and of other expenses that are charged to a mutual fund are changed or proposed to be changed and where such change would have an effect on the management expense ratio for the last completed financial year of the mutual fund if such change had been in effect for such year, the prospectus shall disclose the effect of such change.
- (3) Where any financial period referred to in Section 8.03(1) is less than 12 months, the management expense ratio shall be shown on an annualized basis with reference to the period covered and to the fact that the management expense ratio for the period has been annualized.
- (4) The management expense ratio of a mutual fund for any financial year shall be obtained by dividing (i) the aggregate of all fees and other expenses paid or payable by the mutual fund during or in respect of the financial year in question, by (ii) the amount of the average net asset value of the mutual fund for the financial year in question and multiplying the quotient by 100; for the purpose of making this calculation:
  - (a) the expression "the average net asset value of the mutual fund for a financial year" shall mean and be the result obtained by:
    - (i) adding together the amounts determined to be the net asset value of the mutual fund as at the close of business of the mutual fund on each day during the financial year in question on which the net asset value of the mutual fund has been determined in the manner from time to time prescribed in the constating documents of the mutual fund;
    - (ii) dividing the amount resulting from the addition provided for in clause (i) by the number of days during the financial year in question on which the net asset value of the mutual fund has been determined;
  - (b) the expression "all fees and other expenses" means all fees and expenses paid or payable by the mutual fund with the exception of commissions and brokerage fees on the purchase and sale of portfolio securities, interest charges (if any) and taxes of all kinds to which the mutual fund is subject.
- (5) The financial statements of the mutual fund shall set out in appropriate detail the amounts of all fees and other expenses, if any, which have been charged to the mutual fund during the period covered by the financial statements.

## SECTION 9 - APPROVAL OF SECURITIES AUTHORITIES FOR CERTAIN CHANGES

### SECTION 9.01 - PRIOR APPROVAL REQUIRED FOR CERTAIN CHANGES

The prior approval of the securities authorities is required before:

- (1) a change of the manager of a mutual fund (other than to an affiliate of the present manager) may be made;
- (2) a change in the control of the manager of a mutual fund may be made;

- (3) a change of the custodian of the assets of a mutual fund may be made where there has been in connection therewith or is to be:
  - (i) a change of the manager of the mutual fund (other than to an affiliate of the present manager); or
  - (ii) a change in the control of the manager of the mutual fund.

## SECTION 9.02 - APPLICATIONS FOR PRIOR APPROVAL

Applications for the approval referred to in Section 9.01, as well as for any other approvals referred to in this policy or any exemptions therefrom, may be made to the securities authority in the Province or Territory of Canada where the mutual fund is managed (the "principal jurisdiction") provided that a copy of such application is sent at the same time to the securities authorities in the other Provinces or Territories where the securities of the mutual fund are offered for sale. The principal jurisdiction will, on behalf of the applicant, contact the securities authorities in the other Provinces or Territories of Canada where the securities of the mutual fund are offered for sale for their comments. The principal jurisdiction may then be authorized to grant approval or to approve exemptions from this policy on behalf of the Provinces or Territories concerned.

An application for the approval referred to in Section 9.01 must contain or be accompanied by sufficient information to establish:

- (1) the reputation, honesty and competence of the management group including the controlling shareholders;
- (2) where custodial arrangements are proposed to be changed, that the proposed custodial arrangements will be in compliance with the requirements of Section 7;
- (3) where the change is one that requires the approval of securityholders, that such approval has been obtained or will be obtained before the change is implemented;

and the application shall be accompanied by a draft amendment to the prospectus of the mutual fund.

## SECTION 10 - CONTRACTUAL PLANS

### SECTION 10.01 - CONTRACTUAL PLANS

Where it is proposed to deduct an amount from any periodic payment under a contractual plan by way of Sales Charges which amount exceeds the maximum sales charge from time to time prevailing for a single payment or lump sum purchase, the contractual plan must comply with the following requirements:

- (1) the payments under the plan must be scheduled to be made in equal amounts on a weekly, monthly, quarterly, half-yearly or yearly basis, provided that a double or a triple instalment may be required as the first payment;
- (2) the Sales Charges levied against any payment scheduled to be made during the first 12 months of the contractual plan shall in no case exceed 50% of the individual payments under the contractual plan, provided that:
  - (i) the Sales Charges levied against the remaining payments made under the contractual plan shall to the extent reasonably practicable be levied at an equal rate or percentage, the size of the payment for or on account of Sales Charges varying only with the size of the amount of the individual payment selected by the

planholder with the total Sales Charges levied during the term of the contractual plan in no case to exceed 12% of the face amount of the contractual plan;

- (ii) where the contractual plan calls for an initial payment to be retained by the plan sponsor or distributor such initial payment shall not exceed three times the scheduled monthly payments under the contractual plan and the Sales Charges levied against the remaining payments made under the contractual plan shall comply with the provisions of Section 10.01(2)(i); and
  - (iii) the contractual plan provides that there will be added to each monthly payment scheduled to be made and made under the contractual plan for investment a pro-rata portion of the initial payment, such pro-rata portion being bases on the term of the contractual plan.
- (3) Where the Sales Charges levied against the payments scheduled to be made in the first 12 months of the contractual plan are less than 50% of the individual payments under the contractual plan (thereby making a larger sum available for investment) the contractual plan may provide in respect of the second 12 payments to be made under the contractual plan for a Sales Charge which, when combined with the Sales Charges levied against the first 12 payments under the contractual plan, does not exceed 50% of the total payments scheduled to be made during the first 12 months of the contractual plan, provided that the percentage deducted from any payment for Sales Charges shall not exceed the percentage deducted from any previous payment and provided further that the Sales Charges levied against the remaining payments made under the contractual plan comply with the provisions of Section 10.01(2)(i).

#### SECTION 10.02 - EXTENDED MEANING OF SALES CHARGES

As used in Sections 10.01, 10.03 and 10.04, the expression "Sales Charges" means all sales commissions or sales charges plus all other charges made in respect of the contractual plan with the exception of insurance premiums and any fees paid to the trustee of a registered retirement savings plan or to the trustee of a registered retirement income fund for acting as trustee.

#### SECTION 10.03 - WITHDRAWAL RIGHTS UNDER CONTRACTUAL PLANS

A planholder under a contractual plan shall have a right to withdraw from the contractual plan, which right of withdrawal shall, as a minimum, entitle the planholder to rescind his obligations under the contractual plan:

- (a) within 60 days after receipt of the confirmation for the initial payment under the contractual plan (the "plan date") and to receive a refund equal to the amount of all Sales Charges paid in respect of the contractual plan plus an amount equal to:
  - (i) all payments scheduled to be made and made during the first 60 days of the contractual plan, and
  - (ii) in the case of prepayments of additional payments made under the contractual plan within the said 60 day period, the net asset value of the securities purchased for the planholder under the contractual plan with such prepayments, such net asset value to be the net asset value of such securities next determined after the time the right of withdrawal is exercised, provided that the amount to be refunded pursuant to this clause (ii) may be limited to the total amount of the prepayments made under the contractual plan within the said 60 day period; and

- (b) at any time during the period from the date that is 60 days after the plan date up to and including 365 days after the plan date and to receive a refund equal to that portion of the Sales Charges which exceeds 30% of the payments scheduled to be made and made under the contractual plan during the period commencing with the plan date and ending 365 days after the plan date, plus the net asset value of the securities purchased for the planholder under the contractual plan during such last-mentioned period, such net asset value to be the net asset value of such securities next determined after the time the right of withdrawal is exercised. (Note: This means that prepayments of instalments normally falling due during the second and subsequent years of the contractual plan will not be taken into account in arriving at the 30% penalty.)

The withdrawal rights referred to above shall be described in the prospectus of the mutual fund and a document setting out the withdrawal rights shall accompany or form part of the copy of the contractual plan supplied to the planholder or shall be contained in the confirmations delivered in respect of the purchase of securities of the mutual fund made under a contractual plan during the first 60 days of the contractual plan.

#### SECTION 10.04 - RECORDS RELATING TO WITHDRAWAL RIGHTS

Plan sponsors and distributors shall maintain adequate records of contractual plan cancellations to show on a month-to-month basis such cancellations and the amounts paid to planholders in respect of the refund of payments and Sales Charges in respect thereof.

#### SECTION 11 - SALE AND REDEMPTION OF SECURITIES OF A MUTUAL FUND

##### SECTION 11.01 - OBJECTIVES

The provisions of Sections 11 and 12 of this policy are aimed at:

- (1) ensuring that an investor's funds which are to be invested in a mutual fund are received by the mutual fund promptly and preferably concurrently with the investor's order being accepted by the mutual fund;
- (2) eliminating or at least reducing the opportunity for loss of an investor's funds during the period from the delivery of such funds by the investor in respect of the investor's purchase of securities of the mutual fund to the time of receipt of such funds by the mutual fund;
- (3) ensuring that interest earned on an investor's funds during the period from the delivery of such funds by the investor in respect of the investor's purchase of securities of the mutual fund to the time of receipt of such funds by the mutual fund, accrues to the benefit of either the mutual fund or the investor;
- (4) ensuring that interest earned on an investor's funds during the period from the acceptance by the mutual fund of the investor's order for redemption of securities of the mutual fund to the time of receipt of such funds by the investor, accrues to the benefit of the mutual fund, regardless of whether the redemption monies are paid directly by the mutual fund or by an agent of the mutual fund.

The provisions of Sections 11 and 12 are to be interpreted with these objectives in mind and all arrangements between or among a mutual fund, its principal distributor, its manager, any dealer participating in the distribution of securities of the mutual fund or anyone else should be made or brought into line to give effect to these objectives and their intent. In particular, and without limitation, in making arrangements for services to or in respect of the mutual fund, it should be ensured that an investor's

funds which are required by Section 12 of this policy to be held as trust funds retain their character as trust funds in the hands of respective parties providing services and provision should be made for the mutual fund, its manager and its principal distributor, through their designated representatives, to examine the books and records of the respective parties providing services to or in respect of the mutual fund for the purpose of monitoring compliance with the requirements of the agreements and of this policy.

In order to implement these objectives, it is essential that all persons participating in the distribution of securities of a mutual fund be adequately organized to do so and have adequate facilities and procedures in place to do so. In addition, in order to shorten the period between the placing of an order for the purchase of securities of a mutual fund and the time that the funds in respect of that order are actually received by the mutual fund, a dealer receiving an order for the purchase of securities of a mutual fund must at the time of receipt of the investor's order obtain from the investor all relevant documentation, information and registration instructions so that the same is available at the time the order is transmitted to the mutual fund or its principal distributor for transmittal in conjunction with the acceptance of the order by or on behalf of the mutual fund. Similarly, in order to shorten the period between the placing of an order for the redemption of securities of a mutual fund and the payment to the investor of the redemption proceeds, a dealer receiving an order for redemption must at the time of receipt of the investor's order obtain from the investor all relevant documentation required by the mutual fund in respect of the redemption including, without limitation, any written request for redemption that may be required by the mutual fund, duly completed and executed, and any certificates representing the mutual fund securities to be redeemed so that all required documentation is available at the time the redemption order is transmitted to the mutual fund or its principal distributor for transmittal in conjunction with the acceptance of the order by or on behalf of the mutual fund.

In all arrangements that are made with respect to the distribution of securities of a mutual fund, a dealer transmitting an order for the purchase of securities of a mutual fund shall be responsible for ensuring that payment of the issue price of such securities is made when due. Accordingly, dealers participating in the sale of mutual fund securities should ensure that their arrangements with their clients are adequate to cover such obligations as any loss which arises due to a failure of an investor to deliver funds or to a cheque being dishonoured on presentation for payment or for any other reason shall be borne as between the mutual fund, its principal distributor and the dealer in question by the dealer or principal distributor and not by the mutual fund. Similarly, on the redemption of securities of a mutual fund, any loss resulting from the failure to verify the identity of the person requesting the redemption of securities of a mutual fund shall be borne as between the mutual fund and anyone participating in the distribution or redemption of securities of the mutual fund by such other participants and not by the mutual fund.

#### SECTION 11.02 - TRANSMITTAL OF ORDERS FOR THE PURCHASE OR REDEMPTION OF SECURITIES

- (1) Subject to Section 11.02(2), where an order for the purchase or the redemption of securities of a mutual fund is received by a sales representative of the principal distributor of the mutual fund, the order shall be transmitted to the principal office of the principal distributor of the mutual fund or to such other office as the principal distributor may designate on the same day that the order is received by such sales representative.
- (2) Where it is the policy of the principal distributor of a mutual fund to maintain a sales servicing office for the purpose of reviewing applications for contractual plan purchases before having the applications forwarded to its principal office or other designated office, the sales representative shall transmit such application together with the initial payments to be made under the plan to the appropriate sales servicing office on the same day that the application is received. The sales servicing office shall review the application and shall transmit all applications thought to be acceptable to the principal distributor together with the initial payments to be made under the plan to the principal office of the principal distributor or to such other office as the principal distributor may designate no later than

the next business day following the day that the application is received in the sales servicing office.

- (3) Where an order for the purchase or redemption of securities of a mutual fund is received by a sales representative of a dealer other than the principal distributor of the mutual fund, the order shall be transmitted to the dealer in question on the same day that the order is received whereupon such dealer shall transmit the same to the principal office of the principal distributor of the mutual fund or to such other office as may be designated for the purpose on the same day that the order is received by the dealer.
- (4) Notwithstanding the foregoing provisions of this Section 11.02, where an order for the purchase or redemption of securities of a mutual fund is received after normal business hours on any business day or on a day that is not a business day, the order may be transmitted to the respective offices referred to above on the next business day if it is not practical to transmit the same on the day of actual receipt.
- (5) All orders for the purchase or redemption of securities of a mutual fund shall be transmitted to the respective offices referred to above without charge to the investor and shall be transmitted wherever practical by courier or priority post or telecommunications facility so as to reduce to the shortest possible time the period between the transmittal of the order and its receipt by or on behalf of the mutual fund.

#### SECTION 11.03 - ACCEPTANCE OF ORDERS TO PURCHASE SECURITIES

A mutual fund may reserve the right to accept or reject an order to purchase securities of the mutual fund provided that:

- (1) the decision to accept or reject the order is made promptly and in any event within two days of receipt of the order;
- (2) in the event that an order is to be rejected all monies received with the order are refunded immediately; and
- (3) the prospectus clearly states that the right to accept or reject orders for the purchase of securities is reserved and discloses the provisions of clauses (1) and (2) hereof.

#### SECTION 11.04 - FORWARD PRICING - SALES AND REDEMPTIONS

- (1) All orders for the purchase or redemption of securities of a mutual fund shall be implemented at a price equal to the net asset value of the securities of the mutual fund next determined after the receipt by the mutual fund of the order, provided that a mutual fund may provide that orders received after a specified time on any business day or on any day which is not a business day will for the purposes of the foregoing be deemed to be received by the mutual fund on the next business day following the day of actual receipt thereof.
- (2) A mutual fund shall be deemed to receive an order for the purchase or redemption of securities of the mutual fund when the order is in fact received by the mutual fund at its principal office or at the principal office of the principal distributor of the mutual fund or at such other office as may be designated for the purpose.
- (3) The implementation of sales or redemptions at a price equal to the net asset value determined as at a time earlier than the time of the receipt of the relevant orders as aforesaid (i.e. "backward pricing") is unacceptable.

#### SECTION 11.05 - FREQUENCY OF DETERMINING NET ASSET VALUE

- (1) The net asset value of a mutual fund for the purpose of the issue or redemption of securities of the mutual fund shall be calculated no less frequently than once in each week, provided that with the approval of the securityholders of the mutual fund, the net asset value of the mutual fund for the purpose of the issue or redemption of securities of the mutual fund may be calculated no less frequently than once in each month.
- (2) If at January 1, 1988, the net asset value of a mutual fund is being calculated only once in each month, no approval of the securityholders of the mutual fund is required to be obtained in order for the mutual fund to continue to calculate the net asset value of the mutual fund only once in each month.
- (3) Notwithstanding section 11.05, if a mutual fund invests in, uses or holds permitted derivatives, then the net asset value of the mutual fund must be calculated no less frequently than once every business day.

#### SECTION 11.06 - DISCLOSURE OF SALES CHARGES

The rates of sales charges or commissions in respect of the sale of securities of a mutual fund shall be expressed as a percentage of the amount paid by the purchaser as well as being expressed as a percentage of the net amount invested wherever reference is made in a prospectus or in any sales communication to such sales charges or commissions.

#### SECTION 11.07 - MAXIMUM PERIOD OF TIME FOR PAYMENT OF THE ISSUE PRICE OF SECURITIES

- (1) The maximum period of time from but not including the date as of which the issue price of the securities of a mutual fund is determined in respect of any order for the purchase of such securities (which date is hereinafter referred to as the "Trade Date") to and including the date on which the mutual fund or its principal distributor receives payment for such securities shall be kept to the shortest possible time and in any event shall not exceed five business days (which date is hereinafter referred to as the "Settlement Date").
- (2) Payment of the issue price of the securities of a mutual fund referred to in any order for the purchase of securities of a mutual fund shall be satisfied by a cash payment to the mutual fund, provided, however, in the case of a mutual fund that has received the approval of the securities authorities to do so, the purchase price may be satisfied by making good delivery to the mutual fund of securities that meet the mutual fund's investment criteria and that are acceptable to the portfolio adviser, with such securities being valued on the same basis that the mutual fund would use in determining the value of such securities if such securities were owned by the mutual fund and the value of such securities so delivered to the mutual fund shall be at least equal to the issue price of the securities being issued by the mutual fund.
- (3) If payment of the issue price of the securities of a mutual fund referred to in any order has not been received by the mutual fund on or before the Settlement Date, the mutual fund shall be deemed to have received and accepted on the first business day following the Settlement Date an order for the redemption of such securities and the amount of the redemption proceeds derived therefrom shall be applied to reduce the amount owing to the mutual fund in respect of the purchase of such securities. If the amount of the redemption proceeds exceeds the issue price of the securities, the excess shall belong to

the mutual fund. If the amount of the redemption proceeds is less than the issue price of the securities:

- (a) the principal distributor shall be required to pay forthwith to the mutual fund the amount of the deficiency and shall be entitled to collect such amount together with its costs, charges and expenses in so doing and interest thereon from the dealer (or, if no other dealer is involved, from the investor who has failed to settle the order in question), and
- (b) if the mutual fund does not have a principal distributor, the dealer placing the order shall be required to pay forthwith to the mutual fund the amount of the deficiency and shall be entitled to collect such amount together with its costs, charges and expenses in so doing and interest thereon from the investor who has failed to settle the order in question, and
- (c) if the mutual fund does not have a principal distributor and no dealer is involved, the mutual fund shall be entitled to collect the amount of the deficiency together with its costs, charges and expenses in so doing and interest thereon from the investor who has failed to settle the order in question

#### SECTION 11.08 - COMPLIANCE REPORT

The principal distributor of a mutual fund or, if there is no principal distributor of the mutual fund, the mutual fund shall complete and file with the securities authorities a report with respect to compliance, during the last completed financial year of the principal distributor of the mutual fund or of the mutual fund, as the case may be, with the applicable requirements of Section 11, such compliance report to be filed within 120 days of the applicable fiscal year end and to be accompanied by a letter from the auditors of the principal distributor of the mutual fund or of the mutual fund, as the case may be, advising whether the auditors are in agreement with the information given in the report as to compliance with the applicable requirements of Section 11.

#### SECTION 12 - COMMINGLING OF MONEY

##### SECTION 12.01 - PRINCIPAL DISTRIBUTORS - COMMINGLING OF MONEY

Subject to Section 12.02, a principal distributor of a mutual fund shall comply with the following requirements:

- (1) all monies received by a principal distributor:
  - (a) for investment in securities of the mutual fund; or
  - (b) upon the redemption of securities of the mutual fund;

shall be separately accounted for and shall be deposited in an interest-bearing trust account or trust accounts, but may not otherwise be commingled with the assets of the principal distributor and may not be commingled with money received by the principal distributor with respect to the sale or redemption of securities other than mutual fund securities or with respect to the sale or redemption of investment contracts;

- (2) the principal distributor shall not use any of the monies referred to in clause (1) to finance its own or any other operations in any way;

- (3) the principal distributor may withdraw monies from the trust account or trust accounts referred to in clause (1) for the purpose of
  - (i) remitting the net amount to be invested in the securities of the mutual fund to the mutual fund;
  - (ii) paying redemption proceeds to the investors entitled thereto; or
  - (iii) paying sales charges, service fees and any other similar amounts to which the principal distributor may be entitled;
- (4) unless the interest is paid to the investors pro rata, all interest earned on the trust account or trust accounts referred to in clause (1) less any bank charges applicable thereto shall be paid to the mutual fund no less frequently than monthly and where the monies in the trust account or trust accounts are held for more than one mutual fund, the amount payable on account of interest shall be prorated among the mutual funds based on cash flow; the participating dealer shall not be entitled under any circumstances to any interest earned on the trust account or trust accounts referred to in clause (1);
- (5) all monies received by the principal distributor for the purchase of securities of the mutual fund shall be paid to the mutual fund forthwith and in any event no later than the second business day following the date of receipt;
- (6) the principal distributor shall not transfer, lend, pledge, encumber or otherwise deal in any way with securities of a mutual fund held for investors in safekeeping or under plans or otherwise except to the extent expressly provided for in any written agreement between the principal distributor and the investor setting out the terms on which the securities of the mutual fund are held and may be dealt with.

#### SECTION 12.02 - DEEMED COMPLIANCE

Where the principal distributor commingles in one trust account the monies referred to in Section 12.01(1)(a) and (b), the principal distributor may net the proceeds from sales against the proceeds from redemptions and make one cash settlement.

#### SECTION 12.03 - SUB-DISTRIBUTORS - COMMINGLING OF MONEY

Where any dealer participates with a mutual fund or with the principal distributor of the mutual fund (the "participating dealer") in the distribution of securities of the mutual fund, such participating dealer shall comply with the following requirements:

- (1) all monies received by the participating dealer for investment in securities of the mutual fund shall be separately accounted for and shall be deposited in an interest-bearing trust account or trust accounts, but may not otherwise be commingled with the assets of the participating dealer and may not be commingled with money received by the participating dealer with respect to the sale or redemption of securities other than mutual fund securities or with respect to the sale or redemption of investment contracts;
- (2) the participating dealer shall not use any of the monies referred to in clause (1) to finance its operations in any way;
- (3) the participating dealer shall be entitled to withdraw monies from the trust account or trust accounts referred to in clause (1) only for the purpose of

- (i) remitting the net amount to be invested in the securities of the mutual fund to the mutual fund or the principal distributor of the mutual fund; or
  - (ii) for the purpose of paying sales charges, service fees and any other similar amounts to which the participating dealer or the principal distributor may be entitled;
- (4) unless the interest is paid to the investors pro rata, all interest earned on the trust account or trust accounts referred to in clause (1) less any bank charges applicable thereto shall be paid to the mutual fund no less frequently than monthly and where the monies in the trust account or trust accounts are held for more than one mutual fund, the amount payable on account of interest shall be prorated among the mutual funds based on cash flow; the participating dealer shall not be entitled under any circumstances to any interest earned on the trust account or trust accounts referred to in clause (1);
- (5) all monies received by the participating dealer for the purchase of securities of the mutual fund shall be paid to the mutual fund or its principal distributor as soon as practicable and in any event no later than the Settlement Date;
- (6) the mutual fund or the principal distributor, as the case may be, shall be entitled through their respective auditors or other designated representatives to examine the books and records of the participating dealer for the purpose of verifying the participating dealer's compliance with the foregoing.

#### SECTION 12.04 - COMPLIANCE REPORT

The principal distributor of a mutual fund and each of the participating dealers referred to in Section 12.03 shall complete and file with the securities authorities a report with respect to its compliance during the last completed financial year with the applicable requirements of Section 12, such compliance report to be filed within 120 days of the applicable fiscal year end and to be accompanied by a letter from the auditors of the principal distributor of the mutual fund or the participating dealer, as the case may be, advising whether the auditors are in agreement with the information given in the report as to compliance with the applicable requirements of Section 12.

#### SECTION 12.05 - EXEMPTION

The provisions of Section 12 of this policy, with the exception of Sections 12.01(5), 12.03(5), 12.03(6) and 12.04, do not apply to members of The Investment Dealers Association of Canada.

#### SECTION 13 - REDEMPTION OF SECURITIES

##### SECTION 13.01 - DISCLOSURE OF REDEMPTION PROCEDURES

Securityholders of a mutual fund shall be provided at least annually with a statement outlining the procedures to be followed by a securityholder who desires to redeem securities of the mutual fund and specifying the documents to be furnished by such securityholder in connection with a request for redemption. This statement may be contained in the mutual fund's annual financial statements or annual report.

##### SECTION 13.02 - PAYMENT OF REDEMPTION PROCEEDS

- (1) Subject to Section 13.02(2) and to Section 13.03 a mutual fund shall make payment in Canadian currency for the securities which are redeemed, which payment shall be made within five business days from the date of the determination of the net asset value for the

purpose of effecting such redemption, provided that a mutual fund may permit securityholders to request that such payment be made in United States currency, with the amount of such payment being based upon the rate of conversion used by the mutual fund in determining the net asset value for the purpose of effecting such redemption of mutual fund securities. Payment of the redemption proceeds shall be made to or to the order of the registered holder of the securities which are being redeemed.

- (2) No payment of redemption proceeds may be made prior to the receipt by the mutual fund of a written request for redemption of the mutual fund securities to be redeemed, duly completed and delivered, properly executed, together with any certificates representing such securities, provided that nothing herein contained shall prevent a mutual fund which has established procedures for investors who desire to do so to make arrangements for the acceptance of telephone or other telecommunication requests for redemption, from paying the redemption proceeds to an investor who has made such prior arrangements where the redemption order is processed in accordance with such arrangements.
- (3) If all of the requirements of the mutual fund that must be complied with prior to the payment by the mutual fund of the redemption proceeds payable on the redemption of the mutual fund securities which have been redeemed have not been complied with on or before the tenth business day from the date of the determination of the net asset value for the purpose of effecting such redemption, the mutual fund shall be deemed to have received and accepted on the next business day an order for the purchase of the equivalent number of the mutual fund securities which have been redeemed and shall apply the amount of the redemption proceeds to the payment of the issue price of such securities. If the amount of the issue price of such securities is less than the redemption proceeds, the excess shall belong to the mutual fund. If the amount of the issue price of such securities exceeds the redemption proceeds:
  - (a) the principal distributor shall be required to pay forthwith to the mutual fund the amount of the deficiency and shall be entitled to collect such amount together with its costs, charges and expenses in so doing and interest thereon from the dealer (or if no other dealer is involved, from the investor who has failed to settle the order in question);
  - (b) if the mutual fund does not have a principal distributor, the dealer placing the order shall be required to pay forthwith to the mutual fund the amount of the deficiency and shall be entitled to collect such amount together with its costs, charges and expenses in so doing and interest thereon from the investor who has failed to settle the order in question; and
  - (c) if the mutual fund does not have a principal distributor and no dealer is involved, the mutual fund shall be entitled to collect the amount of the deficiency together with its costs, charges and expenses in so doing and interest thereon from the investor who has failed to settle the order in question.
- (4) The redemption procedures established by a mutual fund should contain the necessary provisions to make the provisions contained in Section 13.02(3) binding upon investors.

#### SECTION 13.03 - PAYMENT OF REDEMPTION PROCEEDS IN SPECIE

With the prior written consent of the securityholder, payment of the amount payable to the securityholder on account of the redemption of securities of the mutual fund may be satisfied by making good delivery to the securityholder of portfolio securities, provided that such portfolio securities are valued at an amount

equal to the amount at which such portfolio securities were valued for the purpose of determining the net asset value of the mutual fund for the purpose of determining the redemption price.

A report setting forth the details of any payment of the redemption proceeds in specie, including a list of the portfolio securities delivered to the securityholder and the value assigned to such portfolio securities shall be filed with the securities authorities. Any such report will be placed on the public files.

#### SECTION 13.04 - SUSPENSION OF REDEMPTIONS

A mutual fund may suspend the right to tender its securities for redemption or may postpone the date of payment upon redemption:

- (1) for any period when normal trading is suspended on any stock exchange, options exchange or futures exchange within or outside Canada on which securities are listed and traded, or on which permitted derivatives are traded, which represent more than 50% by value or underlying market exposure of the total assets of the mutual fund without allowance for liabilities.
- (2) where the head office or registered office of the mutual fund is in Canada, with the consent of the securities authority in the Province or Territory of Canada in which such office is situate; or
- (3) where the head office or registered office of the mutual fund is in the United States of America, with the consent of the Securities and Exchange Commission.

A mutual fund shall not accept any subscription for the purchase of securities of the mutual fund during any period when the right to tender its securities for redemption is suspended.

#### SECTION 14 - COMPUTATION OF NET ASSET VALUE

##### SECTION 14.01 - PORTFOLIO TRANSACTIONS

Each transaction of purchase or sale of portfolio securities effected by a mutual fund shall be reflected in the computation of the net asset value of the mutual fund not later than the first computation of such net asset value made after the date on which the transaction becomes binding.

##### SECTION 14.02 - CAPITAL TRANSACTIONS

The issue or redemption of securities of a mutual fund shall be reflected in the computation of the net asset value of the mutual fund no later than the next computation of such net asset value made after the time as at which the net asset value per security is determined for the purpose of the issue or redemption of the securities of the mutual fund.

##### SECTION 14.03 - VALUATION OF PORTFOLIO SECURITIES

The basis used for valuing the mutual fund's assets and liabilities for the purpose of calculating net asset value shall be described in the prospectus. The basis used by the mutual fund for valuing any type of its portfolio securities must comply with the requirements of this policy where this policy prescribes the basis for valuing such type of portfolio securities.

##### SECTION 14.04 - VALUATION OF RESTRICTED SECURITIES

Restricted securities shall be valued at the less of:

- (1) the value thereof based on reported quotations in common use; and
- (2) that percentage of the market value of securities of the same class, the trading of which is not restricted or limited by reason of any representation, undertaking or agreement or by law, equal to the percentage that the mutual fund's acquisition cost was of the market value of such securities at the time of acquisition, provided that a gradual taking into account of the actual value of the securities may be made where the date on which the restrictions will be lifted is known.

#### SECTION 14.05 - VALUATION OF PERMITTED DERIVATIVES

Long positions in clearing corporation options, options on futures, over-the-counter options, debt-like securities and listed warrants shall be valued at the current market value thereof.

Where a covered clearing corporation option, option on futures or over-the-counter option is written, the premium received by the mutual fund shall be reflected as a deferred credit which shall be valued at an amount equal to the current market value of the clearing corporation option, option on futures or over-the-counter option that would have the effect of closing the position. Any difference resulting from revaluation shall be treated as an unrealized gain or loss on investment. The deferred credit shall be deducted in arriving at the net asset value of the mutual fund. The securities, if any, which are the subject of a written clearing corporation option or over-the-counter option shall be valued at their current market value.

The value of a futures contract, or a forward contract, shall be the gain or loss with respect thereto that would be realized if, on the valuation date, the position in the futures contract, or the forward contract, as the case may be, were to be closed out unless "daily limits" are in effect, in which case fair value shall be based on the current market value of the underlying interest.

Margin paid or deposited in respect of futures contracts and forward contracts shall be reflected as an account receivable and margin consisting of assets other than cash shall be noted as held as margin.

#### SECTION 14.06 - INFORMATION ABOUT PERMITTED DERIVATIVES

A mutual fund shall disclose the following information with respect to each of the following permitted derivatives in either the Statement of Investment Portfolio included in the financial statements of the mutual fund or in the notes thereto:

- (1)
  - (a) for long positions in clearing corporation options disclose the number of options, the underlying interest, the strike price, the expiration month and year, the cost and the market value;
  - (b) for long positions in options on futures disclose the number of options on futures, the futures contract that forms the underlying interest, the strike price, the expiration month and year of the option on futures, the delivery month and year of the futures contract that forms the underlying interest of the option on futures, the cost and the market value;
  - (c) for written clearing corporation options disclose the particulars of the deferred credit account indicating the number of options, the underlying interest, the strike price, the expiration month and year, the premium received and the value as determined under Section 14.05;
  - (d) for purchased over-the-counter options disclose the number of options, the credit rating of the issuer of the options, whether such rating has fallen below the approved credit rating, the underlying interest, the principal amount or quantity of

the underlying interest, the strike price, the expiration date, the cost and the market value;

- (e) for written over-the-counter options disclose the particulars of the deferred credit account indicating the number of options, the underlying interest, the principal amount or quantity of the underlying interest, the exercise price, the expiration date, the premium received and the value as determined under Section 14.05;
  - (f) for positions in futures contracts disclose the number of futures contracts, the underlying interest, the price at which the contract was entered into, the delivery month and year and the value as determined under Section 14.05;
  - (g) for positions in forward contracts disclose the number of forward contracts, the credit rating of the counterparty, whether such rating has fallen below the approved credit rating level, the underlying interest, the quantity of the underlying interest, the price at which the contract was entered into, the settlement date and the value as determined under Section 14.05; and
  - (h) for debt-like securities, disclose the principal amount of the debt, the interest rate, the payment dates, the underlying interest, the principal amount or quantity of the underlying interest, the strike price, the cost, the market value and a description of whether the derivative component is an option or a forward contract with respect to the underlying interest.
- (2) If applicable, identify by an asterisk or other notation the underlying interest which is being hedged by each position in a permitted derivative.

#### SECTION 14.07 - NET ASSET VALUE TO BE STATED

The net asset value per security as at the end of the last completed financial year of the mutual fund as at the end of each of the four preceding financial years (or such shorter period as the mutual fund has been in existence) shall be stated either in the prospectus or in the annual financial statements of the mutual fund.

#### SECTION 15 - DISTRIBUTIONS

##### SECTION 15.01 - RECORD DATE

The record date for determining the right of securityholders of a mutual fund to receive payment of any dividend or other distribution payable by a mutual fund or to receive any right issued by a mutual fund shall not be fixed at a date that is earlier than the date on which the net asset value per security is determined for the purpose of the issue or redemption of securities of the mutual fund next preceding the payment date of such dividend or other distribution or the issue date of such right.

#### SECTION 16 - ADVERTISING

##### SECTION 16.01 - DEFINITIONS

- (a) For the purposes of this Section 16, the following terms have the following meanings:
  - (i) "advertisement" means a sales communication that is published or designed for use on a telephone or tape recording, videotape, display, sign or billboard, motion picture or other public media or, if paid for, in a newspaper, magazine or other periodical, radio or television;

- (ii) "cash equivalents" means cash or an evidence of deposit issued or fully guaranteed by a bank to which the Bank Act (Canada) applies or by a loan corporation or trust company registered under applicable federal or provincial legislation, provided that the short-term debt instruments of such institution have one of the ratings specified in Section 16.01(a)(iv)(D);
- (iii) "fees and charges" means all sales charges, distribution fees, management fees, administrative fees, account set-up or closing charges, redemption fees, transfer fees or any other fees, charges or expenses whether or not contingent or deferred which are or may be payable in connection with the purchase, holding or redemption of securities of a mutual fund;
- (iv) "money market fund" means a mutual fund the securities of which are qualified for distribution under a prospectus and which has and intends to continue to have:
  - A. all of its assets invested in cash equivalents or debt obligations maturing in 13 months (25 months for government obligations) or less or in floating rate debt obligations where the principal amount of such obligations had a market value of approximately par at the time of each change in the rate to be paid to the holders of such obligations;
  - B. a portfolio with a dollar-weighted average term to maturity not exceeding 180 days;
  - C. not less than 95 percent of its assets invested in cash equivalents or securities, which assets are denominated in the same currency as the units of the mutual fund; and
  - D. not less than 95 percent of its assets invested in cash equivalents or debt obligations of issuers having an approved credit rating for commercial paper as set out in Schedule 1 attached to this policy.

For purposes of calculating the dollar-weighted average term to maturity of the money market fund's portfolio, the term of a floating rate obligation shall be the period remaining to the date of the next rate setting;

- (v) "performance data" means any rating<sup>2</sup>, ranking, quotation, discussion or analysis regarding rate of return, yield, volatility or other measurement or description of the investment performance of a mutual fund;

<sup>2</sup> For greater certainty, ratings prepared by independent organizations which reflect the credit quality of a mutual fund's portfolio are not ratings within the meaning of Section 16.01(a)(v).

- (vi) "report to securityholders" means any report that includes annual or interim financial statements that is delivered to securityholders of a mutual fund;
- (vii) "sales communication" means:
  - A. any oral communication or written communication (which written communication may consist of one or more components provided they are delivered as a package at the same time) used to induce the

purchase of securities issued by a mutual fund whether such communication is made by the mutual fund, the promoter, manager, principal distributor or portfolio adviser of the mutual fund or by any other person or corporation; and

B. a report to security holders;

but does not include:

A. a communication solely between a mutual fund or its promoter, manager, principal distributor or portfolio adviser and a registered dealer or between a registered dealer and its registered salespersons that is indicated to be internal or confidential and which is not designed to be passed on by the registered dealer or registered salespersons to any investor or potential investor<sup>3</sup>

<sup>3</sup> Where such a communication is passed on by the registered dealer or registered salesperson, such a communication will be a sales communication made by the party passing on the communication.

; and

B. a preliminary prospectus or prospectus;

(viii) "standard performance data" means:

A. in the case of a money market fund, current yield or current yield and effective yield calculated in accordance with the provisions of Sections 16.05(a) and (b) provided that any statement of effective yield is no more prominent than the statement of current yield; and

B. in the case of any mutual fund other than a money market fund, total return calculated in accordance with the provisions of Sections 16.05(a) and (c); and

(ix) "underlying fund" means a mutual fund in which an asset allocation service recommends investment.

(b) Any written or oral communication used to induce the purchase of an asset allocation service that is described in a mutual fund's prospectus is deemed to be a sales communication and such an asset allocation service is deemed to be a mutual fund for the purposes of Section 16.

## SECTION 16.02 - GENERAL REQUIREMENTS

(a) Notwithstanding any other provision of Section 16, no sales communication shall:

(i) include an untrue or misleading statement of a fact or omit to state a fact necessary to prevent such sales communication from being misleading;

(ii) include a statement that conflicts with information that is contained in the preliminary prospectus or prospectus of such mutual fund<sup>4</sup>

4 For greater certainty, where the mutual fund is an asset allocation service, references to preliminary prospectus and prospectus

in Sections 16.02(a)(ii) and (iii) are deemed to be references to the preliminary prospectus or prospectus of an underlying fund.;

- (iii) present information in a manner that distorts information contained in the preliminary prospectus or prospectus of such mutual fund either as a result of selective presentation or otherwise; or
  - (iv) include a visual image such as a photograph, sketch, drawing, logo or graph which provides a misleading impression.
- (b) Whether or not a particular description, representation, illustration or other statement is misleading depends upon an evaluation of the context in which it is made. The following list sets forth some of the reasons why a sales communication will be considered to be misleading and has been included for the assistance of mutual funds and their advisers. No attempt has been made to enumerate all such reasons since each sales communication must be assessed individually.
- (i) A statement will be misleading if it lacks explanations, qualifications, limitations or other statements necessary or appropriate to make such statement not misleading.
  - (ii) Representations about past or future investment performance will be misleading if they are:
    - A. portrayals of past income, gain, or growth of assets that convey an impression of the net investment results achieved by an actual or hypothetical investment that is not justified under the circumstances;
    - B. representations about security of capital or expenses associated with an investment that are not justified under the circumstances or representations about possible future gains or income; and
    - C. representations that or presentations of past investment performance that imply that future gains or income may be inferred from or predicted based on past investment performance or portrayals of past performance.
  - (iii) A statement about the characteristics or attributes of a mutual fund will be misleading if:
    - A. it concerns possible benefits connected with or resulting from services to be provided or methods of operation and does not give equal prominence to discussion of any risks or associated limitations;
    - B. it makes exaggerated or unsubstantiated claims about management skill or techniques, characteristics of the mutual fund or an investment in securities issued by such fund, services offered by the fund or its manager, or effects of government supervision; or
    - C. it makes unwarranted or incompletely explained comparisons to other investment vehicles or indexes.

- (c) A sales communication that compares the performance of one or more mutual funds with a consumer price index, any stock, bond or other index, average, or any guaranteed investment certificate or other certificate of deposit, real estate or any other investment of any kind or nature, including another mutual fund, must:
  - (i) include all facts that, if disclosed, would be likely to materially alter the conclusions reasonably drawn or implied by the comparison;
  - (ii) present data for each subject of the comparison for the same period or periods;
  - (iii) where differing types of investments are compared, explain clearly any relevant differences in guarantees, fluctuation of principal, income or total return, insurance, tax features and any other factors necessary to make the comparison fair and not misleading; and
  - (iv) where the performance of an index or average is compared, if appropriate in view of the nature of the comparison, describe the index or average, point out if there are material differences between the composition of or calculation of the performance of the index or average and the investment portfolio of the mutual fund and state any other factors necessary to make the comparison fair and not misleading.
- (d) A written sales communication must bear the name of the person or entity which prepared the sales communication, may bear the name of the registrant distributing the sales communication and, except in the case of an advertisement, must indicate the date of first publication of the sales communication.
- (e) All text of a written sales communication must be at least as large as 8 - point type and in the case of sales communications broadcast on television, the warnings prescribed in Sections 16.06(a) and (b) must, if not given orally, be clearly displayed and visible for a reasonable period of time.
- (f) Whenever a written sales communication includes a rate of return or a mathematical table illustrating the potential effect of a compound rate of return, such sales communication must contain a statement to the effect that such rate of return or mathematical table is used only for the purpose of illustrating the effects of the compound growth rate and is not intended to reflect future values of the mutual fund or returns on investment in the mutual fund.
- (g) No sales communication may refer to a mutual fund as a money fund, cash fund or money market fund or imply that a mutual fund is a money market fund unless at the time the sales communication is used and for each period for which money market fund standard performance data is provided the fund satisfies the definition of money market fund and it intends to continue to satisfy such definition.
- (h) A sales communication shall not imply that a registered retirement savings plan, registered retirement income fund or registered education savings plan in itself, rather than the mutual fund to which the sales communication relates, is an investment.

#### SECTION 16.03 - DISCLOSURE REGARDING FEES AND CHARGES

- (a) A mutual fund may not be described in a sales communication as a "no-load fund" where any fee or charge (whether or not contingent) is payable by an investor in respect of a

trade in the mutual fund's securities to the fund manager or any registrant named in the sales communication in connection with the purchase or redemption of securities of the mutual fund, other than:

- (i) optional fees and charges related to specific services (e.g. transfer fees and fees and charges for registered education savings plans, registered retirement savings plans, registered retirement income funds, pre-authorized chequing plans, systematic withdrawal plans and contractual plans);
- (ii) redemption fees in respect of the redemption of securities of any mutual fund that is not a money market fund which are redeemed within 90 days of the purchase of such mutual fund securities provided the existence of such fees is disclosed in the sales communication; or
- (iii) one-time account set-up costs which reflect the administrative costs of establishing a securityholder's account provided the existence of such costs is disclosed in the sales communication.

If a mutual fund is described in a sales communication as "no-load", the sales communication must indicate a registrant through which an investor may purchase the mutual fund on a "no-load" basis.

- (b) If a sales communication contains any reference, other than a reference to "no-load" or to the disclosure required by Sections 16.04(a)(v), (vi) or (vii), to the existence or absence of fees or charges, the sales communication must provide a summary of the types of fees and charges and must not give undue prominence to the existence or absence of any particular fee or charge.

#### SECTION 16.04 - PERFORMANCE DATA

- (a) No sales communication may contain performance data unless it complies with the following guidelines:
  - (i) it contains standard performance data for each mutual fund for which it contains performance data and where it is a written sales communication the standard performance data is presented in type which is at least as prominent as that used to present the other performance data;
  - (ii) any performance data reflects or includes references to all elements of return;
  - (iii) the sales communication does not contain any performance data relating to a mutual fund for any period or part thereof that is prior to the time when the mutual fund first commenced distributing its securities to the public under a prospectus, or where the mutual fund is an asset allocation service, prior to the time when the asset allocation service was first offered to the public and described in a prospectus of an underlying fund;
  - (iv) where the sales communication is an advertisement, the performance data relates only to a mutual fund or to mutual funds which are under common management, or to the comparison of a mutual fund with another fund or other funds with similar investment objectives or with an index or average<sup>5</sup>

5For greater certainty, where the mutual fund is an asset allocation service, mutual funds with similar investment objectives are other asset allocation services and mutual funds which are based upon a tactical asset allocation model.;

(v) where the standard performance data relates to a money market fund, the sales communication:

(A) includes a description of the specific application of the general assumptions provided in Section 16.05(a) upon which the standard performance data is calculated or includes disclosure in the following words or to like effect:

[standard performance data] assumes [assume] reinvestment of distributions only and does [do] not take into account sales, redemption, distribution or optional charges payable by any securityholder which would have reduced returns; and

(B) includes a statement in the following words or to like effect:

Annualized historical yield[s] is[are] for the seven day period ended on [insert a specific date][, annualized in the case of effective yield by compounding the seven day return];

provided that in written sales communications such statement is made in close proximity to the standard performance data;

(vi) where the standard performance data relates to a mutual fund other than a money market fund the sales communication includes a description of the specific application of the general assumptions provided in Section 16.05(a) upon which the standard performance data is calculated or includes disclosure in the following words or to like effect:

The indicated rate[s] of return is [are] the historical annual compounded total return[s] including changes in [insert share or unit] value and reinvestment of all [insert dividends or distributions] and does [do] not take into account sales, redemption, distribution or optional charges payable by any securityholder which would have reduced returns;

(vii) where the standard performance data relates to an asset allocation service, the sales communication includes a description for both the asset allocation service and the underlying funds of the specific application of the general assumptions provided in Section 16.05(a) upon which the standard performance data is calculated or includes disclosure in the following words or like effect:

The indicated rate[s] of return is [are] the historical annual compounded total return[s] assuming the investment strategy recommended by the asset allocation service is used and after deduction of the fees and charges in respect of the service. These returns are based on the performance of the underlying funds including changes in [insert share or unit] value and reinvestment of all [insert dividends or distributions] and does [do] not take into account sales, redemption, distribution or optional charges payable by any securityholder in respect of an underlying fund which would have reduced returns;

- (viii) if there have been any changes during the performance measurement period in the mutual fund's management, fundamental investment objectives, characterization as a money market fund, or in any portfolio adviser or in the ownership of the manager of the mutual fund or in fees or charges, including the waiving or absorbing of fees or charges, that would or could have materially affected the mutual fund's performance, the sales communication contains:
  - (A) summary disclosure of the change or a statement to the effect that the mutual fund has undergone changes during or subsequent to the performance measurement period which would or could have [insert as appropriate: affected/ increased/decreased] the mutual fund's performance had those changes been in effect throughout the period; and
  - (B) for a money market fund which during the performance measurement period did not pay or accrue the full amount of any fees and charges of the type described under Sections 16.05(a)(i) and (iii), disclosure of the difference between such full amounts and the amounts actually charged, expressed as an annualized percentage on a basis comparable to current yield as described in Section 16.05(b);
- (ix) where the sales communication is not a report to securityholders and relates to a money market fund, the standard performance data which is given has been calculated for the most recent 7 day period for which it is practicable to calculate the standard performance data taking into account publication deadlines, provided that this 7 day period is not more than 45 days prior to the date of the appearance or use of the advertisement in which it is included and not more than 45 days prior to the date of first publication of any other sales communication in which it is used<sup>6</sup>;

<sup>6</sup> Under certain market conditions, standard performance data for a money market fund which is calculated for a 7 day period ended not more than 45 days prior to the date of the appearance or use of the sales communication in which it is included may be misleading. For example, where interest rates have declined significantly from the levels they were at during a 7 day period, performance information which does not reflect this decline may be misleading and consequently more current information may be necessary. Similarly, standard performance data for a non-money market mutual fund which is calculated for a 1, 3 or 5 year period ending on a calendar month end that is not more than 45 days prior to the date of the appearance or use of the advertisement in which it is included or that is not more than 3 months prior to the date of first publication of any other sales communication in which it is included may be misleading.;

- (x) where the sales communication is not a report to securityholders and relates to a mutual fund other than a money market fund, the standard performance data which is given has been calculated for the 1, 3, 5 and 10 year periods ending on a calendar month end that is not more than 45 days prior to the date of the appearance or use of the advertisement in which it is included and that is not more than 3 months prior to the date of first publication of any other sales communication in which it is included, in each case ending on the same calendar month end;
- (xi) where the sales communication is a report to securityholders, the standard performance data that is given has been calculated for the applicable standard performance data period or periods ended on the last day of the most recent

period for which financial statements are provided in the report to securityholders;

- (xii) the sales communication clearly identifies the periods for which the performance data is calculated and indicates, if appropriate, how more up to date standard performance data may be obtained;
- (xiii) the sales communication includes a statement that all performance data represents past performance and is not necessarily indicative of future performance;
- (xiv) where the sales communication refers to a mutual fund performance rating or ranking, the rating or ranking must be prepared by an independent organization and standard performance data must be provided for any mutual fund whose rating or ranking is quoted; and
- (xv) where a sales communication refers to a credit rating which reflects the credit quality of a mutual fund's portfolio, the rating must be prepared by an independent rating organization, only the most current rating of that rating organization may be quoted and the lowest such rating of any independent rating organization must be quoted if the mutual fund is rated by more than one such organization.

(b) Advertisements broadcast on radio or television may not contain performance data.

#### SECTION 16.05 - CALCULATION OF STANDARD PERFORMANCE DATA

(a) The following are general assumptions for the calculation of standard performance data:<sup>7</sup>

<sup>7</sup> Where the mutual fund is an asset allocation service, these assumptions are to be used for both the asset allocation service and the underlying funds, where applicable.

- (i) any fees and charges payable by the mutual fund are accrued or paid;
- (ii) any dividends or distributions by the mutual fund are reinvested in the fund at the net asset value per security of the mutual fund on the reinvestment dates during the performance measurement period;
- (iii) any recurring fees and charges that are payable by all securityholders and any fees and charges that are payable by subscribers in connection with an asset allocation service are accrued or paid in proportion to the length of the performance measurement period. (For any such fees and charges which would result in the performance information being dependent upon the size of the account, assume the greater of a \$10,000 account size or the minimum amount that may be invested; provided that, in the case of fees and charges which are fully negotiable, assume the average amount actually paid by an account of the same size);
- (iv) there are no non-recurring fees and charges that are payable by some or all securityholders (e.g. front-end sales commissions and contingent deferred redemption charges) and no recurring fees and charges that are payable by some but not all securityholders (e.g. distribution fees);

- (v) there are no optional fees and charges related to specific services (e.g. transfer fees<sup>8</sup> and fees and charges for registered retirement savings plans, registered retirement income funds, registered education savings plans, pre-authorized checking plans, systematic withdrawal plans and contractual plans);

<sup>8</sup> Where the mutual fund is an asset allocation service, transfer fees are not optional fees or charges related to specific services.

- (vi) a complete redemption occurs at the end of the performance measurement period so that the ending redeemable value includes elements of return such as income that has been accrued but not yet paid to securityholders;
- (vii) the calculation of standard performance data is based on actual historical performance and the fees and charges payable by the mutual fund and by securityholders in effect during the performance measurement period;
- (viii) in the case of an asset allocation service, the calculation of standard performance data is based on the assumption that the investment strategy recommended by the asset allocation service is utilized for the performance measurement period; and
- (ix) in the case of an asset allocation service, transfer fees are assumed to be accrued or paid. (For any such fees and charges which would result in the performance information being dependent upon the size of the account, assume the greater of a \$10,000 account size or the minimum amount that may be invested; provided that, in the case of fees and charges which are fully negotiable, assume the average amount actually paid by an account of the same size).

(b) For purposes of this Section 16.05 (b), the following terms have the following meanings:

- (i) "current yield" means the current yield of a money market fund expressed as a percentage and determined by applying the following formula:

$$\text{current yield} = [\text{seven day return} \times 365/7] \times 100;$$

- (ii) "effective yield" means the effective yield of a money market fund expressed as a percentage and determined by applying the following formula:

$$\text{effective yield} = [(\text{seven day return} + 1)^{(365/7)} - 1] \times 100; \text{ and}$$

- (iii) "seven day return" means the income yield (i.e. excluding realized or unrealized net capital gains) of a securityholder's account in a money market fund which is calculated by:

- (A) determining the net change, exclusive of new subscriptions (other than from the reinvestment of distributions) or redemption of units of the money market fund, in the value of a securityholder's account;

- (B) subtracting all fees and charges of the type described in Section 16.05(a)(iii) at the end of the seven day period; and

- (C) dividing the result by the value of the account at the beginning of the seven day period.

Money market fund standard performance data must be calculated to the nearest one hundredth of one percent.

- (c) For purposes of this Section 16.05(c), "total return" has the following meaning:

"total return" means the annual compounded rate of return for a mutual fund for a period that would equate the initial value to the redeemable value at the end of the period, expressed as a percentage, and determined by applying the following formula:

$$\text{total return} = [(\text{redeemable value}/\text{initial value})^{(1/N)} - 1] \times 100$$

Where N = the length of the performance measurement period in years, with a minimum value of 1;

If there are fees and charges of the type described in Section 16.05(a)(iii), "redeemable value" and "initial value" will have to be determined by applying assumptions to a hypothetical securityholder account.

If there are no fees and charges of the type described in Section 16.05(a)(iii), the calculation of total return using the above formula for a mutual fund which is not an asset allocation service may be simplified by assuming a hypothetical investment of one unit or share of the mutual fund as follows:

- (i) "initial value" means the net asset value of one unit or share of a mutual fund at the beginning of the performance measurement period; and

- (ii) "redeemable value" =

$$R \times (1 + D_1/P_1) \times (1 + D_2/P_2) \times (1 + D_3/P_3) \dots \times (1 + D_n/P_n)$$

Where R = the redemption value of one unit or share of the mutual fund at the end of the performance measurement period

D = dividend or distribution amount per unit or share of the mutual fund at the time of each distribution

P = dividend or distribution reinvestment price per unit or share of the mutual fund at the time of each distribution

n = number of dividends or distributions during the performance measurement period.

Standard performance data for a mutual fund other than a money market fund must be calculated to the nearest one tenth of one per cent.

## SECTION 16.06 - WARNINGS

- (a) Subject to this section, all sales communications, other than reports to securityholders, must contain a warning in the following words or to like effect:

Important information about this mutual fund is contained in its simplified prospectus. Obtain a copy from [insert name and address or telephone number of registrant, or in the case of a financial institution, indicate branches as appropriate] and read it carefully before investing. [For money market funds disclose: yield will fluctuate and there is no assurance the fund can maintain a fixed net asset value]. [For other funds disclose: unit/share value, [insert yield for income funds only] and investment return will fluctuate].

- (b) Every sales communication distributed after the time a receipt for the preliminary prospectus of the mutual fund described in the sales communication is issued but prior to the time a receipt for its prospectus is issued must, in place of the warning language required by Section 16.06(a), contain a warning in the following words or to like effect:

A preliminary simplified prospectus relating to these securities has been filed with the securities commissions or similar authorities in certain provinces or territories of Canada but has not yet become final for the purpose of offering these securities. There may be no sale of these securities prior to the issuance of a receipt for the simplified prospectus by the applicable securities regulatory authorities in the jurisdiction where the sale or offer is made. Important information concerning this offering will be contained in the issuer's simplified prospectus. Obtain a copy from [insert name and address or telephone number of registrant, or in the case of a financial institution, indicate branches as appropriate] and read the simplified prospectus before investing. [For money market funds disclose: yield will fluctuate and there is no assurance that the fund can maintain a fixed net asset value]. [For other funds disclose: unit/share value, [insert yield for income funds only] and investment return will fluctuate].

- (c) Where a mutual fund has not filed pursuant to National Policy Statement No. 36, these warnings should be amended to refer to its long form prospectus.
- (d) Where the mutual fund is an asset allocation service, the warnings in Sections 16.06(a) and 16.06(b) should be modified to refer to the prospectuses and performance of the underlying funds.
- (e) Where a sales communication is broadcast on radio the warnings in Sections 16.06(a) and 16.06(b) must be communicated orally and where the sales communication is broadcast on television, the warnings may be communicated orally or visually.
- (f) A sales communication need not contain the warning required by Section 16.06(a) if:
  - (i) the sales communication does not contain any performance data; and
  - (ii) the warning, if it was included, would constitute more than 50% of the sales communication.

#### SECTION 16.07 - SALES COMMUNICATIONS DURING THE WAITING PERIOD

Where a sales communication is used after the time a receipt for the preliminary prospectus of the mutual fund described in the sales communication is issued but prior to the time a receipt for its prospectus is issued, the sales communication may only identify the security by indicating:

- (1) whether the security represents a share in a company or an interest in a non-corporate entity (e.g. a trust);
- (2) the issuer of the security and its manager;

- (3) briefly the investment objectives of the issuer (e.g. whether the mutual fund is a money market fund, whether the mutual fund invests in Canadian equities or bonds or is a balanced fund, etc.);
- (4) without giving details, whether the security is or will be a qualified investment for a registered retirement savings plan, registered retirement income fund or registered education savings plan or qualifies or will qualify the holder for special tax treatment; and
- (5) any additional information permitted by applicable securities legislation.

#### SECTION 16.08 - APPLICATION OF OTHER POLICIES

The Principles of Regulation regarding the distribution of mutual funds by financial institutions apply to sales communications.

The provisions of National Policy Statements Nos. 21 and 25, Interim National Policy Statement No. 42 and Uniform Act Policy No. 2-13 do not apply to sales communications.

#### SECTION 16.09 - EFFECTIVE DATE AND TRANSITION PERIOD

- (a) The effective date of Section 16 is August 1, 1992.
- (b) For the purposes of this section, a mutual fund that:
  - (i) at any time during the month of June, 1992 described itself as a money fund, cash fund or money market fund; or
  - (ii) published its current yield or current and effective yields in accordance with the CSA Notice - Rates of Return on Money Market Funds (which took effect on November 12, 1990);

may, if it so elects, be deemed to satisfy the definition of money market fund in Section 16.01(a)(iv) and the requirements of Section 16.02(g) for the period up to and including December 31, 1992.
- (c) Existing supplies of written sales communications (other than advertisements and reports to securityholders) that do not comply with Section 16 may be utilized until December 31, 1992. There is no restriction on the continued use of reports to securityholders that were initially published prior to the effective date of Section 16.

#### SCHEDULE I

##### APPROVED CREDIT RATING

- (6) The approved credit rating for purposes of Subsections 1.01 (1), (3) and (18) and the approved credit rating with respect to the over-the-counter options and forward contracts, or the equivalent debt of the other party thereto, required by paragraph 2.07(2)(c), is a credit rating that is equal to or higher than the level indicated in the table below:

APPROVED RATING AGENCY	COMMERCIAL PAPER	DEBT
------------------------	------------------	------

Canadian Bond Rating Service Inc.	A-1	A
Dominion Bond Rating Service Ltd.	R-1-L	A
IBCA Limited	A-1	A
Moody's Investors Service, Inc.	P-1	A
Standard & Poor's Corporation	A-1	A

provided that

- (i) there has been no announcement that the rating may be down-graded to a level below the level so indicated; and
- (ii) no other Approved Rating Agency, as noted above, has rated the over-the-counter option or forward contract, or equivalent debt of the other party to the transaction, below the level so indicated unless the over-the-counter option or forward contract is issued or guaranteed by the Federal, Provincial or Territorial Governments of Canada or is issued or guaranteed by the Government of the United States of America.

## SCHEDULE II

### PERMITTED CLEARING CORPORATIONS

Trans Canada Options Inc.  
The Options Clearing Corporation  
International Options Clearing Corporation  
The Intermarket Clearing Corporation

## SCHEDULE III

### LIST OF PERMITTED FUTURES EXCHANGES

The securities authorities, at the request of The Investment Funds Institute of Canada, are publishing with National Policy Statement No. 39, a list of permitted futures exchanges. By including the permitted futures exchanges set out in this Schedule the securities authorities make no representation as to the suitability of trading on such exchanges and have not examined the trading practices, clearing arrangements, by laws, rules or regulations under which such exchanges operate nor the regulatory regimes to which they are subject.

#### Australia

Sydney Futures Exchange Limited  
Australian Financial Futures Market

#### Austria

Österreichische Termin-und Option börse (OTOB -  
The Austrian Options and Futures Exchange)

#### Belgium

Belfox CV (Belgium Futures and Options Exchange)

## Brazil

Bolsa Brasileira de Futuros  
Bolsa de Mercadorias & Futuros  
Bolsa de Valores de Rio de Janeiro

## Canada

The Winnipeg Commodity Exchange  
The Toronto Futures Exchange  
The Montreal Exchange

## Denmark

Københavns Fondsbørs (Copenhagen Stock Exchange)  
Garenti fonden for Danskse Optioner og Futures (Guarantee Fund for Danish Options and Futures)  
Futop (Copenhagen Stock Exchange)

## Finland

Suomen Optionmeklarit Oy (Finnish Options Market)  
Oy Suomen Optiopörssi (Finnish Options Exchange)

## France

Marché à terme international de France S.A. (MATIF S.A.)

## Germany

DTB Deutsche Terminbörse GmbH

## Hong Kong

Hong Kong Futures Exchange Limited

## Ireland

Irish Futures and Options Exchange

## Japan

Osaka Shoken Torihikisho (Osaka Securities Exchange)  
The Tokyo Commodity Exchange for Industry  
The Tokyo International Financial Futures Exchange  
Tokyo Stock Exchange

## Netherlands

EOE-Optiebeurs (European Options Exchange)  
Financieele Termijnmarkt Amsterdam N.V.

## New Zealand

New Zealand Futures and Options Exchange

Philippines

Manila International Futures Exchange

Singapore

Singapore International Monetary Exchange Limited (SIMEX)

Spain

Meff Rent a Fija  
Meff Rent a Variable

Sweden

OM Stockholm Fondkommission AB

Switzerland

Swiss Options and Financial Futures Exchange (SOFFEX)

United Kingdom

London International Financial Futures and Options Exchange (LIFFE)  
OM London

United States

Chicago Board of Trade (CBOT)  
Chicago Mercantile Exchange (CME)  
Commodity Exchange, Inc. (COMEX)  
Financial Instrument Exchange (Finex) a division of the New York Cotton Exchange  
Board of Trade of Kansas City, Missouri, Inc.  
MidAmerica Commodity Exchange  
New York Futures Exchange, Inc. (NYFE)  
Pacific Stock Exchange  
Philadelphia Board of Trade (PBOT)  
Twin Cities Board of Trade