

Headnote

Multilateral Instrument 11-102 *Passport System* and National Policy 11-203 *Process for Exemptive Relief Applications in Multiple Jurisdictions*

National Instrument 31-103, s. 15.1, 13.5(2)(b) *Registration Requirements, Exemptions and Ongoing Obligations*:

Inter-Fund Trades

An investment fund manager, portfolio manager and dealer wants relief from self-dealing restrictions in section 13.5(2)(b) of NI 31-103 for trades in portfolio securities between and among pooled funds managed by the Filer and discretionary accounts managed by the Filer (but not for trades among managed accounts)– Inter-fund trades are consistent with the investment objective of the fund or the managed account; funds without an IRC have constituted an equivalent entity; trades are referred to and approved by the fund's IRC or equivalent and comply with any standing instructions; the managed account has authorization for inter-fund trades; the trade complies with paragraphs (c), (d), (f) and (g) of section 6.1(2) of NI 81-107

Managed Account In Specie Transactions

A portfolio manager wants relief from self-dealing restrictions in section 13.5(2)(b) of NI 31-103 to permit purchases and redemptions of units or shares using portfolio securities between managed accounts and pooled funds – The managed account client has authorized in specie transactions; where applicable, the IRC of the fund has approved the transaction and any standing instructions have been complied with; the next account statement for the managed account describes the portfolio securities and their value; the fund will keep written records of the transaction; the filer does not receive compensation – For an acquisition by a managed account: the fund is permitted to purchase the portfolio securities; the portfolio securities are acceptable to the portfolio manager of the fund and meet the investment criteria; the value of the portfolio securities is equal to the issue price of units in the fund – For a redemption by a managed account: the portfolio securities meet the investment criteria of the managed account and are acceptable to the filer; the value of the portfolio securities is equal to the net asset valuation calculation

Pooled Fund In Specie Transactions

A portfolio manager wants relief from self-dealing restrictions in section 13.5(2)(b) of NI 31-103 to permit purchases and redemptions of units or shares using portfolio securities between pooled funds – The IRC of the fund has approved the transaction and any standing instructions have been complied with; the fund will keep written records of the transaction; the filer does not receive compensation. For an acquisition: the fund is permitted to purchase the portfolio securities; the portfolio securities are acceptable to the portfolio manager of the acquiring fund and meet the investment criteria; the value of the portfolio securities is equal to the issue price of units in the fund – For a redemption: the portfolio securities meet the investment criteria of the acquiring fund and are acceptable to the filer; the value of the portfolio securities is equal to the net asset valuation calculation

Applicable Legislative Provisions

National Instrument 31-103, s. 15.1, 13.5(2)(b) *Registration Requirements, Exemptions and Ongoing Registrant Obligations*

June 1, 2023

In the Matter of
the Securities Legislation of
British Columbia and Ontario
(the Jurisdictions)

and

In the Matter of
the Process for Exemptive Relief Applications in Multiple Jurisdictions

and

In the Matter of
Nicola Wealth Management Ltd.
(the Filer)

Decision

Background

- ¶ 1 The securities regulatory authority or regulator in each of the Jurisdictions (each, a Decision Maker) has received an application (the Application) from the Filer for a decision under the securities legislation of the Jurisdictions (the Legislation) for an exemption from the prohibitions in sections 13.5(2)(b)(ii) and (iii) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (NI 31-103) which prohibit a registered adviser from knowingly causing an investment portfolio managed by it, including an investment fund for which it acts as an adviser, to purchase or sell a security from or to the investment portfolio of an associate of a responsible person, or from or to the investment portfolio of an investment fund for which a responsible person acts as an adviser, in order to permit,
- (a) a Pooled Fund (as defined below) to purchase or sell portfolio securities that are mortgages (**Mortgages**) and securities issued by alternative asset funds including private equity funds, infrastructure funds, real estate funds and loan funds that are not publicly traded (each an **Alternative Asset Fund**) from or to a Pooled Fund or a Managed Account (as defined below);
 - (b) a Managed Account to purchase Mortgages and securities issued by Alternative Asset Funds from or sell such Mortgages and securities to a Pooled Fund (the transactions listed in (a) and (b), each an **Inter-Fund Trade** and (a) and (b) are collectively, the

Inter-Fund Trading Relief and each); and

- (c) in-specie subscriptions and redemptions by (each subscription or redemption, an In-Specie Transfer):
 - (i) Managed Accounts in the Pooled Funds; and
 - (ii) Pooled Funds in the Pooled Funds (together, the **In-Specie Transfer Relief**)

(the Inter-Fund Trading Relief and In-Specie Transfer Relief are, collectively, the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a dual application):

- (a) the British Columbia Securities Commission is the principal regulator for this Application;
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System* (MI 11-102) is intended to be relied upon in each of the other provinces and territories of Canada; and
- (c) the decision is the decision of the principal regulator and evidences the decision of the securities regulatory authority or regulator in Ontario.

Interpretation

¶ 2 Terms defined in MI 11-102, National Instrument 14-101 *Definitions*, National Instrument 81-102 *Investment Funds* (NI 81-102), NI 81-107 and NI 31-103 have the same meaning if used in this decision, unless otherwise defined. The following terms have the following meanings:

1. **Clients** means individuals, institutions and other entities to whom the Filer offers, or may offer, discretionary portfolio management services through a Managed Account (as defined below);
2. **Discretionary Management Agreement** means a written agreement between the Filer and a Client seeking wealth management or related services;
3. **Existing Pooled Funds** means each existing investment fund that is not a reporting issuer, securities of which are sold to investors in Canada pursuant to exemptions from the prospectus requirement, of which the Filer acts as the manager and portfolio manager;

4. **Future Pooled Funds** means each investment fund that is not a reporting issuer, securities of which are sold to investors in Canada pursuant to exemptions from the prospectus requirement, for which the Filer may act as manager and portfolio manager in the future;
5. **Managed Account** means an account managed by the Filer for a Client that is not a responsible person and over which the Filer has discretionary authority;
6. **Pooled Funds** means collectively, the Existing Pooled Funds and the Future Pooled Funds.

Representations

¶ 3 This decision is based on the following facts represented by the Filer:

1. the Filer is a corporation incorporated under the laws of British Columbia with its head office in Vancouver, British Columbia;
2. the Filer is registered as: (i) an investment fund manager in British Columbia, Ontario, Quebec and Newfoundland and Labrador; (ii) a portfolio manager in all jurisdictions of Canada; and (iii) an exempt market dealer in all jurisdictions of Canada;
3. the Filer is, or will be, the manager and portfolio manager of each of the Pooled Funds; the Filer may appoint third party sub-advisers to the Pooled Funds;
4. each of the Pooled Funds is, or will be, an investment fund established as a trust, partnership or corporation under the laws of British Columbia, Canada or another province or territory in Canada and is not, or will not be in the case of a Future Pooled Fund, a reporting issuer in any of the provinces and territories of Canada;
5. the securities of the Existing Pooled Funds are distributed on a private placement basis pursuant to available prospectus exemptions; each Existing Pooled Fund is not subject to NI 81-102;
6. the Filer and the Existing Pooled Funds are not in default of securities legislation in any of the provinces and territories of Canada;
7. the Filer offers discretionary portfolio management services to Clients seeking wealth management or related services under Discretionary Management Agreements in connection with the Managed Account of the Client with the Filer;
8. pursuant to the Discretionary Management Agreement entered into with each Client, the Client appoints the Filer to act as portfolio manager in connection

with an investment portfolio of the Client with full discretionary authority to trade in securities for the Managed Account without obtaining the specific consent or instructions of the Client to execute the trade;

9. the portfolio management services provided by the Filer to each Client consist, or will consist, of the following:
 - (a) each Client executes a Discretionary Management Agreement whereby the Client authorizes the Filer to supervise, manage and direct purchases and sales in the Client's Managed Account, at the Filer's full discretion on a continuing basis;
 - (b) qualified employees of the Filer perform investment research, securities selection and portfolio management functions with respect to all securities, investments, cash and cash equivalents and other assets in the Managed Account;
 - (c) each Managed Account holds securities and other investments as selected by the Filer in its sole discretion; and
 - (d) the Filer retains overall responsibility for the advice provided to its Clients and has one or more designated registered advisors to oversee and supervise the Managed Accounts;
10. the Filer also offers advisory services to clients pursuant to which the Filer provides investment advice and clients make the final investment decision for themselves;
11. neither the Filer, the Pooled Fund nor the Managed Accounts are or will be related parties of the Alternative Asset Funds, the originators of the Mortgages or the borrowers under the Mortgages;

Inter-Fund Trades

12. the Filer wishes to be able to permit Inter-Fund Trades of Mortgages and securities issued by Alternative Asset Funds, between:
 - (a) a Pooled Fund and another Pooled Fund; and
 - (b) a Managed Account and a Pooled Fund;
13. the Filer considers that because of the various investment objectives and investment strategies utilized by the Pooled Funds and Managed Accounts, it may be appropriate for different investment portfolios to acquire or dispose of the same securities directly, rather than with a third party;
14. the Alternative Asset Funds are managed by third party managers, are not related to the Filer, the Pooled Funds or Managed Accounts, are not reporting

issuers in a Jurisdiction, and are generally not expected to be “investment funds” under the Legislation. In the Future, if a Pooled Fund or Managed Account wants to invest in an Alternative Asset Fund that is an investment fund under the Legislation, the Filer would only proceed if that investment complies with the applicable Legislation. There is no active market for the securities of such Alternative Asset Funds;

15. the securities issued by Alternative Asset Funds, unlike traditional investment funds generally have no, or limited, redemption rights and where they provide for limited redemption rights, there is no guarantee that the Pooled Fund that would seek to purchase would be able to subscribe for those securities directly from the Alternative Asset Fund given that such Alternative Asset Funds may not be permitting new investors or there is a wait list for new or additional investments by investors;
16. the Filer has determined that it would be in the best interests of the Pooled Funds and Managed Accounts to receive the Inter-Fund Trading Relief because it will result in:
 - (a) quicker execution;
 - (b) access to limited investment opportunities;
 - (c) better liquidity; and
 - (d) better pricing;
17. each Inter-Fund Trade will be consistent with the investment objectives of the relevant Pooled Fund or Managed Account, as applicable;
18. at the time of an Inter-Fund Trade, the Filer will have policies and procedures in place to enable the applicable Pooled Funds and Managed Accounts to engage in Inter-Fund Trades;
19. the Filer, as manager of each Pooled Fund, has established, or will establish, an independent review committee (IRC) in respect of each Pooled Fund to review and provide its approval for any proposed Inter-Fund Trades between a Pooled Fund and another Pooled Fund or a Managed Account;
20. the IRC of the Pooled Funds will be composed by the manager of the Pooled Funds in accordance with section 3.7 of NI 81-107 and the IRC will be expected to comply with the standard of care set out in section 3.9 of NI 81-107; the IRC of the Pooled Funds will not approve an Inter-Fund Trade involving a Pooled Fund unless it has made the determination set out in subsection 5.2(2) of NI 81-107;
21. prior to engaging in Inter-Fund Trades on behalf of a Managed Account, each Discretionary Management Agreement or other documentation will

contain the authorization of the Client for the portfolio manager of the Managed Account to engage in Inter-Fund Trades;

22. the Filer cannot rely on the exemption for Inter-Fund Trades under subsection 6.1(4) of NI 81-107 unless the bid and ask price of the security is readily available, the only cost of the transaction is the nominal cost incurred by the investment fund to print or otherwise display the trade and the transaction, and the transaction is executed at the current market price of the security;
23. mortgages and securities issued by Alternative Asset Funds do not trade on a marketplace and could be considered illiquid, and the manager of Alternative Asset Funds often charge fees to consent to transfers of the securities issued by Alternative Asset Funds;
24. when the Filer engages in an Inter-Fund Trade of Mortgages between Pooled Funds or between a Managed Account and a Pooled Fund, it will follow the following procedures:
 - (a) the portfolio manager (or sub-adviser, as applicable) of the Filer will request the approval of the Chief Compliance Officer of the Filer or his or her designated alternate to execute a purchase or sale of a Mortgage by a Pooled Fund or a Managed Account as an Inter-Fund Trade;
 - (b) upon receipt of the required approval, the portfolio manager (or sub-adviser, as applicable) of the Filer will obtain a valuation from an independent mortgage valuator which uses a risk-based system to independently value the Mortgage, which, if the applicable Pooled Fund uses an independent mortgage valuator to value Mortgages for such Pooled Fund, shall be the same independent mortgage valuator;
 - (c) the valuation for the Mortgage obtained from the independent mortgage valuator will be used by the Filer without alteration or adjustment to effect the Inter-Fund Trade;
 - (d) the Inter-Fund Trade of the Mortgage will be completed on a timely basis after obtaining such valuation;
25. when the Filer engages in an Inter-Fund Trade of securities issued by an Alternative Asset Fund between Pooled Funds or between a Managed Account and a Pooled Fund, it will follow the following procedures established by the Filer as applicable; currently, these policies and procedures apply to both the Filer and any sub-adviser to the Pooled Fund, as appropriate, and contemplate the following general steps:

- (a) the portfolio manager (or sub-adviser, as applicable) of the Filer will request the approval of the Chief Compliance Officer of the Filer or his or her designated alternate to execute a purchase or sale of a security issued by an Alternative Asset Fund by a Pooled Fund or a Managed Account as an Inter-Fund Trade;
 - (b) upon receipt of the required approval, the portfolio manager (or sub-adviser, as applicable) of the Filer will obtain a valuation from an accounting firm (which is not an auditor of the Pooled Funds or the Filer) registered with the Canadian Public Accountability Board and the valuation services of which are provided by professionals who are members in good standing of the Canadian Institute of Chartered Business Valuators (the **Independent Valuator**) to opine as to whether the net asset value attributable to the securities of the Alternative Asset Fund that are the subject of such Inter-Fund Trade is within the price range of fair market value for such securities;
 - (c) the net asset value attributable to the securities of the Alternative Asset Fund, as determined by the manager of the Alternative Asset Fund, that are the subject of such Inter-Fund Trade will be used by the Filer without alteration or adjustment to effect the Inter-Fund Trade to the extent that the Independent Valuator confirms that such net asset value is within the price range of fair market value for such securities;
 - (d) the Inter-Fund Trade of the securities of the Alternative Asset Fund will be completed as of the 12:01 a.m. on the day immediately following the day for which the manager of the Alternative Asset Fund determined the net asset value;
26. if the IRC of a Pooled Fund becomes aware of an instance where the Filer did not comply with the terms of this Decision, or a condition imposed by securities legislation or the IRC in its approval, the IRC of the Pooled Fund will, as soon as practicable, notify in writing the securities regulatory authority or regulator in the jurisdiction which is the Pooled Fund's principal regulator;

In-Specie Transfers

27. investments in individual securities may not be appropriate in certain circumstances for a Client; consequently, the Filer may, where authorized under the applicable Discretionary Management Agreement, from time to time, invest the assets in a Client's Managed Account in securities of any one or more of the Pooled Funds in order to give such Client the benefit of asset diversification and lower commission charges and generally to facilitate portfolio management;

28. the Filer may wish, or otherwise be required, to deliver portfolio securities held in a Managed Account or Pooled Fund to a Pooled Fund in respect of a purchase of units or shares of the Pooled Fund (**Fund Securities**), and may wish, or otherwise be required, to receive portfolio securities from a Pooled Fund in respect of a redemption of Fund Securities by a Managed Account or Pooled Fund;
29. as the Filer is, or will be, the portfolio manager of the Pooled Funds and is, or will be, the portfolio manager of the Managed Accounts, the Filer would be considered a 'responsible person' within the meaning of NI 31-103;
30. as the Filer may in the future be the trustee of a Pooled Fund which is organized as a trust, each such Pooled Fund may be an 'associate' of the Filer, and accordingly, absent the grant of the In-Specie Transfer Relief, the Filer could be precluded by the provisions of section 13.5(2)(b)(ii) of NI 31-103 from effecting the In-Specie Transfers in such circumstances; as the Filer is, or will be, a registered adviser, and is or will be the manager and/or portfolio manager of the Pooled Funds and is, or will be, the portfolio manager of the Managed Accounts, absent the grant of the In-Specie Transfer Relief, the Filer would be precluded by section 13.5(2)(b)(iii) of NI 31-103 from effecting the In-Specie Transfers;
31. each Discretionary Management Agreement or other documentation will contain the authorization of the Client for the Filer to engage in In-Specie Transfers on behalf of the Managed Account;
32. the Filer, as manager of the Pooled Funds, will value the securities transferred under an In-Specie Transfer on the same valuation day on which the purchase price or redemption price of the Fund Securities of a Pooled Fund is determined; with respect to the purchase of Fund Securities of a Pooled Fund, the securities transferred to a Pooled Fund under an In-Specie Transfer in satisfaction of the purchase price of those Fund Securities will be valued as if the securities were portfolio assets of the Pooled Fund, as contemplated by section 9.4(2)(b)(iii) of NI 81-102; with respect to the redemption of Fund Securities of a Pooled Fund, the securities transferred to a Managed Account or Pooled Fund in satisfaction of the redemption price of those Fund Securities will have a value equal to the amount at which those securities were valued in calculating the net asset value per security used to establish the redemption price of the Fund Securities of the Pooled Fund, as contemplated by section 10.4(3)(b) of NI 81-102;
33. should any In-Specie Transfer contemplated specifically by the Exemption Sought, involve the transfer of an "illiquid asset" (as defined in NI 81-102) that is not a Mortgage or a security of an Alternative Asset Fund, the Filer will obtain at least one quote for the asset from an independent arm's length purchaser or seller, immediately before effecting the In-Specie Transfer;

34. should any In-Specie Transfer contemplated specifically by the Exemption Sought, involve the transfer of a Mortgage, the Filer will obtain a valuation from an independent mortgage valuator which uses a risk-based system to independently value the Mortgage (a risk based system would, to the extent determined to be material, take into account the credit risk associated with the mortgage in addition to taking into account yield and current interest rates); to the extent that the applicable Pooled Fund uses an independent mortgage valuator to value Mortgages owned by the Pooled Fund, the independent mortgage valuator shall be the same independent mortgage valuator;
35. Should any *In-Specie* Transfer contemplated specifically by the Exemption Sought involve the transfer of securities of an Alternative Asset Fund, the Filer will:
- (a) obtain a valuation from an Independent Valuator to opine as to whether the net asset value attributable to the securities of the Alternative Asset Fund that are the subject of such In-Specie Transfer is within the price range of fair market value for such securities;
 - (b) the net asset value attributable to the securities of the Alternative Asset Fund, as determined by the manager of the Alternative Asset Fund, that are the subject of such *In-Specie* Transfer will be used by the Filer without alteration or adjustment to effect the *In-Specie* Transfer to the extent that the Independent Valuator confirms that such net asset value is within the price range of fair market value for such securities;
 - (c) the *In-Specie* Transfer of the securities of the Alternative Asset Fund will be completed as of the 12:01 a.m. on the day immediately following the day for which the manager of the Alternative Asset Fund determined the net asset value;
36. the Filer does not receive any compensation in respect of any sale or redemption of Fund Securities of a Pooled Fund and, in respect of any delivery of securities further to an In Specie Transfer, the only cost which will be incurred by a Managed Account or a Pooled Fund for an In-Specie Transfer is (i) a nominal administrative charge levied by the custodian of the relevant Pooled Fund in recording the trades, and any commission charged by the dealer executing the trade, (ii) in respect of Mortgages, any costs associated with registering or otherwise recording the transfer which would be incurred for any transfer of Mortgages, and (iii) in respect of securities of an Alternative Asset Fund, any fees and expenses charged by the manager of the Alternative Asset Fund in connection with the transfer which would be incurred in connection with any transfer to a third party;

37. In-Specie Transfers will be subject to (i) compliance with the written policies and procedures of the Filer respecting In-Specie Transfers that are consistent with applicable securities legislation, and (ii) the oversight of the Chief Compliance Officer of the Filer or his or her designated alternate to ensure that the transaction represents the business judgment of the Filer acting in its discretionary capacity with respect to the Pooled Fund and the Managed Account, uninfluenced by considerations other than the best interests of the Pooled Fund and Managed Account;
38. the Filer has determined that it will be in the best interests of the Pooled Funds and the Managed Accounts to obtain the Exemption Sought; and
39. absent the Exemption Sought, neither the Pooled Funds, Managed Accounts, nor the Filer, on their behalf, will be permitted to engage in Inter-Fund Trades or In-Specie Transfers.

Decision

1. Each of the Decision Makers is satisfied that the decision meets the test set out in the Legislation for the Decision Maker to make the decision.
2. The decision of the Decision Makers under the Legislation is that:
 - (a) the Inter-Fund Trading Relief is granted provided that:
 - (i) the Inter-Fund Trade is consistent with the investment objectives of the Pooled Fund or Managed Account, as applicable;
 - (ii) the Filer, as manager of a Pooled Fund, refers the Inter-Fund Trade involving a Pooled Fund to the IRC of that Pooled Fund in the manner contemplated by section 5.1 of NI 81-107 and the Filer and the IRC of the Pooled Fund comply with section 5.4 of NI 81-107 in respect of any standing instructions an IRC provides in connection with the Inter-Fund Trade;
 - (iii) in the case of an Inter-Fund Trade between Pooled Funds involving Mortgages:
 - (A) the IRC of each Pooled Fund has approved the Inter-Fund Trade in respect of the Pooled Fund in accordance with the terms of subsection 5.2(2) of NI 81-107;
 - (B) each Mortgage traded between Pooled Funds will be valued by an independent mortgage valuator which uses a risk-based system to independently value the

Mortgage, which, if the applicable Pooled Fund uses an independent mortgage valuator to value Mortgages for such Pooled Fund, shall be the same independent mortgage valuator;

- (C) the applicable Pooled Fund(s) keeps written records required by section 6.1(2)(g) of NI 81-107; and
 - (D) the only costs for the trade are a nominal administrative charge levied by the custodian of the relevant Pooled Fund in recording the trades and costs associated with registering or otherwise recording the transfer which would be incurred for any transfer of Mortgages;
- (iv) in the case of an Inter-Fund Trade between Pooled Funds involving securities of an Alternative Asset Fund:
- (A) the IRC of each Pooled Fund has approved the Inter-Fund Trade in respect of the Pooled Fund in accordance with the terms of subsection 5.2(2) of NI 81-107;
 - (B) the Independent Valuator provides an opinion to the Filer that the net asset value of the securities issued by the Alternative Asset Fund is within the range of fair market value for securities of such Alternative Asset Fund;
 - (C) for the IRC approval process, the Filer provides the report of the Independent Valuator to the IRC and makes available the Independent Valuator to the IRC at their request;
 - (D) the applicable Pooled Fund(s) keeps written records required by section 6.1(2)(g) of NI 81-107; and
 - (E) the Filer does not receive any compensation in respect of the Inter-Fund Trade and the only costs incurred by a Pooled Fund for the Inter-Fund Trade are a nominal administrative charge levied by the custodian of the relevant Pooled Fund in recording the trades and the fees and expenses charged by the manager of the Alternative Asset Fund in connection with such transfer which would be incurred in connection with any transfer to a third party;

- (v) in the case of an Inter-Fund Trade between a Managed Account and a Pooled Fund:
 - (A) the IRC of the Pooled Fund has approved the Inter-Fund Trade in respect of such Pooled Fund in accordance with the terms of subsection 5.2(2) of NI 81-107;
 - (B) the Discretionary Management Agreement or other documentation in respect of the Managed Account authorizes the Inter-Fund Trade;
 - (C) if the Inter-Fund Trade involves Mortgages, the conditions in (a)(iv)(B), (C), and (D) above are satisfied; and
 - (D) if the Inter-Fund Trade involves securities of Alternative Asset Funds, the conditions in (a)(v)(B), (C), (D), and (E) are satisfied;
- (b) the In-Specie Transfer Relief is granted provided that:
 - (i) if the transaction is the purchase of Fund Securities of a Pooled Fund by a Managed Account;
 - (A) the Filer obtains the prior written consent of the Client of the Managed Account before it engages in any In-Specie Transfer in connection with the purchase of Fund Securities of the Pooled Fund;
 - (B) the Pooled Fund would, at the time of payment, be permitted to purchase the portfolio securities held by the Managed Account;
 - (C) the portfolio securities are acceptable to the Filer, as portfolio manager of the Pooled Fund and consistent with the Pooled Fund's investment objectives;
 - (D) the value of the portfolio securities sold to the Pooled Fund by the Managed Account is equal to the issue price of the securities of the Pooled Fund for which they are used as payment, valued as if the securities were portfolio assets of that Pooled Fund;
 - (E) the account statement next prepared for the Managed Account will include a note describing the portfolio securities delivered to the Pooled Fund and the value assigned to such securities; and

- (F) the Pooled Fund keeps written records of all In-Specie Transfers during the financial year of the Pooled Fund, reflecting details of the portfolio securities delivered to the Pooled Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;
- (ii) if the transaction is the redemption of Fund Securities of a Pooled Fund by a Managed Account:
 - (A) the Filer obtains the prior written consent of the Client of the Managed Account to the payment of redemption proceeds in the form of an In-Specie Transfer and such consent has not been revoked;
 - (B) the portfolio securities are acceptable to the Filer as portfolio manager of the Managed Account and consistent with the Managed Account's investment objectives;
 - (C) the value of the portfolio securities is equal to the amount at which those securities were valued in calculating the net asset value per Fund Security used to establish the redemption price;
 - (D) the holder of the Managed Account has not provided notice to terminate its Discretionary Management Agreement with the Filer;
 - (E) the account statement next prepared for the Managed Account will include a note describing the portfolio securities delivered to the Managed Account and the value assigned to such securities; and
 - (F) the Pooled Fund keeps written records of all In-Specie Transfers in a financial year of the Pooled Fund, reflecting details of the portfolio securities delivered by the Pooled Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;
- (iii) if the transaction is the purchase of Fund Securities of a Pooled Fund by a Pooled Fund:
 - (A) the Pooled Fund would at the time of payment be

permitted to purchase the portfolio securities;

- (B) the portfolio securities are acceptable to the Filer as portfolio manager of the Pooled Fund, and consistent with the Pooled Fund's investment objectives;
 - (C) the value of the portfolio securities is equal to the issue price of the Fund Securities of the Pooled Fund for which they are payment, valued as if the securities were portfolio assets of that Pooled Fund; and
 - (D) each Pooled Fund keeps written records of all In-Specie Transfers in a financial year of a Pooled Fund, reflecting details of the portfolio securities delivered to the Pooled Fund, and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;
- (iv) if the transaction is the redemption of Fund Securities of a Pooled Fund by a Pooled Fund:
- (A) the portfolio securities are acceptable to the Filer as portfolio manager of the Pooled Fund, and consistent with the investment objectives of the Pooled Fund; the value of the portfolio securities is equal to the amount at which those securities were valued in calculating the net asset value per Fund Securities used to establish the redemption price of the Pooled Fund; and
 - (B) each Pooled Fund keeps written records of all In-Specie Transfers in a financial year of the Pooled Fund, reflecting details of the portfolio securities delivered by the Pooled Fund and the value assigned to such securities, for five years after the end of the financial year, the most recent two years in a reasonably accessible place;
- (v) the Filer does not receive any compensation in respect of any sale or redemption of Fund Securities of a Pooled Fund and the only cost which will be incurred by a Managed Account or a Pooled Fund for an In-Specie Transfer is (i) a nominal administrative charge levied by the custodian of the relevant Pooled Fund in recording the trades, and any commission charged by the dealer executing the trade, (ii) in respect of Mortgages, any costs associated with registering or

otherwise recording the transfer which would be incurred for any transfer of Mortgages, and (iii) in respect of securities of an Alternative Asset Fund, any fees and expenses charged by the manager of the Alternative Asset Fund in connection with the transfer which would be incurred in connection with any transfer to a third party;

- (vi) if any In-Specie Transfer involves the transfer of an "illiquid asset" (as defined in NI 81-102) (other than Mortgages or securities of an Alternative Asset Fund), the Filer must obtain at least one quote for the asset from an independent arm's length purchaser or seller, immediately before effecting the In-Specie Transfer (as contemplated by commentary #7 to section 6.1 of National Instrument 81-107 *Independent Review Committee for Investment Funds*);
- (vii) should any In-Specie Transfer involve the transfer of a Mortgage, the Filer will obtain a valuation from an independent mortgage valuator that uses a risk-based system to independently value the Mortgage; to the extent that the applicable Pooled Fund uses an independent mortgage valuator to value Mortgages owned by the Pooled Fund, the independent mortgage valuator will be the same independent mortgage valuator; and
- (viii) should any In-Specie Transfer involve the transfer of securities of an Alternative Asset Fund, the Filer will obtain a valuation from an Independent Valuator to opine as to whether the net asset value attributable to the securities of the Alternative Asset Fund that are the subject of such In-Specie Transfer is within the price range of fair market value for such securities; the net asset value attributable to the securities of the Alternative Asset Fund, as determined by the manager of the Alternative Asset Fund, that are the subject of such In-Specie Transfer will be used by the Filer without alteration or adjustment to effect the In-Specie Transfer to the extent that the Independent Valuator confirms that such net asset value is within the price range of fair market value for such securities.

Mark Wang
Director, Capital Markets Registration
British Columbia Securities Commission