

# LIQUID ALTERNATIVES NOW A REALITY ALTERNATIVE MUTUAL FUNDS REGIME SCHEDULED TO COME INTO FORCE JANUARY 3, 2019

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The Canadian Securities Administrators (the “**CSA**”) have published the long awaited and much anticipated final version of amendments introducing a “liquid alternatives” regulatory regime in Canada (the “**Final Rules**”).

The Final Rules become effective on January 3, 2019 and modify provisions in National Instrument 81-102 *Investment Funds* (“**NI 81-102**”) and related National Instruments that previously applied to conventional mutual funds and non-redeemable investment funds. As a result, a new category of prospectus-offered investment funds known as “alternative mutual funds” has been created. Alternative mutual funds have investment objectives permitting them to invest in physical commodities or specified derivatives or, borrow cash or engage in short selling in a manner not typically permitted for conventional “long only” mutual funds.

The CSA has confirmed that the Final Rules reflect the CSA’s effort to modernize the existing commodity pools regime by making the regulatory framework in Canada more effective and relevant, to help facilitate more alternative and innovative strategies and at the same time, maintain restrictions the CSA believes to be appropriate for products that can be sold to retail investors.

Prior to the Final Rules, alternative investment strategies were generally only available to Canadians who qualified as “accredited investors” (or another available exemption from the prospectus requirement) through privately offered pooled funds under an offering memorandum. The Final Rules, which are in a similar vein as the UCITS<sup>[1]</sup> regime in Europe and the “40 Act”<sup>[2]</sup> retail funds in the United States, represent a significant change in the Canadian investment fund landscape, as alternative mutual funds will be able to distribute their securities on a continuous basis to retail investors under a simplified prospectus in essentially the same manner as conventional mutual funds.

Commodity pools, previously offered under National Instrument 81-104 *Commodity Pools* (“**NI 81-104**”), will be redesignated as alternative mutual funds and governed by the provisions applicable to alternative mutual funds in NI 81-102. NI 81-104 will remain in force (at least for the time being) and will be renamed “*Alternative Mutual Funds*” with its only operative section relating to the proficiency requirements for mutual fund dealers

who distribute alternative mutual funds. These proficiency requirements are unchanged from the current proficiency requirements for the distribution of commodity pools. NI 81-104 is expected to be repealed once replacement proficiency standards are adopted in connection with the other work being undertaken by the CSA in relation to dealer-focused issues.

The Final Rules also modify certain provisions in NI 81-102 applicable to both conventional mutual funds and non-redeemable investment funds (also known as closed-end funds).

## **Background**

The CSA spent the past several years modernizing Canadian investment fund product regulation. In 2012, Phase 1 of the modernization project codified certain exemptive relief that had frequently been granted to publicly offered conventional mutual funds in recognition of market and product developments. The Phase 1 amendments largely came into force on April 30, 2012.

In 2014, Phase 2 of the project introduced core investment restrictions and fundamental operational requirements for non-redeemable investment funds and enhanced disclosure requirements for all investment funds regarding securities lending activities. The implementation of a major portion of the amendments in Phase 2 occurred on September 22, 2014.

A second stage of Phase 2, the proposed alternative funds framework, was published for comment on March 27, 2013 requesting input on the broad parameters of a regime for publicly offered alternative funds. Following an extended period of public consultation, draft alternative fund amendments to NI 81-102 and related Instruments were published for a 90 day comment period on September 22, 2016 (the “**2016 Proposed Amendments**”). A total of 41 comment letters on the 2016 Proposed Amendments were received and considered by the CSA.

Earlier this year, securities regulatory authorities began providing exemptive relief for certain “alternative funds” to be offered on the basis of the 2016 Proposed Amendments. This exemptive relief will expire on the coming into force of the Final Rules and such funds will thereafter be subject to the Final Rules.

## **Summary of the Final Rules**

### ***What has changed from the 2016 Proposed Amendments?***

The Final Rules have made several noteworthy modifications to the 2016 Proposed Amendments:

- This category of investment funds will be known as “alternative mutual funds” as opposed to “alternative funds” and the definition of an “alternative mutual fund” in NI 81-102 has been slightly modified;
- The 10% single issuer concentration limit for short sale transactions will not apply to the short sale of

“government securities” (as defined in NI 81-102);

- Alternative mutual funds and non-redeemable investment funds will be permitted to borrow from both domestic and foreign entities that qualify to act as custodian or a sub-custodian under NI 81-102. The 2016 Proposed Amendments contemplated that borrowing would only be permitted from Canadian entities;
- The overall leverage limit for alternative mutual funds will remain at 300% of net asset value (“NAV”) but the calculation of leverage will exclude the notional value of derivatives used for “hedging” purposes (as defined in NI 81-102);
- The requirements for entities to qualify to act as custodian or a sub-custodian of an investment fund have been amended to remove the requirement for affiliates of domestic and foreign banks and trust companies to have publicly available financial statements reflecting the required amount of equity (although audited statements evidencing the required amount of equity will still be required);
- Alternative mutual funds and non-redeemable investment funds will be permitted to deposit portfolio assets with a value of up to 25% of NAV with a single borrowing agent (other than the custodian or a sub-custodian of the fund) as collateral for short sale transactions as compared to the original 10% of NAV limit in the 2016 Proposed Amendments; and
- NI 81-104 will continue in force only as it relates to the proficiency requirements for mutual fund dealers distributing alternative mutual funds and will be renamed “*Alternative Mutual Funds*”.

A more in-depth examination of the Final Rules is set out below. To review the full text of the Final Rules [click here](#).

### **Definition of “Alternative Mutual Fund” and Naming Convention**

An “alternative mutual fund” is defined in the Final Rules as “a mutual fund, other than a precious metals fund, that has adopted fundamental investment objectives that permit it to invest in physical commodities or specified derivatives, to borrow cash or engage in short selling in a manner not permitted for other mutual funds”.

The category is intentionally broad in scope and is similar to the definition of “commodity pool” previously found in NI 81-104. The definition was altered from the 2016 Proposed Amendments to specifically exclude precious metals funds, which are now separate category of investment fund under NI 81-102.

The Final Rules do not prescribe a naming convention. An alternative mutual fund is not required to contain the word “alternative” or any other word signalling that the fund is an alternative mutual fund in its name. However, the amended companion policy to NI 81-102 (81-102CP) reflects the CSA’s view that, in order to avoid potential confusion in the marketplace, publicly offered mutual funds should not use the word “alternative” in their name unless they qualify as an alternative mutual fund.

### **Concentration Restrictions**

Investments by alternative mutual funds in any one issuer can be no more than 20% of NAV of the fund at the time of purchase (in comparison to 10% for conventional mutual funds). This 20% concentration limit does not apply to the purchase of certain securities,<sup>[3]</sup> including government securities (as defined in NI 81-102).

Non-redeemable investment funds, which previously had no concentration restrictions, are now also subject to this 20% limit under the Final Rules.

### **Investments in Physical Commodities**

Alternative mutual funds are exempt from any restrictions relating to investments in physical commodities under the Final Rules. Non-redeemable investment funds continue to be exempt from such restrictions.

Under the Final Rules, conventional mutual funds, which were primarily restricted to investing in gold, are now permitted to invest (directly or indirectly through specified derivatives) in gold, silver, palladium and platinum subject to an overall limit 10% of NAV. A “look through” test has also been introduced for measuring compliance by a conventional mutual fund with the 10% of NAV limit in relation to fund-of-fund investments. These changes reflect exemptive relief that has been regularly granted to mutual funds and recognizes that physical commodities represent an asset class that can be used effectively within a diversified investment portfolio.

### **Illiquid Assets**

Investments by alternative mutual funds in illiquid assets are limited to 10% of NAV after purchase and a hard cap of 15% of NAV at any time. This same restriction currently applies to conventional mutual funds.

Non-redeemable investment funds, which have previously not been subject to any restrictions, will be subject to a limit on investing in illiquid assets of 20% of NAV at the time of purchase with a hard cap of 25% of NAV at any time. This may represent a significant change for non-redeemable investment funds that have a particular focus on illiquid assets.

The Final Rules make no substantive change to the definition of “illiquid assets”<sup>[4]</sup> and, as a result, may not capture certain assets that may be of interest to alternative mutual fund managers. Any future revisions to the definition the CSA may consider will occur separately.

### **Cash Borrowing**

Alternative mutual funds may borrow cash up to an amount equal to 50% of NAV. Borrowing is only permitted from entities that qualify as an investment fund custodian or sub-custodian under sections 6.2 or 6.3 of NI

81-102. This essentially restricts borrowing to Canadian and foreign banks and trust companies (or their qualified dealer affiliates) and represents an important change from the 2016 Proposed Amendments which restricted cash borrowing to Canadian financial institutions.

Where the lender is an affiliate of the alternative mutual fund's investment manager, approval of the fund's independent review committee is required under National Instrument 81-107 Independent Review Committee for Investment Funds.<sup>[5]</sup>

Any borrowing agreements entered into with an affiliate of the manager must be in accordance with normal industry practice and be on standard commercial terms for agreements of this nature.

Non-redeemable investment funds, which currently have no borrowing restrictions, will be subject to the same borrowing restrictions applicable to alternative mutual funds.

No changes have been made to the borrowing restrictions applicable to conventional mutual funds in the Final Rules.

### **Short selling**

Alternative mutual funds will be permitted to engage in the short selling of securities up to a limit of 50% of NAV (compared to 20% for conventional mutual funds and 40%, pursuant to exemptive relief, for commodity pools). In addition, in order to facilitate long/short strategies, alternative mutual funds will not be required to maintain cash cover for short positions and will be permitted to use short sale proceeds to purchase other securities.

Alternative mutual funds are generally subject to a 10% of NAV limit on the short selling of securities of single issuer (in comparison to 5% for conventional mutual funds). However, in a notable change from the 2016 Proposed Amendments, the 10% limit will not apply to the short sale of "government securities" (as defined in NI 81-102) by an alternative mutual fund.

Non-redeemable investment funds are subject to the same short selling restrictions as alternative mutual funds.

Another important change from the 2016 Proposed Amendments was made in section 6.8.1 of NI 81-102 to the limit on portfolio assets that may be deposited as collateral with a borrowing agent (other than the custodian or a sub-custodian) in connection with short selling transactions. This limit was increased to 25% of NAV for alternative mutual funds (or non-redeemable investment funds) from the 10% of NAV limit specified in the 2016 Proposed Amendments and will provide much needed flexibility for funds in making arrangements with counterparties for the short sale of securities.



### ***Combined Limit on Borrowing and Short Selling***

The aggregate of all cash borrowing and exposure under short selling for alternative mutual funds and non-redeemable investment funds is limited to 50% of NAV. This limit is unchanged from the 2016 Proposed Amendments.

### ***Use of Derivatives***

Under the Final Rules, unlike conventional mutual funds, alternative mutual funds are permitted to, directly or indirectly, use specified derivatives for investment purposes or to create synthetic leverage. Previously, only commodity pools were permitted to create leverage using specified derivatives.

### ***Derivative Counterparty Requirements & Exposure Limits***

The Final Rules codify prior discretionary relief for conventional mutual funds granted to facilitate compliance with the *Dodd-Frank Wall Street Reform and Consumer Protection Act* in the United States and comparable legislation in Europe relating to the mandatory use of the facilities of sanctioned clearing corporations for facilitating trade of over-the-counter (OTC) derivatives. This codification applies to all investment funds subject to NI 81-102.

Unlike conventional mutual funds and commodity pools, which were required to deal with counterparties that had a “designated rating,” alternative mutual funds will be exempt from this requirement, enabling them to enter into OTC derivatives transactions with a wider variety of counterparties (i.e. counterparties that do not have a designated rating). The ability to transact with a broader array of potential counterparties will benefit alternative mutual funds in terms of pricing and products.

Alternative mutual funds, however, cannot entirely ignore the credit rating of their derivatives counterparties. In a change from the 2016 Proposed Amendments, alternative mutual funds and non-redeemable investment funds will be permitted to exceed the 10% of NAV mark-to-market limit on specified derivatives exposure to a single counterparty if the counterparty has a “designated rating” (generally, a rating of “A” or higher for the counterparty’s long-term debt).

The new derivatives regime reflected in the Final Rules represents a perfect compromise between the existing rules for conventional mutual funds (which include both a creditworthiness test and exposure limits) and commodity pools (which include a creditworthiness test but no exposure limits). Unlike conventional mutual funds, alternative mutual funds and non-redeemable investment funds will not be required to ensure that a counterparty meets the regulatory creditworthiness test, provided that the exposure to such counterparty is maintained at less than 10% of NAV. However, if a counterparty has a designated rating, these funds can obtain greater exposure to such counterparty.

### ***Aggregate Leverage Limit***

The aggregate limit on the use of leverage by an alternative mutual fund through the use of cash borrowing, short selling and the use of specified derivatives remains at 300% of NAV unchanged from the 2016 Proposed Amendments. However, the formula for the calculation of an alternative mutual fund's gross exposure has been modified.

In determining the aggregate exposure, a fund must add up the following and divide the sum by its NAV:

- the value of any outstanding loans;
- the market value of all short positions; and
- the aggregate notional value of the fund's specified derivatives positions, minus the notional value of those specified derivatives positions that are "hedging" (as defined in NI 81-102) transactions (emphasis added).

The ability for alternative mutual funds to deduct the notional value of specified derivatives used for hedging purposes will more accurately reflect the true amount of leverage utilized in the fund's investment strategies as hedging transactions generally act to reduce rather than increase leverage.

It should be noted that the aggregate leverage limit includes exposure gained by the alternative mutual fund from investments in underlying alternative mutual funds that may also employ leverage (i.e. a "look through" test is employed to determine aggregate leverage).

The aggregate leverage limit must be calculated as of any day on which the fund calculates its NAV (which, in most cases, is daily). In the event that the leverage limit is exceeded, the fund must, as quickly as commercially reasonable, take all necessary steps to appropriately reduce the exposure.

The 300% of NAV limit of leverage is a departure from the previous commodity pool rules, which contained no limits on notional exposure.

Non-redeemable investment funds will be subject to the leverage limit of 300% of NAV under the Final Rules but will be provided with an extended transitional period in order to comply with this requirement.

Specific disclosure is required in the alternative mutual fund's simplified prospectus and fund facts/ETF<sup>[6]</sup> facts<sup>[7]</sup>, or a non-redeemable investment fund's prospectus, as applicable, as well as in financial statements regarding the use of leverage by the fund.

### ***Fund-of-fund Investing***

Conventional mutual funds will be able to invest up to: (i) 100% of NAV in any other mutual fund, including

ETFs, other than alternative mutual funds; and (ii) 10% of NAV in alternative mutual funds and non-redeemable investment funds provided that, in each case, the underlying fund is subject to NI 81-102.

The fund-of-fund investment provisions in NI 81-102 have the potential to significantly increase demand for alternative mutual funds, as conventional mutual funds in Canada have approximately \$1.5 trillion in assets.

Alternative mutual funds will be able to invest up to 100% of their NAV in any other mutual funds (including alternative mutual funds) or non-redeemable investment funds provided the underlying fund is subject to NI 81-102.

The Final Rules remove the restriction that a top fund may only invest in an underlying fund that is a reporting issuer in the same local jurisdiction as the top fund. Instead, a top fund may invest in an underlying fund as long as the underlying fund is a reporting issuer in at least one Canadian jurisdiction.

The Final Rules do not modify the fund-of-fund provisions for non-redeemable investment funds.

All investment funds will still be prohibited from investing in investment funds that are not reporting issuers (i.e. private funds).

### ***Redemptions and NAV Calculation***

Alternative mutual funds will be permitted to redeem an order for securities of the fund at a price that is equal to the NAV of such securities determined on the first or second business day after the date of receipt of the redemption order provided that: (i) the fund has established a policy providing for the redemption price to be calculated on such a basis; and (ii) the policy has been disclosed in the fund's simplified prospectus prior to the implementation of the policy.

Alternative mutual funds must pay the redemption proceeds for securities that are the subject of a redemption order by no later than 15 business days after the valuation date on which the redemption price for the securities was determined.

Alternative mutual funds will also be permitted to suspend redemptions for a period of six months from the date on which receipt is issued for the initial simplified prospectus of the fund provided that this is disclosed in the prospectus. We do not expect that this option will be relied upon by many alternative mutual funds as it would likely be considered as a deterrent to sales.

### ***Incentive (Performance) Fees***

Unlike conventional mutual funds, which may only charge incentive fees calculated in relation to a reference benchmark or index, alternative mutual funds will have much greater latitude in the formulation and



calculation of any incentive fee charged to the fund. The method of calculating the incentive fee must be disclosed in the simplified prospectus of the alternative mutual fund and the payment of any incentive fee must be based on the cumulative total return of the fund for the period that began immediately after the last period for which an incentive fee was paid (i.e. the incentive fee is subject to a permanent “high water mark”).

### ***Proficiency and Distribution***

The securities of alternative mutual funds must generally be distributed through dealers that are members of the Investment Industry Regulatory Organization of Canada. For such dealers, the proficiency requirements are addressed in subsection 3.4(1) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations (“**NI 31-103**”), which states that “[a]n individual must not perform an activity that requires registration unless the individual has the education, training and experience that a reasonable person would consider necessary to perform the activity contemplated”.

Mutual fund dealers will generally not be permitted to distribute securities of alternative mutual funds unless they meet the proficiency requirements remain in NI 81-104. These requirements (which are currently applicable to the distribution of the securities of commodity pools) provide that the mutual fund restricted dealer representative must have one of the following qualifications:

- a passing grade for the Canadian Securities Course;
- a passing grade for the Derivatives Fundamentals Course;
- successfully completed the Chartered Financial Analyst Program; or
- obtained any applicable proficiency standard mandated by a self-regulatory authority.

The CSA is currently engaged in ongoing work in relation to dealer- focused issues and it is anticipated that any significant changes relating to dealer proficiency standards will be addressed as part of these efforts. The CSA is expected to repeal NI 81-104 in its entirety once an appropriate replacement for mutual fund dealer proficiency standards is in place.

Exempt market dealers are not permitted to distribute securities of alternative mutual funds offered under a simplified prospectus.

### ***Offering and Point of Sale Documents***

Alternative mutual funds will generally be offered in the same manner as conventional mutual funds. Alternative mutual funds not listed on a stock exchange will be subject to the same disclosure regime as conventional mutual funds under NI 81-101 *Mutual Fund Prospectus Disclosure*, which includes the preparation of a simplified prospectus and annual information form as well as a fund facts document for each class or series of units of the fund that is delivered to investors at the point of sale.

While multiple investment funds can normally be combined in the same simplified prospectus, the simplified prospectus for an alternative mutual fund is not permitted to be combined with the simplified prospectus for a conventional mutual fund in order to avoid potential confusion.

Alternative mutual funds will be required to include prescribed textbox disclosure in the fund facts document stating that the fund is an alternative mutual fund under NI 81-102, how its strategies differ from conventional mutual funds and include additional disclosure regarding lenders (if the alternative mutual fund intends to borrow cash) as well as the use of leverage.

Non-redeemable investment funds, alternative mutual funds that are listed on an exchange and ETFs will have to be offered through a long form prospectus and ETF facts document.

### ***Custodial Arrangements***

Alternative mutual funds are required to appoint a single Canadian custodian but may also have one or more sub-custodians who hold the assets of the fund. For portfolio assets that are held in Canada, the custodian or sub-custodian must meet the qualifications set out in section 6.2 of NI 81-102. For portfolio assets held by a sub-custodian outside of Canada, the sub-custodian must satisfy the requirements in section 6.3 of NI 81-102.

The Final Rules have modified the requirements for affiliates of domestic and foreign banks or trust companies to qualify as custodian or sub-custodians under sections 6.2 and 6.3 of NI 81-102. These entities are no longer required to have publicly available audited financial statements showing the required amount of equity (although audited statements showing the required amount of equity will still be required). This change means that bank-owned prime brokers in Canada and abroad will likely qualify to act as custodian or a sub-custodian (as applicable) of a publicly offered investment fund resulting in greater flexibility for alternative mutual funds and non-redeemable investment funds in structuring their custodial and prime brokerage arrangements.

### ***Continuous Disclosure***

Alternative mutual funds will be subject to the same ongoing disclosure requirements as conventional mutual funds and other prospectus qualified investment funds, which include (by way of example) preparation and delivery of annual audited and semi-annual unaudited financial statements, management reports of fund performance, annual information forms and timely disclosure of material changes.

### ***Seed Capital and Organizational Costs***

Alternative mutual funds will have minimum seed capital requirements of \$150,000, the same as conventional mutual funds. The seed capital investment may be redeemed once the alternative mutual fund has raised at least \$500,000 from outside investors. This is a departure from the seed capital requirements previously

applicable to commodity pools, which required the manager to maintain a minimum of \$50,000 in seed capital for the life of the commodity pool.

Managers of alternative mutual funds will not be entitled to reimbursement from the fund for organizational costs incurred in the establishment and preparation of the initial offering documents of the fund (as is currently the case with conventional mutual funds). In contrast, managers of non-redeemable investment funds and ETFs that are not in continuous distribution will continue to be able to pass on organizational costs to the funds.

If an alternative mutual fund is distributed in Québec, the fund will have an added cost of translating its offering documents into French.

### ***Restrictions on Sales Commissions and Marketing Practices***

Alternative mutual funds will be subject to National Instrument 81-105 Mutual Fund Sales Practices. Among other restrictions, sales commissions cannot be charged to the fund and must be paid by the manager.

### ***Securityholder and Regulatory Approval of Fundamental Changes***

The current rules that apply to all investment funds regarding fundamental changes (events requiring securityholder approval) also apply to alternative mutual funds. A change in the basis of calculating fees, fee increases, changes in the fundamental investment objectives of the fund or reorganizations, among other things, require securityholder approval. In addition, the costs associated with any reorganization of the fund may not be borne by the fund.

Furthermore, regulatory approval is required in the event of, among other things, a change in the manager of the alternative mutual fund (other than to an affiliate) or a change of control of the manager.

### ***Transition Period***

The Final Rules will come into force on January 3, 2019. The CSA has provided existing commodity pools a transition period that expires on July 4, 2019 to make any necessary operational changes in order to comply with the Final Rules. Existing non-redeemable investment funds will also be exempted from certain of the investment restrictions in the Final Rules subject to certain conditions.

### ***Voluntary Transition to an Alternative Mutual Fund***

In contrast to a commodity pool, which will be designated as an alternative mutual fund under the Final Rules, an existing non-redeemable investment fund may now choose to transition itself to an alternative mutual fund. However, there may be practical challenges with such a transition, including: (i) a meeting of unitholders

in order to obtain unitholder approval, as the transition would likely constitute a change in fundamental investment objectives or restrictions of the fund; (ii) amendments to the constating documents of the fund; and (iii) changing the custodial arrangements of the fund (if necessary). Existing conventional mutual funds can also choose to transition into alternative mutual funds, but they would encounter similar challenges.

### ***Limits of Final Rules***

Although the Final Rules significantly increase the range of strategies that can be offered to retail investors, there remain certain strategies that would not be permitted under the Final Rules. For example, the limit on short selling (50% of NAV) does not allow a “pure” 100% long/short market neutral strategy to be implemented. In addition, the total leverage limit of 300% of NAV may restrict some managed futures strategies.

### ***Opportunities for Growth***

The Final Rules will create significant opportunities for Canadian alternative managers to expand their business. For many years, mutual fund rules in Europe and the United States have been more flexible than those in Canada. Under the Final Rules, Canadian managers will now be able to offer a wide variety of alternative investment strategies to Canadian retail investors and such investors will benefit from access to a new suite of investment products to help meet their financial goals.

If you have any questions regarding the Final Rules including how to launch an alternative mutual fund, a member of the McMillan’s Investment Funds and Asset Management Group would be pleased to assist you.

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[1] Undertakings for Collective Investment in Transferable Securities Directive 2009 (a regulatory framework of the European Commission that creates a harmonized regime throughout Europe for the management and sale of mutual funds).

[2] Investment Company Act of 1940 (United States).

[3] Section 2.1(2) of NI 81-102 states that the 20% concentration limit does not apply to the purchase of any of the following: (a) a government security; (b) a security issued by a clearing corporation; (c) a security issued by an investment fund if the purchase is made in accordance with the requirements of section 2.5 of NI 81-102; (d) an index participation unit that is a security of an investment fund; and (e) an equity security if the purchase is made by a fixed portfolio investment fund in accordance with its investment objectives.

[4] “illiquid asset” means (a) a portfolio asset that cannot be readily disposed of through market facilities on which public quotations in common use are widely available at an amount that at least approximates the amount at which the portfolio asset is valued in calculating the net asset value per security of the investment fund, or (b) a restricted security held by an investment fund. A “restricted security” means a security, other than

a specified derivative, the resale of which is restricted or limited by a representation, undertaking or agreement by the investment fund or by the investment fund's predecessor in title, or by law.

[5] Amendments have been made to section 5.2 of NI 81-107 to codify this requirement.

[6] Exchange-traded fund ("ETF").

[7] Alternative funds listed on an exchange will be required to use a long form prospectus and ETF facts.

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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