

NOVA SCOTIA SECURITIES COMMISSION

**RULE 81-102 (AMENDMENT)
MUTUAL FUNDS**

-AND-

**CONSEQUENTIAL AMENDMENTS
TO RULES 41-101, 81-101 AND 81-106**

-AND-

**AMENDMENTS TO NATIONAL INSTRUMENT 41-101 *GENERAL
PROSPECTUS REQUIREMENTS*, AMENDMENTS TO NATIONAL
INSTRUMENT 81-101 *MUTUAL FUND PROSPECTUS DISCLOSURE*
AND AMENDMENTS TO NATIONAL INSTRUMENT 81-106
INVESTMENT FUND CONTINUOUS DISCLOSURE
(collectively the Rule Amendments)**

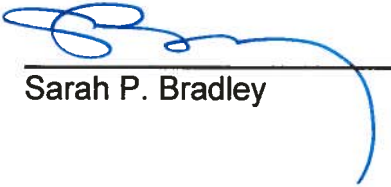
WHEREAS:

1. Pursuant to section 150 of the Securities Act, R.S.N.S. 1989, chapter 418, as amended (the Act), the Nova Scotia Securities Commission (the Commission) has power to make rules subject to compliance with the requirements of the Act;
2. The Rule Amendments, copies of which are attached hereto, have been made a rule by one or more of the Canadian securities regulatory authorities; and
3. The Commission is of the opinion that the attainment of the purpose of the Act is advanced by this Instrument.

NOW THEREFORE the Commission hereby:

- (a) pursuant to the authority contained in section 150 of the Act and subject to compliance with the requirements of section 150A of the Act, approves the Rule Amendments and makes the same a rule of the Commission; and
- (b) declares that the Rule Amendments approved and made pursuant to clause (a) shall take effect on **April 30, 2012**, unless the Minister disapproves the Rule Amendments or returns them to the Commission in accordance with subsection 150A(3) of the Act in which event the Rule Amendments shall not be effective until the Rule Amendments are approved by the Minister.

IN WITNESS WHEREOF this Instrument has been signed by the Chair of the Commission, being the member of the Commission prescribed by the Chair pursuant to subsection 15(3) of the Act to attend the hearing of this matter and the quorum with respect to this matter, on the 15th day of February, 2012.



Sarah P. Bradley

Attachments

**Amendments To
National Instrument 41-101
General Prospectus Requirements**

1. *National Instrument 41-101 – General Prospectus Requirements is amended by this Instrument.*

2. *The Instrument is amended by adding the following section:*

14.8.1 Custodial provisions relating to short sales – (1) For the purposes of subsection (2), “borrowing agent” has the same meaning as in NI 81-102 except that each reference in that definition to “a mutual fund” must be read as “an investment fund”.

(2) Except where the borrowing agent is the investment fund’s custodian or sub-custodian, if an investment fund deposits portfolio assets with a borrowing agent as security in connection with a short sale of securities, the market value of portfolio assets deposited with the borrowing agent must not, when aggregated with the market value of portfolio assets already held by the borrowing agent as security for outstanding short sales of securities by the investment fund, exceed 10% of the net asset value of the investment fund at the time of deposit.

(3) An investment fund must not deposit portfolio assets as security in connection with a short sale of securities with a dealer in Canada unless that dealer is a registered dealer and is a member of the Investment Industry Regulatory Organization of Canada.

(4) An investment fund must not deposit portfolio assets as security in connection with a short sale of securities with a dealer outside Canada unless that dealer

(a) is a member of a stock exchange and is subject to a regulatory audit, and

(b) has a net worth, determined from its most recent audited financial statements that have been made public, in excess of the equivalent of \$50 million..

3. *Form 41-101F2 - Information Required in an Investment Fund Prospectus is amended:*

(a) *in Item 6.1 by adding the following subsection:*

(6) If the investment fund intends to sell securities short

(a) state that the investment fund may sell securities short; and

(b) briefly describe

(i) the short selling process, and

(ii) how short sales of securities are or will be entered into in conjunction with other strategies and investments of the investment fund to achieve the investment fund's investment objectives. ;

(b) in Item 12.1 by replacing subsection (4) with the following:

(4) As applicable, describe the risks associated with the investment fund entering into

(a) derivative transactions for non-hedging purposes,

(b) securities lending, repurchase or reverse repurchase transactions; and

(c) short sales of securities.; **and**

(c) in Item 20.3 by adding "and net asset value per security" after "net asset value" in paragraphs (a) and (b).

4. This Instrument comes into force on April 30, 2012.

**Amendments To
National Instrument 81-101
Mutual Fund Prospectus Disclosure**

1. ***National Instrument 81-101 - Mutual Fund Prospectus Disclosure is amended by this instrument.***
2. ***Form 81-101F1 - Contents of Simplified Prospectus is amended:***
 - (a) ***in Item 5 of Part B by repealing paragraph (e);***
 - (b) ***in Item 7 of Part B by:***
 - (i) ***replacing “if the mutual fund may hold other mutual funds,” in paragraph (1)(c) with “if the mutual fund may hold securities of other mutual funds,”;***
 - (ii) ***replacing “net assets” in subparagraph (1)(c)(iii) with “the net asset value”;***
 - (iii) ***replacing subsection (4) with the following:***

(4) State whether any, and if so what proportion, of the assets of the mutual fund may or will be invested in foreign securities.;
 - (iv) ***adding the following subsection:***

(10) If the mutual fund intends to sell securities short under section 2.6.1 of National Instrument 81-102 *Mutual Funds*,

 - (a) state that the mutual fund may sell securities short; and
 - (b) briefly describe
 - (i) the short selling process, and
 - (ii) how short sales of securities are or will be entered into in conjunction with other strategies and investments of the mutual fund to achieve the mutual fund’s investment objectives.;

- (i) **replacing** “If more than 10% of the securities of a mutual fund” **in subsection (1.1) with** “If securities of a mutual fund representing more than 10% of the net asset value of the mutual fund”;
- (ii) **replacing** “securities held by the securityholder” **in paragraph (1.1)(a) with** “the net asset value of the mutual fund that those securities represent”;
- (iii) **replacing** “net assets” **in subsection (5) with** “net asset value”;
- (iv) **adding** “that is 30 days before the date” **after** “preceding the date”, **in subsection (6)**;
- (v) **replacing** “net assets” **with** “net asset value” **in subsection (6), wherever the expression occurs**;
- (vi) **replacing subsection (7) with the following:**

(7) As applicable, describe the risks associated with the mutual fund entering into

 - (a) derivative transactions for non-hedging purposes;
 - (b) securities lending, repurchase or reverse repurchase transactions; and
 - (c) short sales of securities.; **and**
- (vii) **repealing Instruction (5).**

3. Form 81-101F2 - Contents of Annual Information Form is amended:

- (a) **in Item 4 by:**
 - (i) **repealing paragraph 3 of subsection (4)**;
 - (ii) **adding “ or” at the end of paragraph (5)(a)**;
 - (iii) **replacing “; or” at the end of paragraph (5)(b) with “.”; and**
 - (iv) **repealing paragraph (5)(c)**;
- (b) **in Item 7 by adding the following subsection:**

(2.1) Describe the manner in which the net asset value and net asset value per security of the mutual fund will be made available to the public and state that the information will be available at no cost to the public.; **and**

(c) **in Item 12 by:**

(i) **replacing subsection (2) with the following:**

(2) If the mutual fund intends to use derivatives or sell securities short, describe the policies and practices of the mutual fund to manage the risks associated with engaging in those types of transactions.;

(ii) **replacing paragraph (3)(a) with the following:**

(a) whether there are written policies and procedures in place that set out the objectives and goals for derivatives trading and short selling and the risk management procedures applicable to those transactions; ; **and**

(iii) **replacing paragraph (3)(c) with the following:**

(c) whether there are trading limits or other controls on derivative trading or short selling in place and who is responsible for authorizing the trading and placing limits or other controls on the trading;.

4. This Instrument comes into force on April 30, 2012.

**Amendments To
National Instrument 81-106
*Investment Fund Continuous Disclosure***

1. ***National Instrument 81-106 - Investment Fund Continuous Disclosure is amended by this Instrument.***
2. ***Subsections 3.5(4) and (5) are repealed.***
3. ***Subsection 3.6(1) is amended by replacing paragraph 3 with the following:***

3. to the extent the amount is ascertainable, the portion of the total client brokerage commissions, as defined in National Instrument 23-102 – *Use of Client Brokerage Commissions*, paid or payable to dealers by the investment fund for the provision of goods or services by the dealers or third parties, other than order execution.
4. ***Section 14.2 is amended:***
 - (a) ***by replacing subsection (3) with the following:***

(3) An investment fund must calculate its net asset value at least as frequently as the following:

 - (a) if the investment fund does not use specified derivatives or sell securities short, once a week;
 - (b) if the investment fund uses specified derivatives or sells securities short, once every business day.;
 - (b) ***by adding the following subsection:***

(6.1) An investment fund must, upon calculating the net asset value of the investment fund under this section, make the following information available to the public at no cost:

 - (a) the net asset value of the investment fund;
 - (b) the net asset value per security of the investment fund unless the investment fund is a scholarship plan.; ***and***
 - (c) ***in subsection (7) by adding “or net asset value per security” after “net asset value”, wherever it occurs.***

5. This Instrument comes into force on April 30, 2012.