

**Nova Scotia Securities Commission**

**Rule 81-102 (Amendment)**  
***Investment Funds***

**-and-**

**Amendments to National Instrument 81-102 *Investment Funds***

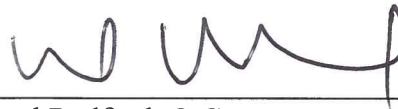
WHEREAS:

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. Amendments to National Instrument 81-102 *Investment Funds* (the Rule), a copy of which is attached hereto, has 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.

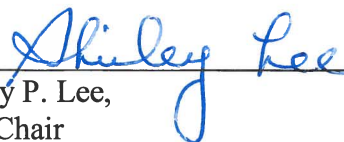
NOW THEREFORE the Commission hereby:

- (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 and makes the same a rule of the Commission; and
- (b) declares that the rule approved and made pursuant to clause (a) shall take effect on **March 8, 2017**, unless the Minister disapproves the rule or returns it to the Commission in accordance with subsection 150A(3) of the Act in which event the rule shall not be effective until the rule is approved by the Minister.

IN WITNESS WHEREOF this Instrument has been signed by the Chair and the Vice-Chair of the Commission, being the members 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 8<sup>th</sup> day of December, 2016.



Paul Radford, Q.C.,  
Chair



Shirley P. Lee,  
Vice-Chair

Attachments

## **Amendments to National Instrument 81-102 *Investment Funds***

1. ***National Instrument 81-102 Investment Funds is amended by this Instrument.***
2. ***The Instrument is amended by adding the following Part:***

### **PART 15.1 INVESTMENT RISK CLASSIFICATION METHODOLOGY**

**15.1.1 Use of Investment Risk Classification Methodology** – A mutual fund must

- (a) determine its investment risk level, at least annually, in accordance with Appendix F *Investment Risk Classification Methodology* and
- (b) disclose its investment risk level in the fund facts document in accordance with Part I, Item 4 of Form 81-101F3, or the ETF facts document in accordance with Part I, Item 4 of Form 41-101F4, as applicable..

3. ***The Instrument is amended by adding the following Appendix F:***

### **APPENDIX F INVESTMENT RISK CLASSIFICATION METHODOLOGY**

#### *Commentary*

*This Appendix contains rules and accompanying commentary on those rules. Each member jurisdiction of the CSA has made these rules under authority granted to it under the securities legislation of its jurisdiction.*

*The commentary explains the implications of a rule, offers examples or indicates different ways to comply with a rule. It may expand on a particular subject without being exhaustive. The commentary is not legally binding, but it does reflect the views of the CSA. Commentary always appears in italics and is titled “Commentary.”*

#### **Item 1 Investment risk level**

- (1) Subject to subsection (2), to determine the “investment risk level” of a mutual fund,
  - (a) determine the mutual fund’s standard deviation in accordance with Item 2 and, as applicable, Item 3, 4 or 5,
  - (b) in the table below, locate the range of standard deviation within which the mutual fund’s standard deviation falls, and

- (c) identify the investment risk level set opposite the applicable range.

Standard Deviation Range	Investment Risk Level
0 to less than 6	Low
6 to less than 11	Low to medium
11 to less than 16	Medium
16 to less than 20	Medium to High
20 or greater	High

- (2) Despite subsection (1), the investment risk level of a mutual fund may be increased if doing so is reasonable in the circumstances.
- (3) A mutual fund must keep and maintain records that document:
- (a) how the investment risk level of a mutual fund was determined, and
  - (b) if the investment risk level of a mutual fund was increased, why it was reasonable to do so in the circumstances.

*Commentary:*

- (1) *The investment risk level may be determined more frequently than annually. Generally, the investment risk level must be determined again whenever it is no longer reasonable in the circumstances.*
- (2) *Generally, a change to the mutual fund's investment risk level disclosed on the most recently filed fund facts document or ETF facts document, as applicable, would be a material change under securities legislation in accordance with Part 11 of National Instrument 81-106 Investment Fund Continuous Disclosure.*

**Item 2 Standard deviation**

- (1) A mutual fund must calculate its standard deviation for the most recent 10 years as follows:

<i>Standard Deviation</i>	$\sqrt{12} \times \sqrt{\frac{1}{n-1} \sum_{i=1}^n (R_i - \bar{R})^2}$
<i>where</i>	<p><math>n</math> = 120 months</p> <p><math>R_i</math> = return on investment in month <math>i</math></p> <p><math>\bar{R}</math> = average monthly return on investment</p>

- (2) For the purposes of subsection (1), a mutual fund must make the calculation with respect to the series or class of securities of the mutual fund that first became available to the public and calculate the “return on investment” for each month using:
- (a) the net asset value of the mutual fund, assuming the reinvestment of all income and capital gain distributions in additional securities of the mutual fund, and
  - (b) the same currency in which the series or class is offered.

*Commentary:*

*For the purposes of Item 2, except for seed capital, the date on which the series or class of securities “first became available to the public” corresponds or approximately corresponds to the date on which the securities of the series or class were first issued to investors.*

**Item 3 Difference in classes or series of securities of a mutual fund**

Despite Item 2(2), if a series or class of securities of the mutual fund has an attribute that results in a different investment risk level for the series or class than the investment risk level of the mutual fund, the “return on investment” for that series or class of securities must be used to calculate the standard deviation of that particular series or class of securities.

*Commentary:*

*Generally, all series or classes of securities of a mutual fund will have the same investment risk level as determined by Items 1 and 2. However, a particular series or class of securities of a mutual fund may have a different investment risk level than the other series or classes of securities of the same mutual fund if that series or class of securities has an attribute that differs from the other. For example, a series or class of securities that employs currency hedging or that is offered in the currency of the United States of America (if the mutual fund is otherwise offered in the currency of Canada) has an attribute that could result in a different investment risk level than that of the mutual fund.*

#### **Item 4 Mutual funds with less than 10 years of history**

- (1) For the purposes of Item 2, if it has been less than 10 years since securities of the mutual fund were first available to the public, and if the mutual fund is a clone fund and the underlying fund has 10 years of performance history, or if there is another mutual fund with 10 years of performance history which is subject to this Instrument, and has the same fund manager, portfolio manager, investment objectives and investment strategies as the mutual fund, then in either case the mutual fund must calculate the standard deviation of the mutual fund in accordance with Item 2 by
  - (a) using the available return history of the mutual fund, and
  - (b) imputing the return history of the underlying fund or the other mutual fund, respectively, for the remainder of the 10 year period.
  
- (2) For the purposes of Item 2, if it has been less than 10 years since securities of the mutual fund were first available to the public, and paragraph (1) above does not apply, then the mutual fund must select a reference index in accordance with Item 5, and calculate the standard deviation of the mutual fund in accordance with Item 2 by
  - (a) using the return history of the mutual fund, and
  - (b) imputing the return history of the reference index for the remainder of the 10 year period.

#### **Commentary:**

*Generally, if a mutual fund that is structured as a mutual fund trust does not have 10 years of performance history, the past performance of a corporate class version of that mutual fund should be used to fill in the missing past performance information required to calculate standard deviation. Likewise, if a mutual fund that is structured as a corporate class fund does not have 10 years of performance history, the past performance of a mutual fund trust version of that mutual fund should be used to fill in the missing past performance information required to calculate standard deviation.*

## Item 5 Reference index

- (1) For the purposes of Item 4(2), the mutual fund must select a reference index that reasonably approximates, or for a newly established mutual fund, is expected to reasonably approximate, the standard deviation of the mutual fund.
- (2) When using a reference index, a mutual fund must
  - (a) monitor the reasonableness of the reference index on an annual basis or more frequently if necessary,
  - (b) disclose in the mutual fund's prospectus in Part B, Item 9.1 of Form 81-101F1 or Part B, Item 12.2 of Form 41-101F2, as applicable
    - (i) a brief description of the reference index, and
    - (ii) if the reference index has changed since the last disclosure under this section, details of when and why the change was made.

### *Instructions:*

- (1) A reference index must be made up of one permitted index or, where necessary, to more reasonably approximate the standard deviation of a mutual fund, a composite of several permitted indices.*
- (2) In selecting and monitoring the reasonableness of a reference index, a mutual fund must consider a number of factors, including whether the reference index*
  - (a) contains a high proportion of the securities represented, or expected to be represented, in the mutual fund's portfolio,*
  - (b) has returns, or is expected to have returns, highly correlated to the returns of the mutual fund,*
  - (c) has risk and return characteristics that are, or expected to be, similar to the mutual fund,*
  - (d) has its returns computed (total return, net of withholding taxes, etc.) on the same basis as the mutual fund's returns,*
  - (e) is consistent with the investment objectives and investment strategies in which the mutual fund is investing,*

*(f) has investable constituents and has security allocations that represent investable position sizes, for the mutual fund, and*

*(g) is denominated in, or converted into, the same currency as the mutual fund's reported net asset value.*

*(3) In addition to the factors listed in (2), the mutual fund may consider other factors if relevant to the specific characteristics of the mutual fund.*

*Commentary:*

*A mutual fund must consider each of the factors in (2), and may consider other factors, as appropriate, in selecting and monitoring the reasonableness of a reference index. However, a reference index that reasonably approximates, or is expected to reasonably approximate, the standard deviation of a mutual fund may not necessarily meet all of the factors in (2).*

**Item 6 Fundamental changes**

- (1) For the purposes of Item 2, if there has been a reorganization or transfer of assets of the mutual fund pursuant to paragraphs 5.1(1)(f) or (g) or subparagraph 5.1(1)(h)(i) of the Instrument, the standard deviation must be calculated using the monthly "return on investment" of the continuing mutual fund, as the case may be.
- (2) Despite subsection (1), if there has been a change to the fundamental investment objectives of the mutual fund pursuant to paragraph 5.1(1)(c) of the Instrument, for the purposes of Item 2, the standard deviation must be calculated using the monthly "return on investment" of the mutual fund starting from the date of that change..
4. *Any exemption from or waiver of a provision of Form 81-101F3 Contents of Fund Facts Document in relation to the disclosure under the heading "How risky is it?" expires on September 1, 2017.*
5. *Subject to section 6, this Instrument comes into force on March 8, 2017.*
6. *The provision of this Instrument listed in column 1 of the following table comes into force on the date set out in column 2 of the table:*

<b>Column 1: Provision of this Instrument</b>	<b>Column 2: Date</b>
Section 3	September 1, 2017