

Nova Scotia Securities Commission

**Rule 81-104(Amendment)
Amendments to National Instrument 81-104
Commodity Pools**

-And-

**Amendments to National Instrument 81-104
Commodity Pools**

-And-

**Amendments to Companion Policy 81-104CP to
National Instrument 81-104 Commodity Pools**

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. Pursuant to section 19 of the Act, the Commission has power to issue and publish policy statements;
3. Amendments to National Instrument 81-104 Commodity Pools and Amendments to Companion Policy 81-104CP to National Instrument 81-104 Commodity Pools, copies of which are attached hereto and are hereinafter called the "Rule" and "Companion Policy" respectively, have been made a rule by one or more of the Canadian securities regulatory authorities; and
4. 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 except insofar as the Rule contains coming into force or effective date provisions;

(b) pursuant to the authority contained in section 19 of the Act and subject to publication in the *Royal Gazette*, issues the Companion Policy as a policy statement of the Commission except insofar as the Companion Policy contains coming into force or effective date provisions; and

(c) declares that the rule approved and made pursuant to clause (a) and the policy statement issued pursuant to clause (b) shall both take effect on **June 13, 2005**, unless the Governor-in-Council disapproves the rule or returns it to the Commission in accordance with subsection 150A(3) of the Act in which event the rule and the policy statement shall not be effective until the rule is approved by the Governor-in-Council.

IN WITNESS WHEREOF this Instrument has been signed by the Chair and 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 30th day of March, 2005.

"H. Leslie O'Brien"
H. Leslie O'Brien

"R. Daren Baxter"
R. Daren Baxter

Attachments

**NATIONAL INSTRUMENT 81-104
COMMODITY POOLS
AMENDMENT INSTRUMENT**

1. National Instrument 81-104 *Commodity Pools* is amended by this Instrument.
2. Part 7 is repealed.
3. Sections 8.1, 8.2, 8.3 and 8.4 are repealed.
4. Section 9.2 is amended
 - (a) by repealing paragraph 9.2(g) and substituting the following:

“(g) provide the disclosure concerning the past performance of the commodity pool that is required to be provided by an investment fund under Item 4 of Part B of Form 81-106F1 *Contents of Annual and Interim Management Report of Fund Performance*, except that

 - (i) the past performance of the commodity pool, in the bar chart prepared in accordance with Item 4.2 of Part B of Form 81-106F1, must show quarterly, non-annualized returns of the commodity pool over the period provided for in Item 4.2, rather than annual returns, and
 - (ii) the commodity pool may, at its option, in the disclosure required by Item 4.3 of Part B of Form 81-106F1, compare its performance to an index if it describes any differences between the commodity pool and the index that affect the comparability of the performance data of the commodity pool and the index;” and
 - (b) in paragraph 9.2(n) by striking out “as required by section 7.3”.
5. Sections 9.3 and 9.4 are repealed.
6. This Instrument comes into force on June 1, 2005.

**COMPANION POLICY 81-104CP
COMMODITY POOLS
AMENDMENT INSTRUMENT**

1. Companion Policy 81-104CP *Commodity Pools* is amended by this Instrument.
2. Subsection 3.1(3) is amended by striking out "Item 11.3 of Part B of Form 81-101F1" in the third sentence and substituting "Item 4.3 of Part B of Form 81-106F1".
3. This Instrument comes into force on June 1, 2005.