

APPENDIX J

Schedule 1

Amendments to National Instrument 81-104 *Commodity Pools*

- 1.1 National Instrument 81-104 *Commodity Pools* is amended by this Instrument.
- 1.2 Part 9 is repealed.
- 1.3 This Instrument comes into force on [].

APPENDIX J

Schedule 2

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

1 Companion Policy 81-104CP to National Instrument 81-104 *Commodity Pools* is amended by:

(a) repealing Part 3;

(b) deleting subsection 4.1(4) and substituting the following subsection:

“(4) Mutual funds structured as limited partnerships may raise some concerns about the loss of limited liability if limited partners are viewed as participating in the management or control of the partnership. The statute and case law concerning when limited partners can lose their limited partner status, including the Quebec Civil Code, varies from province to province. The risks associated with this type of structure in the jurisdictions where the prospectus is filed should be disclosed.”

(c) deleting subsection 4.1(5) and substituting the following subsection:

“(5) Mutual funds structured as trusts are subject to their constitution and the common and civil law of trusts. A commodity pool operator should consider this law, together with the factual circumstances surrounding the establishment of the commodity pool, including the ability of the investors in the commodity pool to influence the administration and management of the commodity pool, to ensure that investors’ liability is limited to the amount they have invested in the commodity pool. If applicable, a commodity pool should disclose in the prospectus the risks associated with the structuring of a commodity pool as a trust in relation to the possibility that purchasers of securities of the commodity pool may become liable to make an additional contribution beyond the price of the securities.”

(d) deleting the number “4.1” in Part 4 and substituting the number “3.1”; and

(e) deleting the words “Part 4” and substituting the words “Part 3”.