

**NATIONAL INSTRUMENT 81-105
MUTUAL FUND SALES PRACTICES**

PART 1. DEFINITIONS, INTERPRETATION AND APPLICATION

1.1 Definitions - In this Instrument:

“direct costs” means reasonable, out-of-pocket costs and expenses directly attributable to:

- (a) the production and presentation of a sales communication referred to in Part 5; or
- (b) the presentation and organization of a conference or seminar referred to in Part 5, other than any travel, accommodation or personal incidental expenses associated with the attendance of an individual at the conference or seminar;

“equity interest” means, in relation to an issuer:

- (a) if the issuer is a reporting issuer in any jurisdiction and its securities are listed on a Canadian stock exchange, the direct or indirect ownership of securities representing more than ten percent of any class of voting securities, equity securities or partnership units of the issuer; or
- (b) for all other issuers, the direct or indirect ownership of a voting security, equity security or partnership unit of the issuer;

“equity security” means a security of an issuer that carries a residual right to participate in the earnings of the issuer and, upon the liquidation or winding up of the issuer, in the distribution of its assets;

“IDA” means the Investment Dealers Association of Canada;

“IFIC” means The Investment Funds Institute of Canada;

“member of the organization” means, for a mutual fund:

- (a) the manager of the mutual fund;
- (b) the principal distributor of the mutual fund;
- (c) the portfolio adviser of the mutual fund;
- (d) an affiliate of any of the persons or companies mentioned in clause (a), (b) or (c); or
- (e) a person or company that is organized by a member of the organization of the mutual fund as a vehicle to fund payment of commissions to participating dealers and that has a right to arrange for the distribution of the securities of the mutual fund;

“mutual fund family” means two or more mutual funds that have:

- (a) the same manager; or
- (b) managers that are affiliates of each other;

“representative” means, for a participating dealer:

- (a) a partner, director, officer, salesperson or employee of the participating dealer, and
- (b) any company through which a person mentioned in clause (a) carries on activities in connection with services provided to the participating dealer.

1.2 Interpretation - Terms defined in National Policy Statement No. 39, or in a successor instrument to that policy statement, and used in this Instrument have the respective meanings ascribed to them in National Policy Statement No. 39 or the successor instrument, whichever is in force.

1.3 Application - This Instrument applies to:

- (a) a distribution of securities of a mutual fund that offers or has offered securities under a prospectus or simplified prospectus for so long as the mutual fund remains a reporting issuer; and
- (b) a person or company in respect of activities pertaining to a mutual fund mentioned in clause (a).

PART 2 GENERAL

2.1 Restrictions on Payments or Provision of Benefits

(1) No member of the organization of a mutual fund and no mutual fund shall, in connection with the distribution of securities of the mutual fund:

- (a) make a payment of money to a participating dealer or a representative of a participating dealer;
- (b) provide a non-monetary benefit to a participating dealer or a representative of a participating dealer; or
- (c) pay for or make reimbursement of a cost or expense incurred or to be incurred by a participating dealer or a representative of a participating dealer.

(2) Notwithstanding subsection (1), a member of the organization of a mutual fund may:

- (a) make a payment of money or provide a non-monetary benefit to a participating dealer, or pay for or make reimbursement of a cost or expense incurred or to be incurred by a participating dealer or its representatives, if permitted by Part 3 or 5; and
- (b) provide a non-monetary benefit to a representative of a participating dealer, if permitted by

Part 5.

(3) A member of the organization of a mutual fund shall not, and shall not represent that it may, make a payment, provide a non-monetary benefit or pay for or make reimbursement of a cost or expense otherwise permitted by subsection (2) that is conditional on:

(a) the sale of a particular amount or value of securities of one or more mutual funds by a participating dealer or a representative; or

(b) a particular amount or value of securities of one or more mutual funds being held in accounts of clients of a participating dealer or a representative.

2.2 Restrictions on Solicitation and Acceptance of Payments or Benefits

(1) No participating dealer and no representative of a participating dealer shall solicit or accept from a mutual fund or a member of the organization of the mutual fund, in connection with the distribution of securities of the mutual fund, the payment of money, the provision of a non-monetary benefit or payment or reimbursement for a cost or expense incurred or to be incurred by the participating dealer or representatives of the participating dealer.

(2) Notwithstanding subsection (1):

(a) a participating dealer may solicit and accept a payment of money, provision of a non-monetary benefit or payment or reimbursement for a cost or expense incurred or to be incurred by it or its representatives from a member of the organization of the mutual fund, if the member is permitted by Part 3 or 5 to make the payment, provide the benefit or make the payment or reimbursement; and

(b) a representative of a participating dealer may accept the provision of a non-monetary benefit from a member of the organization of the mutual fund, if the member is permitted by Part 5 to provide the benefit.

2.3 Application of Instrument to Some Participating Dealers or Representatives

(1) Nothing in this Instrument prohibits a person or company that is both a member of the organization of a mutual fund and a participating dealer of a mutual fund in a different mutual fund family from undertaking any activity, if:

(a) the activity is undertaken in the person or company's capacity as a participating dealer of the mutual fund of which it is a participating dealer, and not in its capacity as a member of the organization of the mutual fund of which it is a member; and

(b) a participating dealer is not prohibited by this Instrument from undertaking that activity.

(2) Nothing in this Instrument prohibits a representative of a participating dealer that is also a member of the organization of a mutual fund from soliciting or accepting any payment, non-monetary benefit or reimbursement otherwise permitted by this Instrument from the participating dealer, if the payment, provision of the non-monetary benefit or reimbursement is made in the participating dealer's capacity as a participating dealer and not in its capacity as a member of the organization of a mutual fund.

PART 3 PERMITTED COMPENSATION

3.1 Commissions - A member of the organization of a mutual fund may pay to a participating dealer a commission in money for the distribution of a security of the mutual fund made through the participating dealer, if:

- (a) the obligation to make the payment arises at the time of the trade;
- (b) the prospectus or simplified prospectus of the mutual fund discloses the range of rates of commissions that may be paid and the method of calculation used in determining the amount of those commissions; and
- (c) the rate of the commission does not increase:
 - (i) based on increases in the amount or value of securities of the mutual fund sold, or of mutual funds in the same mutual fund family as the mutual fund sold, or of any or all of the foregoing;
 - (ii) based on increases in the amount or value of securities of the mutual fund, or of mutual funds in the same mutual fund family as the mutual fund, or of any or all of the foregoing, held in accounts of clients of the participating dealer; or
 - (iii) for a particular period of the year in which the commission is paid or earned.

3.2 Trailing Commissions

(1) A member of the organization of a mutual fund may pay to a participating dealer a trailing commission in money that is based upon the aggregate value of securities of the mutual fund held in accounts of clients of the participating dealer as at a particular time or during a particular period, if:

- (a) the obligation to make the payment arises after the time of the trade;
- (b) the prospectus or simplified prospectus of the mutual fund discloses the range of rates of trailing commissions that may be paid and the method of calculation and relevant times or time periods used in determining the amount of those trailing commissions;
- (c) the method and time of calculation of the trailing commission and the relevant times or time periods used in determining the amount of the trailing commission are the same for all participating dealers of the mutual fund; and
- (d) the rate of the trailing commission does not increase:
 - (i) based on increases in the amount or value of securities of the mutual fund sold, or of mutual funds in the same mutual fund family as the mutual fund sold, or of any or all of the foregoing;
 - (ii) based on increases in the amount or value of securities of the mutual fund, or of mutual funds in the same mutual fund family as the mutual fund, or of any or all of the foregoing, held in accounts of clients of the participating dealer; or

(iii) for a particular period of the year in which the trailing commission is paid or earned.

(2) A member of the organization of a mutual fund may establish policies and practices concerning the timing of payments of trailing commissions so long as all trailing commissions are paid within one year from the date earned.

(3) Notwithstanding subsection (1), a member of the organization of a mutual fund may decline to pay a trailing commission to a participating dealer in connection with securities of the mutual fund held in the accounts of clients of the participating dealer if:

(a) the securities in respect of which no trailing commission is paid were acquired by those clients before the date that this Instrument came into force;

(b) the amount of securities held in the accounts of those clients is below a threshold specified in the policy mentioned in clause (c); and

(c) the non-payment of the trailing commission is in conformity with a policy of the member of the organization of the mutual fund that was in place and was followed on July 1, 1997.

PART 4 INTERNAL DEALER INCENTIVE PRACTICES

4.1 Participating Dealers' Practices

(1) No participating dealer shall provide an incentive to any of its representatives to recommend mutual funds of one mutual fund family over mutual funds of another mutual fund family.

(2) Notwithstanding subsection (1), the compensation paid to a representative of a participating dealer by the participating dealer may reflect commissions received by the participating dealer from members of the organizations of mutual funds, so long as the compensation paid to a representative for the securities of a mutual fund sold or held, as a percentage of the commission paid to the participating dealer, is the same for all mutual fund families.

4.2 Principal Distributors' Practices

(1) A principal distributor of a mutual fund that is also a participating dealer of another mutual fund shall not provide an incentive for any of its representatives to recommend a mutual fund of which it is a principal distributor over a mutual fund of which it is a participating dealer.

(2) Notwithstanding subsection (1), the compensation paid to a representative of a principal distributor by the principal distributor may reflect commissions received by the principal distributor from members of the organization of which it is a member and members of organizations of other mutual funds if:

(a) the compensation paid to a representative for the securities of a mutual fund sold or held, as a percentage of the commission paid to the principal distributor, is the same for all mutual fund families, including the mutual fund family of the principal distributor; and

(b) the commissions paid to the principal distributor in connection with the distribution of securities of a mutual fund of which it is a principal distributor are not in excess of the

commissions provided to any participating dealer in connection with the distribution of those securities.

PART 5 MARKETING AND EDUCATIONAL PRACTICES

5.1 Cooperative Marketing Practices - A member of the organization of a mutual fund may pay, to a participating dealer, direct costs incurred by the participating dealer relating to a sales communication, investor conference or investor seminar prepared or presented by the participating dealer, if:

- (a) the primary purpose of the sales communication, investor conference or investor seminar is to promote, or provide educational information concerning, the mutual fund, the mutual fund family of which the mutual fund is a member or mutual funds generally;
- (b) in the case of an investor conference or investor seminar, the conference or seminar is presented by the participating dealer to investors or potential investors of the mutual fund, another mutual fund in the same mutual fund family, or of mutual funds generally;
- (c) the participating dealer provides invoices for, or receipts evidencing payment of, the direct costs to be paid by a member of the organization of the mutual fund;
- (d) the aggregate direct costs of the sales communication, investor conference or investor seminar paid by all members of organizations of mutual funds do not exceed 50 percent of the total direct costs incurred by the participating dealer; and
- (e) the sales communication discloses, or persons attending the investor conference or investor seminar are informed in writing of, the identity of all parties paying for a portion of the costs of the sales communication, investor conference or investor seminar.

5.2 Mutual Fund Sponsored Conferences - A member of the organization of a mutual fund may provide a non-monetary benefit to a representative of a participating dealer by allowing him or her to attend a conference or seminar organized and presented by members of the organization of the mutual fund, if :

- (a) the primary purpose of the conference or seminar is the provision of educational information about financial planning, investing in securities, mutual fund industry matters, the mutual fund, the mutual fund family of which the mutual fund is a member or mutual funds generally;
- (b) the selection of the representatives of the participating dealer to attend the conference or seminar is made exclusively by the participating dealer, uninfluenced by any member of the organization of the mutual fund;
- (c) the conference or seminar is held in:
 - (i) Canada;
 - (ii) the continental United States of America; or
 - (iii) a location where a portfolio adviser of the mutual fund carries on business, if the primary purpose of the conference or seminar is the provision of educational information about the investments or activities of the mutual fund carried on by that portfolio adviser;

(d) no member of the organization of the mutual fund pays any travel, accommodation or personal incidental expenses associated with the attendance of the representative at the conference or seminar; and

(e) the costs relating to the organization and presentation of the conference or seminar are reasonable having regard to the purpose of the conference or seminar.

5.3 Third Party Sponsored Educational Events - A member of the organization of a mutual fund may, for a conference, seminar or course that is organized and presented by a person or company that is not a member of the organization of the mutual fund or a participating dealer, pay the registration fees of a representative of a participating dealer for the conference, seminar or course, if:

(a) the primary purpose of the conference, seminar or course is the provision of educational information about financial planning, investing in securities, mutual fund industry matters or mutual funds generally;

(b) the participating dealer provides invoices for or receipts evidencing payment of the registration fees to be paid by a member of the organization of the mutual fund;

(c) the selection of the representatives of the participating dealer to attend the conference, seminar or course is made exclusively by the participating dealer, uninfluenced by any member of the organization of the mutual fund; and

(d) the conference, seminar or course is held in Canada or the continental United States of America.

5.4 Industry Association Sponsored Events

(1) Except as permitted by section 5.3 or subsection (2), no member of the organization of a mutual fund may pay money, provide non-monetary benefits or pay or reimburse costs or expenses relating to a conference, seminar or course that is organized and presented by IFIC, the IDA or another trade or industry association.

(2) A member of the organization of a mutual fund may pay, to IFIC, the IDA or their respective affiliates or associates, direct costs incurred by IFIC, the IDA or their respective affiliates or associates relating to a conference or seminar organized and presented by IFIC, the IDA or their respective affiliates or associates, if:

(a) the primary purpose of the conference or seminar is the provision of educational information about financial planning, investing in securities, mutual fund industry matters or mutual funds generally;

(b) the members of the organization of mutual funds in a mutual fund family in aggregate pay not more than 10 percent of the total direct costs incurred by IFIC, the IDA or their respective affiliates or associates for the organization and presentation of the conference or seminar;

(c) the selection of the representatives of a participating dealer to attend the conference or seminar is made exclusively by the participating dealer, uninfluenced by any member of the organization of the mutual fund; and

(d) the conference or seminar is held in Canada or the continental United States of America.

5.5 Participating Dealer Sponsored Events - A member of the organization of a mutual fund may pay, to a participating dealer, direct costs incurred by the participating dealer relating to a conference or seminar that is organized and presented by the participating dealer, and that is not an investor conference or investor seminar referred to in section 5.1, if:

- (a) the primary purpose of the conference or seminar is the provision of educational information about financial planning, investing in securities, mutual fund industry matters, the mutual fund, the mutual fund family of which the mutual fund is a member or mutual funds generally;
- (b) the members of the organization of mutual funds in a mutual fund family in aggregate pay not more than 10 percent of the total direct costs incurred by the participating dealer for the organization and presentation of the conference or seminar;
- (c) the aggregate direct costs of the conference or seminar paid by all members of organizations of mutual funds do not exceed 66 percent of the total direct costs incurred by the participating dealer;
- (d) the selection of the representatives of the participating dealer to attend the conference or seminar is made exclusively by the participating dealer, uninfluenced by any member of the organization of the mutual fund; and
- (e) the conference or seminar is held in:
 - (i) Canada;
 - (ii) the continental United States of America; or
 - (iii) a location where a portfolio adviser of the mutual fund carries on business, if the primary purpose of the conference or seminar is the provision of educational information about the investments or activities of the mutual fund carried on by that portfolio adviser.

5.6 Promotional Items and Business Promotion Activities - A member of the organization of a mutual fund may provide to a representative of a participating dealer non-monetary benefits of a promotional nature and of minimal value, and a member of the organization of a mutual fund may engage in business promotion activities that result in a representative of a participating dealer receiving a non-monetary benefit if:

- (a) the provision of the benefits and activities is neither so extensive nor so frequent as to cause a reasonable person to question whether the provision of the benefits or activities improperly influence the investment advice given by the representative to his or her clients; and
- (b) in the case of business promotion activities, no member of the organization of the mutual fund pays the travel, accommodation or personal incidental expenses associated with the attendance of the representative at the activities.

PART 6 PORTFOLIO TRANSACTIONS

6.1 Reciprocal Commissions and Portfolio Transactions

- (1) No member of the organization of a mutual fund shall influence or attempt to influence how, or if, a participating dealer will pay or allocate in a particular manner to any representative all or part of a brokerage commission or of an amount representing the spread on a principal transaction arising from a portfolio transaction of the mutual fund executed by the participating dealer.
- (2) No member of the organization of a mutual fund shall direct a portfolio transaction of a mutual fund to a participating dealer or principal distributor of the mutual fund except through individuals designated by the participating dealer or principal distributor as the institutional representatives of the participating dealer or principal distributor.
- (3) No member of the organization of a mutual fund shall advise a representative of a participating dealer or a person or company employed by a principal distributor, other than an individual referred to in subsection (2), of a portfolio transaction of the mutual fund to be directed to the participating dealer or principal distributor.
- (4) No member of the organization of a mutual fund shall direct, or offer or agree to direct, a portfolio transaction of the mutual fund to a participating dealer or principal distributor as inducement or reward for the participating dealer or principal distributor selling or having sold securities of the mutual fund or maintaining or having maintained particular levels of securities of the mutual fund in accounts of clients.
- (5) No participating dealer shall solicit or execute portfolio transactions of a mutual fund as inducement or reward for the participating dealer selling, or having sold, securities of the mutual fund or maintaining, or having maintained, particular levels of securities of the mutual fund in accounts of clients.

6.2 Obligations of Participating Dealers Executing Portfolio Transactions - No participating dealer shall execute a portfolio transaction of a mutual fund unless it has been directed to the participating dealer through an individual designated by the participating dealer as an institutional representative of the participating dealer.

PART 7 OTHER SALES PRACTICES

7.1 Commission Rebates

- (1) A participating dealer or representative of a participating dealer may pay all or part of a fee or commission payable by a security holder on the redemption of securities of a mutual fund that occurs in connection with the purchase by the securityholder of securities of a mutual fund in a different mutual fund family, only if:
 - (a) the participating dealer, or a representative on behalf of the participating dealer, before taking any steps in connection with the redemption, provides the securityholder with written disclosure of the matters described in subsection (2) and obtains the written consent of the securityholder to the completion of the redemption; and
 - (b) the participating dealer is not a member of the organization of the mutual fund the securities of which are being acquired.

(2) The written disclosure referred to in subsection (1) shall include:

- (a) a reasonable estimate of the amount of the fee or commission being paid by the participating dealer on the redemption;
- (b) a reasonable estimate of the amount of the redemption charges to which the securityholder will be subject in connection with the securities of the mutual fund being acquired, expressed both as dollar amounts and as percentages of the value of the securities being redeemed, and the times at which those charges would be made; and
- (c) the tax consequences of the redemption.

(3) No member of the organization of a mutual fund, other than a member that is also a participating dealer acting in compliance with subsection (1), shall pay to any person or company all or part of a fee or commission payable by a securityholder on the redemption of securities of another mutual fund that is not in the same mutual fund family.

7.2 Financial Assistance

(1) No member of the organization of a mutual fund shall provide financial assistance to a participating dealer of the mutual fund, a representative of the participating dealer or their respective associates or affiliates.

(2) No participating dealer and no representative of a participating dealer of a mutual fund shall solicit or accept financial assistance from a member of the organization of the mutual fund.

(3) Subsections (1) and (2) do not apply to financial assistance provided by:

- (a) a Canadian financial institution in the ordinary course of its business, if no conditions to the provision of the financial assistance promote the distribution of securities of particular mutual funds; or
- (b) affiliates.

7.3 Charitable Donations

(1) No member of the organization of a mutual fund shall make a charitable donation if the tax credit or deduction arising from the donation benefits a participating dealer, a representative of a participating dealer or a person or company that is an associate or affiliate of a participating dealer or of a representative of a participating dealer.

(2) Subsection (1) does not apply to a charitable donation made by a member of the organization of a mutual fund if the tax credit or deduction arising from the donation benefits an affiliate of the member of the organization of the mutual fund.

7.4 Tied Selling - No person or company shall require another person or company:

- (a) to invest in securities of a particular mutual fund or mutual fund family, either as a condition or on terms that appear to a reasonable person to be a condition, of supplying or continuing to supply products or services; or

(b) to purchase or use any products or services, either as a condition or on terms that appear to a reasonable person to be a condition, of selling securities of a particular mutual fund or mutual fund family.

PART PROSPECTUS AND POINT OF SALE DISCLOSURE

8.1 Disclosure of Sales Practices

- (1) A mutual fund shall provide in its prospectus or simplified prospectus a complete description of:
 - (a) all compensation payable by members of the organization of the mutual fund to all principal distributors and participating dealers of the mutual fund; and
 - (b) the sales practices followed by the members of the organization of the mutual fund for distribution of securities of the mutual fund.

8.2 Disclosure of Equity Interests

- (1) A mutual fund shall disclose in its prospectus or simplified prospectus the amount of any equity interest that:
 - (a) a member of the organization of the mutual fund has in a participating dealer;
 - (b) a participating dealer and associates of the participating dealer, in aggregate, have in any member of the organization of the mutual fund; and
 - (c) a representative of a participating dealer and associates of the representative, in aggregate, have in any member of the organization of the mutual fund.
- (2) If a member of the organization of a mutual fund is not a reporting issuer and the securities of the member are not listed on a Canadian stock exchange, the mutual fund is not required to provide the disclosure required by paragraph (1)(c) if it discloses:
 - (a) the aggregate equity interests held by all representatives of a participating dealer and their respective associates in the member of the organization of the mutual fund; and
 - (b) the equity interests held by a representative of a participating dealer and associates of the representative if the representative and his or her associates have direct or indirect ownership of securities representing more than five percent of any class of voting securities, equity securities or partnership units of the member of the organization of the mutual fund.
- (3) For each trade of a security of a mutual fund that is required to make any of the disclosure described in this section, a participating dealer shall deliver to the purchaser a document that discloses the amount of any equity interest that:
 - (a) a member of the organization of the mutual fund has in the participating dealer;
 - (b) the participating dealer and its associates, in aggregate, have in any member of the organization of the mutual fund;

(c) the representatives of the participating dealer and associates of those representatives, in aggregate, have in any member of the organization of the mutual fund; and

(d) the representative of the participating dealer that is acting on the trade, and associates of the representative, in aggregate, have in any member of the organization of the mutual fund.

(4) No participating dealer shall complete a trade to which subsection (3) applies unless the participating dealer obtains the prior written consent of the purchaser to the completion of the trade after the purchaser has received the document required by subsection (3).

(5) A participating dealer is not required to comply with subsections (3) and (4) for a trade if the purchaser in the trade has already been provided with a document under subsection (3) on a previous trade and the information contained in the document has not changed.

8.3 Disclosure Requirements If No Prospectus or Simplified Prospectus - A mutual fund that does not have a current prospectus or simplified prospectus shall prepare a document containing the information required by this Instrument to be provided in a prospectus or simplified prospectus and deliver, or cause to be delivered, a copy of the document to each purchaser of securities of the mutual fund at or before the time of the applicable trade in securities of the mutual fund, other than a trade in connection with a dividend reinvestment plan of the mutual fund.

PART 9 EXEMPTION

9.1 Exemption

(1) The regulator or securities regulatory authority may grant an exemption to this Instrument, in whole or in part, subject to any conditions or restrictions that may be imposed in the exemption.

(2) Notwithstanding subsection (1), in Ontario, only the securities regulatory authority may grant that exemption.

PART 10 TRANSITIONAL

10.1 Prospectus Disclosure - The prospectus of a mutual fund for which a receipt is obtained before the date that this Instrument comes into force is not required to comply with the disclosure requirements of this Instrument.