



INVESTMENT INDUSTRY ASSOCIATION OF CANADA  
ASSOCIATION CANADIENNE DU COMMERCE DES VALEURS MOBILIÈRES

**SUMMARY OF CSA NOTICE AND REQUEST FOR COMMENT ON THE  
IMPLEMENTATION OF POINT OF SALE DISCLOSURE FOR MUTUAL FUNDS**

**PROPOSED AMENDMENTS TO NI 81-101 MUTUAL FUND PROSPECTUS  
DISCLOSURE**

**(Comments Due October 17, 2009)**

This is a summary of the CSA Notice and Request for Comment on the implementation of point of sale disclosure for mutual funds. The IIAC recommends that interested members review the full text of the Notice and its Attachments.

The full text can be accessed at:

[http://www.osc.gov.on.ca/Media/NewsReleases/2009/nr\\_20090619\\_csa-mutual-fund-disclosure.jsp](http://www.osc.gov.on.ca/Media/NewsReleases/2009/nr_20090619_csa-mutual-fund-disclosure.jsp)

A number of questions are posed in the materials for members to review and consider.

The Companion Policy to NI 81-101 (“NI”) also goes into greater detail with respect to initial and subsequent purchases, dealer recommended and non-dealer recommended, delivery options, cancellation of rights and transition periods.

***Background:***

The issue of mutual fund disclosure has been around for numerous years. In 2007, the Joint Forum published for comment Proposed Framework 81-406 *Point of Sale Disclosure for Mutual Funds and Segregated Funds*. The initial Framework described the elements of a proposed point of sale disclosure regime, including a new fund summary document called a “Fund Facts.” In 2008 the Joint Forum published a revised framework as a result of comments received and the CSA has made some additional changes in the current proposal.

***Purpose:***

NI 81-101 proposes to address the shortcomings of the current regime by focusing on three key principles:

- providing investors with key information about a fund;
- providing the information in a simple, accessible and comparable format; and
- providing the information before investors make their decision to buy.

## ***Summary of the Proposal:***

### Fund Facts

The Fund Facts is a two page document which highlights key information that is important to investors and includes past performance, risks, costs of investing in a mutual fund as well as a number of statements that help investors understand the risks of investing in a mutual fund.

Many aspects of the Fund Facts document are prescribed, but it is also flexible enough to accommodate different kinds of mutual funds and to enable managers to describe their mutual funds accurately. Separate Fund Facts documents are required for each class or series of a mutual fund.

### Filing Requirements

The Fund Facts document is to be filed concurrently with the mutual fund's simplified prospectus and annual information form. If a material change to the mutual fund relates to a matter that requires a change to the disclosure in the Fund Facts, an amendment to the Fund Facts will be filed.

### Delivery

Delivery of the Fund Facts document is required for all initial purchases before or at the point of sale that are recommended to an investor.

For initial purchases of money market mutual funds recommended by the dealer or purchases that are initiated by the investor, the NI allows investors to choose to receive the Fund Facts document before they buy the mutual fund or with the confirmation of trade for the purchase. In these instances, the dealer is required to inform the investor of the existence and purpose of the Fund Facts and explain that the investor may choose to receive it before the purchase.

Investors who make initial purchases through an order execution-only account will receive the Fund Facts document with the confirmation of trade.

The CSA is also considering allowing delivery of the Fund Facts document with the trade confirmation in instances where the investor expressly communicates that they want the purchase to be completed immediately, and it is not reasonably practicable for the dealer to deliver or send the fund facts document before the purchase is completed.

The Fund Facts document is not required to be delivered for subsequent purchases of a mutual fund currently held in the investor's account. Dealers will have to give investors the option to receive annually the Fund Facts for each mutual fund in their account. The most recently filed Fund Facts document will also have to be posted to the website of the mutual fund, mutual fund family or manager.

Delivery can be in person, by mail, by fax, electronically or by other means (excluding oral delivery or availability to the Fund Facts alone). There are also limits on the number of Fund Facts that may be consolidated into a fund family document or other grouping when delivered.

Note: Must deliver Fund Facts and bring it to the attention of the investor.

## **Investor Rights:**

### Right for Misrepresentation

The Fund Facts document will be incorporated by reference into the simplified prospectus. This means that the existing statutory rights of investors that apply for misrepresentations in a prospectus will apply to misrepresentations in the Fund Facts.

### Right for Failure to Delivery Fund Facts

Delivery of the Fund Facts document may satisfy delivery of the simplified prospectus under securities legislation. If delivery of the Fund Facts is to take the place of delivery of the simplified prospectus, some jurisdictions may require legislative amendments in order to preserve an investor's right to damages or to rescind the purchase if the investor fails to receive the Fund Facts. The NI provides for a right of rescission or damages against a dealer who fails to deliver the Fund Facts within 180 days after the date of the transaction (except in BC and Quebec).

An alternative approach being contemplated by the CSA is to require the simplified prospectus to be delivered with the Fund Facts document, or for the Fund Facts document to become the simplified prospectus.

### Cancellation Right

The NI contemplates replacing the current withdrawal and rescission rights under securities legislation with a single, harmonized two-day cancellation right for investors that applies to all mutual fund purchases. The purpose of the right is to give investors the reasonable opportunity to change their minds if they have been sold a mutual fund they really do not want. It is not intended to protect investors from a short-term decline in market value. The right would start when the investor receives, or is deemed to receive, the confirmation of trade for the purchase. The content of the cancellation right generally differs from the current withdrawal and rescission rights. Under the NI, the investor will get back the lesser of:

- the amount of the investor's original investment in the mutual fund; and
- the value of the mutual fund on the day the investor exercises the cancellation right.

This means, that if the value of the mutual fund goes down within two business days of the investor receiving the confirmation of trade, the investor would get back less than the amount they invested. The investor would also get back any sales charges or other fees paid to buy the mutual fund, and will not pay any redemption or short-term trading fees.

### Transition

The NI proposes a two-year transition period for delivery of the Fund Facts following the effective date of the Instrument. During this period, the Fund Facts document would be required to be prepared, filed concurrently with the mutual fund's next filed simplified prospectus and annual information form, and posted on the website of the mutual fund, mutual fund family or the manager.

Subject to any legislative amendments needed to preserve investor rights for delivery of the Fund Facts, the NI contemplates that during this two-year transition period, delivery of the simplified prospectus may be satisfied by delivery of the Fund Facts document under the securities legislation in effect before the effective date of the Instrument. This means that delivery of the Fund Facts would not be required to be before the time of purchase.