

NOVA SCOTIA SECURITIES COMMISSION
RULE 81-802
IMPLEMENTING NATIONAL INSTRUMENT 81-107 INDEPENDENT REVIEW
COMMITTEE FOR INVESTMENT FUNDS

PART 1 – Definitions and Interpretation

- 1.1 Definition** – In this Rule, “NI 81-107” means National Instrument 81-107 *Independent Review Committee for Investment Funds*.
- 1.2 Interpretation** – A term used in this Rule that is defined or interpreted in NI 81-107 has the meaning ascribed to it in NI 81-107.

PART 2 – Application

- 2.1 Application** – This Rule applies to an investment fund that is a reporting issuer.

PART 3 – Interrelationship with Legislation

- 3.1 Definition of manager** – In NI 81-107, “manager” means an “investment fund manager” under the Act upon the definition of an “investment fund manager” being proclaimed in force.
- 3.2 Standard of care for manager** – In NI 81-107, the standard of care and fiduciary duty required of a manager of a mutual fund in order to meet its obligation under NI 81-107 is the same standard of care and fiduciary duty imposed under section 124 of the Act.
- 3.3 Amendment to section 32 of the General Securities Rules** - Section 32 of the General Securities Rules is amended by adding the following subsection after subsection (6):
- (7) Subsection (6) does not apply in the case of an investment counsel who is acting as a portfolio manager of an investment fund, with respect to a purchase or sale of a security referred to in subsection 6.1(2) of National Instrument 81-107 *Independent Review Committee for Investment Funds* if the purchase or sale is made in accordance with that subsection.
- 3.4 Amendment to section 67 of the General Securities Rules** – Subsection 67(2) of the General Securities Rules is amended by striking out “or” at the end of clause (b) and adding the following clause after clause (b):

(b.1) in the case of a registrant who is acting as a portfolio manager in respect of a transaction made in accordance with subsection 4.1(4) of National Instrument 81-102 *Mutual Funds*; or

3.5 Variation of Form 15 – The requirements of Form 15 prescribed in the Appendix to the General Securities Rules are varied for an issuer that has prepared a prospectus in accordance with Form 15 of Ontario Regulation 1015, R.R.O. 1990, as amended, by substituting the requirements of the Ontario Form 15.

PART 4 – Effective Date

4.1 Effective Date – This Rule comes into force on February 19, 2007.

The foregoing is hereby approved and, subject to the Act, is hereby made a rule of the Commission pursuant to the authority contained in section 150 of the Act.

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 6th day of December, 2006.

“H. Leslie O’Brien”

H. Leslie O’Brien

“R. Daren Baxter”

R. Daren Baxter

**COMPANION POLICY 81-802CP TO
NOVA SCOTIA SECURITIES COMMISSION RULE 81-802
IMPLEMENTING NATIONAL INSTRUMENT 81-107
INDEPENDENT REVIEW COMMITTEE FOR INVESTMENT FUNDS**

- 1.1 Introduction** – The purpose of this Companion Policy is to provide information relating to the manner in which the Nova Scotia Securities Commission (the Commission) interprets or applies certain provisions of Rule 81-802 *Implementing National Instrument 81-107 Independent Review Committee for Investment Funds* (the Implementing Rule) and National Instrument 81-107 *Independent Review Committee for Investment Funds* (NI 81-107).
- 1.2 Interrelationship between NI 81-107 and the Securities Act (Nova Scotia) (the Act)** - NI 81-107 is intended to impose a minimum, consistent standard of governance for all publicly offered investment funds by introducing the requirement for a fully independent advisory body, the independent review committee (the IRC), charged with overseeing all conflict of interest matters faced by the manager in the operation of an investment fund. As a result, NI 81-107 sometimes repeats (without any substantive change) certain requirements that are also dealt with in sections 112 to 128 of the Act.
- The cumulative effect of NI 81-107 and the Implementing Rule is that the standard of care and fiduciary duty required under section 2.1 of NI 81-107 is the same standard of care and fiduciary duty imposed under section 124 of the Act for a manager of a mutual fund, and sections 6.1 and 6.2 of NI 81-107 provide for exemptions from some of the prohibitions in sections 112 to 128 of the Act. A manager of a mutual fund that is a reporting issuer can and should therefore refer to section 2.1 of NI 81-107 in place of section 124 of the Act, and investment funds or mutual funds, respectively, should refer to sections 6.1 and 6.2 of NI 81-107 to see if the exemptions from the prohibitions contained in sections 112 to 128 of the Act are met.
- 1.3 Consequential Amendments to the General Securities Rules** – The Implementing Rule also contains consequential amendments to sections 32 and 67 of the General Securities Rules and a provision which permits an issuer to use the amended Form 15 in the Ontario Regulation to the *Securities Act* (Ontario).
- 1.4 Effective Date** – This Companion Policy comes into effect on February 19, 2007.