

26. Appendix A of the Regulation is repealed.
27. Appendix B-1, Appendix B-2 and Appendix B-3 of the Regulation are amended by replacing, wherever they appear, “Regulation 81-102 respecting Mutual Funds” with “Regulation 81-102 respecting Investment Funds”.
28. Appendix F of the Regulation is amended by adding, after paragraph (2) of the commentary of item 1, the following:
- “(3) *In deciding whether to exercise the discretion to increase a mutual fund’s investment risk level as permitted in subsection (2) above, consideration should be given as to whether the standard deviation calculation applied under the Investment Risk Classification Methodology may result in a risk level that is below the manager’s own expectations for the mutual fund. This can occur, for example, when a mutual fund employs investment strategies that produce an atypical or non-normal distribution of performance results. In such circumstances mutual funds are encouraged to consider supplementing the Investment Risk Classification Methodology with other factors or risk metrics in order to determine whether it would be appropriate to make an upward adjustment of the mutual fund’s risk level to better reflect the features of the mutual fund.*”.
29. If a commodity pool, as that term was defined in Regulation 81-104 respecting Commodity Pools (chapter V-1.1, r. 40) on January 2, 2019, has filed a prospectus for which a receipt was granted on or before that date, this Regulation does not apply to that commodity pool until July 4, 2019.
30. This Regulation comes into force on January 3, 2019.

103765

M.O., 2018-07**Order number V-1.1-2018-07 of the Minister of Finance dated 3 December 2018**Securities Act
(chapter V-1.1)

CONCERNING concordant regulations to Regulation to amend Regulation 81-102 respecting Investment Funds

WHEREAS subparagraphs 1, 3, 6, 8, 11, 14, 16, 17, 19, 20, 26 and 34 of section 331.1 of the Securities Act (chapter V-1.1) provide that the *Autorité des marchés financiers* may make regulations concerning the matters referred to in those paragraphs;

WHEREAS the third and fourth paragraphs of section 331.2 of the said Act provide that a draft regulation shall be published in the *Bulletin de l’Autorité des marchés financiers*, accompanied with the notice required under

section 10 of the Regulations Act (chapter R-18.1) and may not be submitted for approval or be made before 30 days have elapsed since its publication;

WHEREAS the first and fifth paragraphs of the said section provide that every regulation made under section 331.1 must be approved, with or without amendment, by the Minister of Finance and comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date specified in the regulation;

WHEREAS the following regulations have been made by the *Autorité des marchés financiers* or approved by the minister of Finance:

— Regulation 41-101 respecting General Prospectus Requirements approved by ministerial order no. 2008-05 dated March 4, 2008 (2008, *G.O.* 2, 810A);

— Regulation 81-101 respecting Mutual Fund Prospectus Disclosure was made by decision no. 2001-C-0283 dated June 12, 2001 (*Bulletin hebdomadaire*, vol. 32, no 26, dated June 29, 2001);

— Regulation 81-104 respecting Commodity Pools was made by decision no. 2003-C-0075 dated March 3, 2003 (*Bulletin hebdomadaire*, vol. 34, no 19, dated May 16, 2003);

— Regulation 81-106 respecting Investment Fund Continuous Disclosure approved by ministerial order no. 2005-05 dated May 19, 2005 (2005, *G.O.* 2, 1601A);

— Regulation 81-107 respecting Independent Review Committee for Investment Funds approved by ministerial order no. 2006-02 dated October 31, 2006 (2006, *G.O.* 2, 3593A);

WHEREAS there is cause to amend those regulations;

WHEREAS the following draft regulations were published in the *Bulletin de l'Autorité des marchés financiers*, volume 13, no. 38 of September 22, 2016:

— Regulation to amend Regulation 41-101 respecting General Prospectus Requirements;

— Regulation to amend Regulation 81-101 respecting Mutual Fund Prospectus Disclosure;

— Regulation to amend Regulation 81-104 respecting Commodity Pools;

— Regulation to amend Regulation 81-106 respecting Investment Fund Continuous Disclosure;

— Regulation to amend Regulation 81-107 respecting Independent Review Committee for Investment Funds;

WHEREAS those draft regulations were made by the *Autorité des marchés financiers* by decision no. 2018-PDG-0073 dated December 14, 2018;

WHEREAS there is cause to approve those regulations without amendment;

WHEREAS, the Minister of Finance approves without amendment the following regulations appended hereto:

— Regulation to amend Regulation 41-101 respecting General Prospectus Requirements;

— Regulation to amend Regulation 81-101 respecting Mutual Fund Prospectus Disclosure;

— Regulation to amend Regulation 81-104 respecting Commodity Pools;

— Regulation to amend Regulation 81-106 respecting Investment Fund Continuous Disclosure;

— Regulation to amend Regulation 81-107 respecting Independent Review Committee for Investment Funds.

December 3, 2018

ERIC GIRARD,
Minister of Finance

REGULATION TO AMEND REGULATION 41-101 RESPECTING GENERAL PROSPECTUS REQUIREMENTS

Securities Act

(chapter V-1.1, s. 331.1, par. (1) and (6))

1. Section 1.1 of Regulation 41-101 respecting General Prospectus Requirements (chapter V-1.1, r. 14) is amended by inserting, after the definition of the expression “alternative credit support”, the following:

““alternative mutual fund” has the same meaning as in section 1.1 of Regulation 81-102 respecting Investment Funds (chapter V-1.1, r. 39);”.

2. Form 41-101F2 of the Regulation is amended:

(1) in item 1.3:

(a) by replacing, in paragraph (1) and after the words “venture capital fund,” the words “commodity pool” with the words “alternative mutual fund”;

(b) by adding, after paragraph (3), the following:

“(4) If the mutual fund to which the prospectus pertains is an alternative mutual fund, include a statement explaining that the fund is permitted to invest in asset classes or use investment strategies that are not permitted for other types of mutual funds and explain how exposure to the asset classes or the adoption of the investment strategies may affect investors’ risk of losing money on their investment in the fund.”;

(2) by replacing, in paragraph (3) of item 1.11, the words “commodity pool” with the words “alternative mutual fund”;

(3) by deleting item 1.12;

(4) by replacing, in item 3.3, subparagraph (e) of paragraph (1) with the following:

“(e) the use of leverage, including all of the following:

(i) the maximum aggregate exposure to borrowing, short selling and specified derivatives the investment fund is permitted to have, expressed as a percentage calculated in accordance with section 2.9.1 of Regulation 81-102 respecting Investment Funds (chapter V-1.1, r. 39),

(ii) a brief description of any other restrictions on the investment fund’s use of leverage, and

(iii) a brief description of any limits that apply to each source of leverage;”;

- (5) by adding, in item 5 and after instruction (3), the following:

“(4) If the mutual fund is an alternative mutual fund, describe the features of the mutual fund that cause it to fall within the definition of “alternative mutual fund” in Regulation 81-102 respecting Investment Funds. If those features involve the use of leverage, disclose the sources of leverage (i.e., borrowing, short selling, use of derivatives) the alternative mutual fund is permitted to use and the maximum aggregate exposure to those sources of leverage the alternative mutual fund is permitted to have, as a percentage calculated in accordance with section 2.9.1 of Regulation 81-102 respecting Investment Funds.”;

- (6) in item 6.1:

- (a) by replacing, in paragraph (1), subparagraph (b) with the following:

“(b) the use of leverage, including both of the following:

- (i) a brief description of any restrictions on the investment fund’s use of leverage;
- (ii) a brief description of any limits that apply to each source of leverage.”;

- (b) by adding, after paragraph (6), the following:

“(7) In the case of an investment fund that borrows cash in accordance with subsection 2.6 (2) of Regulation 81-102 respecting Investment Funds,

(a) state that the investment fund is permitted to borrow cash and the maximum amount the fund is permitted to borrow, and

(b) briefly describe how borrowing will be used in conjunction with other strategies of the investment fund to achieve its investment objectives and the material terms of the borrowing arrangements.”;

- (7) by adding, after item 19.11, the following:

“19.12. Lender

(1) State the name of each person that has entered into an agreement to lend money to the investment fund or provides a line of credit or similar lending arrangement to the investment fund.

(2) State whether the person named in subsection (1) is an affiliate or associate of the manager of the investment fund.”;

(8) by replacing, in paragraph (f) of item 23.1, the words “a commodity pool” with the words “an alternative mutual fund”.

3. Form 41-101F4 of the Regulation is amended, in part I:

- (1) by replacing the instructions of item 1 with the following:

“INSTRUCTIONS:

(1) The date for an ETF facts document that is filed with a preliminary prospectus or final prospectus must be the date of the preliminary prospectus or final prospectus, respectively. The date for an ETF facts document that is filed with a pro forma prospectus must be the date of the anticipated final prospectus. The date for an amended ETF facts document must be the date on which it is filed.

(2) If the investment objectives of the ETF are to track a multiple (positive or negative) of the daily performance of a specified underlying index or benchmark, provide textbox disclosure in bold type using wording substantially similar to the following:

“This ETF is an alternative mutual fund. It is permitted to invest in asset classes or use investment strategies that are not permitted for other types of mutual funds.

“This ETF is highly speculative. It uses leverage which magnifies gains and losses. It is intended for use in daily or short-term trading strategies by sophisticated investors. If you hold this ETF for more than one day, your return could vary considerably from the ETF’s daily target return. Any losses may be compounded. Don’t buy this ETF if you are looking for a longer-term investment.”

(3) If the investment objectives of the ETF are to track the inverse performance of a specified underlying index or benchmark, provide textbox disclosure in bold type using wording substantially similar to the following:

“This ETF is an alternative mutual fund. It is permitted to invest in asset classes or use investment strategies that are not permitted for other types of mutual funds.

“This ETF is highly speculative. It is intended for use in daily or short-term trading strategies by sophisticated investors. If you hold this ETF for more than one day, your return could vary considerably from the ETF’s daily target return. Any losses may be compounded. Don’t buy this ETF if you are looking for a longer-term investment.”

(4) If the ETF is an alternative mutual fund and Instruction (2) or (3) does not apply, provide textbox disclosure in bold type using wording substantially similar to the following:

“This ETF is an alternative mutual fund. It has the ability to invest in asset classes or use investment strategies that are not permitted for other types of mutual funds.

“The specific features that differentiate this fund from other types of mutual funds include: [list the asset classes the alternative mutual fund invests in and the investment strategies used by the alternative mutual fund that cause it to fall within the definition of “alternative mutual fund”].

“[Explain how the listed features may affect investors’ risk of losing money on their investment in the alternative mutual fund.]”;

(2) in item 3:

(a) by inserting, after paragraph (1), the following:

“(1.1) For an alternative mutual fund that uses leverage

(a) disclose the sources of leverage, and

(b) disclose the maximum aggregate exposure to those sources of leverage the alternative mutual fund is permitted to have.”;

(b) by inserting, after instruction (3), the following:

“(3.1) *The alternative mutual fund’s aggregate exposure to sources of leverage must be expressed as a percentage calculated in accordance with section 2.9.1 of Regulation 81-102 respecting Investment Funds.*”.

4. If a commodity pool, as that term was defined in Regulation 81-104 respecting Commodity Pools (chapter V-1.1, r. 40) on January 2, 2019, has filed a prospectus for which a receipt was granted on or before that date, this Regulation does not apply to the commodity pool until July 4, 2019.

5. This Regulation comes into force on January 3, 2019.

REGULATION TO AMEND REGULATION 81-101 RESPECTING MUTUAL FUND PROSPECTUS DISCLOSURE

Securities Act

(chapter V-1.1, s. 331.1, par. (1), (3), (11), (14), (16), (17) and (34))

1. Section 1.1 of Regulation 81-101 respecting Mutual Fund Prospectus Disclosure (chapter V-1.1, r. 38) is amended by deleting the definitions of the expressions “commodity pool” and “precious metals fund”.

2. Section 1.3 of the Regulation is amended by repealing paragraph (b), and making the necessary adaptations.

3. Section 5.1 of the Regulation is amended by adding, after paragraph (3), the following:

“(4) Despite subsection (1), a simplified prospectus for an alternative mutual fund must not be consolidated with a simplified prospectus of another mutual fund if the other mutual fund is not an alternative mutual fund.”.

4. Section 6.1 of the Regulation is amended by inserting, in paragraph (3) and after the words “Except in”, the words “Alberta and”.

5. Form 81-101F1 of the Regulation is amended:

(1) by inserting, in the general instructions and after instruction (14), the following:

“(14.1) Subsection 5.1(4) of Regulation 81-101 respecting Mutual Fund Prospectus Disclosure states that a simplified prospectus of an alternative mutual fund must not be consolidated with a simplified prospectus of another mutual fund that is not an alternative mutual fund.”;

(2) in part A:

(a) by inserting, in item 1.1 and after paragraph (2), the following:

“(2.1) If the mutual fund to which the simplified prospectus pertains is an alternative mutual fund, indicate that fact on the front cover.”;

(b) by inserting, in item 1.2 and after paragraph (2), the following:

“(2.1) If the mutual funds to which the document pertains are alternative mutual funds, indicate that fact on the front cover.”;

(3) in part B:

(a) by inserting, in item 6 and after instruction (3), the following:

“(4) If the mutual fund is an alternative mutual fund, describe the features of the mutual fund that cause it to fall within the definition of “alternative mutual fund” in Regulation 81-102 respecting Investment Funds. If those features include the use of leverage,

disclose the sources of leverage (e.g., cash borrowing, short selling, use of derivatives) that the fund is permitted to use as well as the maximum aggregate exposure to those sources of leverage the alternative mutual fund is permitted to have, as a percentage calculated in accordance with section 2.9.1 of Regulation 81-102 respecting Investment Funds.”;

(b) by adding, in item 7 and after paragraph (10), the following:

“(11) In the case of an alternative mutual fund that borrows cash pursuant to subsection 2.6 (2) of Regulation 81-102 respecting Investment Funds

(a) state that the alternative mutual fund is permitted to borrow cash and the maximum amount the fund is permitted to borrow, and

(b) briefly describe how borrowing will be used in conjunction with other strategies of the alternative mutual fund to achieve its investment objectives.”;

(c) in item 9:

(i) by inserting, after paragraph (2), the following:

“(2.1) In the case of an alternative mutual fund, include disclosure explaining that the alternative mutual fund is permitted to invest in asset classes and use investment strategies that are not permitted for other types of mutual funds and explain how these investment strategies could affect investors’ risk of losing money on their investment in the fund.”;

(ii) by inserting, after subparagraph (c) of paragraph (7), the following, and making the necessary adaptations:

“(d) borrowing arrangements.”.

6. Form 81-101F2 of the Regulation is amended:

(1) by inserting, after paragraph (2) of item 1.1, the following:

“(2.1) If the mutual fund to which the annual information form pertains is an alternative mutual fund, indicate that fact on the front cover.”;

(2) by inserting, after item 10.9.1, the following:

“10.9.2. Cash Lender

(1) In the case of an alternative mutual fund, state the name of each person that has entered into an agreement to lend money to the alternative mutual fund or provides a line of credit or similar lending arrangement to the alternative mutual fund.

(2) State whether any person named in subsection (1) is an affiliate or associate of the manager of the alternative mutual fund.”.

7. Form 81-101F3 of the Regulation is amended, in item 1 of part I:

(1) by inserting, after paragraph (f), the following, and making the necessary adaptations:

“(g) if the fund facts document pertains to an alternative mutual fund, textbox disclosure using wording substantially similar to the following:

“This mutual fund is an alternative mutual fund. It is permitted to invest in asset classes or use investment strategies that are not permitted for other types of mutual funds.

“The specific strategies that differentiate this fund from other types of mutual funds include: *[list the features of the alternative mutual fund that cause it to fall within the definition of “alternative mutual fund” in Regulation 81-102 respecting Investment Funds]*.

“*[Explain how the listed investment strategies could affect investors’ risk of losing money on their investment in the alternative mutual fund.]*”;

(2) by inserting, after paragraph (1) of item 3, the following:

“(1.1) In the case of an alternative mutual fund that uses leverage,

(a) disclose the sources of leverage, and

(b) disclose the maximum aggregate exposure to those sources of leverage the alternative mutual fund is permitted to have.”;

(3) by inserting, after paragraph (3) of the instructions, the following:

“(3.1) *The alternative mutual fund’s aggregate exposure to the sources of leverage must be expressed as a percentage calculated in accordance with section 2.9.1 of Regulation 81-102 respecting Investment Funds.*”.

8. If a commodity pool, as that term was defined in Regulation 81-104 respecting Commodity Pools (chapter V-1.1, r. 40) on January 2, 2019, has filed a prospectus for which a receipt was granted on or before that date, this Regulation does not apply to that commodity pool until July 4, 2019.

9. This Regulation comes into force on January 3, 2019.

REGULATION TO AMEND REGULATION 81-104 RESPECTING COMMODITY POOLS

Securities Act

(chapter V-1.1, s. 331.1, par. (1), (6), (8), (11), (14), (16), (19), (20), (26) and (34))

1. The title of Regulation 81-104 respecting Commodity Pools (chapter V-1.1, r. 40) is amended by replacing the words “**COMMODITY POOLS**” with the words “**ALTERNATIVE MUTUAL FUNDS**”.

2. Section 1.1 of the Regulation is amended, in paragraph (1):

(1) by inserting, before the definition of the expression “Canadian Securities Course”, the following:

““alternative mutual fund” has the same meaning as in section 1.1 of Regulation 81-102 respecting Investment Funds (chapter V-1.1, r. 39);”;

(2) by deleting the definitions of the expressions “commodity pool”, “independent review committee” and “precious metals fund”, and making the necessary adaptations.

3. Section 1.2 of the Regulation is replaced with the following:

“1.2. Application

This Regulation applies only to

(a) an alternative mutual fund that

(i) offers, or has offered, securities under a prospectus for so long as the alternative mutual fund remains a reporting issuer, or

(ii) is filing a preliminary prospectus or its first prospectus; and

(b) a person in respect of activities pertaining to an alternative mutual fund referred to in paragraph (a).”.

4. Section 1.3 of the Regulation is amended:

(1) by replacing, wherever they appear in paragraph (1), the words “a commodity pool” with the words “an alternative mutual fund” and the words “commodity pool” with the words “alternative mutual fund”;

(2) by repealing paragraph (2).

5. Part 2 of the Regulation, including section 2.1, is repealed.

6. Part 3 of the Regulation, including sections 3.1 to 3.3, is repealed.

7. Section 4.1 of the Regulation is amended by replacing, wherever they appear, the words “a commodity pool” with the words “an alternative mutual fund” and the words “commodity pools” with the words “alternative mutual funds”.
8. Part 5 of the Regulation, including sections 5.1 to 5.3, is repealed.
9. Part 6 of the Regulation, including sections 6.1 to 6.3, is repealed.
10. Part 8 of the Regulation, including section 8.5, is repealed.
11. Section 11.2 of the Regulation is repealed.
12. This Regulation comes into force on January 3, 2019.

REGULATION TO AMEND REGULATION 81-106 RESPECTING INVESTMENT FUND CONTINUOUS DISCLOSURE

Securities Act

(chapter V-1.1, s. 331.1, par. (1), (8), (19) and (34))

1. Section 1.3 of Regulation 81-106 respecting Investment Fund Continuous Disclosure (chapter V-1.1, r. 42) is amended by deleting, in paragraph (3), “Regulation 81-104 respecting Commodity Pools (chapter V-1.1, r. 40) or” and by replacing “those regulations” with “that regulation”.

2. The Regulation is amended by adding, after section 3.11, the following:

“3.12. Disclosure of Use of Leverage

(1) An investment fund that uses leverage must disclose the following information in its financial statements:

(a) a brief explanation of the sources of leverage including cash borrowing, short selling or use of specified derivatives, used during the reporting period covered by the financial statements,

(b) the lowest and highest level of the aggregate exposure to those sources of leverage in the period, and

(c) a brief explanation of the significance to the investment fund of the lowest and highest levels of the aggregate exposure to those sources of leverage.

(2) For the purposes of subsection (1), an investment fund must calculate its aggregate exposure to those sources of leverage in accordance with section 2.9.1 of Regulation 81-102 respecting Investment Funds (chapter V-1.1, r. 39).”.

3. Form 81-106F1 of the Regulation is amended, in item 2.3 of part B:

(1) by inserting, after paragraph (2), the following:

“(3) An investment fund that uses leverage must disclose,

(a) a brief explanation on the sources of leverage including cash borrowing, short selling or use of specified derivatives, used during the reporting period,

(b) the lowest and highest level of aggregate exposure to those sources of leverage in the period, and

(c) a brief explanation of the significance of the lowest and highest levels of aggregate exposure to those sources of leverage to the investment fund including the impact of the use of specified derivatives for hedging purposes.”;

(2) by replacing, after paragraph (2), the instructions with the following:

“INSTRUCTIONS:

(1) *Explain the nature of and reasons for changes in the investment fund’s performance. Do not only disclose the amount of change in a financial statement item from period to period. Avoid the use of boilerplate wording. Your discussion must be prepared in a manner that will assist a reasonable reader to understand the significant factors that have affected the investment fund’s performance.*

(2) *For the purposes of the disclosure required in Item 2.3(3)(b), an investment fund must calculate its aggregate exposure to sources of leverage in accordance with section 2.9.1 of Regulation 81-102 respecting Investment Funds (chapter V-1.1, r. 39).*

(3) *In discussing the impact of the use of specified derivatives for hedging purposes on the investment fund’s calculation of its aggregate exposure to sources of leverage, the fund must discuss by how much the aggregate exposure was reduced by subtracting the notional value of the fund’s specified derivatives positions that are hedging transactions as is contemplated in paragraph 2.9.1(2)(c) of Regulation 81-102 respecting Investment Funds.”.*

4. This Regulation comes into force on January 3, 2019.

REGULATION TO AMEND REGULATION 81-107 RESPECTING INDEPENDENT REVIEW COMMITTEE FOR INVESTMENT FUNDS

Securities Act
(chapter V-1.1, s. 331.1, par. (16) and (17))

1. Section 5.2 of Regulation 81-107 respecting Independent Review Committee for Investment Funds (chapter V-1.1, r. 43) is amended by inserting, after subparagraph (c) of paragraph (1), the following, and making the necessary adaptations:

“(d) a transaction in which an investment fund intends to borrow cash from a person that is an associate or affiliate of the investment fund manager.”.

2. This Regulation comes into force on January 3, 2019.