

Chapter 5

Rules and Policies

5.1.1 Amendments to National Instrument 81-105 Mutual Fund Sales Practices

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

1. *National Instrument 81-105 Mutual Fund Sales Practices is amended by this Instrument.*

2. *Section 1.1 is amended by adding the following definition:*

“**suitability determination**” means a determination or other assessment required to be made under any of the following:

- (a) section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;
- (b) the rules of the Investment Industry Regulatory Organization of Canada named in Appendix G of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* that are in effect, as amended from time to time, and that correspond to section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*;
- (c) a rule or policy of the Mutual Fund Dealers Association of Canada named in Appendix H of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* that are in effect, as amended from time to time, and that correspond to section 13.3 of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations*..

3. *Section 2.2 is amended by adding the following subsection:*

- (3) Despite subsection (2), a participating dealer may not solicit or accept a payment of a trailing commission from a member of the organization of the mutual fund, in connection with securities of the mutual fund held in an account of a client of the participating dealer, if the participating dealer was not required to make a suitability determination in respect of the client in connection with those securities..

4. *Section 3.2 is amended*

- (a) *in subsection (1) by deleting* “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,”,
- (b) *in paragraph 3.2(1)(a) by replacing* “the trade” *with* “a trade in securities of the mutual fund by a client of the participating dealer”,
- (c) *by adding the following paragraph to subsection (1):*
 - (a.1) the amount of the trailing commission is based on the value of securities of the mutual fund held in an account of the client as at a particular time or during a particular period; **and**
- (d) *by adding the following subsection:*
 - (4) Despite subsection (1), no member of the organization of a mutual fund may pay a trailing commission to a participating dealer in connection with securities of the mutual fund held in an account of a client of the participating dealer if the member knows or ought reasonably to know that the participating dealer was not required to make a suitability determination in respect of the client in connection with those securities..

Effective dates

5. (1) The provisions of this Instrument listed in column 1 of the following table come into force on the date set out in column 2 of the table:

Column 1 Provision of this Instrument	Column 2 Date
1, 2	December 31, 2020
3, 4	June 1, 2022

- (2) In Saskatchewan, despite subsection (1), if these regulations are filed with the Registrar of Regulations after the effective dates indicated in column 2, these regulations come into force on the day on which they are filed with the Registrar of Regulations.