

Note: [19 Sep 2024] – Proposed amendments to NI 41-101 arising from NI 81-106. Refer to Annex B-5 of the CSA Notice announcing proposed amendments to NI 81-106 dated 19 Sep 2024.

**PROPOSED AMENDMENTS TO
NATIONAL INSTRUMENT 41-101 *GENERAL PROSPECTUS REQUIREMENTS***

- 1. *National Instrument 41-101 General Prospectus Requirements is amended by this Instrument.***
- 2. *Subsection 4.1(2) is amended by replacing “management reports of fund performance” with “fund reports”.***
- 3. *Section 4.4 is amended***
 - (a) in subsection (1) by replacing “management report of fund performance” with “fund report”, and***
 - (b) in subsection (2) by replacing “management report of fund performance” with “fund report”.***
- 4. *Appendix F is amended***
 - (a) in subparagraph (ii) of paragraph (q) by replacing “management report of fund performance” with “fund report”, and***
 - (b) in subparagraph (iii) of paragraph (r) by replacing “management report of fund performance” with “fund report”.***
- 5. *Form 41-101F2 Information Required in an Investment Fund Prospectus is amended***
 - (a) in Item 1.15 by replacing “management report of fund performance” with “fund report” wherever it occurs,***
 - (b) in subsection (4) of Item 3.6 by replacing “the most recently filed fund annual management report of fund performance” with “previously filed annual fund reports”,***
 - (c) by replacing Item 9 with the following:***

Item 9: — Fund Report

9.1 — Fund Report

Unless the investment fund's most recently filed fund report is incorporated by reference under Item 37 or attached to the prospectus under Item 38, provide, under the heading "Fund Report", the disclosure required under Items 3 to 13 of Part A of

Form 81-106A for the period covered by the financial statements required under Item 38.,

- (d) *in Item 11.1 by replacing* “the most recently filed annual management report of fund performance” *with* “previously filed fund reports”,
- (e) *in Item 37.1 by replacing* “management report of fund performance” *with* “fund report” *wherever it occurs, and*
- (f) *by replacing Item 38.3 with the following:*

38.3 — Fund Reports

Unless incorporated by reference under Item 37, include in the prospectus the most recently filed interim fund report, if filed after the most recently filed annual fund report and include the most recently filed annual fund report..

6. Form 41-101F3 Information Required in a Scholarship Plan Prospectus is amended

- (a) *in subsection (1) of Item 4.1 of Part B by replacing* “management report of fund performance” *with* “fund report”,
- (b) *in subsection (2) of Item 15.1 of Part B by replacing* “management report of fund performance” *with* “fund report”, *and*
- (c) *in Item 11.1 of Part C by replacing* “the most recently filed annual management report of fund performance” *with* “previously filed fund reports”.

7. Form 41-101F4 Information Required in an ETF Facts Document is amended

- (a) *in subsection (1) of Item 2 of Part I by replacing* “Management expense ratio (MER)” *with* “Fund expense ratio (FER)” *in the table,*
- (b) *by replacing subsection (3) of the Instructions under Item 2 of Part I with the following:*

(3) Use the fund expense ratio (FER) determined by adding the management expense ratio (MER) disclosed in the most recently filed fund report for the ETF and the trading expense ratio (TER) disclosed in the most recently filed fund report for the ETF. The MER must be net of fee waivers or absorptions and, despite subsection 15.1(2) of National Instrument 81-106 *Investment Fund Continuous Disclosure*, need not include any additional disclosure about the waivers or absorptions. For a newly established ETF that has not yet filed a fund report, state that the MER is not available because it is a new ETF.,

- (c) *in subsection (9) of the Instructions under Item 3 of Part I by replacing “filed management report of fund performance” with “prepared quarterly portfolio disclosure”,*
- (d) *in subsection (11) of the Instructions under Item 3 of Part I by replacing “management report of fund performance” with “quarterly portfolio disclosure”,*
- (e) *in subsection (2) of Item 1.3 of Part II by replacing “management report of fund performance” with “fund report” and “ETF expenses” on the left side of the table with “Fund expense ratio (FER)”,*
- (f) *in subsection (3) of Item 1.3 of Part II by replacing “management report of fund performance” with “fund report” and “ETF’s expenses were” with “ETF’s FER was”,*
- (g) *in subsection (4) of Item 1.3 of Part II by replacing “management report of fund performance” with “fund report”,*
- (h) *by replacing subsection (2) of the Instructions under Item 1.3 of Part II with the following:*
- (2) Use the management expense ratio (MER) disclosed in the most recently filed fund report for the ETF. The MER must be net of fee waivers or absorptions and, despite subsection 15.1(2) of National Instrument 81-106 *Investment Fund Continuous Disclosure*, need not include any additional disclosure about the waivers or absorptions. For a newly established ETF that has not yet filed a fund report, state that the MER is not available because it is a new ETF. If applicable, include a reference to any fixed administration fees in the management expense ratio description required in the table under Item 1.3(2) of Part II of this Form.,
- (i) *by replacing subsection (3) of the Instructions under Item 1.3 of Part II with the following:*
- (3) Use the trading expense ratio (TER) disclosed in the most recently filed fund report for the ETF.,
- (j) *by replacing subsection (4) of the Instructions under Item 1.3 of Part II with the following:*
- (4) Use the FER disclosed in Item 2 of Part I of this Form. Use a bold font or other formatting to indicate that the FER represents the total of all ongoing expenses set out in the chart and does not represent a separate expense charged to the ETF., *and*
- (k) *in subsection (5) of the Instructions under Item 1.3 of Part II by replacing “management report of fund performance” with “fund report”.*

Transition

8. Before [●+1 year and 9 months], if an investment fund has not filed an annual fund report and an interim fund report, the reference to “fund reports” in subsection 4.1(2) of National Instrument 41-101 *General Prospectus Requirements* must be read as a reference to “fund reports and management reports of fund performance”.
9. Before [●+1 year and 9 months], if an investment fund has not filed an annual fund report and an interim fund report, a reference to “fund report” in subsections 4.4(1) and subsection 4.4(2) of National Instrument 41-101 *General Prospectus Requirements* must be read as a reference to “fund report or management report of fund performance, as applicable”.
10. Before [●+1 year and 9 months], if an investment fund has not filed an annual fund report or interim fund report, a reference to “fund report” in subparagraph (q)(ii) or subparagraph (r)(iii) in Appendix F of National Instrument 41-101 *General Prospectus Requirements* must be read as a reference to “management report of fund performance”.
11. Before [●+1 year and 9 months], if an investment fund has not filed an annual fund report, a reference to “annual fund report” in Item 1.15 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* must be read as a reference to “annual management report of fund performance”.
12. Before [●+1 year and 9 months], if an investment fund has not filed an interim fund report, a reference to “interim fund report” in Item 1.15 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* must be read as a reference to “interim management report of fund performance”.
13. Before [●+6 years], if an investment fund has not filed 5 annual fund reports, a reference to “previously filed annual fund reports” in subsection 3.6(4) of Form 41-101F2 *Information Required in an Investment Fund Prospectus* must be read as a reference to “the most recently filed annual management report of fund performance” or “previously filed annual fund reports and the most recently filed annual management report of fund performance”, as applicable.
14. Before [●+9 months], if an investment fund has not filed a fund report, Item 9 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* must be read as the following:

ITEM 9: MANAGEMENT DISCUSSION OF FUND PERFORMANCE

9.1 Management Discussion of Fund Performance

Unless the investment fund's most recently filed management report of fund performance is incorporated by reference under Item 37 or attached to the prospectus under Item 38, provide, under the heading “Management Discussion of Fund Performance”,

management's discussion of fund performance in accordance with sections 2.3, 2.4, 2.5, 3, 4, 5 and 6 of Part B of Form 81-106F1 as it was in force on [●-1], for the period covered by the financial statements required under Item 38.

15. Before [●+5 years and 9 months], if an investment fund has not filed 5 annual fund reports, a reference to "previously filed annual fund reports" in Item 11.1 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* must be read as a reference to "the most recently filed annual management report of fund performance" or "previously filed annual fund reports and the most recently filed annual management report of fund performance", as applicable.
16. Before [●+1 year and 9 months], if an investment fund has not filed an annual fund report, a reference to "annual fund report" in Item 37.1 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* must be read as a reference to "annual management report of fund performance".
17. Before [●+1 year and 9 months], if an investment fund has not filed an interim fund report, a reference to "interim fund report" in Item 37.1 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* must be read as a reference to "interim management report of fund performance".
18. Before [●+1 year and 9 months], if an investment fund filed an interim fund report after the most recently filed annual management report of fund performance, Item 38.3 of Form 41-101F2 *Information Required in an Investment Fund Prospectus* must be read as the following:

38.3 Fund Report and Management Report of Fund Performance

Unless incorporated by reference under Item 37, include in the prospectus the most recently filed interim fund report, if filed after the most recently filed annual management report of fund performance and include the most recently filed annual management report of fund performance.

19. Before [●+1 year and 9 months], if a scholarship plan has not filed an annual fund report, a reference to "annual fund report" in subsections 4.1(1) and 15.1(2) of Part B of Form 41-101F3 *Information Required in a Scholarship Plan Prospectus* must be read as a reference to "annual management report of fund performance".
20. Before [●+5 years and 9 months], if a scholarship plan has not filed 5 annual fund reports, a reference to "previously filed fund reports" in item 11.1 of Part C of Form 41-101F3 *Information Required in a Scholarship Plan Prospectus* must be read as a reference to "the most recently filed annual management report of fund performance" or "the most recently filed annual management report of fund performance and previously filed annual fund reports", as applicable.

21. Before [●+1 year and 3 months], if an ETF has not filed a fund report, the first reference to “fund report” in subsection (3) of the Instructions under Item 2 of Part I of Form 41-101F4 *Information Required in an ETF Facts Document* must be read as a reference to “management report of fund performance”.
22. Before [●+1 year and 3 months], if an ETF has not filed a fund report, the second reference to “fund report” in subsection (3) of the Instructions under Item 2 of Part I of Form 41-101F4 *Information Required in an ETF Facts Document* must be read as a reference to “management report of fund performance”.
23. Before [●+9 months], if an ETF has not filed a fund report or a management report of fund performance, the third reference to “fund report” in subsection (3) of the Instructions under Item 2 of Part I of Form 41-101F4 *Information Required in an ETF Facts Document* must be read as a reference to “fund report or a management report of fund performance”.
24. Before [●+1 year], if an ETF invests substantially all of its assets directly or indirectly (through the use of derivatives) in securities of one other mutual fund, the other mutual fund has not prepared a fund report and the other mutual fund’s most recently filed management report of fund performance was filed after the other mutual fund’s most recent quarterly portfolio disclosure was prepared, the reference to “prepared quarterly portfolio disclosure” in subsection (9) of the Instructions under Item 3 of Part I of Form 41-101F4 *Information Required in an ETF Facts Document* must be read as a reference to “filed management report of fund performance”.
25. Before [●+1 year], if the disclosure relating to the investment portfolio subgroup breakdown of an ETF contained in the ETF’s management report of fund performance is more recent than the disclosure relating to the investment portfolio subgroup breakdown of the ETF contained in its quarterly portfolio disclosure, the reference to “quarterly portfolio disclosure” in subsection (11) of the Instructions under Item 3 of Part I of Form 41-101F4 *Information Required in an ETF Facts Document* must be read as a reference to “management report of fund performance”.
26. Before [●+1 year and 3 months], if an ETF has not filed a fund report, the reference to “fund report” in subsections (2) and (3) of Item 1.3 of Part II of Form 41-101F4 *Information Required in an ETF Facts Document* must be read as a reference to “management report of fund performance”.
27. Before [●+1 year and 3 months], if an investment fund complies with Parts 4, 5, 6 and 7 of National Instrument 81-106 *Investment Fund Continuous Disclosure* as they were in force on [●-1], subsections (2) and (3) of Item 1.3 of Part II of Form 41-101F4 *Information Required in an ETF Facts Document* as amended by this Instrument do not apply to the investment fund.
28. Before [●+1 year and 3 months], if an ETF has not filed a fund report, the reference to “fund report” in subsection (4) of Item 1.3 of Part II of Form 41-101F4 *Information Required in an*

ETF Facts Document must be read as a reference to “management report of fund performance”.

29. Before [●+1 year and 3 months], if an ETF has not filed a fund report, the reference to “fund report” in subsection (3) of the Instructions under Item 1.3 of Part II of Form 41-101F4 *Information Required in an ETF Facts Document* must be read as a reference to “management report of fund performance”.
30. Before [●+1 year and 3 months], if an investment fund complies with Parts 4, 5, 6 and 7 of National Instrument 81-106 *Investment Fund Continuous Disclosure* as they were in force on [●-1], the following provisions of Form 41-101F4 *Information Required in an ETF Facts Document* as amended by this Instrument do not apply to the investment fund:
- (a) Item 2 of Part I;
 - (b) subsection (3) of the Instructions under Item 2 of Part I;
 - (c) subsections (2) and (3) of Item 1.3 of Part II;
 - (d) subsections (2), (3) and (4) of the Instructions under Item 1.3 of Part II.
31. Before [●+1 year and 3 months], if an ETF has not filed a fund report, the reference to “fund report” in subsection (5) of the Instructions under Item 1.3 of Part II of Form 41-101F4 *Information Required in an ETF Facts Document* must be read as a reference to “management report of fund performance”.

Effective Date

32. (1) This Instrument comes into force on [●].
- (2) In Saskatchewan, despite subsection (1), if this Instrument is filed with the Registrar of Regulations after [●], this Instrument comes into force on the day on which it is filed with the Registrar of Regulations.