

Investment Management

**Investment Restrictions for
Public Investment Funds**
At a Glance!

January 3, 2019

With the coming into force of expected amendments to National Instrument 81-102 *Investment Funds* on January 3, 2019, most public investment funds will have varying degrees of additional investment flexibility, although closed-end funds [non-redeemable investment funds] that offer new securities after October 4, 2018 will have new restrictions to follow. The chart below summarizes the principal investment restrictions that will apply to each category of NI 81-102 investment fund on January 3, 2019. Changes to previously existing regulation are indicated in bold type.

This *At a Glance* summary has been prepared by the Investment Management Group of Borden Ladner Gervais LLP as a quick guide to the new investment restrictions provided for in NI 81-102. Readers are encouraged to consult with their usual BLG lawyer to understand what will apply to their funds and what changes should be made. NI 81-102 provides more detail (and in some cases considerably more complex detail) than we have outlined in this *At a Glance* summary, and, it is essential that you ensure an appropriate understanding of the restrictions.

Investment Restriction	Alternative mutual funds	Conventional mutual funds and ETFs	Non-redeemable investment funds (closed-end funds)
Concentration restriction	20% of NAV, subject to carve-outs	10% of NAV, subject to carve-outs	20% of NAV, subject to carve-outs
Control restriction	No more than 10% of votes / equity securities of an issuer		
Restrictions on types of investments	No investment in: <ul style="list-style-type: none"> • real property • mortgages other than guaranteed mortgages • loan syndications/ participations if any responsibility for administering the loan 	No investment in: <ul style="list-style-type: none"> • real property • mortgages other than guaranteed mortgages • precious metals other than gold, silver, platinum or palladium (up to 10% of NAV) • physical commodities other than permitted precious metals (waived for precious metals funds) • loan syndications/ participations if any responsibility for administering the loan 	No investment in: <ul style="list-style-type: none"> • real property • mortgages other than guaranteed mortgages • loan syndications/ participations if any responsibility for administering the loan
Illiquid assets	10% of NAV at time of investment (hard cap of 15%)		20% of NAV at time of investment (hard cap of 25%)

Investment Restriction	Alternative mutual funds	Conventional mutual funds and ETFs	Non-redeemable investment funds (closed-end funds)
Investments in other funds All underlying funds must be subject to NI 81-102, other than “index participation units”.	<ul style="list-style-type: none"> • 100% in underlying alternative mutual funds, non-redeemable funds, conventional funds and ETFs • 100% in “index participation units” • “Three-tier” fund of fund investing restrictions (waived for money market funds and IPU)s) 	<ul style="list-style-type: none"> • 10% in underlying alternative mutual funds and non-redeemable funds (with “three-tier” restrictions) • 100% in underlying conventional funds, ETFs and “index participation units” • “Three-tier” fund of fund investing restrictions (waived for money market funds and IPU)s) 	<ul style="list-style-type: none"> • 100% in underlying alternative mutual funds • 100% in underlying non-redeemable funds, conventional funds and ETFs • 100% in “index participation units” • “Three-tier” fund of fund investing restrictions (waived for money market funds and IPU)s)
Borrowing	Limited to 50% of NAV, subject to restrictions	Limited to 5% of NAV, subject to restrictions	Limited to 50% of NAV, subject to restrictions
Short-selling	<ul style="list-style-type: none"> • Up to 50% of NAV, with single issuer limited to 10% of NAV (government securities excluded) • No cash cover required • Single borrowing agent exposure limit of 25% of NAV, subject to exceptions 	<ul style="list-style-type: none"> • Up to 20% of NAV, with single issuer limited to 5% of NAV • 150% cash cover required in all cases • Single borrowing agent exposure limit of 10% of NAV 	<ul style="list-style-type: none"> • Up to 50% of NAV, with single issuer limited to 10% of NAV (government securities excluded) • No cash cover required • Single borrowing agent exposure limit of 25% of NAV, subject to exceptions
Total borrowing and short-selling	Aggregate limit of 50% of NAV at all times	N/A	Aggregate limit of 50% of NAV at all times
Derivatives for hedging and non-hedging purposes	<ul style="list-style-type: none"> • No designated rating requirements for the derivative or counterparty • Counterparty exposure limit of 10% of NAV for derivatives, unless the derivative is a cleared derivative or the counterparty has a designated rating 	<ul style="list-style-type: none"> • Designated rating requirements for the derivative or counterparty • Counterparty exposure limit of 10% of NAV, unless the derivative is a cleared derivative or the counterparty has a designated rating 	<ul style="list-style-type: none"> • No designated rating requirements for the derivative or counterparty • Counterparty exposure limit of 10% of NAV for derivatives, unless the derivative is a cleared derivative or the counterparty has a designated rating
Derivatives for non-hedging purposes	Exempt	Cover required for specified derivatives transactions Limited commodities derivatives permitted	Exempt

Investment Restriction	Alternative mutual funds	Conventional mutual funds and ETFs	Non-redeemable investment funds (closed-end funds)
Total borrowing, short selling and derivatives limits	Cannot exceed 300% of NAV (however the notional amount of specified derivatives used for hedging purposes is not included) – must be monitored daily	Leverage generally prohibited	Cannot exceed 300% of NAV (however the notional amount of specified derivatives used for hedging purposes is not included) – must be monitored daily
Securities lending, repurchase and reverse repurchase arrangements	Permitted, subject to conditions		
Other Investment Practices	Prohibitions on underwriting, guaranteeing securities or obligations of others, purchasing securities other than through market facilities (unless purchase price is market price or transaction is an arm's length transaction).		

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