

## **LIST OF SECURITIES DESIGNATED TO BE EXCLUDED FROM THE DEFINITION OF AN “EXEMPT EXCHANGE-TRADED FUND”**

Effective January 8, 2010, the Universal Market Integrity Rules (“UMIR”) were amended to replace the term “Exchange-traded Fund” with “Exempt Exchange-traded Fund”.<sup>1</sup> An “Exempt Exchange-traded Fund” is defined as:

a mutual fund for the purposes the purposes of applicable securities legislation, the units of which:

- (a) are a listed security or a quoted security; and
- (b) are in continuous distribution in accordance with applicable securities legislation but does not include a mutual fund that has been designated by the Market Regulator to be excluded from this definition.

**To date, IIROC has not designated any mutual fund as being excluded from the definition of an “Exempt Exchange-traded Fund”.** The factors which IIROC may consider in making such a designation are set out in Part 2 of Policy 1.1 of UMIR. In particular, a mutual fund may be designated if the IIROC determines that the trading price of units of the fund may be susceptible to manipulation due to a particular feature of the mutual fund. Factors which IIROC would take into account in making a designation to exclude a particular mutual fund would be:

- the lack of liquidity or public float of the security (or the underlying securities which comprise the portfolio of the mutual fund);
- the absence of the ability to redeem units at any time for a “basket” of the underlying securities in addition to cash;
- the absence of the ability to exchange a “basket” of the underlying securities at any time for units of the fund;
- the fact that the fund does not frequently make a net asset valuation calculation publicly available; and
- the fact that there are no derivatives based on units of the fund, the underlying index or the underlying securities listed on a marketplace.

None of these additional five factors would be determinative in and of itself and each security would be evaluated on its own merits.

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<sup>1</sup> See IIROC Notice 10-0006 – Rule Notice – Notice of Approval – UMIR – *Provisions Respecting Trading During Certain Securities Transactions* (January 8, 2010).