

**IN THE MATTER OF THE *SECURITIES ACT*
RSO 1990, C S.5**

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**IN THE MATTER OF CIBC WORLD MARKETS INC., CIBC INVESTOR SERVICES
INC. and CIBC SECURITIES INC.**

SETTLEMENT AGREEMENT BETWEEN STAFF OF THE COMMISSION

- and -

**CIBC WORLD MARKETS INC., CIBC INVESTOR SERVICES INC.
and CIBC SECURITIES INC.**

PART I. – INTRODUCTION

1. The Ontario Securities Commission (the “Commission”) will issue a Notice of Hearing to announce that it will hold a hearing to consider whether, pursuant to subsections 127(1) and (2) of the *Securities Act*, R.S.O. 1990, c. S-5, as amended (the “Act”), it is in the public interest for the Commission to make certain orders in respect of CIBC World Markets Inc. (“CIBC WMI”), CIBC Investor Services Inc. (“CIBC ISI”) and CIBC Securities Inc. (“CIBC SI”) (together, the “CIBC Dealers”).
2. CIBC WMI is a corporation incorporated pursuant to the laws of Ontario. It is registered with the Commission as an investment dealer and is a member of the Investment Industry Regulatory Organization of Canada (“IIROC”). The references to CIBC WMI below are restricted to its retail brokerage division, CIBC Wood Gundy.
3. Each of CIBC ISI and CIBC SI is a corporation incorporated pursuant to the laws of Canada. CIBC ISI is a member of IIROC and is registered with the Commission as an investment dealer. The references to CIBC ISI below are restricted to accounts related to its advisory brokerage division, CIBC Imperial Investor Services. CIBC SI is a member of the Mutual Fund Dealers Association (“MFDA”) and is registered with the Commission as a mutual fund dealer. Each of the CIBC Dealers is a subsidiary of the Canadian Imperial Bank of Commerce (“CIBC”). CIBC is also a signatory to this agreement for the sole purpose of making any payments relating to CIBC SI.
4. Commencing in March 2015, the CIBC Dealers self-reported to Staff of the Commission (“Commission Staff”) the matters described in Part III below. During Commission Staff’s investigation of these matters, the CIBC Dealers provided prompt, detailed and candid co-operation to Commission Staff.
5. As summarized at paragraph 8 below and more fully described in Part III below, it is Commission Staff’s position that there were inadequacies in the CIBC Dealers’ systems of controls and supervision which formed part of their compliance systems (the “Control

and Supervision Inadequacies”) which resulted in certain clients paying, directly or indirectly, excess fees that were not detected or corrected by the CIBC Dealers in a timely manner.

PART II. – JOINT SETTLEMENT RECOMMENDATION

6. Commission Staff and the CIBC Dealers have agreed to a settlement of the proceeding initiated in respect of the CIBC Dealers by Notice of Hearing dated October 25, 2016 (the “Proceeding”) based on the terms and conditions set out in this settlement agreement (the “Settlement Agreement”). Commission Staff have consulted with IIROC Staff and MFDA Staff in relation to the underlying facts which are the subject matter of this Settlement Agreement.
7. Pursuant to this Settlement Agreement, Commission Staff agree to recommend to the Commission that the Proceeding be resolved and disposed of in accordance with the terms and conditions contained herein.
8. It is Commission Staff’s position that:
 - (a) the statement of facts set out by Commission Staff in Part III below, which is based on an investigation carried out by Commission Staff following the self-reporting by the CIBC Dealers, is supported by the evidence reviewed by Commission Staff and the conclusions contained in Part III are reasonable; and
 - (b) it is in the public interest for the Commission to approve this Settlement Agreement, having regard to the following considerations:
 - (i) Commission Staff’s allegations are that each of the CIBC Dealers failed to establish, maintain and apply procedures to establish controls and supervision:
 - A. sufficient to provide reasonable assurance that the CIBC Dealers, and each individual acting on behalf of the CIBC Dealers, complied with securities legislation, including the requirement to deal fairly with clients with regard to fees; and
 - B. that were reasonably likely to identify the non-compliance described in A. above at an early stage that would have allowed the CIBC Dealers to correct the non-compliant conduct in a timely manner;
 - (ii) Commission Staff do not allege, and have found no evidence of dishonest conduct by the CIBC Dealers;
 - (iii) the CIBC Dealers discovered and self-reported the Control and Supervision Inadequacies to Commission Staff;

- (iv) during the investigation of the Control and Supervision Inadequacies following the self-reporting by the CIBC Dealers, the CIBC Dealers provided prompt, detailed and candid cooperation to Commission Staff;
- (v) the CIBC Dealers had formulated an intention to pay appropriate compensation to clients and former clients when they self-reported the Control and Supervision Inadequacies to Commission Staff and, thereafter, the CIBC Dealers co-operated with Commission Staff with a view to providing appropriate compensation to clients and former clients who were harmed by any of the matters in Part III below, including the Control and Supervision Inadequacies (the “Affected Clients”);
- (vi) as part of this Settlement, the CIBC Dealers have agreed to pay appropriate compensation to the Affected Clients, in accordance with a plan submitted by the CIBC Dealers to Commission Staff and presented to the Commission (the “Compensation Plan”). As at the date of this Settlement Agreement, the CIBC Dealers anticipate paying compensation to Affected Clients of \$73,260,104 in the aggregate in respect of the Control and Supervision Inadequacies;
- (vii) the Compensation Plan prescribes, among other things:
 - A. the detailed methodology to be used for determining the compensation to be paid to the Affected Clients, including an amount representing the forgone opportunity cost in respect of compensation being paid by the CIBC Dealers to the Affected Clients;
 - B. the approach to be taken with regard to contacting and making payments to the Affected Clients;
 - C. the timing to complete the various steps included in the Compensation Plan;
 - D. a \$25 *de minimis* exception (the aggregate of such *de minimis* amounts as at the date of this settlement is approximately \$124,697 as compared to \$73,260,104 in compensation to be paid), which aggregate *de minimis* amount will be donated to United Way financial literacy programs;
 - E. the approach to be taken to any remaining funds that are not paid out to Affected Clients after the steps included in the Compensation Plan have been fully implemented. In that regard, the Compensation Plan provides that if the CIBC Dealers are not able to contact any former Affected Clients, notwithstanding the steps described in the Compensation Plan, each CIBC Dealer will use reasonable efforts to locate any Affected Clients who are entitled to payment of \$200 or more including directory searches,

internet searches, and the employment of third parties to assist in the search. If the CIBC Dealer determines that a client is deceased but does not know the identity of the personal representative of the client's estate, and the estate is entitled to more than \$400, the CIBC Dealer shall make reasonable efforts to identify the personal representative of the deceased client. Subject to any applicable unclaimed property legislation, any amounts remaining undistributed to non-located clients by December 31, 2018 will be donated to United Way financial literacy programs;

- F. the resolution of client inquiries through an escalation process; and
 - G. regular reporting to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission ("OSC Manager") detailing the CIBC Dealers' progress with respect to the implementation of the Compensation Plan, including with regard to the resolution of client inquiries;
- (viii) at the request of Commission Staff, each of the CIBC Dealers conducted an extensive review of its other businesses operating in Canada to identify whether there were any other instances of inadequacies in their systems of controls and supervision leading to clients directly paying excess fees, or indirectly paying excess fees on mutual funds managed by CIBC and CIBC Asset Management Inc. ("CAMI"), affiliates of the CIBC Dealers. Based on this review, the CIBC Dealers have advised Commission Staff that there are no other instances other than those instances of Control and Supervision Inadequacies described herein;
 - (ix) the CIBC Dealers are taking corrective action including implementing additional controls and supervision to address the Control and Supervision Inadequacies, by establishing procedures and implementing controls, supervisory and monitoring systems designed to prevent the re-occurrence of the Control and Supervision Inadequacies in the future (the "Enhanced Control and Supervision Procedures") and, as part of this Settlement Agreement, the CIBC Dealers are required to report to the OSC Manager on the development and implementation of the Enhanced Control and Supervision Procedures;
 - (x) the CIBC Dealers have agreed to make a voluntary payment of \$3,000,000 to be designated for allocation or use by the Commission in accordance with paragraphs (b)(i) or (ii) of subsection 3.4(2) of the Act;
 - (xi) the CIBC Dealers have agreed to make a further voluntary payment of \$50,000 to reimburse the Commission for costs incurred or to be incurred in accordance with subsection 3.4(2)(a) of the Act;

- (xii) the total agreed voluntary payment of \$3,050,000 will be paid by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement, which payment is conditional upon approval of this Settlement Agreement by the Commission; and
 - (xiii) the terms of this Settlement Agreement are appropriate in all the circumstances, including mitigating factors and the principles of general and specific deterrence. Commission Staff are of the view that the voluntary payments referred to above in addition to the amounts to be paid as compensation to Affected Clients by the CIBC Dealers will emphasize to the marketplace that Commission Staff expect registrants to have compliance systems with appropriate controls and supervision in place which:
 - A. provide reasonable assurance that registrants, and each individual acting on behalf of registrants, are complying with securities legislation, including the requirement to deal fairly with clients with regard to fees; and
 - B. are reasonably likely to allow registrants to identify and correct non-compliance with securities legislation in a timely manner.
9. The CIBC Dealers neither admit nor deny the accuracy of the facts or the conclusions of Commission Staff as set out in Part III of this Settlement Agreement.
10. The CIBC Dealers agree to this Settlement Agreement and to the making of an order in the form attached as Schedule "A".

PART III. – COMMISSION STAFF'S STATEMENT OF FACTS AND CONCLUSIONS

A. Overview

11. Commencing in March 2015, the CIBC Dealers self-reported the Control and Supervision Inadequacies to Commission Staff as described below.
12. Some CIBC WMI clients have fee-based accounts and are charged a fee for investment services received in respect of assets held in the account (the "Fee-Based Accounts"). The investment services fee is based on the client's assets under management (the "Account Fee").
13. The Control and Supervision Inadequacies are summarized as follows:
- (a) for some CIBC WMI clients with Fee-Based Accounts, certain non-exchange traded mutual funds and structured notes with embedded trailer fees held in Fee-Based Accounts were incorrectly included in Account Fee calculations, resulting in some clients paying excess fees during the period (i) January 1, 2002 to January 31, 2016 for mutual funds and (ii) January 1, 2006 to January 31, 2016 for structured notes;

- (b) for some CIBC WMI clients with Fee-Based Accounts, assets held in their Fee-Based Accounts included certain exchange traded funds (“ETFs”) with embedded trailer fees, resulting in some clients paying excess fees because CIBC WMI received trailer fees during the period January 1, 2006 to January 31, 2016 in addition to the Account Fee;
 - (c) for some CIBC WMI clients with Fee-Based Accounts, assets held in their Fee-Based Accounts included certain closed-end funds (“CEFs”) with embedded trailer fees, resulting in some clients paying excess fees because CIBC WMI received trailer fees during the period January 1, 2006 to January 31, 2016 in addition to the Account Fee; and
 - (d) beginning in August 2006, some clients of the CIBC Dealers were not advised that they qualified for a lower Management Expense Ratio (“MER”) class of an MER Differential Fund (as defined below) and indirectly paid excess fees when they invested in the higher MER class of the same mutual fund (the “MER Differential Issue”).
14. These Control and Supervision Inadequacies continued undetected for an extended period of time. The CIBC Dealers discovered the Control and Supervision Inadequacies following inquiries made and/or reviews conducted by the relevant CIBC Dealers.
15. As set out in greater detail below in the section entitled Mitigating Factors, the CIBC Dealers have taken and are taking several remedial steps in order to correct the Control and Supervision Inadequacies.
16. The CIBC Dealers have engaged an independent third party to assist them in identifying, calculating, and validating the amounts to be paid to Affected Clients.

B. The Control and Supervision Inadequacies

(a) Excess Account Fees Paid on Certain Mutual Funds and Structured Notes

17. For some of CIBC WMI’s clients who have Fee-Based Accounts, assets held in a Fee-Based Account included certain non-exchange traded mutual funds and structured notes which paid trailer fees paid by the manufacturer of such products to CIBC WMI. As part of its review relating to this matter, CIBC WMI identified that a number of these funds and notes had been incorrectly classified for fee-billing purposes during the period: (i) January 1, 2002 to January 31, 2016 for mutual funds and (ii) January 1, 2006 to January 31, 2016 for structured notes. These funds and notes were therefore incorrectly included in the calculation of the Account Fee in some Fee-Based Accounts and, as a result, some CIBC WMI clients were charged excess Account Fees. Specifically,
- (a) it was determined that CIBC WMI did not have adequate systems of internal controls and supervision in place to ensure that the incorrectly classified mutual funds and structured notes were classified correctly and excluded consistently from the calculation of the Account Fee;

- (b) it was determined that CIBC WMI's internal controls failed to detect this Control and Supervision Inadequacy in a timely manner; and
 - (c) CIBC WMI took immediate steps to ensure the incorrectly classified mutual funds and structured notes were classified correctly and excluded consistently from the calculation of the Account Fee on a going forward basis.
18. Upon identification of the issue described above, CIBC WMI took steps to determine the extent of the problem and how to compensate Affected Clients who paid excess Account Fees. CIBC WMI engaged an independent third party to identify, calculate and validate the amounts to be paid to Affected Clients as compensation for the excess Account Fees paid by them. Having taken the steps described above, CIBC WMI self-reported this Control and Supervision Inadequacy to Commission Staff. By January 31, 2016, CIBC WMI had corrected the classification errors that had occurred in an effort to address the issue and prevent its reoccurrence.
19. CIBC WMI has determined that, as a result of this Control and Supervision Inadequacy, approximately 21,621 client accounts were charged excess Account Fees during the period January 1, 2002 to January 31, 2016 on mutual funds and/or structured notes.
20. CIBC WMI has agreed to compensate the Affected Clients who held these securities in their Fee-Based Accounts during the relevant period in accordance with the Compensation Plan, which requires that CIBC WMI pay to the Affected Clients:
- (a) the excess Account Fee;
 - (b) an amount representing the applicable sales tax charged on the excess Account Fee; and
 - (c) an amount representing the forgone opportunity cost in respect of the excess Account Fee from the time the excess Account Fee was charged to October 31, 2016, based on a simple interest rate of 5% per annum calculated monthly (the "MF/SN Opportunity Cost").
21. Where Account Fees were undercharged to the client, the benefit of those undercharges will not be set off against any compensation amounts paid to the client. The undercharges will also not otherwise be charged to Affected Clients or any other clients.
22. As at the date of this Settlement Agreement, CIBC WMI has determined that the total amount to be paid to these Affected Clients pursuant to the Compensation Plan, inclusive of the MF/SN Opportunity Cost, is \$23,581,239.
- (b) Trailer Fees Received in Respect of Certain ETFs**
23. For some CIBC WMI clients with Fee-Based Accounts, assets held in the Fee-Based Account included certain trail version ETFs that were subject to an Account Fee, thereby resulting in some clients indirectly paying excess fees when CIBC WMI received trailer fees in addition to the Account Fee.

24. As part of its review, CIBC WMI identified instances during the period from January 1, 2006 to January 31, 2016 in which its clients had purchased trail version ETFs in Fee-Based Accounts. All of the securities in question were issued by third party issuers unrelated to CIBC WMI. Specifically,
- (a) it was determined that CIBC WMI did not have adequate systems of internal controls and supervision in place to ensure that clients were not subject, directly or indirectly, to trailer fees on ETFs in Fee-Based Accounts if the ETFs were subject to an Account Fee;
 - (b) it was determined that CIBC WMI's internal controls failed to identify this Control and Supervision Inadequacy in a timely manner; and
 - (c) as of January 31, 2016, CIBC WMI implemented steps to ensure that any trailer fees received for ETFs held in Fee-Based Accounts on or after January 31, 2016 for which Account Fees are charged will be reimbursed to the client.
25. CIBC WMI took steps to determine the extent of the problem and how to compensate Affected Clients. CIBC WMI self-reported this Control and Supervision Inadequacy to Commission Staff.
26. CIBC WMI has determined that, as a result of this Control and Supervision Inadequacy, approximately 981 client accounts were affected during the period January 1, 2006 to January 31, 2016.
27. CIBC WMI has agreed to compensate the Affected Clients who held these ETFs with trailer fees in their Fee-Based Accounts during the relevant period in accordance with the Compensation Plan, which requires that CIBC WMI pay to the Affected Clients:
- (a) an amount equal to the trailer fee received on these ETFs; and
 - (b) an amount representing the forgone opportunity cost in respect of this trailer fee from the time the trailer fee was received to October 31, 2016, based on a simple interest rate of 5% per annum calculated monthly (the "ETF Opportunity Cost").
28. As at the date of this Settlement Agreement, CIBC WMI has determined that the total amount to be paid to these Affected Clients pursuant to the Compensation Plan, inclusive of the ETF Opportunity Cost, is approximately \$275,852.
- (c) Trailer Fees Received in Respect of Certain CEFs**
29. As part of its review, CIBC WMI identified instances during the period from January 1, 2006 to January 31, 2016 in which its clients had purchased CEFs in Fee-Based Accounts where CIBC WMI received trailer fees from the issuer in addition to the Account Fee. All of the securities in question were issued by third party issuers unrelated to CIBC WMI.

30. In these instances, some CIBC WMI clients were charged an Account Fee in addition to an indirect trailer fee resulting in some clients indirectly paying an excess fee. Specifically,
 - (a) the calculation of fees for these CEFs did not exclude the trailer fee; and
 - (b) as of January 31, 2016, CIBC WMI implemented steps to ensure that any trailer fees received for CEFs held in Fee-Based Accounts on or after January 31, 2016 for which Account Fees are charged will be reimbursed to the client.
31. CIBC WMI has determined that, as a result of this Control and Supervision Inadequacy, approximately 35,286 client accounts were affected during the period January 1, 2006 to January 31, 2016.
32. CIBC WMI has agreed to compensate Affected Clients who held these CEFs in their Fee-Based Accounts during the relevant period in accordance with the Compensation Plan, which requires that CIBC WMI pay to the Affected Clients:
 - (a) an amount equal to the trailer fee received on these CEFs; and
 - (b) an amount representing the forgone opportunity cost in respect of this trailer fee from the time the fee was received to October 31, 2016, based on a simple interest rate of 5% per annum calculated monthly (the “CEF Opportunity Cost”).
33. As at the date of this Settlement Agreement, CIBC WMI has determined that the total amount to be paid to these Affected Clients pursuant to the Compensation Plan, inclusive of the CEF Opportunity Cost, is \$18,848,913.
 - (d) **Excess Indirect Fees paid by some clients of the CIBC Dealers who invested in the MER Differential Funds**
34. CIBC and CAMI, affiliates of the CIBC Dealers, manage a number of mutual funds that are available in different classes. For certain of these mutual funds, there are two (and for one fund type three) classes of the same mutual fund which differ solely in that the MER of one class, which has a higher minimum investment threshold, is lower than the MER of the other class (the “MER Differential Fund”).
35. The MER Differential Funds identified with instances of the Control and Supervision Inadequacies were:
 - a) CIBC Funds with a Class A and Premium Class where the MER differential varies from 59 to 88 basis points;
 - b) Axiom/Optimal Portfolios with a Class A, Select Class and Elite Class where the MER differential varies from 9 to 121 basis points; and
 - c) Renaissance Funds with Class A and Premium Class where the MER differential varies from 3 to 91 basis points.

36. Depending on the nature of the MER Differential Fund, the threshold for the lower MER class ranged between \$25,000 to \$100,000, while in some cases it was \$250,000 or \$500,000.
37. These MER Differential Funds were launched between 2006 and 2014.
38. The CIBC Dealers conducted a review of the MER Differential Funds to cover the period from August 21, 2006 to January 31, 2016 and determined that certain client accounts invested in an MER Differential Fund that appeared to qualify for the lower MER class of an MER Differential Fund were not invested in that class and therefore the holders of those client accounts did not benefit from its lower MER. Specifically,
 - (a) it was determined that the CIBC Dealers did not have adequate systems of internal controls and supervision in place to ensure that when a purchase or transfer-in of units in an MER Differential Fund, alone or combined with existing holdings of the MER Differential Fund, exceeded the minimum investment threshold required to qualify for the lower MER class of the same mutual fund, the client was advised consistently that a lower MER class of the same mutual fund was available to the client;
 - (b) it was determined that the CIBC Dealers' internal controls failed to identify this Control and Supervision Inadequacy in a timely manner; and
 - (c) the CIBC Dealers began to implement enhancements to their processes to help identify clients that meet the minimum thresholds required to qualify for the lower MER class.
39. The CIBC Dealers have determined that there are approximately 23,867 client accounts that ought to have been invested in the lower MER class of an MER Differential Fund but were not from August 21, 2006 to January 31, 2016.
40. In accordance with the Compensation Plan, in respect of those client accounts, the CIBC Dealers will pay Affected Clients:
 - (a) an amount representing the difference in the return that the Affected Client would have received on any share or unit held by the client of an MER Differential Fund had the client been invested in the lower MER class of that mutual fund in a timely manner upon becoming eligible to invest in the lower MER class held in that mutual fund for the entire period in which the Affected Client qualified for the lower MER class (the "Difference in Return"); and
 - (b) an amount representing the forgone opportunity cost in respect of the Difference in Return from the date of sale, conversion, transfer or disposition of any higher MER class of the MER Differential Funds for any periods up to October 31, 2016, based on a simple interest rate of 5% per annum except in respect of the CIBC and Renaissance Money Market and T-Bill Funds where the simple interest rate is the highest annual return on the lower MER class of these funds for the compensation period beginning August 2006 ("MER Opportunity Cost").

41. On this basis, the CIBC Dealers have determined that the total compensation to be paid to Affected Clients as a result of the MER Differential Issue is approximately \$30,554,102, inclusive of the MER Opportunity Cost, where applicable.
42. The CIBC Dealers have also taken steps to migrate Affected Clients who continue to hold eligible units of the higher MER class of an MER Differential Fund as of October 29, 2016 to units of the lower MER class of the same fund. These are one-time changes which the CIBC Dealers will describe in their communication to Affected Clients, and which are for the sole purpose of resolving the Control and Supervision Inadequacy related to the MER Differential Funds. Other than a difference in the fees, there are no material differences between the higher MER class units and lower MER class units of the same MER Differential Fund. Further, the migration process will result in Affected Clients receiving a trade confirmation and, where applicable, a Fund Facts document in respect of the lower MER class of the Fund to accompany the trade confirmation after the migration.

C. Breaches of Ontario Securities Law

43. In respect of the Control and Supervision Inadequacies, the CIBC Dealers failed to establish, maintain and apply procedures to establish controls and supervision:
 - (a) sufficient to provide reasonable assurance that the CIBC Dealers, and each individual acting on behalf of the CIBC Dealers, complied with securities legislation, including the requirement to deal fairly with clients with regard to fees; and
 - (b) that were reasonably likely to identify the non-compliance described in (a) above at an early stage that would have allowed the CIBC Dealers to correct the non-compliant conduct in a timely manner.
44. As a result, these instances of Control and Supervision Inadequacies constituted a breach of section 11.1 of National Instrument 31-103 – *Registration Requirements, Exemptions and Ongoing Registrant Obligations*. In addition, the failures in the CIBC Dealers' systems of controls and supervision associated with the Control and Supervision Inadequacies were contrary to the public interest.

D. Mitigating Factors

45. Commission Staff do not allege, and have found no evidence of dishonest conduct by the CIBC Dealers.
46. The CIBC Dealers discovered and self-reported the Control and Supervision Inadequacies to Commission Staff.
47. During the investigation of the Control and Supervision Inadequacies by Commission Staff following the self-reporting by the CIBC Dealers, the CIBC Dealers provided prompt, detailed and candid cooperation to Commission Staff.

48. The CIBC Dealers had formulated an intention to pay appropriate compensation to Affected Clients in connection with their self-reporting of the Control and Supervision Inadequacies to Commission Staff and, thereafter, the CIBC Dealers co-operated with Commission Staff with a view to providing appropriate compensation to the Affected Clients who were harmed by any of the Control and Supervision Inadequacies.
49. As part of this Settlement Agreement, the CIBC Dealers have agreed to pay appropriate compensation to the Affected Clients, in accordance with the Compensation Plan. As at the date of this Settlement Agreement, the CIBC Dealers anticipate paying compensation to Affected Clients of approximately \$73,260,104 in the aggregate in respect of the Control and Supervision Inadequacies.
50. The Compensation Plan prescribes, among other things:
 - (a) the detailed methodology to be used for determining the compensation to be paid to the Affected Clients, including an amount representing the forgone opportunity cost in respect of compensation being paid by the CIBC Dealers to the Affected Clients;
 - (b) the approach to be taken with regard to contacting and making payments to the Affected Clients;
 - (c) the timing to complete the various steps included in the Compensation Plan;
 - (d) a \$25 *de minimis* exception (the aggregate of such *de minimis* amounts as at the date of this settlement is approximately \$124,697 as compared to \$73,260,104 in compensation to be paid), which aggregate *de minimis* amount will be donated to United Way financial literacy programs;
 - (e) the approach to be taken to any remaining funds that are not paid out to Affected Clients after the steps included in the Compensation Plan have been fully implemented. In that regard, the Compensation Plan provides that if the CIBC Dealers are not able to contact any former Affected Clients, notwithstanding the steps described in the Compensation Plan, each CIBC Dealer will use reasonable efforts to locate any Affected Clients who are entitled to payment of \$200 or more including directory searches, internet searches, and the employment of third parties to assist in the search. If the CIBC Dealer determines that a client is deceased but does not know the identity of the personal representative of the client's estate, and the estate is entitled to more than \$400, the CIBC Dealer shall make reasonable efforts to identify the personal representative of the deceased client. Subject to any applicable unclaimed property legislation, any amounts remaining undistributed to non-located clients on December 31, 2018 will be donated to United Way financial literacy programs;
 - (f) the resolution of client inquiries through an escalation process; and

- (g) regular reporting to the OSC Manager detailing the CIBC Dealers' progress with respect to the implementation of the Compensation Plan, including with regard to the resolution of client inquiries.
51. At the request of Commission Staff, each of the CIBC Dealers conducted an extensive review of its other businesses operating in Canada to identify whether there were any other instances of inadequacies in their systems of controls and supervision leading to clients directly paying excess fees, or indirectly paying excess fees on mutual funds managed by CIBC and/or CAMI. Based on this review, the CIBC Dealers have advised Commission Staff that there are no instances of Control and Supervision Inadequacies other than those described herein.
 52. The CIBC Dealers are taking corrective action including implementing the Enhanced Control and Supervision Procedures and, as part of this Settlement Agreement, the CIBC Dealers are required to report to the OSC Manager on the development and implementation of the Enhanced Control and Supervision Procedures.
 53. The CIBC Dealers have agreed to make voluntary payments totaling \$3,050,000, as described in paragraphs 8(b)(x) and 8(b)(xi) above.
 54. The CIBC Dealers will pay the total agreed voluntary payment of \$3,050,000 by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement, which payment is conditional upon approval of this Settlement Agreement by the Commission.
 55. The terms of settlement are appropriate in all the circumstances, including mitigating factors and the principles of general and specific deterrence. Commission Staff are of the view that the voluntary payments referred to above in addition to the amounts to be paid as compensation to Affected Clients by the CIBC Dealers will emphasize to the marketplace that Commission Staff expect registrants to have compliance systems with appropriate controls and supervision in place which:
 - (a) provide reasonable assurance that registrants, and each individual acting on behalf of registrants, are complying with securities legislation, including the requirement to deal fairly with clients with regard to fees; and
 - (b) are reasonably likely to allow registrants to identify and correct non-compliance with securities legislation in a timely manner.

E. The CIBC Dealers' Undertaking

56. By signing this Settlement Agreement, the CIBC Dealers (and CIBC, for the sole purpose of making any payments relating to CIBC SI) undertake to:
 - (a) pay compensation to the Affected Clients in accordance with the Compensation Plan and to report to the OSC Manager in accordance with the Compensation Plan; and

- (b) make the voluntary payments referred to in paragraphs 8(b)(x) and 8(b)(xi) above (the “Undertaking”).

PART IV. – TERMS OF SETTLEMENT

57. The CIBC Dealers agree to the terms of settlement listed below and consent to the Order in substantially the form attached hereto, that provides that:

- (a) pursuant to subsection 127(1) of the Act, the Settlement Agreement is approved;
- (b) pursuant to subsection 127(2) of the Act, the approval of the Settlement Agreement is subject to the following terms and conditions:
 - (i) within 90 days of receiving comments from Commission Staff regarding the Enhanced Control and Supervision Procedures, the CIBC Dealers shall provide to the OSC Manager, revised written policies and procedures (the “Revised Policies and Procedures”) that, to the satisfaction of the OSC Manager, are responsive to any remaining issues raised by Commission Staff with regard to the CIBC Dealers’ policies and procedures to establish the Enhanced Control and Supervision Procedures (the “Remaining Issues”);
 - (ii) thereafter, the CIBC Dealers shall make such further modifications to their Revised Policies and Procedures as are required to ensure that the Revised Policies and Procedures address any Remaining Issues to the satisfaction of the OSC Manager;
 - (iii) within 8 months of receiving confirmation from the OSC Manager that the Revised Policies and Procedures satisfy the Remaining Issues raised by Commission Staff (the “Confirmation Date”), the CIBC Dealers shall submit a letter (the “Attestation Letter”), signed by the Ultimate Designated Person and the Chief Compliance Officer for each of the CIBC Dealers, to the OSC Manager, expressing their opinion on whether the Enhanced Control and Supervision Procedures were adequately followed, administered and enforced by the CIBC Dealer for the 6 month period commencing from the Confirmation Date;
 - (iv) the Attestation Letter shall be accompanied by a report which provides a description of the testing performed to support the conclusions contained in the Attestation Letter;
 - (v) the CIBC Dealers shall submit such additional reports as may be requested by the OSC Manager for the purpose of satisfying the OSC Manager that the opinion expressed in the Attestation Letter described in subparagraph (b)(iii) above is valid;

- (vi) any of the CIBC Dealers or Commission Staff may apply to the Commission for directions in respect of any issues that may arise with regard to the implementation of subparagraphs (b)(i) to (v) above; and
- (vii) the CIBC Dealers shall comply with the Undertaking.

58. The CIBC Dealers agree to make the voluntary payments described in paragraphs 8(b)(x) and 8(b)(xi) by wire transfer before the commencement of the hearing before the Commission to approve this Settlement Agreement.

PART V. – COMMISSION STAFF COMMITMENT

59. If the Commission approves this Settlement Agreement, Commission Staff will not commence any proceeding under Ontario securities law in relation to the Commission Staff's Statement of Facts and Conclusions set out in Part III of this Settlement Agreement, subject to the provisions of paragraph 60 below and except with respect to paragraph 51 above, nothing in this Settlement Agreement shall be interpreted as limiting Commission Staff's ability to commence proceedings against the CIBC Dealers in relation to any control and supervision inadequacies leading to clients paying excess fees other than in respect of the matters described herein.

60. If the Commission approves this Settlement Agreement and any of the CIBC Dealers fails to comply with any of the terms of this Settlement Agreement, Commission Staff may bring proceedings under Ontario securities law against the CIBC Dealers. These proceedings may be based on, but are not limited to, the Commission Staff's Statement of Facts and Conclusions set out in Part III of this Settlement Agreement as well as the breach of this Settlement Agreement.

PART VI. – PROCEDURE FOR APPROVAL OF SETTLEMENT

61. The parties will seek approval of this Settlement Agreement at a public hearing before the Commission scheduled for October 28, 2016, or on another date agreed to by Commission Staff and the CIBC Dealers, according to the procedures set out in this Settlement Agreement and the Commission's Rules of Procedure.

62. Commission Staff and the CIBC Dealers agree that this Settlement Agreement will form all of the evidence that will be submitted at the settlement hearing on the CIBC Dealers' conduct, unless the parties agree that additional evidence should be submitted at the settlement hearing.

63. If the Commission approves this Settlement Agreement, the CIBC Dealers agree to waive all rights to a full hearing, judicial review or appeal of this matter under the Act.

64. If the Commission approves this Settlement Agreement, the CIBC Dealers will not make any public statement that is inconsistent with this Settlement Agreement or with any additional evidence submitted at the settlement hearing. In addition, the CIBC Dealers agree that they will not make any public statement that there is no factual basis for this Settlement Agreement. However, nothing in this paragraph affects the CIBC Dealers'

testimonial obligations or the right to take such legal or factual positions as they think fit in other reviews or legal proceedings touching upon any matters that are the subject of this Settlement Agreement in which the Commission and/or Commission Staff is not a party or in which any provincial or territorial securities regulatory authority in Canada and/or its Commission Staff is not a party (“Other Proceedings”) or to make public statements in connection with Other Proceedings.

65. The CIBC Dealers will not use, in any proceeding, this Settlement Agreement or the negotiation or process of approval of this Settlement Agreement as the basis for any attack on the Commission’s jurisdiction, alleged bias, alleged unfairness, or any other remedies or challenges that may otherwise be available.

PART VII. – DISCLOSURE OF SETTLEMENT AGREEMENT

66. If the Commission does not approve this Settlement Agreement or does not make the order attached as Schedule “A” to this Settlement Agreement:
- (a) this Settlement Agreement and all discussions and negotiations between Commission Staff and the CIBC Dealers before the settlement hearing takes place will be without prejudice to Commission Staff and the CIBC Dealers; and
 - (b) Commission Staff and the CIBC Dealers will each be entitled to all available proceedings, remedies and challenges, including proceeding to a hearing of the allegations contained in the Statement of Allegations. Any proceedings, remedies and challenges will not be affected by this Settlement Agreement, or by any discussions or negotiations relating to this Settlement Agreement.
67. The parties will keep the terms of this Settlement Agreement confidential until the commencement of the public hearing to obtain approval of this Settlement Agreement by the Commission. The obligation to keep this Settlement Agreement confidential shall cease upon the commencement of the public settlement hearing. If, for whatever reason, the Commission does not approve this Settlement Agreement, the terms of this Settlement Agreement remain confidential indefinitely, unless Commission Staff and the CIBC Dealers otherwise agree or if required by law.

PART VIII. – EXECUTION OF SETTLEMENT AGREEMENT

68. This agreement may be signed in one or more counterparts which, together, constitute a binding agreement.
69. A facsimile copy or other electronic copy of any signature will be as effective as an original signature.

Dated this 24th day of October, 2016.

CIBC WORLD MARKETS INC.

By: "Peter Lee"

Peter Lee
Managing Director and Head,
CIBC Wood Gundy

CIBC SECURITIES INC.

By: "Steve Geist"

Steve Geist
Chairman

By: "Marybeth Jordan"

Marybeth Jordan
Director

**CANADIAN IMPERIAL BANK OF
COMMERCE**

By: "Steve Geist"

Steve Geist
Senior Executive Vice-President

CIBC INVESTOR SERVICES INC.

By: "Andrew Turnbull"

Andrew Turnbull
Managing Director, Head

By: "Marybeth Jordan"

Marybeth Jordan
Director

Commission Staff

By: "Jeff Kehoe"

Jeff Kehoe
Director, Enforcement Branch

SCHEDULE A



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue queen ouest
Toronto ON M5H 3S8

IN THE MATTER OF THE *SECURITIES ACT*, RSO 1990, c S.5

- AND -

IN THE MATTER OF CIBC WORLD MARKETS INC., CIBC INVESTOR SERVICES INC. AND CIBC SECURITIES INC.

ORDER (Subsections 127(1) and 127(2))

WHEREAS:

1. On October 25, 2016, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing in relation to the Statement of Allegations filed by Staff of the Commission (“Commission Staff”) on October 25, 2016 with respect to CIBC World Markets Inc., CIBC Investor Services Inc. and CIBC Securities Inc. (the “CIBC Dealers”);
2. the Notice of Hearing gave notice that on October 28, 2016, the Commission would hold a hearing to consider whether it is in the public interest to approve a settlement agreement between Commission Staff and the CIBC Dealers dated October 24, 2016 (the “Settlement Agreement”);
3. in the Statement of Allegations, Commission Staff alleged that there were inadequacies in the CIBC Dealers’ systems of controls and supervision which formed part of their compliance systems (the “Control and Supervision Inadequacies”) which resulted in clients of the CIBC Dealers paying excess fees that were not detected or corrected by the CIBC Dealers in a timely manner;

4. Commission Staff do not allege, and have found no evidence of dishonest conduct by the CIBC Dealers;
5. Commission Staff are satisfied that the CIBC Dealers discovered and self-reported the Control and Supervision Inadequacies to Commission Staff;
6. Commission Staff are satisfied that during their investigation of the Control and Supervision Inadequacies, the CIBC Dealers provided prompt, detailed and candid cooperation to Commission Staff;
7. Commission Staff are satisfied that the CIBC Dealers had formulated an intention to pay appropriate compensation to clients and former clients when they self-reported the Control and Supervision Inadequacies to Commission Staff;
8. as part of the Settlement Agreement, the CIBC Dealers undertake to:
 - (a) pay appropriate compensation to eligible clients and former clients who were harmed by the Control and Supervision Inadequacies (the “Affected Clients”) in accordance with a plan submitted by the CIBC Dealers to Commission Staff (the “Compensation Plan”) and to report to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission (the “OSC Manager”) in accordance with the Compensation Plan;
 - (b) make a voluntary payment of \$50,000 to reimburse the Commission for costs incurred or to be incurred by it, in accordance with subsection 3.4(2)(a) of the *Securities Act* (the “Act”); and
 - (c) make a further voluntary payment of \$3,000,000, to be designated for allocation or use by the Commission in accordance with paragraphs (b)(i) or (ii) of subsection 3.4(2) of the Act (the “Undertaking”);
9. the Commission has received the voluntary payments totaling \$3,050,000 in escrow pending approval of the Settlement Agreement;

10. the Commission reviewed the Settlement Agreement, the Notice of Hearing and the Statement of Allegations and heard submissions from counsel for the CIBC Dealers and from Commission Staff; and
11. the Commission is of the opinion that it is in the public interest to make this order;

IT IS ORDERED THAT:

- (a) pursuant to subsection 127(1) of the Act, the Settlement Agreement is approved;
- (b) pursuant to subsection 127(2) of the Act, the approval of the Settlement Agreement is subject to the following terms and conditions:
 - (i) within 90 days of receiving comments from Commission Staff regarding the procedures, controls and supervisory and monitoring systems designed to prevent the re-occurrence of the Control and Supervision Inadequacies in the future (the “Enhanced Control and Supervision Procedures”), the CIBC Dealers shall provide to the OSC Manager revised written policies and procedures (the “Revised Policies and Procedures”) that, to the satisfaction of the OSC Manager, are responsive to any remaining issues raised by Commission Staff with regard to the CIBC Dealers’ policies and procedures to establish the Enhanced Control and Supervision Procedures (the “Remaining Issues”);
 - (ii) thereafter, the CIBC Dealers shall make such further modifications to their Revised Policies and Procedures as are required to ensure that the Revised Policies and Procedures address any Remaining Issues to the satisfaction of the OSC Manager;
 - (iii) within 8 months of receiving confirmation from the OSC Manager that the Revised Policies and Procedures satisfy the Remaining Issues raised by Commission Staff (the “Confirmation Date”), the CIBC Dealers shall submit a letter (the “Attestation Letter”), signed by the Ultimate Designated Person and the Chief Compliance Officer for each of the CIBC

Dealers, to the OSC Manager, expressing their opinion as to whether the Enhanced Control and Supervision Procedures were adequately followed, administered and enforced by the CIBC Dealer for the 6 month period commencing from the Confirmation Date;

- (iv) the Attestation Letter shall be accompanied by a report which provides a description of the testing performed to support the conclusions contained in the Attestation Letter;
 - (v) the CIBC Dealers shall submit such additional reports as may be requested by the OSC Manager for the purpose of satisfying the OSC Manager that the opinion expressed in the Attestation Letter described in subparagraph (b)(iii) above is valid;
 - (vi) any of the CIBC Dealers or Commission Staff may apply to the Commission for directions in respect of any issues that may arise with regard to the implementation of subparagraphs (b)(i) to (v) above; and
 - (vii) the CIBC Dealers shall comply with the Undertaking; and
- (c) the voluntary payment referred to in paragraph 8(c) above is designated for allocation or use by the Commission in accordance with paragraphs (b)(i) or (ii) of subsection 3.4(2) of the Act.

DATED at Toronto, Ontario this 28th day of October, 2016
