



Ontario  
Securities  
Commission

Commission des  
valeurs mobilières  
de l'Ontario

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**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.**

**STATEMENT OF ALLEGATIONS  
OF STAFF OF THE ONTARIO SECURITIES COMMISSION**

Staff (“Commission Staff”) of the Ontario Securities Commission (the “Commission”) make the following allegations:

**I. THE RESPONDENTS**

1. CIBC World Markets Inc. (“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.

2. CIBC Investor Services Inc. (“CIBC ISI”) and CIBC Securities Inc. (“CIBC SI”) are each corporations 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 CIBC WMI, CIBC SI, and CIBC ISI (collectively the “CIBC Dealers”) is a subsidiary of the Canadian Imperial Bank of Commerce (“CIBC”).

## **II. THE CIBC DEALERS’ CONDUCT**

3. Commencing in March 2015, the CIBC Dealers self-reported to Commission Staff inadequacies in their 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.

4. Commission Staff do not allege, and have found no evidence of dishonest conduct by the CIBC Dealers.

5. 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. The CIBC Dealers are taking corrective action, including implementing additional controls, supervisory and monitoring systems, to prevent the re-occurrence of the Control and Supervision Inadequacies in the future.

6. 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”).

7. CIBC and CIBC Asset Management Inc. (“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 management expense ratio (“MER”) of one class, which has a higher minimum investment threshold, is lower than the MER of the other class (the “MER Differential Fund”).

8. 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 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 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 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 MER class of an MER Differential Fund and indirectly paid excess fees when they invested in the higher MER class of the same mutual fund.

### **III. BREACH OF ONTARIO SECURITIES LAW AND CONDUCT CONTRARY TO THE PUBLIC INTEREST**

9. 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.

10. 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.

11. Commission Staff reserve the right to make such other allegations as Commission Staff may advise and the Commission may permit.

**DATED** at Toronto, this 25<sup>th</sup> day of October, 2016.