

IN THE MATTER OF  
THE SECURITIES LEGISLATION  
OF ALL CANADIAN PROVINCES AND TERRITORIES

AND

IN THE MATTER OF  
THE MUTUAL RELIANCE REVIEW SYSTEM  
FOR EXEMPTIVE RELIEF APPLICATIONS

AND

IN THE MATTER OF  
CANADIAN IMPERIAL BANK OF COMMERCE

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of the provinces and territories of Canada (the "Jurisdictions") has received an application from Canadian Imperial Bank of Commerce ("CIBC") for a decision pursuant to the securities legislation of the Jurisdictions (the "Legislation") that certain provisions contained in the Legislation relating to (i) the form and content of a prospectus, (ii) the requirement to file an amendment to a preliminary prospectus or a prospectus, (iii) the form of prospectus certificates, (iv) the date by which the distribution of securities pursuant to a prospectus filed under the Legislation must cease, (v) the requirement, where applicable, to file a cross-reference sheet and (vi) the participation of independent underwriters where there is a conflict of interest involving connected and/or related issuers, shall not apply to the offerings (the "Offerings") of cash-settled derivative warrants of CIBC (the "Warrants") substantially in accordance with the short form prospectus distribution system procedures contemplated in draft National Instrument 44-101 - *Short Form Prospectus Distributions* ("Draft NI 44-101") and the shelf distribution system procedures contemplated in draft National Instrument 44-102 - *Shelf Distributions* ("Draft NI 44-102"), subject to the modifications proposed below;

AND WHEREAS the Canadian Securities Administrators (the "CSA") have proposed that (a) Draft NI 44-101, together with related forms, policies and rules, will replace National Policy 47 - *Prompt Offering Qualification System* ("NP 47"), and (b) Draft NI 44-102, together with its companion policy, will (i) replace the provisions relating to shelf distributions contained in National Policy 44 - *Rules for Shelf Prospectus Offerings and for Pricing Offerings After the Final Prospectus is Received* ("NP 44"), and (ii) together with draft National Instrument 44-103 - *Post-Receipt Pricing* and its companion policy, replace NP 44 in its entirety;

AND WHEREAS the CSA has adopted National Policy 43-201 - *Mutual Reliance Review System for Prospectuses and Annual Information Forms* ("NP 43-201"), which supplements those sections in Draft NI 44-101 (and its companion policy) that deal with the procedures for filing and review of short form prospectuses and initial AIFs, and has rescinded National Policy 1 (Clearance of National Issues);

AND WHEREAS the CSA has proposed that draft Multi-Jurisdictional Instrument 33-105 - *Underwriting Conflicts* ("Draft MJI 33-105") will, together with its companion policy, replace those provisions of the Legislation which regulate conflicts of interest in connection with connected and/or related issuers and the participation of independent underwriters in the case of such a conflict;

AND WHEREAS pursuant to the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS CIBC has represented to the Decision Makers that:

1. CIBC is a bank listed in Schedule I to the *Bank Act* (Canada).
2. CIBC is a reporting issuer in each of the Jurisdictions which have such a concept and is not on any list of defaulting reporting issuers maintained by the Decision Makers in such Jurisdictions.
3. CIBC is eligible to participate in the short form prospectus distribution system contemplated by Draft NI 44-101 and, as a result, is also eligible to participate in the shelf distribution system contemplated by Draft NI 44-102.
4. The Warrants will be offered pursuant to a final base shelf prospectus (the "Shelf Prospectus"), one or more shelf prospectus supplements for each series of Warrants (the "Prospectus Supplements") and further pricing shelf prospectus supplements for each tranche of Warrants within a particular series (the "Pricing Supplements"), and it is expected that all Warrants (other than "chooser" warrants) within a particular series will be fungible.
5. The Shelf Prospectus will describe (but will not contain an exhaustive list of) the types of underlying interests to which the Warrants may be linked (the "Underlying Interests") and the other variable attributes which may pertain to a particular series of Warrants.
6. Each Prospectus Supplement will describe the principal terms of a particular series of Warrants, including the type of Warrant (e.g., puts, calls, chooser warrants), the identity and description of the Underlying Interest, the Warrant style (e.g., American, European, Asian), the conditions for exercise (including expiry date), the formula used to calculate the cash settlement value and the settlement currency.
7. Each Pricing Supplement will contain additional information ("Pricing Supplement Information") about a particular tranche of Warrants within a series, including the issue price and the issue date for the Offering of the tranche.
8. The Warrants will be created and issued under the terms of a master warrant agency agreement to be entered into between CIBC Mellon Trust Company, as warrant agent, and CIBC, which indenture will be supplemented by series warrant indentures which will be executed by such parties in connection with each series and tranche thereof.

9. CIBC proposes to distribute the Warrants pursuant to the short form distribution system procedures contemplated in Draft NI 44-101 and the shelf distribution system procedures set out in Draft NI 44-102 and in compliance with the provisions of Draft MJI 33-105 regarding underwriting conflicts, with the following variations and such other variations as the Director may permit:

(a) notwithstanding the provisions of sections 4.1(1) and 4.1(2)(b) of Draft NI 44-102, the undertaking which is required by section 4.1(1) shall state that, and the pre-clearance procedures to be followed by CIBC in connection with Offerings involving novel Warrants shall require that (I) CIBC will not distribute under the base shelf prospectus Warrants that, at the time of distribution, are novel, unless either (i) the regulator has confirmed his or her acceptance of each draft shelf prospectus supplement in substantially final form or each shelf prospectus supplement in final form, or (ii) 12 days have elapsed since the date of delivery of each draft shelf prospectus supplement in substantially final form to the regulator and the regulator has not provided written comments on the draft shelf prospectus supplement; (II) at the time a draft shelf prospectus supplement in substantially final form is delivered to the regulator as contemplated under (I) above, CIBC will reference this decision in a covering letter; and (III) CIBC will comply with the other provisions of section 4.1 of Draft NI 44-102;

(b) notwithstanding the provisions of section 5.4 and section 5.5(5) of Draft NI 44-102, the Shelf Prospectus need not set forth the aggregate dollar amount of Warrants that may be raised under the Shelf Prospectus;

(c) notwithstanding the provisions of section 6.3(1)3(b) of Draft NI 44-102, a Prospectus Supplement may contain a certificate in accordance with method 1 notwithstanding that the Shelf Prospectus contains a certificate in accordance with method 2 and, in such case, no certificate will be required in any Pricing Supplement in respect of the same series of Warrants as such Prospectus Supplement;

(d) CIBC and CIBC World Markets Inc. will not be required to comply with the provisions of the Legislation that regulate conflicts of interest in connection with connected and/or related issuers and the participation of independent underwriters in the case of such a conflict provided that CIBC and CIBC World Markets Inc. will comply with the provisions of Draft MJI 33-105 as set out in this Decision Document;

(e) notwithstanding the provisions of Section 6.4(2) of Draft NI 44-102, each Prospectus Supplement and Pricing Supplement in respect of a particular series of Warrants will be filed within two business days after the date the Prospectus Supplement or Pricing Supplement, as the case may be, was first used; and

(f) notwithstanding the provisions of Section 6.7 of Draft NI 44-102, there shall be no requirement to send or deliver the Pricing Supplement to a purchaser at the

time that the Shelf Prospectus and the applicable Prospectus Supplement in respect of a series of Warrants are sent or delivered to such purchaser, provided that, once the Pricing Supplement is available, if (i) the Shelf Prospectus and the applicable Prospectus Supplement have not been previously sent or delivered to such purchaser, or (ii) the Shelf Prospectus or the applicable Prospectus Supplement has been amended at any time since they were sent or delivered to such purchaser, the Pricing Supplement will be sent or delivered to such purchaser together with the Shelf Prospectus and the applicable Prospectus Supplement, and, for greater certainty, the foregoing does not relieve CIBC from the obligation to send or deliver to purchasers the Pricing Supplement, if available, at the time the Shelf Prospectus and the applicable Prospectus Supplement are delivered to purchasers.

10. The Warrants will be sold by CIBC World Markets Inc. and at least one other dealer registered under the Legislation as broker, investment dealer and/or securities dealer, either on a firm commitment basis or on a best efforts basis, as specified in the Prospectus Supplement in respect of a particular series of Warrants.

11. CIBC World Markets Inc. is an indirect wholly-owned subsidiary of CIBC.

AND WHEREAS pursuant to the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS the Decision Makers are of the opinion that it would not be prejudicial to the public interest to make the Decision;

THE DECISION of the Decision Makers pursuant to the Legislation is that:

(a) The following requirements or provisions contained in the Legislation shall not apply in connection with the Offerings:

(i) any provision in the Legislation relating to the form and content of the Shelf Prospectus, the Prospectus Supplements or the Pricing Supplements;

(ii) any requirement in the Legislation to file an amendment to the preliminary base shelf prospectus or final base shelf prospectus;

(iii) any provision in the Legislation relating to the form of a certificate of an issuer, promoter or underwriter to be contained in or filed with the Shelf Prospectus, the Prospectus Supplements or the Pricing Supplements;

(iv) any provision in the Legislation relating to the date by which a distribution of Warrants pursuant to the Shelf Prospectus, the

Prospectus Supplements or the Pricing Supplements must cease;  
and

(v) the requirement in Alberta and Manitoba to file a cross-reference sheet;

(b) NP 44 and NP 47 shall not apply to the Offerings;

(c) any requirements or provisions of the Legislation which (i) conflict with Draft NI 44-101 or Draft NI 44-102 shall not apply to the Offerings and (ii) are modified by Draft NI 44-101 or Draft 44-102 shall apply to the Offerings only in such modified form; and

(d) this decision shall continue to be operative until and shall expire upon the date which is 24 months after the date of the receipt for the Shelf Prospectus despite the entry into force of Draft NI 44-101, Draft NI 44-102 and Draft MJI 33-105 in the form currently proposed or in an amended form.

PROVIDED that, in each case, the Offerings comply with the provisions of, and that receipts are issued for the preliminary base shelf prospectus and final base shelf prospectus filed pursuant to and in accordance with the requirements and procedures set forth in, Draft NI 44-101, Draft NI 44-102 and NP 43-201 (or such other policy setting out the procedures for filing and review of short form prospectuses as may be proposed or in effect at such time), with the variations set out in paragraph 9 above and such other variations as may be permitted, such permission to be conclusively evidenced by the issuance of a receipt for the final base shelf prospectus.

DATED at Toronto this 12th day of May, 2000.

"Iva Vranic"  
Iva Vranic

THE FURTHER DECISION of the Decision Makers pursuant to the Legislation is that:

(a) the provisions in the Legislation concerning conflicts of interest in connection with connected and/or related issuers and the participation of independent underwriters in the case of such a conflict shall not apply in connection with the Offerings provided that, with respect to each Offering:

A. in respect of an underwritten Offering, the portion of the Offering underwritten by at least one other registrant (an "independent underwriter") in respect of which CIBC is not a "related issuer" or, in connection with the Offering, a "connected issuer", for the purposes of the Legislation, is not less than the lesser of:

(i) 20 per cent of the dollar value of the Offering; and

(ii) the largest portion of the Offering that is underwritten by CIBC World Markets Inc. or any other registrant that is not an independent underwriter;

B. in respect of a best efforts Offering, the portion of the total management fees received by at least one other registrant (an "independent agent") in respect of which CIBC is not a "related issuer" or, in connection with the Offering, a "connected issuer" for purposes of the Legislation, is not less than the lesser of:

(i) 20 per cent of the total management fees for the Offering; and

(ii) the largest portion of the management fees paid or payable to CIBC World Markets Inc. or any other registrant that is not an independent agent;

C. the independent underwriter or independent agent, as applicable, participates in the pricing and determination of the formula for the settlement value of the Warrants; and

D. the name of the independent underwriter or independent agent, as applicable, and the extent of its participation in the due diligence, the drafting of the Prospectus Supplement, the pricing and the determination of the formula for the settlement value of the Warrants are disclosed in the applicable Prospectus Supplement; and

(b) this decision shall continue to be operative until and shall expire upon the date which is 24 months after the date of the receipt for the Shelf Prospectus despite the entry into force of Draft NI 44-101, Draft NI 44-102 and Draft MJI 33-105, in the form currently proposed or in an amended form;

PROVIDED that, in each case, the Offerings comply with the provisions of, and that receipts are issued for the preliminary base shelf prospectus and final base shelf prospectus filed pursuant to and in accordance with the requirements and procedures set forth in, Draft NI 44-101, Draft NI 44-102 and NP 43-201 (or such other policy setting out the procedures for filing and review of short form prospectuses as may be proposed or in effect at such time), with the variations set out above and such other variations as may be permitted, such permission to be conclusively evidenced by the issuance of a receipt for the final base shelf prospectus

DATED at Toronto this 12th day of May, 2000.

"J. A. Geller"

" Theresa McLeod"

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Director waives requirements of NP 44 and NP 47 in the context of proposed offerings of cash-settled derivative warrants provided the offerings are made substantially in compliance with draft National Instrument 44-101 and draft National Instrument 44-102 but subject to certain modifications - Commission grants relief from the independent underwriter requirements.

#### Applicable Ontario Statutory Provisions

Securities Act, R.S.O. 1990, c.S.5, as am. s. 147

#### Regulations Cited

Regulation made under the Securities Act, R.R.O. 1990, Reg. 1015, as am., ss. 224(1)(b) and 233

#### Rules Cited

National Policy 44 - Prompt Offering Qualification System

Rule entitled In the Matter of the Prompt Offering Qualification System

National Policy 47

Rule entitled In the Matter of Rules for Shelf Prospectus Offerings and for Pricing Offerings after the Prospectus is Received

Rule entitled In the Matter of the Limitations on a Registrant Underwriting Securities of a Related Issuer or Connected Issuer of the Registrant

Proposed National Instrument 44-101 - Short Form Prospectus Distributions

Proposed National Instrument 44-102 - Shelf Distributions

Proposed Multi-Jurisdictional Instrument 33-105 - Underwriting Conflicts