

April 8, 2009

**IN THE MATTER OF  
THE SECURITIES LEGISLATION OF MANITOBA  
(THE "JURISDICTION")**

**AND**

**IN THE MATTER OF THE PROCESS FOR EXEMPTIVE RELIEF APPLICATIONS IN  
MULTIPLE JURISDICTIONS**

**AND**

**IN THE MATTER OF CIBC ASSET MANAGEMENT INC. (THE "APPLICANT")**

**DECISION**

**Background**

The principal regulator in the Jurisdiction has received an application from the Applicant for a decision under the securities legislation of the Jurisdiction of the principal regulator (the "**Legislation**") that the Applicant be exempt from the dealer registration requirement under the Legislation with respect to the trades that will be made by the Applicant in securities of the Funds (as defined below) in order to implement the investment decisions made by the Applicant in its Rebalancing Activities (as defined below) in connection with managing the Model Portfolios (as defined below) (the "**Exemption Sought**").

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

(a) The Manitoba Securities Commission is the principal regulator for this application; and

(b) the Applicant has provided notice that subsection 4.7(1) of Multilateral Instrument 11-102 *Passport System* is intended to be relied upon in British Columbia, Alberta, Saskatchewan, Quebec, New Brunswick, Nova Scotia, Newfoundland And Labrador, Prince Edward Island, Northwest Territories, Nunavut And Yukon (together with Manitoba, the "**Jurisdictions**").

**Interpretation**

Defined terms contained in National Instrument 14-101 *Definitions* have the same meaning in this decision unless they are defined in this decision.

**Representations**

This decision is based on the following facts represented by the Applicant:

1. CIBC World Markets Inc. ("**CIBC WM**") is registered as an investment dealer or equivalent in all applicable provinces and territories in Canada.
2. The Applicant is registered under the Legislation as an adviser in the categories of investment counsel and portfolio manager or the equivalent. The Applicant is also registered as a mutual fund dealer in Ontario, but is exempt from the requirement to be a member of the Mutual Fund Dealers Association (the "**MFDA**") pursuant to the Ontario Securities Commission decision dated June 27, 2001 (the "**MFDA Exemption**").
3. CIBC WM and the Applicant are affiliated entities.
4. CIBC WM salespersons distribute the CIBC Frontiers product (the "**Product**") to their clients.
5. The Product consists of a number of model portfolios (the "**Model Portfolios**"), which together occupy successive portions of the investing spectrum from conservative, income-maintenance investing to aggressive growth investing. Currently, each Model Portfolio is made up exclusively of units of Frontiers Pools.
6. Any of the Frontiers Pools that currently exist or that may be created in the future (the "**Funds**") and that are used in the Product are and will be qualified under a simplified prospectus that has been received by the applicable securities regulators under the Legislation. Each Fund is managed by the Applicant.
7. If a client is interested in the Product, the client completes an investor profile form (the "**Form**"). The Form is used by CIBC WM as a "know your client" form, to enable CIBC WM to consider the client's financial circumstances, investment knowledge, investment objectives and risk tolerance, and thereby assist in determining an appropriate Model Portfolio for the client. From and based on the information provided in the Form, CIBC WM recommends one of the Model Portfolios as suitable for the client.
8. The client receives a description of the Model Portfolio selected by the client (the "**Selected Model Portfolio**"), completes the account application and enters in to an agreement (the "**Account Agreement**") with CIBC WM.
9. The class of units of the Funds that are available under the Product enable management fees and operating expenses to be paid by the Funds to the Applicant, as manager of the Funds. Sales charges and/or trailing commissions will be payable by the Applicant to CIBC WM in respect of any sales, redemptions (depending on the purchase option selected by the client) or fund switches. Disclosure to this effect is made to the client. There is no duplication of any fees.
10. The client does not pay any fees to CIBC WM with respect to assets held for the client in the Product. In addition, no fees are charged by CAMI directly to the client.

11. The Account Agreement authorizes CIBC WM to permit the Applicant to invest client monies in accordance with the terms of the Selected Model Portfolio.

12. Pursuant to an agreement between CIBC WM and the Applicant, the Applicant is responsible for developing and managing the Model Portfolios. Each Model Portfolio is broken down into different asset classes ("**Asset Classes**"). Each Asset Class is allocated a permitted range ("**Permitted Range**"), being a minimum and maximum percentage of the Model Portfolio that can be allocated to Funds of a particular Asset Class. The Asset Classes and Permitted Ranges are disclosed to the client in the Selected Model Portfolio and cannot be changed without the client's approval.

13. The Applicant manages the Model Portfolios on a discretionary basis. In doing so, the Applicant determines a benchmark percentage ("**Benchmark Percentage**") for each Asset Class, representing the target percentage within the Permitted Range, and adjusts that percentage at its discretion. The Applicant also uses its discretion in choosing which Funds will be used for each Asset Class, provided the investment objective and strategies of any Fund are consistent with the Asset Class and any such Funds are listed in the Selected Model Portfolio for the client. The Applicant's actions will be carried out with a view to ensuring that the Model Portfolio continues to abide by the stated objectives. Finally, the Applicant may rebalance Model Portfolios in response to market fluctuations. The above activities are herein defined as the "**Rebalancing Activities**".

14. In connection with its responsibilities under the Product and in order to effect the Rebalancing Activities, the Applicant will carry out the trades in units of the Funds that are necessary and incidental to managing the Selected Model Portfolios.

15. All trades in connection with the Product will be reflected in the client's account on the day following the trade.

16. The Applicant will be responsible for ensuring that the client monies are invested in accordance with the terms of the Selected Model Portfolio. Notwithstanding that there is no direct relationship between the client and the Applicant, the client will be entitled to treat the Applicant as if the Applicant were a party to the Account Agreement with respect to its responsibilities in this regard.

17. The client is provided with a simplified prospectus for the Funds at the time of purchase and on each subsequent purchase if the prospectus has been renewed or amended since the last purchase. In addition, if and when new Funds are created and qualified under the simplified prospectus, and are intended to be used in the Model Portfolio, CIBC WM will provide clients of the Model Portfolio with a new or amended simplified prospectus which includes those new Funds.

18. The terms and conditions of the MFDA Exemption limit the Applicant's trading activities to those permitted trading activities specifically set out in the MFDA Exemption. We believe the Rebalancing Activities are currently permitted under the MFDA Exemption as an act in furtherance of a trade (see section 5(d) of the MFDA Exemption). The Applicant will not

therefore vary its MFDA Exemption since the MFDA Exemption allows for the Rebalancing Activities to be carried out by the Applicant in Ontario.

19. The Applicant is seeking this relief in order to be permitted to carry out its Rebalancing Activities in all Jurisdictions pursuant to an exemption from the dealer registration requirement.

### **Decision**

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator under the Legislation is that the Exemption Sought is granted, provided that the Applicant is at the time of the trade registered under the Legislation as and adviser in the category of investment counsel or portfolio manager (or the equivalent).

*"Chris Besko"*

*Chris Besko*

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