

2006 BCSECCOM 306

April 28, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Applications - Securities Act s. 130 - Relief from certain self-dealing restrictions in Part 15 of the Act - A mutual fund manager wants relief from the requirement in section 126(c) of the Act to report any purchase or sale effected through a related person of the mutual fund - The portfolio advisers of the mutual funds have discretion to allocate brokerage business in any manner consistent with the fund's best interests; the allocation of brokerage business represents the business judgement of responsible persons uninfluenced by considerations other than the best interests of the mutual funds; the management report of fund performance for the funds will disclose the names of and fees paid to related persons; the fund's records of portfolio transactions will include information about purchases or sales effected through a related person on a per transaction basis

Applicable British Columbia Provisions

Securities Act, R.S.B.C. 1996, c. 418, ss. 126(c) and 130

In the Matter of
the Securities Legislation
of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia, New
Brunswick, Newfoundland and Labrador
(the Jurisdictions)

and

In the Matter of
the Mutual Reliance Review System for Exemptive Relief Applications

and

In the Matter of
Canadian Imperial Bank of Commerce (CIBC) and
CIBC Asset Management inc. (CIBC AMI)
(the Filers)

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from the Filers for a decision under the securities legislation of the Jurisdictions (the Legislation) that the

2006 BCSECCOM 306

provisions of the Legislation requiring a management company, or in British Columbia and New Brunswick a mutual fund manager, to file a report, within thirty days after each month end and in respect of each mutual fund to which it provides services, relating to every purchase or sale effected by such mutual fund through any related person or company with respect to which the related person or company received a fee either from the mutual fund or from the other party to the transaction or both (the Reporting Requirement) shall not apply to purchases and sales effected by the Funds through CIBC World Markets Inc. (CWMI), CIBC World Markets Corp. (CWMC), CIBC or any other Related Company (the Requested Relief).

Under the Mutual Reliance Review System for Exemptive Relief Applications

- (a) the Ontario Securities Commission is the principal regulator for this application, and
- (b) this MRRS decision document evidences the decision of each Decision Maker.

Interpretation

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

“CIBC Group of Companies” means the Filers and their affiliates.

“Funds” means the mutual funds set out in Schedule A hereto, together with such other funds managed by a member of the CIBC Group of Companies from time to time.

“Portfolio Advisers” means the portfolio advisers or sub-advisers of the Funds appointed by the Filers.

“Related Company” means CWMI, CWMC, or other related brokers or dealers that are members of the CIBC Group of Companies.

“NI 81-106” means National Instrument 81-106 Investment Fund Continuous Disclosure.

Representations

This Decision is based on the following facts represented by the Filer:

1. CIBC is a bank listed in Schedule I to the *Bank Act* (Canada), S.C. 1991, c. 46, as amended, with its head office currently in Toronto, Ontario. CIBC AMI is a corporation established under the laws of Canada with its head office currently in Toronto, Ontario. CIBC AMI is registered under the *Securities*

2006 BCSECCOM 306

Act (Ontario), R.S.O. 1990 c. S.5, as amended, as a mutual fund dealer and an adviser in the categories of investment counsel and portfolio manager, and under the *Commodity Futures Act* (Ontario), R.S.O. 1990, c. C.20, as amended, in the category of commodity trading manager.

2. The Filers act as managers of the mutual funds that currently consist of the funds set out in Schedule A hereto.
3. CWMI is a registered dealer in each of the provinces of Canada. CWMC is registered as an international dealer with the Ontario Securities Commission.
4. The Funds are open-ended investment trusts or mutual fund trusts established under the laws of the Province of Ontario. Each Fund is a reporting issuer in each of the provinces and territories of Canada.
5. Each of CIBC AMI, CWMI and CWMC are subsidiaries of CIBC. CWMI and CWMC are issuers in which CIBC (which is also a substantial securityholder of CIBC AMI) has a significant interest, such that the Funds are prohibited from making an investment in CWMI and CWMC under the Legislation. Therefore, CWMI and CWMC are “related persons” to the Funds under the Legislation.
6. As disclosed in the annual information forms or prospectuses of the Funds, the Portfolio Advisers may allocate brokerage business of the Funds to a Related Company, provided such transactions are made on terms and conditions comparable to those offered by unrelated brokers and dealers.
7. The Portfolio Advisers of the Funds have discretion to allocate brokerage business in any manner that they believe to be in a Fund’s best interests. The purchase or sale of securities effected through a Related Company represents the business judgment of responsible persons uninfluenced by considerations other than the best interests of the Funds. In allocating brokerage, consideration is given to commission rates and to research, execution and other services offered.
8. The Funds will disclose in their interim and annual financial statements and in their interim and annual management reports of fund performance the amount of brokerage commissions paid by each Fund on trades with Related Companies.
9. In the absence of this Decision, reports must be filed on a monthly basis in respect of every purchase or sale of securities effected through a Related Company stating the issuer of the securities purchased or sold, the class or

2006 BCSECCOM 306

designation of the securities, the amount or number of securities, the consideration, the name of the Related Company receiving the fee, the name of the person or company that paid the fee to the Related Company and the amount of the fee received by the Related Company.

10. It would be costly and time consuming to provide the information required by the Legislation on a monthly and segregated basis.
11. Exemptive relief from the Reporting Requirement was previously granted to the Filers pursuant to a Mutual Reliance Review System Decision Document dated May 27, 2003. This relief was conditional on the Funds disclosing, in their statements of portfolio transactions, in respect of every class or designation of securities of an issuer bought or sold during the period to which the statement of portfolio transactions related, the name of each Related Company, the amount of fees paid to each Related Company, and the person or company that paid the fees.
12. Since the introduction of NI 81-106, mutual funds are no longer required to prepare a statement of portfolio transactions. Therefore, the Funds are no longer able to comply with the exemptive relief previously granted. However, NI 81-106 now requires the Funds to prepare and file annual and interim management reports of fund performance that include a discussion of transactions involving related parties to the Funds. When discussing portfolio transactions with related parties, NI 81-106 requires the Funds to include the dollar amount of commission, spread or any other fee paid to a related party in connection with a portfolio transaction.

Decision

Each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the decision has been met.

The Decision of the Decision Makers under the Legislation is that the Requested Relief is granted provided that:

- (a) the annual and interim management reports of fund performance for each Fund disclose
 - (i) the name of the Related Company,
 - (ii) the amount of fees paid to each Related Company, and

2006 BCSECCOM 306

- (iii) the person or company who paid the fees, if they were not paid by the Fund; and
- (b) the records of portfolio transactions maintained by each Fund include, separately for every portfolio transaction effected by the Fund through a Related Company,
 - (i) the name of the Related Company,
 - (ii) the amount of fees paid to the Related Company, and
 - (iii) the person or company who paid the fees.

Carol S. Perry
Commissioner
Ontario Securities Commission

Suresh Thakrar
Commissioner
Ontario Securities Commission

2006 BCSECCOM 306

Schedule “A”

List of Funds

CANADIAN IMPERIAL BANK OF COMMERCE

CIBC Mutual Funds

CIBC Asia Pacific Index Fund
CIBC Balanced Fund
CIBC Balanced Index Fund (formerly 5-Year Protected Balanced Index Fund)
CIBC Canadian Bond Fund
CIBC Canadian Bond Index Fund
CIBC Canadian Emerging Companies Fund
Canadian Imperial Equity Fund
CIBC Canadian Index Fund
CIBC Canadian Resources Fund
CIBC Canadian Short-Term Bond Index Fund
CIBC Canadian Small Companies Fund
CIBC Canadian T-Bill Fund
CIBC Capital Appreciation Fund
CIBC Core Canadian Equity Fund
CIBC Diversified Income Fund
CIBC Dividend Fund
CIBC Emerging Economies Fund
CIBC Emerging Markets Index Fund
CIBC Energy Fund
CIBC European Equity Fund
CIBC European Index Fund
CIBC European Index RRSP Fund
CIBC Far East Prosperity Fund
CIBC Financial Companies Fund
CIBC Global Bond Fund
CIBC Global Bond Index Fund
CIBC Global Equity Fund
CIBC Global Technology Fund
CIBC High Yield Cash Fund
CIBC International Index Fund
CIBC International Index RRSP Fund
CIBC International Small Companies Fund
CIBC Japanese Equity Fund
CIBC Japanese Index RRSP Fund
CIBC Latin American Fund
CIBC Money Market Fund

2006 BCSECCOM 306

CIBC Monthly Income Fund
CIBC Mortgage and Short-Term Income Fund
CIBC Nasdaq Index Fund
CIBC Nasdaq Index RRSP Fund
CIBC North American Demographics Fund
CIBC Precious Metals Fund
CIBC Premium Canadian T-Bill Fund
CIBC Canadian Real Estate Fund
CIBC U.S. Dollar Money Market Fund
CIBC U.S. Equity Index Fund
CIBC U.S. Index RRSP Fund
CIBC U.S. Small Companies Fund

CIBC Managed Portfolios

CIBC Managed Income Portfolio
CIBC Managed Income Plus Portfolio
CIBC Managed Balanced Portfolio
CIBC Managed Balanced Growth Portfolio
CIBC Managed Balanced Growth RRSP Portfolio
CIBC Managed Growth Portfolio
CIBC Managed Growth RRSP Portfolio
CIBC Managed Aggressive Growth Portfolio
CIBC Managed Aggressive Growth RRSP Portfolio

CIBC U.S. Dollar Managed Portfolios

CIBC U.S. Dollar Managed Income Portfolio
CIBC U.S. Dollar Managed Growth Portfolio
CIBC U.S. Dollar Managed Balanced Portfolio

Imperial Pools

Imperial International Equity Pool
Imperial Registered International Equity Index Pool
Imperial Canadian Bond Pool
Imperial Money Market Pool
Imperial Canadian Equity Pool
Imperial Short-Term Bond Pool
Imperial U.S. Equity Pool
Imperial Emerging Economies Pool
Imperial International Bond Pool
Imperial Registered U.S. Equity Index Pool
Imperial Canadian Dividend Income Pool
Imperial Canadian Dividend Pool
Imperial Canadian Income Trust Pool

2006 BCSECCOM 306

Imperial Overseas Equity Pool

CIBC ASSET MANAGEMENT INC.

Frontiers Pools

Frontiers Canadian Fixed Income Pool
Frontiers Canadian Short Term Income Pool
Frontiers Canadian Equity Pool
Frontiers International Equity Pool
Frontiers Emerging Markets Equity Pool
Frontiers Global Bond Pool
Frontiers U.S. Equity Pool
Frontiers Canadian Monthly Income Pool

Renaissance Funds

Renaissance Canadian Money Market Fund
Renaissance Canadian T-Bill Fund
Renaissance U.S. Money Market Fund
Renaissance Canadian Bond Fund
Renaissance Canadian Dividend Income Fund
Renaissance Canadian High Yield Bond Fund
Renaissance Canadian Income Trust Fund
Renaissance Canadian Balanced Fund
Renaissance Canadian Balanced Value Fund
Renaissance Canadian Core Value Fund
Renaissance Canadian Growth Fund
Renaissance Canadian Small Cap Fund
Renaissance U.S. Equity Value Fund (formerly Renaissance U.S. Basic Value Fund)
Renaissance U.S. Equity Growth Fund (formerly Renaissance U.S. Fundamental Growth Fund)
Renaissance U.S. Index Fund (formerly Renaissance U.S. RSP Index Fund)
Renaissance Developing Capital Markets Fund
Renaissance Euro Fund
Renaissance International Growth Fund
Renaissance International Index Fund (formerly Renaissance International RSP Index Fund)
Renaissance Tactical Allocation Fund
Renaissance Global Growth Fund
Renaissance Canadian Real Return Bond Fund (formerly Renaissance Global Opportunities Fund)
Renaissance Canadian Income Trust Fund II
Renaissance Global Sectors Fund

2006 BCSECCOM 306

Renaissance Global Opportunities Fund (formerly Renaissance Global Value Fund)

Renaissance Global Technology Fund

Renaissance Talvest China Plus Fund

Renaissance Talvest Global Health Care Fund

Renaissance Talvest Millennium High Income Fund

Talvest Funds

Talvest Cdn. Asset Allocation Fund

Talvest Bond Fund

Talvest High Yield Bond Fund

Talvest Income Fund

Talvest Millennium High Income Fund

Talvest Money Market Fund

Talvest Asian Fund

Talvest Cdn. Equity Growth Fund

Talvest Cdn. Equity Value Fund (formerly Talvest Cdn. Leaders Fund)

Talvest Cdn. Multi Management Fund

Talvest China Plus Fund

Talvest Dividend Fund

Talvest European Fund

Talvest Global Equity Fund

Talvest Global Multi Management Fund

Talvest Global Resource Fund

Talvest Global Small Cap Fund

Talvest International Equity Fund

Talvest Millennium Next Generation Fund

Talvest Small Cap Cdn. Equity Fund

Talvest U.S. Equity Fund (formerly Talvest Value Line U.S. Equity Fund)

Talvest Global Asset Allocation Fund (formerly Talvest Global Asset Allocation RSP Fund)

Talvest Global Bond Fund (formerly Talvest Global Bond RSP Fund)

Talvest Global Markets Fund (formerly Talvest Global RSP Fund)

Talvest Global Health Care Fund

Talvest Global Science & Technology Fund

Talvest Renaissance Canadian Balanced Fund

Talvest Renaissance Canadian Balanced Value Fund

Talvest Renaissance Canadian Core Value Fund

Talvest Renaissance Canadian Real Return Bond Fund

Talvest Renaissance U.S. Equity Value Fund (formerly Talvest Renaissance U.S. Basic Value Fund)

2006 BCSECCOM 306

Axiom Portfolios

Axiom Balanced Income Portfolio
Axiom Diversified Monthly Income Portfolio
Axiom Balanced Growth Portfolio
Axiom Long-Term Growth Portfolio
Axiom Canadian Growth Portfolio
Axiom Foreign Growth Portfolio
Axiom Global Growth Portfolio
Axiom All Equity Portfolio

Sequence Portfolios

Sequence Income Portfolio
Sequence 2010 Conservative Portfolio
Sequence 2010 Moderate Portfolio
Sequence 2020 Conservative Portfolio
Sequence 2020 Moderate Portfolio
Sequence 2030 Conservative Portfolio
Sequence 2030 Moderate Portfolio
Sequence 2040 Conservative Portfolio
Sequence 2040 Moderate Portfolio