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April 26, 2006

Headnote

Mutual Reliance Review System for Exemptive Relief Application – National Instrument 33-105, s. 5.1 - An issuer wants an exemption from the requirement for a specified level of independent underwriter involvement in its prospectus distribution - The securities issued under the offering will have an approved credit rating; the prospectus will include disclosure about the involvement of the related or connected underwriter; at least 66 2/3% of the offering will be made to institutional investors; the related or connected underwriter will receive only the normal arm's length underwriting commissions and reimbursement of expenses.

Applicable British Columbia Provisions

National Instrument 33-105 *Underwriting Conflicts*, ss. 2.1 and 5.1

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

and

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

and

In the Matter of Claret Trust and CIBC World Markets Inc.

MRRS Decision Document

Background

The local securities regulatory authority or regulator (the Decision Maker) in each of the Jurisdictions has received an application from CIBC World Markets Inc. (the Filer) for a decision under section 5.1 of National Instrument 33-105 *Underwriting Conflicts* (the National Instrument) that the provisions contained in section 2.1 of the National Instrument mandating independent underwriter involvement shall not apply to the Filer and Claret Trust (the Issuer) in respect of distributions of asset-backed securities (the Offerings) issued by the Issuer from time to time on the terms specified in this decision (the Requested Relief).

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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.

Representations

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

1. Claret Trust is an unincorporated open-ended limited purpose trust established under the laws of Ontario. CIBC Mellon Trust Company, a trust company incorporated under the *Trust and Loan Companies Act* (Canada), will be the trustee of the Issuer, and Canadian Imperial Bank of Commerce (CIBC) will act as the financial services agent of the Issuer. The head office of the trustee of the Issuer is located in Toronto, Ontario.
2. The declaration of trust of the Issuer restricts the activities of the Issuer to the acquisition of various categories of commercial and multifamily residential mortgages, hypothecs or other charges on real or immovable property situated in Canada and originated by parties other than the Issuer (the Custodial Property). The Issuer intends to fund successive acquisitions of Custodial Property by issuing mortgage pass-through certificates (the Certificates) in successive series, each evidencing an undivided co-ownership interest in the Custodial Property acquired by the Issuer from the proceeds of such series. Each series of Certificates will be entitled to receive distributions from the Custodial Property acquired by the Issuer from the proceeds of such series. The Custodial Property of each series will be deposited with a custodian and the recourse of Certificate holders of each series will be limited to the Custodial Property of such series and any proceeds thereof.
3. The Issuer is currently not a “reporting issuer” in any Canadian province or territory. The Issuer intends to become a reporting issuer in each province of Canada pursuant to its first Offering, which will be made pursuant to a short form prospectus.
4. As a special purpose vehicle, the Issuer will not carry on any activities other than activities related to issuing asset-backed securities in respect of

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Custodial Property acquired by the Issuer. The Issuer currently has, and will continue to have, no material assets or liabilities other than its rights and obligations arising from acquiring Custodial Property and issuing asset-backed securities. Certificate holders will only have recourse to the Custodial Property and will not have any recourse to the Issuer.

5. The Issuer will continue to operate as an issuer for the purpose of distributing from time to time “asset-backed securities”, as such term is defined in National Instrument 44-101 Short Form Prospectus Distributions (NI 44-101), with an “approved rating” by an “approved rating organization”, as those terms are defined in NI 44-101, to the public in Canada.
6. CIBC is taking the initiative in organizing the business of the Issuer in connection with the proposed Offerings and as such, CIBC may be considered to be a “promoter” of the Issuer within the meaning of securities legislation of certain provinces of Canada.
7. The Filer is a wholly owned subsidiary of CIBC.
8. The Filer is registered in all Jurisdictions as a dealer in the categories of “broker” and “investment dealer” and is a member of the Investment Dealers Association of Canada.
9. The Issuer is a “related issuer” (or its equivalent) of the Filer because CIBC is an “influential securityholder” of the trustee of the Issuer, and the Filer is a wholly owned subsidiary of CIBC.
10. The Issuer may be considered a “connected issuer” (or its equivalent) of CIBC for the purposes of the Offerings because:
 - (a) CIBC will be a promoter of the Issuer,
 - (b) CIBC will provide on-going administrative and advisory services to the Issuer, and
 - (c) the Issuer may purchase assets forming part of the Custodial Property of an Offering from time to time from an affiliate of CIBC.
11. The Filer proposes to act as the sole underwriter in connection with the distribution of 100% of the dollar value of the distribution of the Certificates as described below for the Offerings.

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12. Generally, the pricing of each Offering will be determined by market comparisons obtained from other dealers and investors in the secondary market for commercial mortgage backed securities at the time of issuance. Final pricing of each Offering over the Government of Canada bond will be based on investor demand, which generally will be based on the secondary market bid spread (being the difference in yield between comparable commercial mortgage backed securities trading in the secondary market and the current Government of Canada bond) plus, in appropriate circumstances, a spread adjustment to reflect differences between the risk characteristics of the Offering and other offerings in the secondary market.
13. Based upon the experience of the Filer in previous offerings of mortgage-backed securities, the Filer estimates that approximately 90% of the Offerings will be made to Canadian institutions, pension funds, endowment funds or mutual funds (collectively, Institutional Investors), who can be expected to be knowledgeable about the appropriate pricing parameters for securities of the type offered under the Offerings and to independently determine the appropriateness of the price of such securities based on the information included in the prospectus in making a purchase decision with respect to any such Offering.
14. A minimum of 66⅔% of each Offering will be made to Institutional Investors.
15. No Certificates will be offered by prospectus by the Issuer where the Filer is underwriting 100% of the offering of such Certificates, unless the Certificates have been rated by an approved rating agency.
16. The independent review provided by an approved rating agency in the circumstances of the Offerings would provide an alternative to the independent review which an independent underwriter would provide, and would provide the basis for a prospective purchaser to independently price the Certificates of each Offering.
17. The only financial benefits which the Filer will receive as a result of the Offerings are the normal arm's length underwriting commission and reimbursement of expenses associated with a public offering in Canada, which commissions and reimbursements shall be deemed to include the increases or decreases contemplated by section 1.7(b) of Form 44-101F1 *Short Form Prospectus* and by the applicable securities legislation in Québec.

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18. The Filer proposes that in connection with the distribution by the Issuer of 100% of any Certificates of the Issuer, the preliminary and final short form prospectuses of the Issuer contain the following information:
- (a) on the front page of each such document, the information listed in Appendix C of the NI 33-105 as required information for the front page of such document;
 - (b) in the body of each such document, the information listed in Appendix C of the NI 33-105 as required information for the body of such document;
 - (c) in the body of each such document disclosure reflecting the substance of paragraphs 12 and 14; and
 - (d) in the body of each such document the rating of each Certificate granted by at least one approved rating agency.

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 the Issuer complies with paragraphs 14, 15, 17 and 18 of this decision.

Charlie MacCready
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Ontario Securities Commission