

## **NOTICE OF SETTLEMENT APPROVAL IN THE CIBC MORTGAGE PREPAYMENT CHARGE CLASS ACTIONS**

**Read this notice carefully as it may affect your legal rights**

### **This notice is directed to:**

Mortgagors under mortgages issued by CIBC Mortgages Inc. who reside in Canada, excluding Quebec, and who paid a prepayment charge calculated in accordance with an Interest Rate Differential (not simply 3 months interest) when they prepaid part or all of their mortgages from 2005 onward (the “**Class Members**”).

**\*Excluded Persons** are the Defendant CIBC Mortgages Inc. (“**CIBC**”) and its subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors, and assigns.

**READ THIS NOTICE CAREFULLY AS IT MAY AFFECT YOUR LEGAL RIGHTS. YOU MAY NEED TO TAKE PROMPT ACTION.**

### **Important Deadline**

**Claims Bar Deadline** (to file a claim for compensation): May 21, 2023

***Claims Forms may not be accepted after the Claims Bar Deadline. As a result, it is necessary that you act without delay.***

### **Purpose of this Notice**

The purpose of this Notice is to advise Class Members of the approval of the Settlement of the class actions styled as *Sherry v CIBC Mortgage Inc.* and *Jordan v CIBC Mortgage Inc.* (the “**Class Actions**”) brought on behalf of the Class Members. The Notice provides Class Members with information about how to apply for compensation from the Settlement. **Class Members who wish to do so must do so by May 21, 2023.**

### **Court Approval of the Settlement**

In October 2011, a class proceeding styled as *Sherry v CIBC Mortgage Inc.* was commenced in the Supreme Court of British Columbia (the “**BC Court**”) against CIBC Mortgages Inc. (“**CIBC**” and the “**British Columbia Action**”). Concurrently in October 2011, a class proceeding styled as *Jordan v CIBC Mortgage Inc.* was commenced in the Ontario Superior Court of Justice (the “**Ontario Court**”) against CIBC (the “**Ontario Action**”).

The Class Actions challenged the validity of CIBC’s method for calculating mortgage prepayment charges, and in particular, the Interest Rate Differential (“**IRD**”) formula. An Interest Rate Differential compares the prevailing interest rates at the time of borrowing and the time of prepayment. Prepayment charges can arise when borrowers pay off more of their mortgage than they are entitled to under their mortgage agreement.

The BC Court conditionally certified the British Columbia Action as a class proceeding on behalf of the British Columbia Class Members on June 30, 2014, with full certification on March 31, 2015. In subsequent decisions of the Court of Appeal for British Columbia and the BC Court, the scope of the certified class proceeding was narrowed and broadened. Pursuant to the Settlement Agreement dated August 30, 2021, British Columbia Class Members were afforded the right to exclude themselves or “opt out” of the BC Class no later than January 23, 2022. **This Notice does not affect persons who validly exercised the right to opt out. Persons who opted out are not entitled to participate in the Settlement.**

On February 21, 2019, the Ontario Court certified the Ontario Action as a class proceeding on behalf of the Ontario Class Members. Pursuant to this order, Ontario Class Members were afforded the right to exclude themselves or “opt out” of the Ontario Class no later than January 23, 2022. **This Notice does not affect persons who validly exercised the right to opt out. Persons who opted out are not entitled to participate in the Settlement.**

The parties have engaged in lengthy settlement negotiations. On August 30, 2021, the Plaintiffs and the Defendant executed a Settlement Agreement providing for the settlement of the Class Actions (the “**Settlement**”). The Settlement provides for the payment of CAD\$7.5 million (the “**Settlement Funds**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Funds include all legal fees, disbursements, taxes and administration expenses.

In return for the payment of the Settlement Funds, the Settlement provides that the claims of all Class Members asserted or which could have been asserted in the Class Actions will be fully and finally released and the Class Actions will be dismissed. The Settlement is not an admission of liability, wrongdoing, or fault on the part of CIBC, which denies the allegations against it.

On October 19, 2022, the BC Court and Ontario Court approved the Settlement and ordered that it be implemented in accordance with its terms.

The BC Court and Ontario Court also awarded Class Counsel total legal fees, expenses and applicable taxes in the amount of CAD\$1,875,000 (“**Class Counsel Fees**”), inclusive of disbursements of CAD\$70,594.47, plus HST. As is customary in such cases, Class Counsel conducted the Class Actions on a contingency fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. Class Counsel Fees will be deducted from the Settlement Funds before they are distributed to the Class Members.

Expenses incurred or payable relating to the approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”) will also be paid from the Settlement Funds before they are distributed to Class Members.

### **Class Members’ Entitlement to Compensation**

Pursuant to the court orders approving the Settlement, the claims of Class Members which were or could have been asserted in the Class Actions are now released and the



- If the Claimant's date of loan origination or renewal intersects with the date of prepayment in a 'yes' square, the Claimant will be eligible to share in the Net Settlement Amount.

Class Members will be eligible for compensation pursuant to the Settlement if they submit a completed claim form, including any supporting documentation, to the Claims Administrator, and their claim satisfies the criteria set out in the Distribution Protocol.

To be eligible for compensation under the Settlement, Class Members must submit their claim form and supplementary documentation **no later than** 5:00 pm ET on May 21, 2023 (the "**Claims Bar Deadline**"). Only Class Members are permitted to recover from the Settlement.

After deduction of Class Counsel Fees and Administration Expenses, the balance of the Settlement Funds (the "**Net Settlement Amount**") will be distributed to Class Members in accordance with the Distribution Protocol.

Each Class Member who has filed a valid claim will receive a portion of the Net Settlement Amount calculated in accordance with the Distribution Protocol. The Distribution Protocol provides for payment estimated at CAD\$224.00 (but that amount may vary depending on the number of claims paid) to each claimant in accordance with a Chart that was developed with the assistance of an expert hired by Class Counsel, who reviewed a sample of the Defendant CIBC's relevant mortgage files. Depending on when Class Members borrowed money and prepaid their mortgage loan, they may or may not be entitled to compensation. In the event that total amount claimed exceeds the amount available for claims then each payment will be reduced on a *pro rata* basis. Once the allocations of all Class Members who have filed valid claims have been ascertained, the Net Settlement Amount will be allocated to those Class Members.

In the event that any amounts remain undistributed after the distribution of the Net Settlement Amount (whether as a result of a failure to locate claimants, the failure of any Class Member to make a valid claim, or as a result of any tax refunds or any distributed cheques having become stale-dated or ineligible for redemption), those amounts will be distributed to eligible Class Members in accordance with the Distribution Protocol (if sufficient to warrant a further distribution) or allocated *cy-près* to the Law Foundations of Ontario and BC.

### **Administrator**

The Court has appointed RicePoint as the Claims Administrator of the Settlement. The Claims Administrator will, among other things: (i) receive and process the Claim Forms; (ii) determine Class Members' eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the Courts. The Claims Administrator can be contacted at:

Email: [info@CIBCprepaidmortgagesettlement.com](mailto:info@CIBCprepaidmortgagesettlement.com)  
Telephone: 1-888-886-7175  
Mail: CIBC Prepaid Mortgage Settlement  
c/o RicePoint Administration Inc.  
P.O. Box 3355, London, ON N6A 4K3

### **Filing a Claim**

All claims for compensation from the Settlement must be received by the Claims Administrator no later than May 21, 2023.

The most efficient way to file a claim is to visit the Claims Administrator's website at <https://www.cibcprepaidmortgagesettlement.com/>. The website provides step-by-step instructions on how to file a claim. In order to verify claims, the Claims Administrator will require certain information and supporting documentation, including: (a) the date that the Class Member's mortgage was issued or most recently renewed; (b) the length of the mortgage term; and (c) the date that the Class Member's mortgage was prepaid. **Accordingly, Class Members should visit the Administrator's website as soon as possible so that they have time to obtain the required documentation prior to the Claims Bar Deadline.**

The Claims Administrator will also accept claim forms filed by mail or courier. To obtain a copy of the claim form, Class Members may print one from the Claims Administrator's website or contact the Claims Administrator to have one sent by regular mail or email. Forms sent by mail or courier should be sent to:

CIBC Mortgage Prepayment Charge Class Actions Settlement Claims Administrator

CIBC Prepaid Mortgage Settlement  
c/o RicePoint Administration Inc.  
P.O. Box 3355, London, ON N6A 4K3

Class Members with questions about how to complete or file a claim form, or the documentation required to support a claim, should contact the Claims Administrator.

### **Copies of Settlement Documents**

Copies of the Settlement Agreement, Distribution Protocol, sample calculations demonstrating how the Distribution Protocol works, the claim form and the orders of the Courts approving the Settlement, the Distribution Protocol, and Class Counsels' Fees may be found on the Claims Administrator's website above, at Class Counsel's websites ([www.branchmacmaster.com/class\\_actions/cibc-mortgages-prepayment-penalty/](http://www.branchmacmaster.com/class_actions/cibc-mortgages-prepayment-penalty/) and [www.siskinds.com/class-action/cibc-mortgages-prepayment-penalty/](http://www.siskinds.com/class-action/cibc-mortgages-prepayment-penalty/)) or by contacting Class Counsel via the contact information provided below.

**Class Counsel**

The law firms of Siskinds LLP and Branch McMaster LLP are Class Counsel. Inquiries may be directed to:

**Siskinds, LLP  
Barristers & Solicitors**

100 Lombard Street, Suite 302  
Toronto, ON M5C 1M3

**Branch MacMaster LLP  
Barristers & Solicitors**

777 Hornby Street, Suite 1410  
Vancouver, BC V6C 1S4

**Alex Dimson  
Jared S. Rosenbaum**

Tel: 416-362-8334  
Fax: 519-672-6065  
Email:  
donna.mcevoy@siskinds.com

**Luciana Brasil  
Conall Kelly**

Tel: 604-654-2961  
Fax: 604-684-3429  
Email: ckelly@branmac.com

**Interpretation**

If there is a conflict between the provisions of this Notice and the Settlement Agreement, the terms of the Settlement Agreement will prevail.

**PLEASE DO NOT CONTACT THE COURTS WITH INQUIRIES ABOUT THE CLASS ACTIONS OR THE SETTLEMENT.** All inquiries should be directed to the Claims Administrator or Class Counsel.

***DISTRIBUTION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE ONTARIO COURT AND THE BC COURT***