

CIBC MORTGAGE PREPAYMENT CHARGE (IRD) CLASS ACTION
(S.C.M. file no. 500-06-000930-186)

SETTLEMENT APPROVAL NOTICE

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

This notice is directed to:

All natural persons who, from October 17, 2008 to June 30, 2022, paid to Defendants CIBC or CIBC Mortgages Inc. (or to any of their affiliates) (collectively, “**CIBC**”) a mortgage prepayment charge in an amount that exceeds three months of interest when either entirely or partially paying off a hypothecary loan or a collateral hypothec relating to a fixed-rate loan of a duration of five years or less on a property located in the province of Quebec (the “**Class Members**”).

Claims Bar Deadline (to file a claim for compensation): **November 2, 2023**.

Claims Form URL: www.CIBCIRDSETTLEMENT.com

Claims Form will 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 that on [date] the Court approved the Settlement of the class action styled as *Brook v. CIBC* (the “**Class Action**”) brought by Mr. Brook on behalf of the Class Members against CIBC before the Superior Court of Quebec in the district of Montreal (S.C.M. no 500-06-000930-186).

The Notice provides Class Members with information about how and by when to file their claims.

Unless indicated otherwise, the terms in capital below are defined in the Settlement Agreement.

What this Case Was about

In May 2018, the Class Action proceeding was commenced against CIBC before the Superior Court of Quebec in the district of Montreal (S.C.M. no 500-06-000930-186) by Mr. Brook, represented by LPC Avocat Inc. (“**Class Counsel**”). The Class Action challenged the validity of CIBC’s method for calculating prepayment charges, and in particular, the interest rate differential (“**IRD**”) formula. Prepayment charges can arise when borrowers pay off more of their mortgage than they are entitled to under their mortgage agreement. The IRD formula, which can be used to calculate prepayment charges, compares the prevailing interest rates at the time of borrowing and the time of prepayment.

In December 2018, a class action proceeding commenced in October 2011 against CIBC before the Superior Court of Quebec in the district of Quebec (S.C.M. no 200-06-000139-116) by Ms. Lamarre was merged with the Class Action. On July 19, 2019, the Superior Court of Quebec authorized the Class Action against CIBC regarding the SCRAP Issue only and dismissed Plaintiff’s all other causes of action. On January 27, 2020, the Quebec Court of Appeal authorized CIBC to appeal from the Superior Court of Quebec’s decision. Prior to the hearing on the merits

before the Court of Appeal, the parties entered into an agreement in principle to settle the Class Action out of court.

Court Approval of the Settlement

On December 2, 2022, following lengthy settlement negotiations, the Plaintiff and CIBC executed a Settlement Agreement providing for the settlement of the Class Action (the “**Settlement**”). The Settlement provides for the payment of \$3 million (the “**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members. The Settlement Amount includes all legal fees, disbursements, costs, taxes and administration expenses.

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

On March 10, 2023, the Superior Court of Quebec approved the Settlement and ordered that it be implemented in accordance with its terms.

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

Class Members’ Entitlement to Compensation

Pursuant to the court order approving the Settlement, the claims of Class Members which were or could have been asserted in the Class Action are now released. Class Members may not pursue individual or class actions for those claims, regardless of whether or not they file a claim for compensation from the Settlement. **The Settlement therefore represents the only means of compensation available to Class Members in respect of the claims raised in the Class Action.**

Class Members will be eligible for compensation pursuant to the Settlement if they submit a completed Claims Form 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 Claims Form and supplementary documentation **no later than 5:00pm ET on November 2, 2023** (the “**Claims Bar Deadline**”). Only Class Members are permitted to recover from the Settlement.

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

The Distribution Protocol provides for pro rata cash payments to each Eligible Claimants up to a limit of \$3,000, depending on when they borrowed money and prepaid their mortgage loan, the amount of their Prepayment Charges, as well as on the total number of all Eligible Claimants who will file a claim. The \$3,000 limit is a maximum and the settlement payments could be less depending on, amongst other things, the number of claimants.

The Settlement also provides that Class Members who prepaid their mortgage due to Special Circumstances, namely the death of a co-borrower, the divorce from a co-borrower or an

incapacitating illness within 36 months prior to the prepayment, and who can provide the necessary documentation in support thereof, will not be subject to the \$3,000 limit.

In particular, the Claims Administrator will determine if a Class Member is an Eligible Claimant by asking the claimants to provide certain information via the filing of a Claims Form and by reference to a Chart, set out in the Settlement Agreement and prepared by Class Counsel's expert who reviewed a sample of CIBC's relevant mortgage files, which details the periods of time during which a Class Member was most likely to have paid a Prepayment Charge calculated with reference to an IRD.

After the Claims Bar Deadline, the Claims Administrator shall calculate the total amount of eligible Prepayment Charges that were paid by all the Eligible Claimants as approved in accordance with the Distribution Protocol and shall divide that total amount by the amount that represents the Net Settlement Funds to calculate the ratio between the two amounts (the "**Ratio**").

The Claims Administrator shall then apply the Ratio to the Prepayment Charges that were paid by each Eligible Claimant as approved in order to determine the Claim Value of each Eligible Claimant, but notwithstanding any of the foregoing and regardless of how many mortgage loans each Eligible Claimant prepaid during the Class Period, each Claim Value will not exceed \$3,000 (the "**Limit**").

In the case of Eligible Claimants who demonstrate Special Circumstances to the Claims Administrator's satisfaction, the Limit will not apply and the Claims Administrator will be entitled to increase their Claim Value up to the Prepayment Charges they paid.

Notwithstanding any other provision in the Distribution Protocol, the total amount to be paid to all the Eligible Claimants who demonstrate Special Circumstances cannot be more than 50% of the Net Settlement Funds. Should the total amount to be paid to all the Eligible Claimants who demonstrate Special Circumstances correspond to more than 50% of the Net Settlement Funds, the Claims Administrator will reduce that total amount to 50% of the Net Settlement Funds on a pro rata basis. The Claims Administrator will then allocate the difference to the other Eligible Claimants who cannot demonstrate Special Circumstances on a pro rata basis based on the amount of eligible Prepayment Charges these other Eligible Claimants paid, up to the Limit.

In the event that any amounts remain undistributed after the distribution of the Net Settlement Funds (including without limitation 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 refunds or any distributed cheques or Interac e-transfers having become stale-dated, expired or ineligible for redemption), those amounts will be allocated as a *cy-près* to the *Fonds d'aide aux actions collectives* and to the *Fondation du Barreau du Québec*.

Claims Administrator

The Court has appointed Velvet Payments Inc. as the Claims Administrator of the Settlement. The Claims Administrator will, among other things: (i) receive and process the Claims 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 Court. The Claims Administrator can be contacted at:

Velvet Payments Inc.
5900 Andover Ave. Suite 1
Montreal, QC, H4T 1H5
Settlement Website: <http://www.cibcirdsettlement.com/>
Email: info@velvetpayments.com
Telephone: 1-888-770-6892

Filing a Claim

All claims for compensation from the Settlement must be received by the Claims Administrator no later than **5:00pm ET on November 2, 2023**.

The most efficient way to file a claim is to visit the Claims Administrator's website at www.CIBCIRDSETTLEMENT.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 from the Class Members. **Accordingly, Class Members should visit the Administrator's website as soon as possible so that they have time to obtain and submit the required information prior to the Claims Bar Deadline.**

The Claims Administrator will also accept Claims Forms filed by mail or courier postmarked by no later than the Claims Bar Deadline. To obtain a copy of the Claims 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:

Velvet Payments

Re: CIBC Mortgage Prepayment Charge Class Actions
5900 Andover Ave. Suite 1
Montreal, Quebec
H4T 1H5

Class Members with questions about how to complete or file a Claims 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 Claims Form and the orders of the Court approving the Settlement and the Distribution Protocol, may be found on the Claims Administrator's website above, or by contacting Class Counsel via the contact information provided below.

Class Counsel

You may contact Class Counsel listed below. Your name and any information provided will be kept confidential. PLEASE DO NOT CONTACT THE COURTS WITH INQUIRIES ABOUT THE CLASS ACTION. All inquiries should be directed to the Claims Administrator or Class Counsel.

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LPC Avocat Inc.
276, Saint-Jacques Street, Suite 801

Montreal, QC, H2Y 1N3
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Email: jzukran@lpclex.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.

PUBLICATION OF THIS NOTICE HAS BEEN AUTHORIZED BY THE SUPERIOR COURT OF QUEBEC.