

**NOTICE OF CERTIFICATION AND SETTLEMENT HEARING
IN THE CIBC MORTGAGE PREPAYMENT CHARGE CLASS ACTION**

Read this Notice carefully as it may affect your legal rights

This Notice is directed to:

Persons residing in Canada, except persons residing in the provinces of British Columbia and Quebec, who: (i) were or are mortgagors under mortgages issued by CIBC as mortgagee from 2005 onward on residential properties located in Canada; (ii) prepaid all or part of those mortgages; and (iii) in so doing paid a prepayment charge based on an Interest Rate Differential (“**IRD**”). An Interest Rate Differential compares the prevailing interest rates at the time of borrowing and the time of prepayment;

(this group of individuals is known as the “**Ontario Class**”)

-and-

Persons resident in British Columbia who: (i) were or are mortgagors under mortgages issued by the defendant as mortgagee; (ii) prepaid part or all of the principal amounts secured by those mortgages from 2005 onwards; and (iii) paid a prepayment charge;

(this group of individuals is known as the “**British Columbia Class**”).

The Ontario Class and the British Columbia Class are defined collectively as 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.**

Purpose of this Notice

The purpose of this Notice is to advise Class Members of the certification and settlement of the class actions styled as *Jordan v. CIBC Mortgage Inc.* and *Sherry v. CIBC Mortgage Inc.* (the “**Class Actions**”) brought on behalf of the Class Members. The Notice provides Class Members with information about the upcoming Settlement Approval Hearing scheduled for February 4, 2022 and how to opt out of the lawsuit and Settlement. **Class Members who wish to opt out must do so by January 23, 2022. If you are a Class Member and wish to participate in the settlement of the Class Actions, no further action is required on your part at this time.**

Certification of the Class Actions

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**”). Concurrently in October 2011, a class proceeding styled as *Sherry v. CIBC Mortgage Inc.* was commenced in the British Columbia Supreme Court (the “**BC Court**”) against CIBC (the “**British Columbia Action**”).

The Class Actions challenged the validity of CIBC’s method for calculating mortgage prepayment charges, particularly the IRD formula. Prepayment charges can arise when borrowers pay off more of their mortgage than they are entitled to under their mortgage agreement. On February 21, 2019, the Ontario Court certified the Ontario Action as a class proceeding on behalf of the Ontario Class Members.

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, and fully certified it 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 both narrowed and broadened.

The Settlement

CIBC has agreed to pay the total amount of CAD\$7.5 million in settlement of the Class Actions (the “**Settlement**”). The Settlement is a compromise of disputed claims and is not an admission of liability or wrongdoing by CIBC. The Settlement is subject to approval of the Ontario Court and the BC Court, and Class Members have a right to object to the Settlement. If the Settlement is approved by the Courts, it will be paid into an interest-bearing account.

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.

What are your options?

Stay in these Class Actions and Do Nothing

If the Settlement is approved by the Ontario Court and the BC Court, all Class Members will be bound by its terms unless they have already opted out of the Class Actions. You do not have to do anything to stay in these Class Actions. If any benefits, including any Settlement Funds, become available for distribution to the Class, you will be notified about how to ask for a share. You will be legally bound by all orders and judgments of the Court, and you will not be able to sue the Defendant about the legal claims in these cases.

Stay in these Class Actions and Object to the Settlement or Class Counsel Fees

A joint hearing is scheduled for February 4, 2022 at the Courthouse of the Ontario Superior Court of Justice, 80 Dundas Street, London, Ontario, and at the Courthouse of Supreme Court of British Columbia, 800 Smithe Street, Vancouver, British Columbia. The purpose of these hearings is for the Courts to make a determination of the fairness of the Settlement and to approve the Settlement. All timely filed written submissions from Class Members will be considered at this time. If you wish to comment on or make an objection to the Settlement, you must deliver a written submission to Class Counsel at the addresses listed below or to the Claims Administrator via email at info@CIBCprepaidmortgagesettlement.com or by mail at CIBC Prepaid Mortgage Settlement, c/o RicePoint Administration Inc., P.O. Box 4454, Toronto Station A, 25 The Esplanade, Toronto, ON M5W 4B1, no later than January 23, 2022. Class Counsel will forward all such submissions to counsel for the Defendant and the Courts.

The Ontario Court and BC Courts must both approve the Settlement for it to bind the parties. If either Court does not approve the Settlement, the lawsuits will continue and, if you have submitted a claim form or notice of election to opt out, you will receive notification that the Settlement has not been approved.

Opt Out of these Class Actions

If you want to keep your right to sue the Defendant CIBC on your own over the claims in these cases, you need to opt out from these Class Actions. If you remove yourself, you cannot get any money or other benefits from this lawsuit and you will not be represented by Class Counsel.

Any Class Member who does not wish to participate in the Settlement must opt out of the class proceeding by sending a completed Opt-Out Form to RicePoint Administration Inc. via email at info@CIBCprepaidmortgagesettlement.com or by mail at CIBC Prepaid Mortgage Settlement, c/o RicePoint Administration Inc., P.O. Box 4454, Toronto Station A, 25 The Esplanade, Toronto, ON M5W 4B1, no later than 5:00 p.m. Eastern Standard Time on January 23, 2022 (the “**Opt-Out Deadline**”). Those who opt out will not be bound by the release in favour of the Defendant. The Opt-Out Form is available on the website. No Class Members will be permitted to opt out of the Class Proceeding after the Opt-Out Deadline without leave of the Court.

If you opt out of the Class Actions and you wish to bring or maintain your own lawsuit against the Defendant, you will take full responsibility for initiating or continuing your lawsuit and for the legal steps necessary to protect your claims. If you opt out, the limitation period applicable to your claim will begin to run again. If the Settlement is approved by the Courts and you have not opted out, you will not be able to bring or maintain any other claim or legal proceeding against the Defendant in relation to:

- (a) any claim that CIBC’s disclosure regarding the prepayment charge breached any statute, regulation, contractual term, common law or equitable obligation, Plain Language Promise, or public policy;
- (b) any claim that CIBC was not entitled to charge a prepayment charge;
- (c) any claim that CIBC miscalculated a prepayment charge or charged an excessive prepayment charge;
- (d) any claim that CIBC was obliged to reduce a prepayment charge to its net present value;
- (e) any claim that CIBC was obliged to calculate a prepayment charge with reference to a notional comparator mortgage loan with the same amortization period as your mortgage loan; and
- (f) any claim that CIBC was not entitled to calculate a prepayment charge with reference to the discount, if any, to the posted rate of interest for a given term that you received when taking a mortgage loan from the Defendant (the “**Discount**”). For the sake of greater certainty, this includes any claim that CIBC was not entitled to calculate a prepayment charge by applying the Discount to the posted rate of interest payable on a notional comparator mortgage loan for a term comparable to the remaining term of your mortgage loan, or that CIBC was not entitled to calculate a prepayment charge by adding the Discount to the rate of interest payable on your mortgage loan.

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 may be found on the Claims Administrator's website, www.CIBCprepaidmortgagesettlement.com, or at Class Counsel's websites (www.siskinds.com/class-action/cibc-mortgages-prepayment-penalty/ and www.branchmacmaster.com/class_actions/cibc-mortgages-prepayment-penalty/) or by contacting Class Counsel via the contact information provided below.

Fee Approval

At the Settlement Approval Hearing, Class Counsel will also ask the Courts to approve the deduction of certain amounts from the Settlement, including costs incurred to distribute this Notice and process opt-out requests, comments and objections, legal fees of up to \$1,875,000 (25% of the total Settlement amount), and disbursements (other expenses incurred in the course of litigation).

Class Members can send comments on Class Counsel's request for legal fees to be paid from the Settlement to Class Counsel at the addresses below or to the Claims Administrator via email at info@CIBCprepaidmortgagesettlement.com or by mail at CIBC Prepaid Mortgage Settlement, c/o RicePoint Administration Inc., P.O. Box 4454, Toronto Station A, 25 The Esplanade, Toronto, ON M5W 4B1.

Class Counsel

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

**Siskinds LLP
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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.***