

**CIBC MORTGAGES PREPAYMENT CHARGE (IRD) CLASS ACTION
(S.C.M. NO: 500-06-000930-186)**

**NOTICE OF AUTHORIZATION OF A CLASS ACTION AND OF A SETTLEMENT
APPROVAL HEARING**

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

This notice is directed to:

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**”).

A hearing to approve the settlement has been set for **February 6, 2023 at 9:30 a.m.** in room 2.08 of the Montreal courthouse and by videoconference. The courthouse is located at 1 Notre-Dame St. East, Montréal, Quebec. This notice provides more information about the lawsuit, your rights and how to exercise them. Additional related documents are available online at: WWW.LPCLEX.COM/CIBCIRDSETTLEMENT.

Purpose of this Notice

The purpose of this Notice is to advise Class Members of the authorization and subsequent settlement of the class action styled as *Brook v. CIBC* (the “**Class Action**”) brought 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) by Mr. Brook.

This Notice provides Class Members with information about how to opt out of or object to the settlement. **Class Members who wish to opt out or object must do so by January 31, 2023. If you are a Class Member and wish to participate in the settlement of the Class Action, no further action is required on your part at this time.**

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

Authorization of the Class Action

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 CIBC uses to calculate prepayment charges, compares its posted 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 all Plaintiff's 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.

The Settlement

CIBC has agreed to pay the total amount of CAD \$3 million in settlement of the Class Action (the "**Settlement**"). In return for the payment of the Settlement, 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 a compromise of disputed claims and is not an admission of liability or wrongdoing by CIBC. The Settlement is subject to approval of the Superior Court of Quebec, and Class Members have a right to opt out of or object to the Settlement.

After deduction of Class Counsel Fees and Other Costs and the 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 mode of recovery shall be collective recovery.

The Distribution Protocol provides for pro rata cash payments to each Eligible Claimant 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 the total number of 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 Plaintiff'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*.

At the Settlement approval hearing, Class Counsel will ask the court to approve their legal fees of \$900,000 plus taxes, plus their disbursements and other expenses of up to \$100,000 plus taxes. If approved, Class Counsel's fees and disbursements will be paid from the Settlement Amount.

What are your options?

Do Nothing and Stay in this Class Action

If the Settlement is approved by the Superior Court of Quebec, all Class Members will be bound by its terms unless they have already opted out of the Class Action. You do not have to do anything to stay in this Class Action. If the Settlement is approved and any benefits, including any settlement funds, become available for distribution to the Class Members, notices will be published informing Class Members how to make a claim. You will be legally bound by all orders and judgments of the Court, and you will not be able to sue CIBC about the legal claims in these cases.

Stay in this Class Action and Object to the Settlement

If you want to object to the proposed Settlement with CIBC, you must do so by setting out your objection in writing addressed to the Court or to Class Counsel at the address below, or you can attend the hearing for the approval of Settlement. An objection form is available on the Settlement website but not mandatory.

As a Class Member, you have the right to intervene in the present Class Action in the manner provided by law. No Class Member other than the Plaintiff or an intervenor may be required to pay legal cost arising from the Class Action.

Opt-out of this Class Action

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 Class Counsel (email address below) and to the Superior Court of Quebec at the address below by no later than 5:00 pm Eastern Standard Time on January 31, 2023 (the "**Opt-Out Deadline**"):

Clerk of the Superior Court of Quebec
File no: 500-06-000930-186 (*Brook v. CIBC*)
1 Notre-Dame Street East, room 1.120
Montréal, Québec, H2Y 1B6

In order for your opt-out to be valid, your complete and signed Opt-Out Form must be postmarked or received by Class Counsel and the Superior Court of Quebec by no later than the Opt-Out Deadline. Those who opt-out will not be bound by the release in favour of CIBC. The Opt-Out Form is available on Class Counsel's website listed below. No Class Members will be permitted to opt-out of the Class Action after the Opt-Out Deadline.

If you opt out from this Class Action, you keep your right to sue CIBC at your own expense over the claims in this case. If you exclude yourself, you cannot get any money or other benefits from this lawsuit and you will not be represented by Class Counsel.

If you opt out of the Class Action and you wish to bring or maintain your own lawsuit against CIBC, you will take full responsibility for initiating or continuing your lawsuit, and for the legal steps necessary to protect your claims. If the Settlement is approved by the Court and you have not opted out, you will not be able to bring or maintain any other claim or legal proceeding against CIBC in relation to any of the facts alleged in the Class Action.

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 may be found on the Claims Administrator's website: WWW.CIBCIRDSETTLEMENT.COM

Class Counsel

Questions relating to the proposed Settlement may be directed to Class Counsel whose contact information is below. Your name and information will be kept confidential. Please do not contact the Court with inquiries – all inquiries should be directed to Class Counsel or the Claims Administrator:

Mtre Joey Zukran

276, Saint-Jacques Street, Suite 801
Montreal, QC, H2Y 1N3
Telephone: (514) 379-1572
Email: jzukran@lpclex.com

Claims Administrator

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

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**