

Headnote:

Exemptions from the mutual fund self-dealing prohibitions of clauses 111(2)(a) and 111(3) of the *Securities Act* (Ontario) to allow certain mutual funds to continue to hold securities of an issuer that will become a substantial security holder of the mutual funds= manager pursuant to an acquisition transaction. Requirement for the mutual funds to divest the securities of the related issuer by May 2, 2002.

Statutes Cited:

Securities Act (Ontario), R.S.O. 1990 c.S.5, as am., ss. 111(2)(a) and 111(3).

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN,
ONTARIO, NOVA SCOTIA AND NEWFOUNDLAND AND LABRADOR**

AND

**IN THE MATTER OF
THE MUTUAL RELIANCE REVIEW SYSTEM
FOR EXEMPTIVE RELIEF APPLICATIONS**

AND

**IN THE MATTER OF
MERRILL LYNCH CANADIAN BALANCED VALUE FUND
MERRILL LYNCH CANADIAN CORE VALUE FUND
MERRILL LYNCH CANADIAN GROWTH FUND
FRONTIERS CANADIAN EQUITY POOL
MERRILL LYNCH SELECT CANADIAN BALANCED FUND
MERRILL LYNCH U.S. RSP INDEX FUND
MERRILL LYNCH CANADIAN MONEY MARKET FUND
FRONTIERS CANADIAN SHORT TERM INCOME POOL
FRONTIERS CANADIAN FIXED INCOME POOL
(COLLECTIVELY, THE **AFUNDS**)**

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the **ADecision Maker**) in each of British Columbia, Alberta, Saskatchewan, Ontario, Nova Scotia and Newfoundland and Labrador (the **AJurisdictions**) has received an application from Merrill Lynch Investment Managers Canada Inc. (**AMLIM**), as manager of each of the Funds, for a decision (the **ADecision**) pursuant to the securities legislation of the Jurisdictions (the **ALegislation**) that the restrictions contained in the Legislation requiring that the Funds not knowingly hold an investment in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company (the **AInvestment Restrictions**) shall not apply in respect of certain investments held by the Funds in securities of Canadian Imperial Bank of Commerce (**ACIBC**).

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the **ASystem**), the Ontario Securities Commission is the principal regulator for this Application;

AND WHEREAS MLIM has represented to the Decision Makers that:

1. MLIM is a corporation amalgamated under the laws of Canada.

2. MLIM is a wholly-owned subsidiary of Merrill Lynch Investment Managers Group Canada Inc. (AMLG@). MLG is indirectly wholly-owned by Merrill Lynch & Co., Inc. Merrill Lynch & Co., Inc. is a U.S. publicly-held corporation whose shares trade on the New York, Chicago, Pacific, Paris, London and Tokyo stock exchanges.
3. CIBC is a bank listed in Schedule I to the *Bank Act* (Canada). As at October 31, 2001, there were 363,187,931 common shares in the capital of CIBC issued and outstanding, and 84 million Class A Preferred Shares in the capital of CIBC issued and outstanding. The common shares of CIBC are listed on the Toronto, London and New York Stock exchanges. The Class A Preferred Shares are listed on the Toronto Stock Exchange. To the knowledge of CIBC, no person or company beneficially owns, directly or indirectly, or exercises control or direction over, more than 10% of the votes attached to any class of shares of CIBC.
4. MLIM is the manager, portfolio adviser and trustee of the Funds. The custodian of the Funds is State Street Trust Company Canada.
5. Each of the Funds is an open-end mutual fund trust established under the laws of Ontario. The securities of the Funds are offered by prospectus in each of the provinces and territories of Canada.
6. Each Fund is a reporting issuer under the securities laws of each of the provinces and territories of Canada. None of the Funds is in default of any requirements of the Legislation.
7. On November 21, 2001, CIBC entered into a definitive purchase agreement (the Agreement@) with MLG and others. Pursuant to the Agreement, CIBC will acquire from MLG all of the outstanding shares of MLIM (the Share Transaction@), resulting in a change of control of MLIM.
8. Upon completion of the Share Transaction contemplated by the Agreement, which is expected to occur by January 31, 2002, CIBC will become a substantial security holder of MLIM under the Legislation.
9. As at November 21, 2001, the Funds held securities of CIBC as follows:
 - (a) Merrill Lynch Canadian Balanced Value Fund held 8,425 CIBC Common Shares, representing approximately 0.42% of such Fund=s assets;
 - (b) Merrill Lynch Canadian Core Value Fund held 44,240 CIBC Common Shares, representing approximately 0.99% of such Fund=s assets;
 - (c) Merrill Lynch Canadian Growth Fund held 201,000 CIBC Common Shares, representing approximately 2.62% of such Fund=s assets;
 - (d) Frontiers Canadian Equity Pool held 37,300 CIBC Common Shares, representing approximately 2.36% of such Fund=s assets;
 - (e) Merrill Lynch Select Canadian Balanced Fund held a 7.4% CIBC debenture with a net par value of \$5,309,000 maturing on January 31, 2011, and a 8.15% CIBC debenture with

a net par value of 1,036,000 maturing on April 25, 2011, together representing approximately 1.11% of the Fund=s assets;

- (f) Merrill Lynch U.S. RSP Index Fund held CIBC commercial paper with a net par value of \$19,000,000 maturing on February 25, 2002, representing approximately 8.57% of the Fund=s assets;
 - (g) Merrill Lynch Canadian Money Market Fund held CIBC commercial paper with a net par value of \$5,000,000 maturing on May 2, 2002, representing approximately 0.98% of the Fund=s assets.
 - (h) Frontiers Canadian Short Term Income Pool held CIBC commercial paper with a net par value of \$500,000 maturing on May 2, 2002, representing approximately 1.34% of the Fund=s assets; and
 - (i) Frontiers Canadian Fixed Income Pool held a 7.4% CIBC debenture with a net par value of \$565,000 maturing on January 31, 2011, and a 6.5% CIBC debt instrument with a net par value of \$250,000 maturing on October 21, 2009, together representing approximately 1.03% of the Fund=s assets.
10. The aggregate number of CIBC common shares held by all the Funds represents approximately 0.08% of all issued common shares of CIBC.
 11. The Funds have not made any investment in securities of CIBC following the execution of the Agreement and will not make any such purchases in the future unless the Agreement is terminated and the Share Transaction contemplated by the Agreement is not consummated.
 12. At the time the CIBC securities were purchased, CIBC was not affiliated with the Funds or MLIM. At the time it was made, each investment by the Funds in CIBC=s securities represented the business judgement of professional portfolio advisers uninfluenced by considerations other than the best interests of the unitholders of the Funds.
 13. In the absence of the Decision, the Funds would be required to divest their CIBC securities not later than the date of closing of the Share Transaction.

AND WHEREAS under the System this MRRS Decision Document evidences the Decision of each Decision Maker;

AND WHEREAS each Decision Maker 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 Investment Restrictions do not apply so as to prevent the Funds from holding their investments in the securities of CIBC beyond the date of completion of the Share Transaction, provided that:

- (a) the Funds do not make any additional purchases of CIBC securities;
- (b) the Funds divest all or a portion of their CIBC securities as quickly as is commercially reasonable and in any event, no later than May 2, 2002; and
- (c) the Funds do not vote their CIBC securities at any meetings of shareholders of CIBC.

DATED January 28, 2002

APaul Moore@

AR. Stephen Paddon@