

# CIBC and Renaissance Mutual Fund Trailing Commission Class Action

## *Guide to the Distribution Protocol*

The following is a guide to the Distribution Protocol and a brief summary of some of the factors considered by the Plaintiff and Class Counsel in concluding that the Distribution Protocol is fair and reasonable. A more detailed explanation will be provided in the motion materials to be filed in support of Court approval of the Settlement and the Distribution Protocol, which will be posted at <https://www.siskinds.com/class-action/mutual-fund-trailing-commissions/> in advance of the settlement approval hearing scheduled for November 5, 2025.

A copy of the Distribution Protocol is available at the above website. If anything in this document is inconsistent with the Distribution Protocol, the Distribution Protocol prevails.

### **PART 1 – BACKGROUND**

The Settlement Agreement provides for \$26 million to be paid into a fund to be distributed to Class Members, after deductions for certain expenses as described below.

#### **1. Who are Class Members, Claimants and Authorized Claimants?**

“Class Members” are all persons, wherever they may reside or be domiciled, who held, at any time from September 18, 2003 to January 25, 2024, units of a CIBC Mutual Fund<sup>1</sup> and/or a Renaissance Mutual Fund<sup>2</sup> through a discount broker<sup>3</sup>, except for the Excluded Persons<sup>4</sup>.

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<sup>1</sup> “CIBC Mutual Fund” means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Trust Corporation is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CIBC Trust Corporation is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

<sup>2</sup> “Renaissance Mutual Fund” means all mutual fund trusts (including, without limitation, all series of units thereof) of which CIBC Asset Management Inc. is trustee or was trustee at any time from September 18, 2003 to January 25, 2024 (but only in respect of the period during which CIBC Asset Management Inc. is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

<sup>3</sup> Examples of discount brokers are CIBC Investor’s Edge, TD Direct Investing, BMO InvestorLine, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers. They may have had different names in the past.

<sup>4</sup> “Excluded Persons” means (a) the Defendants and CIBC Asset Management Inc.; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of each of the Defendants and CIBC Asset Management Inc.; and the past and present members of the independent review committee of each CIBC Mutual Fund and each Renaissance Mutual Fund; (b) any Person who would otherwise be a Class Member but who validly

A “Claimant” is a Class Member who submits a properly completed claim and all required supporting documentation to the Administrator within the specified time for doing so.

An “Authorized Claimant” is a Claimant who makes a valid claim for compensation and whose assessed Trailing Commissions Paid are greater than zero.

## **2. How much money will be distributed?**

Certain expenses will be deducted from the Settlement Amount before the balance is distributed. Those expenses include counsel fees, counsel disbursements, the commission of the litigation funder, the costs of providing notice to Class Members and settlement administration expenses. All expenses must be approved by the Court. The remainder, after the deduction of Court approved expenses, is called the “Net Settlement Amount”. The Net Settlement Amount will be distributed to Authorized Claimants in accordance with the Distribution Protocol.

## **PART 2 – RATIONALE FOR THE DISTRIBUTION PROTOCOL**

### **1. The allocation of the Net Settlement Amount between Authorized Claimants**

The Net Settlement Amount will be allocated between Authorized Claimants in a manner that tracks the losses alleged in the litigation and that accounts for the higher litigation risks facing certain Class Members.

The alleged losses are those suffered by Class Members as a result of the payment of trailing commissions on CIBC Mutual Fund units and/or Renaissance Mutual Fund units to discount brokers on Class Members’ behalf.

The higher litigation risk applies to Class Members’ claims for trailing commissions paid to discount brokers on the Renaissance Mutual Funds (“**Renaissance Claims**”) because these claims are subject to a stronger argument that they are barred by a limitation period. A limitation period is the legal term for a time limit to commence litigation. Losses from wrongful conduct generally cannot be recovered through litigation unless the litigation is started within 2 years of the date on which a person would have discovered their claim if they had been reasonably diligent – *i.e.* when the person ought reasonably to have known that they suffered a loss because of the defendant’s misconduct.

There was a higher risk that the Renaissance Claims would be barred by the applicable limitation period, compared to claims related to the CIBC Mutual Funds, because of: (i) the substantial passage of time between the start of the Action (in September 2018) and

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excluded themselves from the Action in accordance with the Order of the Honourable Justice Akbarali dated January 25, 2024 providing for certification notice and an opt-out process; or (c) any Person who would otherwise be a Class Member and who held units of a Renaissance Mutual Fund through a Discount Broker from September 18, 2003 to January 25, 2024 (but only if they did not also hold units of a CIBC Mutual Fund through a Discount Broker during that period), but who validly excludes themselves from the Action in accordance with the Order of the Court dated September 3, 2025.

the assertion of the Renaissance Claims on September 3, 2025; and (ii) the widespread publication of facts related to the Action and other related litigation during that time period.

In Class Counsel's opinion, dividing compensation amongst Class Members based on their approximate alleged losses and accounting for the increased litigation risks that Renaissance Claims faced is fair and reasonable.

## **2. Design of the Distribution Protocol**

The Distribution Protocol is designed to be efficient and user friendly. As described further below, it allows Class Members to rely on data Class Counsel obtains from the Defendants to make a claim to the extent that data is available. All other Claimants will be able to make claims using their own information and records of their CIBC Mutual Fund and or Renaissance Mutual Fund holdings through discount brokers. The use of Defendants' data should substantially increase the speed and efficiency of the claims process for the benefit of Claimants.

### **PART 3 – DETERMINING ELIGIBILITY AND CALCULATING ENTITLEMENT**

#### **1. Trailing Commissions Paid**

A Claimant's eligibility for compensation and the amount of compensation they receive is based on their **Trailing Commissions Paid**.

Each Claimant who submits a valid claim and has Trailing Commissions Paid greater than zero (0) will be an Authorized Claimant eligible to receive a proportionate share of the Net Settlement Amount (as described in the next section) subject to a minimum entitlement threshold of \$25.

The Administrator's calculation of Trailing Commissions Paid for a particular Claimant will vary depending on the source and nature of the available information and whether the claim relates to the CIBC Mutual Funds or Renaissance Mutual Funds.

A Claimant's Trailing Commissions Paid shall be determined as follows:

**A. Actual trailers paid:** Where the Defendants provide information to the Administrator on the actual amount of trailing commissions paid to a Claimant's discount broker, trailing commissions paid will be:

i. *For the CIBC Mutual Funds:* the Trailing Commissions Paid shall be the actual amount of trailing commissions paid by the Defendants on the Claimant's behalf; and

ii. *For the Renaissance Mutual Funds:* the Trailing Commissions Paid shall be the actual amount of trailing commissions paid by the Defendants on the Claimant's behalf, multiplied by [1/5].

**B. Estimated trailers paid based on asset value:** If the information described in “A” is unavailable, Trailing Commissions Paid will be based on:

- i. the aggregate market value of a Claimant’s CIBC Mutual Fund units held through a discount broker assuming that trailing commissions were charged at a rate of 0.75% annually; and/or
- ii. the aggregate market value of a Claimant’s Renaissance Mutual Fund units held through a discount broker assuming that trailing commissions were charged at a rate of 0.75% annually multiplied by [1/5].

For example, if annual market value information is available, the Trailing Commissions Paid will be calculated as follows:

For each year, Trailing Commissions Paid equals:

- i. *For the CIBC Mutual Funds:* the [Aggregate market value of all CIBC Mutual Fund units held by the Claimant through the discount broker in the applicable year] multiplied by [0.75%]. The amount determined for each year over the period during which the CIBC Mutual Fund units were held by the Claimant will be added together; and
- ii. *For the Renaissance Mutual Funds:* the [Aggregate market value of all Renaissance Mutual Fund units held by the Claimant through the discount broker in the applicable year] multiplied by [0.75%] multiplied by [1/5]. The amount determined for each year over the period during which the Renaissance Mutual Fund units were held by the Claimant will be added together.

Where the Administrator has a combination of the information described above, the Administrator will give priority to “A” and then “B”. For “B”, while only annual information is required, the Administrator will use the information available over the shortest time interval first (e.g. using monthly first, then quarterly, then at six-month intervals, then annually).

For all Claimants, Trailing Commissions Paid on or after June 1, 2022 shall be deemed to be zero.<sup>5</sup>

## **2. Proportionate Allocation of Net Settlement Amount to Authorized Claimants**

After each Authorized Claimant’s Trailing Commissions Paid are determined, the Net Settlement Amount will be allocated to Authorized Claimants proportionately based upon each Authorized Claimant’s Trailing Commissions Paid. What this means is that each Authorized Claimant will be entitled to a share of the Net Settlement Amount equal to their

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<sup>5</sup> June 1, 2022 is the date when the Defendants stopped paying trailing commissions to discount brokers because of a regulatory prohibition on the practice.

relative share of the total Trailing Commissions Paid of all Authorized Claimants. For example, if an Authorized Claimant has Trailing Commissions Paid of \$10,000 and the total Trailing Commissions Paid was \$100,000,000, she would be entitled to 0.01% of the Net Settlement Amount.

## **PART 4 – THE CLAIMS PROCESS**

There are two ways a claim for compensation can be made. *First*, there is a streamlined process available where the Administrator has been provided with information from the Defendants that allows the Administrator to calculate the Class Member's Trailing Commissions Paid. *Second*, there is a full claims process for Class Members when that information is not available from the Defendants.

### **1. The Streamlined Claims Process**

Where the Defendants provide the Administrator with information to calculate the Trailing Commissions Paid of a particular Class Member and their contact information, that Class Member will be entitled to rely on the information provided when making a claim for compensation.

To facilitate this process, the Administrator will send such Class Members a letter or email (if available) with a username and password to log-on to the online claims portal created by the Administrator. The online claims portal will be pre-populated with information on the Trailing Commissions Paid by the Class Member based on the information provided by the Defendants. The Class Member will be able to rely on that pre-populated information to submit a claim for compensation without any further supporting documentation. As described in more detail in the Distribution Protocol, the Class Members may provide supplemental information using the full claims process described below if they disagree with the pre-populated Trailing Commissions Paid or wish to expand their claim for a period not covered by their pre-populated information.

It is Class Counsel's view that this should substantially increase the efficiency of the claims process for a significant number of Class Members.

### **2. The Full Claims Process**

All other Claimants can make a claim using the online portal created by the Administrator. Claimants using the full claims process will be required to provide information and supporting documentation showing, on at least annual intervals, the aggregate market value of their CIBC Mutual Fund units and/or Renaissance Mutual Fund units for the period that they held those units. The Administrator will determine what documentary support is sufficient. That documentary support may include brokerage account statements, holdings summaries, transaction records or other similar documentation.

The portal will be designed by the Administrator to make the claims process as efficient as possible. Claimants using the full claims process must provide documentation supporting their claim. The Administrator will be flexible in its approach to supporting documentation.

## **PART 5 – SAMPLE CALCULATIONS FOR ILLUSTRATION PURPOSES**

### **Example 1:**

#### *Assumed Facts*

- The Defendants provide records to the Administrator showing that \$10,000 in trailing commissions were paid to the Claimant's discount broker on the Claimant's behalf with respect to their CIBC Mutual Fund units held through that discount broker;
- The sum of all Authorized Claimants' Trailing Commissions Paid is \$100,000,000; and
- The Net Settlement Amount available for distribution is \$15,000,000.

#### *Application of Distribution Protocol to the Assumed Facts*

- The Claimant has Trailing Commissions Paid of \$10,000. As a result, they are an Authorized Claimant eligible for compensation under the Distribution Protocol.
- The Authorized Claimant is entitled to \$1,500 in compensation, calculated as:  $[\$10,000 \div \$100,000,000] \times \$15,000,000$ .

### **Example 2:**

#### *Assumed Facts*

- The Defendants provide records to the Administrator showing that \$10,000 in trailing commissions were paid to the Claimant's discount broker on the Claimant's behalf with respect to their Renaissance Mutual Fund units held through that discount broker;
- The sum of all Authorized Claimants' Trailing Commissions Paid is \$100,000,000; and
- The Net Settlement Amount available for distribution is \$15,000,000.

#### *Application of Distribution Protocol to the Assumed Facts*

- The Claimant has Trailing Commissions Paid of \$2,000, calculated as  $\$10,000 \times [1/5]$ . As a result, they are an Authorized Claimant eligible for compensation under the Distribution Protocol.
- The Authorized Claimant is entitled to \$300 in compensation, calculated as:  $[\$2,000 \div \$100,000,000] \times \$15,000,000$ .

### Example 3

#### *Assumed Facts*

- A Claimant's aggregate annual value of CIBC Mutual Fund units held through a discount broker are as follows:

2012	\$50,000
2013	\$51,000
2014	\$51,550
2015	\$53,000
2016	\$60,000
2017	\$63,000
2018	\$66,000
2019	\$68,000

- The sum of all Authorized Claimants' Trailing Commissions Paid is \$100,000,000; and
- The Net Settlement Amount available for distribution is \$15,000,000.

#### *Application of Distribution Protocol to the Assumed Facts*

- The Claimant has Trailing Commissions Paid of \$3,469.13, calculated as the sum of A to H:

A.	\$50,000 multiplied by 0.75% =	\$375.00
B.	\$51,000 multiplied by 0.75% =	\$382.50
C.	\$51,550 multiplied by 0.75% =	\$386.63
D.	\$53,000 multiplied by 0.75% =	\$397.50
E.	\$60,000 multiplied by 0.75% =	\$450.00
F.	\$63,000 multiplied by 0.75% =	\$472.50
G.	\$66,000 multiplied by 0.75% =	\$495.00

H. \$68,000 multiplied by 0.75% = \$510.00

TOTAL: \$3,469.13

- As a result, the Claimant is an Authorized Claimant eligible for compensation under the Distribution Protocol; and
- The Authorized Claimant is entitled to \$520.37, calculated as  $[\$3,469.13 \div \$100,000,000] \times \$15,000,000$ .

## **PART 6 – DISPUTE RESOLUTION**

In the event of a denial of a claim by the Administrator and subject to the limitations described in the next paragraph, a Claimant can request reconsideration of their claim by the Administrator within 45 days of receiving a notice from the Administrator that their claim has been denied in its entirety. If the claim continues to be denied in its entirety after a request for reconsideration, Claimants will have a final right of appeal to a Court-appointed arbitrator.

To promote an efficient and expeditious administration process, Claimants will not be able to make a request for reconsideration to the Administrator or have an appeal right: (a) where the claim is allowed but the Claimant disputes the amount of the Trailing Commissions Paid or their individual compensation; (b) for claims filed after the Claims Filing Deadline; and (c) where the appeal or request for reconsideration, if successful, will result in the Claimant's Trailing Commissions Paid being less than \$500.