

standardized future or forward contract, the Fund holds:

- (i) cash cover, in an amount that, together with margin on account for the specified derivative and the market value of the specified derivative, is not less than, on a daily mark-to-market basis, the underlying market exposure of the specified derivative;
 - (ii) a right or obligation to sell an equivalent quantity of the underlying interest of the future or forward contract, and cash cover that together with margin on account for the position, is not less than the amount, if any, by which the price of the future or forward contract exceeds the strike price of the right or obligation to sell the underlying interest; or
 - (iii) a combination of the positions referred to in subparagraphs (i) and (ii) that is sufficient, without recourse to other assets of the Fund, to enable the Fund to satisfy its obligations under the future or forward contract;
- (c) a Fund will not:
- (i) purchase a debt-like security that has an option component or an option, or
 - (ii) purchase or write an option to cover any positions under paragraphs 2.8(1)(b), (c), (d), (e) and (f) of NI 81-102, if immediately after the purchase or writing of such option, more than 10% of the net asset value of the Fund, taken at market value at the time of the transaction, would be made up of
 - (A) purchased debt-like securities that have an option component or purchased options, in each case, held by the Fund for purposes other than hedging, or
 - (B) options used to cover any positions under paragraphs 2.8(1)(b), (c), (d), (e) and (f) of NI 81-102;
- (d) this decision will terminate on the coming into force of any securities legislation relating to the use as cover of a right or obligation to sell an equivalent quantity of the underlying interest of the forward, standardized future or swap in compliance with section 2.8 of NI 81-102.

“Darren McKall”
 Manager, Investment Funds and Structured Products
 Ontario Securities Commission

Application File #: 2022/0109
 SEDAR #: 3347118

2.1.3 CIBC Asset Management Inc.

Headnote

National Policy 11-203 Process for Exemptive Relief Applications in Multiple Jurisdictions – investment funds that are fixed income funds granted relief from the concentration restriction in subsections 2.1(1) and 2.1(1.1) of NI 81-102 to invest in debt securities issued by the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) beyond the limits permitted under NI 81-102 – Debt securities of Fannie Mae and Freddie Mac are implicitly guaranteed by the U.S. government – Fannie Mae and Freddie Mac are government sponsored entities in the U.S. and their securities are “government securities” under the U.S. Investment Company Act of 1940 – Fannie Mae and Freddie Mac have a U.S. government equivalent credit rating – exemptive relief granted from subsections 2.1(1) and 2.1(1.1) of NI 81-102, subject to certain conditions.

Applicable Legislative Provisions

National Instrument 81-102 Investment Funds, ss. 2.1(1), 2.1(1.1) and 19.1.

March 15, 2022

**IN THE MATTER OF
 THE SECURITIES LEGISLATION OF
 ONTARIO
 (the Jurisdiction)**

AND

**IN THE MATTER OF
 THE PROCESS FOR EXEMPTIVE RELIEF
 APPLICATIONS
 IN MULTIPLE JURISDICTIONS**

AND

**IN THE MATTER OF
 CIBC ASSET MANAGEMENT INC.
 (Filer)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filer on behalf of all existing and future investment funds managed by the Filer or an affiliate of the Filer (collectively, the **Funds** and individually, a **Fund**) that are subject to National Instrument 81-102 *Investment Funds (NI 81-102)*, for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) pursuant to section 19.1 of NI 81-102, exempting the Funds from:

- (a) the restriction contained in subsection 2.1(1) of NI 81-102 to permit each Fund that is a mutual fund, other than an alternative mutual fund, to purchase a security of an issuer, enter into a specified

derivative transaction or purchase index participation units (each a **Purchase**) when, immediately after the Purchase, more than 10 percent of the net asset value of the Fund would be invested in debt obligations issued or guaranteed by either the Federal National Mortgage Association (**Fannie Mae**) or the Federal Home Loan Mortgage Corporation (**Freddie Mac**); and

- (b) the restriction contained in subsection 2.1(1.1) of NI 81-102 to permit each Fund that is an alternative mutual fund or a non-redeemable investment fund to make a Purchase when, immediately after the Purchase, more than 20 percent of the net asset value of the Fund would be invested in debt obligations issued or guaranteed by either the Fannie Mae or Freddie Mac,

(together, the **Exemption Sought**).

Under the Process for Exemptive Relief Applications in Multiple Jurisdictions (for a passport application):

- (a) the Ontario Securities Commission is the principal regulator for this application; and
- (b) the Filer has provided notice that section 4.7(1) of Multilateral Instrument 11-102 *Passport System (MI 11-102)* is intended to be relied upon in each of the other provinces and territories of Canada (together with Ontario, the **Jurisdictions**).

Interpretation

Terms defined in National Instrument 14-101 *Definitions*, MI 11-102, and NI 81-102 have the same meaning if used in this decision, unless otherwise defined. In addition:

1940 Act means the United States *Investment Company Act of 1940*, as amended from time to time;

Fannie and Freddie Securities means debt obligations issued or guaranteed by either Fannie Mae or Freddie Mac including, without limitation, bonds and mortgage-backed securities and **Fannie or Freddie Security** means any one such debt obligation;

Minimum Rating means a credit rating of BBB- assigned by S&P Global Ratings Canada or an equivalent rating assigned by one or more other designated rating organizations; and

U.S. Government Equivalent Rating means a credit rating assigned by S&P Global Ratings Canada, or an equivalent rating assigned by one or more other designated rating organizations, to a Fannie or Freddie Security that is not less than the credit rating then assigned by such designated rating organization to the debt of the United States government of approximately the same term as the remaining term to maturity of, and denominated in the same currency as, the Fannie or Freddie Security.

Representations

This decision is based on the following facts represented by the Filer:

The Filer

1. The Filer is a corporation incorporated under the laws of Canada with its head office located in Toronto, Ontario.
2. The Filer is registered as a portfolio manager in all Jurisdictions, as an investment fund manager in Ontario, Québec and Newfoundland and Labrador, as a commodity trading manager in Ontario, and as a derivative portfolio manager in Québec.
3. The Filer, or an affiliate of the Filer, is or will be, the investment fund manager of each Fund.
4. The Filer or an affiliate may act as portfolio manager of the Funds or may appoint one or more portfolio managers for the Funds or sub-advisors to provide the Filer with investment advice in respect of a Fund's investments.
5. Neither the Filer nor the existing Funds are in default of securities legislation in any Jurisdiction.

The Funds

6. Each Fund is, or will be, an investment fund to which NI 81-102 applies, subject to any exemptions therefrom that have been, or may be, granted by the applicable securities regulatory authorities.
7. Securities of the Funds are, or will be, offered by a prospectus filed in the Jurisdictions and, accordingly, each Fund is, or will be, a reporting issuer in the Jurisdictions.
8. The Filer filed a preliminary simplified prospectus on March 4, 2022 to qualify for sale securities of CIBC Global Credit Fund (the **New Fund**), a mutual fund for which the Filer will act as investment fund manager and portfolio manager, and for which PIMCO Canada Corp. will act as sub-advisor. The New Fund intends to rely on the Exemption Sought.
9. The investment objective of each Fund that will rely on the Exemption Sought permits, or will permit, the Fund to invest a majority of its assets in fixed income securities. The ability to invest in Fannie and Freddie Securities is, or will be, an important feature of each Fund due to the size and role of Fannie Mae and Freddie Mac in the United States mortgage industry.

Fannie Mae and Freddie Mac

10. Fannie Mae is a financial services corporation originally established by the United States Congress in 1938 to provide United States federal government money to local banks to finance home mortgages during the Great Depression. Its

business includes borrowing money in the debt markets by selling bonds and providing liquidity to mortgage originators by purchasing whole loans which it then securitizes by issuing mortgage-backed securities. Fannie Mae also earns guarantee fees for assuming the credit risk on mortgage loans.

11. Freddie Mac is a financial services corporation that was created by the United States Congress in 1970 to expand the secondary market for mortgages in the United States. It was established to provide competition to Fannie Mae. Similar to Fannie Mae, the business of Freddie Mac includes buying mortgages in the secondary market, pooling them, and issuing mortgage-backed securities, as well as earning guarantee fees for assuming the credit risk on mortgage loans.
12. Fannie and Freddie Securities provide a substantial portion of the financing for residential mortgages in the United States.
13. Originally, the obligations of Fannie Mae were explicitly guaranteed by the United States government. The explicit guarantee was removed as part of a reorganization of Fannie Mae in 1968. Like Fannie Mae, there is no explicit guarantee of the obligations of Freddie Mac by the United States government.
14. Notwithstanding the absence of an explicit guarantee, it is widely assumed that there is an implied guarantee of the obligations of both Fannie Mae and Freddie Mac by the United States government. This assumption is based on the view that Fannie Mae and Freddie Mac each are considered to be "too big to fail" due to the critical roles they play as instrumentalities of the United States government existing to support the liquidity of the residential real estate mortgage market. Accordingly, it is widely believed that the United States government implicitly guarantees the obligations of Fannie Mae and Freddie Mac. This is reflected in Fannie and Freddie Securities currently having a U.S. Government Equivalent Rating.
15. The implied guarantee was evidenced during the 2008 financial crisis. At that time, Fannie Mae and Freddie Mac together owned or guaranteed approximately half of the United States' US\$12 trillion mortgage market and were at risk of defaulting on their obligations. Such a default would have increased the cost of obtaining mortgage financing from other sources, thereby exacerbating the decline in the U.S. residential real estate market, as well as negatively impacting investors (including retirement funds and money market funds) that held Fannie and Freddie Securities. As a result, on September 7, 2008, Fannie Mae and Freddie Mac were placed into conservatorship of the United States Federal Housing Financing Agency in order to stabilize them. The United States government avoided creating an explicit guarantee of the obligations of Fannie Mae and Freddie Mac due to the negative impact it would have had on the United States Treasury. Fannie Mae and Freddie Mac were expressly excluded from the bail-in regime created under Title II of the United States Dodd-Frank Wall Street Reform and Consumer Protection Act to preclude future U.S. government bail-outs of large financial companies. It is expected that a further act of the U.S. Congress would be required to remove the implied guarantee of Fannie and Freddie Securities as part of a larger reform of the U.S. residential real estate market. No such initiative currently is a priority of the U.S. Congress.
16. Under the 1940 Act, an investment company registered with the United States Securities and Exchange Commission (the **SEC**) seeking to qualify as a "diversified company" is required, among other matters, to invest at least 75% of its total assets in a manner whereby not more than 5% of the value of its total assets is invested in the securities of any single issuer. This restriction is analogous to the diversification requirement imposed on public investment funds in Canada by subsections 2.1(1) and 2.1(1.1) of NI 81-102. Similar to paragraph 2.1(2)(a) of NI 81-102, the 1940 Act excludes a "government security" from the 5% limit described.
17. The definition of "government security" in the 1940 Act differs from that contained in NI 81-102 by including any security issued by a person controlled or supervised by and acting as an instrumentality of the Government of the United States pursuant to authority granted by the Congress of the United States (a **U.S. government instrumentality**). Each of Fannie Mae and Freddie Mac is considered to be a U.S. government instrumentality and Fannie and Freddie Securities therefore are "government securities" under the 1940 Act.
18. The definition of "government security" in NI 81-102 does not include U.S. government instrumentalities. Accordingly, the only United States securities which qualify as government securities are those directly issued by, or fully and unconditionally guaranteed by, the United States government. Fannie and Freddie Securities do not meet this definition since their obligations are not explicitly fully and unconditionally guaranteed by the United States government.
19. As a result, the restrictions in subsections 2.1(1) and 2.1(1.1) apply to each investment by a Fund in Fannie and Freddie Securities.
20. Fannie and Freddie Securities represent a large, attractive and unique category of investment that cannot be replicated by any other issuer. For this reason, it is important to the Funds that they be entitled to maximize their opportunity to invest in Fannie and Freddie Securities.

21. Investments in Fannie and Freddie Securities are considered by the Filer to be more prudent than investments in equivalent bonds and mortgage-backed securities of other issuers due to the implied guarantee by the United States government. Accordingly, if the Exemption Sought is granted, each Fund will have the opportunity to maintain a more prudent portfolio through greater exposure to securities implicitly guaranteed by the United States government.
22. The US-based sub-adviser that the Filer intends to retain to advise the New Fund manages investment companies in the United States that currently hold significant amounts of Fannie and Freddie Securities, in many cases with individual investment companies investing more than 10% of their net assets in the securities of either Fannie Mae or Freddie Mac. Granting the Exemption Sought will enable the New Fund to invest in Fannie and Freddie Securities to the same degree and proportions as its equivalent U.S. investment company counterparts managed by such sub-adviser.
23. The Filer intends, either directly or through sub-advisers, to research and monitor the investment attributes and trading operations for Fannie and Freddie Securities. Such ongoing research and monitoring will include monitoring proposals to restructure the U.S. residential housing market that may impact the implied guarantee of Fannie and Freddie Securities by the U.S. government. If the U.S. Congress proposes legislation to change or remove the implied guarantee and the Filer determines in its judgement that, as a result of the announced proposed legislation, there is a significant risk that the Fannie and Freddie Securities held by the Funds could cease to have a U.S. Government Equivalent Rating or their credit ratings could decline below a Minimum Rating, the Funds will take steps that are reasonably required to dispose of their Fannie and Freddie Securities in an orderly and timely fashion such that the Fannie and Freddie Securities held by the Funds comply with subsections 2.1(1) and 2.1(1.1) of NI 81-102.

Decision

The principal regulator is satisfied that the decision meets the test set out in the Legislation for the principal regulator to make the decision.

The decision of the principal regulator is that the Exemption Sought is granted provided that:

- (a) at the time of Purchase, the Fannie or Freddie Security has a U.S. Government Equivalent Rating and a rating not less than the Minimum Rating;
- (b) the prospectus or simplified prospectus of each Fund that is a mutual fund distributing its securities, the prospectus of each Fund that is a non-redeemable investment fund distributing its

securities, and the prospectus or annual information form of each Fund that is not distributing its securities:

- (i) discloses that the Fund has received permission to invest more than 10% (or, in the case of an alternative mutual fund or a non-redeemable investment fund, 20%) of its net assets in each of Fannie Mae and Freddie Mac provided the Fannie and Freddie Securities maintain a U.S. Government Equivalent Rating and a rating not less than the Minimum Rating;
- (ii) discloses (in the case of a prospectus or simplified prospectus, under the heading or sub-heading "Investment Strategies") the maximum amount the Fund may invest in Fannie and Freddie Securities; and
- (iii) contains risk factors that:
 - (A) the U.S. government may not guarantee payment of Fannie and Freddie Securities; and
 - (B) describe the risks associated with the Fund investing more than 10% (or, in the case of an alternative mutual fund or a non-redeemable investment fund, 20%) of its net assets in securities of Fannie Mae or Freddie Mac,

provided that in the case of a Fund that is a mutual fund currently distributing its securities, the information required by this condition (b) may instead be included in the prospectus or simplified prospectus of the Fund when it is next renewed or amended;

- (c) if the rating of a Fannie or Freddie Security held by a Fund ceases to have a U.S. Government Equivalent Rating or declines below the Minimum Rating, the Fund will take the steps that are reasonably required to dispose of such Fannie or Freddie Security in an orderly and timely fashion such that the Fannie and Freddie Securities held by the Fund comply with subsections 2.1(1) and 2.1(1.1) of NI 81-102; and
- (d) if the U.S. Congress:
 - (i) proposes legislation intended to change or remove the implied guarantee by the U.S. government of Fannie Mae and/or Freddie Mac and the Filer determines in its judgement that, as a result of the announced proposed legislation, there is a significant risk that the Fannie and Freddie Securities held by the Funds could cease to have a U.S. Government Equivalent Rating or their credit ratings could decline below the Minimum Rating; or

- (ii) enacts legislation that:
 - (A) removes the implied guarantee by the U.S. government of Fannie Mae and/or Freddie Mac; or
 - (B) specifies a future effective date on which the implied guarantee by the U.S. government of Fannie Mae and/or Freddie Mac will end,

the Funds will take the steps that are reasonably required to dispose of such Fannie and Freddie Securities in an orderly and timely fashion such that the Fannie and Freddie Securities held by the Funds comply with subsections 2.1(1) and 2.1(1.1) of NI 81-102.

“Darren McKall”
Manager
Investment Funds and Structured Products
Ontario Securities Commission

Application File #: 2022/0110
SEDAR #: 3347121

2.1.4 MD Financial Management Inc. and MD Management Limited

Headnote

Under paragraph 4.1(1)(b) of National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations a registered firm must not permit an individual to act as a dealing, advising or associate advising representative of the registered firm if the individual is registered as a dealing, advising or associate advising representative of another registered firm. The Filers are affiliated entities and have valid business reasons for their representatives, within a designated class, to be registered with both firms. The Filers have policies in place to handle potential conflicts of interest. The Filers are exempted from the prohibition. Due to the broader scope of this relief, the decision subject to a sunset clause to permit evaluation of the implementation of the dual registration of individuals.

Applicable Legislative Provisions

Multilateral Instrument 11-102 Passport System, s. 4.7.
National Instrument 31-103 Registration Requirements, Exemptions and Ongoing Registrant Obligations, ss. 4.1 and 15.1.

March 15, 2022

**IN THE MATTER OF
THE SECURITIES LEGISLATION OF
ONTARIO
(the Jurisdiction)**

AND

**IN THE MATTER OF
THE PROCESS FOR EXEMPTIVE RELIEF
APPLICATIONS
IN MULTIPLE JURISDICTIONS**

AND

**IN THE MATTER OF
MD FINANCIAL MANAGEMENT INC.
(MD FINANCIAL)**

AND

**MD MANAGEMENT LIMITED
(MD MANAGEMENT, and together with MD FINANCIAL,
the Filers)**

DECISION

Background

The principal regulator in the Jurisdiction has received an application from the Filers for a decision under the securities legislation of the Jurisdiction of the principal regulator (the **Legislation**) for relief:

- (a) from the restriction under paragraph 4.1(1)(b) of National Instrument 31-103 *Registration Requirements, Exemptions and Ongoing Registrant Obligations* (**NI 31-103**) (such restriction, the **Dual Registration Restriction**), pursuant to section 15.1 of NI 31-103, to permit, for a