

Re CIBC World Markets & Trickey

IN THE MATTER OF:

**The Rules of the Investment Industry Regulatory Organization of
Canada**

and

CIBC World Markets Inc. and Robert Trickey

2018 IIROC 50

Investment Industry Regulatory Organization of Canada
Hearing Panel (Pacific District)

Heard: September 6, 2018 in Vancouver, British Columbia

Decision: September 6, 2018

Written Decision: January 10, 2019

Hearing Panel:

Joseph A. Bernardo, Chair, Douglas Stewart and Brian Worth

Appearance:

Stacey Robertson, Senior Enforcement Counsel

James J. Heelan for the Respondents

REASONS FOR DECISION

¶ 1 On September 6, 2018 a settlement agreement (Settlement Agreement) made among the staff of the Investment Industry Regulatory Organization of Canada (IIROC Staff), CIBC World Markets Inc., and Robert Trickey (Trickey) was presented for acceptance to the Hearing Panel in closed session. It is attached as Exhibit A.

¶ 2 The Hearing Panel accepted the Settlement Agreement for the following reasons.

Agreed facts

¶ 3 Rule 2500 of IIROC's Dealer Member Rules (Rules) sets out the minimum standards a Dealer Member must observe to ensure the proper supervision of retail customer account activity. Essentially, the Rule provides detailed guidance regarding both the structural features and operational outcomes expected of a Dealer Member's supervisory system.

¶ 4 Rule 38.1 specifically requires a Dealer Member to establish and maintain a supervisory system that, among other things, is reasonably designed to ensure its Registered Representatives comply with the Rules and other regulatory requirements.

¶ 5 Rule 38.4 requires individuals responsible for supervising Registered Representatives to do so in a manner that, among other things, ensures their compliance with the Rules and other regulatory requirements.

¶ 6 The Settlement Agreement describes breaches of these Rules in relation to the supervision of Geraldine Mannings, a Registered Representative employed by CIBC World Markets Inc. operating as CIBC Wood Gundy (CIBC) from 2009 to 2013 (the Relevant Period).

¶ 7 Mannings became a Registered Representative in 1967. She was successively employed by various Dealer Members until she left CIBC on July 2, 2013 at the age of 77.

¶ 8 During the Relevant Period:

- a) CIBC was registered as a Dealer Member with IIROC.
- b) Trickey was the producing branch manager of the CIBC branch in Nelson, British Columbia, meaning that in addition to his managerial duties he was also an investment adviser (IA) servicing his own clients. In his branch manager capacity, Trickey was responsible for reviewing account activities, identifying compliance concerns, and confirming when those concerns were resolved.
- c) CIBC head office was responsible for higher level oversight, principally in the form of giving advice and support to the branch. These responsibilities included following up with branch management to ensure any instances of material non-compliance were escalated appropriately in accordance with CIBC's policies and procedures.

¶ 9 In May 2009, CIBC head office commenced a normal course examination of the Nelson branch.

- a) Between January and September 2009, Trickey in his role as branch manager reviewed accounts for which Mannings was responsible. He discovered that certain trades were outside the clients' stated investment objectives and risk tolerance. These suitability concerns were mostly resolved with updated "know your client" (KYC) forms; in other instances, Mannings simply informed Trickey that the trades were suitable for the clients. There is no record of Trickey making telephone calls to any of Mannings' clients.
- b) CIBC's examination report advised branch management to follow a different approach, noting that a record of actual supervisory actions must be maintained. The report proposed an action plan that, first, confirmed that IAs could not justify the suitability of a portfolio merely by updating KYC forms and, second, indicated IAs should be required to respond to suitability queries by explaining in writing why an increase in risk was appropriate.
- c) Trickey agreed with the findings of the examination report and the action plan.

¶ 10 In October 2009, CIBC head office commenced a book review of twenty-five of Mannings' client accounts. The review was not completed until May 2010.

- a) Between October 2009 and May 2010, Trickey in the course of reviewing Mannings' client accounts again discovered trades outside the stated investment objectives and risk tolerance of certain clients. Between September 2009 and May 2010, head office separately identified suitability concerns and raised them with Trickey. Once again, the suitability concerns were resolved with either updated KYC forms or Mannings' assertions that the trades were suitable. Branch records indicate Trickey made telephone calls to two of Mannings' clients.
- b) The book review independently found suitability concerns in the reviewed accounts. It recommended that Trickey should contact clients directly when encountering suitability questions and should escalate the matter to senior business management if he felt there was a pattern to the problem.
- c) Trickey discussed the book review with his own supervisor, but there is no written record of the discussion. Other than continued vigilance, it does not appear an action plan was developed to deal with the ongoing challenge of Mannings' accounts.
- d) Trickey also advised head office that supervising Mannings was difficult because her interpretation of risk was different from his and CIBC's view of the issue. It does not appear head office resolved this problem.

¶ 11 In March 2013, CIBC head office commenced another book review, this time of fifty of Mannings' client accounts.

- a) Between June 2010 and May 2013, Trickey once more found trades in Mannings' client accounts that fell outside the stated investment objectives and risk tolerance for the accounts. During the same period, head office once more separately identified suitability concerns and raised them with Trickey. The resolution of these concerns was again limited to updating KYC forms and assertions by Mannings that the trades were suitable. Branch records indicate Trickey made telephone calls to three of Mannings' clients.
- b) The book review found that in twenty-six of the reviewed accounts the holdings were out of line with their stated investment objectives and risk tolerance.

¶ 12 Since leaving CIBC in 2013, Mannings has not been registered with IIROC in any capacity. In a previous settlement, *Re Mannings 2015 IIROC 22*, she acknowledged making unsuitable recommendations for the accounts of three clients.

¶ 13 On December 31, 2017, Trickey ceased acting as branch manager of the Nelson branch of CIBC.

¶ 14 CIBC has implemented sustainability testing to ensure that action plans arising from supervisory issues are followed up and carried out.

¶ 15 CIBC is implementing a new regional supervision system on a pilot project basis. Under the new model, the majority of key supervisory functions performed by local branch managers would be transferred to a regional team of full-time supervisors.

Misconduct

¶ 16 The Respondents acknowledge engaging in the following misconduct during the Relevant Period:

- a) Trickey admits to having failed to
 - i. exercise sufficient diligence in supervising Mannings, contrary to Rules 38.4 and 2500; and
 - ii. maintain adequate records of his supervision of Mannings, contrary to Rules 38.1(vii) and 2500.
- b) CIBC admits to having failed to exercise sufficient diligence in supervising Mannings contrary to Rules 38.1 and 2500.

¶ 17 These admissions of fault are plainly supported by the agreed upon facts.

¶ 18 Red flags repeatedly alerted the Respondents to two related problems. First, the suitability concerns raised by Mannings' client accounts confronted Trickey with questions he was obligated to answer with objective evidence. Second, Mannings' unwillingness or inability to follow suitability procedures required CIBC's senior business management to make a searching assessment of Mannings' professional judgment. At both the branch manager and higher oversight levels, the Respondents were in situations that required them to exercise their supervisory responsibilities with urgency and diligence. They failed to do so.

Applicable standard

¶ 19 The Settlement Agreement came before the Hearing Panel under Rules 8428 and 8215, the provisions that set out settlement hearing procedures and grant hearing panels jurisdiction to accept or reject settlements.

¶ 20 It is well established that settlements are to be encouraged and supported. This is because an efficient allocation of limited enforcement resources necessarily serves to advance public protection, the cardinal purpose of securities regulation.

¶ 21 Settlements are also the result of negotiations between litigants opposed in interest; they are nuanced and pragmatic assessments of fault, deliberately crafted to resolve controversy by the persons best positioned to

assess the full significance of all the facts.

British Columbia Securities Commission v. Seifert, 2007 BCCA 484 at paras. 26 and 31

¶ 22 For these reasons, it is commonly accepted that an IIROC settlement hearing panel ought not to assess a proposed outcome against what it would itself have deemed appropriate exercising its own independent judgment. Instead, a hearing panel exercising discretion under Rule 8215 should be pragmatic and weigh the agreed upon penalty solely against the objectives of protecting the investing public and the integrity of the investment industry. A penalty may properly be rejected if it clearly falls outside a reasonable range of appropriateness for the facts disclosed in the settlement, but not otherwise; in other words, it is incumbent on a hearing panel to accept a settlement unless, in its reasonable judgment, the proposed penalty is clearly inappropriate.

Re Milewski, [1999] I.D.A.C.D. No. 17 at p. 11

Re Johnson, 2012 IIROC 19

Re Deutsche Bank Securities Ltd., 2013 IIROC 7 at para. 9

Re Gill, (2015 IIROC 39 at paras. 7 to 9

Re Edward Jones, 2016 IIROC 42

Proposed sanctions

¶ 23 The Settlement Agreement contemplates that:

- a) CIBC pay a fine in the amount of \$125,000 and costs of \$10,000; and
- b) Trickey pay a fine in the amount of \$40,000 and costs of \$5,000.

¶ 24 Senior Enforcement Counsel on behalf IIROC Staff reviewed a number of firm and branch manager supervision cases that have been resolved by settlement.

¶ 25 In the three most recent firm supervision cases provided, the fines ranged from \$90,000 to \$200,000. All three cases involved failures by head office to exercise appropriate supervisory oversight in fact situations similar, but not strictly analogous, to the present case.

Re RBC Dominion Securities, 2014 IIROC 25

Re Scotia Capital Inc., 2017 IIROC 15

Re Scotia Capital Inc., 2017 IIROC 48

¶ 26 As for the branch manager supervision settlement cases that were reviewed, the fines ranged from \$20,000 to \$60,000. The fact situations in those cases vary considerably, but share common themes with the present case: branch managers cannot rely solely on representations made by the Registered Representatives they are supervising, but must instead take independent steps to remedy concerns; branch managers cannot rely on head office to fulfill their own supervisory obligations; and branch managers must respond with urgency and diligence when presented with situations in which Registered Representatives have clearly failed to service client accounts in accordance with firm procedures.

Re Donnelly, 2010 IIROC 32

Re Murdoch, 2012 IIROC 23

Re MacDonald, 2012 IIROC 68

Re Brunet, 2013 IIROC 34

Re Lang, 2013 IIROC 37

Re Dickson, 2014 IIROC 12

¶ 27 The Settlement Agreement does not contemplate any kind of suspension for Trickey or remedial order for CIBC. Neither would be warranted in any event, as Trickey is no longer acting in a supervisory role and CIBC is already endeavouring to make structural changes to its supervisory system. Moreover, and perhaps more to the point, there is nothing in the available record to indicate that the misconduct was in any sense systemic.

¶ 28 Taking into account the facts as disclosed and the penalties ordered in relevant recent cases, the Hearing Panel is satisfied that the penalties agreed upon by the parties do not fall outside the reasonable range of appropriateness.

Dated at Vancouver, British Columbia this 10th day of January, 2019.

Joseph A. Bernardo

Douglas Stewart

Brian Worth

APPENDIX A
SETTLEMENT AGREEMENT
PART I – INTRODUCTION

1. The Investment Industry Regulatory Organization of Canada (“IIROC”) will issue a Notice of Application to announce that it will hold a settlement hearing to consider whether, pursuant to Section 8215 of the Consolidated Enforcement, Examination and Approval Rules of IIROC, a hearing panel (“Hearing Panel”) should accept the settlement agreement (“Settlement Agreement”) entered into between the staff of IIROC (“Staff”) and CIBC World Markets Inc. and Robert Trickey (the “Respondents”).

PART II – JOINT SETTLEMENT RECOMMENDATION

2. Staff and the Respondent jointly recommend that the Hearing Panel accept this Settlement Agreement in accordance with the terms and conditions set out below.

PART III – AGREED FACTS

3. For the purposes of this Settlement Agreement, the Respondent agrees with the facts as set out in Part III of this Settlement Agreement.

Overview

4. During the Relevant Period, Robert Trickey, as the Branch Manager and Supervisor of Geraldine Mannings, was aware of concerns regarding the increase in risk in some of Mannings’ clients’ accounts, some of whom were seniors and were on fixed incomes.
5. Trickey investigated suitability queries regarding Mannings’ clients over the Relevant Period. Many of those suitability queries were resolved by an increase in the risk tolerance of the client without any other corresponding change to the client’s circumstances on the KYC update. Trickey largely relied on Mannings to verify that the client understood and accepted the consequences of the risk tolerance update. In approving increases to the risk tolerance for some of Mannings’ clients to resolve suitability queries, he took inadequate steps to independently assess whether the increases in risk tolerance were suitable for the clients. In addition, he failed to adequately document all of his supervision activities.
6. As a result of some individual Compliance officers’ steps, the CIBC head office Compliance was aware of the ongoing suitability queries regarding Mannings’ clients and was aware that many of the suitability

queries were resolved by an increase in the risk tolerance of the client without any other corresponding change to the client's circumstances on the KYC update. CIBC head office Compliance notified branch management of their concerns and relied on Trickey to verify that the updates were suitable for the clients to resolve the outstanding suitability queries. CIBC head office Compliance took inadequate steps to ensure that both Mannings and Trickey were ensuring that the increases to clients' risk tolerance were suitable for those clients.

Registration History

7. Robert Trickey has been in the securities industry since 1992, originally with Midland Walwyn Capital Inc. and since 2002 with CIBC World Markets Inc. in Nelson, B.C.
8. Robert Trickey was the Branch Manager of the Nelson Branch of CIBC World Markets operating as CIBC Wood Gundy from June 2003 to December 31, 2017.
9. CIBC World Markets Inc. is registered with IIROC as a Dealer Member with its head office located at 161 Bay Street, Toronto, Ontario M5J 2S8.

Geraldine Mannings

10. Geraldine Mannings became a Registered Representative in June 1967 and was employed with Merrill Lynch Canada Inc., Midland Walwyn Capital Inc. and CIBC Wood Gundy successively until she left CIBC Wood Gundy on July 2, 2013. The Respondent was 77 years old when she left CIBC Wood Gundy.
11. Mannings is not currently registered in any capacity with IIROC and has not been registered since July 2, 2013.
12. In a settlement agreement with IIROC Mannings agreed that she made unsuitable recommendations in the accounts of three clients.
13. Mannings had extensive experience in the gold, precious metals and mining sectors.

Supervision of Mannings

(i) Tier 1 Branch Supervision Responsibilities

14. During the Relevant Period, Trickey, as the Branch Manager, was responsible for conducting the daily commission detail report reviews, KYC reviews and approvals, trade corrections, monthly statement reviews and monthly activity reviews. His primary supervisory duties involved a review of the commission detail reports, identifying compliance concerns and signing off on any concerns when they were resolved.
15. Trickey was a producing branch manager who received additional compensation for fulfilling his branch manager duties.
16. As a result of a restructuring of management, Mr. Trickey is no longer branch manager and instead a full time, non-producing branch manager oversees the Nelson branch.

(ii) Tier 2 or Head Office Compliance Responsibilities

17. CIBC Wealth Management Compliance (referred to as tier 2 Compliance or head office Compliance) provides the tier 2 trade oversight of CIBC Wood Gundy. CIBC's Wealth Management Compliance policies and procedures state that it is responsible for assessing compliance risk, communicating requirements, independently assessing adherence and escalating issues of non-compliance.
18. Head office Compliance provided daily and monthly trade oversight, branch compliance examinations, investment advisor book reviews, and provided advice and support to branches. Head office Compliance did not have responsibility to discipline or take any direct action against any branch employee; rather its role was to provide advice and support to the branch and escalate any issues of non-compliance through the proper supervisory structure, including recommending disciplinary action if warranted.

19. The head office Compliance policies and procedures provide that it is the Branch manager or Designate's responsibility to investigate each query, which may include discussions with the investment advisor, review of documentation, review of transactions and performance, and client contact when warranted. The Branch Manager or their Designate must report their findings directly to head office Compliance with a description of the action taken, or an explanation as to why no further action was warranted at that time.
20. Head office Compliance responsibilities included identifying issues and following up with branch management on the issues identified and assessing the adequacy and timeliness of actions taken. These responsibilities also included identifying instances of material non-compliance and the appropriate escalation of issues of non-compliance.

Chronology of Supervision Activities

(i) January 2009 to September 2009 – the First Period

21. Between January 2009 and September 2009 (the "First Period"), there were a number of suitability concerns raised by Trickey where there were trades outside of Mannings' clients stated investment objectives and risk tolerance. The majority of these concerns were resolved with an update increasing the risk tolerance on the KYC form for the clients, while for some, no changes were made to the KYC, as Mannings had informed Trickey that she thought the accounts were suitable. None of the suitability queries were resolved with any rebalancing of the client's account having regard to the investment objectives and risk tolerance stated at the time of the trading activity that created the suitability query.
22. IIROC staff were unable to locate any written record of telephone calls during the First Period made by Trickey to any of Mannings' clients regarding either a suitability query or a KYC update increasing the risk tolerance.
23. In May 2009, CIBC's Compliance department undertook a normal course compliance examination on the Nelson branch, which included an assessment of the branch management supervision. The compliance examination report noted that branch management did not always effectively address queries related to the issue of suitability where the account holdings did not appear to be consistent with the stated risk tolerance and investment objectives. Branch management relied solely on the completion of an updated KYC form as an indication that the Investment Advisor ("IA") had spoken to the client to determine that the trading activity in question was suitable.
24. The 2009 compliance examination report required the Branch Manager to keep adequate records of supervision including a record of all queries, responses and any action taken to address the issue. The report noted that the IA was required to explain why the trading was suitable for the client and if the IA could not justify the suitability of the portfolio, simply completing a KYC update would not provide protection to the IA or the firm. The account holdings had to be in line with the client's stated investment objectives and risk tolerance and the IA could not simply update the KYC to match the account holdings.
25. In September 2009, Trickey agreed with the findings and action plan in the May 2009 compliance examination report. The report provided an action plan that included branch management asking for more detail from IAs in response to suitability queries and not simply accepting updated KYCs to resolve suitability queries. The action plan also provided that the IA's responses be in writing. The action plan was approved by the CCO and was circulated to Trickey's Supervisor.
26. CIBC head office Compliance did not have any sustainability testing prior to 2015 (such testing is in place today) to determine if the action plan was properly implemented. At the time of the examination, the examination procedures provided for Compliance to rely upon the detailed written response and undertakings from the Branch Manager, that appropriate action had been taken to address the examination findings. The only check would be a subsequent branch examination and ongoing suitability queries by head office Compliance. The next compliance examination on the Nelson branch did not occur until September 2013, after Mannings had left the office.

27. In September 2009, Trickey received an email from head office Compliance outlining the expectations and requirements for confirming suitability in terms of increases to risk tolerance. The expectation focused on verifying what had changed in the clients circumstances and why the increased risk was suitable rather than simply obtaining a client acknowledgement that the portfolio was moving into a riskier profile.

(ii) October 2009 to May 2010 – the Second Period

28. From October 2009 to May 2010 (the “Second Period”), there were a number of suitability concerns raised by Trickey where there were trades outside of Mannings’ clients stated investment objectives and risk tolerance. Of these concerns, the majority were resolved with an update increasing the risk tolerance on the KYC form for the clients, while for some, no changes were made to the client’s KYC as Mannings informed Trickey that she thought the accounts were suitable. None of the suitability queries were resolved with any rebalancing of the client’s account having regard to the investment objectives and risk tolerance stated at the time of the trading activity that created the suitability query.

29. During the Second Period, IIROC staff were able to locate written records of two telephone calls made by Trickey to Mannings’ clients regarding either a suitability query or a KYC update increasing the clients’ risk tolerance.

30. From September 2009 to May 2010, there were a number of suitability concerns raised by head office Compliance to Trickey where there were trades that appeared to be outside of Mannings’ clients stated investment objectives and risk tolerance. The majority of the concerns were resolved with an update increasing the risk tolerance on the KYC form for the clients, while for some, no changes were made to the client’s KYC and the account was not rebalanced as Mannings informed Trickey that she thought the accounts were suitable.

31. In October 2009, a book review of some of Mannings clients was undertaken. The book review of Mannings’ clients addressed issues of suitability and KYC updates. The book review raised the question of whether the increased risk in some accounts, in response to the queries, was actually suitable for the clients. The results of the book review and recommendations were provided to branch management. Due to a miscommunication in the head office Compliance department, the book review was not fully completed until May 2010.

32. The May 2010 book review, based on specified parameters, consisted of 25 of Mannings’ client accounts. The review indicated suitability and concentration concerns in the reviewed accounts. In addition, the review noted that approximately 70% of Mannings’ total book of clients were in resource/commodity based sectors.

33. The May 2010 book review recommended that branch management directly contact clients where the branch management was not comfortable with the trading activity having regard to the clients’ circumstances and suitability. In addition, if branch management felt that there was a pattern then the issue should be escalated to senior business management to assist with an appropriate action plan to address the issue.

34. Trickey discussed the results of the May 2010 book review with his Supervisor. There are no notes of the meeting or written record of any action plan to deal with the ongoing issues with Mannings’ clients. The remedy was to continue to be vigilant with the suitability queries and follow up directly with clients when warranted.

35. In May 2010, Trickey noted to head office Compliance that it was his view that Mannings had a different interpretation of low, medium and high risk from him and what the firm would generally consider. According to him, this made supervising on suitability concerns more challenging as Mannings disagreed that her clients’ accounts were high risk. It does not appear that this issue was ever resolved by branch management.

(iii) June 2010 to May 2013 – the Third Period

36. From June 2010 to May 2013 (the “Third Period”), there were a number of suitability concerns raised by Trickey where there were trades outside of Mannings’ clients stated investment objectives and risk tolerance. Of those concerns, the majority were resolved with an update increasing the risk tolerance on the KYC form for the clients, while for some, no changes were made to the clients KYC as Mannings informed Trickey that she thought the accounts were suitable. None of the suitability queries were resolved with any rebalancing of the client’s accounts having regard to the investment objectives and risk tolerance stated at the time of trading activity in question that created the suitability query.
37. During the Third Period, IROC staff were able to locate written records of three telephone calls made by Trickey to Mannings’ clients regarding either a suitability query or a KYC update increasing the risk tolerance. All three clients updated their KYC forms to increase their risk tolerance to resolve an outstanding suitability query. Two of the clients updated their risk tolerance to 100% high risk and one updated their risk tolerance to 65% high risk.
38. From June 2010 to April 2013, there were a number of suitability concerns raised by head office Compliance to Trickey where there were trades that appeared to be outside of Mannings’ clients stated investment objectives and risk tolerance. Of those concerns, the majority were resolved with an update increasing the risk tolerance on the KYC form for the clients, while for some, no changes were made to the clients KYC and the account was not rebalanced as Mannings informed Trickey that she thought the accounts were suitable.
39. In the Second and Third Period, there were several examples of Mannings’ clients who were retired and on limited income where Trickey approved KYC updates where the only change was an increase to the risk tolerance, sometimes to 100% high risk. These changes were always done in response to a suitability query regarding a purchase of a high risk security which was outside of the previously stated risk tolerances. In some cases there were several updates to the KYC over time to resolve successive suitability queries.
40. There were also examples in the Second and Third Period of KYC updates done within several months of either opening a new account or a previous KYC update where there was no material change other than an increase in the risk tolerance of the client. These updates were initiated by a suitability query and were completed to resolve the suitability query.
41. In March 2013, another book review was done on Mannings’ clients. The March 2013 book review, based on specified parameters, selected 50 client accounts to review. Of the 50 accounts, 26 accounts were noted for the holdings being out of line with the stated objectives and risk tolerance.

Supervision Concerns and Supervisory Failures

42. It was Trickey’s responsibility to independently verify KYC updates and particularly KYC updates that contained no material changes except an increase in clients’ risk tolerances to resolve an outstanding suitability query. This was a concern that required detailed investigation, including a discussion with Mannings about the suitability of the increase in risk. The results of the discussion should have been documented along with the reason why the increase in risk was suitable for the particular client having regard to the clients’ circumstances including income, time horizon, age, assets, investment experience and other individual factors.
43. In total over the Relevant Period, there were many suitability queries involving Mannings’ clients where the trading activity was not in accordance with the stated investment objectives and risk tolerance in the KYC documents. The volume of suitability queries of a similar nature involving one registered representative constituted a red flag. Of these suitability queries, the majority were resolved with an updated KYC increasing the risk tolerance of the clients. Trickey approved all of these updates. Over the Relevant Period, IROC staff located only five recorded contacts by Trickey with the client to question

the increase in risk tolerance. The records of those conversations only refer to an acceptance or acknowledgement of risk and do not detail any of the other suitability factors that are relevant to a thorough suitability analysis.

44. In addition, over the Relevant Period, there were some suitability queries where no updates to the KYC were done and Trickey did not request any rebalancing of the accounts to resolve the outstanding suitability query. These accounts remained out of line with the clients' stated objectives and risk tolerance on the basis that Mannings did not feel an update was necessary, did not agree with the risk assessment of certain transactions or holdings and felt the accounts were suitable, or the clients simply did not want to complete the KYC forms. None of these were an acceptable outcome to a suitability query by the branch or head office Compliance. The failure to have an acceptable resolution to the suitability queries is a failure of both Trickey's supervisory obligations and CIBC head office Compliance's oversight obligations.
45. Trickey failed to reasonably and fully follow-up on the concerns identified herein.
46. Head office Compliance was aware of a high number of suitability queries, both from branch management and from head office Compliance, where the queries were resolved simply by updating the risk tolerance on the clients' KYC. Some individual compliance officers took steps to address suitability concerns including the use of book reviews, and providing on going advice and direction to branch management to help them identify potential suitability concerns in an effective manner. However, Compliance did not take adequate steps in light of their knowledge of the concerns that existed to verify that the changes to risk tolerance on clients' KYC forms were actually suitable for those clients

Mitigating Factors

47. CIBC have made changes to its compliance policies and procedures and its management structure including:
 - i. the implementation of sustainability testing to ensure that action plans (like the one noted at paragraph 22 herein) are followed up on and implemented;
 - ii. the firm has implemented a new regional supervision model on a pilot project basis. This model will result in the majority of the key supervisory functions previously performed by local branch management (including Producing Branch Managers) being migrated to a regional team of full-time dedicated Supervisors and support staff. CIBC plans a full review of the new model to be completed in the Fall of 2018 and expects to implement it more fully in 2019. This new supervisory structure, once implemented, will also include an updated escalation process in order to ensure that potential material issues are escalated to the appropriate stakeholders within Senior Business Management, Governance and Controls, and Compliance. The regionalization of the supervisory structure will improve the efficiency and effectiveness of the supervision of securities-related activities in the branch network. It will also strengthen objectivity and will increase the focus on regulatory requirements in interactions between the Supervisors and registrants.

PART IV – CONTRAVENTIONS

48. By engaging in the conduct described above, the Respondent committed the following contraventions of IIROC's Rules:

CIBC World Markets Inc.

49. Between 2009 and 2013 (the "Relevant Period"), CIBC World Markets Inc. failed to adequately supervise the activities of Geraldine Mannings to ensure compliance with Dealer Member Rules 38.1 and 2500.

Robert Trickey

50. Between 2009 and 2013 (the "Relevant Period"), Robert Trickey failed to fully and properly supervise the activities of Geraldine Mannings, contrary to Dealer Member Rule 38.4 and 2500.

51. Between 2009 and 2013 (the “Relevant Period”), Robert Trickey failed to maintain adequate records of supervisory activity regarding the supervision of the activities of Geraldine Mannings contrary to Dealer Member Rule 38.1(vii) and 2500.

PART V – TERMS OF SETTLEMENT

52. The Respondents agree to the following sanctions and costs:
- a) CIBC World Markets Inc. agrees to pay a fine of \$125,000 and costs of \$10,000; and
 - b) Robert Trickey agrees to pay a fine of \$40,000 and costs of \$5,000.
53. If this Settlement Agreement is accepted by the Hearing Panel, the Respondents agree to pay the amounts referred to above within 30 days of such acceptance unless otherwise agreed between Staff and the Respondents.

PART VI – STAFF COMMITMENT

54. If the Hearing Panel accepts this Settlement Agreement, Staff will not initiate any further action against the Respondents in relation to the facts set out in Part III and the contraventions in Part IV of this Settlement Agreement, subject to the provisions of the paragraph below.
55. If the Hearing Panel accepts this Settlement Agreement and either of the Respondents fail to comply with any of the terms of the Settlement Agreement, Staff may bring proceedings under Rule 8200 against the non-compliant Respondent. These proceedings may be based on, but are not limited to, the facts set out Part III of this Settlement Agreement.

PART VII – PROCEDURE FOR ACCEPTANCE OF SETTLEMENT

56. This Settlement Agreement is conditional on acceptance by the Hearing Panel.
57. This Settlement Agreement shall be presented to a Hearing Panel at a settlement hearing in accordance with the procedures described in Sections 8215 and 8428, in addition to any other procedures that may be agreed upon between the parties.
58. Staff and the Respondent agree that this Settlement Agreement will form all of the agreed facts that will be submitted at the settlement hearing, unless the parties agree that additional facts should be submitted at the settlement hearing. If the Respondents do not appear at the settlement hearing, Staff may disclose additional relevant facts, if requested by the Hearing Panel.
59. If the Hearing Panel accepts the Settlement Agreement, the Respondents agree to waive all rights under the IIROC Rules and any applicable legislation to any further hearing, appeal and review.
60. If the Hearing Panel rejects the Settlement Agreement, Staff and the Respondents may enter into another settlement agreement or Staff may proceed to a disciplinary hearing based on the same or related allegations.
61. The terms of this Settlement Agreement are confidential unless and until this Settlement Agreement has been accepted by the Hearing Panel.
62. The Settlement Agreement will become available to the public upon its acceptance by the Hearing Panel and IIROC will post a full of copy of this Settlement Agreement on the IIROC website. IIROC will also publish a summary of the facts, contraventions, and the sanctions agreed upon in this Settlement Agreement.
63. If this Settlement Agreement is accepted, the Respondents agree that neither of them nor anyone on their behalf, will make a public statement inconsistent with this Settlement Agreement.
64. The Settlement Agreement is effective and binding upon the Respondents and Staff as of the date of its acceptance by the Hearing Panel.

PART VIII – EXECUTION OF SETTLEMENT AGREEMENT

- 65. This Settlement Agreement may be signed in one or more counterparts which together will constitute a binding agreement.
- 66. A fax or electronic copy of any signature will be treated as an original signature.

DATED this “5” day of July, 2018.

<p>_____</p> <p>Witness</p> <p>“Witness”</p> <p>_____</p> <p>Witness</p> <p>“Witness”</p> <p>_____</p> <p>Witness</p>	<p>“CIBC World Markets, Inc.”</p> <p>_____</p> <p>per:</p> <p>Authorized Signatory for CIBC World Markets, Inc.</p> <p>“Robert Trickey”</p> <p>_____</p> <p>Robert Trickey</p> <p>“Stacy Robertson”</p> <p>_____</p> <p>Stacy Robertson</p> <p>Enforcement Counsel on behalf of Enforcement Staff of the Investment Industry Regulatory Organization of Canada</p>
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The Settlement Agreement is hereby accepted this “6” day of September, 2018 by the following Hearing Panel:

Per: “Panel Chair”

Panel Chair

Per: “Panel Member”

Panel Member

Per: “Panel Member”

Panel Member

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