

No. of

ENFORCEABLE UNDERTAKING

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

SECTION 93 AA

The commitments in this undertaking are offered to the Australian Securities and Investments Commission ("ASIC") by:

**CIBC World Markets Australia Limited (ACN 009 123 193)
Level 45, Central Park
152 - 158 St Georges Terrace
PERTH WESTERN AUSTRALIA 6000**

1. BACKGROUND

- 1.1 ASIC conducted an investigation into trading in the securities of Diversified Mineral Resources No Liability in the period 29 January 1998 to 17 July 1998 and in the course of that investigation ASIC examined the operations of CIBC World Markets Australia Limited ACN 009 123 193 (formerly known as CIBC Wood Gundy Australia Limited) ("CIBC") relating to its obligations as a licensed securities dealer under the Corporations Law ("the Law").
- 1.2 CIBC holds Dealers Licence No. 14251 granted by ASIC pursuant to section 784 of the Law ("the Licence"). Condition 3 of the Licence requires CIBC to establish and maintain adequate training, supervision and compliance procedures designed to ensure, as far as is reasonably possible, that CIBC's representatives do not contravene, in their conduct on behalf of CIBC, or in connection with the securities business carried out by CIBC any provisions of the Law or any other condition of the Licence.
- 1.3 Under the Law, Corporations Regulation 7.3.02, amongst other regulations prescribes a condition of a securities dealers licence. This condition requires a licensee to ensure that each of its authorised representatives are adequately supervised and trained in the performance of their duties.
- 1.4 ASIC considers and CIBC concurs, that the most effective way for a licensed securities dealer to ensure compliance with the Law and the conditions of its licence, including the condition imposed by Corporations Regulation 7.3.02, is to ensure there is an adequate and effective compliance program in place.
- 1.5 During the investigation ASIC expressed concerns regarding the compliance by CIBC with its obligations under the Law and the Licence including aspects of the level of supervision and training of staff¹ at CIBC and adequacy of record keeping.

¹ In this undertaking "staff" includes employees, contractors, authorised representatives and agents

- 1.6 ASIC has expressed to CIBC its concern that CIBC's compliance program did not enable CIBC to ensure compliance with its obligations under the Law and licence conditions, including the licence condition now imposed by Corporations regulation 7.3.02 and CIBC has agreed to implement the measures in Part 2, dealing with, in particular, the matters in paragraph 2.3(a) to address those concerns.
- 1.7 Pursuant to section 786 of the Law, ASIC may, subject to a hearing, impose conditions and restrictions on a securities dealers licence in addition to those prescribed by the Law, at any time when the licence is in force.
- 1.8 CIBC, without admitting or denying any liability or inadequacy in its compliance systems, recognises the concerns of ASIC in relation to its compliance program and accordingly offers the undertakings set out in section 2 below.

2. UNDERTAKINGS

Pursuant to Section 93AA of the Australian Securities and Investments Commission Act, CIBC undertakes as follows:

- 2.1 CIBC will appoint a Compliance Committee on or before 30 April 2000 which is responsible for ensuring that CIBC complies with its obligations under the Law, the Licence and the Australian Stock Exchange ("ASX") Business Rules, and will oversee, the review and implementation of compliance procedures within CIBC. CIBC has proposed that the Compliance Committee be comprised as follows:-
 - (i) Australian Country Head, CIBC
 - (ii) Regional Head - Asia (Legal and Compliance);
 - (iii) Managing Director, CIBC
 - (iv) Manager Retail Trading, CIBC
 - (v) Compliance Officer, CIBC

CIBC will advise ASIC and the ASX of any changes to the positions which comprise the Compliance Committee.
- 2.2 CIBC will ensure that on or before 30 April 2000 it appoints a full-time compliance officer who is responsible for ensuring that CIBC complies with its obligations under the Law, the Licence and the ASX Business Rules. This appointment and the appointment of any subsequent compliance officer in the period of 12 months following acceptance of this undertaking is subject to the approval of ASIC. The compliance officer will be a person who has not less than 3 years relevant experience in the securities industry. CIBC will ensure that the compliance officer has appropriate authority and a reporting line to an officer of CIBC with appropriate seniority (eg the Chief Executive Officer, the Managing Director and the Compliance Committee of the Board), in accordance with Australian Standard AS 3806 on compliance programs.
- 2.3 CIBC will engage an external independent consultant ("the consultant"), approved by ASIC, who will review and assess CIBC's legal and regulatory compliance program including CIBC's existing compliance manual and undertake a compliance audit of CIBC's internal controls, systems and

procedures ("the initial audit"). The initial audit will include, but not be limited to, a review of CIBC's level of compliance with:-

- (a) CIBC's obligations under the Law and the ASX Business Rules relating to:-
 - (i) supervision and training of staff;
 - (ii) record keeping;
 - (iii) procedures for opening new client accounts including obtaining and verifying information and identities relating to new clients;
 - (iv) the operation of discretionary accounts, including approval and oversight processes;
 - (v) the provision of credit to clients, including credit control policy;
 - (vi) documentation of client instructions and changes to instructions;
 - (vii) procedures relating to obtaining third-party trading authorisations for persons not named in accounts;
 - (viii) fair and equitable allocation policies; and
 - (ix) lodgement of substantial shareholding notices.
- (b) the conditions of its Licence; and
- (c) the Business Rule Guidance Notes.

2.4 CIBC will ensure that on or before 30 April 2000, the Consultant will have completed the initial audit and provided a written report to CIBC and to ASIC ("the initial report"). The initial report will identify any deficiencies in CIBC's internal controls, systems and procedures and application of those systems and procedures, in relation to its ability to comply with its obligations under the Law, the Licence and the ASX Business Rules and will make recommendations to cure those deficiencies.

2.5 CIBC will provide ASIC with a written action plan ("the Action Plan") detailing the steps proposed by CIBC to cure any deficiencies highlighted in the initial report within 30 days, or such later date as ASIC agrees in writing, of the initial report being provided to ASIC in accordance with paragraph 2.4 above.

2.6 CIBC will develop and finalise an amended compliance manual within 30 days, or such later date as ASIC agrees in writing, of the initial report being provided to ASIC in accordance with paragraph 2.4. The amended compliance manual will at a minimum incorporate sufficient amendments to CIBC's existing compliance manual necessary to ensure that all deficiencies highlighted in the initial report have been redressed and that the amended compliance manual conforms with Australian Standard AS 3806 on compliance programs. CIBC will provide ASIC with a copy of the amended compliance manual as an annexure to the Action Plan referred to in paragraph 2.5.

2.7 Within 30 days of the initial report being provided to ASIC, or such later date as ASIC agrees in writing, CIBC will develop and commence a compliance training program particularly focussing on any areas of deficiency identified in the initial report. CIBC will provide a copy of the compliance training program as an annexure to the Action Plan referred to in paragraph 2.5. CIBC

will ensure that a copy of the amended compliance manual is accessible to all staff and CIBC will provide training on its contents as part of the compliance training program to all authorised representatives and licensed SEATS operators.

- 2.8 Within the six month period following the provision of the Action Plan to ASIC, CIBC will undertake and complete all activities necessary to give effect to the Action Plan.
- 2.9 CIBC will ensure that within 2 months after the expiration of the six month period referred to in paragraph 2.8, CIBC's internal audit division completes a follow-up audit and provides a final report to ASIC relating to CIBC's compliance with both the Initial Report and the Action Plan and the level of compliance by CIBC's staff with the provisions of CIBC's compliance program, including identification of any continuing deficiencies ("the Final Report").
- 2.10 CIBC will pay all fees and costs associated with meeting its obligations pursuant to this undertaking including, but not limited to, external consultants' fees, the costs of the initial and follow-up audit, the costs of producing the initial report, action plan, training program, amended compliance manual and final report.

3. ACKNOWLEDGEMENTS

- 3.1 CIBC acknowledges that it has obtained legal advice in relation to the content and effect of this undertaking.
- 3.2 CIBC acknowledges that ASIC:
 - (a) may issue a media release from the date this undertaking is executed by ASIC referring to the terms of this undertaking and the concerns of ASIC as expressed in this undertaking which led to its execution;
 - (b) may from time to time publicly refer to this undertaking;
 - (c) will make this undertaking available for public inspection; and
 - (d) will as soon as practicable after the execution of this undertaking give a copy of this undertaking to the ASX.
- 3.3 CIBC acknowledges that this undertaking in no way derogates from the rights and remedies available to ASIC or any other person or entity arising from any conduct described in this undertaking.
- 3.4 CIBC acknowledges that ASIC's acceptance of an enforceable undertaking does not affect ASIC's power to investigate, conduct surveillance or pursue a criminal prosecution, or its power to lay charges or seek a pecuniary penalty order.

3.5 CIBC acknowledges that this undertaking has no operative force until accepted by ASIC.

The Common Seal of CIBC World Markets
Australia Limited (ACN 009 123 193) was
duly affixed to this Undertaking in the presence of:)



[Signature]
Director
Name in print: David Reed
This day of

[Signature]
Director/~~Secretary~~
Name in print: David Massey

ACCEPTED BY THE AUSTRALIAN SECURITIES AND INVESTMENTS
COMMISSION PURSUANT TO SECTION 93AA OF THE AUSTRALIAN
SECURITIES AND INVESTMENTS COMMISSION ACT BY ITS DULY
AUTHORISED DELEGATE:

[Signature]
Jamie Orchard
Director, Enforcement
This 27th day of MARCH 2000