



**NOTICE OF SPECIAL MEETING OF SHAREHOLDERS**

**AND**

**MANAGEMENT INFORMATION CIRCULAR**

**Special Meeting to be held at 10:00 a.m. on Wednesday, February 3, 2010**

**At the offices of Blake, Cassels & Graydon LLP**

**199 Bay Street, 23<sup>rd</sup> Floor**

**Commerce Court West**

**Toronto, Ontario**

## NOTICE OF SPECIAL MEETING OF SHAREHOLDERS

**NOTICE IS HEREBY GIVEN THAT** a special meeting of the holders (the “Shareholders”) of the Priority Equity Shares and the Class A Shares (the “Shares”) of Commerce Split Corp. (the “Company”) will be held at the offices of Blake, Cassels & Graydon LLP, 199 Bay Street, 23<sup>rd</sup> Floor, Toronto, Ontario, on Wednesday, February 3, 2010 at 10:00 a.m. (Eastern time) for the following purposes:

- (a) to consider and, if thought desirable, approve a special resolution to reorganize the share capital of the Company, as described in the Management Information Circular dated December 23, 2009 (the “Circular”) accompanying this Notice of Meeting; and
- (b) to transact such further and other business as may properly come before the meeting or any adjournment or adjournments thereof (the “Meeting”).

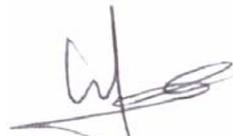
Holders of Shares of each class will be entitled to vote separately as a class on the special resolution referred to above. The specific details of the capital reorganization, and the text of the special resolution in substantially the form in which it will be put to Shareholders at the Meeting, are set forth in the Circular.

**All Shareholders are invited to attend the Meeting, but beneficial Shareholders will not be recognized at the Meeting for purposes of voting their Shares in person or by way of proxy unless they comply with certain procedures. If you are a beneficial Shareholder and wish to vote in person at the Meeting, please contact your broker or agent well in advance of the Meeting to determine how you can do so. Shareholders that are unable to attend have the right to appoint a person other than the person specified in the form of proxy to attend and act on such Shareholder’s behalf at the Meeting.** Such right may be exercised by inserting the name of the person to be appointed in the space provided, or by completing another proper form of proxy. A person appointed as a proxyholder need not be a Shareholder of the Company.

The Shares were issued in “book-entry only” form; therefore CDS & Co., the nominee of CDS Clearing and Depository Services Inc., is the only registered holder of the Shares. Accordingly, all non-registered Shareholders who receive these materials through their broker or other intermediary and wish to vote on the special resolution must complete and send the form of proxy in accordance with the instructions provided by their broker or other intermediary. To be effective, a proxy must be received by the Proxy Department of Computershare Investor Services Inc. or by the Chairman of the Meeting not later than February 1, 2010 at 10:00 a.m. (Eastern time), or such later time, prior to the commencement of the Meeting, as the Company may accept, or in the case of any adjournment of the Meeting, not less than 48 hours (Saturdays, Sundays and holidays excepted) prior to the time of the adjourned Meeting.

DATED at Toronto, Ontario this 23<sup>rd</sup> day of December, 2009.

By Order of the Board of Directors  
of Commerce Split Corp.



WAYNE FINCH  
President and Chief Executive Officer

**COMMERCE SPLIT CORP.**

**MANAGEMENT INFORMATION CIRCULAR FOR THE**

**SPECIAL MEETING OF SHAREHOLDERS**

**TO BE HELD ON FEBRUARY 3, 2010**

This management information circular (the “Circular”) is furnished in connection with the solicitation by the Board of Directors of Commerce Split Corp. (the “Company”) of proxies to be used at the special meeting of the holders (the “Shareholders”) of the Priority Equity Shares and the Class A Shares (collectively, the “Shares”) of the Company to be held on Wednesday, February 3, 2010 at 10:00 a.m. (Eastern time), or at any adjournment thereof (the “Meeting”).

Shareholders are being asked at the Meeting to consider and, if thought advisable, to approve a special resolution to reorganize the capital of the Company.

**VOTING RIGHTS, RECORD DATE, QUORUM AND PROXY INFORMATION**

To be used at the Meeting, a proxy must be deposited with Computershare Investor Services Inc. (“Computershare”) at 100 University Avenue, Toronto, Ontario M5J 2Y1 (or, if by facsimile, sent to: 416-263-9524 or 1-866-249-7775) or with the Chairman of the Meeting at any time up to 10:00 a.m. (Eastern time) on February 1, 2010 or such later time, prior to the commencement of the Meeting, as the Company may accept or, in the case of any adjourned Meeting, not less than 48 hours (Saturdays, Sundays and holidays excepted) prior to the time of the commencement of the adjourned Meeting.

Only holders of record of Priority Equity Shares or Class A Shares at the close of business on December 14, 2009 will be entitled to vote their Shares in respect of the matters to be voted at the Meeting. With respect to each matter properly brought before the Meeting, a Shareholder shall be entitled to one vote for each Share registered in the name of such Shareholder. Holders of Priority Equity Shares and Class A Shares will be entitled to vote separately as a class on the special resolution regarding the capital reorganization of the Company; and, to be effective, such resolution must be approved by not less than 66 2/3% of the votes cast by the holders of each such class at the Meeting.

Pursuant to the articles of incorporation of the Company, as amended (the “Articles”), a quorum at the Meeting will consist of two or more Shareholders present in person or represented by proxy holding not less than 10% of the outstanding Class A Shares or Priority Shares, as applicable. If the quorum requirement is not satisfied within one-half hour of the scheduled time for the Meeting, then the Meeting will be adjourned by the Chairman of the Meeting to 10:00 a.m. (Eastern time) on February 10, 2010. At any such adjourned Meeting, the Shareholders then present in person or represented by proxy will form a quorum.

**Appointment of Proxy Holders**

Shareholders who are unable to be present at the Meeting may still vote through the use of proxies. If you are a Shareholder, you should complete, execute and return the enclosed proxy

form. By completing and returning the enclosed proxy form, you can participate in the Meeting through the person or persons named on the form.

### **Discretionary Authority of Proxies**

The proxy form confers discretionary authority upon the management appointees named therein with respect to such matters, including without limitation such amendment or variation to the special resolution, as, though not specifically set forth in the Notice of Special Meeting of Shareholders, may properly come before the Meeting. The Company does not know of any such matter which may be presented for consideration at the Meeting. However, if any such matter is presented, the proxy will be voted thereon in accordance with the best judgment of the management appointees named in the proxy form.

**On any ballot that may be called for at the Meeting, all Shares of the Company in respect of which the management appointees named in the accompanying proxy form have been appointed to act will be voted in accordance with the specification of the Shareholder signing the proxy form. If no such specification is made, then the Shares will be voted in favour of the matter identified in the Notice of Special Meeting of Shareholders.**

### **Alternate Proxy**

**A Shareholder has the right to appoint a person other than the management appointees designated on the accompanying proxy form by crossing out the printed names and inserting the name of the person he or she wishes to act as proxy in the blank space provided, or by completing another proxy form. Proxy forms which appoint persons other than the management appointees whose names are printed on the form should be submitted to Computershare and the person so appointed should be notified. A person acting as proxy need not be a Shareholder.**

On any ballot that may be called for at the Meeting, all Shares in respect of which the person named in a proxy form has been appointed to act shall be voted in accordance with the specification of the Shareholder signing such proxy form. If no such specification is made, then the Shares may be voted in accordance with the best judgment of the person named in the proxy form. Furthermore, the person named in the proxy form will have discretionary authority with respect to any other matters that may properly come before the Meeting and will be voted on such amendments and other matters in accordance with the best judgment of the person named in such proxy form.

### **Revocation of Proxies**

A Shareholder who has given a proxy may revoke it by depositing an instrument in writing signed by the Shareholder or by the Shareholder's attorney, who is authorized in writing, or by transmitting, by telephonic or electronic means, a revocation signed by electronic signature by the Shareholder or by the Shareholder's attorney, who is authorized in writing, to or at the registered office of the Company at any time up to and including the last business day preceding the day of the Meeting, or in the case of any adjournment of the Meeting, the last business day preceding the day of the adjournment, or with the Chairman of the Meeting on the day of, and prior to the start of, the Meeting or any adjournment thereof. A Shareholder may also revoke a proxy in any other manner permitted by law.

## Solicitation of Proxies and Meeting Costs

The costs of sending the Notice of Special Meeting of Shareholders and soliciting proxies for the Meeting, as well as the other costs of the Meeting, will be paid for by the Company. Solicitation of proxies will be by mail and may be supplemented by telephone or other personal contact by officers or employees of Quadravest Inc., the manager of the Company (the “Manager”). The Company will, as required by law, also reimburse brokers, custodians, nominees and fiduciaries for their proper charges and expenses incurred in forwarding this Circular and related materials to beneficial owners of Shares.

The Company will also pay dealers whose clients hold Shares of the Company a fee of \$0.05 in respect of each Priority Equity Share and \$0.03 in respect of each Class A Share voted in favour of the proposed capital reorganization (subject to a maximum payment of \$1,500 in respect of the shares held by any one beneficial holder), such payments to be due and owing only if the capital reorganization is approved and implemented.

## Advice to Beneficial Holders

The information set forth in this section is of significant importance to beneficial holders of Priority Equity Shares and Class A Shares of the Company, as the Shares are held in the name of CDS & Co., the nominee of CDS Clearing and Depository Services Inc. (“CDS”), and not in the name of the beneficial holders of the Shares. The Company utilizes the “book-entry only” system of registration and thus Shareholders do not hold their Shares in their own name (such Shareholders being “Beneficial Shareholders”). Beneficial Shareholders should note that only proxies deposited by Shareholders whose names appear on the records of the Company as the registered holders of Shares can be recognized and acted upon at the Meeting. Shares held by brokers or their nominees through CDS & Co. can only be voted upon the instructions of the Beneficial Shareholder. Without specific instructions, CDS & Co. and brokers/nominees are prohibited from voting Shares for their client(s). The Company does not know for whose benefit Shares registered in the name of CDS & Co. are held. Therefore, Beneficial Shareholders cannot be recognized at the Meeting for purposes of voting their Shares in person or by way of proxy unless they comply with the procedure designated below.

Applicable securities laws or policies require intermediaries/brokers to seek voting instructions from Beneficial Shareholders in advance of the Meeting. Every intermediary/broker has its own mailing procedures and provides its own return instructions, which should be carefully followed by Beneficial Shareholders in order to ensure that their Shares are voted at the Meeting. Often, the form of proxy supplied to a Beneficial Shareholder by its broker is identical to that provided to registered Shareholders. However, its purpose is limited to instructing the registered Shareholder how to vote on behalf of the Beneficial Shareholders. The majority of brokers now delegate responsibility for obtaining instructions from clients to Broadridge Financial Solutions, Inc. (“Broadridge”). Broadridge typically prepares a voting instruction form which it mails to the Beneficial Shareholders and asks Beneficial Shareholders to complete and return directly to Broadridge. Broadridge then tabulates the results of all instructions received and provides appropriate instructions respecting the voting of Shares to be represented at the Meeting. **A Beneficial Shareholder receiving a voting instruction form cannot use that form to vote Shares directly at the Meeting of the Company; the voting instruction form must be returned to Broadridge well in advance of the Meeting in order to have the Shares voted.**

**If you are a Beneficial Shareholder and wish to vote in person at the Meeting, please contact your broker or agent well in advance of the Meeting to determine how you can do so.**

### **Forward Looking Information**

Certain statements included in this Circular constitute forward-looking statements. The forward-looking statements are not historical facts but reflect the Company's or the Manager's current expectations regarding future results or events. These forward-looking statements are subject to a number of risks and uncertainties that could cause actual results or events to differ materially from current expectations, including the future net asset value of the Company or the ability of the Company to pay dividends. Although the Company and the Manager believe that the assumptions inherent in the forward-looking statements are reasonable, forward-looking statements are not guarantees of future performance and, accordingly, readers are cautioned not to place undue reliance on such statements due to the inherent uncertainty therein. Neither the Company nor the Manager undertakes any obligation to update publicly or otherwise revise any forward-looking statement or information whether as a result of new information, future events or other such factors which affect this information, except as required by law.

### **DESCRIPTION OF COMMERCE SPLIT CORP.**

The Company is a mutual fund corporation incorporated under the laws of Ontario by articles of incorporation dated November 27, 2006, as amended January 22, 2007. The Manager acts as the manager of the Company and Quadravest Capital Management Inc. ("Quadravest") is the portfolio adviser of the Company. The principal office address of the Company is 77 King Street West, Suite 4500, Toronto, Ontario M5K 1K7.

The Company is authorized to issue an unlimited number of Priority Equity Shares, an unlimited number of Class A Shares and 1,000 Class B Shares. The Priority Equity Shares and the Class A Shares are issued only on the basis that an equal number of Priority Equity Shares and Class A Shares (together, a "Unit") will be issued and outstanding at all times. On February 16, 2007 and March 5, 2007, the Company completed its initial public offering of 8,710,000 Priority Equity Shares and 8,710,000 Class A Shares pursuant to a prospectus dated January 23, 2007 (the "Prospectus"). The Priority Equity Shares and the Class A Shares are listed on the Toronto Stock Exchange (the "TSX") under the symbols XCM.PR.A and XCM, respectively. As at the date of this Circular, there are issued and outstanding 1,000 Class B Shares, 5,940,700 Priority Equity Shares and 5,940,700 Class A Shares.

The attributes of the Priority Equity Shares and Class A Shares are described under "*Description of the Shares of the Company*" in the current Annual Information Form of the Company dated February 23, 2009 in respect of the fiscal year of the Company ended November 30, 2008 (the "AIF"), incorporated by reference into this Circular as more particularly described under "*Documents Incorporated by Reference and Additional Information*" below.

### **Rationale for the Company**

The Company was created to provide exposure to common shares of Canadian Imperial Bank of Commerce (the "Bank") through two classes of securities. The Priority Equity Shares were intended to provide holders with a stable yield and downside protection on the return of their

initial investment, while the Class A Shares were intended to provide holders with leveraged exposure to the Bank including exposure to increases or decreases in the value of the common shares of the Bank and the benefit of increases, if any, in the dividends paid by the Bank on its common shares.

### **Investment Objectives**

The Company's investment objectives with respect to the Priority Equity Shares are (a) to provide holders of the Priority Equity Shares with fixed cumulative preferential monthly cash dividends in the amount of \$0.04375 per Priority Equity Share to yield 5.25% per annum on the original issue price of the Priority Equity Shares; and (b) on or about December 1, 2014, or such other date as the Company may be terminated (the "Termination Date"), to pay the holders of the Priority Equity Shares the original issue price of the Priority Equity Shares (the "Priority Equity Share Repayment Amount").

The Company's investment objectives with respect to the Class A Shares are (a) to provide holders of Class A Shares with regular monthly cash dividends targeted to be \$0.05 per Class A Share to yield 6.0% per annum on the original issue price of the Class A Shares; and (b) on or about the Termination Date, to pay the holders of Class A Shares at least the original issue price of the Class A Shares. Holders of the Class A Shares will also be entitled to receive, on at the time of the final redemption of such shares on the Termination Date, the balance, if any, of the value of the Company remaining after returning the original issue price to the holders of each class of shares of the Company. No regular monthly dividends or other distributions will be paid on the Class A Shares in any month as long as any dividends on the Priority Equity Shares are then in arrears or so long as the net asset value per Unit is equal to or less than \$12.50.

The Company invests in common shares of the Bank. To supplement the dividends earned on those common shares and to reduce risk, the Company from time to time writes covered call options in respect of all or a part of the common shares of the Bank that it holds. The number of such common shares that are the subject of call options and the terms of such options will vary from time to time as determined by QuadraVest. In addition, the Company may also write cash covered put options or purchase call options with the effect of closing out existing call options written by the Company and may also purchase put options in order to protect the Company from declines in the market prices of the common shares of the Bank that it holds.

### **Priority Equity Portfolio Protection Plan**

The Company has adopted a strategy (the "Priority Equity Portfolio Protection Plan") intended to provide that the Priority Equity Share Repayment Amount will be paid in full to holders of the Priority Equity Shares on the Termination Date. The Priority Equity Portfolio Protection Plan provides that if the net asset value of the Company declines below a specified level, QuadraVest will liquidate a portion of the common shares of the Bank held by the Company and use the net proceeds to acquire qualifying debt securities, or alternatively must acquire certain securities and enter into a forward agreement (collectively, the "Priority Equity Portfolio Protection Plan Securities") in order to cover the Priority Equity Share Repayment Amount in the event of further declines in the net asset value of the Company.

Under the Priority Equity Portfolio Protection Plan, the amount of the Company's net assets, if any, required to be allocated to Priority Equity Portfolio Protection Plan Securities (the

“Required Amount”) is determined such that (i) the net asset value of the Company, less the value of the Priority Equity Portfolio Protection Plan Securities held by the Company, must be at least 125% of (ii) the Priority Equity Share Repayment Amount, less the amount anticipated to be received by the Company in respect of its Priority Equity Portfolio Protection Plan Securities on the Termination Date. The Company may unwind the Priority Equity Portfolio Protection Plan by selling Priority Equity Portfolio Protection Plan Securities and using the net proceeds from such sale to purchase additional common shares of the Bank if, and then only to the extent, the value of the Priority Equity Portfolio Protection Plan Securities exceeds the Required Amount.

## **Management**

For a description of the Manager and Quadravest, see “*Management of the Company*” in the AIF.

## **MATTERS TO BE VOTED ON AT THE MEETING**

The Meeting is being held for the purpose of considering a capital reorganization of the Company.

## **Company Status**

Since the Company commenced investment operations on February 16, 2007, the price of the common shares of the Bank declined from \$102.15 to a low of \$36.51 on March 6, 2009. This sharp decline in the value of the Bank’s common shares (a decline of approximately 64%) resulted in the Company’s net asset value being reduced significantly, and required the Company to implement the Priority Equity Portfolio Protection Plan in accordance with its terms. The Company first implemented the Priority Equity Portfolio Protection Plan in March 2008. A recovery in the Bank share price allowed the Company to subsequently unwind the Priority Equity Portfolio Protection Plan, but the Company re-implemented it in June 2008, and it has been maintained ever since.

The objective of the Priority Equity Portfolio Protection Plan was to provide the holders of the Priority Equity Shares with \$10.00 per Share on the Termination Date. Throughout 2008, the majority of the common shares of the Bank previously held in the portfolio of the Company were liquidated and the proceeds then used to purchase Priority Equity Portfolio Protection Plan Securities with maturity dates in 2014. The Priority Equity Portfolio Protection Plan Securities purchased were Canadian provincial government backed strip coupons.

As at December 15, 2009, the Company had 79.3% of its net assets in these fixed income securities (plus cash) and the remaining 20.7% was in common shares of the Bank. The net asset value per Unit was \$9.34 as at December 15, 2009.

Implementing the Priority Equity Portfolio Protection Plan, as it had indicated it would do in the Prospectus, thus caused the Company to dramatically decrease its exposure to the common shares of the Bank, which in turn has had the effect of materially limiting the impact future price movements of the Bank’s common shares can have on the net asset value of the Company. Although the price of the common shares of the Bank has recovered substantially from its March 2009 low, to close at \$68.70 on December 15, 2009 (an increase of 88.2%), the

Company's net asset value has only risen from \$8.76 per Unit to \$9.34 per Unit (6.6%) over the same period.

Implementing the Priority Equity Portfolio Protection Plan has also lowered the ability of the Company to generate income from dividends and the writing of covered call options, and this has made it impossible to the Company to meet its dividend and distribution objectives to Shareholders. Regular monthly dividends were paid to holders of the Class A Shares in only three months during the Company's fiscal year ended November 30, 2008, and no dividends were paid on the Class A Shares during the Company's fiscal year ended November 30, 2009. On February 18, 2009, the payment of dividends on the Priority Equity Shares was suspended, and no dividend payments have been made on the Priority Equity Shares since that date. Such dividends are cumulative, and to date the amount of the Priority Equity Share dividends in arrears is \$0.4375 per Priority Equity Share (the "Cumulative Dividend Arrears").

### **February 2009 Special Meeting of Shareholders**

As a result of the difficulties facing the Company, in November and December 2008 the Manager and the Company reviewed options to maximize Shareholder value, and called a special meeting of Shareholders for February 5, 2009. The purpose of this special meeting was to consider a capital reorganization of the Company, which offered Shareholders an alternative investment option from their current holdings. Shareholders would have had the ability to maintain the current investment characteristics of their existing shares (a status quo option) or to choose to have their existing Priority Equity Shares and/or Class A Shares reorganized into new classes of shares that were intended to provide greater distribution and capital growth potential. The results of the voting at such special meeting were as follows: Priority Equity Shares voted in favour, 1,366,275 (57.66%); Priority Equity Shares voted against, 1,003,423 (42.34%); Class A Shares voted in favour, 984,485 (70.49%), and Class A Shares voted against, 412,150 (29.51%).

In order for these changes to be approved, the special resolution to approve the capital reorganization was required to be passed by at least two-thirds of the votes cast at this meeting by each class of Shareholders. Accordingly, as the special resolution was not carried by two-thirds of the votes cast by holders of the Priority Equity Shares of the Company as required, the special resolution did not pass at the meeting, and the proposed capital reorganization was not implemented.

Although the special resolution did not achieve the necessary level of support, measured by number of Shares voted, it did receive substantial support from Shareholders, as the Manager estimates that over 80% of the number of Class A Shareholders voting, and over 90% of the number of Priority Equity Shareholders voting, supported the proposed capital reorganization.

If the proposal had been implemented in February 2009, the Manager believes that this would have significantly enhanced shareholder value for both classes of Shares. The prices of the common shares of the Bank were generally in the \$40 to \$45 range through mid February, 2009 to mid March, 2009, the period which would have coincided with the proposed election date for Shareholders to convert their existing shares into the new classes of shares under the reorganization proposal. Since that date, the price of the common shares of the Bank has recovered significantly along with the overall market, resulting in an increase of approximately 59.2% in the market price the Bank's common shares from February 28, 2009 to December 15,

2009. This would have allowed significant increase in the net asset value of the proposed new fund and would have allowed the new fund to generate sufficient levels of dividend income and covered call writing income to maintain the dividend payments on the Class I Preferred Shares and the Class II Preferred Shares.

### **Current Outlook for the Company**

As a consequence of the current composition of the portfolio as previously mentioned, the ability of the Company to achieve the original stated goals for each class of Shares has now been permanently impaired. The basic reason for this is that the fixed income securities acquired pursuant to the Priority Equity Portfolio Protection Plan have been purchased to provide for the repayment of the original price (\$10.00) of a Priority Equity Share and will gain in market value until maturity, but do not pay any cash interest income during the period. These government backed strip coupons entitle the Company to receive a fixed payment on maturity as the effective interest component continues to compound until the final payment on maturity. These fixed instruments were selected and are considered a more effective alternative than conventional commercial forward agreements because they are more cost effective, pay a higher effective compound interest rate and do not involve any exposure to non-government counterparty risk.

The original investment objectives developed for the Company were based on the assumptions that dividends received would be from a fully invested position in common shares of the Bank and that there would be an active covered call writing program which would supplement those dividends in order to achieve the distribution objectives for both classes of Shares. As mentioned above, the Company has had to dramatically reduce its exposure to the Bank's common shares. This "active" component of the portfolio is now only 20.7% (\$1.93 per Unit) of the net assets of the Company as at December 15, 2009 compared to an almost 100% fully invested position at the inception of the Company.

In order to meet the dividend objectives (\$0.525 per Share per annum) of the Priority Equity Shares, the active component of the portfolio would have to produce an annual cash return (from dividends and the covered call writing program) of 27.2% on the active portfolio. In addition, the current operating expenses, which include many fixed expenses such as custodian fees and expenses, net asset value accounting, audit fees, and TSX listing fees, would also require an additional cash return of approximately 6.5% per year on the active portfolio for the Company. As such, given the requirement to achieve such high levels of cash returns from the active portfolio, the payment of dividends on the Priority Equity Shares was unsustainable and suspended in February 2009, as noted above, and the Manager considers it very unlikely that such dividends will be reinstated in the foreseeable future.

The dividend on the Class A Shares was suspended following the payment of the May, 2008 regular dividend, as a result of the net asset value per Unit of the Company declining below the \$12.50 per Unit threshold. As a result of the reduced size of the active portfolio and the high levels of return required to meet the Priority Equity Share dividends which are preferred and cumulative, the Manager considers it very unlikely that Class A Share dividends will be reinstated in the foreseeable future either.

The future growth of the net asset value of the Company will be largely influenced by the ongoing valuation of the fixed income securities in the portfolio. The fixed income securities have a current value of \$7.41 per Unit. The forward value at maturity is estimated to be \$9.00

per Unit. During the term of these strip coupons, the market value of these fixed instruments will be impacted by changes in interest rates. However, since the fixed income securities have a known and limited upside, the only real significant component of growth that could potentially increase the net asset value in any material amount beyond \$10.00 per Unit would be from growth in the active portfolio (\$1.93 per Unit as at December 15, 2009) from the remaining common shares of the Bank. As mentioned above, the active portfolio will be required to fund any dividends that may still be paid on the Priority Equity Shares and the operating costs of the Company, and as such this will hamper growth in the active portfolio. Any future redeployment and liquidation of fixed income securities into the active portfolio would occur only if the minimum protection ratio described above is maintained.

Therefore, in order to restore the ability of the Company to achieve meaningful levels of future dividend payments and to potentially grow the net asset value per Unit should the share price of the Bank's common shares increase during the remaining term of the Company, and having regard to the substantial support enjoyed by the reorganization proposal put forward by the Company earlier this year, the Manager has presented to the Board of Directors of the Company a further proposal for the capital reorganization of the Company which it believes offers potentially much greater Shareholder value for both classes of Shares, especially in the event of a further recovery in the price of the Bank's common shares. If this proposal is rejected, it is not intended that any further proposals to reorganize the Company be put to Shareholders prior to its termination.

The following are the details of this capital reorganization which is being brought before the Shareholders at the Meeting for their consideration and approval.

### **Creation of New Capital Structure**

The proposed capital reorganization would offer two investment options within the Company, each of which may be considered to be (and for securities law purposes will be treated as) a separate investment fund (each a "Fund"). The existing portfolio assets of the Company would be allocated between these two Funds, which would be known as the "Original Commerce Split Fund" and the "New Commerce Split Fund".

***The Company is trying to accommodate both those investors who wish to retain their current Shares, and those who wish to have shares with attributes designed to respond to the current situation which has resulted from the sharp decline in the price of the common shares of the Bank.*** If the capital reorganization is approved at the Meeting, the Company will provide an opportunity for each investor to select one of the two options through an election form to be sent to all Shareholders following the Meeting. Investors who wish to maintain their current investment may elect to participate in the Original Commerce Split Fund; alternatively, investors may elect to participate in the New Commerce Split Fund.

The Company encourages all investors to consider both options carefully before making an investment decision. A discussion of the relative merits of the two options may be found under "*Investment Considerations*" below. See also "*Canadian Federal Income Tax Considerations*" below. Investors should also review the information below regarding the listing requirements of the TSX as they apply to each option and the Company's ability to offer those options to investors, set out under "*Conditions of the Reorganization and Stock Exchange Listing*" below. If the vote to reorganize the share capital of the Company is successful,

Shareholders who do not complete an election form will transfer into the New Commerce Split Fund.

**The Manager believes it is prudent and appropriate to provide Shareholders with the option of staying with the status quo, or going with an alternative option in light of the decline in the prices of the common shares of the Bank. The Manager therefore recommends that the Shareholders of the Company vote in favour of the proposed special resolution reorganizing the capital of the Company as described in this Circular, to provide all Shareholders with this choice of options.**

### **Option 1: Original Commerce Split Fund (the Status Quo)**

The Company would create the first Fund, to be known as the Original Commerce Split Fund, and a pro rata share of the existing assets of the Company (consisting of cash, Priority Equity Portfolio Protection Plan Securities and common shares of the Bank) would be allocated to this Fund. This Fund would have two classes of shares associated with it. Such share classes would be designated as the Priority Equity Shares and the Class A Shares of this Fund. The rights, privileges, restrictions and conditions attaching to these two classes of shares would be substantially the same as those now attaching to the existing Priority Equity Shares and Class A Shares, respectively.

The Original Commerce Split Fund would function in much the same way as the Company now functions. The portfolio assets of this Fund would consist largely of cash and Priority Equity Portfolio Protection Plan Securities, and there would be limited exposure to the common shares of the Bank, as there would continue to be a Priority Equity Portfolio Protection Plan in respect of this Fund. The investment strategy and dividend policy of the Original Commerce Split Fund would be identical to the current investment strategy and dividend policy of the Company. The Cumulative Dividend Arrears applicable to an existing Priority Equity Share of the Company would continue to apply to the new Priority Equity Shares of this Fund.

In order to lower ongoing costs of the Fund, QuadraVest will lower its annual management fee from 0.55% to 0.45% of the net asset value of the Fund. In addition, the discount to net asset value for the monthly redemption fee will be decreased from 4% to 2% and this reduced fee would be paid to QuadraVest and not retained by the Fund. These measures are intended to lower ongoing expenses of the Fund and improve trading prices relative to the net asset value for the Fund.

The Original Commerce Split Fund would be terminated if the Priority Equity Shares or Class A Shares are delisted by the TSX, or if the net asset value of the Original Commerce Split Fund declines to less than \$5,000,000, a level the Manager views as constituting the Fund uneconomic to maintain. This would protect investors from retaining an investment in a Fund the assets of which were insufficient from a cost and efficiency standpoint for it to continue as an effective investment option. On such a termination, each holder of a Share of the Original Commerce Split would receive its pro rata share of the net asset value of the Original Commerce Split Fund at the date of termination, plus (in the case of the Priority Equity Shares) any arrears of dividends. The pro rata share of the net asset value of the Original Commerce Split Fund payable to a holder of a particular Class of Shares would be equal to a fraction, the numerator of which is the volume weighted average trading price (the "VWAP") of the Shares of that class on the TSX calculated over the 20 trading days ending immediately prior to the announcement by

the Manager of the termination of this Fund and the denominator of which is the aggregate VWAP of both classes of Shares on the TSX calculated over the 20 trading days ending immediately prior to the announcement by the Manager of the termination of this Fund.

Priority Equity and Class A Shareholders may maintain the investment characteristics of their current holdings by electing to participate in the Original Commerce Split Fund. Investors should note that as discussed under “*Investment Considerations*” below, due to the significant market decline in the underlying common shares of the Bank and the implementation of the Priority Equity Portfolio Protection Plan, the ability to achieve the original investment objectives of the Company has been significantly impaired, and so Shareholders should not expect such objectives to be achieved in the Original Commerce Split Fund.

#### *Election to Convert into the Original Commerce Split Fund*

If the special resolution is approved by Shareholders at the Meeting, each holder of an existing Priority Equity Share or a Class A Share will be given the right to convert such Share into a Priority Equity Share or into a Class A Share, as the case may be, of the Original Commerce Split Fund. In order to exercise this right, a Shareholder must follow the procedures established by CDS and the Shareholder’s CDS participant (a “CDS Participant”), and must ensure that notice (an “Election Notice”) of the Shareholder’s intention to cause this conversion to be effected is provided by such CDS Participant and received by Computershare **no later than 5:00 p.m. (Eastern time) on February 26, 2010** (the “Final Notice Day”). Each existing Priority Equity Share held by a Shareholder at the close of business on the Final Notice Day will, if such Shareholder’s CDS Participant has delivered an Election Notice, be converted into one Priority Equity Share, and each Class A Share would be converted into one Class A Share, as the case may be, of the Original Commerce Split Fund on a business day as soon as practicable following the Final Notice Date (the “Conversion Date”), having regard to the timing requirements of CDS and the TSX in this regard.

**The ability of the Company to honour Election Notices received will depend upon the Company being able to meet the minimum listing requirements of the TSX, as well as the requirement that an equal number of Priority Equity Shares and Class A Shares be issued.** See “*Conditions of the Conversion and Stock Exchange Listing*” on page C-20.

On the Conversion Date, the Company will cause certificates for the Priority Equity Shares and Class A Shares of the Original Commerce Split Fund to be delivered to or electronically deposited to CDS via CDS’ book-based system on a NCI (No Certificate Inventory) basis and registered in the name of, CDS or its nominee. Beneficial Shareholders holding Priority Equity Shares or Class A Shares through a CDS Participant will not receive physical certificates evidencing ownership of the Priority Equity Shares and Class A Shares of the Original Commerce Split Fund, as applicable. The Company expects that such Beneficial Shareholders will receive a confirmation of the number of Priority Equity Shares and Class A Shares of the Original Commerce Split Fund issued to them from their CDS Participant in accordance with the practices and procedures of a CDS Participant. CDS will be responsible for establishing and maintaining book-based accounts for CDS Participants with clients holding Priority Equity Shares and Class A Shares of the Original Commerce Split Fund.

None of the Company, the Manager, Quadinvest or the Transfer Agent will have any liability for (i) the records maintained by CDS or CDS Participants relating to the Priority Equity

Shares and Class A Shares of the Original Commerce Split Fund or the book-based accounts maintained by them, (ii) maintaining, supervising or reviewing any records relating to such Priority Equity Shares and Class A Shares of the Original Commerce Split Fund, or (iii) any advice or representations made or given by CDS or CDS Participants with respect to the rules and regulations of CDS or any action to be taken by CDS or its participants. The ability of a person having an interest in the Priority Equity Shares and Class A Shares of the Original Commerce Split Fund held through a CDS Participant to pledge such interest or otherwise take action with respect to such interest (other than through a CDS Participant) may be limited due to the lack of a physical certificate.

## **Option 2: New Commerce Split Fund**

The Company would then create the New Commerce Split Fund, with three classes of shares to be created in respect of this Fund and designated as the Preferred Shares, Class I (the “Class I Preferred Shares”), the Preferred Shares, Class II (the “Class II Preferred Shares”) and the Capital Shares, such shares having attached thereto the rights, privileges, restrictions and conditions described below. The Company would also create two series of warrants (the “Warrants”) to acquire one Class I Preferred Share, one Class II Preferred Share and one Capital Share of the New Commerce Split Fund, as more particularly described below. A “Unit” in respect of the New Commerce Split Fund would consist of one Class I Preferred Share, one Class II Preferred Share and one Capital Share.

This second Fund would not have a Priority Equity Portfolio Protection Plan associated with it, but would rather hold only common shares of the Bank, to provide full exposure to any potential recovery in the value of an investment in the Bank. The Cumulative Dividend Arrears would not apply in respect of any Priority Equity Shares to be converted into Class I Preferred Shares and the Class II Preferred Shares, and this amount would be added back to the net asset value of the Fund.

In order to lower ongoing costs of the Fund, QuadraVest will lower its annual management fee from 0.55% to 0.45% per annum of the net asset value of the Fund. In addition, the discount to net asset value for the monthly redemption fee will be decreased from 4% to 3% and this reduced fee would be paid to QuadraVest and not retained by the Fund. These measures are intended to lower ongoing expenses of the Fund and improve trading prices relative to the net asset value for the Fund.

As with the Original Commerce Split Fund, the New Commerce Split Fund would be terminated if the Class I Preferred Shares, Class II Preferred Shares or Capital Shares are delisted by the TSX, or if the net asset value of the New Commerce Split Fund declines to less than \$5,000,000, a level the Manager views as constituting the Fund uneconomic to maintain. This would protect investors from retaining an investment in a Fund the assets of which were insufficient from a cost and efficiency standpoint for it to continue as an effective investment option. On such a termination, each holder of a Share of the New Commerce Split Fund would receive its pro rata share of the net asset value of the New Commerce Split Fund at the date of termination, plus (in the case of the Class I Preferred Shares and the Class II Preferred Shares) any arrears of dividends. The pro rata share of the net asset value of the New Commerce Split Fund payable to a holder of any Class of Shares would be equal to a fraction, the numerator of which is the VWAP of the Shares of that class on the TSX calculated over the 20 trading days

ending immediately prior to the announcement by the Manager of the termination of this Fund and the denominator of which is the aggregate VWAP of all three classes of Shares on the TSX calculated over the 20 trading days ending immediately prior to the announcement by the Manager of the termination of this Fund.

**In summary, holders of the existing Priority Equity Shares who elect to participate the New Commerce Split Fund would receive the following securities for each Priority Equity share held:**

**One \$5.00 Class I Preferred Share** – paying fixed cumulative preferential monthly dividends to yield 7.50% per annum on the \$5.00 notional issue price and having a repayment objective on the Termination Date of \$5.00;

**One \$5.00 Class II Preferred Share** – paying distributions to yield 7.50% per annum on the \$5.00 notional issue price if and when the net asset value per Unit of the New Commerce Split Fund exceeds \$12.50 and having a repayment objective on the Termination Date of \$5.00;

**One-half of a 2011 Warrant** – each full 2011 Warrant can be exercised to purchase one Unit (consisting of one Class I Preferred Share, one Class II Preferred Share and one Capital Share) for an exercise price of \$10.00 at specified times until February 28, 2011; and

**One full 2012 Warrant** – each full 2012 Warrant can be exercised to purchase one Unit for an exercise price of \$12.50 at specified times until February 28, 2012.

**Holders of the existing Class A Shares electing to participate in the New Commerce Split Fund would receive the following security for each Class A Share held:**

**One Capital Share** – Capital Shares would continue to participate in any net asset value growth over \$10.00 per Unit and dividends would be reinstated only if and when the net asset value per Unit exceeds \$15.00. The dividend rate on the Capital Shares would be set by the Board of Directors at its discretion based on market conditions. The increased exposure to the common shares of the Bank would offer much greater capital appreciation potential, especially if the value of such common shares were to increase over the remaining life of the Company. No dividend payments would be made on Capital shares unless all dividends on Class I Preferred Shares of Class II Preferred Shares have been declared and paid.

#### *Election to Convert into the New Commerce Split Fund*

If the special resolution is approved by Shareholders at the Meeting, each holder of an existing Priority Equity Share or a Class A Share will be given the right to convert such Share into a Class I Preferred Share, a Class II Preferred Share, one-half of a 2011 Warrant and one 2012 Warrant, or into a Capital Share, respectively, of the New Commerce Split Fund pursuant to a reorganization of the capital of the Company. In order to exercise this right, a Shareholder must follow the procedures established by CDS and the Shareholder's CDS Participant, and must ensure that an Election Notice of the Shareholder's intention to cause this conversion to be effected is provided by such CDS Participant and received by Computershare **no later than 5:00 p.m. (Eastern time) on the Final Notice Day**. Each existing Priority Equity Share held by a Shareholder at the close of business on the Final Notice Day will, if such Shareholder's CDS Participant has delivered an Election Notice, be converted into one Class I Preferred Share, one

Class II Preferred Share, one-half of a 2011 Warrant and one 2012 Warrant, and each Class A Share would be converted into one Capital Share, of the New Commerce Split Fund on the Conversion Date.

**The ability of the Company to honour Election Notices received will depend upon the Company being able to meet the minimum listing requirements of the TSX, as well as the requirement that an equal number of Class I Preferred Shares, Class II Preferred Shares and Capital Shares be issued.** See “*Conditions of the Conversion and Stock Exchange Listing*” on page C-20.

On the Conversion Date, the Company will cause certificates for the Class I Preferred Shares, Class II Preferred Shares and Capital Shares to be delivered to or electronically deposited to CDS via CDS’ book-based system on an NCI basis and registered in the name of, CDS or its nominee. Beneficial Shareholders holding Priority Equity Shares or Class A Shares through a CDS Participant will not receive physical certificates evidencing ownership of Class I Preferred Shares, Class II Preferred Shares or Capital Shares of the New Commerce Split Fund, as applicable, except as required to process the exercise of Warrants. The Company expects that such Beneficial Shareholders will receive a confirmation of the number of Class I Preferred Shares, Class II Preferred Shares and Capital Shares of the New Commerce Split Fund issued to them from their CDS Participant in accordance with the practices and procedures of a CDS Participant. CDS will be responsible for establishing and maintaining book-based accounts for CDS Participants with clients holding Class I Preferred Shares, Class II Preferred Shares and Capital Shares of the New Commerce Split Fund.

None of the Company, the Manager, QuadraVest or the Transfer Agent will have any liability for (i) the records maintained by CDS or CDS Participants relating to the Class I Preferred Shares, Class II Preferred Shares and Capital Shares of the New Commerce Split Fund or the book-based accounts maintained by them, (ii) maintaining, supervising or reviewing any records relating to such Class I Preferred Shares, Class II Preferred Shares and Capital Shares of the New Commerce Split Fund, or (iii) any advice or representations made or given by CDS or CDS Participants with respect to the rules and regulations of CDS or any action to be taken by CDS or its participants. The ability of a person having an interest in the Class I Preferred Shares, Class II Preferred Shares and Capital Shares of the New Commerce Split Fund held through a CDS Participant to pledge such interest or otherwise take action with respect to such interest (other than through a CDS Participant) may be limited due to the lack of a physical certificate.

#### *Attributes of the Shares of the New Commerce Split Fund*

The Class I Preferred Shares would have a notional issue price of \$5.00 per share. The Company’s investment objectives with respect to the Class I Preferred Shares would be to provide holders of the Class I Preferred Shares with fixed cumulative preferential monthly cash dividends in the amount of \$0.03125 per Preferred Share to yield 7.50% per annum on the notional issue price; and on the Termination Date to pay the sum of \$5.00 per share to the holders of the Class I Preferred Shares.

The Class II Preferred Shares would also have a notional issue price of \$5.00 per share. The Company’s investment objectives with respect to the Class II Preferred Shares would be to provide holders of the Class II Preferred Shares, at any time when the net asset value of the New Commerce Split Fund was equal to or greater than \$12.50 per Unit, with fixed cumulative

preferential monthly cash dividends in the amount of \$0.03125 per Class II Preferred Share to yield 7.50% per annum on the notional issue price; and on the Termination Date to pay the sum of \$5.00 per share to the holders of the Class II Preferred Shares.

The Capital Shares would have a notional issue price of \$10.00 per share. The Company's investment objectives with respect to the Capital Shares would be (a) to provide holders of Capital Shares with such cash dividends as the board of directors of the Company would declare from time to time in its discretion; and (b) on or about the Termination Date, to pay the holders of Capital Shares any amounts remaining after paying to the holders of the Class I Preferred Shares and the Class II Preferred Shares the amounts owing to such holders. No dividends or other distributions would be paid on the Capital Shares in any month as long as any dividends on the Class I Preferred Shares or (if payable) on the Class II Preferred Shares were then in arrears, and the policy of the Board of Directors would be not to pay any such dividends or other distributions so long as the net asset value per Unit is equal to or less than \$15.00.

The retraction rights associated with the Class I Preferred Shares and the Class II Preferred Shares on the one hand and the Capital Shares on the other hand would be substantially the same as the corresponding rights currently associated with the existing Priority Equity Shares or Class A Shares, respectively. The holders of the Class I Preferred Shares, Class II Preferred Shares or Capital Shares would be permitted to surrender such shares at any time to Computershare for retraction, but like the existing Priority Equity Shares and Class A Shares, such shares will be retracted only as of the last business day of each month (a "Retraction Date"). Class I Preferred Shares, Class II Preferred Shares or Capital Shares surrendered for retraction by a shareholder at least 20 business days prior to a Retraction Date would be retracted and the holder would receive payment on or before the 15<sup>th</sup> business day following such Retraction Date (the "Retraction Payment Date"). If a holder of Class I Preferred Shares, Class II Preferred Shares or Capital Shares makes such surrender after 5:00 p.m. (Eastern time) on the 20<sup>th</sup> business day immediately preceding a Retraction Date, the Class I Preferred Shares, Class II Preferred Shares or Capital Shares, as the case may be, would be retracted on the Retraction Date in the following month and the holder would receive payment for the retracted shares as of the Retraction Payment Date in respect of the Retraction Date in the following month.

Holders of Class I Preferred Shares or Class II Preferred Shares whose shares are surrendered for retraction would be entitled to receive a price per share (the "Class I Preferred Shares Retraction Price" or the "Class II Preferred Share Retraction Price", as the case may be) equal to the lesser of (i) \$5.00; and (ii) 97% of the net asset value per Unit determined as of the Retraction Date less the cost to the Company of the purchase of a Class II Preferred Share and a Capital Share (in the case of the retraction of a Class I Preferred Share) or a Class I Preferred Share and a Capital Share (in the case of the retraction of a Class II Preferred Share) in the market for cancellation. For this purpose, the cost of the purchase of a Class I Preferred Share, a Class II Preferred Share or a Capital Share, as applicable, will include the purchase price of the Class I Preferred Share or the Class II Preferred Share, as applicable, and the Capital Share, and commissions and costs, if any, related to the liquidation of any portion of the common shares of the Bank to fund the purchase of the Class I Preferred Share or the Class II Preferred Share, as the case may be, and the Capital Share (to a maximum of 1% of the net asset value per Unit). The discount of 3% of the net asset value per Unit would be paid to the Manager and not retained by the Fund.

Holders of Capital Shares whose shares are surrendered for monthly retraction would be entitled to receive a retraction price per share equal to 97% of the net asset value per Unit determined as of the Retraction Date less the cost to the Company of the purchase of a Class I Preferred Share and a Class II Preferred Share in the market for cancellation. For this purpose, the cost of the purchase of a Class I Preferred Share and a Class II Preferred Share would include the purchase price of the Class I Preferred Share and the Class II Preferred Share and commissions and costs, if any, related to the liquidation of any portion of the common shares of the Bank to fund the purchase of the Class I Preferred Share and the Class II Preferred Share (to a maximum of 1% of the net asset value per Unit). The discount of 3% of the net asset value per Unit would also be paid to the Manager and not retained by the Fund.

Shareholders would also continue to have an annual retraction right under which they would be permitted to concurrently retract an equal number of Class I Preferred Shares, Class II Preferred Shares and Capital Shares on the October Retraction Date in each year. The price paid by the Company for such a concurrent retraction would be equal to the net asset value per Unit calculated as of such date.

If at any time while any 2011 Warrants are outstanding the net asset value per Unit of the New Commerce Split Fund is in excess of \$10.00, or while any 2012 Warrants are outstanding the net asset value per Unit of the New Commerce Split Fund is in excess of \$12.50, a diluted net asset value per Unit will be calculated in addition to the basic net asset value per Unit, and any payment of retraction proceeds will be based on the diluted net asset value per Unit. The diluted net asset value per Unit of the Fund at any such time shall be calculated by dividing (a) the net asset value of the assets of the Company attributable to the New Commerce Split Fund at that time plus the product of the number of 2011 Warrants then outstanding and \$10.00 plus (if the net asset value per Unit exceeds \$12.50) the product of the number of 2012 Warrant then outstanding and \$12.50, by (b) the number of Units then outstanding plus the number of Units to be issued on the exercise of all 2011 Warrants then outstanding, plus (if the net asset value per Unit exceeds \$12.50) the number of Units to be issued on the exercise of all 2012 Warrants then outstanding. The diluted net asset value per Unit shall be deemed to be the resulting quotient. If the Company were to issue additional warrants in the future, it would similarly calculate a diluted net asset value at any time when such warrants were “in the money”.

The Class I Preferred Shares of the Fund will rank in priority to the Class II Preferred Shares and the Capital Shares with respect to the payment of dividends and the repayment of capital on the dissolution, liquidation or winding-up of the Fund. The Class I Preferred Shares will not be rated by any rating organization. The Class II Preferred Shares of the Company will rank subordinate to the Class I Preferred Shares and in priority to the Capital Shares with respect to the payment of dividends and the repayment of capital on the dissolution, liquidation or winding-up of the Fund. The Class II Preferred Shares will not be rated by any rating organization. The Capital Shares of the Company will rank subordinate to the Class I Preferred Shares and the Class II Preferred Shares with respect to the payment of dividends and the repayment of capital on the dissolution, liquidation or winding-up of the Fund.

### *Portfolio Composition*

The portfolio assets of the Company referable to the New Commerce Split Fund will initially consist of that number or dollar value of the cash (less the nominal amount attributable to the Class B Shares), Priority Equity Portfolio Protection Plan Securities and common shares of

the Bank not referable to the Original Commerce Split Fund. There would be no Priority Equity Portfolio Protection Plan in respect of the New Commerce Split Fund, with the result that all such Priority Equity Portfolio Protection Plan Securities of the Fund would be sold and the net proceeds invested in additional common shares of the Bank. **As an example, if the conversion had happened at December 15, 2009, the net asset value of the New Commerce Split Fund would have been \$9.34 (excluding expenses related to the reorganization).**

#### *Creation and Issuance of Warrants*

The special resolution regarding the reorganization of the capital of the Company would authorize the Board of Directors of the Company to create two series of Warrants to purchase Units of the Fund, to be designated the 2011 Warrants and the 2012 Warrants. Each Shareholder holding Priority Equity Shares and electing to convert such Shares into Shares of the New Commerce Split Fund would be issued one-half a 2011 Warrant and one whole 2012 Warrant for each Priority Equity Share held on the date the Priority Equity Shares are changed into Class I Preferred Shares and Class II Preferred Shares. Fractional Warrants will not be issued, and the number of Warrants to be issued would be rounded down to avoid fractions.

Each whole 2011 Warrant will entitle the holder thereof (the “Warrantholder”) to acquire one Unit at a price of \$10.00 (the “2011 Warrant Subscription Price”) on each of May 31, 2010, August 31, 2010, November 30, 2010 and February 28, 2011 (the “2011 Warrant Exercise Dates”). **2011 Warrants may only be exercised on a 2011 Warrant Exercise Date, and a Warrantholder wishing to exercise 2011 Warrants on a 2011 Warrant Exercise Date must do so before 4:00 p.m. (Eastern time) on that date. Warrants not exercised by such time on the final 2011 Warrant Exercise Date of February 28, 2011 (the “2011 Warrant Expiry Date”) will be void and of no value following the 2011 Warrant Expiry Date.**

Each whole 2012 Warrant will entitle the Warrantholder to acquire one Unit at a price of \$12.50 (the “2012 Warrant Subscription Price”) on each of the last business days in the months of February, May, August and November in each year, commencing with May 31, 2010 and ending February 28, 2012 (the “2012 Warrant Exercise Dates”). **2012 Warrants may only be exercised on a 2012 Warrant Exercise Date, and a Warrantholder wishing to exercise 2012 Warrants on a 2012 Warrant Exercise Date must do so before 4:00 p.m. (Eastern time) on that date. Warrants not exercised by such time on the final 2012 Warrant Exercise Date of February 28, 2012 (the “2012 Warrant Expiry Date”) will be void and of no value following the 2012 Warrant Expiry Date.**

The Warrants will be fully transferable by the holders thereof, and the Company has made application to list the Warrants on the TSX, assuming the special resolutions are passed and the capital reorganization proposed in this Circular is implemented.

**The interest of a holder of a Capital Share in the portfolio assets of the Company attributable to the New Commerce Split Fund may be diluted as a result of the exercise of Warrants by the holders thereof, and the interests of a holder of a Class I Preferred Share or a Class II Preferred Share in such portfolio assets may be diluted as a result of the exercise of Warrants by others.**

Computershare Trust Company of Canada (the “Warrant Agent”) will be appointed the agent of the Company to receive subscriptions and payments from Warrantholders, to act as

registrar and transfer agent for the Warrants and to perform certain services relating to the exercise and transfer of Warrants pursuant to a warrant indenture (the “Warrant Indenture”) to be entered into with the Company prior to the Conversion Date. The Company will pay for the services of the Warrant Agent, and these costs will be allocated to the New Commerce Split Fund.

On the Conversion Date, the Company will cause Warrant Certificates to be delivered to or electronically deposited to CDS via CDS’ book-based system on an NCI (No Certificate Inventory) basis and registered in the name of, CDS or its nominee. Beneficial Shareholders holding Priority Equity Shares through a CDS Participant will not receive physical certificates evidencing ownership of Warrants except as required to process the exercise of the Warrants. The Company expects that such Beneficial Shareholders will receive a confirmation of the number of Warrants issued to them from their CDS Participant in accordance with the practices and procedures of a CDS Participant. CDS will be responsible for establishing and maintaining book-based accounts for CDS Participants with clients holding Warrants.

None of the Company, the Manager, QuadraVest or the Warrant Agent will have any liability for (i) the records maintained by CDS or CDS Participants relating to the Warrants or the book-based accounts maintained by them, (ii) maintaining, supervising or reviewing any records relating to such Warrants, or (iii) any advice or representations made or given by CDS or CDS Participants with respect to the rules and regulations of CDS or any action to be taken by CDS or its participants. The ability of a person having an interest in Warrants held through a CDS Participant to pledge such interest or otherwise take action with respect to such interest (other than through a CDS Participant) may be limited due to the lack of a physical certificate.

CDS Participants that hold Warrants for more than one beneficial holder may, upon providing evidence satisfactory to the relevant Company and the Warrant Agent, exercise Warrants on behalf of its accounts. A subscriber holding Warrants may subscribe for the resulting whole number of Units or any lesser whole number of Units by instructing the CDS Participant holding the subscriber’s Warrants to exercise all or a specified number of such Warrants and forwarding the applicable Warrant Subscription Price for each Unit subscribed for to the CDS Participant which holds the subscriber’s Warrants. **Subscription for Units will be irrevocable and subscribers will be unable to withdraw their subscriptions for Units once submitted.**

The applicable Warrant Subscription Price is payable in Canadian funds by certified cheque, bank draft or money order drawn to the order of a CDS Participant, by direct debit from the subscriber’s brokerage account or, by electronic funds transfer or other similar payment mechanism. All payments must be forwarded to the appropriate office of the CDS Participant. The entire Warrant Subscription Price for Units subscribed for must be paid at the time of subscription and must be received by the Warrant Agent prior to the expiry time on the applicable Warrant Exercise Date. Accordingly, a subscriber subscribing through a CDS Participant must deliver its payment and instructions sufficiently in advance of the expiry time on the applicable Warrant Exercise Date to allow the CDS Participant to properly exercise the Warrants on its behalf.

Warrantheolders in Canada may, instead of exercising their Warrants to subscribe for Units, sell or transfer their Warrants. Warrantheolders who wish to sell or transfer their Warrants

must do so in the same manner in which they sell or transfer Shares of the Company; namely, by providing instructions to the CDS Participant holding their Warrants in accordance with the policies and procedures of the CDS Participant.

#### Information for United States Warrantheolders

The Warrants may only be exercised by a Warrantheolder who represents at the time of exercise that the holder is not located in the United States, did not acquire Warrants while in the United States, is not a U.S. person as defined in Rule 902 of Regulation S under the United States Securities Act of 1933, as amended (a “U.S. Person”), and is not exercising the Warrants for the account or benefit of or for resale to a U.S. Person or a person resident in the United States. Payment of the Warrant Subscription Price will be deemed to constitute a representation to the Company and CDS Participant to this effect.

The Warrants will nevertheless be freely tradable under U.S. federal securities laws, except by Warrantheolders who are “affiliates” of the Company. Persons who may be deemed to be “affiliates of an issuer include individuals or entities that control, are controlled by, or are under common control with, the issuer, and generally include executive officers and directors of an issuer as well as its principal shareholders.

This Circular contains no discussion of the United States tax consequences of the acquisition, holding or disposition of the Warrants or the Units (or the Shares of which the Units are comprised) issuable upon the exercise thereof. Warrantheolders should be aware that the acquisition, holding and disposition of Warrants or the Units issuable upon the exercise thereof (or the Shares of which the Units are comprised) will have both Canadian and United States tax consequences for investors that are U.S. persons or residents within the meaning of applicable tax legislation. Consequently, such Warrantheolders are advised to consult their own tax advisors regarding the application of these laws to their particular circumstances. Investors should be aware that the financial information incorporated by reference into this Circular has been prepared in accordance with Canadian generally accepted accounting principles, and thus may not be comparable to financial statements (or information derived from financial statements) of United States companies.

The Company is organized under the laws of the Province of Ontario, Canada and the entities responsible for its management (and their directors and officers) are also in Canada. Most if not all of the assets of the Company and such persons or companies are located outside the United States. As a result, it may be difficult for Warrantheolders to enforce civil liabilities under United States federal securities or other laws.

#### Other Foreign Shareholders

Holders of Priority Equity Shares who are issued Warrants and whose recorded addresses are outside of Canada and the United States will be permitted to exercise Warrants or permitted to sell or otherwise transfer their Warrants through a CDS Participant, provided that they represent to the Company and such CDS Participant that the receipt, sale or transfer of Warrants by them and the issuance of Units (and the Shares of which the Units are comprised) to them, as applicable, will not be in violation of the laws of their jurisdiction of residence. By exercising a Warrant, a Warrantheolder will be deemed to be confirming to the Company and CDS Participant that the Warrantheolder was eligible to receive and exercise the Warrant.

## Adjustments and Amendments

The Warrants will contain certain anti-dilution provisions. The subscription option in effect under the Warrants for Units issuable upon the exercise of the Warrants shall be subject to adjustment from time to time if, prior to the expiry time on the applicable Warrant Expiry Date, the Company shall (i) subdivide, redivide or change its outstanding Class I Preferred Shares, Class II Preferred Shares or Capital Shares into a greater number of shares; (ii) reduce, combine or consolidate its outstanding Class I Preferred Shares, Class II Preferred Shares or Capital Shares into a smaller number of shares; (iii) distribute to existing holders of Class I Preferred Shares, Class II Preferred Shares or Capital Shares any securities of the Company attributable to the New Commerce Split Fund including rights, options or warrants to acquire such shares or securities convertible into or exchangeable for such shares, or other property or assets, including evidence of indebtedness attributable to the holders of the Class I Preferred Shares, Class II Preferred Shares or Capital Shares; (iv) reclassify the Class I Preferred Shares, Class II Preferred Shares or Capital Shares or reorganize the capital of the Company as it relates to the New Commerce Split Fund; or (v) consolidate, amalgamate, or merge the Company with or into any other corporation or other entity, or sell or convey the property and assets of the Company attributable to the New Commerce Split Fund as an entirety or substantially as an entirety (other than in connection with a redemption or retraction of Class I Preferred Shares, Class II Preferred Shares or Capital Shares).

In any such case, the Company shall make such adjustment, if any, as the Board of Directors of the Company shall consider appropriate to the applicable Warrant Subscription Price and the number and type of security into which the Warrants are exercisable. Any determination as to such adjustment shall be made by the Company, in its sole and absolute discretion, shall be subject to the prior approval of the TSX, and shall for all purposes be conclusive and binding on all Warrantheolders.

The Warrant Indenture will provide that, from time to time, the Company and the Warrant Agent, without the consent of the Warrantheolders, may amend or supplement the Warrant Indenture for certain purposes, including curing defects or inconsistencies or making any change that is necessary or advisable provided it is not prejudicial to the interests of Warrantheolders. Any amendment or supplement to the Warrant Indenture that is prejudicial to the interests of the Warrantheolders may only be made by extraordinary resolution (requiring the approval of not less than two-thirds of the Warrantheolders voting on the resolution).

## **Conditions of the Conversion and Stock Exchange Listing**

The Company will apply to list the Priority Equity Shares and the Class A Shares of the Original Commerce Split Fund on the TSX, as well as the Class I Preferred Shares, Class II Preferred Shares, Capital Shares and Warrants of the New Commerce Split Fund, assuming the special resolutions are passed and the capital reorganization is implemented. The capital reorganization will not be effected unless the TSX approves it.

In implementing the reorganization, the Company must take certain rules into account, which are designed to ensure that the listing requirements of the TSX are met on completion of the reorganization, among other things. These rules are that:

- (a) there must be the same number of Priority Equity Shares and Class A Shares of the Original Commerce Split Fund outstanding at the completion of the reorganization;
- (b) there must be the same number of Class I Preferred Shares, Class II Preferred Shares and Capital Shares of the New Commerce Split Fund outstanding at the completion of the reorganization;
- (c) there must be a minimum of 150 holders of Class A Shares of the Original Commerce Split Fund each holding a board lot of 500 Class A Shares at the completion of the reorganization;
- (d) there must be a minimum of 150 holders of Priority Equity Shares of the Original Commerce Split Fund each holding a board lot of 100 Priority Equity Shares at the completion of the reorganization;
- (e) there must be at least 1,000,000 Class A Shares and Priority Equity Shares in the aggregate (500,000 of each such class of Shares) of the Original Commerce Split Fund outstanding at the completion of the reorganization;
- (f) the market value of the Priority Equity Shares and the Class A Shares of the Original Commerce Split Fund (being the trading value on the TSX of a Priority Share multiplied by the number of Priority Equity Shares outstanding plus the trading value on the TSX of a Class A Share multiplied by the number of Class A Shares outstanding) must be at least \$4,000,000 at the completion of the reorganization;
- (g) there must be a minimum of 300 holders of the Capital Shares of the New Commerce Split Fund each holding a board lot of 500 Class A Shares at the completion of the reorganization;
- (h) there must be a minimum of 300 holders of the Class I Preferred Shares of the New Commerce Split Fund each holding a board lot of 100 Class I Preferred Shares at the completion of the reorganization;
- (i) there must be a minimum of 300 holders of the Class II Preferred Shares of the New Commerce Split Fund each holding a board lot of 100 Class II Preferred Shares at the completion of the reorganization;
- (j) there must be at least 3,000,000 Class I Preferred Shares, Class II Preferred Shares and Capital Shares in the aggregate (1,000,000 of each such class of Shares) of the New Commerce Split Fund outstanding at the completion of the reorganization; and
- (k) the market value of the Priority Equity Shares and the Class A Shares of the Original Commerce Split Fund being converted into Class I Preferred Shares, Class II Preferred Shares and Capital Shares of the New Commerce Split Fund must be at least \$4,000,000 immediately prior to undertaking the reorganization.

The following chart sets out certain possible scenarios that may result from elections made by Shareholders, and outlines what the result would be in each such case. In addressing the possibilities set out below, Priority Equity Shareholders have been given priority due to their greater economic interest in the net assets of the Company. As such, whenever possible, elections made by Priority Equity Shareholders will receive priority.

<i>Contingency</i>	<i>Result</i>
1. The number of board lot holders of Priority Equity Shares who elect to convert those Shares into Class I Preferred Shares, Class II Preferred Shares and Warrants of the New Commerce Split Fund, together with the number of board lot holders of Priority Equity Shares who fail to file an election form, is less than 300.	The capital reorganization will not proceed.
2. The number of board lot holders of Class A Shares who elect to convert those Shares into Capital Shares of the New Commerce Split Fund, together with the number of board lot holders of Class A Shares who fail to file an election form, is less than 300	The capital reorganization will not proceed.
3. The number of board lot holders of Priority Equity Shares who elect to convert those Shares into Priority Equity Shares of the Original Commerce Split Fund is less than 150.	<p>The capital reorganization will proceed, but with only the New Commerce Split Fund being created.</p> <p>Each holder of Priority Equity Shares electing to convert into the Original Commerce Split Fund will have its Priority Equity Shares redeemed. The same number of Class A Shares would be redeemed, on a pro rata basis among all holders of Class A Shares, and the balance of the Class A Shares remaining would be converted into Capital Shares of the New Commerce Split Fund.</p> <p>On such redemptions, each holder of a Priority Equity Share or Class A Share being redeemed would receive its pro rata share of the net asset value of the Company at the redemption date plus (in the case of the Priority Equity Share) any arrears of dividends. The pro rata share of the net asset value of the Company for either the Priority Equity Shares or the Class A Shares, as the case may be, would be equal to a fraction, the numerator of which is the VWAP of a Priority Equity Share or Class A Share, as the case may be,</p>

	<p>on the TSX calculated over the 20 trading days ending immediately prior to the redemption date and the denominator of which is the aggregate VWAP of a Priority Equity Share and a Class A Share on the TSX calculated over the 20 trading days ending immediately prior to the redemption date.</p> <p>Notwithstanding the foregoing, if implementing these redemptions would result in fewer than 1,000,000 Priority Equity Shares being converted into Class I Preferred Shares, Class II Preferred Shares and Warrants, or would result in the net asset value of the New Commerce Split Fund being less than \$5,000,000, these redemptions will not occur and the capital reorganization will not be implemented.</p>
<p>4. The number of board lot holders of Class A Shares who elect to convert those Shares into Class A Shares of the Original Commerce Split Fund is less than 150 but 150 or more board lot holders of Priority Equity Shares elect to convert into Priority Equity Shares of the Original Commerce Split Fund.</p>	<p>The capital reorganization will proceed.</p> <p>Each holder of a Priority Equity Share electing to convert into the Original Commerce Split Fund would have such election honoured, unless #7 below applies, in which event the provisions of #7 shall govern.</p> <p>The Company will determine, based on the number of board lot holders of Class A Shares who have elected to participate in the Original Commerce Split Fund, how many additional board lot holders are required to reach the 300 holder threshold. It will then require individual holders of Class A Shares, starting with the holder with the largest number of Class A Shares, then the second largest holder, and so on, to convert 500 of such Class A Shares into Class A Shares of the Original Commerce Split Fund, until the number of board lot holders (based on the number of board lot holders electing into the Original Commerce Split Fund and the number required to convert) is at least 300.</p> <p>In the event that, following this process, the number of Class A Shares to be converted into Class A Shares of the Original Commerce Split Fund is less than the number of Priority Equity Shares to be converted into Priority Equity Shares of the Original Commerce Split Fund in response</p>

	<p>to election forms filed by the holders thereof, then additional Class A Shares of each holder not electing into the Original Commerce Split Fund or not filing an election form will also be converted on a pro rata basis to ensure that the number of Class A Shares of the Original Commerce Split Fund issued on the conversion equals the number of Priority Equity Shares of the Original Commerce Split Fund issued.</p> <p>In the event that the number of Class A Shares to be converted into Class A Shares of the Original Commerce Split Fund is greater than the number of Priority Equity Shares to be converted into Priority Equity Shares of the Original Commerce Split Fund in response to election forms filed by the holders thereof, then the number of Class A Shares that holders electing into the Original Commerce Split Fund will be permitted to convert will be reduced on a pro rata basis to ensure that the number of Class A Shares of the Original Commerce Split Fund issued on the conversion equals the number of Priority Equity Shares of the Original Commerce Split Fund issued (but provided that no such pro rata reduction will be made if the effect would be to have a holder convert less than 500 Class A Shares).</p>
<p>5. Fewer than 1,000,000 Class I Preferred Shares and Class II Preferred Shares of New Commerce Split Fund would be issued on the conversion of all Priority Equity Shares held by those electing to so convert or who do not file an election form.</p>	<p>The capital reorganization will not proceed.</p>
<p>6. Fewer than 1,000,000 Capital Shares of New Commerce Split Fund would be issued on the conversion of all Class A Equity Shares held by those electing to so convert or who do not file an election form, but more than 1,000,000 Class I Preferred Shares and 1,000,000 Class II Preferred Shares of New Commerce Split Fund would be issued on the conversion of the Priority Equity Shares.</p>	<p>The capital reorganization will proceed.</p> <p>All Priority Equity Shares tendered for conversion into the New Commerce Split Fund will be converted. Each holder of a Class A Share electing to convert into the New Commerce Split Fund will have such election honoured and all holders failing to file an election form will have their Class A Shares converted into the New Commerce Split Fund. Additional Class A Shares will be converted into the New Commerce Split Fund on a pro rata basis, such that an equal</p>

	number of Class A Shares and Priority Equity Shares are so converted.
<p>7. The number of Priority Equity Shares for which an election to convert those Shares into Class I Preferred Shares and Class II Preferred Shares of New Commerce Split Fund has been submitted, together with the number of Priority Equity Shares held by all holders failing to file an election form, is such that, if all such election requests were honoured and Priority Equity Shares of non-electing holders converted, there would be fewer than 500,000 Priority Equity Shares in the Original Commerce Split Fund.</p> <p>(Stated another way, the holders of the Priority Equity Shares elect to convert fewer than 500,000 of such Shares into Priority Equity Shares of the Original Commerce Split Fund.)</p>	<p>The capital reorganization will proceed, but with only the New Commerce Split Fund being created.</p> <p>Each holder of Priority Equity Shares electing to convert into the Original Commerce Split Fund will have its Priority Equity Shares redeemed. The same number of Class A Shares would be redeemed, on a pro rata basis among all holders of Class A Shares, and the balance of the Class A Shares remaining would be converted into Capital Shares of the New Commerce Split Fund.</p> <p>On such redemptions, each holder of a Priority Equity Share or Class A Share being redeemed would receive its pro rata share of the net asset value of the Company at the redemption date plus (in the case of the Priority Equity Share) any arrears of dividends. The pro rata share of the net asset value of the Company for either the Priority Equity Shares or the Class A Shares, as the case may be, would be equal to a fraction, the numerator of which is the VWAP of the Priority Equity Share or Class A Share, as the case may be, on the TSX calculated over the 20 trading days ending immediately prior to the redemption date and the denominator of which is the aggregate VWAP of the Priority Equity Shares and the Class A Shares on the TSX calculated over the 20 trading days ending immediately prior to the redemption date.</p>
<p>8. The number of Class A Shares for which an election to convert those Shares into Capital Shares of New Commerce Split Fund has been submitted together with the number of Class A Shares held by all holders failing to file an election form, is such that, if all such election requests were honoured and Class A Shares of non-electing holders converted, there would be fewer than 500,000 Class A Shares remaining in the Original Commerce Split Fund, while after the conversion there would be more than 500,000 Priority Equity Shares remaining outstanding in the</p>	<p>The capital reorganization will proceed.</p> <p>All Priority Equity Shares tendered for conversion into the Original Commerce Split Fund will be so converted. Class A Shareholders electing to convert into the New Commerce Split will only be allowed to so convert their Class A Shares, and Class A Shareholders failing to file an election form will only have their Class A Shares converted, on a pro rata basis, such that, at the end of the conversion, there are at least 500,000 Class A Shares converted into Class A Shares of the Original Commerce Split Fund. Additional Class A Shares will be converted into Class A Shares of</p>

Original Commerce Split Fund.	the Original Commerce Split Fund on a pro rata basis, such that an equal number of Class A Shares and Priority Equity Shares are converted into Class A Shares and Priority Equity Shares of the Original Commerce Split Fund.
<p>9. The TSX listing requirements are met but the number of Priority Equity Shares to be converted into Priority Equity Shares of the Original Commerce Split Fund is not the same as the number of Class A Shares to be converted into Class A Shares of such Fund</p>	<p>If Election Notices are received requesting that more existing Priority Equity Shares be converted into Priority Equity Shares of the Original Commerce Split Fund than are received requesting conversion of existing Class A Shares into Class A Shares of the Original Commerce Split Fund, then (i) all holders of existing Priority Equity Shares who have delivered such an Election Notice will have their requests for a conversion honoured, and all of their Priority Equity Shares will be converted into Priority Equity Shares of the Original Commerce Split Fund on the Conversion Date; (ii) all holders of existing Class A Shares who have delivered such an Election Notice will have their requests for a conversion honoured, and all of their Class A Shares will be converted into Class A Shares of the Original Commerce Split Fund on the Conversion Date; and (iii) there will be a mandatory conversion of that number of existing Class A Shares into Class A Shares of the Original Commerce Fund as is equal to the difference between the number of Priority Equity Shares to be converted as provided in paragraph (i) above and the number of Class A Shares to be converted as provided in paragraph (ii) above, such mandatory conversion to be effected among the remaining Class A Shareholders pro rata, but disregarding fractions.</p> <p>If Election Notices are received requesting that fewer existing Priority Equity Shares be converted into Priority Equity Shares of the Original Commerce Split Fund than are received requesting conversion of existing Class A Shares into Class A Shares of the Original Commerce Split Fund, then (i) all holders of existing Priority Equity Shares who have delivered such an Election Notice will have their requests for a conversion honoured, and all of their Priority Equity Shares will be converted into Priority Equity Shares of the Original Commerce Split Fund on the Conversion Date; and (ii) all holders of existing Class A Shares who</p>

	<p>have delivered such an Election Notice will have their requests for a conversion honoured on a pro rata basis, disregarding fractions, such that the number of their Class A Shares that will be converted into Class A Shares of the Original Commerce Split Fund on the Conversion Date will be equal to the number of Priority Equity Shares to be so converted.</p>
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**Class B Shares**

The Class B Shares of the Company would continue to be held by the trust which holds such shares today. No dividends are paid on the Class B Shares, and Class B Shares carry one vote per share. The Class B Shares are retractable at a price of \$1.00 per share and have a liquidation entitlement of \$1.00 per share.

**INVESTMENT CONSIDERATIONS**

The proposed capital reorganization offers investors the following two choices.

**1. Elect the New Commerce Split Fund:** The objective of the New Commerce Split Fund is to provide holders of both the Priority Equity Shares and the Class A Shares with improved distribution and capital appreciation potential by re-establishing higher levels of exposure to the common shares of the Bank than is currently the case with the Company. The higher levels of exposure would result from the liquidation of the fixed income securities (and the elimination of the requirement to maintain the Priority Equity Portfolio Protection Plan) and a reinvestment in common shares of the Bank. The increased exposure to such common shares would create higher dividend income and the potential for much higher levels of income through the covered call writing program. In addition, the increased exposure to such common shares would offer much greater capital growth potential for both classes of investors if the Bank’s common shares increase in value over the remaining life of the Company.

In assessing an investment in the New Commerce Split Fund, investors should also review carefully the risk considerations set out under “*Risk Factors*” in the AIF, as such risks will continue to be applicable to an investment in the New Commerce Split Fund, other than the discussion of the risks associated with the Portfolio Equity Portfolio Protection Plan. Such risks will not apply to the New Commerce Split Fund, as this Fund will not have a Portfolio Equity Portfolio Protection Plan. As a result, however, investors should be aware that there can be no assurances that this Fund will be able to return the notional issue price of \$5.00 in respect of a Class I Preferred Share or \$5.00 in respect of a Class II Preferred Share on the Termination Date, and holders of all classes of shares of this Fund will be exposed to the risks of the common shares of the Bank declining in value, or failing to appreciate in value, over the remaining life of this Fund.

**2. Elect the Original Commerce Split Fund:** Priority Equity and Class A Shareholders may maintain the investment characteristics of their current holdings by electing to participate in the Original Commerce Split Fund. As explained above, due to the significant market decline in the underlying common shares of the Bank and the implementation of the Priority Equity Protection Plan, the ability to achieve all of the original investment objectives has been

significantly impaired, and so Shareholders should not expect such objectives to be achieved in this new share class since the rights attached to those shares will be substantially the same as those attached to their existing Shares.

The following factors should be taken into consideration for each class of investor in determining the suitability of being in a Fund which replicates their current investment. Investors should also review the risk considerations set out under “*Risk Factors*” in the AIF, as such risks will continue to be applicable to an investment in the Original Commerce Split Fund.

### **Priority Equity Shareholders**

*Distribution objectives* - As discussed above, the ability to generate a sufficient cash return on the portfolio from dividends and the covered call option program from the remaining active portfolio has been impaired. As such, dividend payments on the Priority Equity Shares are not expected to be paid in the foreseeable future.

*Capital repayment objectives* - As a result of the Priority Equity Portfolio Protection Plan, the majority of the portfolio has now been invested in fixed income securities in order to achieve the goal of returning \$10.00 for each Priority Equity Share outstanding on December 1, 2014. As at December 15, 2009, the estimated future value of the cash and fixed income securities is approximately \$9.00 per Priority Equity Share. As such, an amount of \$1.00 per Unit (from an existing \$1.93 per Unit) must remain in the active portfolio on the maturity date to achieve the \$10.00 repayment objective. This active portfolio will be required to pay any future dividends declared and fund the ongoing expenses of the Company for the next five years until maturity. There can be no assurances that current active portfolio will be sufficient to supplement the anticipated future value of the fixed income securities and achieve the \$10.00 repayment goal. In addition, changes in regulatory or other expense costs could adversely impact the ability of the Company to achieve the repayment goal.

In particular, if the net assets of the Company continue to decline as a result of ongoing retractions or other reasons, the management expense ratio of the Company is expected to rise and could have an adverse impact on the Company’s ability to achieve its repayment goals. Given the extent to which the portfolio assets of the Company consists of Priority Equity Portfolio Protection Plan Securities, and the sensitivity of the value of such securities to changes in interest rates, a significant increase in interest rates could have a material adverse effect on the net asset value of the Company. That is, since the Company’s portfolio is primarily composed of strip coupons with a five year maturity, the impact of any rise in interest rates from the current low historic and relative rates could adversely impact the net asset value over the next few years. Also, the Company could also become taxable on its interest income if such income exceeds the expenses of the Company for tax purposes. The payment of income tax could also have an adverse impact on the Company’s ability to achieve its repayment goals.

### **Class A Shareholders**

*Distribution objectives* - Distributions on the Class A Shares were suspended in June, 2008, as a result of the net asset value per Unit of the Company declining below \$12.50. The Company has limited upside potential since the active portfolio has been reduced to \$1.93 per Unit and the fixed income portfolio has a known and limited upside. In addition, Class A Shares will continue to rank behind the cumulative and preferred dividend payments owing to the

holders of the Priority Equity Shares and the funding of the remaining operating expense payments for the remainder of the term. As such, there is very limited potential for the reinstatement of dividend payments for Class A Shareholders.

*Capital repayment objectives* - The original target of returning \$10.00 per Class A Share on maturity is no longer feasible given the decline in the value of the common shares of the Bank and the activation of the Priority Equity Portfolio Protection Plan. Capital growth potential will be limited to the growth in the active portfolio, which at December 15, 2009 has been reduced to \$1.93 per Unit. However, as stated above, the active portfolio will be required to fund any dividend payments on the Priority Equity Shares and the ongoing expenses of the Company.

## **CANADIAN FEDERAL INCOME TAX CONSIDERATIONS**

The following is a summary of the principal Canadian federal income tax considerations arising in connection with the proposed reorganization of the capital of the Company and share conversions described in this Circular that are generally applicable to Shareholders who, for purposes of the *Income Tax Act* (Canada) (the “Tax Act”) and at all times, are resident in Canada, deal at arm’s length with the Company, are not affiliated with the Company, hold or will hold their Priority Equity Shares, Class A Shares, Class I Preferred Shares, Class II Preferred Shares, Capital Shares and Warrants, as the case may, as capital property, and have not elected to compute their Canadian tax results using a currency other than Canadian dollars. Certain Shareholders to whom Shares might not otherwise qualify as capital property may be entitled to make the irrevocable election in the circumstances permitted by subsection 39(4) of the Tax Act to deem such Shares (and all other “Canadian securities” owned by the Shareholder) to be capital property.

This summary is based upon the current provisions of the Tax Act, the regulations thereunder, and the current administrative policies and assessing practices of the Canada Revenue Agency (“CRA”) made publicly available prior to the date hereof. This summary also takes into account specific proposals to amend the Tax Act announced prior to the date hereof by the Minister of Finance (Canada) (the “Proposed Amendments”) and assumes that the Proposed Amendments will be enacted as proposed. No assurances can be given that the Proposed Amendments will be enacted in their current form or at all.

This summary assumes that the changes to the Company’s capital structure discussed above are approved and implemented, as well as the additional assumptions that:

- (a) the Company was not established and will not be maintained primarily for the benefit of non-residents of Canada and at no time will the total fair market value of the Shares held by persons who are non-residents of Canada and/or partnerships (other than Canadian partnerships within the meaning of the Tax Act) exceed 50% of the fair market value of all of the outstanding Shares;
- (b) the Company will at all times comply with its investment objectives and investment restrictions as set out in this Circular and in the AIF;
- (c) the existing Priority Equity Shares and Class A Shares of the Company, the Priority Equity Shares and Class A Shares of the Original Commerce Split Fund, the, Class I Preferred Shares, Class II Preferred Shares and Capital Shares of the New

Commerce Split Fund and the Warrants will at all relevant times be listed on a designated stock exchange in Canada (which currently includes the TSX);

- (d) the issuers of securities owned by the Company will not be foreign affiliates of the Company or any Shareholder; and
- (e) the securities owned by the Company will not be participating interests in foreign investment entities within the meaning of the Proposed Amendments to the Tax Act.

**This summary is not exhaustive of all possible federal income tax considerations and does not take into account or anticipate any changes in law, whether by legislative, governmental or judicial action, other than the Proposed Amendments. This summary does not deal with foreign, provincial or territorial income tax considerations, which may differ from the federal considerations. This summary does not apply to shareholders that are “financial institutions” as defined in section 142.2 of the Tax Act.**

This summary is of a general nature only, and does not constitute legal or tax advice to any particular Shareholder. Shareholders are advised to consult their own tax advisors with respect to their individual circumstances and in particular in connection with the draft proposals to amend the Tax Act released on October 31, 2003 relating to the deductibility of interest and other expenses.

## **Tax Treatment of the Proposed Reorganization of the Capital of the Company**

### *Taxation of the Company*

The proposed reorganization of the capital of the Company, including the issuance of the Warrants, and the allocation or attribution of a portion of the Company’s portfolio assets to each of the Original Commerce Split Fund and the New Commerce Split Fund, will not be taxable events to the Company. However, to the extent that Priority Equity Portfolio Protection Plan Securities initially allocated to the New Commerce Split Fund are sold, with the net proceeds invested in additional common shares of the Bank, the Company may realize gains or losses on the disposition of such Priority Equity Portfolio Protection Plan Securities.

### *Original Commerce Split Fund*

Holders of existing Priority Equity Shares that elect to convert their existing Priority Equity Shares into Priority Equity Shares of the Original Commerce Split Fund, and holders of existing Class A Shares that elect to convert their existing Class A Shares into Class A Shares of the Original Commerce Split Fund, or any Shareholder whose Shares are converted into Shares of the Original Commerce Split Fund pursuant to the mandatory conversion mechanism described above under “*Matters to be Voted on at the Meeting - Conditions of the Conversion and Stock Exchange Listing*” will not be considered to have disposed of such existing Priority Equity Shares or Class A Shares, as the case may be, for purposes of the Tax Act. The cost to the Shareholder of the Priority Equity Shares or Class A Shares of the Original Commerce Split Fund received on the conversion, as the case may be, will be deemed to be the adjusted cost base to such Shareholder of the Shares that were so converted.

## *New Commerce Split Fund*

Pursuant to the special resolution, any Shareholder that files with Computershare an Election Notice in respect of such Shareholder's Shares on or before the Final Notice Day electing to participate in the New Commerce Split Fund and any Shareholder who does not file an election form will (except to the extent any of such Shareholder's Shares are not converted as discussed under "*Matters to be Voted on at the Meeting – Conditions of the Conversion and Stock Exchange Listing*" above) participate in the reorganization of capital, and each Class A Share held by such Shareholder will be changed into one Capital Share, and each Priority Equity Share held by such Shareholder will be changed into one Class I Preferred Share, one Class II Preferred Share, one-half of one 2011 Warrant and one 2012 Warrant of the New Commerce Split Fund.

On the reorganization of capital, a holder of existing Class A Shares will be deemed to have disposed of each Class A Share for proceeds of disposition equal to the adjusted cost base to that Shareholder of the Class A Share, and to have acquired each Capital Share at a cost equal to such adjusted cost base. A holder of existing Priority Equity Shares will be deemed to have disposed of each Priority Equity Share for proceeds of disposition equal to the greater of the adjusted cost base to that Shareholder of the Priority Equity Share and the aggregate fair market value at the time of issuance of the one-half 2011 Warrant and one 2012 Warrant received as partial consideration, and to have acquired (i) each one-half 2011 Warrant at a cost equal to the fair market value of such one-half 2011 Warrant at that time; (ii) each one 2012 Warrant at a cost equal to the fair market value of such 2012 Warrant at that time; and (iii) each Class I Preferred Share and each Class II Preferred Share at a total cost equal to the amount, if any, by which the adjusted cost base of the Priority Equity Share disposed of exceeds the aggregate fair market value of the one-half 2011 Warrant and one 2012 Warrant, such total cost to be apportioned between the Class I Preferred Share and the Class II Preferred Share in proportion to their relative fair market values at the time of issuance.

Accordingly, provided that the adjusted cost base to a Shareholder of each existing Priority Equity Shares is not less than the aggregate fair market value of the one-half 2011 Warrant and one 2012 Warrant to be received when such Share is changed pursuant to the reorganization of the capital of the Company, such Shareholder will not realize a capital gain or a capital loss for purposes of the Tax Act on such reorganization. The Company will advise holders who participate in the reorganization of capital and receive Warrants as to the Company's position regarding the fair market value of each one-half 2011 Warrant and one 2012 Warrant issued on the reorganization at the time of issuance. Such position is not binding on the CRA and there can be no assurance that the CRA will accept this position.

## **Tax Treatment of the Company Following the Proposed Reorganization**

Subject to certain exceptions described in the following paragraphs, the tax treatment of the Company following the proposed reorganization of its capital will be substantially the same as before the reorganization. Please see the description under "*Canadian Federal Income Tax Considerations – Tax Treatment of the Company*" in the AIF.

In computing the adjusted cost base of any particular security held as capital property, the Company will generally be required to average the cost of that security with the adjusted cost base of all other identical securities held by the Company as capital property at the time of

acquisition, regardless of whether such identical securities are tracked separately or together. As a result, despite the fact that the Company will notionally keep separate portfolios of assets for each of the Funds, the adjusted cost base of shares of the Bank held in each portfolio will be subject to averaging, which may have a material impact on the after-tax return realized by particular Shareholders. Accordingly, the tax consequences to a Shareholder holding Shares of any Class attributable to one of the Funds may, following the reorganization, differ from the tax consequences that would have arisen had such Shareholder held shares in a single corporation such as the Company that held a single portfolio consisting only of the securities held in connection with such Fund.

If a Warrant expires unexercised, the Company will be deemed to have realized a capital gain equal to the amount considered to have been received by the Company for the issuance of such Warrant, being the fair market value of such Warrant at the time of issuance.

### **Tax Treatment of Shareholders Following the Proposed Reorganization**

The tax treatment of Shareholders following the proposed reorganization will be substantially the same as before the reorganization. Please see the description under “*Canadian Federal Income Tax Considerations – Tax Treatment of Shareholders*” in the AIF. In reading the tax disclosure in the AIF, all references to Priority Equity Shares should be read as references to any of the Priority Equity Shares of the Original Commerce Split Fund, or to the Class I Preferred Shares or the Class II Preferred Shares of the New Commerce Split Fund, as the case may be. Similarly, references in the AIF to Class A Shares should be read as references to either the Class A Shares of the Original Commerce Split Fund or the Capital Shares of the New Commerce Split Fund, as the case may be. Note, however, that following the proposed reorganization of the capital of the Company, the Company will maintain a Priority Equity Portfolio Protection Plan in respect of the Priority Equity Shares of the Original Commerce Split Fund only.

### **Warrants**

Upon exercise of a Warrant, the holder (each a “Warrantholder”) must allocate the total of the exercise price of the Warrant and the adjusted cost base of the Warrant to the holder among the underlying Class I Preferred Share, Class II Preferred Share, and Capital Share acquired pursuant to such exercise on a reasonable basis.

The exercise of Warrants will not constitute a disposition of property for purposes of the Tax Act and, consequently, no gain or loss will be realized on the exercise of Warrants. Shares acquired by a Warrantholder upon the exercise of a Warrant will have a cost to the Warrantholder equal to the aggregate of the portion of the exercise price and the portion of the adjusted cost base of the exercised Warrant allocated to such Share. For the purpose of determining the adjusted cost base to a holder of Shares of a particular Class acquired upon the exercise of Warrants at a particular time, the cost of the newly acquired Shares will be averaged with the adjusted cost base to the holder of all of the Shares of that Class owned by the holder as capital property immediately before that time.

Upon the disposition of a Warrant by a Warrantholder, other than pursuant to the exercise thereof, the Warrantholder will realize a capital gain (or capital loss) to the extent that the Warrantholder’s proceeds of disposition (net of any reasonable costs of disposition), exceed (or

are less than) the adjusted cost base, if any, of the Warrant to the Warrantholder. Any such capital gain (or capital loss) will be treated as described in the AIF under “*Canadian Federal Income Tax Considerations – Tax Treatment of Shareholders*”.

Upon the expiry of an unexercised Warrant, a Warrantholder will realize a capital loss equal to the adjusted cost base, if any, of the Warrant to the Warrantholder. Any such capital loss will be treated as described in the AIF under “*Canadian Federal Income Tax Considerations – Tax Treatment of Shareholders*”.

### **Dissenting Shareholders**

A Shareholder who dissents will be considered to have disposed of the Shareholder’s Shares to the Company for an amount equal to the fair value of such Shares. Such a Shareholder will realize a capital gain (or capital loss) from the disposition of the Shareholder’s Shares to the extent the proceeds of disposition exceed (or are less than) the aggregate of the adjusted cost base of such Shares and any reasonable costs of disposition. The amount of any capital loss realized by a corporation on the disposition of a Share may be reduced by the amount of dividends received on that share in accordance with the detailed provisions of the Tax Act in that regard. Similar rules may apply where a corporation, partnership or trust is a member of a partnership or a beneficiary of a trust that owns Shares. Any amount received from the Company in respect of interest will be included in the Shareholder’s income in accordance with the rules in the Tax Act. Dissenting Shareholders are urged to contact their own tax advisors.

### **ELIGIBILITY FOR INVESTMENT**

Based on the assumptions set out under “*Canadian Federal Income Tax Considerations*” above, the Priority Equity Shares and the Class A Shares of the Original Commerce Split Fund, the Class I Preferred Shares, the Class II Preferred Shares and the Capital Shares of the New Commerce Split Fund, the Warrants and the Class I Preferred Shares, the Class II Preferred Shares and the Capital Shares of the New Commerce Split Fund issuable on exercise of the Warrants will each be qualified investments under the Tax Act for a trust governed by a registered retirement savings plan, registered retirement income fund, registered education savings plan, registered disability savings plan, deferred profit sharing plan or tax free savings account. Warrantholders should consult their own tax advisors as to the effect of acquiring Class I Preferred Shares, Class II Preferred Shares and Capital Shares in a registered education savings plan.

The Priority Equity Shares and the Class A Shares of the Original Commerce Split Fund, the Class I Preferred Shares, the Class II Preferred Shares and the Capital Shares of the New Commerce Split Fund, the Warrants, and the Class I Preferred Shares, the Class II Preferred Shares and the Capital Shares of the New Commerce Split Fund issued as a result of the exercise of Warrants will not be "prohibited investments" for a trust governed by a tax-free savings account at a particular time provided the holder of the tax-free savings account deals at arm's length with the Company for purposes of the Tax Act and does not have a significant interest (within the meaning of the Tax Act) in the Company or in any person or partnership with which the Company does not deal at arm's length for purposes of the Tax Act at that time.

## **RECOMMENDATION OF THE BOARD OF DIRECTORS**

The Board of Directors of the Company has unanimously determined that the reorganization of the Company as contemplated in this Circular is in the best interests of Shareholders. Shareholders will therefore be asked at the Meeting to pass a special resolution substantially in the form attached hereto as Appendix “A”, to approve that capital reorganization and all steps necessary to accomplish that reorganization, including the filing of amendments to the Articles of the Company. This resolution, to be effective, requires the approval of not less than two-thirds of the votes cast by Shareholders of each Class of the Company present in person or by proxy at the Meeting, voting separately as a Class.

## **REFERRAL TO THE INDEPENDENT REVIEW COMMITTEE**

As required by National Instrument 81-107 Independent Review Committee for Investment Funds (“NI 81-107”), the Manager established an independent review committee (“IRC”) for the Company consisting of Mr. William C. Thornhill and Mr. John D. Steep, two of the independent directors of the Company, and Mr. Gordon A. M. Currie, who acts as the chair of the IRC. The Manager referred the proposed capital reorganization of the Company to the IRC for its consideration. On December 16, 2009, the IRC advised the Manager that it had concluded that the calling of this Meeting to put before Shareholders the proposal to reorganize the Company as contemplated in this Circular was a fair and reasonable process to be followed by the Company.

## **DISSENT RIGHTS**

Shareholders have the right to dissent from the special resolution to be voted on at the Meeting pursuant to the *Business Corporations Act* (Ontario) (the “OBCA”).

Pursuant to the provisions of Section 185 of the OBCA, a Shareholder is entitled to dissent and be paid the fair value of the Shares held by the Shareholder if the Shareholder objects to the special resolution to be voted on at the Meeting and such special resolution becomes effective. A Shareholder may dissent only with respect to all of the Shares of a class of the Company held by the Shareholder on behalf of any one beneficial owner and registered in the Shareholder’s name. However, a Shareholder is not entitled to dissent from the special resolution with respect to any Shares beneficially owned by one owner if the Shareholder votes any such Shares beneficially owned by that owner in favour of the special resolution.

In order to dissent, a Shareholder must send a written objection (an “Objection Notice”) to the special resolution to the Company on or before the date of the Meeting. A vote against the special resolution or an abstention in respect thereof does not constitute such an Objection Notice, but a Shareholder need not vote his or her Shares against the special resolution in order to dissent in respect of the special resolution. Within 10 days following the date of the Meeting, assuming the special resolution is passed with the requisite majority at the Meeting, the Company will deliver to each Shareholder who has filed an Objection Notice in respect of the special resolution, at the address specified for such purpose in such Shareholder’s Objection Notice, a notice stating that the special resolution has been adopted (the “Company Notice”). A Company Notice is not required to be sent to any dissenting Shareholder who voted for the special resolution or who has withdrawn an Objection Notice.

Within 20 days after receipt by a Shareholder of the Company Notice or, if no Company Notice is received by the dissenting Shareholder, within 20 days after such Shareholder learns that the special resolution has been adopted, the dissenting Shareholder is required to send a written notice to the Company containing the Shareholder's name and address, the number of Shares held in respect of which such Shareholder dissents and a demand for payment of the fair value of such Shares (the "Demand for Payment"). Within 30 days thereafter, the Shareholder must send the share certificates representing such Shares to the Company. Such share certificates will be endorsed by the Company with a notice that the holder is a dissenting Shareholder and will be returned to the dissenting Shareholder. A Shareholder who fails to send the Objection Notice or Demand for Payment or fails to forward share certificates, in each case within the time required, loses any right to make a claim for payment of the fair value of such Shareholder's Shares.

On sending a Demand for Payment to the Company, a dissenting Shareholder ceases to have any rights as a Shareholder except the right to be paid the fair value of his or her Shares unless the dissenting Shareholder withdraws the Demand for Payment before the Company sends an Offer to Purchase as described below or the special resolution does not become effective, in which case such Shareholder's rights are reinstated as of the date such Demand for Payment was sent. If a Shareholder fails to comply with each of the steps required to dissent effectively, the rights, privileges, restrictions and conditions attaching to such Shareholder's Shares will be amended in accordance with the special resolution.

Not later than seven days after the later of the day on which the action approved by the special resolution becomes effective and the date the Company receives the Demand for Payment, the Company will send to each dissenting Shareholder a written offer (the "Offer to Pay") to pay for the Shares which are the subject of the Objection Notice in an amount considered by the Board of Directors of the Company to be the fair value of such Shares as of the close of business on the day before the day on which the action approved by the special resolution becomes effective accompanied by a statement showing how the fair value was determined. Dissenting Shareholders who accept the Offer to Pay will be paid by the Company within 10 days of acceptance by the dissenting Shareholders of such offer, provided share certificates representing the Shares held by such dissenting Shareholder have been delivered to the Company. The Offer to Pay lapses if the Company does not receive an acceptance of the Offer to Pay within 30 days after the date on which the Offer to Pay was made. The Company believes that fair value for the Priority Equity Shares or Class A Shares, as the case may be, is the payment they would be entitled to receive if their Shares were redeemed as a consequence of the capital reorganization, as described above under "*Matters to be Voted on at the Meeting – Conditions of the Conversion and Stock Exchange Listing*", calculated based on the net asset value of the Company and the average trading prices of the Priority Equity Shares and Class A Shares immediately prior to the Meeting.

If the Company fails to make the Offer to Pay or a dissenting Shareholder fails to accept the Offer to Pay within the time limit prescribed therefor, the Company may apply under the OBCA to a court to fix a fair value for the Shares within 50 days after the day on which the action approved by the special resolution becomes effective or within such further period as the court may allow.

## **INTEREST OF MANAGEMENT AND OTHERS IN THE PROPOSAL**

The Manager receives a management fee and Quadravest receives investment management fees as more fully described in the AIF. For the fiscal year ended November 30, 2009, the Manager and Quadravest received, respectively, fees of \$72,482 and \$398,648.

Certain of the officers and directors of the Company are also officers and directors of Quadravest and/or the Manager. These directors and officers do not receive any additional compensation from the Company for acting as directors and officers of the Company.

## **TERMINATION OF THE PROPOSED REORGANIZATION**

The special resolution may, by its terms, at any time before or after the holding of the Meeting be terminated by the Board of Directors of the Company without further notice to, or action on the part of, the Shareholders if the Board of Directors determines in its sole judgment that it would be inadvisable for the Company to proceed with matters approved in such special resolution.

## **DOCUMENTS INCORPORATED BY REFERENCE AND ADDITIONAL INFORMATION**

Information regarding the Company has been incorporated by reference into this Circular from documents filed with securities commissions or similar authorities in Canada. The following documents filed with the various provincial securities commissions or similar authorities in Canada are specifically incorporated into and form an integral part of this Circular:

- the AIF dated February 23, 2009 in respect of the fiscal year of the Company ended November 30, 2008;
- the annual audited financial statements of the Company for the fiscal year ended November 30, 2008;
- the annual management report of fund performance of the Company for the fiscal year ended November 30, 2008;
- the unaudited interim financial statements of the Company for the six month period ended May 31, 2009; and
- the interim management report of fund performance of the Company for the six month period ended May 31, 2009.

Any documents of the type referred to above and any material change reports or other continuous disclosure documents filed by the Company pursuant to the requirements of applicable legislation after the date of this Circular and prior to the Meeting shall be deemed to be incorporated by reference herein.

Pertinent information concerning the Company, including information regarding: (i) investment guidelines, (ii) distributions, (iii) valuation of Units, and (iv) redemption of Shares, are set out in the documents incorporated by reference herein. Additional information about the

Company is available on SEDAR at [www.sedar.com](http://www.sedar.com) as well as at [www.commercesplit.com](http://www.commercesplit.com). You may obtain copies of the documents incorporated by reference herein from the Manager at 77 King Street West, Suite 4500, Toronto, Ontario M5K 1K7.

The text of the proposed amendments to the Articles of the Company are available on request to the Manager at 77 King Street West, Suite 4500, Toronto, Ontario M5K 1K7.

### **VOTING SECURITIES AND PRINCIPAL HOLDERS**

All of the issued and outstanding Class B Shares of the Company are owned by Commerce Split Corp. Holding Trust, of which S. Wayne Finch is the trustee and the holders of the Priority Equity Shares and Class A Shares from time to time are the beneficiaries. On December 21, 2009, the holder of the Class B Shares signed a written resolution consenting to the reorganization of the Company as contemplated in this Circular.

As of December 23, 2009, to the knowledge of the directors and officers of the Company, no person beneficially owned, directly or indirectly, or exercised control or direction over, more than 10% of the voting rights attached to the Preferred Shares or the Class A Shares of the Company.

### **APPROVAL BY THE BOARD OF DIRECTORS**

The contents and mailing to Shareholders of this Circular have been approved by the Board of Directors of the Company.

DATED at Toronto, Ontario this 23<sup>rd</sup> day of December, 2009.



S. WAYNE FINCH  
President and Chief Executive Officer  
of Commerce Split Corp.

## APPENDIX "A"

### SPECIAL RESOLUTION OF THE SHAREHOLDERS OF COMMERCE SPLIT CORP.

#### BE IT RESOLVED AS A SPECIAL RESOLUTION THAT:

The articles of incorporation, as amended (the "Articles") of Commerce Split Corp. (the "Company") be further amended (through the filing of one or more articles of amendment) to:

- (a) provide that the authorized capital of the Company shall, in addition to the existing 1,000 Class B Shares, consist of an unlimited number of shares issuable in five classes;
- (b) segregate the assets of the Company (other than \$1,000 cash attributable to the holder of the Class B Shares) into two separate pools, each such pool of assets to be treated as a separate investment fund and to be known as the "Original Commerce Split Fund" and the "New Commerce Split Fund" (each a "Fund"), with the assets of each such Fund to be referable exclusively to one or more classes of shares;
- (c) provide that the portfolio assets of the Company referable to the Original Commerce Split Fund shall be and consist of that number or dollar value of cash (less the amount attributable to the Class B Shares), fixed income securities and common shares of Canadian Imperial Bank of Commerce as is equal to the number or dollar value of such cash, fixed income securities and common shares of Canadian Imperial Bank of Commerce held by the Company at the close of business on the Final Notice Date (as defined below) multiplied by a fraction, the numerator of which is the number of Priority Equity Shares to be converted into Priority Equity Shares of the Original Commerce Split Fund on the Conversion Date (as defined below) and the denominator of which is the number of Priority Equity Shares outstanding at the close of business on the Final Notice Date;
- (d) provide that the assets of the Company attributable to the Original Commerce Split Fund shall be referable exclusively to two classes of shares to be created and designated as the Priority Equity Shares and the Class A Shares of the Original Commerce Split Fund, the rights, privileges, restrictions and conditions of which shall otherwise be substantially unchanged from the existing Priority Equity Shares and Class A Shares, as and to the extent described in the Circular;
- (e) create the New Commerce Split Fund, the assets of which shall be referable to three classes of shares to be created and designated as the Preferred Shares, Class I (the "Class I Preferred Shares"), the Preferred Shares, Class II (the "Class II Preferred Shares") and the Capital Shares, such shares to have attached thereto the rights, privileges, restrictions and conditions described in the Circular;

- (f) create warrants (the “Warrants”) of two series, one series designated as the “2011 Warrants” and providing the holders thereof with the right to acquire one Class I Preferred Share, one Class II Preferred Share and one Capital Share of the New Commerce Split Fund on specified exercise dates on or before February 28, 2011, for an exercise price of \$10.00, and one series designated as the “2012 Warrants” and providing the holders thereof with the right to acquire one Class I Preferred Share, one Class II Preferred Share and one Capital Share of the New Commerce Split Fund on specified exercise dates on or before February 28, 2012, for an exercise price of \$12.50, all as more particularly described in the Circular;
- (g) provide each holder of an existing Priority Equity Share or Class A Share with the right to convert such share into, in the case of a Priority Equity Share, one Priority Equity Share of the Original Commerce Split Fund or, in the case of a Class A Share, one Class A Share of the Original Commerce Split Fund, as the case may be, upon notice (the “Election Notice”) being given to the Company not later than February 26, 2010 (the “Final Notice Day”), all as more particularly described in the Circular;
- (h) provide each holder of an existing Priority Equity Share or Class A Share with the right to convert such Share into, in the case of a Priority Equity Share, one Class I Preferred Share, one Class II Preferred Share, one-half of a 2011 Warrant and one 2012 Warrant of the New Commerce Split Fund or, in the case of a Class A Share, one Capital Share of the New Commerce Split Fund, as the case may be, upon an Election Notice being given to the Company not later than the Final Notice Day, all as more particularly described in the Circular;
- (i) provide that each existing Priority Equity Share or Class A Share held by a holder at the close of business on the Final Notice Day who has not delivered an Election Notice shall be converted into one Class I Preferred Share, one Class II Preferred Share and one-half of a 2011 Warrant and one 2012 Warrant, or into one Capital Share, as the case may be, of the New Commerce Split Fund;
- (j) approve the implementation of these conversions on the terms set forth in the Circular;
- (k) provide for the automatic early termination of the Original Commerce Split Fund or the New Commerce Split Fund on the terms set out in the Circular;
- (l) approve the amendment of the investment management agreement between the Company and Quadrainvest dated January 23, 2007 to reduce the management fee, and amend the Articles to decrease the discount on monthly redemptions and to make the amount of such discount payable to Quadrainvest and not the Fund, all as described in the Circular; and
- (m) effect such other changes as may be necessary or desirable to implement the capital reorganization of the Company as described in the Circular.