

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF MAPLE BANK GmbH

AND IN THE MATTER OF THE *WINDING-UP AND RESTRUCTURING ACT*,
R.S.C. 1985, C.W-11, AS AMENDED

AND IN THE MATTER OF THE *BANK ACT*, S.C. 1991, C.46, AS AMENDED

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

MAPLE BANK GmbH

Respondent

THE

ELEVENTH REPORT OF KPMG INC. IN ITS CAPACITY AS

COURT APPOINTED LIQUIDATOR OF THE BUSINESS IN CANADA OF MAPLE BANK
GMBH AND ITS ASSETS AS DEFINED IN SECTION 618 OF THE *BANK ACT*

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1. INTRODUCTION AND PURPOSE OF THE ELEVENTH REPORT

BACKGROUND

1. Maple Bank GmbH (“**Maple Bank**”) is a Canadian-owned German bank, and an authorized foreign bank in Canada under section 2 and Part XII.1 of the *Bank Act* (an “**Authorized Foreign Bank**”). In Germany, Maple Bank is subject to regulation by the Federal Financial Supervisory Authority (“**BaFin**”). As an Authorized Foreign Bank, Maple Bank was regulated with respect to its business in Canada (the “**Toronto Branch**”) by the Office of the Superintendent of Financial Institutions (“**OSFI**”).
2. As more fully described in the Liquidator’s first report to this Court dated March 2, 2016 (the “**First Report**”), in the period leading up to the commencement of the *Winding Up and Restructuring Act* (“**WURA**”) proceeding, the Toronto Branch had three major lines of business: (i) the origination and securitization of real property mortgages in Canada; (ii) structured secured lending; and (iii) security financing transactions (collectively, the “**Business**”).
3. The emergence of significant German tax claims against Maple Bank and the resulting indebtedness of Maple Bank led to:
 - i. BaFin imposing a moratorium on Maple Bank’s business activities, which caused Maple Bank to cease business and institute insolvency proceedings in Germany (the “**Moratorium**”);
 - ii. The appointment of a German insolvency administrator (the “**GIA**”) over Maple Bank (the “**German Estate**”);
 - iii. The issuance of default notices and the termination of agreements by financial institutions that were counterparties to financial contracts (primarily swaps and hedging instruments) with the Toronto Branch in respect of their dealings with Maple Bank’s business in Canada;

- iv. Canada Mortgage and Housing Corporation (“**CMHC**”), after the issuance of a default notice to Maple Bank, taking control of the Mortgage Backed Securities (“**MBS**”) business of the Toronto Branch and the corresponding mortgage pools (totaling approximately \$3.5 billion); and
 - v. OSFI issuing orders under section 619 of the *Bank Act* for the taking of control of the assets of Maple Bank in respect of the Business.
4. The events described above prompted OSFI to request that the Attorney General of Canada seek a winding-up order pursuant to section 10.1 of the WURA in respect of the Business. On February 16, 2016 (the “**Winding-Up Date**”), Regional Senior Justice Morawetz of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) granted an order (the “**Winding-Up Order**”) to, among other things, (i) wind-up the Business; and (ii) appoint KPMG Inc. (“**KPMG**”) as liquidator (the “**Liquidator**”) of the Business and of the assets of Maple Bank as defined in section 618 of the *Bank Act* (the “**Assets**”). Attached as **Appendix A** is a copy of the Winding-Up Order.
 5. On March 2, 2016, the Liquidator filed its First Report (the “**First Report**”), which, among other things, outlined the protocol that was agreed to between the Liquidator and the GIA regarding the existing Chapter 15 filing under the *United States Bankruptcy Code* made by the GIA with regard to Maple Bank’s non-Toronto Branch assets in the U.S. and the Assets of the Toronto Branch which reside in the U.S.
 6. On March 30, 2016, the Liquidator filed its Second Report (the “**Second Report**”), which provided: (i) an update on the actions of the Liquidator since the granting of the Winding-Up Order; (ii) an update on the Assets and liabilities of the Toronto Branch; and (iii) details of a proposed marketing process to identify a successor issuer to the Toronto Branch’s MBS program and for the sale of all or a portion of certain other Assets (the “**Marketing Process**”).
 7. On June 2, 2016, the Liquidator filed its Third Report (the “**Third Report**”), which provided information in respect of: (i) an update on the actions of the Liquidator since the issuance of the Second Report; (ii) an update on the status of

the Marketing Process; (iii) a proposed claims procedure (the “**Claims Procedure**”) for use in these proceedings, including the appointment of a Claims Officer (as defined in the Claims Procedure Order); (iv) the proposed appointment of Independent Cost Counsel (as defined in the Third Report) to review and report to the Court on the fees and disbursements of the Liquidator and its counsel; and (v) the statement of receipts and disbursements of the Toronto Branch for the period February 16 to May 13, 2016.

8. On June 17, 2016, the Liquidator filed its Fourth Report to the Court which provided information regarding the sale by the Liquidator of certain un-pooled insured residential mortgages to the originators of those mortgages; myNext Mortgage Premier Trust (“**myNext**”) and Xceed Mortgage Corporation.
9. On July 25, 2016, the Liquidator filed its Fifth Report to the Court which provided information regarding three sale transactions by the Liquidator involving certain structured loans associated with the federal Immigrant Investor Program (“**IIP**”), which included receivable backed notes (the “**Receivable Backed Notes**”) issued by PWM Financial Trust, CTI Capital Securities Inc. and KEB Hana Bank Canada (“**KEB**”) respectively and secured by, *inter alia*, notes issued by either Citizenship and Immigration Canada (“**CIC**”) or IQ Immigrants Investisseurs Inc. (“**IQII**”). Following the closing of these sales transactions certain unsold Receivable Backed Notes remained in the possession of the Toronto Branch (the “**Residual Receivable Backed Notes**”).
10. On September 19, 2016, the Liquidator filed its Sixth Report to the Court which provided information regarding the selection by CMHC of Equitable Bank (“**Equitable**”) as the Successor Issuer for the Toronto Branch’s *National Housing Act* (“**NHA**”) MBS Program and the resulting acquisition and assumption by Equitable of all of the Toronto Branch’s rights and obligations under the CMHC NHA MBS Guide and NHA MBS Program with respect to the NHA MBS originally issued by the Toronto Branch thereunder as well as the proposed sale of MBS still owned by the Toronto Branch and certain other Toronto Branch Assets to Equitable (the “**Equitable Transaction**”).

11. On October 6, 2016, the Liquidator filed its Seventh Report to the Court which provided information regarding the sale to KEB of the Residual Receivable Backed Notes issued by KEB and secured by, *inter alia*, notes issued by CIC.
12. On November 15, 2016, the Liquidator filed its Eighth Report (the “**Eighth Report**”) to the Court which provided information regarding the proposed settlement between the Liquidator and the Bank of Montreal (“**BMO**”) of the liabilities and obligations of each of BMO and Maple Bank arising from a repurchase transaction and the early termination of certain foreign exchange transactions, along with a proposed sale of certain NHA MBS by the Liquidator to BMO.
13. On November 16, 2016, the Liquidator filed its Ninth Report (the “**Ninth Report**”) to the Court (a copy of which is attached hereto as **Appendix B**) which provided:
 - i. An update on the actions of the Liquidator since the issuance of the Third Report;
 - ii. An update on the status of the Claims Procedure;
 - iii. Information regarding the Liquidator’s proposed interim distribution to proven creditors (the “**Interim Distribution**”);
 - iv. A recommendation that the Liquidator be authorized to implement a hedging or conversion strategy to mitigate the Euro – Canadian dollar foreign exchange risk (the “**FX Risk**”) related to the amounts that would be distributed to the Association of German Banks’ Deposit Protection Fund and the Compensation Scheme of German Private Banks (collectively, the “**GDPF**”) and GIA as part of the Interim Distribution; and
 - v. The Liquidator’s statement of receipts and disbursements for the period from February 16, 2016 to October 31, 2016.
14. On November 24, 2016, the Liquidator filed its supplemental report to the Ninth Report (the “**First Supplemental Report**”) which provided an update on the

Liquidator's activities since November 18, 2016, and sought amended relief to the relief sought in the Ninth Report, including an order approving:

- i. The Interim Distribution to creditors with proven Claims within two days following December 19, 2016;
 - ii. The amended notice to creditors of the Interim Distribution;
 - iii. A Claims bar notice and Claims bar date in respect of Claims that may be asserted against the Principal Officers of the Toronto Branch (the "**Principal Officers Claims Bar Notice**" and "**Principal Officers Claims Bar Date**", respectively);
 - iv. The Liquidator's statement of receipts and disbursements for the period February 16, 2016 to October 31, 2016; and
 - v. The activities of the Liquidator since the filing of the Third Report, up to and including the Ninth Report, including the activities of the Liquidator as described in the Third Report.
15. On December 8, 2016, the Liquidator filed its second supplemental report to the Ninth Report (the "**Second Supplemental Report**") which provided an update on i) the Liquidator's activities since the filing of the First Supplemental Report, ii) the foreign exchange transactions that occurred in respect of the Toronto Branch regarding the FX Risk of the GDPF and the GIA, and sought amended relief to the relief sought in the Ninth Report and First Supplemental Report, including an order approving:
- i. The Principal Officers Claims Bar Notice;
 - ii. The Principal Officers Claims Bar Date; and
 - iii. The activities of the Liquidator since the filing of the Ninth Report as described in the First Supplemental Report and the Second Supplemental Report.
16. On January 25, 2017, the Liquidator filed the Tenth Report (the "**Tenth Report**") (a copy of which is attached hereto without appendices as **Appendix C**) which:

- i. Provided an update to the Court on the status of the protocol developed in conjunction with the GIA and the former Principal Officer of the Toronto Branch to implement a procedure to identify any Claims which may be asserted against the Principal Officers of the Toronto Branch arising out of the positions that the Principal Officers may have held with a number of Maple Bank affiliated companies (the “**Principal Officers Claims Procedure**”) in order to ultimately effect a distribution of the estimated surplus (the “**Estimated Surplus**”) in the Toronto Branch to the German Estate;
 - ii. Provided an update to the Court on the status of the Proofs of Claim (as defined in the Claims Procedure Order dated June 8, 2016) filed by the former employees of the Toronto Branch (the “**Employee Claims**”) and advised the Court of the Liquidator’s analysis of the Employee Claims and the principles on which the Employee Claims were assessed;
 - iii. Advised the Court of the notices sent by the GIA to the former employees of Toronto Branch in accordance with section 87 of the WURA of the GIA’s objection to certain components of the Employee Claims (the “**GIA Employee Claim Objections**”) and sought direction from the Court to determine the resolution of the now disputed Employee Claims; and
 - iv. Updated the Court on the activities of the Liquidator since the filing of the Ninth Report and the First Supplemental Report and the Second Supplemental Report.
17. On January 27, 2017, the Court granted two orders:
- i. The Principal Officers Additional Claims Order dated January 27, 2017 (the “**Principal Officers Additional Claims Order**”), which:
 - a. Set February 28, 2017, as the claims bar date (the “**Principal Officers Claims Bar Date**”) for the filing of any claims against the former Principal Officers of the Toronto Branch; and

- b. Approved the notice to creditors of the Toronto Branch of the Principal Officers Claims Bar Date that was published in the National Edition of *The Globe and Mail* and the International Edition of *The Wall Street Journal* (the “**Notice of Principal Officers Claims Bar Date**”) on January 31, 2017.

Copies of the Principal Officers Additional Claims Order and the Notice of Principal Officers Claims Bar Date are attached hereto as **Appendices D** and **E**, respectively.

- ii. The Representative Counsel Order dated January 27, 2017 (the “**Representative Counsel Order**”), which:
 - a. Established a steering committee (the “**Steering Committee**”) to represent the non-executive employees of the Toronto Branch in respect of their claims in the winding-up proceedings of the Toronto Branch; and
 - b. Appointed Paliare Roland LLP as counsel (“**Representative Counsel**”) to advise and represent the Steering Committee in the winding-up proceedings of the Toronto Branch.

A copy of the Representative Counsel Order is attached hereto as **Appendix F**.

PURPOSE OF THE ELEVENTH REPORT

- 18. The purpose of this Eleventh Report (the “**Eleventh Report**”) is to provide information to the Court in respect of:
 - i. The Liquidator’s statement of receipts and disbursements for the period February 16, 2016 to February 28, 2017, and estimated funds available for distribution to proven creditors;
 - ii. An update on the status of the Claims Procedure implemented pursuant to the Claims Procedure Order Dated June 8, 2016;

- iii. An update on the Principal Officers Additional Claims Procedure that was approved by the Court pursuant to the Principal Officers Additional Claims Order;
- iv. The Liquidator's Estimated Surplus available to satisfy the Claims of Toronto Branch's stakeholders as well as a request for i) approval of an interim distribution to the German Estate of a portion of the Estimated Surplus (the "**German Estate Interim Distribution**"), and ii) approval, *nunc pro tunc*, of the notice of distribution to creditors of the Toronto Branch that was published on March 3, 2017, in the National Edition of *The Globe and Mail* and the International Edition of *The Wall Street Journal* (the "**March 3 Notice of Distribution**"), a copy of which is attached hereto as **Appendix G**; and
- v. An update on the Liquidator's activities since the filing of the Tenth Report and the Liquidator's request for approval of same.

TERMS OF REFERENCE AND DISCLAIMER

- 19. In preparing this report, the Liquidator has been provided with, and has relied upon, unaudited and other financial information, books and records (collectively, the "**Information**") prepared by the Toronto Branch and/or its representatives, and discussions with its former management and/or its former representatives. The Liquidator has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided and in consideration of the nature of evidence provided to the Court. However, the Liquidator has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook and, accordingly, the Liquidator expresses no opinion or other form of assurance contemplated under CAS in respect of the Information.
- 20. The information contained in this report is not intended to be relied upon by any prospective purchaser or investor in any transaction with the Liquidator.

21. Capitalized terms not defined in the Eleventh Report are as defined in either the Winding-Up Order and/or the First Report through the Tenth Report. Unless otherwise indicated, all references to monetary amounts herein are denominated in Canadian dollars (“**CAD**”).
22. Copies of the Liquidator’s Court reports and all motion records and Orders in these proceedings are available on the Liquidator’s website at <http://www.kpmg.com/ca/maplebank>.

2. RECEIPTS, DISBURSEMENTS AND REMAINING ESTIMATED REALIZATIONS

Summary of Receipts and Disbursements

23. The Liquidator previously reported the receipts and disbursements of the Toronto Branch for the period February 16, 2016 to October 31, 2016, in the Ninth Report. The table below summarizes the receipts and disbursements for the Toronto Branch for the period February 16, 2016 to February 28, 2017.

In the matter of the winding up of Maple Bank GmbH (Toronto Branch) Statement of Receipts and Disbursements For the period February 16, 2016 to February 28, 2017 Amounts in CAD millions	
Receipts	CAD Total⁽¹⁾
Cash and Securities from Toronto Branch accounts	490.5
Structured Loan Portfolio	354.6
MBS Business Asset Sales	176.5
Related Party Intercompany Account Settlements	85.1
Settlement of Brokerage Accounts	60.7
Derivative Instruments	60.6
Miscellaneous/Other	3.5
Total Receipts	1,231.5
Disbursements	
Payroll	2.6
General and Administrative	1.5
Occupancy	0.4
Transfer to CMHC	0.3
Total Operating Disbursements	4.8
Distribution to Proven Creditors, with Interest	716.0
Professional Fees	7.6
Net Receipts in excess of Disbursements	503.2
Opening Cash Balance	317.0
Closing Cash and Cash Equivalents Balance	820.1
Total Cash⁽²⁾	171.8
Liquid Securities held with RBC	648.2
Total Cash and Cash Equivalents	820.1

⁽¹⁾ Assets held in USD and EUR are converted to CAD at the February 28, 2017 spot rates.

⁽²⁾ Consists of cash held in a number of the Liquidator's operating accounts including approximately US\$68.9 million in a USD accounts that is subject to the protocol agreed to between the Liquidator and the GIA for administering the Toronto Branch's Assets which reside in the U.S. and approximately EUR 49.0 million in a EUR denominated account at CIBC.

Analysis of Receipts

24. Receipts for the period totalled approximately \$1.231 billion and are described below.

Cash and Securities from Toronto Branch's accounts

25. Cash and securities of approximately \$490.5 million relate primarily to Toronto Branch's cash deposits and the liquidation and maturation of \$469.3 million of the Toronto Branch's capital equivalency deposit securities. These funds are invested in the Toronto Branch's accounts at RBC Dominion Securities Inc. ("**RBC DS**"). In addition, the Liquidator realized on approximately \$21.2 million of additional securities held by the Toronto Branch as at the date of the Winding-Up Order.

Structured Loan Portfolio Realizations

26. Receipts of approximately \$354.6 million primarily relate to the sale of the Receivable Backed Notes as part of the IIP for \$225.1 million, proceeds received from the Lakeview Loan facility of \$40.0 million, collection of the Global One Financial Inc. ("**Global One**") loan facility for proceeds of \$80.1 million (including interest) and collections of other structured loan facility obligations.

MBS Business Asset Sale

27. Receipts from the MBS Business primarily relate to the sale of the Toronto Branch Assets as part of the Marketing Process including: (i) proceeds received from an un-pooled mortgage portfolio transaction which was completed in June 2016; (ii) the sale of the NHA MBS portfolio, which formed part of the Equitable Transaction; and (iii) payments made to the originators and servicers as it relates to various reserves and holdbacks.

Related Party Intercompany Account Settlements

28. Receipts from related party settlements of \$85.1 million, primarily relate to the settlement of the intercompany accounts with Maple Securities Canada Limited and the partial unwinding of a repurchase transaction with Maple Securities U.S.A. Inc. ("**MSUSA**") in February 2016.

Settlement of Brokerage Account

29. Prior to the Winding-Up Order, the Toronto Branch had three accounts (one each for: (i) CAD; (ii) U.S. dollars; and (iii) Euros), each with Interactive Brokers. In order to settle and close the accounts the Liquidator was required to fund \$8.1 million into the CAD account which was overdrawn at the time. Funding this overdraft position enabled the Liquidator to retain Euro 49.0 million (equivalent to \$68.9 million) which provided some mitigation to the German Estate of its foreign currency exposure. The Euros were subsequently transferred to a Euro denominated account at CIBC. The effect of these transactions was a net \$60.7 million receipt for the Toronto Branch.

Derivative Instruments

30. Represents receipts of \$45.6 million from the unwinding of various financial derivative instruments. As at the date of the Winding-Up Order, the Toronto Branch had numerous financial derivative instruments with seven counterparties, which were subsequently unwound.
31. The Liquidator also entered into two agreements with BMO on October 31, 2016 as follows:
- i. A settlement of the liabilities and obligations of each of BMO and Toronto Branch arising from i) a repurchase transaction with respect to National Housing Association MBS with a repurchase date of February 16, 2016 (which transaction did not settle and the Liquidator subsequently determined BMO owned the repurchased MBS), and ii) the early termination of several hundred financial derivative transactions that Toronto Branch entered into with BMO; and
 - ii. The proposed sale by the Liquidator of certain Toronto Branch owned MBS having an original principal balance of approximately \$11 million.
32. The Court subsequently approved these agreements on November 15, 2016, and these transactions closed on December 2, 2016. Additional information regarding the transactions is contained in the Eighth Report.

Other and Miscellaneous

33. Relates to interest received on cash and securities balances totalling approximately \$3.5 million.

Analysis of Disbursements

34. Operating disbursements for the period total approximately \$4.8 million and consist of disbursements on account of payroll, office rent, and general and administrative expenses. In addition, a one-time transfer of approximately \$0.3 million was made to CMHC to return NHA MBS mortgage payments received by the Toronto Branch in error while CMHC was in control of the Toronto Branch MBS business.
35. On or about December 19, 2016 and in accordance with the order of the Court dated November 25, 2016 authorizing the Interim Distribution, the Liquidator distributed \$716.0 million, inclusive of statutory interest, to 29 creditors with proven claims. The majority of this distribution was made to the GDPF in the amount of \$715.2 million on account of the 23 Proofs of Claim filed in respect of deposits made by German depositors. The balance was paid to five third party creditors and one related party.
36. Professional fees paid during the period of \$7.6 million, consist primarily of professional fees of the Liquidator, its Canadian independent legal counsel (Gowlings BLG) and U.S. and German independent counsel (Willkie Farr LLP). Professional fees paid as at February 28, 2017 relate to fees and expenses incurred through to September 30, 2016. The fees of the Liquidator and its counsel remain subject to review by the Independent Cost Counsel (i.e. Mr. Jonathan Wigley of Gardiner Roberts LLP) and approval by the Court. The Liquidator anticipates receiving the first report of Independent Cost Counsel in the near term and depending on the timing of the receipt of that report may file a supplemental report in advance of the March 10, 2017, hearing to seek approval of the Liquidator and its counsel's fees and disbursements to November 30, 2016.

37. As at February 28, 2017, the Toronto Branch held approximately \$820.1 million of cash and cash equivalents which is comprised of approximately \$171.9 million in various cash accounts and \$648.2 million in liquid securities in the Toronto Branch's RBC DS accounts as summarized in the table below.

**In the matter of the winding up of Maple Bank GmbH (Toronto Branch)
Summary of Assets available for distribution to stakeholders
As at February 28, 2017
Amounts in CAD millions**

Cash ⁽¹⁾	\$	80.5
Net U.S. Asset Realizations ⁽²⁾		91.4
Liquid Securities ⁽³⁾		648.2
Total Assets available for distribution	\$	820.1

Notes:

⁽¹⁾ Represents cash held at Toronto Branch accounts and includes Euro 49 million (CAD\$68.9 million) held in a Euro denominated account at CIBC.

⁽²⁾ Consists of approximately US\$69.0 million in a USD Escrow account that is subject to a protocol agreed to between the Liquidator and the GIA for administering the Toronto Branch's Assets which reside in the U.S.

⁽³⁾ Consists of liquid securities held at RBC DS with various rates of return and maturity dates.

Remaining Estimated Realizations

38. At the date of the Eleventh Report, the realization process for all of the assets of the Toronto Branch is almost entirely complete. The Toronto Branch assets that remain to be realized are limited to the collection of a loan payable by Pacific Mortgage Group Inc. ("PMGI"), an assignee of Radius Financial Inc. ("Radius") to Toronto Branch, in the amount of \$7,335,701 (consisting of outstanding principal of \$7,126,931 and unpaid interest of \$208,770) (the "PMGI Loan"). The PMGI Loan was a warehouse facility used to finance PMGI's initial funding of mortgages which would in turn be sold to Toronto Branch.

3. CLAIMS PROCEDURE UPDATE

39. The table below summarizes the Proofs of Claim filed in accordance with the Claims Procedure and the status of the Claims as at February 28, 2017, at amounts as filed by the claimants.

Maple Bank GmbH, Toronto Branch								
Filed Proofs of Claims ⁽¹⁾								
As at February 28, 2017								
Creditor	Claim						Unresolved Claims	
	#	Value	Admitted	Disallowed	Paid ⁽²⁾	#	Value	
GIA	1	\$ 791.3	\$ -	\$ 791.3	\$ -	-	\$ -	
GDPF	23	686.1	686.1	-	686.1	-	-	
Vendors and Canada Revenue Agency	8	12.2	0.3	-	0.3	3	11.9	
Employees	19	20.9	-	-	-	19	20.9	
Non-vendors (contract counter parties, other)	6	76.1	-	26.4	-	2	49.6	
Related Party	1	0.4	0.4	-	0.4	-	-	
Total Claims	58	\$ 1,587.0	\$ 686.8	\$ 817.8	\$ 686.8	24	\$ 82.4	

Notes:

⁽¹⁾ Amounts are in millions of Canadian dollars.

⁽²⁾ Excludes payment of statutory interest in accordance with the WURA.

40. As noted above, 29 Claims, including those of the GDPF, with a total value of approximately \$686.8 million were paid on or about December 19, 2016. The Liquidator disallowed four Claims filed by counter parties to MBS business contracts as these contracts were assumed in accordance with the Equitable Transaction.

41. As described in the Ninth Report, the Liquidator reached an agreement with the GIA pursuant to which the Claim filed by the GIA (the “GIA Claim”), to the extent that it is valid, shall be permanently reduced to the extent of any distribution made to the GIA in respect of the GIA Claim. The GIA has further agreed that such corresponding portion of the GIA Claim shall be extinguished and released by such distribution. In addition, the remaining portion of the GIA Claim, to the extent that it is valid, after taking into account any distributions, shall be capped at an amount (which amount may from time to time increase or decrease) that results in the Toronto Branch having assets in excess of its liabilities. Accordingly, Creditors with existing proven Claims will receive 100% of their Claim amounts, plus interest to the date of any distributions to those Creditors. This agreement is

without prejudice to the GIA’s right to receive for the German Estate the assets of the Toronto Branch that remain after payment of all proven Claims.

42. There remain 24 unproven Claims (the “**Unproven Claims**”) with an aggregate value of \$82.4 million that fall into five categories as described below.

Maple Bank GmbH, Toronto Branch Unproven Claims Listing As at February 28, 2017			
Creditor Type	# of Claims Filed	Total value of Claims Filed	
Canada Revenue Agency	2	\$	11,873,055
Vendor Claims	1		7,221
Employee Claims	19		20,891,465
Global One	1		17,349,048
Radius	1		32,261,482
Total Unproven Claims	24	\$	82,382,271

Canada Revenue Agency

43. The Canada Revenue Agency (“**CRA**”) filed two Claims in respect of i) unremitted HST (\$198,929) and ii) unremitted corporate income taxes in respect of the fiscal years ended September 30, 2015, 2014, 2013 and 2010 totalling \$11,674,126. The corporate income tax liability results from re-assessments issued by CRA where CRA denied various deductions claimed by Toronto Branch. The re-assessments were appealed by Toronto Branch prior to the Wind-Up Date. The Liquidator is working with CRA to expedite the review of Toronto Branch’s appeals of the re-assessed tax returns.
44. The Toronto Branch filed HST and corporate tax returns in respect of the period October 1, 2015 to February 15, 2016, which the CRA is reviewing. The Liquidator arranged for the preparation of the corporate tax return for the period February 16, 2016 to November 30, 2016 (the “**2016 Tax Return**”), which return will be filed in the near term. The Liquidator understands that the 2016 Tax Return will claim significant losses that can be applied against prior taxes paid and/or owing and that the ultimate liability payable to CRA on account of corporate income tax is expected be less than the amount claimed by CRA in its Proof of Claim.

Vendor Claims

45. On or about December 19, 2016, the Liquidator issued payment to all creditors with proven Claims, including five third party vendors. On January 18, 2017, Thomson Reuters Canada Ltd. filed a Claim in the amount of \$7,221.32 in respect of unpaid invoices issued to Toronto Branch prior to the Wind-Up Date. The Liquidator is reviewing this Claim and will admit or disallow it in due course.

Employee Claims

46. The Employee Claims were discussed in detail in the Tenth Report. The Employee Claims consist of Claims by former Toronto Branch employees for amounts due to them on account of the termination of their employment pursuant to the Winding-Up Order (e.g. notice period Claims for termination and severance pay, benefits, unpaid bonuses, deferred compensation and trailer fees). The Employee Claims were filed by five Executives and 14 Non-Executive Employees.
47. On December 28, 2016, the GIA issued the GIA Employee Claim Objections pursuant to section 87 of the WURA directly to each former employee.
48. On January 27, 2017, the Court issued an order appointing Representative Counsel to represent the Non-Executive Employees in respect of their Claims and the GIA Employee Claim Objections. The Liquidator met with Representative Counsel on January 31, 2017, to review the Claims filed by the Non-Executive Employees and the Liquidator's initial assessment of those Claims. Subsequently, Representative Counsel suggested several amendments to the Liquidator's assessment of the Non-Executive Employee Claims, which amendments were considered by the Liquidator.
49. The Liquidator also met with the GIA and its counsel to determine if a negotiated resolution to the GIA Employee Claim Objections could be reached without the assistance of the Court.
50. On February 28, 2017, the Liquidator and its counsel met with Representative Counsel to present revised assessments of the Non-Executive Employee Claims for consideration by these creditors. The revised assessments are based on

Canadian employment law (both statutory and common law awards) and represent negotiated settlements of the Non-Executive Employee Claims. Representative Counsel and the Non-Executive Employees are considering the revised assessments and if acceptable, the Liquidator will enter into minutes of settlement with these creditors and seek approval of their Claims from the Court. If a settlement is reached prior to the March 10, 2017, hearing date the Liquidator will file a supplemental report in support of an Order approving the Non-Executive Employee Claims settlement.

51. The five Executive employees each have their own respective counsel. To date, the Liquidator has been unable to reach a commercially reasonable settlement with the Executives in respect of their Claims. In addition, some of the disputed Executive Claim amounts are also the subject of the GIA Employee Claim Objections. As noted in the Tenth Report, the Liquidator is of the view that it is appropriate for the Executive Claims to be adjudicated by the Court if the Liquidator is unable to resolve those claims through negotiations with the Executives.

Global One Claim

52. In accordance with the Claims Procedure, Global One and Global One Funding VII, LLC (collectively, “**Global One**”) submitted a Proof of Claim against the Toronto Branch for approximately US\$12.5 million (\$17.3 million) (the “**Global One Claim**”).
53. Prior to the date of the Winding-Up Order, the Toronto Branch was one of five lenders that Global One used to finance life insurance premiums that were ultimately secured by the cash surrender value of the applicable policies. As at the date of the Winding-Up Order, the Toronto Branch had advanced Global One approximately US\$58 million of a US\$75 million credit facility.
54. The Liquidator engaged a consultant with extensive knowledge and experience with respect to the financing of life insurance premiums and specifically the Global One credit facility (the “**Global One Consultant**”).

55. On December 2, 2016 the Liquidator formally requested additional information from Global One to assist the Liquidator in reviewing and understanding the Global One Claim. Global One provided the Liquidator with additional information that addressed certain, but not all of the Liquidator's inquiries on January 11, 2017.
56. After review of the additional information with the Global One Consultant, the Liquidator and Global One, including their respective counsel, met in Toronto on February 8, 2017, to discuss the Global One Claim, the supporting information provided and additional questions of the Liquidator in respect of the Global One Claim.
57. On February 14, 2017, the Liquidator provided Global One with a further list of queries and a request for additional information based primarily on the discussions held on February 8, 2017.
58. As at the date of this report, the Liquidator has not received any of the additional information or responses to its queries formally requested on February 14, 2017. Counsel to Global One has advised that certain but not all of the information requested will be provided in the near term.
59. Upon receiving the additional information, the Liquidator will make a final determination on the Global One Claim and advise the Court in due course.

Radius Claim

60. Radius is an originator and servicer of insured residential mortgages that were, in turn sold to the Toronto Branch. Radius and the Toronto Branch had a business relationship since May 2011. Radius is also the beneficiary of myNext, an affiliated special purpose vehicle used by Radius and created for the purpose of warehousing its mortgages in advance of their sale on a whole loan basis for the duration of the mortgage term. Radius and myNext conducted significant volumes of business with Toronto Branch between May 2011 and the Wind-Up Date.
61. Radius and myNext filed a Proof of Claim with the Liquidator on November 3, 2016, and filed an amended and restated Claim with the Liquidator on December

7, 2016 (collectively, the “**Amended Radius Claim**”) against the Toronto Branch in the amount of \$32,261,482 on account of warehouse related losses, pipeline related losses, and renewal related losses, legal costs and a damages Claim. The value of the Amended Radius Claim has previously been reported as \$36,261,482 as counsel to Radius had advised that additional contingent amounts of up to \$4 million may be due to Radius. Counsel to Radius has since confirmed that the Amended Radius Claim is limited to the total amounts as filed. Radius is also a debtor of Toronto Branch in the amount of approximately \$7,335,701 as described above.

62. The Liquidator has reviewed the Amended Radius Claim as filed in detail, sought additional supporting documentation from Radius and met with Radius on several occasions to understand and further assess the Amended Radius Claim.
63. On February 23, 2017, the Liquidator wrote to counsel for Radius to advise that the Liquidator had made a determination with respect to the merits of the Amended Radius Claim and provided Radius with a summary of the proposed partial allowance by the Liquidator of the Amended Radius Claim. In the summary, the Liquidator explained that it intended to disallow the Amended Radius Claim in its entirety, except for a claim arising from damages suffered by Radius in the amount of \$731,112.00 as a result of Radius not having access to ongoing financing under the Warehouse Line once the Moratorium was issued by BaFin.
64. On February 27, 2017, counsel to Radius responded to the Liquidator’s letter of February 23, 2017, and, among other things, advised the Liquidator that Radius was reserving its rights to further amend its Amended Proof of Claim to include a direct claim against the officers and directors of the Toronto Branch who may have contributed to the alleged losses or damages suffered by Radius. However, this would not increase amount of the Amended Radius Claim against the Toronto Branch.
65. On March 2, 2017, the Liquidator issued a Notice of Disallowance to Radius disallowing all but \$731,112 of its Claim as filed. The admitted portion of the Radius Claim is in respect of its liquidated Interim Period Claim (i.e. Claims

against Maple Bank arising from the termination or repudiation of contracts or leases after the Winding-Up Date to June 8, 2016) related to warehouse, pipeline and renewal related losses that were incurred over a five month period from the Wind-Up Date to July 16, 2016, which period corresponds with the contractual notice period that Toronto Branch was obligated to provide to Radius under the warehouse facility. The unliquidated damages portion of the Radius Claim was denied in full. The Liquidator anticipates that Radius will seek to litigate its Claim.

4. UPDATE ON PRINCIPAL OFFICERS CLAIMS PROCEDURE

66. In accordance with the Principal Officers Additional Claims Order, the Liquidator implemented the Principal Officers Claims Procedure on January 27, 2017. The Liquidator posted the notice to creditors of the Principal Officers Claims Bar Date on January 31, 2017 in the National Edition of *The Globe and Mail* and the International Edition of *The Wall Street Journal*. This notice was also posted on the Liquidator's website.
67. On March 1, 2017, the Liquidator received a letter from a resident of Ohio, USA, which included US\$3 and a copy of the Notice to Creditor of the Principal Officers Claims Bar Date that was published in *The Wall Street Journal*. The letter does not appear to be a Claim, and in any event, was received after the Principal Officer Claims Bar Date deadline. The Liquidator does not consider this letter to be a valid Claim against the Principal Officers.
68. Other than the letter described above, no Claims against the Principal Officers were filed by the Principal Officers Claims Bar Date deadline (i.e. 4:00 p.m. Eastern Time on February 28, 2017). Accordingly, and pursuant to the Principal Officers Additional Claims Order, any persons with such Claims are forever barred from making or enforcing any Claim against any Principal Officers of the Toronto Branch (aside from asserting any Claims based on fraud, intentional misconduct or illegal actions, which Claims are unaffected by the Principal Officers Additional Claims Order and Bar Date).

5. ESTIMATED SURPLUS AND PROPOSED DISTRIBUTION

69. As described above, the Toronto Branch now has approximately \$820.1 million available to satisfy outstanding Claims. Twenty-four Unproven Claims remain outstanding with an aggregate value of approximately \$82.4 million.
70. As discussed in the Ninth Report, in determining the Estimated Surplus that may be available for distribution to the German Estate, the Liquidator developed, in consultation with the GIA, an appropriate reserve (the “**Estimated Reserve**”) to provide for:
- i. The Unproven Claims;
 - ii. Possible future Claims (“**Future Potential Claims**”);
 - iii. Interest on Unproven Claims and Future Potential Claims at 5% per annum up to and including March 31, 2018, a period where the Liquidator estimates it will have resolved all Claims; and
 - iv. Estimated costs to administer the Toronto Branch Liquidation through to March 31, 2018.
71. The table below summarizes the Estimated Reserve.

In the matter of the winding up of Maple Bank GmbH (Toronto Branch)
Summary of Estimated Reserve
As at February 28, 2017
Amounts in CAD millions

Unproven Claims ⁽¹⁾	\$	82.4
Interest on Unproven Claims ⁽²⁾		8.2
Future Potential Claims ⁽³⁾		50.0
Interest on Future Potential Claims ⁽²⁾		5.0
Toronto Branch Administration Costs ⁽⁴⁾		13.8
Total Estimated Reserve	\$	159.4

Notes:

- ⁽¹⁾ Represents unproven third party Proofs of Claim as filed, as at February 28, 2017, at amounts as filed by the claimants.
- ⁽²⁾ Includes interest at 5% p.a. pursuant to the WURA from the Liquidation Date to March 31, 2018, a conservatively assumed date upon which all Unproven Claims and Future Potential Claims are resolved and a final distribution is made.
- ⁽³⁾ Reserve to provide for any Claims not yet identified or filed with the Liquidator.
- ⁽⁴⁾ Represents estimated professional fees for the Liquidator and its counsel to complete the administration of the Toronto Branch Liquidation through to an estimated outside date of March 31, 2018, fees for Representative Counsel and counsel to the Executives and includes estimated costs to litigate any unproven Claims.

72. The Estimated Reserve is designed to protect any further claimants of the Toronto Branch while at the same time allowing for i) a timely distribution to claimants as Claims are proven, and ii) the German Estate Interim Distribution
73. The table below summarizes i) the net Assets available for distribution, ii) the Estimated Reserve and shows the Estimated Surplus available for the German Estate Interim Distribution of approximately \$660.6 million as at February 28, 2017.

In the matter of the winding up of Maple Bank GmbH (Toronto Branch)
Estimated Surplus
As at February 28, 2017
Amounts in CAD millions

Assets available for distribution	\$	820.1
Estimated Reserve	\$	159.4
Estimated Surplus	\$	660.6

74. As the Estimated Surplus is held in Euros, Canadian and U.S. dollars, the Estimated Surplus available for distribution, if approved by the Court, will fluctuate with changes in the foreign exchange rates. Accordingly, the actual amount of the Estimated Surplus that will ultimately be distributed will be more or less than \$660.6 million depending on the foreign exchange rate changes between February 28, 2017, and the date the funds are distributed.
75. As discussed in the Third and Ninth Reports, one of the primary stated objectives of the GIA is to obtain a distribution of the expected total surplus realized from the Toronto Branch (the “**Surplus**”) as soon as practicable to the German Estate. A copy of a letter dated March 2, 2017, sent on behalf of the GIA to the Liquidator requesting such a distribution is attached hereto as **Appendix H**. As stated in the Ninth Report, the Liquidator was and remains supportive of such a distribution. The Liquidator is of the view that the German Estate Interim Distribution of the Estimated Surplus of approximately \$660.6 million to the German Estate is appropriate under the circumstances and should be made for the following reasons:
- i. Virtually all of the Assets of the Toronto Branch have been realized upon;
 - ii. The universe of potential Claims is now defined with a relative degree of certainty through both the Claims Procedure and the Principal Officers Claims Procedure as:
 - a. The Claims Procedure has been ongoing for over 260 days with only one nominal value Claim received between the filing of the Ninth Report and the Eleventh Report; and
 - b. The Principal Officers Additional Claims Bar Date has passed with no valid Claims filed; accordingly, any such Claims are forever barred;
 - iii. In addition to the notice of the Claims Procedure sent to all creditors by the Liquidator on June 14, 2016, creditors of the Toronto Branch have received service of the Liquidator’s Ninth Report and supplemental reports thereto, the Tenth Report and this Eleventh Report and related distribution motion. In addition, notices of the proposed distributions were posted in the National

editions of *The Globe and Mail* and International editions of *The Wall Street Journal* on November 25, 2016 and March 3, 2017;

- iv. The Liquidator anticipates that certain of the remaining Unproven Claims will be litigated and the Liquidator has provided for the full value of these Claims as filed (plus 5% statutory interest pursuant to the WURA through to March 2018, an outside date for the resolution of these Claims) along with estimated further estate costs that are expected to be incurred to litigate these Claims;
- v. The Estimated Surplus includes a \$50 million reserve (plus statutory interest through to March 2018) for Future Potential Claims or unforeseen costs to the Toronto Branch;
- vi. Given the passage of time since the implementation of the Claims Procedure and the nominal value and number of Claims filed since September 19, 2016, being the date that the Court ordered that all creditors with Claims against the Toronto Branch file their Claims, the Liquidator is of the view that the \$50 million reserve is sufficient to account for any Future Potential Claims that may be asserted;
- vii. The GIA has stated that it is supportive both of the specific reserves and of the additional reserve that comprise the Estimated Reserve;
- viii. The German Estate Interim Distribution to the GIA is essentially a transfer from one insolvency administrator to another insolvency administrator in the interest of the creditors of the German Estate;
- ix. The German Estate Interim Distribution to the GIA would permit the creditors of the German Estate to receive an interim distribution in a timely manner. Such distribution will allow the creditors of the German Estate to be treated more consistently with the treatment afforded to creditors of the Toronto Branch;
- x. On account of the quantum of the Estimated Reserve, the German Estate Interim Distribution does not prejudice the interests of the creditors of the Toronto Branch; and

- xi. A timely distribution of proceeds to the Toronto Branch stakeholders is the most efficient manner of handling the liquidation of the Toronto Branch.
76. If the German Estate Interim Distribution is approved by the Court, the Liquidator intends to distribute the Estimated Surplus by:
- i. Releasing its interest in the Net U.S. Assets, net of a reserve in U.S. dollars for the Global One Claim, in accordance with the protocol described in the First Report that was agreed to between the GIA and the Liquidator with regard to Toronto Branch's Assets which reside in the U.S.; and
 - ii. Converting approximately \$568.2 million, plus the Canadian dollar equivalent of the Global One Claim, to Euros as soon as practicable following issuance of an order authorizing the German Estate Interim Distribution and transferring these funds to the German Estate.

6. LIQUIDATOR'S RECOMMENDATIONS

77. The Liquidator submits this Eleventh Report to the Court in support of the Liquidator's Motion for the relief as set out in the Notice of Motion dated March 2, 2017 and recommends that the Court grant the German Estate Interim Distribution Order:
- i. Authorizing and directing the Liquidator to make the German Estate Interim Distribution to the German Estate of a portion of the Estimated Surplus in the amount of approximately \$660.6 million, on, or after March 10, 2017 (the "**Distribution Date**");
 - ii. Approving, *nunc pro tunc*, the March 3 Notice of Distribution substantially in the form of the notice attached as Schedule "A", hereto;
 - iii. Approving the statement of receipts and disbursements for the Toronto Branch for the period from February 16, 2016 to February 28, 2017;
 - iv. Approving the activities of the Liquidator as described herein; and
 - v. Such further relief as may be required in the circumstances and which this Court deems as just and equitable.

All of which is respectfully submitted at Toronto, Ontario this 2nd day of March, 2017.

**KPMG Inc., in its capacity as Court Appointed Liquidator of the Business in
Canada of Maple Bank GmbH and its Assets as defined in Section 618 of the *Bank
Act***



Per:

Philip Reynolds
Senior Vice President



Jordan Sleeth
Senior Vice President