

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

THIRD 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*

TABLE OF CONTENTS

1.	INTRODUCTION AND PURPOSE OF REPORT	2
2.	ACTIVITIES OF THE LIQUIDATOR	6
3.	ONGOING COMMUNICATION AND CONSULTATION WITH THE GIA	9
4.	STATUS OF THE MARKETING PROCESS	12
5.	PROPOSED CLAIMS PROCEDURE	14
6.	REVIEW OF PROFESSIONAL FEES	19
7.	RECEIPTS AND DISBURSEMENTS.....	20
8.	LIQUIDATOR’S RECOMMENDATIONS.....	22

Listing of Appendices

- Appendix A - Winding-Up Order issued February 16, 2016
- Appendix B - Endorsement of Regional Senior Justice Morawetz dated February 17, 2016
- Appendix C - Proposed Claims Procedure Order

1. INTRODUCTION AND PURPOSE OF 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 recent emergence of significant German tax claims against Maple Bank (said to arise from alleged tax evasion in Germany) 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**”);
 - 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 Toronto Branch. On February 16, 2016, this 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 the Toronto Branch as defined in section 618 of the *Bank Act* (the “**Assets**”). The Winding-Up Order and corresponding endorsement of Regional Senior Justice Morawetz both dated February 17, 2016 are attached hereto as Appendices “**A**” and “**B**”, respectively.
5. On March 2, 2016, the Liquidator filed 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 regards 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**”) to the Court 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**”).

TERMS OF REFERENCE AND DISCLAIMER

7. 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 management and/or its 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.

8. 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.
9. Capitalized terms not defined in this third report to the Court (the “**Third Report**”) are as defined in either the Winding-Up Order, the First Report or the Second Report. Unless otherwise indicated, all references to monetary amounts herein are denominated in Canadian dollars (“CAD”).
10. 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>.

PURPOSE OF THE LIQUIDATOR’S THIRD REPORT

11. The purpose of the Third Report is to provide information to this Court in respect of:
 - i. The activities of the Liquidator since the issuance of the Second Report, including ongoing communications and consultations with the GIA;
 - ii. The status of the Marketing Process;
 - iii. A proposed claims procedure for use in these proceedings;
 - iv. The proposed appointment of a Claims Officer (as defined below) in the proposed claims procedure.
 - v. The proposed appointment of Independent Cost Counsel (as defined below) to review and report to the Court on the fees and disbursements of the Liquidator and its counsel; and

- vi. The statement of receipts and disbursements of the Toronto Branch estate (the "**Estate**") for the period February 16 to May 13, 2016.

2. ACTIVITIES OF THE LIQUIDATOR

12. A detailed description of the Liquidator's activities up to and including March 30, 2016, is set out in the Second Report. Since the date of the Second Report, the Liquidator has continued to manage the orderly liquidation of the Estate as further described below.

Derivative Settlement Process

13. As described in the Second Report, the Moratorium was an event of default under all of the derivative and financial instruments to which Toronto Branch was a party.
14. As at the date of the Winding-Up Order, the Toronto Branch had entered into numerous derivative financial instruments with six counterparties. At this time, three counterparty derivative accounts have been settled, leaving three yet to be settled. The Liquidator anticipates that these settlements will be completed in the coming weeks.
15. As further outlined in the Second Report, the Liquidator received a request from a financial institution ("**Fin Co**") to confirm the ownership of approximately \$128.2 million of face value NHA MBS that were issued by the Toronto Branch but held by a custodian as at the date of the Winding-Up Order. The securities subject to the request were part of a repurchase transaction between Fin Co and the Toronto Branch. Since issuing the Second Report, the Liquidator and its Canadian counsel, through discussions with Fin Co and their respective counsel, have reviewed the facts surrounding the subject repurchase transaction, and, in consultation with the GIA and its counsel, have concluded that the Toronto Branch did not have an ownership interest in these securities.

Capital Equivalency Deposit Assets

16. As discussed in the Second Report, the *Bank Act* requires that the Toronto Branch hold Capital Equivalency Deposits ("**CED**") with an approved financial institution in Canada. At the date of the Winding-Up Order, the Toronto Branch had approximately \$467.5 million in CED at BMO Trust, which consisted primarily of municipal bonds, NHA MBS pools, Government of Canada treasury bills and Schedule 1 bankers' acceptance notes. With the terminations of the derivative instruments the CED was unhedged and the Estate was vulnerable to interest rate risk.

17. To minimize the Estate's interest rate risk exposure, the Liquidator commenced the implementation of a de-risking of the CED portfolio, by disposing of the portfolio's securities subject to risk. During the period May 5 to 15, 2016, the Liquidator liquidated and settled approximately \$371 million of CED account securities (e.g. municipal bonds, provincial bonds and NHA MBS pools) with maturity dates past December 31, 2016, and purchased Government of Canada treasury bills with one month maturities with the proceeds. As further described below, the Liquidator has solicited proposals from three financial institutions for an investment manager to invest the Toronto Branch's considerable cash holdings (including both CED and non CED cash). The Liquidator will combine this CED cash with the Toronto Branch's other cash and together these funds will be invested with the input of the investment manager, under the direction of the Liquidator.

Request for Proposals for an Investment Manager

18. As the Liquidator continues to wind down the estate of the Toronto Branch, including the CED portfolio as discussed above, the Liquidator is in possession of a significant amount of cash (in the approximate amount of \$453 million, excluding the CED holdings in the approximate amount of \$383 million) denominated in CAD, USD and EUR. In an effort to maximize Estate realizations, the Liquidator would like to retain the services of an investment manager to provide advice as to how to safely earn a no-risk return on Estate funds. In this regard, the Liquidator has prepared a Request for Proposal ("**RFP**") seeking a single investment manager for the entire cash portfolio of the Toronto Branch. The RFP was sent to three Canadian Schedule 1 chartered banks. All three banks have provided investment management proposals and the Liquidator is reviewing them. The Liquidator will provide an update on this matter to the Court in due course.

Coordination with Various Stakeholders

19. Since the date of the Second Report, the Liquidator continues to spend considerable time working with various financial, regulatory and other stakeholders including:

- i. The GIA in relation to various Estate administration matters, including the final winding-up plan as more fully described herein;
- ii. CMHC on issues relating to the MBS business, including the implementation of the Marketing Process;
- iii. OSFI as it relates to regular Estate updates, the CED portfolio and various matters;
- iv. Derivative counterparties as it relates to various settlement calculations;
- v. Mortgage loan originators and servicers on matters relating to current obligations and contractual agreements, including as it relates to any implications of the Marketing Process on their business;
- vi. Structured loan counterparties as it relates to continued loan servicing obligations and repayment timing;
- vii. Related entities as it relates to various financial transactions and intercompany account reconciliations and settlement;
- viii. Potential Successor Issuers;
- ix. Potential acquirers of the Assets;
- x. Current and former employees with respect to their continued retention by the Liquidator and claims that they may have resulting from Toronto Branch's liquidation; and
- xi. Other general stakeholders.

3. ONGOING COMMUNICATION AND CONSULTATION WITH THE GIA

20. Since the date of the Second Report, the Liquidator has continued its dialogue with the GIA and has regularly provided information and responses to its questions, as required pursuant to paragraph 8 of the Winding-Up Order.
21. Paragraph 8(c) of the Winding-Up Order required the Liquidator to provide the GIA with a Final Winding-Up Plan (the “**Winding-Up Plan**”) within 60 days of the date of the issuance of the order. Accordingly, on April 15, 2016, the Liquidator provided the GIA with a draft of the Liquidator’s Winding-Up Plan. The Liquidator subsequently attended follow up meetings in Toronto on April 18 and 19, 2016, as well as on May 19 and 20, 2016, with the GIA and its Canadian counsel to discuss both the Winding-Up Plan and other Estate matters.
22. Since the filing of the Second Report, the Liquidator has continued to communicate and consult with the GIA on general Estate matters as well as specific matters relating to:
 - i. The Winding-Up Plan;
 - ii. The Marketing Process;
 - iii. Monitoring of the Assets, including the U.S. Assets;
 - iv. Operating cash balances and the investments thereof (including the CED portfolio);
 - v. The Toronto Branch’s potential liabilities;
 - vi. The repurchase transaction with Fin Co as described earlier herein;
 - vii. The settlement of various derivative instruments;
 - viii. Tax matters;
 - ix. The proposed Claims Procedure as more fully described subsequently in this report;
 - x. The Liquidator’s cash flow projections; and

- xi. Other matters.
23. On February 29, 2016, Credit Suisse issued a derivative settlement letter and corresponding payment of approximately EUR 3.9 million. Although the settlement was for the benefit of the Toronto Branch (as the underlying derivatives were Assets of the Toronto Branch), the payment was made to Maple Bank Frankfurt, as historically this is how EUR-denominated transactions were settled.
24. Shortly after being advised by Credit Suisse of this payment to Maple Bank Frankfurt, the Liquidator requested the return of the EUR 3.9 million from the GIA. The GIA has confirmed this amount is an Asset of the Toronto Branch. The Liquidator and the GIA have reached an understanding whereby the GIA will continue to hold the EUR 3.9 million; however, in the event that the Toronto Branch's creditors do not receive full payment of their respective claims the GIA will repay the funds to the Liquidator immediately. The Liquidator has provided a form of undertaking to this effect to the GIA who is reviewing the undertaking and is expected to provide an executed copy to the Liquidator in the near term.

GIA Stated Objectives

25. Based on the Liquidator's dealings with the GIA to date, the Liquidator understands that the GIA is interested in being kept fully informed on the liquidation of the Assets of the Toronto Branch on an ongoing basis. The GIA has fully engaged with the Liquidator in an ongoing dialogue regarding the Final Winding-Up Plan.
26. In addition, the GIA has communicated to the Liquidator that it would like clarity, to the extent possible, with respect to two items that directly affect the Maple Bank estate in Germany (the "**German Estate**"), namely:
- i. Whether, and at what point a distribution of any excess funds or Assets from net realizations out of the Estate can be made to the GIA for the benefit of the German Estate; and
 - ii. Whether the significant cash holdings in the Estate can be converted to EUR to reduce the German Estate's foreign currency risk.

27. The Liquidator has developed the proposed claims procedure described below in consultation with the GIA (the "**Claims Procedure**"). The Liquidator believes that after a reasonable period of time following the completion of the call for claims during the Claims Procedure, the Liquidator should have greater clarity as to the quantum of the Toronto Branch's claims pool. Accordingly, at that time, the Liquidator may be in a position to provide an estimate as to a reliable claims reserve, and the Liquidator will then seek to attempt to address the above noted priorities of the GIA. The Liquidator recognizes that, at this time, and subject to the outcome of the Claims Procedure, it appears as though the Estate will be in a surplus cash position after all of the Toronto Branch's creditors are paid in full, and in accordance with the applicable provisions of the WURA, the Liquidator will be in a position to make a cash distribution to the GIA. Notably, certainty over the quantum of the claims pool (and if necessary, a reliable reserve) will also enable the Liquidator to recommend to the Court that the Liquidator be permitted to make interim and final distributions to the creditors of the Toronto Branch.

4. STATUS OF THE MARKETING PROCESS

28. The Marketing Process was initiated on April 13, 2016, by the Liquidator with significant participation by CMHC (as a key decision maker in a large part of the Marketing Process which relates to the NHA MBS business and selection of a Successor Issuer thereunder). The background and the details of the Marketing Process were described in the Second Report. The assets and Estate interests which are subject to the Marketing Process are summarized below in three streams.

Marketing Process Stream	Assets
Successor Issuer Marketing Process Stream	<ul style="list-style-type: none"> • NHA MBS business and portfolio. The primary Estate interest is the interest spread inherent in the various mortgage pools.
Maple Assets Marketing Process Stream	<ul style="list-style-type: none"> • \$117 million of NHA MBS mortgage pools. • \$35 million of CMHC insured but un-pooled mortgages. • A \$37 million warehouse loan provided to Lakeview Mortgage Funding Trust I., secured by insured mortgages. • Mortgage originating and servicing agreements in place between the Toronto Branch and various counterparties as at February 16, 2016. • Toronto Branch’s mortgage aggregation processes, policies and business.
Structured Loans Marketing Process Stream	<ul style="list-style-type: none"> • The Immigrant Investor Program notes with longer term maturities (e.g. beyond December 31, 2016).

29. The Phase 1 Bid Deadline for the receipt of non-binding letters of intent (“**LOIs**”) was May 6, 2016. On May 18 and 19, 2016, after undertaking a process to clarify certain of the LOIs and in consultation with both CMHC and the GIA, as applicable, the Liquidator notified a number of prospective purchasers who submitted LOIs that they had been invited to continue into Phase 2.

30. Phase 2 of the Marketing Process is now underway and the Liquidator is supporting prospective purchasers' due diligence efforts including:
 - i. Populating virtual data rooms;
 - ii. Responding to prospective purchasers' queries and information requests;
 - iii. Arranging meetings between Phase 2 participants and former Toronto Branch management; and
 - iv. Developing a template form of purchase and sale agreement.
31. The key remaining milestones in the Marketing Process include:
 - i. June 17, 2016 – the Phase 2 bid deadline;
 - ii. June 28, 2016 – the selection of successful bidder(s);
 - iii. June 29 to July 27, 2016 – confirmatory due diligence by successful bidder(s) and an application by the Liquidator to the Court for approval of the transaction(s); and
 - iv. August 31, 2016 – Targeted closing date for all transactions.
32. The Liquidator will provide further updates to the Court on the results of the Marketing Process in due course.

5. PROPOSED CLAIMS PROCEDURE

33. In order to determine with finality the existence and amount of any Claims (as defined in the draft Claims Procedure Order attached hereto as Appendix “C”) against the Toronto Branch, the Liquidator has developed the Claims Procedure to call for claims from all potential persons having a Claim (“Creditors”). The Claims Procedure has been developed in consultation with the GIA. In addition, in developing the Claims Procedure, the Liquidator has considered the nature, quantum and location of the Estate’s Creditors, as well as the likely outcome that a large distribution could inevitably be made to the German Estate if and after all the Toronto Branch’s creditors are paid in full.
34. The timing of the Claims Procedure also takes into account the status and timing of the remaining milestones in the Marketing Process. Accordingly, it is the Liquidator’s view that the commencement of the Claims Procedure at this stage in the liquidation proceedings will allow for existing and potential creditors to have greater clarity in respect of any Claims they might have against the Toronto Branch. The Liquidator is of the view that the Claims Procedure is consistent with the applicable provisions of the WURA and is also generally consistent with claims procedures that are routinely administered in insolvency cases.
35. The table below summarizes the salient aspects of the Claims Procedure. Capitalized terms in the summary that are not defined below are as defined in the draft Claims Procedure Order.

Summary of Proposed Claims Procedure		
Event	Indicative Dates / Deadline	Description of Activities
Launch	June 8, 2016	<ul style="list-style-type: none">The Claims Procedure Order is approved and issued by the Court.
Post Order on Liquidator’s Website	June 15, 2016 (i.e. 5 business days)	<ul style="list-style-type: none">The Claims Procedure Order is posted on the Liquidator’s website http://www.kpmg.com/ca/maplebank.

Summary of Proposed Claims Procedure

Event	Indicative Dates / Deadline	Description of Activities
Mail Claims Package to Known Creditors	June 15, 2016 (i.e. 5 business days)	<ul style="list-style-type: none"> • A claims package is mailed to every known creditor that is recorded in the Toronto Branch's records. • The Liquidator will mail a claims package to any creditor that requests a claim package subsequent to the Claims Procedure launch date. • The Liquidator will mail a claims package to the Canada Revenue Agency and other relevant Governmental agencies. • The Liquidator will mail a claims package to all counterparties to contracts with the Toronto Branch.
Post Notice of Claims Procedure in Newspapers	June 18, 2016 (i.e. 10 days)	<ul style="list-style-type: none"> • The Liquidator will post a notice to creditors in the National Edition of <i>The Globe and Mail</i> and International Edition of <i>The Wall Street Journal</i>.
Requested Date to File Claims (not a Claims Bar Date)	September 19, 2016 (i.e. 90 days from the posting of the notices of the Claims Procedure in the newspapers mentioned above)	<ul style="list-style-type: none"> • Creditors are requested to prove their Claims against the Toronto Branch by delivering a completed Proof of Claim form (and supporting documentation) to the Liquidator by 4:00 p.m. EST on September 19, 2016.
Claim Review Period	No limit	<ul style="list-style-type: none"> • The Liquidator will review all filed Proofs of Claim and accept or disallow (in whole or in part) the amount and/or status of each Claim as filed. • The Liquidator may request additional information to support the Claims and/or request that a creditor file a revised Proof of Claim. • The Liquidator will send an Acknowledgement of Claim as Claims are admitted. • The Liquidator will send a Notice of Disallowance where Claims are disallowed (in

Summary of Proposed Claims Procedure		
Event	Indicative Dates / Deadline	Description of Activities
		whole or in part).
Dispute Notice Deadline	14 days after a Notice of Disallowance is sent	<ul style="list-style-type: none"> • Creditors who wish to dispute the Liquidator's determination must as soon as reasonably possible, but no later than 14 days (and by 4:00 p.m. EST on such date) after the Liquidator issues a Notice of Disallowance, file a Dispute Notice with the Liquidator. • Creditors that fail to file a Dispute Notice within this deadline will have their Claims admitted or disallowed as set out in the Notice of Disallowance issued by the Liquidator.
Claim Dispute Protocol	Variable	<ul style="list-style-type: none"> • The Liquidator and each disputing creditor shall attempt to resolve and settle the disputing creditor's Claims at any time. • If unresolved, the Liquidator may refer disputed claims to a Claims Officer for determination. • The Claims Officer shall determine the amount and status of each disputing creditor's Claim within 30 days of the Liquidator referring such Claim. • A Disputing Creditor, or the Liquidator can appeal any such determination to the Court within 10 days of the Claims Officer's decision.
Distribution	To be determined	<ul style="list-style-type: none"> • To be determined by further Order of the Court.

36. Additional features of the Claims Procedure are described below.

Claims Officer

37. In order to improve the efficiency with respect to the resolution of Disputed Claims, the Claims Procedure proposes that a Claims Officer be engaged to review any Disputed

Claims that cannot be resolved in a timely period, or in a manner satisfactory to the Liquidator.

38. The Liquidator recommends that Mr. Kevin McElcheran of Kevin McElcheran Commercial Dispute Resolution be appointed as Claims Officer in respect of the initial adjudication of Disputed Claims. Mr. McElcheran is a restructuring practitioner who has over 30 years of experience and has led the restructuring practices of two prominent Canadian law firms during his career. He is the author of several texts on insolvency law including *Commercial Insolvency in Canada* published by LexisNexis and serves as an adjunct professor in the area of commercial insolvency law at Queen's University and the University of Western Ontario. Mr. McElcheran is additionally a trained mediator and a member of the Chartered Institute of Arbitrators.

Currency Exchange

39. Section 5 of the WURA provides that the winding-up of an Authorized Foreign Bank shall be deemed to commence at the time of the service of the notice of presentation of the petition for winding-up, which in the case of the Toronto Branch was February 16, 2016.
40. Due to the nature of the Toronto Branch's business, a number of the liabilities of the Toronto Branch are calculated in USD and EUR.
41. The WURA has no provisions relating to currency conversion for the determination of Claims. The Liquidator understands that typically Claims are to be paid in the currency of the country in which the insolvent company is resident and that any currency conversion for the purpose of calculating Claims should be calculated as at the date of the commencement of the winding-up proceedings.
42. Pursuant to section 275 of the *Bankruptcy and Insolvency Act* (the "**BIA**") a Claim for a debt that is payable in a currency other than Canadian currency shall be converted to Canadian currency as of the date of the bankruptcy, being (i) the date of the granting of a bankruptcy order; (ii) the filing of an assignment, or (iii) the event that causes an assignment into bankruptcy.

43. The Liquidator recommends that claims payable in a foreign currency be converted to CAD at the applicable Bank of Canada nominal noon spot rates for exchanging such currencies to CAD as of February 16, 2016, such rates being for USD and EUR, \$1.3860 and \$1.5439 respectively.
44. The Liquidator is of the view that the Claims Procedure will afford a fair and reasonable opportunity for all Creditors with Claims against the Toronto Branch to file and prove their Claims. If during the Claims Procedure a reliable reserve for unpaid Claims can be determined, the Liquidator will cooperate with the GIA in seeking a further order from the Court permitting a possible interim distribution to the German Estate. Of course a similar interim and/or final distribution would be made to the Creditors.

6. REVIEW OF PROFESSIONAL FEES

45. Pursuant to the WURA, the Liquidator and its legal counsel are required to pass their accounts before a taxing officer (which includes a judge) of the Ontario Superior Court of Justice.
46. On account of the anticipated volume of accounts that will be rendered by the Liquidator and its legal counsel during the course of the liquidation of the Toronto Branch, and given that the relevant invoices contain a substantial amount of confidential and/or privileged information in relation to the administration of the Estate, the Liquidator proposes to request that the Court appoint Mr. Jonathan Wigley of the law firm Gardiner Roberts LLP as independent cost counsel (“**Independent Cost Counsel**”) for the purpose of reviewing the invoices of the Liquidator and its legal counsel with a view to having Independent Cost Counsel provide the Court with a report and assessment of the fairness and reasonableness of the relevant fees and disbursements of the Liquidator and its legal counsel.
47. Independent Cost Counsel has advised the Liquidator that his firm does not act for any stakeholders in the Toronto Branch’s liquidation. Independent Cost Counsel has previously been appointed by this Court as independent counsel for the purpose of reviewing the invoices of insolvency professionals and their counsel and providing an assessment to this Court of the fairness and reasonableness of the relevant fees and disbursements, including, without limitation, in insolvency proceedings commenced under the *BIA* in respect of Portus Group and MF Global Canada Co. and the Metcalfe & Mansfield Alternative Investment II Corp. et al. restructuring commenced under the *Companies’ Creditors Arrangement Act* (a.k.a. the Asset Backed Commercial Paper restructuring).

7. RECEIPTS AND DISBURSEMENTS

Summary of Receipts and Disbursements

48. The following table represents a summary of the total receipts and disbursements of the Estate for the period February 16 to May 13, 2016 (the "Cash Flow Period").

**In the matter of the winding up of Maple Bank GmbH (Toronto Branch)
Statement of Receipts and Disbursements
For the period February 16 to May 13, 2016
Amounts in CAD millions**

Receipts	CAD Total⁽¹⁾
Settlement of Brokerage Account	71.5
Derivative Instruments	43.4
Structured Loan Portfolio	18.4
MBS Business	2.9
Total Receipts	136.2
Disbursements	
Payroll	0.9
Occupancy	0.1
Information Technology	0.1
Transfer to CMHC	0.3
Total Disbursements	1.4
Professional Fees	-
Net Receipts in excess of Disbursements	134.8
Opening Cash Balance	318.6
Closing Cash Balance	453.4

(1) Assets held in USD and EUR are converted to CAD at varying foreign exchange rates on the date such funds are received or foreign currency denominated transactions occur.

Analysis of Receipts and Disbursements

49. Actual receipts for the Cash Flow Period are \$136.2 million, and consist primarily of the following:
- \$71.5 million from the closing of the Toronto Branch's Interactive Brokers ("IB") trading account of which the EURO equivalent (approximately 48.9 million EURO) is being held in a CIBC account. As

outlined in the Second Report, prior to the date of the Winding-Up Order the Toronto Branch had a trading account with IB in order to enter into derivative contracts for hedging purposes. Since all the derivative contracts were in default prior to the Liquidator being appointed this trading account was closed on April 15, 2016 and all remaining funds transferred out;

- ii. \$43.4 million related to the settlement of derivative instruments primarily comprised of the settlement on maturity of financing transactions (e.g. reverse-repo transactions) with Maple Securities USA (“MSUSA”) and Maple Securities Canada Limited (“MSCL”), related parties, which were in the normal course of business. The failure to execute these transactions may have resulted in MSUSA and/or MSCL (which are not subject to any insolvency or liquidation proceedings) defaulting on third party transactions;
 - iii. \$18.4 million related to collections on the structured loan portfolio, including the payment of outstanding loan balances from various counterparties, as well as collections related to maturing Immigrant Investor Program notes; and
 - iv. \$2.9 million in collections relating to the Toronto Branch’s in-house mortgages and the pooled unsold MBS portfolio.
50. Actual disbursements for the Cash Flow Period total approximately \$1.5 million and consist of disbursements on account of payroll, office rent, information technology costs and a transfer to CMHC in respect of NHA MBS mortgage payments received by the Toronto Branch in error.

8. LIQUIDATOR'S RECOMMENDATIONS

51. The Liquidator submits this Third Report to the Court in support of the Liquidator's Motion for the relief as set out in the Notice of Motion dated June 8, 2016 and recommends that the Court grant an order approving:
- i. The Claims Procedure and authorizing and directing the Liquidator to carry out its obligations as set out therein;
 - ii. The appointment of Kevin McElcheran of Kevin McElcheran Commercial Dispute Resolution as the Claims Officer;
 - iii. The appointment of Johnathan Wigley of Gardiner Roberts LLP as Independent Cost Counsel to the Estate for the purpose of reviewing the invoices of the Liquidator and its legal counsel in order to assist the Court with its assessment of their respective professional fees and disbursements; and
 - iv. Approving the Third Report, and the activities of the Liquidator described herein.

All of which is respectfully submitted at Toronto, Ontario this 2nd day of June, 2016.

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 J. Reynolds
Senior Vice President

**This is Appendix "A" to the
Third Report of the Liquidator Dated June 2, 2016**

Court File No. CV-16 - 11290 - 0002

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE REGIONAL)
SENIOR JUSTICE MORAWETZ)
)

TUESDAY, THE 16TH
DAY OF FEBRUARY, 2016



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

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MAPLE BANK GmbH

Respondent

WINDING-UP ORDER

THIS APPLICATION made by the Attorney General of Canada under the *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended ("*WURA*"), for the appointment of KPMG Inc. ("KPMG") as liquidator, without security, in respect of the winding up of the business in

Canada (the "Business") of the Respondent, Maple Bank GmbH ("Maple Bank"), and of the assets, as defined in section 618 of the *Bank Act*, S.C. 1991, c. 46, as amended, (the "*Bank Act*") of Maple Bank was heard this day at Toronto, Ontario.

ON READING the Notice of Application and Application Record in the within matter, and on hearing submissions of counsel for each of the Attorney General of Canada, and for KPMG as the proposed Liquidator.

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof, including without limitation, the prescribed notice requirements of section 26 of *WURA*.

WINDING-UP

2. **THIS COURT DECLARES** that Maple Bank is an authorized foreign bank subject to *WURA*.
3. **THIS COURT ORDERS** that the Business in Canada of Maple Bank be wound up by this Court under the provisions of *WURA*.

APPOINTMENT

4. **THIS COURT ORDERS** that KPMG is appointed as liquidator (the "Liquidator") without security, in respect of the winding up of the Business, and of the assets of Maple Bank, as defined in section 618 of the *Bank Act* namely:

- a) any assets of Maple Bank in respect of Maple Bank's Business in Canada, including the assets referred to in subsection 582(1) and section 617 of the Bank Act and assets under its administration; and,
 - b) any other assets in Canada of Maple Bank,
- collectively (the "Assets")
5. **THIS COURT ORDERS** that the giving of security by the Liquidator upon its appointment as liquidator be and is hereby dispensed with.
 6. **THIS COURT ORDERS** that Maple Bank shall cease to carry on its Business in Canada or deal in any way with its Assets, except in so far as is, in the opinion of the Liquidator, required for the beneficial winding-up of its Business in Canada and liquidation of its Assets.

LIQUIDATOR'S POWERS

7. **THIS COURT ORDERS** that, in addition to the exercise of the Liquidator's duties under sections 33 and 152 of WURA and the performance of its powers under section 35 of WURA, the Liquidator is hereby expressly empowered and authorized to do any of the following where the Liquidator considers it necessary or desirable:
 - a) take possession of and/or exercise control over the Assets or such part thereof as the Liquidator shall determine, and any and all proceeds, receipts and disbursements arising out of or from the Assets;
 - b) manage, operate and carry on the Business in Canada of Maple Bank so far

as it is necessary to the beneficial winding up of Maple Bank's Business in Canada and the liquidation of the Assets, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the Business, or cease to perform or terminate any contracts of Maple Bank in respect of the Assets or Maple Bank's Business;

- c) receive, preserve, and protect the Assets, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Assets to safeguard them, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- d) market any or all of the Assets, including advertising and soliciting offers in respect of the Assets or any part or parts thereof and negotiating such terms and conditions of sale as the Liquidator in its discretion may deem appropriate;
- e) in respect of the Assets or the Business, initiate, prosecute and continue the prosecution of any and all Proceedings and to defend, to the extent not stayed, all Proceedings now pending or hereafter instituted with respect to Maple Bank, in the Liquidator own name as liquidator or in the name or on behalf of Maple Bank, as the case may be. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such Proceeding;
- f) sell, convey, transfer, lease, assign or otherwise realize upon the Assets or any part or parts thereof, by public auction or private contract, and to

transfer the whole thereof to any Person, or sell them in parcels:

- A. without the approval of this Court in respect of any transaction not exceeding \$250,000 provided that the aggregate consideration for all such transactions does not exceed \$1 million; and
 - B. with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause.
-
- g) apply for any approval and vesting order or other orders necessary to convey the Assets or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Assets;
 - h) execute, assign, issue and endorse documents of whatever nature in the name of and on behalf of Maple Bank in respect of the Assets or Maple Bank's Business, and for that purpose use, when necessary, the seal of Maple Bank;
 - i) file any election (tax or otherwise), objection or registration, and any renewals thereof, and file any notices, as may be necessary or desirable in the opinion of the Liquidator in respect of the Assets or Maple Bank's Business;
 - j) draw, accept, make and endorse any bill of exchange or promissory note in the name of and on behalf of Maple Bank in respect of the Assets or Maple Bank's Business in Canada;

- k) mortgage or otherwise encumber the Assets or any part thereof, or give discharges of mortgages and other securities, partial discharges of mortgages and other securities, and pay property taxes and insurance premiums on mortgages and other securities taken in favor of Maple Bank in respect of the Business;
- l) pay such debts of the Maple Bank (whether incurred prior to or after the date of this Order) as may be necessary or desirable to be paid in order to properly preserve and maintain the Assets or to carry on the Business;
- m) surrender possession of any leased premises occupied by the Maple Bank in respect of its Business in Canada and disclaim any leases entered into by Maple Bank in respect of its Business in Canada on not less than 10 calendar days' prior written notice to the lessor affected thereby;
- n) apply for any permits, licenses, approvals or permissions as may be required by any governmental or regulatory authority in respect of the Assets or the Business;
- o) re-direct Maple Bank's mail in respect of the Business;
- p) settle, extend or compromise any indebtedness or contractual or other obligations or liability owing to or by Maple Bank in respect of the Assets or the Business;
and
- q) do and execute all such other things as are necessary for or incidental to: (i) the winding-up of the Business or the liquidation of the Assets; and (ii) the

exercise by the Liquidator of its powers hereunder or under any further Order of the Court in the within proceedings or the performance by the Liquidator of any statutory obligations to which it is subject.

COOPERATION WITH THE GERMAN INSOLVENCY ADMINISTRATOR

8. **THIS COURT ORDERS** that the Liquidator, in exercise of its powers as enumerated under section 35 of WURA and as set out above:
- (a) shall provide to Dr. Michael C. Frege, as Insolvency Administrator of Maple Bank, as appointed pursuant to the German Insolvency Code (the “German Administrator”), from time to time, such information regarding the Business and Assets of Maple Bank as the German Administrator may reasonably require in order to fulfill his statutory obligations under German law, including, without limitation, information regarding status and location of assets and liabilities, with particulars, including amount, the filing of claims by creditors, valuations and assessments if available, the disposition of Assets and negotiations with counterparties related thereto, the resolution of Liabilities, and reporting for tax and accounting purposes related to the Business and Assets of Maple Bank in Canada;
 - (b) shall, within fourteen (14) days of the date hereof, develop in consultation with the German Administrator an Interim Winding-Up Plan with respect to the administration and liquidation of the Business, Assets and liabilities of Maple Bank in Canada during the first sixty (60) days after the date hereof, and shall

obtain the prior approval of the German Administrator thereto, and shall thereafter act in accordance therewith as amended in accordance with the terms hereof;

- (c) shall, within sixty (60) days of the date hereof, develop, in consultation with the German Administrator, a Final Winding-Up Plan with respect to the administration and liquidation of the Business, Assets and liabilities of Maple Bank in Canada and shall obtain the prior approval of the German Administrator thereto, and shall thereafter act in accordance therewith, as amended in accordance with the terms hereof;
- (d) may, after consultation with, and with the prior approval of, the German Administrator, propose changes to the Interim Wind-Up Plan or the Final Wind-up Plan and the Final Wind-Up Plan shall be amended in accordance with any such changes approved by the German Administrator;
- (e) shall consult with, and obtain the prior approval of, the German Administrator in respect of any proposed disposition of Assets or groups of Assets which, individually or collectively, would, or would reasonably be expected to, result in net proceeds in excess of \$10 million; and
- (f) shall consult with, and obtain the approval of, the German Administrator with respect to, any proposed settlement of a claim or liability relating to the Business or Assets of Maple Bank in Canada in excess of \$10 million, any claims process or any distribution to the creditors of Maple Bank in Canada,

provided that, if the German Administrator declines to provide its approval in respect of

any matters contemplated in (b), (c), (d), (e) or (f) above, the Liquidator may, on five (5) days' notice, apply to this Court for such approval, and the approval of this Court (subject to rights of appeal) shall replace any requirement for the approval of the German Administrator.

9. **THIS COURT ORDERS** that: (a) the Liquidator and the German Administrator shall consult and exchange information in respect of the Assets and Business of Maple Bank in Canada and such assets and business of Maple Bank as may be connected thereto, all as may be required for the effective and efficient administration of Maple Bank in Canada and Maple Bank; (b) the German Administrator shall have the right to apply, if it so elects, to be appointed as an Inspector of the estate of Maple Bank in Canada, or, if formed, a member of any committee of creditors, and to exercise the power and rights ordinarily associated with such an appointment; and (c) the Liquidator and the German Administrator (or their respective designees) shall meet at least once in each week, which meeting may be telephonic or in person to exchange information, discuss and coordinate matters related to the administration of the Business, Assets and liabilities of Maple Bank in Canada and such assets and businesses of Maple Bank as relate thereto.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR

10. **THIS COURT ORDERS** that: (i) Maple Bank; (ii) all of Maple Bank's current and former directors, officers, employees, agents, accountants, actuaries, appointed actuary, legal counsel and shareholders, and all other Persons acting on its instructions or behalf; and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being

"Persons" and each being a "Person") shall forthwith advise the Liquidator of the existence of any Assets in such Person's possession or control, shall grant immediate and continued access to the Assets to the Liquidator, and shall deliver all such Assets to the Liquidator upon the Liquidator's request.

11. **THIS COURT ORDERS** that all Persons shall forthwith advise the Liquidator of the existence of any books, documents, securities, contracts, orders, corporate, actuarial and accounting records, and any other papers, working papers, records and information of any kind related to the Business, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Book and Records") in that Person's possession or control, and shall provide to the Liquidator or permit the Liquidator to make, retain and take away copies thereof and grant to the Liquidator unfettered access to and use of accounting, actuarial, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 10 or in paragraph 11 of this Order shall require the delivery of Books and Records, or the granting of access to Books and Records, which may not be disclosed or provided to the Liquidator due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

12. **THIS COURT ORDERS** that if any Books and Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Books and Records shall forthwith give unfettered access to the Liquidator for the purpose of allowing the Liquidator to recover and fully copy all of the information

contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Liquidator in its discretion deems expedient, and shall not alter, erase or destroy any Books and Records without the prior written consent of the Liquidator. Further, for the purposes of this paragraph, all Persons shall provide the Liquidator with all such assistance in gaining immediate access to the information in the Books and Records as the Liquidator may in its discretion require, including providing the Liquidator with instructions on the use of any computer or other system and providing the Liquidator with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO INTERFERENCE WITH LIQUIDATOR

13. **THIS COURT ORDERS** that, subject to subsection 22.1(1.1) of WURA, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, license or permit in favor of or held by Maple Bank in respect of the Assets or the Business, without written consent of the Liquidator or leave of the Court obtained on not less than seven (7) days' notice to the Liquidator.

CONTINUATION OF SERVICES

14. **THIS COURT ORDERS** that all Persons having oral or written agreements with Maple Bank in respect of the Assets or the Business, or statutory or regulatory mandates for the supply of goods and/or services in respect of the Assets or the Business, including, without limitation, all computer software, hardware, support and data services,

communication services, centralized banking services, payroll services, insurance and reinsurance, transportation services, utility (including the furnishing of oil, gas, heat, electricity, water, telephone service at present telephone numbers used by Maple Bank) or other services to Maple Bank in respect of the Business, are hereby restrained from terminating, accelerating, suspending, modifying or otherwise interfering with such agreements and the supply of such goods and services without the written consent of the Liquidator or leave of this Court, and all such parties shall continue to comply with their obligations under such agreements or otherwise on terms agreed to by the Liquidator in writing; provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Liquidator in accordance with normal payment practices of Maple Bank or such other practices as may be agreed upon by the supplier or service provider and the Liquidator, or as may be ordered by this Court.

PREMISES

15. **THIS COURT ORDERS** that all Persons are hereby restrained from disturbing or interfering with the occupation, possession or use by the Liquidator of any premises occupied or leased by Maple Bank in Canada or in respect of the Business as at the date of this Order, except upon further Order of this Court. From and after the date hereof, and for such period of time that the Liquidator occupies any leased premises, the Liquidator shall pay occupation rent to each lessor based upon the regular monthly base rent that was previously paid by the Maple Bank in respect of the premises so occupied or as may hereafter be negotiated by the

Liquidator and the applicable lessor from time to time.

NO PROCEEDINGS AGAINST THE LIQUIDATOR

16. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Liquidator except with the written consent of the Liquidator or with leave of this Court having been obtained on at least seven (7) days' notice to the Liquidator.

NO PROCEEDINGS AGAINST MAPLE BANK OR THE BUSINESS AND THE ASSETS

17. **THIS COURT ORDERS** that no Proceeding against or in respect of Maple Bank in respect of the Business, or in respect of the Assets shall be commenced or continued except with the written consent of the Liquidator or with leave of this Court having been obtained on at least seven (7) days' notice to the Liquidator, and any and all such Proceedings currently under way are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

18. **THIS COURT ORDERS** that all rights and remedies against Maple Bank in respect of the Business, or against the Liquidator, or affecting the Assets, are hereby stayed and suspended except with the written consent of the Liquidator or leave of this Court obtained on at least seven (7) days' notice to the Liquidator; provided, however, that nothing in this paragraph shall: (i) empower the Liquidator or Maple Bank to carry on any business that Maple Bank is not lawfully entitled to carry on; (ii) exempt the

Liquidator or Maple Bank from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

19. **THIS COURT ORDERS** that, without limiting the foregoing, without the consent of the Liquidator or leave of the Court:

- a) all Claimants (as hereinafter defined) are restrained from exercising any extra judicial remedies against Maple Bank in respect of the Business or the Assets, including the registration or re-registration of any securities owned by Maple Bank, into the name of such persons, firms, corporations or entities or their nominees, the exercise of any voting rights attaching to such securities, the retention of any payments or other distributions made in respect of such securities, the retention of any payments or other distributions made in respect of such securities, any right of distress, repossession, or consolidation of accounts in relation to amounts due or accruing due in respect of or arising from any indebtedness or obligation of Maple Bank in respect of the Business as of the date hereof;
- b) all Persons be and they are hereby restrained from terminating, canceling or otherwise withdrawing any licenses, permits, approvals or consents with respect to or in connection with Maple Bank in respect of the Assets or the Business, as they were on the date hereof;
- c) Any and all Proceedings taken or that may be taken by any person, firm, corporation or entity including without limitation any of the creditors of Maple

Bank, suppliers, contracting parties, depositors, lessors, tenants, co-venturers or partners (herein "Claimants") against or in respect of Maple Bank in respect of the Assets or the Business shall be stayed and suspended;

- d) the right of any Claimant to make demands for payment on or in respect of any guarantee or similar obligation or to make demand or draw down under any orders of credit, bonds or instruments of similar effect, issued by or on behalf of Maple Bank in respect of the Assets or the Business, to take possession of, to foreclose upon or to otherwise deal with any Assets, or to continue any actions or proceedings in respect of the foregoing, is hereby restrained; and
- e) the right of any Claimant to assert, enforce or exercise any right (including, without limitation, any right of dilution, buy-out, divestiture, forced sale, acceleration, termination, suspension, modification or cancellation or right to revoke any qualification or registration), option or remedy available to it including a right, option or remedy arising under or in respect of any agreement in respect of the Assets or the Business is hereby restrained.

LIQUIDATOR'S ACCOUNTS

- 20. **THIS COURT ORDERS** that the Liquidator and counsel to the Liquidator shall be paid their reasonable fees and disbursements, incurred both before and after the making of this Order.
- 21. **THIS COURT ORDERS** that the Liquidator and its legal counsel shall pass its

accounts from time to time, and for this purpose the accounts of the Liquidator and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

22. **THIS COURT ORDERS** that prior to the passing of its accounts, the Liquidator shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, and such amounts shall constitute advances its remuneration and disbursements, when and as approved by the Court.

CASH MANAGEMENT AND PAYMENTS

23. **THIS COURT ORDERS** that the Liquidator may deposit all moneys belonging to the Business received by or on behalf of the Liquidator and its agents to and use the bank accounts currently in the name of Maple Bank and may, at its discretion, open accounts in the name of the Liquidator.

EMPLOYEES

24. **THIS COURT ORDERS** that the employment of each of the employees of the Maple Bank in Canada with respect to the Business is hereby and deemed to be terminated as of the date of this Order. The Liquidator shall be entitled to pay all accrued and unpaid wages and vacation pay of each of such employees, including any remittances relating thereto.
25. **THIS COURT ORDERS** that the Liquidator may retain such employees of Maple Bank in respect of the Business as the Liquidator deems necessary or desirable

to assist the Liquidator in fulfilling the Liquidator's duties on such terms as may be approved by this Court and all reasonable and proper expenses that the Liquidator may incur in so doing shall be costs of liquidation of the Business and Assets. The Liquidator shall not be liable for any employee-related liabilities, including any successor employer liabilities, other than such amounts as the Liquidator may specifically agree in writing to pay.

26. **THIS COURT ORDERS** that the Liquidator may retain, employ or engage such actuaries, accountants, financial advisors, investment dealers, solicitors, attorneys, valuers or other expert or professional persons as the Liquidator deems necessary or desirable to assist the Liquidator in fulfilling the Liquidator's duties, and all reasonable and proper expenses that the Liquidator may incur in so doing shall be costs of liquidation of the Assets of Maple Bank.

PRIVACY MATTERS

27. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Liquidator shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Assets and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Assets (each, a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Liquidator, or in the alternative destroy all

such information. The purchaser of any Assets shall be entitled to continue to use the personal information provided to it, and related to the Assets purchased, in a manner which is in all material respects identical to the prior use of such information by Maple Bank, and shall return all other personal information to the Liquidator, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

28. **THIS COURT ORDERS** that nothing herein contained shall require the Liquidator to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Assets that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Liquidator from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Liquidator shall not, as a result of this Order or anything done in pursuance of the Liquidator's duties and powers under this Order, be deemed to be in Possession of any of the Assets within the meaning of any Environmental Legislation, unless it is actually in

possession.

LIMITATION ON THE LIQUIDATOR'S LIABILITY

29. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Liquidator under *WURA* or as an officer of this Court, the Liquidator shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or willful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Liquidator by the *WURA* or any applicable legislation.
30. **THIS COURT ORDERS** that the Liquidator may act on the advice or information obtained from any actuary, accountant, financial advisor, investment dealer, solicitor, attorney, valuer or other expert or professional person, and the Liquidator shall not be responsible for any loss, depreciation or damage occasioned by acting in good faith in reliance thereon.

CALL FOR CLAIMS

31. **THIS COURT ORDERS** that the Liquidator shall not be obligated to call for claims or otherwise implement a claims process until a further Order of this Court to this effect is issued.

SERVICE AND NOTICE

- f) **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol

(which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL 'www.kpmg.com/ca/maplebank'.

- g) **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Liquidator is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to Maple Bank's creditors or other interested parties at their respective addresses as last shown on the records of Maple Bank and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

32. **THIS COURT ORDERS AND DIRECTS** that the Liquidator shall publish notice of the Winding-Up Order in respect of the Business and Assets for two (2) consecutive days within five (5) business days of the making of this Order in The Globe and Mail,

National Edition, and shall also send written notice to every depositor, creditor and employee of Maple Bank in respect of the Business within seven (7) business days of making of this Order to the last known mailing address as provided for in the records of Maple Bank.

RECOGNITION

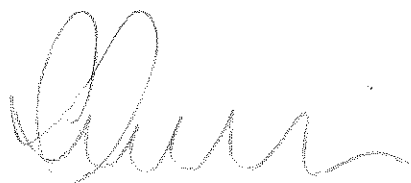
33. **THIS COURT ORDERS** that this Order and any other orders in these proceedings shall have full force and effect in all Provinces and Territories in Canada.
34. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, the Republic of Germany, including the Amtsgericht Frankfurt am Main [Insolvency Court] to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Liquidator in any foreign proceeding, or to assist the Liquidator and their respective agents in carrying out the terms of this Order.
35. **THIS COURT HEREBY REQUESTS** the aid and assistance of the German Administrator to assist the Liquidator and its agents in carrying out the terms of this Order
36. **THIS COURT ORDERS** that the Liquidator be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body,

wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Liquidator is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

37. **THIS COURT ORDERS** that the Attorney General of Canada shall be entitled to the costs of this application, up to and including entry and service of this Order, on a substantial indemnity basis to be paid by the Liquidator from the Business and Assets as costs properly incurred in the winding-up of the Business and Assets.

ADVICE AND DIRECTIONS

38. **THIS COURT ORDERS** that Liquidator may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
39. **THIS COURT ORDERS** that interested parties may apply to the Court for advice and directions on at least seven (7) days notice to the Liquidator and to any other party likely to be affected by the Order sought or upon such other notice, if any, as this Court may order.



**C. Irwin
Registrar**

ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

FEB 16 2016



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

Court File No. CV-16-11290-0001

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

WINDING-UP ORDER

John J. Lucki

Department of Justice
Ontario Regional Office The Exchange Tower
130 King Street West
Suite 3400, Box 36
Toronto, Ontario M5X 1K6

Tel: (416) 973-5402
Fax: (416) 973-2319
Law Society No.

Solicitor for the Applicant,
The Attorney General of Canada

**This is Appendix "B" to the
Third Report of the Liquidator Dated June 2, 2016**

CITATION: Maple Bank GmbH (Re), 2016 ONSC 1181
COURT FILE NO.: CV-16-11290-00CL
DATE: 2016-02-17

**ONTARIO SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

RE: 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

BEFORE: Regional Senior Justice Morawetz

COUNSEL: J.J. Lucki for the Attorney General of Canada

A.L. MacFarlane, M. Karabus and T. Gertner for KPMG Inc., Proposed
Liquidator

M. Konyukhova for the German Insolvency Administrator

E. Pleet for Paul Lishman

**HEARD
and ENDORSED:** February 16, 2016

REASONS: February 17, 2016

ENDORSEMENT

[1] This Application was brought by the Attorney General of Canada (“Attorney General”), at the request of the Superintendent of Financial Institutions (the “Superintendent”) under section 621 of the *Bank Act*, S.C. 1991, c.46, as amended (the “*Bank Act*”) for:

- (a) an order under section 10.1 of the *Winding-up and Restructuring Act*, R.S.C., 1985, c. W-11, as amended (the “*WURA*”) for the winding-up of the business in Canada of the respondent Maple Bank, GmbH (“Maple Bank”) and for the liquidation of its assets as defined in section 618 of the *Bank Act*;
- (b) in connection with such winding-up order, an order under section 23 of the *WURA* appointing KPMG Inc. “KPMG” as liquidator of the estate and effects of Maple Bank or, alternatively, provisionally appointing KPMG as liquidator under section 28 of the *WURA* and provisionally granting KPMG all of the powers of a liquidator pending further order of the Court, and providing directions under section 28 of the *WURA* regarding the manner, form and length of notice to be given in respect of the proposed final appointment of KPMG as liquidator;
- (c) an order restraining further proceedings, in any action, suit or proceeding against Maple Bank, pursuant to Section 17 (and Section 154) of the *WURA*;
- (d) related relief in connection with the requested winding-up order and appointment of a liquidator, as set out in the draft order attached to the Notice of Application.

[2] The Application was not opposed.

A. Overview

[3] Maple Bank is a Canadian owned German bank, and is also an “authorized foreign bank” in Canada under section 2 and Part XII.1 of the *Bank Act*. As a German bank, Maple Bank is subject to regulation in Germany by the Federal Financial Supervisory Authority (“BaFin”). As an authorized foreign bank under the *Bank Act*, Maple Bank is regulated, with respect to its business in Canada, by the Office of the Superintendent of Financial Institutions (“OSFI”).

- [4] The recent emergence of significant German tax claims against Maple Bank (said to arise from alleged tax evasion in Germany) and resulting over indebtedness on the part of Maple Bank has led, to Maple Bank admitting its insolvency, to BaFin issuing a “Moratorium” order essentially requiring Maple Bank to cease business and then instituting insolvency proceedings in Germany appointing an insolvency administrator, to various financial institutions issuing default notices and terminating agreements in respect of their dealings with Maple Bank’s business in Canada, and to the Superintendent issuing orders under section 619 of the *Bank Act* for taking control of the assets of Maple Bank in Canada and in respect of its business in Canada.
- [5] The Superintendent has asked the Attorney General of Canada, pursuant section 621 of the *Bank Act*, to seek a winding-up order under section 10.1 of the *WURA* in respect of Maple Bank’s business in Canada.
- [6] Maple Bank’s primary business activities in Canada are the securitization of mortgage receivables, fixed income trading, structured finance and securities finance. In addition, some wholesale deposits raised in Germany are booked on the Maple Bank’s Canadian balance sheet.
- [7] Maple Bank is not authorized to accept deposits from Canadian sources, but is not prohibited from accepting wholesale deposits from foreign institutional investors.
- [8] At December 31, 2015, Maple Bank’s Canadian Branch reported total assets of \$5.3 billion and total liabilities of \$4.8 billion, of which \$563 million were wholesale deposits. At December 31, 2015, the Maple Bank had unencumbered assets on deposit with a Canadian financial institution totalling approximately \$469 million.
- [9] According to Mr. Paul Laverty, Director in the Deposit-Taking Group (Toronto) of OFSI, in September 2015, German authorities commenced an investigation of Maple Bank for alleged tax evasion. As a result, Maple Bank was placed on OSFI’s Watch List in December 2015. Maple Bank tried to reach a settlement with German authorities with respect to its tax liabilities, but German authorities turned down a settlement offer from Maple Bank in relation to its taxes owing.

- [10] On February 6, 2016, BaFin imposed a moratorium on Maple Bank's business activities, including its operations in Canada (the "Moratorium"), on the basis of over-indebtedness on Maple Bank's balance sheet taking into consideration German tax liabilities. The Moratorium placed a ban on disposals and payments for Maple Bank, ordered that Maple Bank be closed for business with customers, and prohibited the institution from receiving payments not intended for payment of debts towards it.
- [11] Maple Bank's principal officer of the Canadian branch, Mr. Paul Lishman, advised OSFI that Maple Bank's operations were severely constrained by the Moratorium. In the days immediately following imposition of the Moratorium, numerous financial institutions such as Canadian Imperial Bank of Commerce, Royal Bank of Canada, Bank of Montreal, as well as CMHC, delivered default notices to Maple Bank and terminated their agreements with Maple Bank as a result of the Moratorium.
- [12] During the period February 8 -9, 2016, OSFI advised Maple Bank of OSFI's intention to make, and then proceeded to make, variations to the Order to Commence and Carry on Business, under which Maple Bank had been operating in Canada, to add restrictions prohibiting Maple Bank, without the Superintendent's prior approval, from moving to a foreign jurisdiction any assets in Canada, and from transferring (except pursuant to existing employment contracts) any of its assets in Canada or in respect of its business in Canada if the value of the assets transferred exceeded \$25,000.
- [13] On February 9, 2016, Maple Bank advised BaFin of its impending insolvency and gave its consent to BaFin to initiate liquidation proceedings in respect of Maple Bank in Germany. OSFI learned of this development on February 9, 2016. BaFin subsequently commenced insolvency proceedings in Germany in respect of Maple Bank on February 10, 2016.
- [14] In light of the actions taken by BaFin, and Maple Bank's admission of insolvency and consent to BaFin's insolvency proceedings, Mr. Laverty stated that the Superintendent decided grounds existed under subsections 619(2)(a) and (g) of the *Bank Act* for the Superintendent to take control of Maple Bank's assets in Canada and assets in respect of

its business in Canada, and that such step was necessary to protect the depositors and creditors of Maple Bank in relation to its business in Canada.

- [15] On February 10, 2016, the Superintendent took control of those assets of Maple Bank for a period not exceeding sixteen days pursuant to 619(1)(a) of the *Bank Act*, on the basis of the grounds set out in subsections 619(2)(a) and (g) of the *Bank Act*.
- [16] On February 11, 2016, BaFin informed OSFI that, in the German insolvency proceedings, the German court had appointed an insolvency administrator of Maple Bank, and had assigned to the insolvency administrator the right of disposal of current and future assets of Maple Bank.
- [17] Having regard to all of the foregoing developments and circumstances, Mr. Laverty stated that the Superintendent determined it was reasonable to conclude that grounds existed for extending the Superintendent's control of the relevant assets of Maple Bank under subsection 619(1)(b) of the *Bank Act*. On February 12, 2016, the Superintendent provided notice to Maple Bank of his intention to continue the control of the assets beyond the initial sixteen day period pursuant to subsection 619(1)(b)(ii) of the *Bank Act*, based on the grounds set out in subsections 619(2)(a), (b) and (g). Those subsections provide:

“619(2) Control by the Superintendent under subsection (1) may be taken in respect of an authorized foreign bank where

(a) the authorized foreign bank has failed to pay its liabilities or, in the opinion of the Superintendent, will not be able to pay its liabilities as they become due and payable;

(b) the authorized foreign bank in respect of its business in Canada has failed to pay its liabilities or, in the opinion of the Superintendent, will not be able to pay its liabilities as they become due and payable;

...

(g) in the opinion of the Superintendent, any other state of affairs exists in respect of the authorized foreign bank that may be materially prejudicial to the interests of the authorized foreign bank's depositors or creditors in respect of its business in Canada... Including where proceedings under a law relating to bankruptcy or insolvency have been commenced in Canada

or elsewhere in respect of the authorized foreign bank or its holding body corporate.”

- [18] Since issuance of that notice, Canadian counsel for the German insolvency administrator has communicated with KPMG (who the Superintendent appointed on February 12, 2016 as the Superintendent’s representative to assist in taking control of the relevant assets of Maple Bank). Canadian counsel for the German insolvency administrator requested information regarding Maple Bank’s business in Canada. KPMG responded with the information it had available.
- [19] On February 15, 2016, Canadian counsel for the German insolvency administrator delivered written submissions to the Superintendent in respect of the Superintendent’s Notice of February 12, 2016.
- [20] Mr. Laverty stated that following careful consideration of those representations, the Superintendent decided later on February 15, 2016 to continue its control of assets pursuant to subsection 619(1)(b)(ii) of the *Bank Act* and to request, pursuant to section 621 of the *Bank Act*, that the Attorney General of Canada apply for a winding-up order in respect of Maple Bank’s business in Canada under section 10.1 of the *WURA*.

B. Issues

- [21] The principal issues on this Application are whether a winding-up order should be made under the *WURA* in respect of Maple Bank’s business in Canada and whether a Liquidator should accordingly be appointed with respect to Maple Bank’s assets as defined in section 618 of the *Bank Act*.

C. Analysis

- [22] The *Bank Act* and the *WURA*, together, provide a complete and comprehensive code governing the establishment, operation, regulation, supervisory intervention, and insolvency and liquidation of authorized foreign banks.

- [23] Part XII.1 of the *Bank Act* includes, in sections 618 through 627, various provisions regarding “Supervisory Intervention” in respect of authorized foreign banks by the Superintendent of Financial Institutions.
- [24] Section 619 of the *Bank Act* gives the Superintendent broad discretionary authority to take control of the “assets” of an authorized foreign bank. Such “assets” are defined in section 618 of the *Bank Act* to include both any asset of the authorized foreign bank “in respect of its business in Canada”, and “any other asset in Canada”.
- [25] The grounds for exercise of the Superintendent’s discretionary authority under subsection 619(2) include grounds which are expressly based upon the Superintendent’s “opinion” as to certain matters.
- [26] Counsel to the Superintendent submits that it is apparent in the circumstances of this case that the Superintendent has ample basis to reasonably form the opinions referred to in section 619(2).
- [27] Counsel further submits that consistent with the nature of the Superintendent’s function and responsibilities, considerable deference should be accorded to the Superintendent’s judgment and discretionary decisions. Further, Courts have been reluctant to question decisions made by the Superintendent or Minister exercising their supervisory powers to take control. In particular, where the governmental authority needed only to form a certain belief in order to intervene in a company’s affairs, the Court was of the view that it should only consider if there was arbitrariness in the exercise of discretion and that there was sufficient evidence to form that belief. (*See Attorney General of Canada v. Cardinal Insurance Co.*, (1982) 39 O.R. (2d) 204 (H.C.) and *Canada (Attorney General) v. Security Home Mortgage Co.*, [1996] A.J. No. 1015 (Q.B.)
- [28] Counsel further submits that under subsection 619(1) of the *Bank Act*, the opinions and grounds in subsection 619(2) authorized the Superintendent to either take control of the assets for a period not exceeding 16 days (subsection 619(1)(a)), or take or extend control of the assets for a longer period (unless the Minister of Finance advised that it was not in the public interest to do so). Accordingly, counsel submits that the Superintendent was

clearly authorized both to initially take control of the assets for a period not exceeding 16 days under subsection 619(1)(a), as the Superintendent did pursuant to notice dated February 10, 2016, and to then to continue control beyond 16 days under subsection 619(1)(b).

[29] In addition, section 621 of the *Bank Act* authorizes the Superintendent to apply for a winding-up order in respect of an authorized foreign bank under section 10.1 of the *WURA* where the Superintendent had control of the assets pursuant to subsection 619(1)(b).

[30] Having taken control of the assets of Maple Bank under subsection 619(1)(b), counsel submits the Superintendent was clearly authorized under 621 of the *Bank Act* to ask the Attorney General to apply for a winding-up order under section 10.1 of the *WURA*.

[31] Section 10.1 establishes two categories of grounds upon which the court may make a winding-up order in respect of an authorized foreign bank.

- (a) First, section 10.1 authorizes a winding-up order if the Court is of the opinion that, for any reason, it is just and equitable.
- (b) Second, section 10.1 authorizes a winding-up order whenever control of the assets of the authorized foreign bank is taken on a ground referred to in any of subsections 619(2)(a), (b), (d) or (f) of the *Bank Act*.

[32] In this case, based on the Superintendent's opinion set out in unchallenged affidavit of Mr. Laverty and Maple Bank's admission of insolvency, the grounds upon which the Superintendent took control of the assets under subsection 619(1)(b) of the *Bank Act* included the grounds in subsection 619(2)(a) and (g) of the *Bank Act*.

[33] In my view, based on the evidence, it is both just and equitable to make a winding-up order in these circumstances. Given the admitted insolvency of Maple Bank and the appointment of a German insolvency administrator over Maple Bank, a continuation of the operations of a Canadian branch is neither operationally nor legally viable. The only practicable alternative under the statutory regime applicable to authorized foreign banks is the making of a winding-up order and appointment of a liquidator.

- [34] Once a winding-up order has been made, the *WURA* also permits the Court to appoint a liquidator, or provisionally appoint liquidator, of the estate and effects of a company, and confers various powers and duties on the liquidator.
- [35] These circumstances, given the complexity of the business of Maple Bank in Canada, and given KPMG's involvement in assisting the Superintendent in taking control of assets, in my view it is appropriate to appoint KPMG as Liquidator and to authorize KPMG to exercise the powers set out in the draft order annexed to the Notice of Application. KPMG has given its consent to this appointment.
- [36] Finally, I expect that there will be ongoing communication as between the German insolvency administrator and the Liquidator. It should be noted that this order is without prejudice to the right of any party to raise any issue relative to the application of this order or these proceedings to (i) assets of Maple Bank in respect of Maple Banks business in Canada which are not situate in Canada or (ii) assets of Maple Bank which are not in respect of Maple Banks business in Canada which are situated in Canada. With respect to (ii), any such dispute shall be subject to an order of this court.



Regional Senior Justice G.B. Morawetz

Date: February 17, 2016

**This is Appendix "C" to the
Third Report of the Liquidator Dated June 2, 2016**

ON READING the Notice of Motion, the third report of the Liquidator dated June 2, 2016, and on hearing the submissions of counsel for the Liquidator, the German Insolvency Administrator, no one appearing for the other parties served with the Motion Record of the Liquidator, although duly served as appears from the affidavit of service of Frances Dunne sworn June 2, 2016, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record filed by the Liquidator in support of this Motion be and it is hereby abridged such that the Motion is properly returnable today.

LIQUIDATOR'S ROLE

2. **THIS COURT ORDERS** that the Liquidator, in addition to its prescribed rights and obligations under the WURA (as hereinafter defined) and under the Winding-Up Order of this Court dated February 16, 2016 (the "**Winding-Up Order**"), is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order.

THE CLAIMS PROCESS

3. **THIS COURT ORDERS** that the following terms shall have the following meanings ascribed thereto:
 - (a) "**Acknowledgment of Claim**" means the notice, in substantially the form attached as Schedule "**E**" hereto, advising a Creditor that the Liquidator has acknowledged the Creditor's Claim as set out in the Proof of Claim and will be used in determining any distribution made to the Creditors of Maple Bank;

- (b) “**Business Day**” means a day, other than a Saturday or a Sunday, on which banks are generally open for business in Toronto, Ontario;
- (c) “**Claim**” means:
- (i) any right of any Person against the Toronto Branch in connection with any indebtedness, liability or obligation of any kind of the Toronto Branch, whether liquidated, unliquidated, fixed, certain, ascertained, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, or unknown, by guarantee, surety or otherwise and whether or not such right is executory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts existing on or prior to the Winding-Up Date or which would have been claims provable in bankruptcy had the Toronto Branch become bankrupt on the Winding-Up Date, and any indebtedness, liability or obligation of any kind arising out of the liquidation of the Business and the Assets, including without limiting the generality of the foregoing the termination, repudiation or disclaimer of any lease, contract, employment agreement or other agreement after the Winding-Up Date (each a “**Claim**”, and collectively, the “**Claims**”); and,
 - (ii) any right of any Person against the Principals of the Toronto Branch that relates to the Claims for which the Principals of the Toronto Branch are by

law liable to pay in such capacity.

- (d) “**Claims Officer**” means Kevin McElcheran, as designated by the Liquidator and approved by the Court;
- (e) “**Court**” means the Ontario Superior Court of Justice [Commercial List];
- (f) “**Creditor**” means any Person having a Claim;
- (g) “**Dispute Notice**” means a written notice to the Liquidator, in substantially the form attached as Schedule “**F**” hereto, delivered to the Liquidator by a Creditor who has received a Notice of Disallowance, of its intention to dispute such Notice of Disallowance and provide further evidence to support its claim;
- (h) “**Disputing Creditor**” means a Creditor that has delivered to the Liquidator a Dispute Notice within the time periods provided for in the Dispute Notice;
- (i) “**E-Service Protocol**” means the E-Service Protocol adopted by the Commercial List and adopted by reference in the Winding-Up Order;
- (j) “**Instruction Letter**” means the instruction letter from the Liquidator to the Creditors, in substantially the form attached as Schedule “**B**” hereto;
- (k) “**Known Creditors**” means:
 - (i) those Creditors which the books and records of the Toronto Branch disclose were owed monies by the Toronto Branch as of the Winding-Up Date and which monies remain unpaid in whole or in part;
 - (ii) any Person who commenced a legal proceeding against the Toronto Branch which legal proceeding was commenced and served upon the

Toronto Branch prior to the Winding-Up Date;

- (iii) any Person who is party to a lease, contract, employment agreement or other agreement of the Toronto Branch which was terminated or disclaimed by the Liquidator between the Winding-Up Date and the date of this Order; and
- (iv) any other Creditor actually known to the Liquidator as at the date of this Order;
- (l) “**Notice of Disallowance**” means the notice, in substantially the form attached as Schedule “**D**” hereto, advising a Creditor that the Liquidator has revised or rejected all or part of such Creditor’s Claim as set out in the Proof of Claim;
- (m) “**Notice to Creditors**” means the notices to Creditors for publication in the newspapers listed in paragraph 5(b) in substantially the form attached as Schedule “**A**” hereto;
- (n) “**Person**” means any individual, partnership, joint venture, trust, corporation, bank, credit union, foreign bank, unincorporated organization, government or agency or instrumentality thereof, or any other juridical entity howsoever designated or constituted;
- (o) “**Principal**” means all current and former officers of the Toronto Branch;
- (p) “**Proof of Claim**” means the form of Proof of Claim in substantially the form attached as Schedule “**C**” hereto;
- (q) “**Proof of Claim Document Package**” means a document package that includes a copy of the Instruction Letter, a Proof of Claim, and such other materials as the

Liquidator may consider appropriate or desirable;

- (r) “**Proven Claim**” has the meaning ascribed to that term in paragraph 4 of this Order;
- (s) “**Secured Claim**” means any Claim or portion thereof that is secured by a security interest, pledge, mortgage, lien, hypothec or charge on any property of the Toronto Branch, but only to the extent of the value of the security in respect of the Claim;
- (t) “**Winding-Up Date**” means February 16, 2016;
- (u) “**Winding-Up Order**” has the meaning ascribed to that term in paragraph 2 of this Order; and
- (v) “**WURA**” means *Winding-Up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended.

DETERMINATION OF PROVEN CLAIM

4. **THIS COURT ORDERS** that the amount and status of every Claim of a Creditor as finally determined in accordance with the forms and procedures hereby authorized (a “**Proven Claim**”), including any determination as to the nature, amount, value, priority or validity of any Claim, including any Secured Claim, shall be final for all purposes, including without limitation, for any distribution made to creditors of the Toronto Branch.

NOTICE TO CREDITORS

5. **THIS COURT ORDERS** that:

- (a) the Liquidator shall no later than five (5) Business Days following the making of this Order, post a copy of the Proof of Claim Document Package on its website, and deliver to each of the Known Creditors (for which it has an address) a copy of the Proof of Claim Document Package;
- (b) the Liquidator shall no later than ten (10) days following the making of this Order, cause to be published on or before June 18, 2016, the Notice to Creditors in The National Edition of *The Globe and Mail*, and the International Edition of *The Wall Street Journal* providing notice that, *inter alia*, all Creditors must file the Proof of Claim with the Liquidator by 4:00 p.m. (Eastern Standard Time) on September 19, 2016 ; and
- (c) the Liquidator shall deliver, as soon as reasonably possible, following receipt of a request therefore a copy of the Proof of Claim Document Package to any Person claiming to be a Creditor and requesting such material.

PROOFS OF CLAIM

6. **THIS COURT ORDERS** that:

- (a) the Liquidator may, where it is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order as to completion and execution of Proofs of Claim; and
- (b) any Claims denominated in any currency other than Canadian dollars shall, for the

purposes of this Order, be converted to, and constitute obligations in, Canadian dollars, such calculation to be effected by the Liquidator using the Bank of Canada noon spot rate on the Winding-Up Date. The rate of exchange on that date for the Canadian Dollar/U.S. Dollar was US \$1/CAD \$1.3860 and for the Canadian Dollar/EURO was EURO 1/CAD \$ 1.5439.

REVIEW OF PROOFS OF CLAIM

7. **THIS COURT ORDERS** that the Liquidator shall review all Proofs of Claims filed and, subject to consulting with the German Insolvency Administrator, shall accept or disallow (in whole or in part) the amount and/or status of the Claim set out therein. At any time, the Liquidator may request additional information with respect to the Claim, and may request that the Creditor file a revised Proof of Claim. The form of Notice of Disallowance is attached hereto as Schedule “**D**”.
8. **THIS COURT ORDERS** that where a Claim has been accepted by the Liquidator pursuant to the Acknowledgement of Claim, substantially in the form of the Acknowledgement of Claim attached hereto as Schedule “**E**”, such Claim shall constitute such Creditor’s Proven Claim for distribution in accordance with sections 76 and 158.1 of WURA, as applicable.
9. **THIS COURT ORDERS** that where a Claim has been disallowed (in whole or in part), the disallowed Claim (or disallowed portion thereof) shall not be a Proven Claim unless the Creditor has disputed the disallowance and proven the disallowed Claim (or portion thereof) in accordance with paragraphs 10 to 15 of this Order.

DISPUTE NOTICE

10. **THIS COURT ORDERS** that any Creditor who intends to dispute a Notice of Disallowance shall file a Dispute Notice with the Liquidator as soon as reasonably possible but in any event such that such Dispute Notice shall be received by the Liquidator on or before 4:00 p.m. (Eastern Standard) on the day that is fourteen (14) days after the Liquidator sends the Notice of Disallowance in accordance with paragraph 7 of this Order. The filing of a Dispute Notice with the Liquidator within the time limited therefore shall constitute an application to have the amount or status of such Claim determined as set out in paragraphs 13 to 15 hereof. The form of the Dispute Notice is attached, hereto, as Schedule “F”.
11. **THIS COURT ORDERS** that where a Creditor that receives a Notice of Disallowance fails to file a Dispute Notice with the Liquidator within the time limited therefore, the amount and status of such Creditor’s Claim shall be deemed to be as set out in the Notice of Disallowance and such amount and status, if any, shall constitute such Creditor’s Proven Claim.

RESOLUTION OF CLAIMS

12. **THIS COURT ORDERS** that as soon as practicable after the delivery of the Dispute Notice to the Liquidator, the Disputing Creditor and the Liquidator shall attempt to resolve and settle the Disputing Creditor’s Claim.

13. **THIS COURT ORDERS** that in the event that the dispute between the Disputing Creditor and the Liquidator is not settled within a time period or in a manner satisfactory to the Liquidator, the Liquidator may refer the dispute to a Claims Officer for determination, or in the alternative may bring the dispute before the Court for determination. If the Liquidator refers the dispute to a Claims Officer for determination, then (i) the Claims Officer shall determine the manner, if any, in which evidence may be brought before the Claims Officer by the parties as well as any other matters, procedural or substantive, which may arise in respect of the Claim Officer's determination of a Disputing Creditor's Claim, and (ii) the provisions of paragraphs 13 to 15 of this Order shall apply to the determination by the Claims Officer.
14. **THIS COURT ORDERS** that the Claims Officer shall, by no later than thirty (30) days from the referral of such claim to the Claims Officer by the Liquidator (or such other period as the Claims Officer and the Liquidator may agree), notify the Creditor and the Liquidator in writing of the Claims Officer's determination of the amount and status of such Creditor's Claim.
15. **THIS COURT ORDERS** that the Claims Officer's determination of any Creditor's Proven Claim as set out herein shall be final and binding, unless within ten (10) days of the date of the Claims Officer's determination the Disputing Creditor, or the Liquidator, as the case may be, serves and files with the Court a notice of motion, along with supporting affidavit evidence, in the case of the Disputing Creditor, and a further report from the Liquidator, if required, to appeal the Claims Officer's determination.

NOTICE OF TRANSFEREES

16. **THIS COURT ORDERS** that if, after the Winding-Up Date, the holder of a Claim on the Winding-Up Date, or any subsequent holder of the whole of a Claim transfers or assigns the whole of such Claim to another Person the Liquidator shall not be obligated to give notice to, or to otherwise deal with a transferee or assignee of a Claim as the Creditor in respect thereof unless and until an actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received by the Liquidator, and thereafter such transferee or assignee shall for the purposes hereof constitute the “Creditor” in respect of such Claim. Any such transferee or assignee of a Claim, and such Claim, shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Order prior to receipt by the Liquidator of satisfactory evidence of such transfer or assignment.

17. **THIS COURT ORDERS** that if, after the Winding-Up Date, the holder of a Claim on the Winding-Up Date, or any subsequent holder of the whole of a Claim, transfers or assigns the whole of such Claim to more than one Person or part of such Claim to another Person or Persons, such transfer or assignment shall not create a separate Claim or Claims and such Claim shall continue to constitute and be dealt with as a single Claim notwithstanding such transfer or assignment, and the Liquidator shall in each such case not be bound to recognize any such transfer or assignment and shall be entitled to give notices to and to otherwise deal with such Claim only as a whole and then only to and with the Person last holding such Claim in whole as the Creditor in respect of such Claim, provided such Creditor may by notice in writing to the Liquidator direct that subsequent dealings in respect of such Claim, but only as a whole, shall be with a

specified Person and in such event, such Creditor, such transferee or assignee of the Claim and the whole of such Claim shall be bound by any notices given or steps taken in respect of such Claim by or with respect to such Person in accordance with this Order.

18. **THIS COURT ORDERS** that nothing contained in this Order, or the Claims Procedure, shall in any way amend, change, or derogate from the requirements imposed on the Liquidator to consult with, and obtain the approval of, the German Insolvency Administrator as provided for in paragraph 8 of the Winding-Up Order dated February 16, 2016.

SERVICE AND NOTICE

19. **THIS COURT ORDERS** that the Liquidator be at liberty to deliver the Proof of Claim Document Package, and any letters, notices or other documents to Creditors or other interested Persons, pursuant to the E-Service Protocol and the service of documents in accordance with the E-Service Protocol shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure*, this Order shall constitute an order for substituted service pursuant to Rule 16.04. Subject to Rule 3.01(d) and paragraph 21 of the E-Service Protocol, service of documents in accordance with the E-Service Protocol will be effective on transmission.
20. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the E-Service Protocol is not practical, the Liquidator is at liberty to serve, or distribute any documents or materials by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, or facsimile transmission to such Persons at the address as last shown on the records of the Toronto Branch and that any such service or

notice by courier, personal delivery or facsimile transmission shall be deemed to be received on the next Business Day following the date of forwarding thereof, or if sent by ordinary mail, on the third Business Day after mailing. Notwithstanding anything to the contrary in this paragraph 20, Disallowances of Claims shall also be sent only by registered mail or by courier.

21. **THIS COURT ORDERS** that any notice or other communication (including, without limitation, Proofs of Claim and Dispute Notices) to be given under this Order by a Creditor to the Liquidator shall be in writing in substantially the form, if any, provided for in this Order and will be sufficiently given only if given pursuant to the E-Service Protocol, or if not practicable, by prepaid ordinary mail, courier, personal delivery or facsimile transmission addressed to:

KPMG Inc., in its Capacity as Court-Appointed Liquidator of the Business in
Canada of Maple Bank GmbH (Toronto Branch)

Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5

Attention: Sven Dedic
Telephone: (416) 777-3091
E-mail: sdedic@kpmg.ca
Fax: (416) 777-3364

Any such notice or other communication by a Creditor shall be deemed received only upon actual receipt thereof during normal business hours on a Business Day.

MISCELLANEOUS

22. **THIS COURT ORDERS** that this Order has no application to any claim that may be asserted by the Liquidator or its counsel, or agents in respect of the winding up of the

Toronto Branch.

23. **THIS COURT ORDERS** that the German Insolvency Administrator, as appointed over the estate of Maple Bank GmbH (Frankfurt), shall not be obligated or required to file a Proof of Claim, on behalf of Maple Bank GmbH (Frankfurt), with the Liquidator in accordance with paragraph 6(b), hereof, in order to be entitled to a distribution or release of surplus assets of the Toronto Branch in accordance with section 158.1(2) of WURA.

24. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, the Republic of Germany, including the assistance of the Amtsgericht Frankfurt am Main [Insolvency Court] to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory or administrative bodies are hereby respectfully requested to make such orders and to provide such orders and to provide such assistance to the Liquidator, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Liquidator in any foreign proceeding, or to assist the Liquidator and their respective agents in carrying out the terms of this Order.

SCHEDULE “A”

NOTICE TO CREDITORS
of MAPLE BANK GmbH, TORONTO BRANCH
(also known as Maple Bank – Toronto Branch)
(hereinafter referred to as “Maple Bank”)

RE: NOTICE OF CLAIMS PROCEDURE FOR MAPLE BANK PURSUANT TO THE WINDING-UP AND RESTRUCTURING ACT (the “WURA”)

PLEASE TAKE NOTICE that this notice is being published pursuant to an Order of the Superior Court of Justice of Ontario [Commercial List] made June 8, 2016 (the “Claims Procedure Order”). Maple Bank’s creditors should have received Proof of Claim packages by mail, if those creditors are known to KPMG Inc. in its capacity as court-appointed liquidator of the business in Canada of Maple Bank and its assets as defined in section 618 of the *Bank Act* (the “Liquidator”), and if the Liquidator has a current address. Creditors may also obtain the Order and a Proof of Claim package from the website of the Liquidator, at <http://www.kpmg.com/ca/maplebank> or by contacting the Liquidator by telephone (416) 777- 3091 or by fax (416) 777-3364 .

Proofs of Claim must be submitted to the Liquidator for any claim against Maple Bank, whether unliquidated, contingent or otherwise, in each case where the claim (i) arose on or prior to February 16, 2016 (the “Winding-Up Date”), or (ii) arose after the Winding-Up Date as a result of the termination, repudiation or disclaimer of any lease, contract, employment agreement, or other agreement. Please consult the Proof of Claim package for more details.

Completed Proofs of Claim must be received by the Liquidator by 4:00 p.m. (Eastern Standard Time) on September 19, 2016. It is your responsibility to ensure that the Liquidator receives your Proof of Claim by the above-noted time and date.

TAKE NOTE THAT FAILURE TO SEND IN A PROOF OF CLAIM BY SEPTEMBER 19, 2016 WILL RESULT IN DISTRIBUTIONS BEING MADE WITHOUT REGARD TO ANY CLAIM NOT SENT IN BY THAT DATE.

DATED at Toronto this _____ day of _____, 2016.

KPMG Inc. in its capacity as Court-appointed
Liquidator of Maple Bank GmbH, (Toronto Branch)
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5
Canada

Attention: Sven Dedic: sdedic@kpmg.ca
Fax: (416) 777-3364
Phone: (416) 777-3091

SCHEDULE “B”

INSTRUCTION LETTER FOR THE CLAIMS PROCEDURE OF MAPLE BANK GmbH, TORONTO BRANCH

(also known as Maple Bank – Toronto Branch)

(hereinafter referred to as “Maple Bank”)

A. CLAIMS PROCEDURE

By Order of the Superior Court of Justice of Ontario [Commercial List] made June 8, 2016 under the *Winding-Up and Restructuring Act* (the “WURA”), KPMG Inc. in its capacity as court-appointed liquidator of the business in Canada of Maple Bank and its assets as defined in section 618 of the *Bank Act* (the “Liquidator”) has been authorized to conduct a claims procedure under WURA (the “Claims Procedure”).

The Claims Procedure is intended for any Person with: (i) any claims of any kind or nature whatsoever, against Maple Bank, that arose on or prior to February 16, 2016 (the “Winding-Up Date”), unliquidated, contingent or otherwise; and (ii) any claim arising after the Winding-Up Date to and including as a result of the termination, repudiation or disclaimer of any lease, contract, employment agreement or other agreement (collectively, the “Claims”). Please review the enclosed material for the complete definition of Claim and Secured Claim.

B. CREDITORS SUBMITTING A PROOF OF CLAIM

If you believe that you have a Claim against Maple Bank, you will have to file a Proof of Claim with the Liquidator. **It is important that the Proof of Claim form be correctly completed and delivered to the Liquidator by September 19, 2016.** The following points are set out to assist you:

- (a) The Proof of Claim form must be completed in its entirety.
- (b) Ensure you include your complete name and address, where all notices or correspondence regarding your claim are to be forwarded.
- (c) If the form is completed by some person on behalf of the creditor, that person must state his or her authority and the capacity in which he or she is acting.
- (d) You are required to provide a calculation of the claim and all supporting documentation.

- (e) The amount of your claim should be calculated to the date of the Winding-Up Date, or as of the date of the termination, repudiation or disclaimer of any lease, contract, employment agreement, or other agreement.
- (f) In Section D chose the appropriate subsection(s) (i), (ii), (iii), (iv) or (v) which properly applies to the status of your claim.
- (g) Ensure the form is dated, witnessed and signed in the appropriate places.
- (h) Mail the completed Proof of Claim form together with Schedule A to:

KPMG Inc. in its capacity as Court-appointed
Liquidator of Maple Bank GmbH, (Toronto Branch)
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5
Canada

Attention: Sven Dedic: sdedic@kpmg.ca
Fax: (416) 777-3364
Phone: (416) 777-3091

- (a) Additional Proof of Claim forms and other information, including the Order creating the Claims Procedure, can be obtained from the Liquidator's website at <http://www.kpmg.com/ca/maplebank>, or by contacting the Liquidator at the telephone and fax numbers indicated above and providing particulars as to your name, address and facsimile number.
- (b) **THE PROOF OF CLAIM MUST BE RECEIVED BY THE LIQUIDATOR BY 4:00 P.M. (EASTERN STANDARD TIME) ON SEPTEMBER 19, 2016.**
- (c) **IT IS YOUR RESPONSIBILITY TO ENSURE THAT THE LIQUIDATOR RECEIVES YOUR PROOF OF CLAIM BY THE ABOVE-NOTED TIME AND DATE. FAILURE TO SUBMIT A PROPERLY COMPLETED PROOF OF CLAIM BY SEPTEMBER 19, 2016 WILL RESULT IN DISTRIBUTIONS BEING MADE BY THE LIQUIDATOR WITHOUT REGARD TO THAT CLAIM.**

SCHEDULE "C"

**PROOF OF CLAIM RELATING TO
MAPLE BANK GmbH, TORONTO BRANCH**
(also known as Maple Bank – Toronto Branch)
(hereinafter referred to as "Maple Bank")

Please read carefully the enclosed Instruction Letter **BEFORE COMPLETING** this Proof of Claim.

A. PARTICULARS OF CREDITOR:

1. Full Legal Name of Creditor: _____

(the "Creditor"). (Full legal name should be the name of the original Creditor of Maple Bank, notwithstanding whether an assignment of a Claim, or a portion thereof, has occurred following February 16, 2016 (the "Winding-Up Filing Date").

2. Full Mailing Address of the Creditor (the original Creditor not the Assignee):

3. Has the Claim been sold or assigned by the Creditor to another party [check (X) one]?

Yes No

B. PARTICULARS OF ASSIGNEE(S) (IF ANY):

4. Full Legal Name of Assignee(s): _____

(If Claim has been assigned, insert full legal name of assignee(s) of Claim (If all or a portion of the Claim has been sold). If there is more than one assignee, please attach a separate sheet with the required information.)

5. Full Mailing Address of Assignee(s): _____

6. Telephone Number of Assignee(s): _____
7. E-Mail Address: _____
8. Facsimile Number: _____
9. Attention (Contact Person): _____

C. PROOF OF CLAIM:

I, _____ [name of Creditor or Representative
of the Creditor], of _____
(city and province)

do hereby certify:

(a) that I [check (X) one]

am the Creditor of Maple Bank; OR

am _____ (state position or title) of

(name of creditor)

(b) that I have knowledge of all the circumstances connected with the Claim referred to below;

(c) the Creditor asserts its claim against Maple Bank; and

(d) Maple Bank was/were and still is/are indebted to the Creditor as specified in the calculation (or affidavit) attached and marked as Schedule "A", after deducting any counterclaims⁷ to which Maple Bank is entitled. (the attached calculation, or affidavit must include all evidence in support of the claim):

(i) CLAIM ARISING ON OR PRIOR TO THE WINDING-UP DATE:

\$ _____ CAD.

(ii) INTERIM PERIOD CLAIM:

\$ _____ CAD

(Interim Period Claim against Maple Bank arising from the termination, repudiation or disclaimer of any lease, contract, employment agreement or other agreement after the Winding-Up Date to and including June 8, 2016.)

(iii) SUBSEQUENT PERIOD CLAIM:

\$ _____ CAD

(Subsequent Period Claim against Maple Bank arising from the termination, repudiation or disclaimer of any lease, contract, employment agreement or other agreement after June 8, 2016.)

TOTAL CLAIM: \$ _____ [total (i) plus (ii) plus (iii)] CAD

(Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as at the Winding-Up Filing Date. The Canadian Dollar/U.S. Dollar rate of exchange on that date was US \$1/CAD \$1.3860 and the Canadian Dollar/EURO was EURO 1/ CAD \$ 1.5439.)

D. NATURE OF CLAIM

(check (X) one and complete appropriate category)

(I) EMPLOYEE CLAIM OF

\$ _____

That in respect of this debt, I do not hold any security and

(Check (X) appropriate description)

Regarding the amount of \$ _____

I do not claim a right to a priority.

That in respect of this debt, I do not hold any security and

(Set out on an attached sheet details to support priority claim.)

Regarding the amount of \$ _____

I claim a right to be treated as a preferred creditor pursuant to section 158.1(1)(b) of the WURA.

(II) SECURED CLAIM OF

\$ _____

That in respect of this debt, I hold security valued at \$ _____

particulars of which are as follows: _____

(III) UNSECURED CLAIM OF

\$ _____

(IV) HER MAJESTY IN RIGHT OF CANADA CLAIM OF

\$ _____

(V) HER MAJESTY IN RIGHT OF PROVINCE CLAIM OF

\$ _____

E. PARTICULARS OF CLAIM:

Other than as already set out herein the particulars of the undersigned's total Claim are attached.

(Provide all particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor which has guaranteed the Claim, and amount of invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by Maple Bank to the Creditor and estimated value of such security, and particulars of any interim period claim. If an affidavit is attached it must have been made by a person qualified to take affidavits.)

Date at _____ this _____ day of _____, 2016.

Witness

Creditor

Phone Number:

Fax Number:

E-mail Address:

THIS PROOF OF CLAIM MAY BE SUBMITTED TO THE LIQUIDATOR BY PREPAID ORDINARY MAIL, COURIER, PERSONAL DELIVERY OR ELECTRONIC OR FACSIMILE TRANSMISSION AT THE FOLLOWING ADDRESS:

KPMG Inc. in its capacity as Court-appointed
Liquidator of Maple Bank GmbH, (Toronto Branch)
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5
Canada

Attention: Sven Dedic: sdedic@kpmg.ca
Fax: (416) 777-3364
Phone: (416) 777-3091

SCHEDULE “D”

MAPLE BANK GMBH, TORONTO BRANCH

**REFERENCE NUMBER [GB]
NOTICE OF DISALLOWANCE**

TO: [insert name of creditor]

KPMG 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* hereby gives you notice that it has reviewed your Claim and has revised or rejected your Claim as follows:

		The Proof of Claim as Submitted	The Claim as Accepted
A.	Claim relating to facts existing on or prior to February 16, 2016.		
B.	Interim Period Claim arising after February 16, 2016 to and including June 8, 2016.		
C.	Subsequent Period Claim arising after June 8, 2016.		
D.	Total Claim		

D. Reasons for Disallowance or Revision:

[insert explanation]

If you do not agree with this Notice of Disallowance, please take notice of the following:

1. If you dispute this Notice of Disallowance, you must, no later than 4:00 p.m. (Eastern Standard Time) on [INSERT DATE, being fourteen (14) days after the Notice of Disallowance is sent by the Liquidator (see paragraph 10 of the Claims Procedure Order)], notify the Liquidator by delivery of a Dispute Notice in accordance with the accompanying Instruction Letter. The form of Dispute Notice is enclosed.

If you do not deliver a Dispute Notice, your Claim shall be deemed to be as set out in this Notice of Disallowance.

2. **IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF DISALLOWANCE WILL BE BINDING UPON YOU.**

DATED at Toronto, this _____ day of _____, 2016.

KPMG Inc. in its capacity as Court-appointed
Liquidator of Maple Bank GmbH, (Toronto Branch)
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5
Canada

Attention: Sven Dedic: sdedic@kpmg.ca
Fax: (416) 777-3364
Phone: (416) 777-3091

SCHEDULE “E”

**ACKNOWLEDGEMENT OF CLAIM RELATING TO MAPLE BANK GmbH
(TORONTO BRANCH)**

(also known as Maple Bank – Toronto Branch)
(hereinafter referred to as “Maple Bank”)

TO: [FULL NAME AND ADDRESS OF CREDITOR]

PARTICULARS OF CLAIM:

KPMG Inc. in its capacity as Court-appointed liquidator of the business in Canada of Maple Bank and its assets as defined in Section 618 of the *Bank Act* has reviewed your Proof of Claim submitted on ●, 2016 and agrees with the amount claimed by you, being \$●. In accordance with the Claims Procedure Order, your claim in the amount of \$● is a Proven Claim, and as such no further action is required by you.

The Claim or Claims described above are, collectively, the “Acknowledged Claim” and will be used in determining any distribution made to creditors of Maple Bank.

DATED at Toronto, this _____ day of _____, 2016.

KPMG Inc. in its capacity as Court-appointed
Liquidator of Maple Bank GmbH (Toronto Branch)
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5
Canada

Attention: Sven Dedic: sdedic@kpmg.ca
Fax: (416) 777-3364
Phone: (416) 777-3091

SCHEDULE "F"

DISPUTE NOTICE

We hereby give you notice of our intention to dispute the Notice of Disallowance bearing Reference Number _____ and dated _____ issued in respect of our claim.

Reasons for Dispute (attach additional sheet and copies of all supporting documentation if necessary):

Name of Creditor: _____

(Signature of individual completed this Dispute)

Date

(Please Print Name)

Telephone Number: _____

E-mail Address: _____

Facsimile Number _____

Full Mailing Address: _____

**THIS FORM TO BE RETURNED BY PREPAID ORDINARY MAIL, COURIER,
PERSONAL DELIVERY OR ELECTRONIC OR FACSIMILE TRANSMISSION
AND BE RECEIVED BY THE LIQUIDATOR NO LATER THAN 4:00 P.M.
(EASTERN STANDARD TIME) ON [X] TO:**

KPMG Inc. in its capacity as Court-appointed
Liquidator of Maple Bank GmbH (Toronto Branch)
Bay Adelaide Centre
333 Bay Street, Suite 4600
Toronto, ON M5H 2S5
Canada

Attention: Sven Dedic: sdedic@kpmg.ca
Fax: (416) 777-3364
Phone: (416) 777-3091