

Court File No. CV-16-11290-00CL

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

SECOND REPORT OF KPMG INC. in its capacity as

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

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1. INTRODUCTION AND PURPOSE OF REPORT

BACKGROUND TO THE WINDING-UP ORDER

1. As more fully described in the proposed Liquidator's report to this Court dated February 16, 2016 (the "**First Report**"), Maple Bank GmbH ("**Maple Bank**") is a Canadian-owned German bank, and an "authorized foreign bank" in Canada as defined 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 (the "**Toronto Branch**") by the Office of the Superintendent of Financial Institutions (the "**Superintendent**" or "**OSFI**").
2. The recent emergence of significant German tax claims against Maple Bank (said to arise from alleged tax evasion in Germany) and resulting indebtedness of Maple Bank led to:
 - i. BaFin issuing a "Moratorium" order essentially requiring Maple Bank to cease business and then instituting insolvency proceedings in Germany (the "**German Insolvency Proceedings**");
 - ii. appointing a German insolvency administrator (the "**GIA**");
 - iii. issuing of default notices and terminating of agreements with various financial institutions in respect of their dealings with Maple Bank's business in Canada (the "**Business**");
 - 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; and
 - v. the Superintendent issuing orders under section 619 of the *Bank Act* for taking control of the assets of Maple Bank in respect of its business in Canada (i.e. Toronto Branch).
3. These events prompted the Superintendent to request that the Attorney General of Canada seek a winding-up order pursuant to section 10.1 of *Winding-Up and Restructuring Act*

(the “WURA”) in respect of Toronto Branch. On February 16, 2016 (the “Winding-Up Date”), this Court granted an order (the “Winding-Up Order”) to (i) wind-up the Business; and (ii) appoint KPMG Inc. (“KPMG”) as liquidator (the “Liquidator”) of the Business and of the assets of 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 dated February 17, 2016 are attached hereto as Appendices A and B, respectively.

TERMS OF REFERENCE AND DISCLAIMER

4. 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 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 this Honourable 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 the CAS in respect of the Information.
5. 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.
6. Capitalized terms not defined in this Second Report are as defined in the Winding-Up Order. Unless otherwise indicated, all references to monetary amounts herein are denominated in Canadian dollars (“CAD”).
7. Copies of the Liquidator’s Reports, including a copy of the First Report, this Second Report, and all motion records and Orders in the WURA proceeding are available on the Liquidator’s website at <http://www.kpmg.com/ca/maplebank>.

PURPOSE OF THE LIQUIDATOR'S SECOND REPORT

8. The purpose of this second report of the Liquidator (the “**Second Report**”) is to provide information to this Honourable Court in respect of:
- i. An update on the actions of the Liquidator since the granting of the Winding-Up Order, including the Liquidator’s:
 - a) ongoing communications and consultation process with the GIA;
 - b) discussions and negotiations with CMHC with respect of the Toronto Branch’s MBS business; and,
 - c) discussions with various originators, servicers and derivative counterparties to as it relates to the Business of the Toronto Branch;
 - ii. An update on the status of certain assets recorded on the books and records of the Toronto Branch and domiciled in the United States;
 - iii. Details of a proposed marketing process to identify a successor issuer of the Toronto Branch’s MBS program and for the sale of all or a portion of the Assets and the Liquidator’s recommendations related thereto.

2. LIQUIDATOR'S ACTIVITIES SINCE APPOINTMENT

9. On February 10, 2016, pursuant to paragraph 619(1)(a) of the *Bank Act*, OSFI took temporary control the Assets with the assistance of KPMG. At this time KPMG took certain steps to preserve and protect the Assets. Following the issuance of the Winding-Up Order, KPMG as liquidator continued to secure and safeguard the Assets and premises as required, including:
- i. restricting key card access of all employees of the Toronto Branch and Maple Securities Canada Limited (“MSCL”), a related party shared tenant, excluding select information technology (“IT”) personnel who require access to the server room in the case of emergency;
 - ii. arranging for surveillance of the Toronto Branch office premises (the “Premises”) during non-business hours including a daily log of authorized individuals (to date there has been no breaches of the security protocol);
 - iii. identified the Toronto Branch’s IT systems and processes and established control of the systems in a manner that maintained the integrity of the data, systems and processes, including terminating remote access to the systems and restricting physical access to the on-site servers without Liquidator approval;
 - iv. preparing a full volume backup of the financial and other information as of the Winding-Up Date in addition to weekly updates which are stored in a secured evidence vault;
 - v. notified the Bank of Montreal (“BMO”) which maintains all of the Toronto Branch’s bank accounts, of the issuance of the Winding-Up Order, changed signing authorities and took possession of all banking key fobs which are required to process disbursements; and
 - vi. notified affected suppliers and all financial institutions who are known counterparties to financial transactions with the Toronto Branch (i.e.

derivative transactions, repurchase agreements, etc.) of the Liquidator's appointment and the Winding-Up Order.

Employees

10. The Liquidator obtained an employee organization chart for the Toronto Branch. The Liquidator met with executives and certain department heads of the Toronto Branch to understand employees' roles and responsibilities, as well as which employees would be required by the Liquidator to complete the winding-up process.
11. On February 17, 2016, the Liquidator met with all employees of the Toronto branch and issued termination letters. On February 24, 2016, the Liquidator issued new term and task letters to 14 of the 21 employees that were retained on consultancy agreements.

Independent Counsel

12. The Liquidator has retained Gowling WLG ("Gowlings") as Canadian independent legal counsel and Willkie Farr & Gallagher LLP ("Willkie") as U.S. independent legal counsel. U.S. counsel was required to assist with legal matters pertaining to Toronto Branch assets located in the U.S.

Derivative Settlement Process

13. Prior to the appointment of the Liquidator, the Toronto Branch had derivative and financial instrument portfolios with a number of third party counterparties, some of which involved the exchange of collateral cash and bonds.
14. The moratorium on Maple Bank's business activities issued by BaFin was an event of default under all of the derivative and financial instruments and resulted in each of the counterparties terminating their respective arrangements.
15. The Liquidator is working with Toronto Branch and respective counterparties to reconcile any differences in value upon termination and settle these accounts.
16. The Liquidator continues to work with a certain financial institution regarding a specific repurchase transaction as further detailed in **Section 10** of this report.

Coordination with various Stakeholders

17. Since the issuance of the Winding-Up Order, the Liquidator has spent considerable time working with various financial and regulatory stakeholders including:
- i. the GIA on various estate administration matters, including the interim winding-up plan;
 - ii. CMHC on issues relating to the MBS business, including entering into a memorandum of understanding;
 - iii. OSFI as it relates to regular estate updates 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;
 - vi. structured loan counterparties as it relates to continued loan servicing obligations;
 - vii. related entities as it relates to various financial transactions and reconciliations;
 - viii. potential acquirers of various aspects of the Assets; and
 - ix. various other general stakeholders
18. Further details and the results of the Liquidator's interactions with the CMHC and the GIA are further detailed in **Section 7** and **Section 9** below.

3. SUMMARY OF ASSETS

19. The following table is a summary of the Toronto Branch's primary asset groups according to its financial books and records¹ as at the date of the Liquidator's appointment.

Summary of Primary Assets	
As at February 16, 2016	
Amounts in SCAD Millions	Total
Cash	316.9
Securities	492.2
Mortgages ⁽¹⁾	224.1
Structured loans	361.8
Derivative instruments	158.3
Intercompany receivables ⁽²⁾	27.5
Other assets	0.8
Total Assets	1,581.7

Notes:

- (1) Mortgage business was reported by the Toronto Branch as \$3.7 billion asset and \$3.5 billion liability. For the purposes of this analysis we have shown the net amount.
- (2) Intercompany balances are as per the books and records of the Toronto Branch and have not been subject to intercompany reconciliations with respective counterparties.

Cash

20. The Toronto Branch maintains all of its bank accounts with BMO in Canada. The cash balance at the date of the Winding-Up Order consisted of \$282.6 million² in CAD accounts and \$26.0 million in USD accounts.

Securities

21. 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-

¹ Including off-balance sheet items

² Including approximately \$8.3 million of restricted cash relating to the Mortgage Reserve Account as further defined and described herein

Up Order, the Toronto Branch had a total of \$467.5 million of CED at BMO Trust and approximately \$24.6 million in various other securities. The Toronto Branch's security portfolio includes municipal bonds, National Housing Act ("NHA") MBS pools, Government of Canada treasury bills and Schedule 1 bankers' acceptance notes.

22. The Liquidator is working with the GIA to formulate a plan to transition the CED portfolio from the various bonds described above to lower risk treasuries in order to minimize the Toronto Branch's exposure to interest rate and credit swap spread risks.

Mortgages

23. The Toronto Branch's Securitized Products Group's ("SPG") mortgage business can be summarized in the following three stages:
 - i. **Stage 1** – CMHC or privately insured mortgages were purchased from up to five (5) different originators;
 - ii. **Stage 2** – Most of these purchased mortgages were then pooled into mortgage backed securities ("NHA MBS") issued by the Toronto Branch under the NHA MBS program (as defined in **Section 6**); and
 - iii. **Stage 3** – The vast majority of the NHA MBS were then sold by the Toronto Branch to Canada Housing Trust No. 1 under the Canada Mortgage Bond Program as further described herein, with the balance being sold to the public.

The net asset balance of the SPG mortgage business is primarily comprised of the following assets or future cash flow value at each step in the process:

- i. **Stage 1** - approximately \$35 million of CMHC or privately insured mortgages that have not been pooled under the NHA MBS Program;
- ii. **Stage 2** - approximately \$117 million of unsold NHA MBS; and
- iii. **Stage 3** – if Maple Bank was not in default, the positive cash flow spread between the interest earned on the NHA MBS pools and the interest paid on such NHA MBS held by the investors, as further described in **Section 6**.

Structured Loan Portfolio

24. The structured loan portfolio consists of the Immigrant Investor Program (“IIP”) and various commercial loans, which had remaining book balances at the date of the Winding-Up Order of approximately \$223.3 million and \$138.5 million, respectively.
25. The IIP was created by the Canadian and Quebec government to attract successful business immigrants to Canada. In order to qualify an individual must have a net worth of at least \$1.6 million and deposit \$400,000 to \$800,000 with either Citizenship and Immigration Canada (“CIC”) or Investissement Quebec (“IQ”), for a period of 5 years at 0% interest. In exchange the individuals would receive a promissory note guaranteed by either by the government of Quebec or the government of Canada (provincially allocated). The Toronto Branch would provide financing with the promissory notes as collateral.
26. The IIP represents a series of approximately 440 notes with various maturity dates through June 10, 2019. Upon maturity, the Toronto Branch provides the IIP notes to either IQ or CIC for redemption, representing a risk free investment that matures over time.
27. The revolving commercial loan portion of the portfolio is comprised of loans provided to finance mortgage origination, energy related receivables, and life insurance policies. All loans are secured by the underlying asset being financed and mature between 2016 and 2018.

Derivative Instruments

28. Historically, Toronto Branch entered into derivative contracts to hedge against currency and interest rate risk inherent in its securities portfolio and term deposit liabilities. On the Winding-Up Date, all derivative contracts, with the exception of a contract with Interactive Brokers (“IB”), were in default as a result of the “moratorium” issued by BaFin. According to the Toronto Branch’s records all the derivative contracts are in receivable positions with an estimated balance of approximately \$63.7 million before counterparty reconciliations including any costs incurred by the various non-defaulting counterparties to those derivative contracts.
29. The Toronto Branch also entered into a number of repurchase agreements (“Repos”) and reverse repurchase agreements (“Reverse Repos”) for various securities with both related

and third party counterparties. The net effect of these Repos/Reverse Repos with third parties resulted in an estimated asset position of approximately \$25.7 million.

30. The Toronto Branch also had a receivable from IB of approximately \$69.1 million at the Winding-Up Date representing cash and foreign exchange futures contracts with IB that was, in turn, to be used by Toronto Branch in order to enter into derivative contracts for hedging purposes. On March 16, 2016 the two (2) foreign exchange future positions held with IB matured and were settled resulting in the Toronto Branch's IB account having approximately \$65 million across its CAD, USD and EURO accounts. As at the date of this report, the Liquidator has opened a euro denominated account with a Canadian bank and is in the process of closing out the IB accounts and transferring the balance of approximately 50 million euros.

Intercompany Receivables

31. Based on company records, the Toronto Branch is in a receivable position with certain related entities primarily as a result of collateral securities provided to MSCL, and the net effect of a related party loan arrangement and interest rate swaps with Maple Holdings Canada Limited ("MHCL"). The Toronto Branch, MSCL and MHCL are currently working on preparing a detailed reconciliation of intercompany amounts which will then be reviewed by the Liquidator.

Other Assets

32. Other assets of the Toronto Branch are comprised of fixed assets, prepaid expenses, leasehold improvements, and miscellaneous interest receivables.

4. **SUMMARY OF LIABILITIES**

33. Toronto Branch's primary liabilities, according to its books and records as at February 16, 2016 are as follows:

Summary of Primary Liabilities	
As at February 16, 2016	
Amounts in SCAD Millions	Total
Term deposit liability	(686.0)
Mortgage reserve account	(6.7)
Employee related Payable	(6.2)
Income tax payable	(5.3)
Other trade creditors	(3.5)
Related party liabilities	(41.7)
Total Liabilities ⁽¹⁾	(749.4)

Notes:

- (1) Summary above excludes certain liabilities related to the CMHC mortgage securitization which have been netted against the mortgage assets in the previous section. Also excludes any amounts recorded as liabilities due to Maple Bank GmbH in the company's books and records.

Term Deposit Liability

34. While the Toronto Branch could not accept deposits from Canadian residents, it did accept term deposits from German institutional investors. As at the Winding-Up Date, Toronto branch held EUR 444 million denominated term deposits from 18 German institutional investors which we understand to be insured by either the German Private Commercial Banks Compensation Scheme for Depositors and Investors ("EdB") or the German Banks' Deposit Protection Fund ("GDPF"). As of March 11, 2016 the Liquidator has been advised that the EdB and GDPF had compensated 15 of the 18 depositors for a total of approximately EUR 391.3 million. As result of EdB and the GDPF having made compensation to a majority of the depositors and their likely becoming the estates largest creditor, the Liquidator has opened a dialogue with Mr. Cupei a representative of the EdB and GDPF regarding these Liquidation Proceedings.

Mortgage Reserve Account

35. Toronto Branch was, amongst other things, in the business of acquiring residential mortgages from third party mortgage originators, some of the mortgages being insured by CMHC or private insurers, which mortgages Toronto Branch subsequently pooled and sold into the NHA MBS Program. As part of these transactions, Toronto Branch entered into master mortgage purchase agreements (“**MMPA**”) with each of Paradigm Quest Inc. (“**Paradigm**”), CFF Bank, a subsidiary of Home Trust Company (“**CFF**”), Bridgewater Bank (“**Bridgewater**”), MyNext Mortgage Premier Trust (“**MyNext**”), and Xceed Mortgage Corporation (“**Xceed**”) (collectively, the “**Originators**”).
36. The obligations of the Originators under the MMPA included the indemnification of Toronto Branch for various matters associated with the purchased mortgages including any reduction in the amount of insurance proceeds remitted to Toronto Branch in respect of a purchased mortgage that is attributable to actions or omissions of the mortgage servicer (the “**Indemnification of Mortgage Servicer’s Actions or Omissions**”).
37. In the case of Paradigm, CFF, Bridgewater and MyNext, the Indemnification of Mortgage Servicer’s Actions or Omissions as it related to mortgages insured by certain private insurers was secured by a hold-back of a very small percentage of the purchase price otherwise payable by Toronto Branch to the originator (the “**Mortgage Reserve Account**”). Toronto Branch holds the funds, being granted a security interest in them as it related to the originators’ Indemnification of Mortgage Servicer’s Actions or Omissions. Each month end, to the extent there had been a reduction relative to the prior month end in the principal balance of the mortgages insured by the private insurer, the excess balance in the Mortgage Reserve Account was paid to the relevant mortgage originator (the “**Excess Balance Payment**”). These payments occurred on the tenth business day of each calendar month.
38. As noted in the asset section, the Toronto Branch has approximately \$8.3 million in restricted cash set aside from its operating accounts in order to fund these amounts as they qualify to be released.

Employee Related Payables

39. Employee related payables represent accrued bonuses payable to former Toronto Branch employees in respect of the fiscal year ended September 30, 2015, accruals of bonuses earned for certain employees in the period October 1, 2015 to January 31, 2016 and certain deferred compensation arrangements for certain senior staff. Maple Bank GmbH's compensation policy includes both fixed (i.e. salary) and variable (i.e. bonus) compensation elements. Individual variable compensation elements are generally discretionary and determined in accordance with Toronto Branch's overall results, their business unit's results and the employee's performance and subject to approval by BaFin. The Liquidator and its counsel will review these amounts when and if claimed by Toronto Branch employees pursuant to the claims process to be implemented by the Liquidator after receiving approval from the Court.

Income Tax Payable

40. Income tax payable represents the net estimated corporate income tax liability as recorded on Toronto Branch's financial statements in respect of the fiscal years ended September 30, 2009 through to January 31, 2016. Toronto Branch files its own tax returns in Canada with the Canada Revenue Agency ("CRA") and returns have been filed for fiscal years ended 2009 through to 2014. The fiscal year 2015 tax return is due March 31, 2016.
41. The \$5.3 million liability is comprised of approximately \$10.0 million for the estimated 2015-2016 tax liability that is partially set-off by a receivable of approximately \$4.7 million relating to tax reassessments for the period 2009-2012 which Toronto Branch has paid and has filed a notice of objection to appeal the reassessed amounts.
42. On March 3, 2016, Toronto Branch received a reassessment notice in respect of the 2013 fiscal year advising that Toronto Branch's taxable income was approximately \$11 million greater than filed. Management estimates that the additional income tax payable resulting from this reassessment is approximately \$2.9 million.
43. The Liquidator has been advised that in the event that the Toronto Branch is unsuccessful with its appeal of current reassessments and assuming that reassessments are received for

2014 through February 16, 2016 that the total taxes payable to CRA could in the range of \$15.8 million.

44. The Liquidator will work with management, EY (who has prepared Toronto Branch's tax returns since 2002) and the CRA to determine the total net corporate income tax liability for the period 2009 to the Liquidation Date.

Other Third Party Payables

45. The Toronto Branch also has approximately \$3.5 million of other miscellaneous creditors relating to various costs associated with the mortgage warehouse business of the Toronto Branch, potential HST claims and other operating expenses.

Related Party Liabilities

46. As at the Winding-Up Date, Toronto Branch has related party payables with Maple Securities UK Inc. ("MSUK") and Maple Securities USA Ltd ("MSUSA") as a result of Reverse Repo transactions. The Liquidator will work with the related parties to reconcile the amounts payable which may result in material movements in these amounts.

Potential Creditors and/or Claims

47. **Employee Termination and Severance Claims** - in addition to the recorded liabilities detailed above, Toronto Branch is liable to its employees for termination notice and severance pay resulting from their termination pursuant to the Winding-Up Order. These liabilities are not recorded in Toronto Branch's financial records. The Liquidator estimates that the total termination and severance liability due to these employees is approximately \$5.4 million. Toronto Branch's share of this liability may be less than \$5.4 million as some of these employees provided services to Toronto Branch and other Maple Financial Group affiliates. The Liquidator's preliminary estimate is subject to review by its legal counsel, which review will be undertaken when employee claims are filed pursuant to the Claims Process.
48. **Potential Contractual Liabilities** – The results of the Marketing Process (as defined herein) and the liquidation of the structured loan portfolio may give rise to various contractual obligations and/or claims that could be material. As at the date of this report,

the Liquidator is not in a position to estimate the potential magnitude of these potential claims.

5. CHAPTER 15 PROCEEDINGS

50. After the commencement of the German Insolvency Proceedings, the GIA filed a petition for recognition of the German Insolvency Proceedings in the U.S. Bankruptcy Court for the Southern District of New York (the “**U.S. Bankruptcy Court**”) under Chapter 15 of the U.S. Bankruptcy Code, (the “**Chapter 15 Proceeding**”).
51. In accordance with its statutory duties, immediately following the issuance of the Winding-Up Order, the Liquidator sought to secure and safeguard all assets listed on the Toronto Branch’s financial books and records, including assets domiciled in the U.S. (the “**U.S. Assets**”). In furtherance of this objective, as noted above, the Liquidator retained Willkie as U.S. Counsel to provide advice with respect to the intended effect of the Proposed Chapter 15 Proceeding on the Liquidator’s statutory and court ordered obligations to secure, safeguard and repatriate the U.S. Assets to Canada. In this regard, the Liquidator considered whether it would be necessary to obtain an order under Chapter 15 of the U.S. Bankruptcy Code (the “**Bankruptcy Code**”) recognizing the Canadian WURA proceeding as either a foreign main or foreign non-main proceeding.
52. The Liquidator was also advised by Canadian counsel to the GIA, that the GIA has a statutory duty under the German Insolvency Act to take into its custody or control all of the assets of Maple Bank regardless of their jurisdiction.
53. Throughout the week of February 22, 2016, in order to address the competing statutory duties of the Liquidator and the GIA, and in the spirit of the Winding-Up Order which provides for consultation and cooperation between the Liquidator and the GIA, the Liquidator, the GIA and their respective Canadian and U.S. Counsel commenced extensive negotiations in order to reach a protocol in respect of the U.S. Assets (the “**Protocol**”).
54. On February 28, 2016, the Liquidator and the GIA reached an agreement on the Protocol which provides for an interim resolution with respect to issues surrounding the interaction between the Proposed Chapter 15 Proceeding and the U.S. Assets. The Liquidator has previously updated the Court with respect to the Protocol as attached in Appendix D of the First Report of the Liquidator dated March 2, 2016.

55. On March 2, 2016, the Liquidator and the GIA entered into a stipulation (the “**Stipulation**”), which embodies the terms of the Protocol. The Stipulation was filed with the U.S. Bankruptcy Court on March 3, 2016 as part of the GIA’s revised proposed recognition order.
56. On March 10, 2016, Judge Glenn of the U.S. Bankruptcy Court held a hearing on the recognition of the German Insolvency Proceeding and the agreed-upon Stipulation. Representatives of the GIA and the Liquidator, along with their respective U.S. counsel, were in attendance. On March 11, 2016, Judge Glenn endorsed the order (i) recognizing the German Insolvency Proceeding as the foreign main proceeding (the “**Recognition Order**”) and (ii) approving the terms of the Stipulation. The Recognition Order and endorsed Stipulation are attached hereto as Appendix C.
57. Pursuant to the Stipulation, the GIA and the Liquidator agreed, among other things, that:
- i. The stay under section 1521 and 362 of the Bankruptcy Code shall not apply to the Liquidator in respect of the U.S. Assets;
 - ii. Solely with respect to the U.S. Assets, the Liquidator has full standing in the Chapter 15 Proceeding;
 - iii. The Liquidator and the GIA will use reasonable efforts to coordinate, cooperate and, to the extent practicable, act jointly with respect to the U.S. Assets, including administering, collecting on, commencing and participating in lawsuits with respect to, and liquidating such U.S. Assets;
 - iv. All cash collections, proceeds or recoveries collected from the U.S. Assets will be placed into an account, which will be under the joint control of both the Liquidator and the GIA (the “**Joint Control Account**”). Any disposition, distribution or directive of any kind related to the proceeds in the Joint Control Account must be mutually agreed upon by both the Liquidator and the GIA. Absent such agreement, no action may be taken with respect to any amounts in the Joint Control Account subject to dispute except in accordance with a final,

non-appealable order of the Bankruptcy Court or other U.S. court of competent jurisdiction resolving such dispute;

- v. To the extent any issue, conflict or disagreement related to the U.S. Assets arises, the Liquidator and the GIA agree, in the first instance, to jointly request that the Bankruptcy Court resolve such issues;
- vi. Notwithstanding the terms of the Stipulation, in the event that recognition of the Canadian WURA Proceeding under Chapter 15 or the Liquidator as a foreign representative of the Toronto Branch is required in order to seek relief, or to preserve any rights, in respect of the U.S. Assets, the Liquidator shall seek such recognition and the GIA reserves all rights to oppose such recognition; and
- vii. The Liquidator and the GIA reserve all of their rights in respect of, the allocation or distribution of the U.S. Assets (including any collections, proceeds or recoveries in respect thereof) or amounts in the Joint Control Account to or for the benefit of their respective estates.

6. CMHC AND THE NHA MBS PROGRAM

CMHC and the Administration of the NHA MBS Program

58. As outlined in further detail in the NHA Mortgage-Backed Securities Guide (the “**NHA MBS Guide**”), CMHC is responsible for the administration of the NHA MBS Program. As administrator of the NHA MBS Program and guarantor of all securities issued pursuant to it, CMHC is charged with protecting the interests of: (i) all holders of NHA MBS; and (ii) the taxpayers of Canada, who are ultimately responsible, should any claim be made under the CMHC guarantee. Under the NHA MBS Program:
- i. CMHC administers the NHA MBS Program to contribute to a stable housing finance system by helping eligible lenders (“**Approved Issuers**”) access an adequate supply of funds for housing loans;
 - ii. Lenders, if approved upon application to CMHC, may issue NHA MBS to investors which are fully guaranteed by CMHC, as to timely payment of principal and interest;
 - iii. In connection with each permitted issuance of NHA MBS, Approved Issuers agree to transfer all legal and beneficial title to the corresponding pool of mortgages to CMHC to be held by CMHC, in trust, for investors in NHA MBS and for CMHC, as guarantor, subject to the terms and conditions set out in the NHA MBS Guide;
 - iv. Principal and interest revenues from the pool of mortgages are deposited by the mortgage servicer into a special-purpose trust/custodial account, (the “**SPTC Account**”) which the central payor and transfer agent (the “**CPTA**”) for the Program then debits monthly in order to pay NHA MBS investors principal and interest owing to them;
 - v. All principal and interest cash flow from the mortgage pools is legally owned by CMHC, subject to a trust in favour of NHA MBS investors to pay all amounts owing to them, and may be applied to pay any fees and expenses of

CMHC and for so long as the Approved Issuer is not in default, to pay the Interest Only Spread (as defined in paragraph x below) to the Approved Issuer as provided in the NHA MBS Guide.

- vi. Approved Issuers assemble and administer the mortgage pool themselves, and may service the mortgages themselves or may retain one or more sub-servicers (the “**Mortgage Sub-Servicers**”) to do so;
- vii. CMHC is not bound in any manner by any agreement made between an Approved Issuer and a Mortgage Sub-Servicer. Mortgage Sub-Servicers must expressly acknowledge that their rights vis-à-vis the Approved Issuer, under any contract or otherwise, are subordinate to the rights of CMHC under the NHA MBS Program;
- viii. Pursuant to a Letter of Agreement (the “**Letter Agreement**”) with a deposit-taking financial institution and the Approved Issuer, deposits made in the SPTC Account are subject to withdrawal therefrom by the Approved Issuer, or by or upon the written demand of CMHC;
- ix. Pursuant to the Letter Agreement, the parties have also agreed that the authority of the Approved Issuer with respect to the SPTC Account may be revoked by CMHC and any instruments drawn upon the SPTC Account by the Approved Issuer or any party other than CMHC may not be honoured;
- x. Any balance in the SPCT Account remaining after amounts owing to NHA MBS investors, and to CMHC and NHA MBS Program service providers for unpaid guarantee fees, other fees and expenses, may be withdrawn by the Approved Issuer monthly, as long as the Approved Issuer remains in good-standing under the NHA MBS Program (this positive spread between the interest earned on the NHA MBS pools issued by the Approved Issuer and the interest paid on the corresponding bonds held by such investors (this spread is referred to as the “**Interest Only Spread**” or the “**IO Spread**”));
- xi. If an Approved Issuer is in default, CMHC may become the named account-

holder of the SPTC Account into which payments related to the mortgage pools must be deposited, and may also direct the Mortgage Sub-Servicer(s) to deposit all future principal and interest revenues from the mortgage pools to such new account; and

- xii. CMHC may also, in its sole and absolute discretion, approve a Successor Issuer, which will take on the rights and responsibilities of an Approved Issuer under or in connection with the NHA MBS pools from that point forward after the Approved Issuer's default.

- 59. CMHC's position is that an Approved Issuer has no property right in the IO Spread. When in good standing, an Approved Issuer may have access to the IO Spread. Where an Approved Issuer is in default, pursuant to Chapter 13 of the NHA MBS Guide, an Approved Issuer's rights in the IO Spread are terminated.

CMHC takes control of the NHA MBS business of Maple

- 60. Prior to February 9, 2016, Maple Bank was an Approved Issuer under the NHA MBS Program. Maple Bank retained a number of mortgage servicers (and, in some cases, permitted mortgage sub-servicers) (collectively, the "**Maple Bank Servicers**") to service the mortgage pools in respect of the NHA MBS issued by the Toronto Branch as at the Winding Up Date (the "**Mortgage Pools**") under mortgage administration agreements.
- 61. On February 9, 2016, CMHC, as administrator for the NHA MBS Program, issued a notice of default suspending the Toronto Branch as an Approved Issuer of NHA MBS. The suspension was the result of restrictions placed on the operations of Maple Bank by BaFin that affected Maple Bank's ability to fulfill its obligations as an Approved Issuer. In addition, CMHC took control of the SPTC Account into which collections from the Mortgage Pools were deposited and arranged for all future principal and interest payments from the Mortgage Pools to be deposited into a CMHC controlled bank account. A copy of the notice of default sent by CMHC dated February 9, 2016 is attached hereto as Appendix D.

62. Upon Maple Bank's default under the NHA MBS Program, it is CMHC's position that all monies arising in respect of the Mortgage Pools were assets of CMHC, as guarantor, in trust for the investors in the NHA MBS issued by Maple Bank and that all Maple Bank Servicers, upon receiving notice of Maple Bank's default by CMHC, were required pursuant to the Mortgage Pool Transfer Agreement (a prescribed form of agreement under the NHA MBS Program) between CMHC and Maple Bank to deposit all monies received from the Mortgage Pools to a custodial account of Computershare Trust Company of Canada, as directed by CMHC.
63. On February 12, 2016, CMHC invited a proposal by, or on behalf of Maple Bank as to a suitable institution to assume Maple Bank's responsibilities as an Approved Issuer under the NHA MBS Program (the "Successor Issuer"). A copy of CMHC's letter to Maple Bank dated February 12, 2016 is attached hereto as Appendix E.

7. *NEGOTIATION OF AN MOU WITH CMHC AND THE MARKETING PROCESS*

64. The Liquidator, pursuant to the Winding-Up Order, is authorized to market any or all of the Assets. In this regard, the Liquidator is of the view that it is appropriate to expose to the market, and ultimately sell, through a traditional, multi-phased process, the following Toronto Branch assets:
- i. Approximately \$35 million of CMHC insured mortgages that have not yet been pooled;
 - ii. Approximately \$117 million of NHA MBS (subject to payment of the guarantee fee to CMHC as required under the NHA MBS Guide);
 - iii. The mortgage originating agreements that Toronto Branch had in place as at the Winding-Up Date;
 - iv. The mortgage servicing agreements that Toronto Branch had in place as at the Winding-Up Date;
 - v. Its mortgage aggregation processes, policies and business; and
 - vi. Its Structured Loan portfolio to the extent certain of the loans are not being unwound.

(All of the assets described above being collectively the “Toronto Branch Assets”).

65. The Liquidator is not proposing to dispose of the various investments comprising Toronto Branch’s Capital Equivalency Deposit through the marketing process outlined below, as these are very liquid instruments that are more appropriately sold through publicly traded capital markets.
66. As a result of the Memorandum of Understanding dated March 16, 2016 (the “MOU”) entered into between CMHC and the Liquidator, as described in further detail in below, the Liquidator will have, on behalf of the estate of the Toronto Branch, an interest in the IO Spread to the extent of funds remaining after deducting all of CMHC’s fees, expenses and other amounts that CMHC is entitled to collect from payment(s) (if any) that each Successor Issuer makes to CMHC for the right to be the Successor Issuer.

67. Immediately after its appointment, the Liquidator requested a meeting with CMHC in order to discuss the prospect of the Liquidator coordinating its anticipated marketing process to sell certain, or all of the Toronto Branch Assets, with CMHC's intended goal of finding the Successor Issuer, acceptable to CMHC with respect to the NHA MBS business of Maple Bank and the disposition of any payment(s) received from the Successor Issuer. After a series of discussions and meetings, CMHC and the Liquidator entered into an MOU, a copy of which is attached as Appendix F. The MOU contemplates, *inter alia*, the following:
- i. exchange of information between CMHC and the Liquidator;
 - ii. consultation and cooperation in connection with a proposed marketing process to be undertaken by the Liquidator to find:
 - a) the Successor Issuer, acceptable to CMHC, for the Mortgage Pools;
and
 - b) a purchaser for all, or a portion of the Toronto Branch's Assets, which may also be attractive to a Successor Issuer, including its inventory of CMHC insured mortgages that have not yet been pooled, its NHA MBS held as an investor and its mortgage aggregation processes, policies and business.
 - iii. Notwithstanding CMHC's position that it has no obligation to do so, after a Successor Issuer has been selected and approved by CMHC (whether through a marketing process or otherwise), and provided that: a) the Successor Issuer will pay as part of the transaction an amount (if any) to become a Successor Issuer whether at closing or at agreed times thereafter (collectively, the "**Successor Issuer Payment**"), and b) there is a positive amount left from the total of the IO Spread collected by CMHC pre-closing since February 9, 2016 plus the Successor Issuer Payment after any amount required by the Successor Issuer to be paid to it to become the Successor Issuer (other than post-closing IO Spread), and all fees, transaction costs and expenses of CMHC including any expenses related to Toronto Branch's default (the "**Maple Default Costs**")

have been paid in full from such total amounts, the amount remaining will be contributed to the Liquidator by CMHC, as soon as practicable following closing of the Successor Issuer transaction. This provision survives any termination of the MOU by CMHC; and

- iv. Once the transaction with respect to the Successor Issuer(s) has been completed and all Maple Default Costs have been recovered by CMHC, CMHC will no longer have a claim in the estate of Maple Bank.
68. The MOU further provides that notwithstanding any consultation, or agreement by CMHC with the Liquidator with respect to the Marketing Process, CMHC's statutory rights and discretion to select and approve the Successor Issuer are in no way limited or prejudiced.
 69. In furtherance of the MOU, the Liquidator, in consultation with CMHC, has developed a multi-phased marketing process to identify one of more Successor Issuers for the NHA MBS issued by the Toronto Branch (the "**Successor Issuer Marketing Process**") and for the sale of all, or a portion, of the Toronto Branch Assets (the "**Maple Assets Marketing Process**" and with the Successor Issuer Marketing Process, collectively, the "**Marketing Process**"). The Maple Assets Marketing Process will run in tandem with the Successor Issuer Marketing Process.
 70. In the case of the Maple Asset Marketing Process, there will also be a parallel marketing process with respect to the Structured Loan portfolio assets (the "**Structured Loans Marketing Process**").
 71. Proposals made pursuant to the Successor Issuer Marketing Process cannot be made conditional upon being successful on an offer for one or more of the Toronto Branch Assets.
 72. CMHC, in consultation with the Liquidator, will decide those parties that will be allowed to participate in the Successor Issuer Marketing Process, those that proceed from each phase of the Successor Issuer Marketing Process into the next phase, and ultimately to be selected as a Successor Issuer. CMHC agrees to collaborate with the Liquidator for a

period of 80 days following the execution of the MOU in respect of implementing and carrying out the Successor Issuer Marketing Process.

73. The Liquidator will be developing separate lists of parties who will be invited to participate in the Maple Assets Marketing Process and the Structured Loans Marketing Process. Participants in the Successor Issuer Marketing Process will be automatically invited to participate in either the Maple Assets Marketing Process or the Structured Loans Marketing Process.
74. Accordingly, the Liquidator requests that the Court approve the Marketing Process, a copy which is attached hereto as Appendix G. The key milestones and timelines for the Marketing Process are summarized below:

Summary timelines of the Marketing Process		
Phase/Event	Indicative Date	Description of Activities
Marketing Process Order	April 1, 2016	<ul style="list-style-type: none"> If authorized, the Court grants an order approving the marketing process (the “Marketing Process Order”)
Phase 1	April 13- May 6, 2016	<ul style="list-style-type: none"> To last for a period of approximately 3 weeks after the granting of the Marketing Process Order Solicitation of non-binding letters of intent (“LOI”s) for Successor Issuer or Toronto Branch Assets.
Phase 1 Bid Deadline	May 6, 2016	<ul style="list-style-type: none"> 5:00pm EST on May 6, 2016 LOIs will be considered in regard to the requirements of the Marketing Process.
Assessment of LOIs	By May 17, 2016	<ul style="list-style-type: none"> Within 7 business days following the Phase 1 Bid Deadline, the LOIs received will be assessed to determine which LOIs will be qualified to move onto Phase 2. Decision regarding Successor Issuer will be made by CMHC in consultation with Liquidator. Decision regarding Toronto Branch Assets will be made by the Liquidator.
Phase 2	May 18, 2016	<ul style="list-style-type: none"> For a period of approximately 4 weeks after the identification of LOIs, Successor Issuer Offeror(s) and/or Toronto Branch Asset Sale Offeror(s) to conduct additional due diligence and prepare irrevocable bids During Phase 2, Successor Issuer Offeror(s) and/or Toronto Branch Asset Sale Offeror(s) will be given access to a more complete data room and the opportunity to meet with management.
Phase 2 Bid Deadline	June 17, 2016	<ul style="list-style-type: none"> 5:00pm EST on June 17, 2016 Successor Issuer Offeror(s) and/or Toronto Branch Asset Sale Offeror(s) deliver their Successor Issuer Offer(s) and/or Toronto Branch Asset Sale Proposal(s) prior to the Phase 2 Bid Deadline
Evaluation and Selection of the Successor Issuer Offer(s) and/or Toronto Branch Asset Sale Proposal(s)	June 28, 2016	<ul style="list-style-type: none"> Terms of all Successor Issuer Offer(s) and/or Toronto Branch Asset Sale Proposal(s) will be clarified CMHC, in consultation with the Liquidator, will select one or more Qualified Successor Offers and complete one or more agreements (the “Accepted Successor Issuer Offer”) The Liquidator will select the most favorable Qualified Sale Proposal(s) and negotiate the terms of the agreement(s) (the “Accepted Toronto Branch Sale Offer(s)”)

Phase 3 Due Diligence and Court Approval	June 29 – July 27, 2016	<ul style="list-style-type: none"> • Final due diligence on mortgage underwriting and opportunity to meet third party stakeholders (e.g. originators, servicers) • Court approval of Accepted Toronto Branch Sale Offer(s).
Closing of any Accepted Successor Issuer Offer(s) and Accepted Toronto Branch Asset Sale Offer(s)	August 31, 2016 or later date agreed to by all parties	

75. Based on the proposed timeframe, the final closing of the Accepted Successor Issuer Offer (as defined in the Marketing Process) and the Accepted Toronto Branch Asset Sale Offer(s) (as defined in the Marketing Process) are contemplated to occur by August 31, 2016 but could be subject to an extension should the Liquidator and CMHC be in agreement. The Liquidator is of the view that the timeframe is commercially reasonable given the nature of the Toronto Branch Assets, the MBS Business, the expected number of interested parties in the Marketing Process, the due diligence required by the party that ultimately qualifies as the Successor Issuer under the NHA MBS Program, and/or the parties that ultimately acquire all, or a portion of the Toronto Branch Assets.
76. The Liquidator is of the opinion that the Marketing Process will be mutually advantageous to both CMHC and the Liquidator (and ultimately the creditors of Maple Bank) insofar as:
- i. It will avoid duplication of costs, process and efforts to solicit expressions of interest and offers from suitable institutions to become the Successor Issuer, while enabling the Liquidator to market the Toronto Branch Assets;
 - ii. It will allow CMHC to have access to the Marketing Process, as administered by the Liquidator, and the corresponding expertise of the Liquidator with respect to implementing and carrying out a Marketing Process;
 - iii. It will allow the Liquidator to preserve any entitlement it may have to the IO

Spread in an amount equal to: (i) the Successor Issuer Payment plus the IO Spread collected by CMHC since February 9, 2016 less (ii) the Maple Default Costs;

- iv. Once the transaction with respect to the Successor Issuer(s) has been completed and all Maple Default Costs have been recovered by CMHC, CMHC will no longer have a claim in the estate of Maple Bank;
- v. The value of some of the Toronto Branch Assets may be enhanced by being marketed concurrently with the Successor Issuer process; and,
- vi. It provides a cost effective process by which the Liquidator will be able to seek to maximize realizations to the estate of the Toronto Branch for the benefit of all creditors and stakeholders.

8. RECEIPTS AND DISBURSEMENTS

Summary of Receipts and Disbursements

The following table represents a high level summary of total receipts and disbursements for the period February 16 to March 11, 2016.

In the matter of the Winding Up of Maple Bank (Toronto Branch) Statement of Receipts & Disbursements For the period February 16 to March 11, 2016 Amounts in SCAD and SUSD (M)			
	SCAD	SUSD	SCAD Total ⁽¹⁾
Receipts			
Structured Loans	0.8	0.6	1.6
Securitized Products Group	2.2	-	2.2
Securities Finance	26.7	14.6	45.9
Total Receipts	29.8	15.2	49.8
Disbursements			
Payroll	0.3	-	0.3
Occupancy	0.0	-	0.0
Information Technology	-	-	-
Management Fee	-	-	-
Communications	-	-	-
SG&A	-	-	-
Total Disbursements	0.3	-	0.3
Professional Fees	-	-	-
Net Receipts over Disbursements	29.4	15.2	49.5
Opening Cash Balance	282.6	26.0	316.9
Closing Cash Balance	312.1	41.1	366.4

Notes:

(1) \$USD amounts were translated at the closing date of the period (March 11, 2016) at a rate of \$USD = \$CAD 1.3215

Analysis of Receipts and Disbursements

77. Actual receipts for the period are \$49.8 million, and consist primarily of the settlement on maturity of three Reverse Repo transactions with MSUSA and MSCL. These transactions, valued at \$45.9 million, were in the normal course of business and the failure to execute

these transactions may have resulted in MSUSA and/or MSCL, related parties not subject to any insolvency proceedings, defaulting on third party transactions.

78. Receipts from the securitized products group total approximately \$2.2 million. These relate to receipts from the Toronto Branch's in house mortgage and pool but unsold MBS portfolios. Structured loan receipts make up the remaining receipts of \$1.6 million. This includes receipts from the Lakeview loan, the IIP and Retail Energy loan.
79. Actual disbursements for the period total approximately \$300,000 and consist of: (i) payrolls processed on February 25 and March 20, 2016, totalling approximately \$288,000, and (ii) a rent payment to MSCL of approximately \$23,000 in respect of Toronto Branch's share of February's rent.

9. COORDINATION WITH THE GIA

80. Immediately prior to the commencement of the Winding-Up proceedings KPMG entered into a dialogue with the GIA through its Canadian counsel, Stikeman Elliott LLP.
81. Among other things, the dialogue lead to the inclusion in the Winding-Up Order of specific provisions which provided for: (a) a pre-determined level of cooperation between the Liquidator and the GIA; and, (b) provided the GIA with access to certain information related to the Assets of Toronto Branch, including, *inter alia*, the following:
- i. Information regarding the Business and Assets of the Toronto Branch that may be reasonably required in order for the GIA to fulfill its statutory obligations under German law;
 - ii. The development, in consultation with the GIA, of an Interim Winding-Up Plan and a Final Winding-Up Plan within 14 days and 60 days, respectively, related to the administration and liquidation of the Business, Assets and Liabilities of the Toronto Branch; and,
 - iii. Consultation and approval by the GIA of any proposed disposition of Assets or settlement of a claim or liability relating to the Business or Assets of the Toronto Branch in excess of \$10 million, excluding normal course business transactions.
82. Although the Liquidator has determined that a certain degree of conflict exists as between the Winding-Up proceedings and the German Insolvency Proceedings, both the GIA and the Liquidator have been and continue to actively work together for the benefits of each estate, recognizing that it appears likely that there may be a significant distribution from the Canadian estate to the German estate upon completion of the Winding-Up proceedings.
83. The Liquidator has spent significant time and resources providing information to the GIA as well as preparing the Interim Winding-Up Plan which, as of the date of this report, continues to be discussed between the Liquidator and the GIA.

84. Based on follow up discussions with GIA, the Liquidator will attempt to commence a claims process as soon as practically possible. Although, as noted in paragraph 48 above, certain potential contingent contractual claims may not yet be quantifiable.

10. REPURCHASE TRANSACTION WITH A FINANCIAL INSTITUTION

85. The Liquidator has received a request from a financial institution (“**Fin Co**”) to confirm to Computershare Trust Company of Canada in its capacity as Custodian of approximately \$128.2 million face value of NHA MBS issued by the Toronto Branch under the NHA MBS Program that such securities are owned by the Fin Co. The MBS were the subject of certain repo arrangements entered into between the Toronto Branch and Fin Co in connection with the Toronto Branch’s participation in the CMB Program. The Liquidator and its counsel are still in the process of reviewing the repo arrangements to respond to this request and are working co-operatively with the Fin Co.

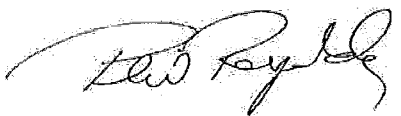
11. LIQUIDATOR'S CONCLUSIONS

86. The Liquidator submits this Second Report to the Court in support of the Liquidator's Motion for the relief as set out in the Notice of Motion filed and requesting that the Court grant an order:
- i. Approving the Second Report, and the activities of the Liquidator described herein;
 - ii. Approving the Marketing Process and authorizing and directing the Liquidator to carry out its obligations as set out therein;
 - iii. Approving the Statement of Receipts and Disbursements for the period February 16, 2016 to March 11, 2016; and
 - iv. Approving the MOU.

All of which is respectfully submitted at Toronto, Ontario this 30th day of March, 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

APPENDIX “A”

**This is Appendix "A" to the
Second Report of the Liquidator**

Court File No. CV-16 - 11290 - 00CL

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

Applicant

and

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

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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:

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- 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

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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;

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- 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

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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

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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

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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

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"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

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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,

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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

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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

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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

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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

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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

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(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,

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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,


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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 A 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-16-11290-0002

**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

APPENDIX “B”

**This is Appendix "B" to the
Second Report of the Liquidator**

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 OSFI, 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. Lavery 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. Lavery 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.

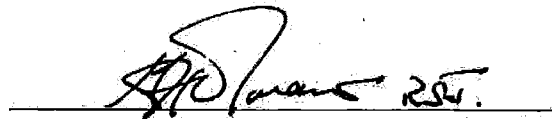
(a) First, section 10.1 authorizes a winding-up order if the Court is of the opinion that, for any reason, it is just and equitable.

(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. Lavery 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.

A handwritten signature in black ink, appearing to read "G.B. Morawetz", is written over a horizontal line.

Regional Senior Justice G.B. Morawetz

Date: February 17, 2016

APPENDIX “C”

**This is Appendix "C" to the
Second Report of the Liquidator**

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

MAPLE BANK GmbH,

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 16-10336 (MG)

Recognition Request Pending

**ORDER GRANTING
VERIFIED PETITIONS FOR RECOGNITION
OF FOREIGN PROCEEDING UNDER CHAPTER 15 AND
MOTION FOR ORDER GRANTING RELATED RELIEF**

Upon the *Verified Petitions for Recognition of Foreign Proceeding Under Chapter 15 and Motion for Order Granting Related Relief* (collectively, the "Verified Petition")¹ filed by the Petitioner, the appointed Insolvency Administrator and duly authorized foreign representative for Maple Bank, GmbH ("Maple Bank" or the "Debtor") and the *Stipulation by and between Dr. Michael C. Frege, as Insolvency Administrator and Proposed Authorized Foreign Representative, and KPMG Inc., as Liquidator in Respect of the Business and Assets of the Debtor's Canadian Branch, Regarding Recognition of Foreign Proceeding under Chapter 15 and Related Relief*, attached as Annex A hereto (the "Stipulation"); and upon consideration of (i) the *Declaration of Dr. Michael C. Frege in Support of Verified Petitions for Recognition of Foreign Proceeding Under Chapter 15 and Motion for Order Granting Related Relief*, and (ii) the *Declaration of Charlotte Schildt in Support of Verified Petitions for Recognition of Foreign Proceeding Under Chapter 15 and Motion for Order Granting Related Relief* (together, the "Declarations"); and the Court having determined that the relief sought in the Verified Petition is in the best interests of the Debtor, its creditors and all parties in interest; and the Court having

¹ Capitalized terms used but not defined herein shall have the meanings ascribed in the Verified Petition or the Stipulation, as appropriate.

considered the evidence and statements regarding the Verified Petition in the documents filed with the Court and at the hearing on the Verified Petition (the "Hearing"); and the Court having determined that the legal, evidentiary and factual bases set forth in the documents filed with the Court at the Hearing and in the Declarations establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is **HEREBY FOUND AND DETERMINED THAT:**

A. The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), made applicable to these proceedings pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction over these matters pursuant to 28 U.S.C. §§ 157 and 1334. These are core proceedings pursuant to 28 U.S.C. § 157(b)(2). Venue is proper in this District pursuant to 28 U.S.C. § 1410.

C. These cases were properly commenced pursuant to sections 1504, 1509, and 1515 of the Bankruptcy Code.

D. The Verified Petition and associated filings meet the requirements of section 1515 of the Bankruptcy Code and Bankruptcy Rule 2002(q).

E. The German Proceeding is a foreign proceeding within the meaning of section 101(23) of the Bankruptcy Code.

F. The German Proceeding is entitled to recognition by this Court pursuant to sections 1515 and 1517(a) of the Bankruptcy Code.

G. Maple Bank's center of main interests is located in Germany and, therefore, the German Proceeding is entitled to recognition as a foreign main proceeding pursuant to sections 1502(4) and 1517(b)(1) of the Bankruptcy Code.

H. The Petitioner is a person as defined in section 101(41) of the Bankruptcy Code and the duly appointed foreign representative of the Debtor within the meaning of section 101(24) of the Bankruptcy Code.

I. The relief sought in the Verified Petition is necessary to effectuate the purpose of chapter 15, and to protect the Debtor and the interests of its creditors and other parties in interest.

J. The Petitioner is entitled to the additional relief set forth herein pursuant to section 1521(a) of the Bankruptcy Code.

K. Notice of the Verified Petition, the Hearing, and the relief requested in the Verified Petition and at the Hearing was proper, adequate, sufficient and comported with due process under the circumstances, and no other or future notice is or shall be required. Now, therefore, it is hereby **ORDERED, ADJUDGED AND DECREED THAT:**

1. Except to the extent set forth herein or in the Stipulation, the Verified Petition is **GRANTED** in its entirety. The relief granted under this Order is subject in all respects to the terms of the Stipulation, which is hereby approved and shall be deemed incorporated herein. All objections and reservations of rights relating to the Verified Petition that have not been withdrawn, waived, or otherwise resolved are overruled in all respects on the merits and denied.

2. The German Proceeding is granted recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code.

3. The Petitioner is recognized as the foreign representative (as defined in section 101(24) of the Bankruptcy Code) of the Debtor.

4. Solely with respect to the Subject Assets, the Canadian Liquidator shall have full standing in this Case and any related case or proceeding concerning the Debtor as the Liquidator of Maple Bank Toronto Branch in the Canadian Winding-Up Proceeding on any and all matters arising out of or related to the Subject Assets, including, without limitation, standing under section 1509(b) of the Bankruptcy Code to sue and apply directly this Court for relief with regard to the Subject Assets.

5. Execution against Maple Bank's assets as well as the commencement or continuation of any action or proceeding concerning Maple Bank's assets, rights, obligations or liabilities is hereby stayed—pursuant to sections 1521(a)(1) and (2) of the Bankruptcy Code—to the extent any such action has not been stayed under sections 362 and 1520(a) of the Bankruptcy Code; provided, that the stay shall not apply to the Canadian Liquidator in respect of the Subject Assets.

6. The right to transfer, encumber or otherwise dispose of any assets of the Debtor is hereby suspended —pursuant to section 1521(a)(3) of the Bankruptcy Code—to the extent any such right has not been suspended under sections 362 and 1520(a) of the Bankruptcy Code; provided, that the restrictions hereunder shall not apply to the Canadian Liquidator in respect of the Subject Assets.

7. The Petitioner is entitled to seek or respond to discovery, examine witnesses, seek and take evidence, and deliver or obtain information concerning Maple Bank's assets, affairs, rights, obligations, or liabilities pursuant to section 1521(a)(4) of the Bankruptcy Code.

8. The Petitioner is entrusted with the administration, realization, and distribution through the German Proceeding of all of Maple Bank's Other Assets within or being monetized in the territorial jurisdiction of the United States, pursuant to sections 1521(a)(5) and 1521(b) of the Bankruptcy Code. The administration, realization and distribution of the Subject Assets shall be entrusted jointly to the Petitioner and the Canadian Liquidator in accordance with the terms of the Stipulation.

9. The Petitioner and the Canadian Liquidator are authorized to take all actions necessary to effectuate the relief granted by this Order without notice or further order of the Court.

10. This Court retains jurisdiction with respect to any matters, claims, rights, or disputes arising from or related to this Order (including the Stipulation), its implementation, or otherwise arising from or related to these cases.

11. This Order shall be effective and enforceable immediately upon entry and its provisions shall be self-executing.

IT IS SO ORDERED.

Dated: March 11, 2016
New York, New York

/s/Martin Glenn
MARTIN GLENN
United States Bankruptcy Judge

ANNEX A
(Stipulation)

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re

MAPLE BANK GmbH,

Debtor in a Foreign Proceeding.

Chapter 15

Case No. 16-10336 (MG)

Recognition Request Pending

STIPULATION BY AND BETWEEN DR. MICHAEL C. FREGE, AS INSOLVENCY ADMINISTRATOR AND PROPOSED AUTHORIZED FOREIGN REPRESENTATIVE, AND KPMG INC., AS LIQUIDATOR IN RESPECT OF THE BUSINESS AND ASSETS OF THE DEBTOR'S CANADIAN BRANCH, REGARDING RECOGNITION OF FOREIGN PROCEEDING UNDER CHAPTER 15 AND RELATED RELIEF

This Stipulation is entered into by and between Dr. Michael C. Frege, in his capacity as the Insolvency Administrator and proposed authorized foreign representative for Maple Bank GmbH ("Maple Bank" or the "Debtor") in respect of the German Proceeding (as defined below) (in such capacity, "German Insolvency Administrator"), and KPMG Inc., in its capacity as the Liquidator for the Canadian branch of Maple Bank ("Maple Bank Toronto Branch") in respect of the Canadian Winding-Up Proceeding (as defined below) (in such capacity, the "Canadian Liquidator," and together with the German Insolvency Administrator, the "Parties") regarding the *Verified Petition for Recognition of Foreign Proceeding Under Chapter 15 and Motion for Order Granting Related Relief*.

RECITALS

WHEREAS Maple Bank is a German bank, regulated by Germany's Federal Financial Supervisory Authority (*Bundesanstalt für Finanzdienstleistungsaufsicht*) ("BaFin");

WHEREAS pursuant to certain permissions and authorizations from Canada's Secretary of State (International Financial Institutions) and Superintendent of Financial Institutions, Maple

Bank established the Maple Bank Toronto Branch to commence and carry on business in Canada as an Authorized Foreign Bank under Canada's *Bank Act*, S.C. 1991, c.46, as amended;

WHEREAS on February 11, 2016, following application by BaFin, the insolvency court at the Frankfurt am Main Lower District Court (*Amtsgericht Frankfurt am Main*) (the "German Court") issued an order (the "February 11 Order") commencing insolvency proceedings in respect of Maple Bank pursuant to Section 11, 16 and 19 of the German Insolvency Act, File No. 810 IN 128/16 M (the "German Proceeding");

WHEREAS pursuant to the February 11 Order, the German Court appointed the German Insolvency Administrator as the Insolvency Administrator (*Insolvenzverwalter*) of Maple Bank;

WHEREAS on February 15, 2016, at the request of Canada's Superintendent of Financial Institutions, the Attorney General of Canada filed an application with the Ontario Superior Court of Justice (the "Canadian Court") for an order administering the winding-up of Maple Bank (the "Canadian Winding-Up Proceeding") pursuant to section 10.1 of the *Winding-up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended ("WURA");

WHEREAS on February 16, 2016, the Canadian Court issued a Winding-Up Order ordering that the business in Canada of Maple Bank be wound up under the provisions of WURA, and appointing the Canadian Liquidator as liquidator, without security, in respect of the winding up of the business in Canada and of the assets as defined in section 618 of the *Bank Act* S.C. 1991, c. 46 of Maple Bank;

WHEREAS on February 15, 2016, the German Insolvency Administrator commenced this proceeding (the "Chapter 15 Case") by filing with the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") the *Chapter 15 Petition for Recognition of a Foreign Proceeding and Verified Petition for Recognition of Foreign Proceeding under Chapter 15 and Motion for Order Granting Related Relief* seeking recognition

(“Recognition Order”) by the Bankruptcy Court of the German Proceeding as a foreign main proceeding under chapter 15 (“Chapter 15”) of title 11 of the United States Code (the “Bankruptcy Code”);

WHEREAS under the German Insolvency Code and the February 11 Order, the German Insolvency Administrator asserts that he is vested with the sole power to administer the assets of the insolvency estate (*Insolvenzmasse*) of Maple Bank and to dispose of any of the assets contained therein, including the assets located in the United States related to Maple Bank Toronto Branch;

WHEREAS under WURA, the Winding-Up Order and the endorsement related thereto, the Canadian Liquidator asserts that it has been entrusted with winding-up the business in Canada and assets of Maple Bank Toronto Branch, including assets located in the United States related to Maple Bank Toronto Branch;

WHEREAS in order to resolve these disagreements and to maintain the status quo regarding their respective entitlements to the proceeds of such assets, the Parties enter into this Stipulation;

NOW THEREFORE, the Parties, by and through their undersigned counsel, hereby stipulate and agree as follows:

1. As used herein:
 - (a) “Subject Assets” means those assets located in the United States set forth on Schedule 1 hereto (which appear on the books of Maple Bank Toronto Branch, as of the date of this Stipulation), any claims arising from or related to the business of Maple Bank Toronto Branch (including, without limitation, any fraudulent transfer, preference or other claims to avoid transfers or obligations of Maple Bank Toronto Branch) asserted before the Bankruptcy

Court or any other U.S. court of competent jurisdiction, and any proceeds, collections or recoveries of any of the foregoing; and

(b) "Other Assets" means any assets of Maple Bank located in the United States other than the Subject Assets;

Provided, with respect to clauses (a) and (b) hereof, within ten (10) days of the date of entry of this Stipulation, the Canadian Liquidator shall confirm in writing to the German Insolvency Administrator that, to the best of its knowledge, information and belief, Schedule 1 represents a complete list of the Subject Assets to be set forth thereon, or to provide a revised Schedule 1 with respect to which it shall provide such a confirmation. The German Insolvency Administrator reserves the right, within ten (10) days thereafter, to assert that any additional assets designated as Subject Assets are not assets arising out of or related to the business of the Maple Bank Toronto Branch. The Parties agree to use commercially reasonable efforts to perform a reconciliation of, and to arrive at, a mutually agreeable Schedule 1.

(c) The terms "claim," "foreign representative," and "foreign main proceeding" shall have the respective meanings defined in the Bankruptcy Code.

2. Subject to provisions of this Stipulation being ordered by the Court, the Canadian Liquidator shall not oppose recognition of the German Proceeding as a foreign main proceeding under Chapter 15 and agrees that it shall not at this time seek recognition of the Canadian Winding-Up Proceeding under Chapter 15.

3. Notwithstanding any relief granted in the Recognition Order, or any rights provided under any provision of the Bankruptcy Code, the stay under sections 1521 and 362 of the Bankruptcy Code shall not apply to the Canadian Liquidator in respect of the Subject Assets.

4. Solely with respect to the Subject Assets, the Canadian Liquidator shall have full standing in the Chapter 15 Case and any related case or proceeding concerning the Debtor as the

Liquidator of Maple Bank Toronto Branch in the Canadian Winding-Up Proceeding on any and all matters arising out of or related to the Subject Assets, including, without limitation, standing under section 1509(b) of the Bankruptcy Code to sue and apply directly to this Court for relief with regard to the Subject Assets.

5. The Parties agree to use reasonable efforts to coordinate, cooperate and, to the extent practicable, act jointly with respect to the Subject Assets, including administering, collecting on, commencing and participating in lawsuits (and related settlement negotiations) with respect to, and liquidating such Subject Assets. In connection therewith, the Parties agree to work together cooperatively to maximize efficiency and to avoid duplication of any efforts (including those related to any retained professionals).

6. All cash collections, proceeds or recoveries on account of the Subject Assets shall be placed into an account, which will be under the joint control of both Parties (the "**Joint Control Account**"). Any disposition, distribution or directive of any kind related to the proceeds in the Joint Control Account must be mutually agreed upon by both Parties. Absent such agreement, no action may be taken with respect to any amounts in the Joint Control Account subject to dispute except in accordance with a final, non-appealable order of the Bankruptcy Court or other U.S. court of competent jurisdiction resolving such dispute.

7. To the extent any issue, conflict or disagreement related to the Subject Assets arises, the Parties agree, in the first instance, to jointly request that the Bankruptcy Court resolve such issues.

8. Nothing herein shall be deemed a waiver or otherwise limit the standing, if any, of the Canadian Liquidator in the Chapter 15 Case or any related case or proceeding concerning or related to the Debtor with respect to other matters not arising out of or related to the Subject

Assets, and all of the Parties' rights with respect thereto, including the German Insolvency Administrator's right to contest such standing, are reserved.

9. In the event the Bankruptcy Court (or other court of competent jurisdiction) determines or the Parties mutually agree that, notwithstanding the terms hereof, recognition of the Canadian Winding-Up Proceeding under Chapter 15 or the Canadian Liquidator as a foreign representative of Maple Bank Toronto Branch is required in order to seek relief, or to preserve any rights, in respect of the Subject Assets, the Canadian Liquidator shall be authorized to seek such recognition and the German Insolvency Administrator reserves all rights to oppose such recognition absent mutual agreement otherwise.

10. The terms of this Stipulation are without prejudice to, and the Parties reserve all of their rights in respect of, the allocation or distribution of the Subject Assets (including any collections, proceeds or recoveries in respect thereof) or amounts in the Joint Control Account to or for the benefit of their respective estates.

11. Nothing contained herein shall be construed to limit, modify, or impair the rights or obligations of Maple Bank, Maple Bank Toronto Branch, the German Insolvency Administrator or the Canadian Liquidator as against any third party.

12. If approval of this Stipulation is adjourned by the Bankruptcy Court to a hearing date after March 10, 2016, the Parties agree that (a) the Recognition Order shall not provide any relief with respect to the Subject Assets (including recognition of the foreign proceeding or foreign representative); and (b) the Parties will cooperate to seek provisional relief under section 1519 of the Bankruptcy Code with respect to the Subject Assets on an expedited basis.

13. If the Bankruptcy Court denies approval of this Stipulation, (a) the Recognition Order shall not provide any relief with respect to the Subject Assets (including recognition of the foreign proceeding or foreign representative); (b) this Stipulation shall be of no force and effect

and none of its provisions will be deemed to prejudice or impair any of the Parties' respective rights and remedies, which are expressly reserved; (c) the Canadian Liquidator reserves all rights to seek recognition of the Canadian Winding-Up Proceeding under Chapter 15 with respect to the Subject Assets, the German Insolvency Administrator reserves all rights to seek recognition of the German Proceeding under Chapter 15 with respect to the Subject Assets, and both the Canadian Liquidator and the German Insolvency Administrator, respectively, reserve all rights to oppose any such petitions for recognition.

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Dated: March 3, 2016
New York, New York

DENTONS US LLP

/s/ D. Farrington Yates

D. Farrington Yates

Giorgio Bovenzi

James A. Copeland

1221 Avenue of the Americas

New York, New York 10020

Telephone: (212) 768-6700

Facsimile: (212) 768-6800

Counsel for Dr. Michael C. Frege

Dated: March 3, 2016
New York, New York

WILLKIE FARR & GALLAGHER LLP

/s/ Benjamin P. McCallan

Marc Abrams

Benjamin P. McCallan

Weston T. Eguchi

787 Seventh Avenue

New York, New York 10019-6099

Telephone: (212) 728-8000

Facsimile: (212) 728-8111

Counsel for KPMG Inc.

Schedule 1
(Subject Assets)

**Maple Bank Toronto Branch
Summary of U.S. Assets****Asset** **Type of transactions****Loans / Repos**

Retail Energy Holdings	Loans receivable
Genie Energy Holdings	Loans receivable
Global One Funding VI	Loans receivable
SG Americas Securities LLC	Repo
State Street Bank and Trust	Stock loan

Derivatives Transactions

Citibank	Derivative clearing
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APPENDIX “D”

**This is Appendix "D" to the
Second Report of the Liquidator**



February 9, 2016

Maple Bank GmbH – Toronto Branch
 3500-79 Wellington St. W.
 Toronto, Ontario
 M5K 1K7

Attention: Paul Lishman
 General Manager

E-mail: plishman@maplefinancial.com

Re: Default Under the NHA Mortgage-Backed Securities Program

Dear Sirs and Mesdames:

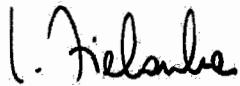
We are writing to you in our capacity as guarantor under the *National Housing Act* (Canada) Mortgage-Backed Securities Program Guide (the “**Guide**”) and your agreements with us under or in connection with the Guide, including without limitation the Mortgage Pools Transfer Agreement dated August 27, 2003 and all related Schedules of Subscribers and Contractual Agreements (collectively, the “**Agreements**”). Pursuant to the Agreements, the Agreements are governed by, subject to and incorporate by reference the terms and conditions of the Guide. Capitalized terms that are used but not defined in this letter have the meanings defined in the Guide and the Agreements.

We are aware that the German banking regulator, known as BaFin, has ordered a halt to financial transactions and other business activities by Maple Bank GmbH. We are very seriously concerned with this situation and we consider it to materially adversely affect Maple Bank's ability to act as an issuer and our liability and rights as guarantor and under terms of the Guide. Accordingly, we hereby give you notice that this situation constitutes a default under Section 4 of chapter 13 of the Guide. We are exercising our rights and remedies in this regard and have, therefore, suspended Maple Bank from acting as an issuer.

The terms of the Guide and the other Agreements remain in full force and effect without amendment and we expressly reserve all of our rights as a result of this default, including without limitation all of our rights and remedies set forth in Chapter 13 of the Guide and at law. No delay on our part in the

exercise of any right, power or remedy shall operate as a waiver thereof, nor shall any single or partial exercise by us of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy. Please govern yourself accordingly.

Yours very truly,



CANADA MORTGAGE AND HOUSING CORPORATION

Wojciech (Wojo) Zielonka
Senior Vice-president,
Capital Markets

APPENDIX “E”

**This is Appendix "E" to the
Second Report of the Liquidator**



Maple Bank, Toronto Branch
Suite 3500 Maritime Life Tower
TD Centre, 79 Wellington Street West
Toronto, Ontario
M4K 1K7

February 12, 2016

Attention: Don Scott

Dear Sirs/Mesdames:

Re: Appointment of Successor Issuer to Maple Bank under NHA MBS Program

Further to our recent discussions, this will confirm that CMHC, as guarantor under the NHA MBS Program, has determined that a successor to Maple Bank as issuer under that program must be appointed as soon as possible.

CMHC would be pleased to consider a proposal by or on behalf of Maple Bank as to a suitable institution to assume Maple Bank's responsibilities as issuer. In light of the urgency of the current situation, we would respectfully request that CMHC be advised (via email to Karen Bailey, Director, Securitization Operations at kbailey@cmhc.ca) of a proposed successor together with any additional relevant information Maple Bank is able to provide by no later than 5 p.m. on Tuesday, February 16, 2016. If a suitable successor issuer is not found by that time, CMHC plans to launch a process to choose a successor issuer.

CMHC has retained Deloitte to assist it and act in connection with all financial aspects of the NHA MBS Pools involved and Maple Bank's role under both the NHA MBS Program and the CMB Program, including the review and verification of Maple's related financial records and data provided by the mortgage loan servicers appointed by Maple Bank, as well as in connection with the selection of and transition to a successor issuer.

We appreciate Maple Bank's most helpful cooperation to date, and look forward to maintaining daily contact with you in order to be briefed regarding all relevant developments.

Yours very truly,

CANADA MORTGAGE AND HOUSING CORPORATION

Per: Wojciech (Wojo) Zielonka
Senior Vice-President, Capital Markets

APPENDIX “F”

**This is Appendix "F" to the
Second Report of the Liquidator**

**MEMORANDUM OF UNDERSTANDING
CONCERNING THE EXCHANGE OF INFORMATION, AND CONCERNING THE PROCESS TO APPOINT AN
APPROVED ISSUER TO SUCCEED MAPLE BANK, GmbH UNDER THE NHA MBS PROGRAM, IN THE
CONTEXT OF THE LIQUIDATION OF MAPLE BANK GmbH**

BETWEEN

CANADA MORTGAGE AND HOUSING CORPORATION

-AND-

KPMG INC., AS LIQUIDATOR OF MAPLE BANK GmbH IN CANADA

1. BACKGROUND

A. CMHC and the NHA MBS Program

- a) Canada Mortgage and Housing Corporation (CMHC) is a federal Crown corporation that provides housing loan related insurance and guarantees, enabling eligible lenders to provide financing for both homeowner and rental housing. CMHC Insurance Programs and CMHC Securitization Programs contribute to a stable housing finance system by helping eligible lenders access an adequate supply of funds for housing loans. CMHC is an agent of Her Majesty the Queen in right of Canada, and as such its obligations are those of the federal Government of Canada and a charge on the Consolidated Revenue Fund.
- b) CMHC is responsible for the administration of the *National Housing Act* Mortgage-Backed Securities Program (NHA MBS Program). Under the NHA MBS Program:
 - i) Lenders, if approved upon application to CMHC, may issue mortgage-backed securities (NHA MBS) fully guaranteed by CMHC as to timely payment of principal and interest.
 - ii) In connection with each permitted issuance of NHA MBS, approved Issuers agree to transfer all legal and beneficial title to a pool of mortgages to CMHC to be held in trust for investors in NHA MBS and for CMHC as Guarantor subject to the terms and conditions set out in the NHA MBS Program Guide published by CMHC (NHA MBS Guide).
 - iii) Principal and interest revenues from the pool of mortgages are deposited by the mortgage servicer into a special-purpose trust/custodial account, which the central payor and transfer agent (CPTA) for the Program then debits monthly in order to pay NHA MBS investors principal and interest owing to them. Pursuant to a Letter of Agreement with the deposit-taking financial institution and the NHA MBS Issuer, deposits made in such account are subject to withdrawal therefrom by the Issuer or by or upon the written demand of CMHC. Through the Letter of Agreement the parties have agreed that the authority of the Issuer with respect to the trust/custodial account may be revoked by CMHC and any instruments drawn upon such account by the Issuer or any party other than CMHC may not be honoured.

- iv) Any balance in the special purpose trust/custodial account remaining after amounts owing to NHA MBS investors, and to CMHC and Program service providers for unpaid guarantee fees, other fees and expenses are fully paid, may be withdrawn by the NHA MBS issuer monthly as long as it remains in good-standing under the NHA MBS program (such excess amounts, the "Spread").
 - v) Issuers may service the mortgages themselves or may retain one or more sub-servicers to do so.
- c) The rights and obligations of all participants in the NHA MBS Program are governed by the *National Housing Act*, the NHA MBS Guide, and various standard agreements entered into, as required by the NHA MBS Guide. In particular:
- i) CMHC is not bound in any manner by any agreement made between an issuer and a sub-servicer. Mortgage sub-servicers must expressly acknowledge that their rights vis-à-vis the Issuer under any contract or otherwise are subordinate to the rights of CMHC under the NHA MBS Program.
 - ii) Where an approved issuer is in default, CMHC may become the named account-holder of the special-purpose trust/custodial account into which payments related to the mortgages must be deposited, may require the account institution to transfer the balance of the account to a new account established by CMHC, and may direct the mortgage sub-servicer to deposit all future principal and interest revenues from the mortgage pool to the new account.
 - iii) All principal and interest cash flow from the mortgage pool is legally owned by CMHC, subject to a trust in favour of NHA MBS investors to pay all amounts owing to them, and may be applied to pay any unpaid guarantee fees to CMHC and to defray any and all fees and expenses of CMHC and Program service providers (such as the CPTA) in connection with the Program, including all expenses related to any issuer default.
 - iv) Where an issuer is in default, pursuant to Chapter 13 of the NHA MBS Guide, an issuer's contingent rights in the spread are terminated and CMHC may, in its sole and absolute discretion, approve a Successor Issuer, which will take on the rights and responsibilities of an Issuer for the NHA MBS pools from that point forward.
- d) CMHC's position is that an issuer has no property right in the excess cash flow constituting the Spread. When in good standing, an issuer can have access to the Spread, which can be used by such Issuer for its benefit, but more importantly, will be available to the issuer to satisfy its obligations under the MBS Program to make the required payments to the investors, should the monies arising from the mortgage pools be insufficient to effect such payment at any given time. Where an issuer is in default, pursuant to Chapter 13 of the NHA MBS Guide, an issuer's rights in the Spread are terminated.

B. Maple Bank, KPMG and WURA Order

- a) 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*. 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). Maple Bank was, until the occurrence of the events described in paragraph b) below, an approved issuer under the NHA MBS Program.

- b) On February 6, 2016, BaFin issued an order of moratorium on Maple Bank's business activities by reason of over-indebtedness. On February 9, 2016, CMHC issued a notice of default to Maple Bank as issuer under the NHA MBS Program.
- c) On February 10, 2016, BaFin advised OSFI that it had commenced insolvency proceedings in Germany in respect of Maple Bank based on the admission by Maple Bank of its impending insolvency and with Maple Bank's consent. On February 11, 2016, the German courts initiated insolvency proceedings in respect of Maple Bank.
- d) Upon *inter alia* BaFin's advisement of impending insolvency proceeding, on February 10, 2016, the Superintendent took control of the assets in respect of Maple Bank's business in Canada for a period not exceeding sixteen days pursuant to paragraph 619(1)(a) of the *Bank Act*.
- e) On February 12, 2016, the Superintendent provided notice to Maple Bank of its intention to continue control of the assets beyond this sixteen day period. The Superintendent also appointed KPMG Inc. (KPMG) as its representative, pursuant to subsection 619(5) of the *Bank Act*, to assist in relation to the Superintendent's control of Maple Bank's assets in Canada and in respect of its business in Canada.
- f) On February 15th, 2016 the Superintendent decided to proceed to continue its control of the assets of Maple Bank in Canada and in respect of its business in Canada and to request, that the Attorney General of Canada apply for a winding-up order under the *Winding-up and Restructuring Act*. In this regard the Superintendent sent a letter to KPMG appointing KPMG to assist in the management of the affected assets of Maple Bank under subsection 619(6) of the *Bank Act*.
- g) Upon application by the Attorney General of Canada, pursuant to section 10.1 of the *Winding Up and Restructuring Act* (WURA), on February 16, 2016 the Ontario Superior Court of Justice (Commercial List) (the Court) made a winding-up order (the "Winding-Up Order"):
 - i) that the business of Maple Bank in Canada (the Business) be wound up and that its assets, as defined under section 618 of the *Bank Act* (the Assets) be liquidated; and
 - ii) appointing KPMG as the liquidator (Liquidator) of the estate of Maple Bank under section 23 of WURA.
- h) Under WURA and the Winding-Up Order, the Liquidator has certain statutory and court-ordered duties, obligations and powers, which include, *inter alia*, upon appointment by the Court, to take into custody or control all of the Assets of Maple Bank, which are related to the Business.

- i) The Winding-Up Order does not apply to the mortgage pools or restrict in any manner the statutory right of CMHC to administer the NHA MBS Program, including, without limitation, the right to approve a lender's eligibility to become an issuer under the Program, to appoint a new issuer to assume the responsibilities of any issuer in default, or to determine when and under what circumstances to grant its guarantee.

2. PURPOSE AND UNDERLYING PRINCIPLES

- a) CMHC has a mandate to promote and contribute to the stability of the financial system in Canada. As administrator of the NHA MBS Program and guarantor of all securities issued pursuant to it, CMHC is particularly charged with protecting the interests of all holders of NHA MBS securities and of the taxpayers of Canada, who are ultimately responsible, should any claim be made under the CMHC guarantee. Those mandates are and will remain CMHC's primary objectives in the exercise of its statutory responsibility and discretion to appoint a new issuer to assume the obligations of Maple Bank under the NHA MBS Program.
- b) The Liquidator, as appointed by the Court, is required to carry out and discharge its statutory and corresponding Court-ordered obligations and duties under WURA and the Winding Up Order, respectively, which include, *inter alia*, its duty to (a) wind-up the Business; and, (b) secure, safeguard and liquidate the Assets in order to maximize the realizable value of the Assets to satisfy the claims of creditors of Maple Bank.
- c) In light of the above, this Memorandum of Understanding (MOU) is a statement of intent to (i) exchange information; (ii) consult and cooperate in connection with the proposed marketing process as further set-out in Section 4(a) (i) (the Marketing Process) to be undertaken by the Liquidator to find (a) a successor issuer acceptable to CMHC (the Successor Issuer) under the NHA MBS Program for the mortgage pools in relation to NHA MBS issued by Maple Bank; (b) a purchaser for Maple Bank's Assets which may also be attractive to a Successor Issuer, including its inventory of CMHC insured mortgages that have not yet been pooled), its mortgage aggregation processes, policies and business.
- d) In connection with the Maple Bank's inventory of un-pooled CMHC insured mortgages, to the extent possible, CMHC will pre-qualify such mortgages under the NHA MBS Program and permit the Successor Issuer to issue NHA MBS based on those pools for sale to CHT (in addition to such Successor Issuer's allocation).
- e) This MOU is entered into with a view to enhancing the efficient discharge of each party's statutory responsibilities and obligations, with the goal of reducing transaction expenses and delay to the mutual benefit of those constituents to whom each party is responsible, by cooperating and participating in the Marketing Process to be undertaken by the Liquidator.
- f) CMHC undertakes to collaborate with KPMG towards establishing such joint process for a period of 55 days following the execution of this MOU after which time it will be entitled at any time to withdraw from any such process (notwithstanding any prior submission to or approval by the Court) and to implement its own issuer replacement process in discharge of its statutory mandate. During this collaboration period, any disagreement arising in the course of the discussions may be disclosed to the Judge in charge of the management of the WURA case on an

informal basis with a view to resolving such difference, it being understood that no ruling on this matter will be requested from the Judge.

- g) Nothing in paragraph f) in any way limits or restricts CMHC's ability to withdraw from the Marketing Process and this MOU prior to the expiry of the time period set out in f) above if CMHC's Board of Directors, pass a resolution requiring that CMHC should withdraw from the Marketing Process and the MOU, in its sole and absolute discretion, or if CMHC is directed by the Government of Canada to withdraw from the Marketing Process and the MOU and any acknowledgements made or agreed to in this MOU shall have no further force or effect (other than CMHC's agreement as set out in paragraph 4 (a) (iv)).
- h) This MOU shall in no manner restrict the rights or responsibilities of either party, nor bind it to accept any decision made by the other party, or to continue with any cooperative process or activity commenced pursuant to this MOU.

3. EXCHANGE OF INFORMATION

- (a) CMHC and the Liquidator recognize that communication and coordination can play an important role in promoting efficiency and managing exposure in an NHA MBS Issuer default, the Winding Up proceedings of Maple Bank and the Marketing Process to be undertaken by the Liquidator. Therefore, CMHC and the Liquidator will exchange information and documents in order to facilitate coordination in relation to Maple Bank's default under the NHA MBS Program, the Winding Up Proceedings of Maple Bank and the Marketing Process.
- (b) In particular, CMHC and the Liquidator agree that the following shall further their respective and mutual objectives:
 - i. timely sharing of information;
 - ii. the mutual confidential disclosure of all material documents and agreements to which Maple Bank is a party relating to its role as Issuer, the NHA MBS or related mortgage pools and their servicing, together with (A) all banking and financial information relating to Maple Bank to which CMHC has access under the NHA MBS Program and to which the Liquidator has access pursuant to the provisions of the Winding Up Order, and (B) all other documentation and information related to the foregoing, which is in the possession or control of one of the parties, and to which the other party may from time to time reasonably request;
 - iii. mutual cooperation and consultation during the Marketing Process in order to find a Successor Issuer for the MBS Business suitable to CMHC; and,
 - iv. timely notice of any proposed motion or application to the Court, draft proposed orders, liquidator's reports or other proposed filings or proceedings, including the Marketing Process, that may relate to or involve Maple Bank's role as Issuer, the NHA MBS or the related mortgage pools and their servicing, prior to formal service of notice thereof on any party or filing with the Court; each party reserves its right to dispute, oppose or otherwise take such separate position as it may elect in connection with any such proceeding, filing or other initiative.

4. MATTERS FOR COLLABORATION AND CONSULTATION

In carrying out their respective roles, CMHC and the Liquidator acknowledge the following key matters under this MOU:

(a) Process to Select a Successor Issuer under the NHA MBS Program and a Purchaser of Assets under the WURA Liquidation

- i. CMHC and the Liquidator will consult and cooperate with a view to agreeing upon the Marketing Process that will be (a) mutually satisfactory to both CMHC and the Liquidator; (b) avoid duplication of process and efforts to solicit expressions of interest and bids from suitable Institutions to become the Successor Issuer, acceptable to CMHC. The Marketing Process is subject to the prior review and approval by CMHC's responsible executives, legal counsel and other advisors. This process shall not create an obligation for prospective successor issuers ("Successor Issuers") to purchase any Assets in order to be selected as Successor Issuer by CMHC. If the parties agree upon the Marketing Process, the parties agree that the Marketing Process and this MOU will be submitted to the Court for approval in the Winding-Up proceedings of Maple Bank.
- ii. The Liquidator acknowledges and recognizes that any consultation with respect to or ultimate agreement upon the Marketing Process in no way limits or prejudices the statutory rights and discretion of CMHC to select and approve the Successor Issuer. Neither CMHC nor the Liquidator shall be obligated under the Marketing Process to accept any bidder (including without limitation the highest bidder). Should either party exercise its rights under this MOU, to withdraw from the Marketing Process and this MOU (including without limitation, should CMHC disagree with the Liquidator's recommendation as to the proposed Successor Issuer upon the completion of Marketing Process any such disagreement may be disclosed to the presiding case management Judge for the Winding Up proceedings of Maple Bank on an informal basis by way of case conference or otherwise, with a view of resolving such difference, it being understood that no ruling on this matter will be requested from the said Judge. Such meeting or case conference before the presiding Judge shall be non-binding on CMHC and the Liquidator. In addition, CMHC's agreement to participate in the meeting or case conference shall not in any way limit or prejudice the statutory rights and discretion of CMHC to select and approve the Successor Issuer. Should the parties fail to agree upon a workable solution during the case conference, the withdrawing party shall remain entitled to immediately withdraw from the Marketing Process. Upon withdrawal of either party, CMHC shall retain its right to implement its own Successor Issuer process in furtherance of discharging its statutory mandate and the Liquidator shall retain the right to implement a separate process to market and sell the Maple Bank Assets.
- iii. While only CMHC approved issuers ("Approved Issuers") can qualify to become a Successor Issuer of Maple Bank under the NHA MBS Program, CMHC shall also consider the candidacy of non-CMHC Approved Issuers to become the Successor Issuer to Maple Bank if such party submits to CMHC an application to become an Approved Issuer under Chapter 3 of the NHA MBS Guide and becomes an Approved Issuer within thirty (30)

days from such candidate's offer being accepted by CMHC (conditional upon becoming an Approved Issuer) as Successor Issuer.

- iv. Notwithstanding that it is CMHC's position that it has no obligation to do so, after a Successor Issuer has been selected and approved by CMHC (whether through the Marketing Process or otherwise), and provided that a) the Successor Issuer will pay as part of the transaction an amount (if any) to become a Successor Issuer whether at closing or at agreed times thereafter (collectively, "Successor Issuer Payment"), and b) there is a positive amount left from the total of the Spread collected by CMHC pre-closing since February 9, 2016 plus the Successor Issuer Payment after any amount required by the Successor Issuer to be paid to it to become the Successor Issuer (other than post-closing Spread), all fees owing to CMHC (guarantee fees or otherwise) and transaction costs and expenses of CMHC including any expenses related to Maple Bank's default, (the "Maple Default Costs") have been paid in full from such total amounts, the amount remaining will be contributed to the Liquidator by CMHC as soon as practicable following closing of the Successor Issuer transaction. Future Spread collected after the closing will be available to the Successor Issuer as an Issuer in good standing in accordance with the NHA MBS Guide.
- v. When and if all Maple Default Costs have been recovered by CMHC, CMHC will release all of its claims as against the estate of Maple Bank and accordingly, will not file a proof of claim in the liquidation proceedings of Maple Bank, and will continue to cooperate with the Liquidator in the winding up of the Maple estate.

(b) Recognition of Ownership Rights in Mortgage Pools and related Revenue, and Rights as Administrator and Guarantor under the NHA MBS Program and the Obligations of the Liquidator in the Winding-Up Proceedings of Maple Bank.

In connection with the proposed Marketing Process to be considered and agreed upon as outlined above, and in connection with the liquidation process under WURA generally and in any related court proceedings and submissions, the Liquidator shall at all times recognize CMHC's legal rights and interests (whether contractual, statutory or otherwise) pursuant to the NHA MBS Program, including but not limited to CMHC's rights as guarantor, owner (whether legal, beneficial, as trustee, or otherwise) and/or administrator. Without limiting the generality of the foregoing, CMHC shall not be required to take any steps to take possession, register title, or take any other legal action in relation to any NHA MBS security or mortgage pool. Any transfer, sale, assignment or other disposition of the opportunity to succeed to Maple Bank's role as NHA MBS issuer shall only be made on terms and conditions that reflect and confirm CMHC's exclusive right and discretion to approve such issuer, and subject to the terms and conditions of the NHA MBS Guide, its right, title and interest in and to the mortgage pools, the Spread, fees, expenses, including any expenses related to any issuer default, and costs payable to it and other Program service providers. CMHC acknowledges that the Liquidator in the Winding-Up Proceedings of Maple Bank has certain statutory and court-ordered duties and obligations to secure, safeguard and liquidate the Assets in order to maximize the realizable value of the Assets to satisfy the claims of creditors of Maple Bank advanced against the estate of Maple Bank.

(c) ADMINISTRATIVE SUPPORT TO CMHC.

During the course of the Marketing Process and while this MOU is in effect, the Liquidator will provide ongoing administrative services in relation to the mortgage pools as may be mutually agreed to, which will include, without limitation, detailed cheque verification services, monitoring the reconciliation of accounts and the management of discharges and assignment of mortgages as well as other accounting services.

In addition, the Liquidator shall cooperate to ensure that any funds received by the Liquidator from the mortgage pools are deposited in the newly established custodial account with Computershare at The Bank of Nova-Scotia.

5. CONFIDENTIALITY

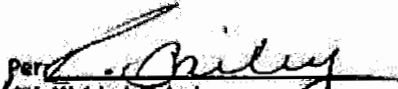
- (a) All Confidential Information (as defined below) will be kept confidential by each of the Liquidator and CMHC to the extent permitted by applicable law and will be used only for the purposes hereunder or in connection with their respective statutory and court ordered responsibilities except (i) for disclosure as provided for in Sections 5b); and (ii) for disclosure by the Liquidator to the German Insolvency Administrator (the "GIA") appointed in the German Insolvency proceedings of Maple Bank, provided that the Liquidator has satisfied itself that the GIA will be bound by substantially the same confidentiality requirements as the Liquidator under this MOU. Furthermore, information can also be made available by the Liquidator and or the GIA, on a confidential basis, to (i) BaFin; (ii) the members of the creditors committee; (iii) any person entitled to receive such information in the German insolvency proceeding; and (iv) their respective legal counsel, accountants and other advisors. Any Confidential Information provided by CMHC shall be maintained as confidential information in accordance with the terms of this MOU and on terms satisfactory to CMHC.
- (b) In the event that either party is required by statute or legal process (including, without limitation, access to information legislation and discovery process relating to judicial or administrative proceedings) to disclose Confidential Information, the party will, to the extent permitted by applicable law, inform the other party and seek its prior written consent. If such consent is not obtained, the party from whom disclosure is required will assert all available legal exceptions from or privileges against disclosure. If, despite such efforts, disclosure of the Confidential Information is required by law, the party from whom disclosure is required will, to the extent permitted by law, inform the other party in advance of such disclosure.
- (c) The confidentiality obligations provided for herein shall survive the termination of this MOU by either party.
- (d) "Confidential Information" means any non-public information received by the parties in their respective roles through participation in this MOU, including, without limitation, requests for information pursuant to Section 3.

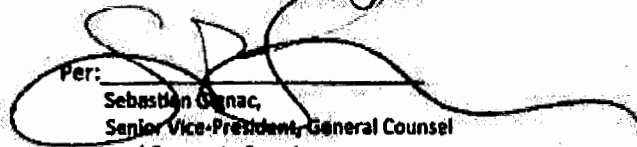
6. MISCELLANEOUS

- (a) This MOU does not confer any rights upon any third party, including any right or ability to directly or indirectly obtain, suppress, or exclude any information or to challenge the execution of this MOU or to challenge the execution of a request for assistance under this MOU.
- (b) Nothing in this MOU restricts either of CMHC or KPMG from carrying out its respective statutory responsibilities or fulfilling its respective legal obligations.
- (c) Cooperation in accordance with this MOU will commence as of the date written below and continue indefinitely, subject to modification by written agreement of both parties, or termination by written notice to the other party.
- (d) This MOU may be executed and delivered by the parties in one or more counterparts, each of which when so executed and delivered will be deemed to be the original, and those counterparts will together constitute one and the same instrument.

Signed at Toronto, Ontario, this 16th day of March, 2016.

**CANADA MORTGAGE AND HOUSING
CORPORATION**

Per: 
Wojciech Zielonka,
Senior Vice-President, Capital Markets

Per: 
Sebastian Gagnac,
Senior Vice-President, General Counsel
and Corporate Secretary

**KPMG INC., in its capacity as Court Appointed
Liquidator of the business in Canada of MAPLE
BANK, GmbH**

Per: 
Nicholas Brearton,
President

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APPENDIX “G”

**This is Appendix "G" to the
Second Report of the Liquidator**

**MARKETING PROCESS TO IDENTIFY A SUCCESSOR ISSUER OF MAPLE BANK
GMBH, TORONTO BRANCH, UNDER THE NHA MBS PROGRAM AND THE SALE
OF THE MAPLE BANK GMBH ASSETS**

INTRODUCTION

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*. 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**”). Maple Bank was an approved issuer under the *National Housing Act* Mortgage-Backed Securities Program (the “**NHA MBS Program**”) as administered by Canada Mortgage and Housing Corporation (“**CMHC**”).
2. CMHC is a federal Crown corporation that provides housing loan related insurance and guarantees, enabling eligible lenders to provide financing for both homeowner and rental housing. CMHC Insurance Programs and CMHC Securitization Programs contribute to a stable housing finance system by helping eligible lenders access an adequate supply of funds for housing loans. CMHC is an agent of Her Majesty the Queen in right of Canada, and as such its obligations are those of the federal Government of Canada and a charge on the Consolidated Revenue Fund.
3. Under the NHA MBS Program, lenders, if approved, upon application to CMHC (the “**Approved Issuer**”), may issue mortgage-backed securities (“**NHA MBS**”) fully guaranteed by CMHC as to timely payment of principal and interest. In connection with each permitted issuance of NHA MBS, Approved Issuers agree to transfer all legal and beneficial title to a pool of mortgages to CMHC to be held, in trust, for investors in NHA MBS and for CMHC, as guarantor, subject to the terms and conditions set out in the NHA MBS Program Guide published by CMHC (the “**NHA MBS Guide**”).
4. On February 6, 2016, BaFin issued an order of moratorium on Maple Bank’s business activities by reason of over-indebtedness. On February 9, 2016, CMHC took the following steps: (i) issued a notice of default to Maple Bank as issuer under the NHA MBS Program; (ii) suspended Maple Bank as an issuer under the NHA MBS Program; (iii) directed Bank of Montreal (“**BMO**”) to immediately transfer the entire balance in the P&I Custodial/Trust Account with BMO to the NHA MBS Central Payor and Transfer Agent account of Computershare Trust Company of Canada (“**Computershare**”); (iv) directed Computershare to establish a Custodial/Trust Account (the “**Computershare Account**”) for revenues related to the mortgages underlying the NHA MBS issued by Maple Bank and to withdraw amounts from the Computershare Account as needed to pay amounts due to holders of NHA MBS issued by Maple Bank; and (v) directed the servicers to Maple Bank’s MBS business to pay to the Computershare Account, all amounts that would otherwise have been paid to the P&I Custodial/Trust Account with BMO and advised the servicers that the servicing arrangements are subject to the NHA MBS Guide.

5. On February 10, 2016 BaFin advised OSFI that it commenced insolvency proceedings in Germany in respect of Maple Bank based on the admission of Maple Bank of its impending insolvency and with Maple Bank's consent. On February 11, 2016 the German Court issued an order appointing an Insolvency Administrator over Maple Bank, Frankfurt.
6. Upon application by the Attorney General of Canada, pursuant to section 10.1 of the *Winding Up and Restructuring Act (WURA)*, on February 16, 2016 the Ontario Superior Court of Justice (Commercial List) (the "**Court**") made a winding-up order (the "**Winding-Up Order**"): (a) that the business in Canada of Maple Bank (the "**Business**") be wound up and that its assets, as defined under section 618 of the *Bank Act* (the "**Assets**") be liquidated; and, (b) appointing KPMG Inc. ("**KPMG**") as the liquidator (the "**Liquidator**") of the estate of Maple Bank under section 23 of WURA.
7. Upon Maple Bank's default, pursuant to Chapter 13 of the NHA MBS Guide, CMHC may, *inter alia*, in its sole and absolute discretion, approve a successor issuer to Maple Bank (the "**Successor Issuer**"), which will take on the rights and responsibilities of Maple Bank for the NHA MBS pools from that point forward.
8. In furtherance of the marketing process, more particularly described in the following sections (the "**Marketing Process**"), the Liquidator and CMHC have agreed, pursuant to the terms of a Memorandum of Understanding dated March 16, 2016 (the "**MOU**"), to: (i) exchange information; (ii) consult and cooperate in connection with the Marketing Process to be undertaken by the Liquidator to find: (a) the Successor Issuer (acceptable to CMHC) under the NHA MBS Program for the mortgage pools in relation to NHA MBS issued by Maple Bank; and, (b) a purchaser for Maple Bank's Assets, which may also be attractive to the Successor Issuer, including its inventory of CMHC insured mortgages that have not yet been pooled, NHA MBS mortgage pools that Maple Bank owns as an investor and its mortgage aggregation processes, policies and business (collectively, the "**Maple Assets**").
9. The purpose of this Marketing Process is to seek LOIs and Offers (each as defined below) and to implement an Accepted Successor Issuer Offer (as defined below) and one or more Accepted Sale Offers (as defined below), the whole as more fully detailed below.
10. Capitalized terms used in this Marketing Process shall have the meanings given to them herein.

Marketing Process Order

11. Pursuant to an Order dated April 1, 2016, the Court approved: (a) the Marketing Process (the "**Marketing Process Order**"); (b) that the Liquidator implement and carry out the terms of this Marketing Process in accordance with the terms of the MOU; and, (c) the solicitation process pursuant to which the Liquidator and CMHC will solicit offers for: (i) the Successor Issuer, and/or (ii) the sale of the Maple Assets, in accordance with the terms of the Marketing Process.

12. This Marketing Process shall govern the solicitation by the Liquidator for LOIs and Offers for the Successor Issuer and/or the Maple Assets and the selection by CMHC of the Successor Issuer.

Selection of a Successor Issuer

13. Pursuant to the Marketing Process Order, the Liquidator will be solely responsible for implementation of the Marketing Process. Nothing in this Marketing Process is intended to limit the exclusive right of CMHC to select the Successor Issuer. Accordingly, CMHC, in consultation with the Liquidator, shall retain its authority to select the Successor Issuer and in furtherance of this objective the Liquidator and CMHC will cooperate and consult during the Marketing Process with the objective of selecting the Successor Issuer, acceptable to CMHC, and a purchaser for the Maple Assets.
14. In the event that there is disagreement or clarification required as to the interpretation or application of this Marketing Process, as between the Liquidator and CMHC, the applicable provisions of the MOU shall govern.

Selection of the Successor Issuer and/or Sale Proposal for the Maple Assets

15. A Prospective Offeror (as defined below) may, at the option of such Prospective Offeror, submit an LOI, or an Offer for one or more of the following:
- (a) An offer to be selected as the Successor Issuer for some or all of the NHA MBS business of Maple Bank, as acceptable to CMHC (a "**Successor Issuer Offer**"); and/or
 - (b) The purchase of all, or substantially all, or any portion of the Maple Assets (the "**Sale Proposal**"). For greater certainty, the Sale Proposal shall not include an offer to auction or liquidate any of the Maple Assets.

(and collectively, the Successor Issuer Offer and the Sale Proposal, the "**Offers**")

Selection of the Successor Issuer

16. With respect to a Successor Issuer Offer, CMHC shall have the sole and exclusive right to select the Successor Issuer.

Maple Assets Subject to Sale

17. With respect to a Sale Proposal, the assets available to be sold include all, or substantially all, of the Maple Assets. Interested parties will need to indicate whether, or not they are seeking to become the Successor Issuer, and if so, whether their offer is partially, or fully conditional on being selected as the Successor Issuer Offer.
18. Notwithstanding anything else contained in this Marketing Process, at any time after entry of the Marketing Process Order, the Liquidator, in the exercise of its reasonable business judgment and in accordance with the applicable provisions of the MOU, after consulting with CMHC, and upon notice to any Prospective Offeror, if any, may, from time to time, withdraw any Maple Assets from this Marketing Process.

As is, where is

19. Any sale of the Maple Assets shall be on an “**as is, where is**” basis and without representations, warranties, covenants or indemnities of any kind, nature, or description by the Liquidator, or any of its respective agents, directors, officers, employees, professionals, advisors, or otherwise, except to the extent set forth in the executed definitive sale agreement(s) with the Accepted Sale Offeror(s) (as defined below) and any orders of the Court.

Free of Any And All Claims and Interests

20. All of the rights, title and interests of Maple Bank in and to any or all of the Maple Assets to be acquired under a Sale Proposal, may be sold free and clear of all security, charges, pledges, liens, encumbrances, claims or other restrictions thereon and there against including, for greater certainty, any charges or encumbrances created by the Winding-Up Order, subsequent orders of the Court in the Winding-Up proceedings, or as provided for under WURA (collectively, the “**Encumbrances**”), except for those liens and encumbrances expressly to be assumed by the Accepted Sale Offeror(s) and permitted pursuant to an Approval and Vesting Order(s) in a form satisfactory to the Accepted Sale Offeror(s), the Liquidator, and as may be granted by the Court. The Encumbrances shall attach to the net proceeds of the sale of the Maple Assets, as applicable, without prejudice to any claims or causes of action regarding priority, validity or enforceability thereof.

Solicitation

21. As soon as reasonably practicable, the Liquidator will prepare, in consultation with CMHC: (a) a list of potential offerors who may be interested in submitting a Successor Issuer Offer and/or a Sale Proposal (collectively, the “**Prospect List**”), including both existing CMHC approved issuers (the “**Approved Issuers**”) and non-CMHC approved issuers (the “**Non-Approved Issuers**”) who, in the Liquidator’s judgment, (after consultation with CMHC), may have a reasonable prospect of becoming the Successor Issuer and/or concluding a transaction in respect of a Sale Proposal; (b) an initial offering summary (the “**Teaser Letter**”) to notify each party on the Prospect List of the solicitation process under this Marketing Process and to invite each potential offeror to submit an LOI in respect of a Successor Issuer Offer and/or a Sale Proposal and; (c) a form of confidentiality agreement, which shall include an agreement to be bound by the provisions of this Marketing Process (the “**Confidentiality Agreement**”).
22. As soon as reasonably practicable, but in any event no later than April 13, 2016 (the “**Phase 1 Commencement Date**”), the Liquidator shall send the Teaser Letter, a copy of the Marketing Process Order and the form of Confidentiality Agreement to those persons on the Prospect List and, as soon as reasonably practicable thereafter, after consulting with CMHC, to any other person who expresses an interest in this Marketing Process and who requests a copy of the Teaser Letter, or who is identified to the Liquidator or CMHC as a potential offeror.

MARKETING PROCESS- PHASE 1

23. For a period of twenty-four (24) calendar days following the Phase 1 Commencement Date, or for such longer period as agreed to by the Liquidator and CMHC ("**Phase 1**"), the Liquidator, after consulting with CMHC, will solicit non-binding indications of interest in the form of non-binding letters of intent (each an "**LOI**") from each potential offeror on the Prospect List, as well as any other interested party who has communicated an interest to either the Liquidator or CMHC in respect of submitting a Successor Issuer Offer or a Sale Proposal (collectively, a "**Prospective Offeror**").
24. Prospective Offerors that execute and deliver to the Liquidator, the Confidentiality Agreement, shall receive a detailed confidential information memorandum prepared by the Liquidator, in consultation with CMHC, describing the opportunity to complete a transaction to become the Successor Issuer and/or effect a Sale Proposal. Such parties shall also receive access to an electronic due diligence database (the "**Due Diligence Access**"). The Due Diligence Access for each party shall terminate: (a) upon the Phase 1 LOI Deadline (as defined below) in the event that such party fails to deliver an LOI in accordance with the instructions contained in the "**Phase 1 Timing**" section below; (b) in the event that such party does not progress to Phase 2 (as defined below).
25. The Liquidator will designate a representative to coordinate all reasonable requests for Due Diligence Access for all parties eligible to receive such access in accordance with this section. The Liquidator and CMHC are not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the NHA MBS Program, the Business or the Maple Assets, and do not make any representations or warranties as to the information or materials provided.
26. In respect of information requests, or any other matters concerning the Successor Issuer Offer and/or a Sale Proposal, Prospective Offerors must communicate with KPMG, and to the extent that such requests relate to the NHA MBS Program, with CMHC, or with such other individual or individuals, as KPMG and CMHC may authorize in writing. Without the prior written consent of the Liquidator, no Prospective Offeror, or representatives of a Prospective Offeror, may initiate or cause to be initiated or maintain any communication with any officer, director, agent, employee, affiliate, creditor, shareholder, customer or supplier of Maple Bank concerning the NHA MBS business, the Business, the Maple Assets, operations, prospects or finances, or any matters relating to a Successor Issuer Offer and/or a Sale Proposal. For greater certainty, the restrictions set out in paragraph 26 herein shall not apply to CMHC, who shall be at liberty to communicate with any officer, director, agent, employee, affiliate, creditor, shareholder, customer or supplier of Maple Bank concerning the NHA MBS business, the Business, the Maple Assets, operations, prospects or finances, or any matters relating to a Successor Issuer Offer.

Phase 1 Timing

27. Prospective Offerors that wish to pursue a Successor Issuer Offer and/or a Sale Proposal must deliver a non-binding LOI in writing, via email or by personal delivery to the Liquidator and CMHC in respect of a Successor Issuer Offer, and to the Liquidator only in respect of a Sale Proposal, so that they are actually received by no later than 5:00 PM

(Toronto time) on or before May 6, 2016, or such later date as determined by CMHC, in consultation with the Liquidator, with regard to a Successor Issuer Offer, and by the Liquidator with regard to a Sale Proposal (the “Phase 1 LOI Deadline”).

28. All Successor Issuer Offers should be delivered to:

Canada Mortgage and Housing Corporation
700 Montreal Road, C2-214
Ottawa, Ontario
K1A 0P7

Attention: Reem Hindieh and Karen Bailey
Email: rhindieh@cmhc-schl.gc.ca; kbailey@cmhc-schl.gc.ca

With a copy to counsel to CMHC:

Borden Ladner Gervais LLP
Scotia Plaza
40 King St. W.
Toronto, ON M5H 3Y4

Attention: Rosalind Morrow, Marc Duchesne and Roger Jaipargas
Email: rmorrow@blg.com; mduchesne@blg.com; rjaipargas@blg.com

With a copy to the Liquidator:

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

Attention: Philip J. Reynolds, Nick Brearton and Ryan Adlington
Email: pjreynolds@kpmg.ca; nbrearton@kpmg.ca; radlington@kpmg.ca

With a copy to counsel to the Liquidator:

Gowling WLG
1 First Canadian Place,
100 King St. W., Suite 1600
Toronto, ON M5J 2T3

Attention: Alex MacFarlane and Lilly Wong
Email: alex.macfarlane@gowlingwlg.com; lilly.wong@gowlingwlg.com

29. All Sale Proposal Offers should be delivered to:

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

Attention: Philip J. Reynolds, Nick Brearton and Ryan Adlington
Email: pjreynolds@kpmg.ca; nbrearton@kpmg.ca; radlington@kpmg.ca

With a copy to counsel to the Liquidator:

Gowling WLG
1 First Canadian Place,
100 King St. W., Suite 1600
Toronto, ON M5J 2T3

Attention: Alex MacFarlane and Lilly Wong
Email: alex.macfarlane@gowlingwlg.com; lilly.wong@gowlingwlg.com

Non-Binding Letters of Intent Requirements

30. An LOI will be considered a qualified LOI (a “**Qualified LOI**”) only if it:
- (a) is submitted on or before the Phase 1 LOI Deadline;
 - (b) contains an executed Confidentiality Agreement (if not already delivered);
 - (c) indicates whether the LOI involves a Successor Issuer Offer and/or a Sale Proposal;
 - (d) identifies the Prospective Offeror and representatives thereof who are authorized to appear and act on behalf of the Prospective Offeror for all purposes regarding the contemplated transaction, and it must fully disclose the identity of each entity that will be sponsoring, participating in, or benefiting from the transaction contemplated by the LOI, and the complete terms of such participation, including, in the case of an entity formed or to be formed for the purpose of entering into the transaction contemplated by the LOI, the identity of each actual or anticipated direct or indirect equity holder or beneficiary of such entity and the percentage of such equity holder or beneficiary’s interest in the transaction contemplated by the LOI;
 - (e) describes the structure and financing of the proposed transaction (including, but not limited to, a specific indication of the sources of financing for the purchase price, and preliminary evidence of the availability of such financing and the steps necessary and associated timing to obtain such financing and consummate the proposed transaction in each case in sufficient detail to permit the Liquidator and CMHC to make a reasonable business or professional judgment as to the

Prospective Offeror's financial or other capabilities to consummate the transaction);

- (f) describes the conditions and approvals required for a final and binding offer, including the approval by CMHC to become an Approved Issuer, if applicable, and any anticipated corporate, security holder, internal or regulatory approvals required to close the transaction, and an estimate of the anticipated timeframe and any anticipated impediments for obtaining such approvals;
- (g) describes any additional due diligence required to be conducted during Phase 2 (as defined below);
- (h) identifies all conditions to closing to be imposed by the Prospective Offeror including, without limitation, any form of agreement required from CMHC, or any other government body, stakeholder or other third party;
- (i) contains such other information reasonably requested by the Liquidator, or CMHC;
- (j) sets out the purchase price (or range thereof) in Canadian dollars, including details of any liabilities to be assumed by the Prospective Offeror;
- (k) in the case of a Successor Issuer Offer, is an offer for all or certain of the NHA MBS mortgage pools for which Maple Bank was the Approved Issuer; provided that no offer for a part of a mortgage pool will be accepted;
- (l) in the case of a Successor Issuer Offer, if it is not already an Approved Issuer, each offeror must confirm that it will provide within 15 days after the Phase 2 Commencement Date (as defined in paragraph 34) the relevant documentation to demonstrate that it meets all of the requirements, prerequisites and criteria set out under the NHA MBS Guide to be an issuer of NHA MBS (including but not limited to current net worth requirements) and, for parties, other than federally regulated banks, trust companies and insurance companies, proof of licensing or exemption from licensing to trade in mortgages and act as an MBS Issuer in all provinces (and for loan administration if they will service any of the mortgage loans, as well as proof of being a NHA Approved Lender or Genworth or Canada Guaranty Qualified Mortgage Lender);
- (m) in the case of a Successor Issuer Offer, the offer must indicate whether, or not the proposed Successor Issuer intends to assume the existing mortgage servicing and/or mortgage originating agreements entered into with Maple Bank; and,
- (n) includes any other terms or conditions that the Prospective Offeror believes are material to the transaction.

In the case of a Sale Proposal, a Qualified LOI must also identify or contain the following information:

- (i) identifies the Maple Assets that are to be purchased as part of the transaction;
 - (ii) identifies the Maple Assets that are to be excluded from the transaction;
 - (iii) describes the intended use of the Maple Assets that are to be purchased as part of the transaction;
 - (iv) whether the Sale Proposal is partially, or entirely conditional upon the Successor Issuer Offer; and,
 - (v) any other terms or conditions of the Sale Proposal that the Prospective Offeror believes are material to the transaction.
31. An LOI received by the Liquidator and CMHC after the Phase 1 LOI Deadline shall not constitute a Qualified LOI, it being understood that, with respect to a Successor Issuer Offer, CMHC, in consultation with the Liquidator, and with respect to a Sale Proposal, the Liquidator, in its sole discretion, shall have the right to deem an LOI received after the Phase 1 LOI Deadline as a Qualified LOI.

Assessment of Qualified LOIs and Continuation or Termination of Solicitation Process

32. Following the Phase 1 LOI Deadline, CMHC and the Liquidator will assess the Qualified LOIs received during Phase 1, if any, and will determine whether there is a reasonable prospect of obtaining a Successor Issuer Offer, and the Liquidator will assess the Qualified LOIs to determine whether there is a reasonable prospect of obtaining a Sale Proposal. For the purpose of such consultations and evaluations, CMHC and the Liquidator may request clarification of the terms of any Qualified LOI submitted by a Prospective Offeror.
33. In assessing the Qualified LOIs submitted in Phase 1, CMHC and the Liquidator may consider, among other things, the following:
- (a) the form and amount of consideration being offered and the net value to Maple Bank (including any assumed liabilities or other obligations to be performed by the Prospective Offeror);
 - (b) in respect of a Sale Proposal, whether the Qualified LOI maximizes value for the Maple Assets;
 - (c) in respect of a Successor Issuer Offer, that a Successor Issuer must be chosen for each of the NHA MBS mortgage pools for which Maple Bank was the Approved Issuer;
 - (d) the demonstrated financial capability of the Prospective Offeror to consummate the proposed transaction;
 - (e) the identity of the Prospective Offeror;

- (f) the costs and risks associated with entering into a transaction with a Prospective Offeror;
 - (g) any transition services required in respect of the transaction contemplated by the Qualified LOI;
 - (h) any monetary value that may reasonably be attributed to any non-cash consideration provided by a Prospective Offeror;
 - (i) the conditions to closing of the proposed transaction (including any required regulatory approvals and any other factors affecting the speed, certainty and value of the transaction);
 - (j) the treatment of Maple Bank employees, where hired by the Liquidator (whether active or inactive);
 - (k) whether a claim is likely to be created by the Qualified LOI, and a comparison of any such claims to claims likely to be created by any other Qualified LOI;
 - (l) the terms of the Qualified LOI (including, but not limited to, the anticipated counterparties to the transaction, and the anticipated closing date);
 - (m) the estimated time required to complete the proposed transaction and whether, in respect of a Successor Issuer Offer, CMHC, in consultation with the Liquidator, is of the opinion, and with respect to a Sale Proposal, the Liquidator is of the opinion, that the anticipated transaction is reasonably likely to close on or before the Outside Termination Date (as defined below); and
 - (n) such other criteria as CMHC and the Liquidator may determine as appropriate.
34. If one or more Qualified LOIs are received in respect of a Successor Issuer Offer, and CMHC, in consultation with the Liquidator, determines that there is a reasonable prospect of obtaining a Successor Issuer Offer, the Liquidator shall notify the Prospective Offerors that the Marketing Process shall progress to phase 2 (the date of such notification being the "**Phase 2 Commencement Date**") and the solicitation process shall be continued in accordance with this Marketing Process for a further thirty (30) calendar days following the Phase 2 Commencement Date or for such longer period as CMHC, in consultation with the Liquidator, may determine ("**Phase 2**").
35. If one or more Qualified LOIs are received in respect of a Sale Proposal and the Liquidator determines that there is a reasonable prospect of obtaining one or more Sale Proposal Offer(s), the Liquidator shall notify the Prospective Offerors that the Marketing Process shall progress to Phase 2 and notify such Prospective Offerors of the Phase 2 Commencement Date.
36. In respect of a Successor Issuer Offer, if CMHC, in consultation with the Liquidator, determines that there is at least one Qualified LOI received by the Phase 1 LOI Deadline, and CMHC determines that the Prospective Offerer would qualify as an Approved Issuer under the NHA MBS Program, CMHC shall be authorized to negotiate with such

Prospective Offeror to consummate a transaction for a Successor Issuer (and notwithstanding anything contained herein, such Prospective Offeror shall thereafter be deemed to be the Accepted Successor Issuer Offeror (as defined below)), following which the Liquidator shall report to the Court on the selection by CMHC of a Successor Issuer without this Marketing Process progressing to Phase 2.

37. In respect of a Sale Proposal, if the Liquidator determines that there is at least one Qualified LOI received by the Phase 1 LOI Deadline, and the Liquidator, in its reasonable business judgment, determines that such Qualified LOI maximizes the recovery on the Maple Assets, in the circumstances, then the Liquidator shall be authorized to negotiate with such Prospective Offeror to consummate a sale transaction with respect to the Maple Assets (and notwithstanding anything contained herein, such Prospective Offeror shall thereafter be deemed to be the Accepted Sale Offeror (as defined below)), following which the Liquidator shall seek Court approval of such agreement at an Authorization/Approval Motion (as defined below) without having this Marketing Process progress to Phase 2.

MARKETING PROCESS – PHASE 2

38. In respect of a Successor Issuer Offer, in the event that CMHC, in consultation with the Liquidator, determines that this Marketing Process shall progress to Phase 2, each Prospective Offeror that: (a) submits a Qualified LOI; and (b) is not eliminated from the solicitation process by CMHC, after the assessment of whether such Qualified LOI meets the criteria outlined above, will be invited to participate in Phase 2 (a “**Successor Issuer Offeror**”).
39. In respect of a Sale Proposal, in the event that the Liquidator, determines that this Marketing Process shall progress to Phase 2, each Prospective Offeror that: (a) submits a Qualified LOI; and (b) is not eliminated from the solicitation process by the Liquidator, after the assessment of whether such Qualified LOI meets the criteria outlined above, will be invited to participate in Phase 2 (a “**Sale Offeror**”).
40. With respect to the Due Diligence Access referenced above, each Successor Issuer Offeror’s and each Sale Offeror’s Due Diligence Access shall continue into Phase 2 and shall terminate upon the earliest of the following events to occur:
- (a) such party does not submit an Offer by the Phase 2 Offer Deadline (as defined below);
 - (b) in respect of a Successor Issuer Offer, such party submits an Offer by the Phase 2 Offer Deadline but CMHC, in consultation with the Liquidator, determines that such party does not constitute a Qualified Successor Issuer Offeror (as defined below);
 - (c) in respect of a Sale Proposal, such party submits an Offer by the Phase 2 Offer Deadline, but the Liquidator determines that such party does not constitute a Qualified Sale Offeror (as defined below); or

- (d) the closing of the transaction contemplated by the Accepted Successor Issuer Offer and/or the Accepted Sale Offer.
41. On the Phase 2 Commencement Date, or as soon as practicable thereafter, Successor Issuer Offerors shall contact CMHC in order to become eligible to be: (a) an Approved Issuer, if not so at the time of the Phase 2 Commencement Date; and, (b) the Successor Issuer. Notwithstanding the foregoing, if a party has submitted a Successor Issuer Offer, CMHC and such party shall be at liberty to begin the process for that party to become an Approved Issuer, (having regard to the criteria established in the NHA MBS Guide to be become an Approved Issuer), at any time after the Phase 1 Commencement Date.
42. On the Phase 2 Commencement Date or as soon as practicable thereafter, the Liquidator shall post: (a) a form of asset purchase agreement/assumption agreement on the Due Diligence Access site (the "APA") for Prospective Offerors who wish to submit a Sale Proposal(s); and (b) the form of agreement to become a Successor Issuer, which would include the consideration payable on closing, together with copies of the relevant documentation, as established by the NHA MBS Guide, for a party to become an approved NHA MBS issuer, as well as the documentation to be entered into once approved by CMHC, which documentation can also be found on the CMHC website.

Phase 2 Timing

43. All Successor Issuer Offers and Sale Proposals must be delivered in writing, by email or personal delivery so that they are actually received by CMHC and the Liquidator, with respect to Successor Issuer Offers, and received by the Liquidator, with respect to Sale Proposals, by no later than 5:00 p.m. (Toronto time) on the day that is thirty (30) calendar days following the Phase 2 Commencement Date, or such later date or time as may be determined by the CMHC, in consultation with the Liquidator (in respect of Successor Issuer Offers), and the Liquidator, or the Court (in respect of Sale Proposals), in accordance with the terms of this Marketing Process (the "**Phase 2 Offer Deadline**") at the addresses specified above in the section entitled "**Phase 1 Timing**".
44. A Successor Issuer Offer, or a Sale Proposal received by CMHC and/or the Liquidator after the Phase 2 Offer Deadline shall not constitute a Qualified Successor Issuer Offer (as defined below), or a Qualified Sale Offer (as defined below), as the case may be, unless CMHC, in consultation with the Liquidator (with respect to a Successor Issuer Offer) and the Liquidator (in respect of a Sale Proposal), in their respective discretion, deem a Successor Issuer Offer and/or a Sale Proposal received after the Phase 2 Offer Deadline to be a Qualified Successor Issuer Offer or a Qualified Sale Offer, as the case may be.

Offer Requirements

45. To be eligible to be a Qualified Successor Issuer Offeror (as defined below) and/or a Qualified Sale Offeror (as defined below), a Successor Issuer Offeror and/or a Sale Offeror must deliver either a Successor Issuer Offer to CMHC and the Liquidator, and/or a Sale Proposal to the Liquidator by the Phase 2 Offer Deadline, which satisfies each of the following applicable conditions (a "**Qualified Successor Issuer Offer**") or (a "**Qualified Sale Offer**") and collectively a "**Qualified Offer**") and the party submitting

such Qualified Successor Issuer Offer and/or Qualified Sale Offer, (a “**Qualified Successor Issuer Offeror**” or a “**Qualified Sale Offeror**” and collectively, a “**Qualified Offeror**”):

- (a) Confidentiality. The Successor Issuer Offeror and the Sale Offeror must deliver an executed Confidentiality Agreement (if not already delivered);
- (b) Identification. The Successor Issuer Offer and/or the Sale Proposal must identify the Successor Issuer Offeror and/or the Sale Offeror, as may be applicable, and their respective representatives thereof who are authorized to appear and act on behalf of the Successor Issuer Offeror and/or the Sale Offeror for all purposes regarding the contemplated transaction, and it must fully disclose the identity of each entity that will be sponsoring, participating or benefiting from the transaction contemplated in either the Successor Issuer Offer and/or the Sale Proposal, and the complete terms of such participation, including, in the case of an entity formed or to be formed for the purpose of entering into the transaction contemplated by the Successor Issuer Offer and/or the Sale Proposal, the identity of each actual or anticipated direct or indirect equity holder or beneficiary of such entity and the percentage of such equity holder or beneficiary’s interest in the transaction contemplated by either the Successor Issuer Offer and/or the Sale Proposal;
- (c) Subject Assets. In the case of a Successor Issuer Offer, if the offer is to become the Successor Issuer for less than all of the NHA MBS mortgage pools for which Maple Bank was the Approved Issuer, then the offer must include a list of the NHA MBS mortgage pools covered by the Successor Issuer Offer. In the case of a Sale Proposal, the offer must include a description of the Maple Assets proposed to be purchased and an allocation of the purchase price amongst those assets.
- (d) Form and Content. In the case of a Successor Issuer Offer, the Successor Issuer Offer must be in a form acceptable to CMHC, in order to qualify as a Successor Issuer (the “**Successor Issuer Form**”) and executed by the Successor Issuer Offeror (each, a “**Proposed Successor Issuer Agreement**”) together with all exhibits and schedules thereto and such ancillary agreements as may be required by CMHC, in consultation with the Liquidator. Any changes and modifications to the Successor Issuer Form are to be indicated on a blackline to the Successor Issuer Form. In the case of a Sale Proposal, the Sale Proposal must be in the same form as the APA and executed by the Sale Offeror (each, a “**Proposed Purchase Agreement**”), together with all exhibits and schedules thereto and such ancillary agreements as may be required by the Sale Offeror. Any changes and modifications to the APA shall be indicated on a blackline to the APA including, if applicable, any modifications made to reflect the Maple Assets, or parts thereof, sought to be purchased;
- (e) Treatment of Contracts. The Successor Issuer Offer and/or the Sale Proposal must identify, with particularity, the contracts, permits, licenses and/or leases the Successor Issuer Offeror and/or the Sale Offeror wishes to assume and those it wishes to reject and must contain full details of either the Successor Issuer

Offeror's and/or the Sale Offeror's proposal for the treatment of related cure costs, if applicable;

- (f) Approvals. The Successor Issuer Offer and/or the Sale Proposal must outline any anticipated regulatory and other approvals required, in addition to the required approval from CMHC to become the Successor Issuer, in order to close the respective transaction(s) and the anticipated timeframe and any anticipated impediments for obtaining such approvals;
- (g) Corporate Authorizations. The Successor Issuer Offer and/or the Sale Proposal must include evidence, in form and substance reasonably satisfactory to: (a) CMHC and the Liquidator (in the case of a Successor Issuer Offer); and (b) the Liquidator (in the case of a Sale Proposal) the authorization and approval from the Successor Issuer Offeror's and/or Sale Offeror's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction(s) contemplated by the Offers;
- (h) Deposit. The Sale Proposal must be accompanied by a cash deposit equal to ten percent (10%) of the total value of the consideration contemplated by the Offer, to a maximum of \$5 million, (the "**Deposit**" and collectively, the "**Deposits**"), and the Deposits shall be paid to the Liquidator in accordance with wire instructions provided by the Liquidator, and shall be held by the Liquidator in accordance with this Marketing Process;
- (i) Financial Wherewithal. The Successor Issuer Offer and/or the Sale Proposal must include evidence satisfactory to CMHC and the Liquidator (in respect of a Successor Issuer Offer) and the Liquidator (in respect of a Sale Proposal) of the respective offeror's financial ability to complete the Successor Issuer Offer and/or the Sale Proposal and close the transaction(s) on a closing date (the "**Closing Date**");
- (j) Closing Date. The Successor Issuer Offer and/or the Sale Proposal must contain a binding commitment by the Successor Issuer Offeror and/or the Sale Offeror to close on the terms and conditions set forth in the proposed Successor Issuer Agreement, or the Proposed Purchase Agreement, as applicable, as soon as practicable after satisfaction or waiver of all conditions; provided that the Closing Date must take place by no later than August 31, 2016, or such later date as agreed to by CMHC, in consultation with the Liquidator, (in respect of a Successor Issuer Offer) and the Liquidator (in respect of a Sale Proposal) and the respective offeror(s) (the "**Outside Termination Date**");
- (k) Closing Timeline. The Successor Issuer Offer and/or the Sale Proposal must provide a timeline for the closing of the transaction, which includes critical milestones;
- (l) Irrevocable. The Successor Issuer Offer and/or the Sale Proposal must be accompanied by a letter which confirms that the Offers: (i) may be accepted by CMHC (in respect of a Successor Issuer Offer), and the Liquidator, (in respect of a Sale Offer), by countersigning the Proposed Successor Issuer Agreement, or the

Proposed Purchase Agreement, as may be applicable, and (ii) is irrevocable and capable of acceptance until the earlier of (A) the day on which the Successor Issuer Offeror, or the Sale Offeror is notified that their respective offer is not a Qualified Offer; (B) if a Qualified Successor Issuer Offeror, or a Qualified Sale Offeror; (i) the date on which the CMHC and the Liquidator and the Accepted Successor Issuer Offeror have executed a binding agreement in respect of the transaction for a Successor Issuer; or (ii) the date on which the Liquidator and the Accepted Sale Offeror(s) have executed a binding agreement in respect of the transaction(s) for the Sale Proposal(s);

- (m) No Representations and Warranties. The Successor Issuer Offer and/or the Sale Proposal shall include an "as is, where is" clause substantially on the same terms as the "as is, where is" clause set out in the APA and the Successor Issuer Form;
 - (n) Acknowledgment. The Successor Issuer Offer and/or the Sale Proposal shall include an acknowledgment and representation that the Successor Issuer Offeror and the Sale Offeror, as applicable: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Maple Assets to be acquired and liabilities to be assumed in making its offer; and (ii) did not rely upon any written or oral statements, representations, promises, warranties or guarantees whatsoever, whether express or implied (by operation of law or otherwise), regarding the rights and responsibilities of Maple Bank for the NHA MBS and/or the Maple Assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the Proposed Successor Issuer Agreement, or the Proposed Purchase Agreement, as applicable;
 - (o) Contingencies. The Successor Issuer Offer and/or the Sale Proposal shall not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence;
 - (p) No Fees Payable to Offeror. The Successor Issuer Offer and/or the Sale Proposal shall not request or entitle the Successor Issuer Offeror and/or the Sale Offeror to any break-up fee, expense reimbursement, termination or similar type of fee or payment. Further, by submitting a Successor Issuer Offer and/or a Sale Proposal, a Successor Issuer Offeror and a Sale Offeror shall be deemed to irrevocably waive any right to pursue a claim in any way related to this Marketing Process; and
 - (q) Other Information. Successor Issuer Offer and/or the Sale Proposal shall contain such other information reasonably requested by CMHC, or the Liquidator, as may be applicable.
46. Each Successor Issuer Offeror and Sale Offeror shall comply with all reasonable requests for additional information by CMHC or the Liquidator regarding each corresponding offer and its contemplated transaction. Failure by a Successor Issuer Offeror and/or a Sale Offeror to comply with requests for additional information will be a basis for CMHC, in consultation with the Liquidator (in respect of a Successor Issuer Offer) and

the Liquidator (in respect of a Sale Proposal), to determine that the applicable offeror is not a Qualified Successor Issuer Offeror, or Qualified Sale Offeror.

47. CMHC and the Liquidator may discuss, negotiate or seek clarification of any Successor Issuer Offer and/or the Sale Proposal. A Successor Issuer Offeror and/or a Sale Offeror may not modify, amend or withdraw their respective offers without the written consent of CMHC, in consultation with the Liquidator, (with respect to a Successor Issuer Offer) and the Liquidator (with respect to a Sale Proposal). Any such modification, amendment or withdrawal of an offer by an offeror without the written consent of CMHC and the Liquidator, as applicable, shall result in a forfeiture of such offeror's Deposit as liquidated damages and not as a penalty.

MARKETING PROCESS – PHASE 3

48. If one or more Qualified Successor Issuer Offers, or Qualified Sale Offers are received in accordance with this Marketing Process, in the case of a Qualified Successor Issuer Offer, CMHC, in consultation with the Liquidator, may choose to:

- (a) accept one or more than one non-overlapping Qualified Successor Issuer Offer(s) (the "**Accepted Successor Issuer Offer(s)**") and the party, or parties submitting the Accepted Successor Issuer Offer(s) (the "**Accepted Successor Issuer Offeror(s)**") shall proceed to finalize and complete an agreement for the Accepted Successor Issuer Offer(s) with the Qualified Successor Issuer Offeror(s); or,
- (b) continue negotiations with a selected number of Qualified Successor Issuer Offerors with a view to finalizing an agreement with one, or more Qualified Successor Issuer Offeror(s), such that such Qualified Successor Issuer Offeror(s) becomes the Accepted Successor Issuer Offeror(s).

In the case of a Qualified Sale Offer, the Liquidator may choose to:

- (c) accept one Qualified Sale Offer, or multiple sets of non-overlapping Qualified Sale Offers with respect to the Maple Assets (the "**Accepted Sale Offer(s)**", and the party or parties submitting such Accepted Sale Offer(s), the "**Accepted Sale Offeror(s)**") and take such steps as are necessary to finalize and complete an agreement for the Accepted Sale Offer(s) with the selected Qualified Sale Offeror(s); or,
 - (d) continue negotiations with a selected number of Qualified Sale Offerors with a view to finalizing an agreement with one, or more Qualified Sale Offeror(s) such that such Qualified Sale Offeror(s) becomes the Accepted Sale Offeror(s).
49. Evaluation criteria for the Accepted Successor Issuer Offer(s) and/or Accepted Sale Offer(s) may include, but are not limited to, the factors listed in the section above regarding the "**Assessment of Qualified LOIs and Continuation or Termination of Solicitation Process**" (except such factors will be applied to an evaluation of the Qualified Offers, as opposed to the Qualified LOIs).

OTHER TERMS

CMHC's and the Liquidator's Reservation of Rights

50. In addition to the other reservation of rights set out herein, in respect of a Successor Issuer Offer, CMHC, in consultation with the Liquidator, shall have the right in its discretion to: (a) waive strict compliance with any one or more of the LOI Requirements or Offer Requirements, as specified herein, and deem such non-compliant LOIs to be Qualified LOIs or non-compliant Successor Issuer Offers to be Qualified Successor Issuer Offers, as the case may be, provided that such non-compliance is not material in nature; (b) reject any or all LOIs or Successor Issuer Offers if, in CMHC's opinion, in consultation with the Liquidator, no LOI or Successor Issuer Offer complies with the minimum requirements or for any other reasons; (c) adopt such ancillary and procedural rules not otherwise set out herein (including rules that may depart from those set forth herein) that in the CMHC's opinion, in consultation with the Liquidator, will better promote the goal of finding a Successor Issuer(s); and/or (d) truncate or terminate this Marketing Process with regard to identifying a Successor Issuer(s), after consultation with the Liquidator, at any point in time.
51. In addition to the other reservation of rights set out herein, in respect of a Sale Proposal, the Liquidator shall have the right in its discretion to: (a) waive strict compliance with any one or more of the LOI Requirements or Offer Requirements, as specified herein, and deem such non-compliant LOIs to be Qualified LOIs or non-compliant Sale Proposals to be Qualified Sale Offers, as the case may be, provided that such non-compliance is not material in nature; (b) reject any or all LOIs, or Sale Proposals if, in the Liquidator's judgement, no LOI or Sale Proposal complies with the minimum requirements or for any other reasons; (c) adopt such ancillary and procedural rules not otherwise set out herein (including rules that may depart from those set forth herein) that in the Liquidator's judgement, will better promote the goal of this Marketing Process; and/or (d) truncate or terminate this Marketing Process, after consultation with CMHC, at any point in time.
52. To the extent that any notice of changes to this Marketing Process or related dates, times, or locations is required or otherwise appropriate, the Liquidator may publish such notice on the Liquidator's public website and such notice shall be deemed satisfactory, subject to any other notice requirements specifically set forth herein, or as required by the Court.

Discussions with Third Party Stakeholders

53. If it is determined by CMHC, in consultation with the Liquidator, in respect of a Successor Issuer Offer, that it would be worthwhile to facilitate a discussion between a prospective Successor Issuer Offeror, or a Qualified Successor Issuer Offerer, as applicable, and a stakeholder (including any originators or servicers to Maple Bank's MBS business), or other third party (such as a governmental or regulatory authority) as a consequence of a condition to a potential transaction or potential closing condition identified by such prospective Successor Issuer Offeror, or Qualified Successor Issuer Offerer, CMHC may provide such prospective Successor Issuer Offeror, or Qualified Successor Issuer Offerer, with the opportunity to meet with the relevant stakeholder or third party to discuss such condition or potential condition, with a view to enabling such prospective Successor Issuer Offeror, or Qualified Successor Issuer Offerer, to seek to

satisfy the condition or assess whether the condition is not required or can be waived. Any such meetings or other form of communication will take place on terms and conditions considered appropriate by CMHC, in consultation with the Liquidator.

54. If it is determined by the Liquidator, in respect of a Sale Proposal, that it would be worthwhile to facilitate a discussion between a prospective Sale Offeror or a Qualified Sale Offeror, as applicable, and a stakeholder (including any originators or servicers to Maple Bank's MBS business), or other third party (such as a governmental or regulatory authority) as a consequence of a condition to a potential transaction or potential closing condition identified by such prospective Sale Offeror, or Qualified Sale Offeror, the Liquidator may provide such prospective Sale Offeror, or Qualified Sale Offeror with the opportunity to meet with the relevant stakeholder or third party to discuss such condition or potential condition, with a view to enabling such prospective Sale Offeror, or Qualified Sale Offeror to seek to satisfy the condition or assess whether the condition is not required or can be waived. Any such meetings or other form of communication will take place on terms and conditions considered appropriate by the Liquidator.

Authorization/Approval Motion

The Liquidator may apply to the Court for an order approving the Accepted Sale Offer(s) of the sale of the applicable Maple Assets to the Accepted Sale Offeror(s) free and clear of all liens and encumbrances, other than those liens and encumbrances expressly to be assumed by the Accepted Sale Offeror(s) (the "**Authorization/Approval Motion**"). The Authorization/Approval Motion may be scheduled with the Court as soon as possible thereafter at 330 University Avenue, Toronto, Ontario before Regional Senior Justice Morawetz. The Authorization/Approval Motion may be adjourned, or re-scheduled by the Liquidator, after consulting with CMHC, without further notice, but by an announcement of the adjourned date at the Authorization/ Approval Motion. Notwithstanding the foregoing, in the event that there is more than one Accepted Sale Offer, the Liquidator, reserves the right to impose a condition in each Accepted Sale Offer that the Authorization/Approval Sale Motion for such Accepted Sale Offer be heard on the same day as any other Authorization/Approval Motion(s).

Consent to Jurisdiction as Condition to make an Offer

55. All prospective Successor Issuer Offerors, prospective Sale Offerors and all Qualified Offerors shall be deemed to have consented to the exclusive jurisdiction of the Court with respect to any disputes relating to this Marketing Process and the construction and enforcement of the relevant transaction documents, as applicable.

Marketing Process Participant Fees

56. Participants in the Marketing Process are responsible for all costs, expenses and liabilities incurred by them for any reason whatsoever, including, but not limited to, in connection with the submission of any LOI, Successor Issuer Offer, Sale Proposal, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.

Closing the Successful Offer(s)

57. In respect of the Accepted Successor Issuer Offer(s), CMHC, in consultation with the Liquidator and the Accepted Successor Issuer Offeror(s), will take all reasonable steps to complete the transaction contemplated by the Accepted Successor Issuer Offer(s), as soon as possible.
58. In respect of the Accepted Sale Offer(s), the Liquidator and the Accepted Sale Offeror(s) will take all reasonable steps to complete the transaction contemplated by the Accepted Sale Offer(s) as soon as possible after the Accepted Sale Offer(s) is approved by the Court.
59. If the transaction(s) contemplated by the Accepted Successor Issuer Offer(s) and the Accepted Sale Offer(s) has/have not closed by the Outside Termination Date, or such Accepted Successor Issuer Offer(s) and/or Accepted Sale Offer(s) is/are terminated for any reason prior to the Outside Termination Date, then this Marketing Process shall be terminated with respect to either the process to find a Successor Issuer and/or the process to sell the Maple Assets, as applicable.

Return of Deposit

60. All Deposits shall be held by the Liquidator in an interest-bearing account until returned to the applicable offeror or otherwise dealt with in accordance with this Marketing Process. Deposits of all offerors who are determined not to be a Qualified Offeror shall be returned to such offeror ten (10) business days after the day on which the offeror is notified that it is not a Qualified Offeror. Deposits of all Qualified Offerors, other than the Accepted Sale Offeror(s), shall be returned to such Qualified Offerors ten (10) business days after the day on which the Liquidator and the Accepted Sale Offeror(s) have executed a binding agreement in respect of the transaction(s) for the Sale Proposal(s).
61. The Deposit with respect to the Accepted Sale Offeror(s) shall be applied to the purchase price of the applicable transaction(s) at closing. If the Accepted Sale Offer(s) fail(s) to close by the Outside Termination Date because of a breach or failure to perform on the part of the Accepted Sale Offeror(s), the Liquidator shall be entitled to retain the Deposit of the applicable Accepted Sale Offeror(s) as part of the liquidated damages resulting from the breach or failure to perform by the applicable Accepted Sale Offeror(s) (and not as a penalty). The Deposit of the Accepted Sale Offeror(s) shall otherwise be returned to the Accepted Sale Offeror(s) in accordance with the terms of the Accepted Sale Offer(s).

No Amendment

62. There will be no amendments to this Marketing Process without the written consent of CMHC and the Liquidator, each acting reasonably, or, in the absence of consent, the approval of the Court. This Marketing Process does not, and will not, be interpreted to create any contractual or other legal relationship between CMHC, the Liquidator, and any prospective Successor Issuer Offeror, prospective Sale Offeror, Successor Issuer Offeror, or a Sale Offeror. At any time during the implementation of this Marketing Process, and subject to the terms of the MOU, CMHC and the Liquidator may apply to the Court for

advice and directions with respect to the implementation of this Marketing Process, and in the case of the Liquidator, in respect of the discharge of its powers and duties hereunder.

No Acceptance Obligation

63. In the case of a Successor Issuer Offer, CMHC shall be under no obligation to accept the highest Qualified LOI and/or the highest Qualified Successor Issuer Offer, or any Qualified LOI and/or Qualified Successor Issuer Offer, and reserves the right to reject, after consulting with the Liquidator, any or all Qualified LOIs and/or Qualified Successor Issuer Offers. The selection of the Accepted Successor Issuer Offer(s) shall be in the sole discretion of CMHC, after consulting with the Liquidator.
64. In the case of a Sale Offer, the Liquidator, shall be under no obligation to accept the highest Qualified LOI and/or the highest Qualified Sale Offer, or any Qualified LOI and/or Qualified Sale Offer, and reserves the right to reject any or all Qualified LOIs and/or Qualified Sale Offers. The selection of the Accepted Sale Offer(s) shall be in the sole discretion of the Liquidator.

Summary of Key Dates

65. The following chart summarizes the key dates provided for in this Marketing Process, which dates are subject to extension, or modification, with agreement of both the Liquidator and CMHC.

Phase 1 Commencement Date / Teaser Letters sent to Prospect List	April 13, 2016
Phase 1 LOI Deadline	May 6, 2016
Phase 2 Commencement Date / APA posted to Due Diligence Access site	May 18, 2016
Phase 2 Offer Deadline	June 17, 2016
Outside Termination Date	August 31, 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

ATTORNEY GENERAL OF CANADA

- and -

MAPLE BANK GmbH

Applicant

Respondent

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto

SECOND REPORT OF THE
LIQUIDATOR, KPMG INC.
Dated March 30, 2016

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the business in Canada of Maple Bank GmbH and its
assets.

**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**

ATTORNEY GENERAL OF CANADA

- and - **MAPLE BANK GmbH**

Applicant

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**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding commenced at Toronto**

**MOTION RECORD
(returnable April 1, 2016)**

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