

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF MAPLE BANK GmbH

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

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

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

MAPLE BANK GmbH

Respondent

THE

FIFTEENTH 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*

August 20, 2021

Table of Contents

1.	INTRODUCTION AND PURPOSE OF THE FIFTEENTH REPORT	3
2.	ACTIVITIES OF THE LIQUIDATOR.....	9
3.	RECEIPTS AND DISBURSEMENTS	12
4.	PROPOSED EXTENSION OF ROLE AS DATA CUSTODIAN	14
5.	ESTIMATED RESERVE.....	16
6.	UPDATE ON FEE TAXATION.....	19
7.	LIQUIDATOR’S RECOMMENDATIONS	21

Listing of Appendices

Appendix A	Winding-Up Order dated February 16, 2016
Appendix B	Summary of the First – Twelfth Reports of the Liquidator
Appendix C	Fourteenth Report of the Liquidator dated July 17, 2020 (excluding appendices)
Appendix D	Data Custodian Order dated July 23, 2020
Appendix E	Fourth Interim Distribution Order dated July 23, 2020
Appendix F	Email from the Department of Justice dated May 8, 2020

1. INTRODUCTION AND PURPOSE OF THE FIFTEENTH REPORT

BACKGROUND

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

- iv. Canada Mortgage and Housing Corporation (“**CMHC**”), after the issuance of a default notice to Maple Bank, taking control of the mortgage backed securities (“**MBS**”) business of the Toronto Branch and the corresponding mortgage pools (totaling approximately \$3.5 billion); and
 - v. OSFI issuing orders under section 619 of the *Bank Act* for the taking of control of the assets of Maple Bank in respect of the Business.
4. The events described above prompted OSFI to request that the Attorney General of Canada seek a winding-up order pursuant to section 10.1 of the WURA in respect of the Business. On February 16, 2016 (the “**Winding-Up Date**”), Regional Senior Justice Morawetz of the Ontario Superior Court of Justice [Commercial List] (the “**Court**”) granted an order (the “**Winding-Up Order**”) to, among other things, (i) wind-up the Business; and (ii) appoint KPMG Inc. (“**KPMG**”) as liquidator (the “**Liquidator**”) of the Business and of the assets of Maple Bank as defined in section 618 of the *Bank Act* (the “**Assets**”). Appended hereto as “**Appendix A**” is a copy of the Winding-Up Order.
 5. The Liquidator has issued reports One through Twelve for the period up to September 19th, 2017. For this period, the Liquidator reported on its significant activities and sought approval by the Court for certain agreements entered into by the Liquidator and for its activities. A summary of the reporting included in each of the twelve reports to the court is attached as “**Appendix B**”.
 6. On December 8, 2017, the Liquidator filed its Thirteenth Report, which provided the Court with information in respect of:
 - i. The Liquidator’s statement of receipts and disbursements for the period February 16, 2016 to October 31, 2017, and estimated funds available for distribution to proven creditors and thereafter the GIA;
 - ii. The status of the Claims Procedure implemented pursuant to the Claims Procedure Order including seeking approval of:
 - a. the Liquidator’s activities in respect of the final settlement of the Executives’ claims; and

- b. the sealing of the Executives' settlement agreements.
 - iii. The Liquidator's estimated surplus available to satisfy the claims of Toronto Branch's creditors as well as a request for:
 - a. approval of a third interim distribution to the German Estate (the "**Third Interim Distribution**") consisting of i) Euro 3,792,160.04 (CAD 5,550,812.18) associated with the settlement of various Credit Suisse foreign exchange forward contracts (the "**Credit Suisse FX Forwards**"), which settlement amounts were previously paid by Credit Suisse directly to Maple Bank GmbH and retained by the GIA, and ii) a portion of the Liquidator's estimated surplus in the amount of \$5.0 million, on or after December 19, 2017; and
 - b. approval, *nunc pro tunc*, of the notice of distribution to creditors of the Toronto Branch that will be published on December 8, 2017, in the National Edition of *The Globe and Mail* and the International Edition of *The Financial Times* (the "**December 8 Notice of Distribution**"); and
 - iv. The Liquidator's activities since the filing of the Twelfth Report and the Liquidator's request for approval of same.
 - 7. On December 12, 2017, the Liquidator filed its confidential supplement to the Thirteenth Report which provided the Court with information in respect of the terms of the final settlement agreements with the Executives.
 - 8. On January 25, 2018, the Liquidator filed its second supplement to the Thirteenth Report (the "**Second Supplement to the Thirteenth Report**"), which provided the Court with information in respect of:
 - i. The Liquidator's activities since the adjournment of the Data Sharing Motion including (a) the deletion of personal information that was contained in the Toronto Branch's digital Data, and (b) assisting the GIA, the MFGI Trustee, Ontario Teachers' Pension Plan ("**OTPP**") and National Bank of Canada ("**National**") with their understanding as to the structure

- and quantum of the data, including the ability to search the data that was being proposed to be transferred to the GIA; and
- ii. The Liquidator’s request that the Court grant an order authorizing and directing the Liquidator to transfer to the GIA (a) the Recall Records, (b) the Toronto Branch’s Global One Data, and (c) the Laserfiche System Requested Data.
9. On July 17, 2020, the Liquidator filed its Fourteenth Report, a copy of which is attached hereto as **Appendix “C”**, which provided the Court with information in respect of:
- i. the Liquidator’s activities since the filing of the Thirteenth Report;
 - ii. the Liquidator’s statement of receipts and disbursements for the period February 16, 2016 to May 31, 2020;
 - iii. the Data Transfer Order and the performance by the Liquidator of its duties thereunder;
 - iv. the Liquidator’s proposed role as Data Custodian (defined therein), for which an Order was subsequently granted on July 23, 2020 (the “**Data Custodian Order**”), a copy of which is attached hereto as **Appendix “D”**;
 - v. the status of the Claims Procedure implemented pursuant to the Claims Procedure Order, specifically as it related to the initial claims and the subsequently amended claim filed by Canada Revenue Agency (“**CRA**”);
 - vi. the Liquidator’s estimate as to the surplus available to satisfy the claims of the remaining creditors of the Toronto Branch, including details in respect of the Estimated Reserve; and
 - vii. the proposed distribution to the German Estate, for which an Order was subsequently granted on July 23, 2020 (the “**Fourth Interim Distribution Order**”), a copy of which is attached hereto as **Appendix “E”**.

PURPOSE OF THE FIFTEENTH REPORT

10. The purpose of this Fifteenth Report (the “**Fifteenth Report**”) is to provide information to the Court in respect of:
 - i. The Liquidator’s activities since the filing of the Fourteenth Report;
 - ii. The Liquidator’s statement of receipts and disbursements for the period June 1, 2020 to July 31 2021;
 - iii. The Data Custodian Order and the Liquidator’s proposed extension of same; and
 - iv. Fee taxation and proposed approach

TERMS OF REFERENCE AND DISCLAIMER

11. In preparing this report, the Liquidator has been provided with, and has relied upon, unaudited and other financial information, books and records (collectively, the “**Information**”) prepared by the Toronto Branch and/or its representatives, and discussions with its former management and/or its former representatives. The Liquidator has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided and in consideration of the nature of evidence provided to the Court. However, the Liquidator has not audited or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards (“**CAS**”) pursuant to the *Chartered Professional Accountants Canada Handbook* and, accordingly, the Liquidator expresses no opinion or other form of assurance contemplated under CAS in respect of the Information.
12. 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.
13. Capitalized terms not defined in the Fifteenth Report are as defined in either the Winding-Up Order and/or the First Report through the Fourteenth Report. Unless otherwise indicated, all references to monetary amounts herein are denominated in Canadian dollars (“**CAD**”).

14. Copies of the Liquidator's Court reports and all motion records and Orders in these proceedings are available on the Liquidator's website at <http://www.kpmg.com/ca/maplebank>.

2. ACTIVITIES OF THE LIQUIDATOR

15. Detailed descriptions of the Liquidator's activities from the Winding-Up Date up to and including the date of the Fourteenth Report have been set out in previous reports and approved by the Court.
16. A detailed description of the Liquidator's activities since the date of the Fourteenth Report is set out below.

DATA CUSTODIAN ORDER

17. On July 23, 2020, the Court granted the Data Custodian Order, authorizing and appointing the Liquidator as custodian of certain data and records of Maple Bank.
18. Pursuant to the Data Custodian Order, the Liquidator in its capacity as Data Custodian has:
 - i. continued to exercise control over the Custodial Data (as defined in the Data Custodian Order);
 - ii. completed the assignment of the existing SunGard Services Agreement dated September 1, 2016 (the "**Sungard Agreement**") from MSCL; and
 - iii. entered into a new record agreement with RecordsXpress with regard to the physical documents and data tapes that the Data Custodian has maintained control over.

CRA CLAIMS

19. As detailed in the Fourteenth Report, the final remaining unresolved claims arising from the Claims Procedure are the Initial CRA Claims and the Amended CRA Claim (collectively, the "**CRA Claims**").
20. Since the date of the Fourteenth Report, the Liquidator and CRA have continued to work towards reaching an omnibus settlement in respect the CRA Claims.

21. On April 28, 2021, the Liquidator delivered to the Department of Justice, as counsel to CRA, (the “DOJ”), a settlement proposal (the “**Settlement Proposal**”) in respect of the CRA Claims. The Liquidator intends to continue with its ongoing settlement discussions with the DOJ and CRA with the objective of reaching a settlement in respect of the CRA Claims.
22. The Liquidator is also continuing to pursue the Tax Appeal (as detailed in the Fourteenth Report) in conjunction with the ongoing settlement discussions with the DOJ and CRA, in order to ensure that the Toronto Branch’s right to an appeal is preserved should a settlement not be reached with CRA.
23. The Liquidator continues to consult with the GIA in respect of all actions taken to date in respect of settlement of the CRA Claims.

MAPLE BANK GmbH Financial Statements

24. The financial statements of Toronto Branch form part of the consolidated financial statements of Maple Bank GmbH. The Liquidator understands that, under the direction of the GIA, certain consolidated financial statements of Maple Bank GmbH have been (or are in the process of being) prepared in accordance with *German Generally Accepted Accounting Principles*. These statements will be subsequently audited by a third party accounting firm in Germany. The specific time periods of the consolidated financial statements, and the progress of their completion and subsequent audit, are as follows :
 - i. Year ending September 30th, 2015 (financial statement and audit finalized);
 - ii. Period October 1, 2015 to February 05, 2016 (financial statement and audit both in process); and
 - iii. Period February 11, 2016 to September 30, 2016 (financial statement in process).
25. The Liquidator (primarily with the assistance of the former Toronto Branch CFO) has been assisting Maple Bank GmbH with the process of consolidating the

financial statements by providing financial statements and supporting information for the Toronto Branch and responding to queries from the German auditor.

MANAGING ASSETS OF THE ESTATE

26. The Liquidator has continued to manage the assets of the estate of the Toronto Branch, which consist solely of cash and short-term interest bearing investments, to preserve value for the remaining creditors of the Toronto Branch.

PROVIDING UPDATES AND CONSULTING WITH THE GIA

27. The Liquidator has provided updates to, and consulted with, the GIA on the following matters:
- i. the Data Custodian Order and the Liquidator's activities associated with carrying out duties pursuant to same;
 - ii. the Liquidator's proposed extension of its role as Data Custodian (discussed further herein);
 - iii. ongoing settlement discussions with the DOJ in respect of the CRA Claims;
 - iv. preparing periodic financial reporting for the stakeholders of the Maple Bank GmbH estate; and
 - v. other miscellaneous matters as required.

3. **RECEIPTS AND DISBURSEMENTS**

SUMMARY OF RECEIPTS AND DISBURSEMENTS

28. The Liquidator previously reported the receipts and disbursements of the Toronto Branch for the period February 16, 2016 to May 31, 2020, in the Fourteenth Report. The table below summarizes the receipts and disbursements for the Toronto Branch for the period February 16, 2016 to July 31, 2021, highlighting the changes during the period since the Fourteenth Report, being June 1, 2020 to July 31, 2021.

Statement of Receipts and Disbursements Amounts in \$CAD millions	February 16, 2016 to May 31, 2020	February 16, 2016 to July 31, 2021	Changes June 1, 2020 to July 31, 2021
Receipts	Total⁽¹⁾	Total⁽¹⁾	
CED and Securities	489.6	489.6	-
Structured Loan Portfolio	357.4	357.4	-
MBS Business	176.5	176.5	-
Related Party Settlements	84.3	84.3	-
Settlement of Brokerage Account	64.7	64.7	-
Derivative Instruments	59.6	59.6	-
Miscellaneous/Other	10.2	10.1	(0.1)
Total Receipts	1,242.3	1,242.2	(0.1)
Disbursements			
Payroll	2.7	2.7	-
General and Administrative	2.7	2.8	0.1
Occupancy Rent	0.4	0.4	-
Transfer to CMHC	0.3	0.3	-
Total Operating Disbursements	6.1	6.2	0.1
GIA Distribution	754.3	780.0	25.7
Distribution to Proven Creditors, with interest	741.8	741.8	-
Professional Fees	14.7	14.9	0.2
Net Disbursements in excess of Receipts	(274.6)	(300.7)	(26.1)
Opening Cash Balance	316.1	316.1	-
Closing Cash and Cash Equivalents Balance	41.5	15.4	(26.1)

⁽¹⁾ Certain totals above may not foot due to rounding of underlying figures.

ANALYSIS OF RECEIPTS

29. Since the Winding-Up Date, receipts totalled approximately \$1.24 billion.
30. Receipts decreased during the period since May 31, 2020 by \$0.1 million related to unrealized foreign exchange loss on U.S. and Euro denominated balances.

ANALYSIS OF DISBURSEMENTS

31. Operating disbursements for the period since May 31, 2020 total approximately \$0.1 million and relate primarily to consulting fees paid to the former CFO of Toronto Branch, and other general and administrative expenses.
32. A distribution to the GIA of approximately \$25.7 million was made on August 5, 2020, in accordance with the Fourth Interim Distribution Order. Approximately \$780.0 million has been distributed to the GIA since the Winding-Up Date.
33. Professional fees paid during the period since May 31, 2020, in the amount of \$0.2 million, consist primarily of professional fees of the Liquidator, its counsel (BLG), the ICC and EY (Toronto Branch's tax advisor). The fees of the Liquidator and its counsel remain subject to review by the ICC and approval by the Court. The Liquidator's and its counsel's fees from the Winding-Up Date to July 31, 2017 have been reviewed by the ICC and approved by the Court.
34. As at July 31, 2021, the Toronto Branch held approximately \$15.4 million of cash and cash equivalents, which is comprised of approximately \$0.4 million in Toronto Branch bank accounts and \$15.0 million in liquid securities in the Toronto Branch's RBC DS account.

4. PROPOSED EXTENSION OF ROLE AS DATA CUSTODIAN

35. Pursuant to the Data Custodian Order, the Data Custodian's appointment was to conclude and be terminated on the earlier of (i) August 31, 2021, and (ii) the date upon which KPMG is discharged as Liquidator of the Toronto Branch.
36. The GIA has advised the Data Custodian that it does not want any of the MSCL Data, or the Remaining DTO Data (as defined in the Data Custodian Order) destroyed at this time as it may require access to certain of this data in order to fulfill its statutory duties pursuant to German Law.
37. The Liquidator Back-up Tapes (as defined in the Data Custodian Order) include comingled data. The Liquidator is of the view that the Liquidator Back-up Tapes are not required to complete the administration of the Toronto Branch estate; however, the Liquidator also does not wish to destroy this data at this time.
38. The Liquidator's motion contemplates the extension of the Liquidator's role as Data Custodian, pursuant to the existing Data Custodian Order, to the earlier of (i) the date upon which KPMG is discharged as Liquidator of the Toronto Branch and ii) further order of the Court. No other change to the Data Custodian Order is being sought.
39. The MSCL Data and the Remaining DTO Data is currently stored on servers located at leased premises (the "**Sungard Facility**") in Mississauga. This lease is to expire on August 31, 2021. The Liquidator is in the process of finalizing the required documentation to secure an extension to the Sungard Services Agreement for a further 12 months, which includes an option by the Data Custodian to terminate the Sungard Services Agreement on 60 days notice to Sungard and without penalty if terminated after 4 months from September 1, 2021.
40. On August 16, 2021, the Liquidator notified OTTP and National Bank, through their respective counsel, that the Liquidator will be seeking an extension of its role as Data Custodian. OTTP and National have taken an active interest in the

Custodial Data (as defined in the Data Custodial Order) and the role of the Data Custodian.

5. ESTIMATED RESERVE

ESTIMATED RESERVE

41. As described above, the Toronto Branch has approximately \$15.4 million in cash and cash equivalents in order to satisfy any outstanding remaining claims against the estate of the Toronto Branch. The only filed claims that have yet to be resolved are the CRA Claims.
42. As discussed in the Twelfth Report, in determining the estimated surplus that may be available for distribution to the German Estate, the Liquidator developed, in consultation with the GIA, an appropriate reserve (the “**Estimated Reserve**”) to provide for:
 - i. Unproven claims;
 - ii. Possible future Claims (“**Future Potential Claims**”);
 - iii. Interest on unproven claims at 5% per annum (in accordance with the WURA) up to and including July 31, 2018, a date by which the Liquidator estimates it will have resolved all claims;
 - iv. The Legal Fees Reserve pursuant to the Principal Officers Additional Claims Order, and the Protocol to Address Reserves re: A former Principal Officer;
 - v. Estimated costs to administer the Toronto Branch Liquidation through July 31, 2018; and
 - vi. Tax liabilities in respect of the post Winding-Up Date periods.
43. The Estimated Reserve was designed to fund the completion of the estate and protect any further claimants of the Toronto Branch while at the same time allowing for a further interim distribution to the German Estate of the Toronto Branch’s estimated surplus.

44. As described in the Fourteenth Report, the Estimated Reserve was revised down to:
- i. The Principal Officers legal fee reserve in the amount of \$5.0 million. This reserve provides for funding of a former Principal Officer's legal fees in respect of certain litigation that may be initiated against the former Principal Officer, pursuant to the Principal Officers Additional Claims Order and the Protocol to Address Reserves. Notwithstanding that there has been no claim asserted against the Principal Officer, the release of this reserve is conditional on the GIA issuing a release confirming that they do not intend to pursue legal action against the Principal Officer, which the GIA has not confirmed.
 - ii. The CRA reserve in the amount of \$5.0 million. This reserve provides for all amounts potentially owing to CRA, including amounts in connection with the Initial CRA Claims and the Amended CRA Claim. CRA has consented to this reserve amount as evidenced by an email from the DOJ dated May 8, 2020, a copy of which is appended hereto as **Appendix F**.
 - iii. The General reserve in the amount of \$5.0 million to provide for the following:
 - a. Fees and disbursements of the Liquidator and its counsel, in connection with the resolution of the Initial CRA Claims and the Amended CRA Claim and the completion of the liquidation of the Toronto Branch; and
 - b. Other unforeseen future costs to the Toronto Branch.
45. The current Estimated Reserve as at July 31, 2021 and any changes since the Fourteenth Report, are set out in the table below.

Summary of Estimated Reserves Amounts in \$CAD Millions	14th Report	Revised	Changes ⁽¹⁾ June 1, 2020 to July 31, 2021
Principal officers legal fee reserve	5.0	5.0	-
CRA reserve	5.0	5.0	-
General reserve	5.0	4.6	(0.4)
Data Custodian reserve	0.8	0.8	-
Total Estimated Reserve	15.8	15.4	(0.4)

⁽¹⁾ Changes include costs incurred and unrealized FX gain/losses on foreign currency transactions.

46. The Estimated Reserves, which are now all held in Canadian denominated cash or short term investments, have been adjusted for the costs of administration incurred since the date of the Fourteenth Report to July 31, 2021.
47. The Liquidator does not contemplate making a further interim distribution to the GIA as the Liquidator is of the view there are not any available surplus funds, within the Estimated Reserve as currently held by the Liquidator, which could be used to make a further interim distribution to the GIA.

6. UPDATE ON FEE TAXATION

48. On March 2, 2020, the Court issued the Independent Cost Counsel Order pursuant to which Alex Ilchenko, a lawyer at Pallett Valo LLP, was appointed as replacement Independent Cost Counsel (the “**ICC**”). The ICC’s mandate was to review the fees and disbursements (the “**Professional Fees**”) of the Liquidator and its counsel Borden Ladner Gervais LLP (“**BLG**”) and prepare and file with the Court a report (the “**ICC Report**”) regarding his assessment as to the fairness and reasonableness of the Professional Fees and whether the Professional Fees ought to be approved by the Court.
49. Since his appointment the ICC has reviewed certain of KPMG’s and BLG’s invoices covering the period subsequent to those last approved by court order dated September 26, 2017. The ICC has not issued his final report. The Liquidator has been kept abreast of the ICC’s progress with regard to his review of the Professional Fees. To date the Liquidator has paid Pallett Valo LLP a total of \$102,776 for the work undertaken by the ICC.
50. On August 16 2021, Alex Ilchenko was sworn in as a Bankruptcy Registrar for Toronto. As a result of this appointment, Mr. Ilchenko will no longer be able to continue as ICC. Accordingly, the Liquidator requests an order from the Court, *non pro tunc*, discharging Mr. Ilchenko as ICC, effective August 15, 2021.
51. Because of Mr. Ilchenko’s familiarity and knowledge of the Professional Fees, the Liquidator is of the view that it would be more efficient and would result in less costs to the estate of the Toronto Branch if Mr. Ilchenko could complete his review and assessment of the Professional Fees in his capacity as Bankruptcy Registrar. Accordingly, the Liquidator requests an order from the Court directing that Mr. Ilchenko, as Bankruptcy Registrar, be appointed to continue and complete a review and assessment of the Professional Fees and that in furtherance of this purpose, the Bankruptcy Registrar be permitted to use the draft report and any other materials and documentation previously utilized by the ICC in its review and assessment of the Professional Fees.

52. The Liquidator is of the view that Mr Ilchenko' s prior role as ICC does not cause a conflict with his taxing the Liquidator's and BLG's accounts as Bankruptcy Registrar due to:
- i. Mr. Ilchenko was an officer of the Court having been appointed by the Court as ICC; and
 - ii. The ICC had not finalized his report, nor had the ICC provided either the Liquidator or BLG with his final assessment as to the fairness and reasonableness of the Liquidator's and BLG's fees.

7. LIQUIDATOR'S RECOMMENDATIONS

53. The Liquidator submits this Fifteenth Report to the Court in support of the Liquidator's Motion for the relief as set out in the Notice of Motion dated August 20, 2021 and recommends that the Court grant an order(s):
- i. Approving the Fifteenth Report, the activities of the Liquidator as described herein;
 - ii. Approving the statement of receipts and disbursements for the period February 16, 2016 to July 31, 2021;
 - iii. Extending the Liquidator's appointment as Data Custodian to the earlier of (i) the date upon which KPMG is discharged as Liquidator of the Toronto Branch and ii) further order of the Court;
 - iv. Discharging Mr. Ilchenko as ICC;
 - v. Directing that Mr. Ilchenko, as Bankruptcy Registrar for Toronto, be appointed to continue and complete a review and assessment of the Professional Fees and that in furtherance of this purpose, the Bankruptcy Registrar be permitted to use the draft report and any other materials and documentation previously utilized by the ICC in its review and assessment of the Professional Fees; and,
 - vi. Granting such further relief as may be required in the circumstances and which this Court deems as just and equitable.

All of which is respectfully submitted at Toronto, Ontario this 20th day of August, 2021.

**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:



Nicholas Brearton
President

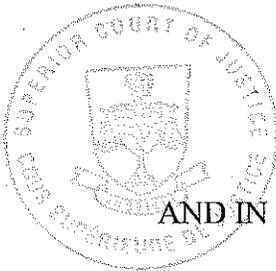
**This is Appendix “A” to the
Fifteenth Report of the Liquidator**

Court File No. CV-16 - 11290 - 0001

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

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

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

SERVICE

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

WINDING-UP

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

APPOINTMENT

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

- a) any assets of Maple Bank in respect of Maple Bank's Business in Canada, including the assets referred to in subsection 582(1) and section 617 of the Bank Act and assets under its administration; and,
 - b) any other assets in Canada of Maple Bank,
- collectively (the "Assets")

- 5. **THIS COURT ORDERS** that the giving of security by the Liquidator upon its appointment as liquidator be and is hereby dispensed with.
- 6. **THIS COURT ORDERS** that Maple Bank shall cease to carry on its Business in Canada or deal in any way with its Assets, except in so far as is, in the opinion of the Liquidator, required for the beneficial winding-up of its Business in Canada and liquidation of its Assets.

LIQUIDATOR'S POWERS

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

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

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

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

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

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

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

COOPERATION WITH THE GERMAN INSOLVENCY ADMINISTRATOR

8. **THIS COURT ORDERS** that the Liquidator, in exercise of its powers as enumerated under section 35 of WURA and as set out above:

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

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

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

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

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

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

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE LIQUIDATOR

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

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

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

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

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

NO INTERFERENCE WITH LIQUIDATOR

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

CONTINUATION OF SERVICES

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

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

PREMISES

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

Liquidator and the applicable lessor from time to time.

NO PROCEEDINGS AGAINST THE LIQUIDATOR

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

NO PROCEEDINGS AGAINST MAPLE BANK OR THE BUSINESS AND THE ASSETS

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

NO EXERCISE OF RIGHTS OR REMEDIES

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

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

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

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

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

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

LIQUIDATOR'S ACCOUNTS

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

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

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

CASH MANAGEMENT AND PAYMENTS

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

EMPLOYEES

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

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

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

PRIVACY MATTERS

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

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

LIMITATION ON ENVIRONMENTAL LIABILITIES

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

possession.

LIMITATION ON THE LIQUIDATOR'S LIABILITY

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

CALL FOR CLAIMS

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

SERVICE AND NOTICE

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

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

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

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

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

RECOGNITION

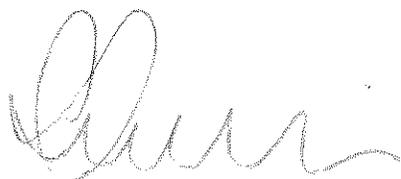
33. **THIS COURT ORDERS** that this Order and any other orders in these proceedings shall have full force and effect in all Provinces and Territories in Canada.
34. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in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

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

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

ADVICE AND DIRECTIONS

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



**C. Irwin
Registrar**

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

FEB 16 2016



IN THE MATTER OF MAPLE BANK GmbH
AND IN THE MATTER OF THE WINDING-UP AND RESTRUCTURING ACT,
R.S.C. 1985, C.W-11, AS AMENDED
AND IN THE MATTER OF THE BANK ACT, S.C. 1991, C.46, AS AMENDED

Court File No. CV-16-11290-0001

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

WINDING-UP ORDER

John J. Lucki

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

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

Solicitor for the Applicant,
The Attorney General of Canada

**This is Appendix “B” to the
Fifteenth Report of the Liquidator**

Summary of Liquidator's Reports (One through Twelve)

1. On March 2, 2016, the Liquidator filed its First Report, which, among other things, outlined the protocol that was agreed to between the Liquidator and the GIA regarding the existing Chapter 15 filing under the *United States Bankruptcy Code* made by the GIA with regard to Maple Bank's non-Toronto Branch assets in the U.S. and the Assets of the Toronto Branch which reside in the U.S.
2. On March 30, 2016, the Liquidator filed its Second Report, which provided the Court with information in respect of: (i) the actions of the Liquidator since the granting of the Winding-Up Order; (ii) the assets and liabilities of the Toronto Branch; and (iii) a proposed marketing process to identify a successor issuer to the Toronto Branch's MBS program and for the sale of all or a portion of certain other assets (the "**Marketing Process**").
3. On June 2, 2016, the Liquidator filed its Third Report, which provided the Court with information in respect of: (i) the actions of the Liquidator since the issuance of the Second Report; (ii) the status of the Marketing Process; (iii) a proposed claims procedure (the "**Claims Procedure**") for use in these proceedings, including the appointment of a Claims Officer (as defined in the Claims Procedure Order); (iv) the proposed appointment of Jonathan Wigley of the law firm Gardiner Roberts LLP as independent cost counsel (the "**ICC**") to review and report to the Court on the fees and disbursements of the Liquidator and its counsel; and (v) the statement of receipts and disbursements of the Toronto Branch for the period February 16, 2016 to May 13, 2016.
4. On June 17, 2016, the Liquidator filed its Fourth Report which provided the Court with information regarding the sale by the Liquidator of certain un-pooled insured residential mortgages to the originators of those mortgages; myNext Mortgage Premier Trust and Xceed Mortgage Corporation.
5. On July 25, 2016, the Liquidator filed its Fifth Report which provided the Court with information in respect of three sale transactions by the Liquidator involving certain structured loans associated with the federal Immigrant Investor Program, which included receivable backed notes (the "**Receivable Backed Notes**") issued by PWM Financial

Trust, CTI Capital Securities Inc. and KEB Hana Bank Canada (“**KEB**”) respectively and secured by, *inter alia*, notes issued by either Citizenship and Immigration Canada (“**CIC**”) or IQ Immigrants Investisseurs Inc. (“**IQII**”). Following the closing of these sale transactions certain unsold Receivable Backed Notes remained in the possession of the Toronto Branch (the “**Residual Receivable Backed Notes**”).

6. On September 19, 2016, the Liquidator filed its Sixth Report which provided the Court with information in respect of the selection by CMHC of Equitable Bank (“**Equitable**”) as the Successor Issuer for the Toronto Branch’s *National Housing Act* (“**NHA**”) MBS Program and the resulting acquisition and assumption by Equitable of all of the Toronto Branch’s rights and obligations under the CMHC NHA MBS Guide and NHA MBS Program with respect to the NHA MBS originally issued by the Toronto Branch thereunder as well as the proposed sale of MBS still owned by the Toronto Branch and certain other Toronto Branch Assets to Equitable (the “**Equitable Transaction**”).
7. On October 6, 2016, the Liquidator filed its Seventh Report which provided the Court with information in respect of the sale to KEB of the Residual Receivable Backed Notes issued by KEB and secured by, *inter alia*, notes issued by CIC.
8. On November 15, 2016, the Liquidator filed its Eighth Report which provided the Court with information in respect of the proposed settlement between the Liquidator and the Bank of Montreal (“**BMO**”) of the liabilities and obligations of each of BMO and Maple Bank arising from a repurchase transaction and the early termination of certain foreign exchange transactions, along with a proposed sale of certain NHA MBS by the Liquidator to BMO.
9. On November 16, 2016, the Liquidator filed its Ninth Report which provided the Court with information in respect of:
 - i. The activities of the Liquidator since the issuance of the Third Report;
 - ii. The status of the Claims Procedure;
 - iii. The Liquidator’s proposed interim distribution to creditors with proven claims (the “**Interim Distribution**”);

- iv. A recommendation that the Liquidator be authorized to implement a hedging or conversion strategy to mitigate the Euro – Canadian dollar foreign exchange risk (the “**FX Risk**”) related to the amounts that would be distributed to the Association of German Banks Deposit Protection Fund and the Compensation Scheme of German Private Banks (collectively, the “**GDPF**”) and the GIA as part of the Interim Distribution; and
 - v. The Liquidator’s statement of receipts and disbursements for the period from February 16, 2016 to October 31, 2016.
10. On November 24, 2016, the Liquidator filed its supplemental report to the Ninth Report (the “**First Supplemental Report**”) which provided the Court with information in respect of the Liquidator’s activities since November 18, 2016, and sought amended relief to that sought in the Ninth Report, including an order approving:
- i. An Interim Distribution to creditors with proven claims that have been allowed in whole or in part to be made as soon as possible, and within two days following December 19, 2016 in the full amount of such proven claim;
 - ii. The amended notice to be provided to creditors of the Toronto Branch prior to making the Interim Distribution;
 - iii. A claims bar notice to creditors of the Toronto Branch, Maple Bank and certain entities related to Maple Bank in respect of claims that may be asserted against the principal officers of the Toronto Branch and also a director and/or officer of certain related and affiliated entities of Maple Bank, the deadline for filing such claims being January 25, 2017 (the “**Principal Officers Claims Bar Notice**” and “**Principal Officers Claims Bar Date**”, respectively);
 - iv. The Liquidator’s statement of receipts and disbursements for the period February 16, 2016 to October 31, 2016; and
 - v. The activities of the Liquidator since the filing of the Third Report, up to and including the Ninth Report, including the activities of the Liquidator as described in the Third Report.

11. On December 8, 2016, the Liquidator filed its second supplemental report to the Ninth Report (the “**Second Supplemental Report**”) which provided the Court with information in respect of (i) the Liquidator’s activities since the filing of the First Supplemental Report, and (ii) the foreign exchange transactions entered into by the Liquidator to mitigate the FX Risk of the GDPF and the GIA, and sought amended relief to that sought in the Ninth Report and First Supplemental Report, including an order approving:
 - i. The Principal Officers Claims Bar Notice (as amended);
 - ii. That January 9, 2017 to be fixed as the Principal Officers Claims Bar Date (as amended); and
 - iii. The activities of the Liquidator since the filing of the Ninth Report as described in the First Supplemental Report and the Second Supplemental Report.

12. On January 25, 2017, the Liquidator filed its Tenth Report which provided the Court with information in respect of:
 - i. The status of the protocol developed in conjunction with the GIA and the former principal officer of the Toronto Branch to implement a procedure to identify any claims which may be asserted against the Principal Officers of the Toronto Branch arising out of the positions that the Principal Officers may have held with a number of Maple Bank affiliated companies (the “**Principal Officers Claims Procedure**”) in order to ultimately effect a distribution of the estimated surplus (the “**Estimated Surplus**”) in the Toronto Branch to the German Estate. A Principal Officers Claims Bar Date of February 20, 2017 was proposed;
 - ii. The status of the Proofs of Claim (as defined in the Claims Procedure Order dated June 8, 2016) filed by the former employees of the Toronto Branch (the “**Employee Claims**”) and advised the Court of the Liquidator’s analysis of the Employee Claims and the principles on which the Employee Claims were assessed;
 - iii. The notices sent by the GIA, in accordance with section 87 of the WURA, to the former employees of the Toronto Branch of the GIA’s objection to certain components of the Employee Claims and sought direction from the Court to determine the resolution of the now disputed Employee Claims. The Liquidator also

- sought approval to appoint Representative Counsel to advise and represent the non-executive group of employees in respect of the GIA's objection; and
- iv. The activities of the Liquidator since the filing of the Ninth Report and the First Supplemental Report and the Second Supplemental Report.
13. On March 10, 2017, the Liquidator filed its Eleventh Report which provided the Court with information in respect of:
- i. The Liquidator's statement of receipts and disbursements for the period February 16, 2016 to February 28, 2017, and estimated funds available for distribution to proven creditors;
 - ii. The status of the Claims Procedure implemented pursuant to the Claims Procedure Order Dated June 8, 2016;
 - iii. The status of the Principal Officers Claims Procedure implemented pursuant to the Principal Officers Additional Claims Order;
 - iv. The Liquidator's estimated surplus available to satisfy the claims of the Toronto Branch's stakeholders as well as a request for i) approval of an interim distribution to the German Estate of a portion of the Liquidator's estimated surplus (the "**German Estate Interim Distribution**"), for which an order was granted (the "**German Estate Interim Distribution Order**"), and ii) approval, *nunc pro tunc*, of the notice of distribution to creditors of the Toronto Branch that was published on March 3, 2017, in the National Edition of *The Globe and Mail* and the International Edition of *The Wall Street Journal*; and
 - v. The Liquidator's activities since the filing of the Tenth Report and the Liquidator's request for approval of same.
14. On September 19, 2017, the Liquidator filed its Twelfth Report, which provided the Court with information in respect of:
- i. The Liquidator's statement of receipts and disbursements for the period February 16, 2016 to August 31, 2017, and estimated funds available for distribution to proven creditors;

- ii. The status of the Claims Procedure implemented pursuant to the Claims Procedure Order including seeking approval of:
 - a. the Liquidator's activities in respect of the settlement of Global One Financial Inc.'s ("**Global One**") Claim;
 - b. the Radius Financial Inc. (and related entities) ("**Radius**") Settlement Agreement and the Liquidator's activities in respect of the settlement of the Radius Settlement Agreement;
 - c. the Liquidator's activities in respect of the settlement of the Non-Executives Employees' claims;
 - d. the Liquidator's activities in respect of the partial settlement of the Executives Employees' claims; and
 - e. the sealing of the Employee, Radius and Global One settlement agreements;
- iii. The status of Principal Officers Additional Claims Procedure implemented pursuant to the Principal Officers Additional Claims Order;
- iv. The Liquidator's Estimated Surplus available to satisfy the Claims of the Toronto Branch's creditors as well as a request for i) approval of a second interim distribution in the amount of up to \$91.4 million to the German Estate (the "**Second Interim Distribution**") and ii) approval, nunc pro tunc, of the September 15 Notice of Distribution;
- v. The Liquidator's activities since the filing of the Eleventh Report and the Liquidator's request for approval of same; and
- vi. The Liquidator's and its counsel's fees and disbursements since the ICC filed its first report dated March 6, 2017 (the "**First ICC Report**") and the Liquidator's request for approval of same.

**This is Appendix “C” to the
Fifteenth Report of the Liquidator**

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

IN THE MATTER OF MAPLE BANK GmbH

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

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

BETWEEN:

ATTORNEY GENERAL OF CANADA

Applicant

and

MAPLE BANK GmbH

Respondent

THE

FOURTEENTH 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*

July 17, 2020

Table of Contents

1.	INTRODUCTION AND PURPOSE OF THE FOURTEENTH REPORT	2
2.	ACTIVITIES OF THE LIQUIDATOR	14
3.	RECEIPTS AND DISBURSEMENTS.....	27
4.	PROPOSED ROLE AS DATA CUSTODIAN	30
5.	ESTIMATED SURPLUS AND PROPOSED DISTRIBUTION	33
6.	LIQUIDATOR’S RECOMMENDATIONS.....	39

Listing of Appendices

Appendix A	Winding-Up Order dated February 16, 2016
Appendix B	Thirteenth Report of the Liquidator dated December 8, 2017 (excluding appendices)
Appendix C	Second Supplement to the Thirteenth Report of the Liquidator dated January 25, 2018 (excluding appendices)
Appendix D	July 21, 2020 Notice of Distribution
Appendix E	First Interim Transfer letter dated September 24, 2018
Appendix F	Second Interim Transfer letter dated March 11, 2019
Appendix G	Email from the Department of Justice dated May 8, 2020

1. INTRODUCTION AND PURPOSE OF THE FOURTEENTH REPORT

BACKGROUND

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

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

including the appointment of a Claims Officer (as defined in the Claims Procedure Order); (iv) the proposed appointment of Jonathan Wigley of the law firm Gardiner Roberts LLP as independent cost counsel (the “**ICC**”) to review and report to the Court on the fees and disbursements of the Liquidator and its counsel; and (v) the statement of receipts and disbursements of the Toronto Branch for the period February 16, 2016 to May 13, 2016.

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

11. On October 6, 2016, the Liquidator filed its Seventh Report which provided the Court with information in respect of the sale to KEB of the Residual Receivable Backed Notes issued by KEB and secured by, *inter alia*, notes issued by CIC.
12. On November 15, 2016, the Liquidator filed its Eighth Report which provided the Court with information in respect of the proposed settlement between the Liquidator and the Bank of Montreal (“**BMO**”) of the liabilities and obligations of each of BMO and Maple Bank arising from a repurchase transaction and the early termination of certain foreign exchange transactions, along with a proposed sale of certain NHA MBS by the Liquidator to BMO.
13. On November 16, 2016, the Liquidator filed its Ninth Report which provided the Court with information in respect of:
 - i. The activities of the Liquidator since the issuance of the Third Report;
 - ii. The status of the Claims Procedure;
 - iii. The Liquidator’s proposed interim distribution to creditors with proven claims (the “**Interim Distribution**”);
 - iv. A recommendation that the Liquidator be authorized to implement a hedging or conversion strategy to mitigate the Euro – Canadian dollar foreign exchange risk (the “**FX Risk**”) related to the amounts that would be distributed to the Association of German Banks Deposit Protection Fund and the Compensation Scheme of German Private Banks (collectively, the “**GDPF**”) and the GIA as part of the Interim Distribution; and
 - v. The Liquidator’s statement of receipts and disbursements for the period from February 16, 2016 to October 31, 2016.
14. On November 24, 2016, the Liquidator filed its supplemental report to the Ninth Report (the “**First Supplemental Report**”) which provided the Court with information in respect of the Liquidator’s activities since November 18, 2016, and sought amended relief to that sought in the Ninth Report, including an order approving:

- i. An Interim Distribution to creditors with proven claims that have been allowed in whole or in part to be made as soon as possible, and within two days following December 19, 2016 in the full amount of such proven claim;
 - ii. The amended notice to be provided to creditors of the Toronto Branch prior to making the Interim Distribution;
 - iii. A claims bar notice to creditors of the Toronto Branch, Maple Bank and certain entities related to Maple Bank in respect of claims that may be asserted against the principal officers of the Toronto Branch and also a director and/or officer of certain related and affiliated entities of Maple Bank, the deadline for filing such claims being January 25, 2017 (the “**Principal Officers Claims Bar Notice**” and “**Principal Officers Claims Bar Date**”, respectively);
 - iv. The Liquidator’s statement of receipts and disbursements for the period February 16, 2016 to October 31, 2016; and
 - v. The activities of the Liquidator since the filing of the Third Report, up to and including the Ninth Report, including the activities of the Liquidator as described in the Third Report.
15. On December 8, 2016, the Liquidator filed its second supplemental report to the Ninth Report (the “**Second Supplemental Report**”) which provided the Court with information in respect of (i) the Liquidator’s activities since the filing of the First Supplemental Report, and (ii) the foreign exchange transactions entered into by the Liquidator to mitigate the FX Risk of the GDPF and the GIA, and sought amended relief to that sought in the Ninth Report and First Supplemental Report, including an order approving:
 - i. The Principal Officers Claims Bar Notice (as amended);
 - ii. That January 9, 2017 to be fixed as the Principal Officers Claims Bar Date (as amended); and

- iii. The activities of the Liquidator since the filing of the Ninth Report as described in the First Supplemental Report and the Second Supplemental Report.
16. On January 25, 2017, the Liquidator filed its Tenth Report which provided the Court with information in respect of:
- i. The status of the protocol developed in conjunction with the GIA and the former principal officer of the Toronto Branch to implement a procedure to identify any claims which may be asserted against the Principal Officers of the Toronto Branch arising out of the positions that the Principal Officers may have held with a number of Maple Bank affiliated companies (the “**Principal Officers Claims Procedure**”) in order to ultimately effect a distribution of the estimated surplus (the “**Estimated Surplus**”) in the Toronto Branch to the German Estate. A Principal Officers Claims Bar Date of February 20, 2017 was proposed;
 - ii. The status of the Proofs of Claim (as defined in the Claims Procedure Order dated June 8, 2016) filed by the former employees of the Toronto Branch (the “**Employee Claims**”) and advised the Court of the Liquidator’s analysis of the Employee Claims and the principles on which the Employee Claims were assessed;
 - iii. The notices sent by the GIA, in accordance with section 87 of the WURA, to the former employees of the Toronto Branch of the GIA’s objection to certain components of the Employee Claims and sought direction from the Court to determine the resolution of the now disputed Employee Claims. The Liquidator also sought approval to appoint Representative Counsel to advise and represent the non-executive group of employees in respect of the GIA’s objection; and
 - iv. The activities of the Liquidator since the filing of the Ninth Report and the First Supplemental Report and the Second Supplemental Report.

17. On March 10, 2017, the Liquidator filed its Eleventh Report which provided the Court with information in respect of:
 - i. The Liquidator’s statement of receipts and disbursements for the period February 16, 2016 to February 28, 2017, and estimated funds available for distribution to proven creditors;
 - ii. The status of the Claims Procedure implemented pursuant to the Claims Procedure Order Dated June 8, 2016;
 - iii. The status of the Principal Officers Claims Procedure implemented pursuant to the Principal Officers Additional Claims Order;
 - iv. The Liquidator’s estimated surplus available to satisfy the claims of the Toronto Branch’s stakeholders as well as a request for i) approval of an interim distribution to the German Estate of a portion of the Liquidator’s estimated surplus (the “**German Estate Interim Distribution**”), for which an order was granted (the “**German Estate Interim Distribution Order**”), and ii) approval, *nunc pro tunc*, of the notice of distribution to creditors of the Toronto Branch that was published on March 3, 2017, in the National Edition of *The Globe and Mail* and the International Edition of *The Wall Street Journal*; and
 - v. The Liquidator’s activities since the filing of the Tenth Report and the Liquidator’s request for approval of same.

18. On September 19, 2017, the Liquidator filed its Twelfth Report, which provided the Court with information in respect of:
 - i. The Liquidator’s statement of receipts and disbursements for the period February 16, 2016 to August 31, 2017, and estimated funds available for distribution to proven creditors;
 - ii. The status of the Claims Procedure implemented pursuant to the Claims Procedure Order including seeking approval of:
 - a. the Liquidator’s activities in respect of the settlement of Global One Financial Inc.’s (“**Global One**”) Claim;

- b. the Radius Financial Inc. (and related entities) (“**Radius**”) Settlement Agreement and the Liquidator’s activities in respect of the settlement of the Radius Settlement Agreement;
 - c. the Liquidator’s activities in respect of the settlement of the Non-Executives Employees’ claims;
 - d. the Liquidator’s activities in respect of the partial settlement of the Executives Employees’ claims; and
 - e. the sealing of the Employee, Radius and Global One settlement agreements;
 - iii. The status of Principal Officers Additional Claims Procedure implemented pursuant to the Principal Officers Additional Claims Order;
 - iv. The Liquidator’s Estimated Surplus available to satisfy the Claims of the Toronto Branch’s creditors as well as a request for i) approval of a second interim distribution in the amount of up to \$91.4 million to the German Estate (the “**Second Interim Distribution**”) and ii) approval, nunc pro tunc, of the September 15 Notice of Distribution;
 - v. The Liquidator’s activities since the filing of the Eleventh Report and the Liquidator’s request for approval of same; and
 - vi. The Liquidator’s and its counsel’s fees and disbursements since the ICC filed its first report dated March 6, 2017 (the “**First ICC Report**”) and the Liquidator’s request for approval of same.
19. On December 8, 2017, the Liquidator filed its Thirteenth Report, a copy of which is appended hereto as **Appendix B**, which provided the Court with information in respect of:
- i. The Liquidator’s statement of receipts and disbursements for the period February 16, 2016 to October 31, 2017, and estimated funds available for distribution to proven creditors and thereafter the GIA;

- ii. The status of the Claims Procedure implemented pursuant to the Claims Procedure Order including seeking approval of:
 - a. the Liquidator’s activities in respect of the final settlement of the Executives’ claims; and
 - b. the sealing of the Executives’ settlement agreements.
 - iii. The Liquidator’s estimated surplus available to satisfy the claims of Toronto Branch’s creditors as well as a request for:
 - a. approval of a third interim distribution to the German Estate (the “**Third Interim Distribution**”) consisting of i) Euro 3,792,160.04 (CAD 5,550,812.18) associated with the settlement of various Credit Suisse foreign exchange forward contracts (the “**Credit Suisse FX Forwards**”), which settlement amounts were previously paid by Credit Suisse directly to Maple Bank GmbH and retained by the GIA, and ii) a portion of the Liquidator’s estimated surplus in the amount of \$5.0 million, on or after December 19, 2017; and
 - b. approval, *nunc pro tunc*, of the notice of distribution to creditors of the Toronto Branch that will be published on December 8, 2017, in the National Edition of *The Globe and Mail* and the International Edition of *The Financial Times* (the “**December 8 Notice of Distribution**”); and
 - iv. The Liquidator’s activities since the filing of the Twelfth Report and the Liquidator’s request for approval of same.
20. On December 12, 2017, the Liquidator filed its confidential supplement to the Thirteenth Report which provided the Court with information in respect of the terms of the final settlement agreements with the Executives.
21. On January 25, 2018, the Liquidator filed its second supplement to the Thirteenth Report (the “**Second Supplement to the Thirteenth Report**”), a copy of which is appended hereto as **Appendix C**, which provided the Court with information in respect of:

- i. The Liquidator's activities since the adjournment of the Data Sharing Motion including (a) the deletion of personal information that is contained in the Toronto Branch's digital Data, and (b) assisting the GIA, the MFGI Trustee, OTPP and National in better understanding the structure and quantum of the data, and ability to search the data that is proposed to be transferred to the GIA; and
- ii. The Liquidator's request that in the interim period while the Court is considering the Data Sharing Motion, that the Court grant an order authorizing and directing the Liquidator to transfer to the GIA (a) the Recall Records, (b) the Toronto Branch's Global One Data, and (c) the Laserfiche System Requested Data.

PURPOSE OF THE FOURTEENTH REPORT

22. The purpose of this Fourteenth Report (the "**Fourteenth Report**") is to provide information to the Court in respect of:
 - i. The Liquidator's activities since the filing of the Thirteenth Report;
 - ii. The Liquidator's statement of receipts and disbursements for the period February 16, 2016 to May 31, 2020;
 - iii. The Data Transfer Order and the Liquidator's performance of its duties thereto;
 - iv. The Liquidator's proposed role as Data Custodian (defined herein);
 - v. The status of the Claims Procedure implemented pursuant to the Claims Procedure Order, specifically as it relates to the initial claims and the subsequently amended claim filed by Canada Revenue Agency ("**CRA**");
 - vi. The Liquidator's estimated surplus available to satisfy the claims of Toronto Branch's creditors, as well as details in respect of the Estimated Reserve; and
 - vii. A proposed distribution to the German Estate.
23. The Liquidator is seeking an order:

- i. Approving the Fourteenth Report, the activities of the Liquidator as described herein, and the statement of receipts and disbursements for the period February 16, 2016 to May 31, 2020;
- ii. Approving the Liquidator's completion of its role under the Data Transfer Order and discharge from same;
- iii. Appointing the Liquidator as Data Custodian (defined herein);
- iv. Approving the revisions to the Estimated Reserve;
- v. Approving, *nunc pro tunc*, the notice of distribution to creditors of the Toronto Branch that will be published on July 21, 2020, in the National Edition of *The Globe and Mail* and the International Edition of *The Financial Times* (the "**July 21, 2020 Notice of Distribution**"), a copy of which is appended hereto as **Appendix D**; and
- vi. Approving a fourth interim distribution to the German Estate (the "**Fourth Interim Distribution**") in the amount of approximately \$25.7 million (as detailed further herein).

TERMS OF REFERENCE AND DISCLAIMER

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

25. 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.
26. Capitalized terms not defined in the Fourteenth Report are as defined in either the Winding-Up Order and/or the First Report through the Thirteenth Report. Unless otherwise indicated, all references to monetary amounts herein are denominated in Canadian dollars (“CAD”).
27. Copies of the Liquidator’s Court reports and all motion records and Orders in these proceedings are available on the Liquidator’s website at <http://www.kpmg.com/ca/maplebank>.

2. ACTIVITIES OF THE LIQUIDATOR

28. Detailed descriptions of the Liquidator's activities from the Winding-Up Date up to and including the date of the Thirteenth Report have been set out in previous reports, and approved by the Court.
29. A detailed description of the Liquidator's activities since the date of the Thirteenth Report is set out below.

DATA TRANSFER ORDER

30. As outlined in the Thirteenth Report, the GIA had requested that the Liquidator provide it with a copy of all Toronto Branch data which was in the power, possession or control of the Liquidator, including all data related to Maple Bank or its affiliates that is stored at various Canadian storage facilities or held on computer tapes in the possession of the Liquidator or Ernst & Young LLP ("**EY**"). The basis of this request was to allow the GIA to fulfill its statutory or other legal duties under German law.
31. As outlined in the Second Supplement to the Thirteenth Report, at the Court hearing on December 13, 2017, counsel for Ontario Teachers' Pension Plan ("**OTPP**") and National Bank ("**National**") (both being shareholders, and whose representatives were also directors of Maple Financial Group Inc. ("**MFGI**")), raised concerns with respect to the Data Sharing Motion, including their lack of knowledge regarding the specific MFGI records that were to be transferred to the GIA, as well as the fact that privileged documents could be included in the MFGI records.
32. On January 26, 2018, the Court granted an Order authorizing and directing the Liquidator to produce, transfer and release certain of the books and records of the Toronto Branch which were in the power, possession or control of the Liquidator to the GIA (the "**Data Transfer Order**").
33. Pursuant to the Order, the Liquidator was to:

- i. Immediately produce, transfer and release certain data, and books and records to the GIA; and
 - ii. In the case of data stored at a third party owned off site facility (the “**SunGard Facility**”), identify and segregate (a) data containing certain personal information, and (b) data that OTPP and National considered to be privileged, as identified through the application of search terms provided by OTPP and National, following which segregation, the balance of the data was to be provided to the GIA by the Liquidator.
34. Pursuant to paragraph 1 of the Data Transfer Order, the Liquidator has produced, transferred or released to the GIA:
 - i. All digital records of the Toronto Branch stored on the Global One Database were transferred to the GIA on February 2, 2018;
 - ii. All physical records of the Toronto Branch stored at the storage facility known as the “Recall Facility” were transferred to the GIA on February 21, 2018 (notwithstanding the transfer of the physical records to the GIA, the Liquidator has agreed to continue paying the storage charges pending the GIA setting up its own account with the storage company); and
 - iii. All data stored in the Laserfiche system that relates solely to the Master Agreements for Securities Lending and Repo transactions for the Toronto Branch was transferred to the GIA on February 2, 2018.
35. Pursuant to paragraph 2 of the Data Transfer Order, the Liquidator made a copy of the data stored at the SunGard Facility. The following personal and other information (the “**Personal Information**”) was segregated from the data copy by the Liquidator (the remaining data associated with the copy being identified as the “**Data Set**”):

- i. Personal information of mortgagors, borrowers, and/or guarantors related to (a) mortgage loans; (b) immigrant investor program loans; and (c) personal information related to employees;
 - ii. Personal information of former Maple Securities Canada Limited (“**MSCL**”) employees;
 - iii. Personal information of the mortgagors associated with the Maple Bank Den Haag Branch in the Netherlands; and
 - iv. Certain confidential and/or proprietary information of sub-tenants of MSCL.
36. Pursuant to paragraph 3 of the Data Transfer Order, the Liquidator, in consultation with the GIA, MSCL, OTPP, National, and Deloitte Restructuring Inc., in its capacity as trustee in bankruptcy of MFGI (the “**MFGI Trustee**”) (collectively, the “**DTO Stakeholders**”), selected a software called “Nuix” to index the data associated with the Data Set and render it searchable.
37. Upon review of the Data Set, the Liquidator noted that the Data Set consisted of both email and financial information in various electronic formats. From an indexing and search capability perspective, the Data Set was divided by the Liquidator into two subsets, as follows:
 - i. Email data contained in Microsoft PST format, and financial information contained in various file formats (e.g. Microsoft Word, Microsoft Excel, Adobe PDF) (collectively, the “**Non-Database Files**”); and
 - ii. Financial information contained in databases (e.g. SQL, Oracle) (collectively, the “**Database Files**”).
38. The Liquidator issued a communication to the DTO Stakeholders outlining the above, and the potential implications on the ability to effectively formulate and apply search terms to the Non-Database Files and the Database Files, respectively.

Non-Database Files

39. The Liquidator was provided with the Search Terms and the Additional MFGI Privileged Search Terms (the latter being confidential and only disclosed to the Liquidator (i.e. not disclosed to the other DTO Stakeholders)) by OTPP and National.
40. Pursuant to paragraphs 11 and 13 of the Data Transfer Order, the Liquidator applied the Search Terms and the Additional MFGI Privileged Search Terms to the Non-Database files and segregated all files that returned positive hits.
41. Pursuant to paragraph 17 of the Data Transfer Order, on September 24, 2018, the Liquidator provided the GIA with a hard drive containing a copy of the Non-Database Files with certain data removed from the Data Set (the “**First Interim Transfer**”). The data provided to the GIA in the First Interim Transfer excluded the following:
 - i. All files identified as containing Personal Information;
 - ii. All unsearchable files; and
 - iii. All files returning positive hits following the application of both the Search Terms and the Additional MFGI Privileged Search Terms, pursuant to paragraphs 11 and 13 of the Data Transfer Order.
42. The Liquidator issued a letter to the GIA (copying the DTO Stakeholders) accompanying the hard drive associated with the First Interim Transfer, a copy of which is appended hereto as **Appendix E**.

Database Files

43. As a result of the Liquidator’s preliminary review of the Database files, the DTO Stakeholders agreed that additional information regarding the Database Files was required in order for effective search terms to be formulated pursuant to paragraphs 11 and 13 of the Data Transfer Order. It was determined that the Liquidator would

perform a comprehensive review of the Database Files (the “**Database Files Review**”) and report its findings to the DTO Stakeholders. The Database Files Review specifically focused on:

- i. The identification of non-searchable documents;
 - ii. The nature of the linkages between the various databases; and
 - iii. The content of the various databases.
44. The primary purpose of the Database Files Review was to provide OTPP and National with sufficient information regarding the Database Files such that they would be able to formulate effective search terms pursuant to the Data Transfer Order.
45. The Liquidator engaged the former MSCL database administrator to assist in performing the Database Files Review.
46. The Database Files Review was delivered to the DTO Stakeholders on May 17, 2018.
47. Following consideration of the Database Files Review, the DTO Stakeholders agreed that it would be difficult to formulate effective search terms to apply to the Database Files. As such, it was determined that certain databases within the Database Files would be transferred to the GIA, with the consent of the DTO Stakeholders.
48. Pursuant to paragraph 17 of the Data Transfer Order, and as agreed with the DTO Stakeholders, on March 11, 2019, the Liquidator provided the GIA with a hard drive containing a copy of a subset of Database Files (the “**Second Interim Transfer**”). The files were provided in a format that was agreed upon by the technical teams of the Liquidator and the GIA.

49. The Liquidator issued a letter to the GIA (copying the DTO Stakeholders) accompanying the hard drive associated with the Second Interim Transfer, a copy of which is appended hereto as **Appendix F**.
50. All parties to the Data Transfer Order, including the GIA, the MFGI Trustee, MSCL, OTPP, and NB, were provided notice in advance of both the First Interim Transfer and the Second Interim Transfer.

Completion of role under Data Transfer Order

51. The Liquidator is of the view that it has completed its duties under the Data Transfer Order, mainly, as they relate to paragraphs 1, 2, 3, 11, 13, and 17 of the Order.
52. The Liquidator continues to possess certain data as a result of its role under the Data Transfer Order (the “**Remaining DTO Data**”).
53. The Liquidator is of the view that the Remaining DTO Data is the only remaining issue associated with the Data Transfer Order, and is proposing to address this through the proposed Data Custodian Order (described further herein).
54. Pursuant to paragraph 26 of the Data Transfer Order, all costs incurred by, or on behalf of the Liquidator in connection with the order are to be separately tracked and allocated among the Liquidator, GIA, OTPP and National as those parties agree or, failing such an agreement, by order of the Court. The Replacement ICC will review these costs and thereafter the Liquidator will approach the aforementioned parties to determine if they have agreed on how the costs are to be allocated.
55. In light of the above, the Liquidator is seeking an order from the Court acknowledging that it has completed its duties pursuant to the Data Transfer Order.

CRA CLAIMS

Claims

56. CRA initially filed two claims in the Toronto Branch Estate (details of which are described in the Twelfth Report) in respect of:
- i. Unremitted corporate income taxes for the taxation years ended September 30, 2015, September 30, 2014, September 30, 2013, and September 30, 2012, totalling \$11.7 million; and
 - ii. Unremitted HST totalling \$199k, for the periods ended September 30, 2015 and June 16, 2016 (collectively, the “**Initial CRA Claims**”)
57. The Liquidator has filed tax returns for the Toronto Branch covering the period prior to the Winding-Up Date, being the taxation years September 30, 2015 and February 15 2016, the later return indicating taxes payable of approximately \$6 million. The taxation year ended February 15, 2016 was not covered by the Initial CRA Claims.
58. As a result of the Initial CRA Claims and the liability arising from the tax return for the February 15, 2016 tax year, the Liquidator reserved approximately \$20 million (plus applicable interest for these amounts). These reserves are described in further detail herein.
59. CRA subsequently filed an amended claim dated February 18, 2019 related to unpaid corporate taxes, in the amount of approximately \$3.4 million, which replaced its earlier claim of approximately \$11.7 million related to unremitted corporate taxes (the “**Amended CRA Claim**”). For clarity, the Amended CRA Claim did not replace CRA’s claim in respect of unremitted HST.
60. The Liquidator disputes the Amended CRA Claim as a result of certain tax appeals that the Toronto Branch had underway as at the Winding-Up Date, as outlined herein.

Tax Appeal

61. Prior to the Winding-Up Date, Toronto Branch had filed administrative appeals (i.e. objections) to CRA’s position with respect to amounts owing to CRA in

relation to the 2009 and 2012 (and, implicitly, with respect to the 2011) tax years. The Appeals Branch of CRA subsequently upheld CRA's original position in decisions rendered in early October, 2017.

62. The dispute of the 2009, 2011 and 2012 tax years involves two principle issues:
 - i. Whether Toronto Branch can recognize, on the closing date, the loss it incurred on the sale of a mortgage portfolio it owns into the CMHC NHA MBS program (CRA's position is that the loss is incurred over the remaining life of the mortgages); and
 - ii. Whether the financing type of expenses associated with that mortgage securitization business can be deducted on a current basis rather than, as CRA claims, over a five year period (collectively, the "**Tax Appeal Issue**").
63. The Liquidator consulted with its tax counsel; Borden Ladner Gervais LLP ("**BLG**"), and determined that it agreed with the position taken by Toronto Branch in its Administrative Appeals prior to the Winding-Up Date.
64. The Liquidator, with the assistance of its tax advisors, EY, who were the Toronto Branch's tax advisor prior to the Winding Up Date, has estimated that the Toronto Branch is in a refund position of approximately \$4.9 million as it relates to corporate taxes only (i.e. excluding applicable interest and penalties, and HST owing), as compared to the Amended CRA Claim of approximately \$3.4 million. Following consultation with the GIA (the fulcrum economic stakeholder of the Toronto Branch estate), the Liquidator took steps to continue to dispute the amounts assessed by CRA.
65. The Liquidator does not dispute CRA's claim in respect of unremitted HST in the amount of approximately \$199k.
66. Interest and penalties associated with the corporate tax assessments are a function of the outcome of the Tax Appeal Issue and are discussed further herein.

67. On December 20, 2017, the Liquidator filed a Notice of Appeal and subsequently filed a second Notice of Appeal in respect of a loss determination in connection with the 2011 tax year which revolved around the same issues as the 2009 and 2012 tax years (collectively, the “**Tax Appeal**”) with the Federal Tax Court of Canada. The purpose of the Tax Appeal was to appeal CRA’s determinations in respect of the 2009 and 2012 tax years (i.e. to continue the Toronto Branch’s administrative appeals).
68. Following discussions between the Liquidator, CRA and the Department of Justice (“**DOJ**”), the Liquidator filed an Amended Notice of Appeal on April 12, 2018 (the “**Amended Notice of Appeal**”) which made certain technical changes as to the basis to the appeal, however the substantive issues were unchanged.
69. On May 23, 2018, the Liquidator filed a Notice of Objection with CRA in respect of the 2011 Taxation Year (the “**Notice of Objection**”).
70. The Liquidator received correspondence from CRA dated August 23, 2018 indicating that the Notice of Objection was disallowed and that CRA’s initial assessment was confirmed.
71. CRA issued a Notice of Reply on July 30, 2018 in respect of the 2009 and 2011 taxation years, and issued a Notice of Reply on April 1, 2019 in respect of the 2011 taxation year, wherein CRA presented the basis of their view of the issues, and conceded the issue regarding the deduction of financing type expenses on a current basis.
72. On August 15, 2019, the Liquidator and CRA made a request to the Tax Court of Canada to amend the timetable associated with the Tax Appeal (the “**Amended Timetable**”). The Amended Timetable is as follows:
 - i. Written questions on examination for discovery shall be served by September 13, 2019;
 - ii. Answers to written questions shall be served by November 13, 2019;

- iii. Further questions, if any, shall be served by January 15, 2020;
 - iv. Answers to further questions, if necessary, shall be served by February 28, 2020; and
 - v. The parties shall communicate with the hearings coordinator by April 15, 2020.
73. The Liquidator, with the assistance of the former Toronto Branch CFO, and its counsel spent a significant amount of time responding to written questions (which were in excess of 100). Items (i) through (iv) above regarding written questions on examination for discovery have been completed in accordance with the Amended Timetable.
74. Hearings with the Tax Court of Canada are significantly delayed due to COVID-19. As a result, timetables associated with tax appeals have been adjusted. October 5, 2020 is the new date by which the parties are to communicate with the hearings coordinator (replacing (v) above). As such, we are anticipating obtaining a trial date for some time in the second half of 2021 in respect of the Tax Appeal.
75. The Liquidator continues to work, in consultation with the GIA, with its counsel and EY to dispute the Amended CRA Claim.

Settlement Discussions

76. In parallel to the steps outlined above in respect of disputing the Amended CRA Claim, the Liquidator and CRA have also been working towards reaching an omnibus settlement in respect of all amounts owing to/due from CRA.
77. The Liquidator, with the assistance of EY, prepared detailed spreadsheets and calculations outlining the amounts that would be owing to/due from CRA under various scenarios (i.e. comparing CRA's position vs the Liquidator's position on the various unresolved issues) (the "**Scenario Spreadsheets**").

78. In August 2018 a CRA auditor visited EY’s offices to conduct a field audit of the Toronto Branch’s records covering the 2011, 2012, 2013, and subsequent taxation years, including the Scenario Spreadsheets. The Liquidator and its advisors worked with the CRA auditor to assist in the field audit. The field audit did not cover interest and penalties related to the corporate tax amounts owing. The purpose of the audit was not only to substantiate the income and losses reported in the specific tax years involved, but also to form a view of whether a review of additional tax years was warranted.
79. On April 11, 2019, the CRA auditor issued a memo to the Liquidator which concluded that the figures disclosed in the Scenario Spreadsheets were complete and accurate, and that there were no material risks of non-compliance warranting further review. As such, the Liquidator and CRA proceeded to rely on the figures within the Scenario Spreadsheets as the basis for settlement discussions.
80. Based on the Scenario Spreadsheets, the Liquidator has quantified the maximum potential amount owing to CRA to be approximately \$3.1 million. The Liquidator’s quantification: (i) assumes that the Liquidator is not successful on the Tax Appeal Issue; (ii) assumes a 50:50 split of the disputed amount associated with the Interest Stops Issue (defined herein), which the Liquidator and CRA have agreed to, (iii) includes unremitted HST owing to CRA, and (iv) includes pre-filing penalties and interest penalties. This figure was used as the basis of the revised CRA reserve (details of which are provided herein).
81. As of the date of this report, no settlement between the Liquidator and CRA has been reached in respect of the Tax Appeal.

Interest Stops

82. In respect of interest on amounts owing to CRA relating to the period after the Winding-up Date (“**Post-Filing Interest**”), it is the Liquidator’s view that Post-Filing Interest should be calculated pursuant to the *Winding-up and Restructuring Act*, such that interest is payable only on the ultimate claim of CRA (i.e. after the

application of all subsequent tax losses arising in the taxation years after the Winding-Up Order), while it is CRA's view that Post-Filing Interest should be calculated pursuant to the *Income Tax Act* (i.e. that tax losses can only be applied each year as incurred, with interest being paid on the "interim" balances (the "**Interest Stops Issue**").

83. The amount of Post-Filing Interest payable to/due from CRA is dependent on the outcome of both the Tax Appeal Issue and the Interest Stops Issue. This amount ranges from approximately a \$3.6 million amount payable to CRA (if the Liquidator were to be unsuccessful on both the Tax Appeal Issue and Interest Stops Issue) to a \$0.2 million amount due from CRA (if the Liquidator were to be successful on both the Tax Appeal Issue and Interest Stops Issue).
84. The Liquidator and CRA engaged in discussions and have ultimately come to an agreement in principle with respect to the Interest Stops Issue, however Post-filing Interest amounts are dependent on the ultimate outcome of the Tax Appeal Issue.
85. The Liquidator has consulted with the GIA in respect of all actions taken to date in respect of both the Tax Appeal issue and the Interest Stops Issue.

MAPLE BANK GmbH Financial Statements

86. The financial statements of Toronto Branch form part of the consolidated financial statements of Maple Bank GmbH. Since our last Court report, we understand that, under the direction of the GIA, the following consolidated financial statements of Maple Bank GmbH have been (or are in the process of being) prepared in accordance with *German Generally Accepted Accounting Principles*:
 - i. Year ending September 30th, 2015;
 - ii. Period October 1, 2016 to February 15, 2016 (in process); and
 - iii. Period February 16, 2016 to September 30, 2016 (in process).

87. The Liquidator also understands that the financial statements above have been or are in the process of being audited by a third party accounting firm in Germany.
88. The Liquidator (primarily with the assistance of the former Toronto Branch CFO) has been assisting Maple Bank GmbH with this process in the form of providing financial statements and supporting information for the Toronto Branch and responding to queries from the auditor.

MANAGING ASSETS OF THE ESTATE

89. The Liquidator has continued to manage the assets of the estate and investing its cash holdings in safe, short-term interest bearing investments in order to preserve value for the creditors of the Toronto Branch.

PROVIDING UPDATES AND CONSULTING WITH THE GIA

90. The Liquidator has provided updates to, and consulted with, the GIA on the following matters:
 - i. The Data Transfer Order and the Liquidator's activities associated with carrying out duties pursuant to same;
 - ii. The Liquidator's proposed role as Data Custodian;
 - iii. The resolution of the claims filed by CRA, including providing the GIA with various analyses in order to assist it in making informed decisions with respect to the Tax Appeal Issue and the Interest Stops Issue;
 - iv. Preparing periodic financial reporting for the stakeholders of the Maple Bank GmbH estate; and
 - v. Other miscellaneous matters as required.

3. **RECEIPTS AND DISBURSEMENTS**

SUMMARY OF RECEIPTS AND DISBURSEMENTS

91. The Liquidator previously reported the receipts and disbursements of the Toronto Branch for the period August 31, 2017 to October 31, 2017, in the Thirteenth Report. The table below summarizes the receipts and disbursements for the Toronto Branch for the period February 16, 2016 to May 31, 2020. Significant changes since the Thirteenth Report are discussed below.

Statement of Receipts and Disbursements Amounts in \$CAD millions	February 16, 2016 to October 31, 2017	February 16, 2016 to May 31, 2020	Changes
Receipts	Total⁽¹⁾	Total⁽¹⁾	
CED and Securities	489.6	489.6	-
Structured Loan Portfolio	357.4	357.4	-
MBS Business	176.5	176.5	-
Related Party Settlements	84.3	84.3	-
Settlement of Brokerage Account	64.7	64.7	-
Derivative Instruments	59.6	59.6	-
Miscellaneous/Other	7.9	10.2	2.3
Total Receipts	1,240.1	1,242.3	2.3
Disbursements			
Payroll	2.7	2.7	-
General and Administrative	2.1	2.7	0.6
Occupancy Rent	0.4	0.4	-
Transfer to CMHC	0.3	0.3	-
Total Operating Disbursements	5.5	6.1	0.6
GIA Distribution	749.3	754.3	5.0
Distribution to Proven Creditors, with interest	739.6	741.8	2.2
Professional Fees	11.8	14.7	2.9
Net Disbursements in excess of Receipts	(266.2)	(274.6)	(8.4)
Opening Cash Balance	316.1	316.1	-
Closing Cash and Cash Equivalents Balance	49.9	41.5	(8.4)

⁽¹⁾ Certain totals above may not foot due to rounding of the underlying figures.

ANALYSIS OF RECEIPTS

92. Since the Winding-Up Date, receipts totalled approximately \$1.24 billion.

93. Receipts increased during the period since October 31, 2017 by approximately \$2.3 million relating to i) the nominal amount of interest earned in the securities balances, and ii) unrealized foreign exchange gains on U.S. dollar denominated assets.

ANALYSIS OF DISBURSEMENTS

94. Operating disbursements for the period since October 31, 2017 total approximately \$0.6 million and relate primarily to consulting fees paid to the former CFO of Toronto Branch, and other general and administrative expenses.
95. A distribution to the GIA of approximately \$5.0 million was made on December 13, 2017, in accordance with the Third Interim Distribution Order. Approximately \$754.3 million has been distributed to the GIA since the Winding-Up Date.
96. Since October 31, 2017, the Liquidator has distributed approximately \$2.2 million to the CRA in relation to taxes withheld in connection with the distribution to Executives described in the Twelfth Report. The total distributions to Proven Creditors, with interest, totals approximately \$741.8 million since the Winding-Up Date.
97. Professional fees paid during the period since October 31, 2017, in the amount of \$2.9 million, consist primarily of professional fees of the Liquidator, its counsel (BLG), the ICC and EY (Toronto Branch's tax advisor). The fees of the Liquidator and its counsel remain subject to review by the ICC and approval by the Court. The Liquidator's and its counsel's fees from the Winding-Up Date to July 31, 2017 have been reviewed by the ICC and approved by the Court.
98. As at May 31, 2020, the Toronto Branch held approximately \$41.5 million of cash and cash equivalents, which is comprised of approximately \$0.8 million in Toronto Branch bank accounts and \$40.7 million in liquid securities in the Toronto Branch's RBC DS account.
99. The Liquidator is holding approximately USD 14.5 million which arose as a result of the sale of certain Toronto Branch assets that were denominated in USD, and

approximately EUR 7.5 million which arose as a result of the unwinding of certain hedging derivatives that were denominated in Euros.

4. PROPOSED ROLE AS DATA CUSTODIAN

PROPOSED DATA CUSTODIAN ROLE

100. The Liquidator was asked by MSCL, who has wound up its operations and is in the final stages of formally dissolving its corporate entity, to take possession of certain electronic data and physical records pertaining to Toronto Branch, Maple Bank GmbH, and other Maple Bank affiliates (the “**MSCL Data**”).
101. Specifically, the MSCL Data consists of the following:
- i. All electronic data currently stored at the SunGard Facility;
 - ii. 195 boxes of physical commingled records currently stored at RecordsXpress; and
 - iii. Back-up tapes of historical data previously stored at the SunGard Facility, and currently stored at RecordsXpress.
102. The Liquidator has in its possession certain back-ups of the data stored on the SunGard Facility that were taken by the Liquidator at various points in time following the Winding-Up Date, which are currently being stored at KPMG’s offices (the “**Liquidator Back-up Tapes**”, and collectively, with the MSCL Data and the Remaining DTO Data, the “**Custodial Data**”).
103. The GIA does not want to have any of the MSCL Data or the Remaining DTO data destroyed at this time as it may require access to certain of the Custodial Data to fulfill its statutory role under German law.
104. The Liquidator understands that the MSCL Data is an impediment to the dissolution of MSCL.
105. The Liquidator Back-up Tapes include comingled data. The Liquidator is of the view that the Liquidator Back-up Tapes are not required to complete the administration of the Toronto Branch estate, however the Liquidator does not want to destroy the data at this time.

106. The Liquidator is of the view that the Remaining DTO Data is the only remaining issue associated with the Data Transfer Order.
107. The Liquidator, MSCL, and the GIA have engaged in discussions and agreed on a concept by which the Liquidator would take possession and custody of the Custodial Data and be appointed.
108. Key terms of the proposed Data Custodian Order are summarized as follows:
 - i. The Liquidator would be appointed as custodian of the Custodial Data (the **“Data Custodian”**);
 - ii. The Data Custodian would take into its power, possession and control of the Custodial Data;
 - iii. In conjunction with the appointment of the Data Custodian, the existing SunGard Services Agreement dated September 1, 2016, and RecordsXpress Services Agreement dated October 1, 2016 are expected to be assigned by MSCL to the Liquidator, in its capacity as Data Custodian;
 - iv. The Data Custodian’s appointment shall conclude and be terminated on the earlier of i) August 31, 2021, and ii) the date upon which KPMG is discharged as Liquidator of the Toronto Branch;
 - v. The transfer of custody of the Custodial Data shall be without prejudice to any of the rights of the GIA thereto;
 - vi. The Toronto Branch Estate shall be responsible to pay the reasonable costs incurred by the Data Custodian and its counsel in connection with the Data Custodian Order, and the Liquidator shall establish a reserve of \$750k to provide for such costs.
109. The SunGard Services Agreement has been prepaid by MSCL through August 31, 2021.
110. The stakeholders in respect of the Custodial Data are (i) MSCL, Maple Bank GmbH, and a number of Maple Bank affiliates (all of whom were served with the

Liquidator's motion in regards to the Data Transfer Order and none of whom responded to same), and (ii) the DTO Stakeholders.

111. The stakeholders above will be served with this report and related motion materials.

5. ESTIMATED SURPLUS AND PROPOSED DISTRIBUTION

ESTIMATED RESERVE

112. As described above, the Toronto Branch now has approximately \$41.5 million in cash and cash equivalents in order to satisfy outstanding claims in the Toronto Branch estate. The only filed claim that has yet to be resolved is that filed by CRA.
113. As discussed in the Twelfth Report, in determining the estimated surplus that may be available for distribution to the German Estate, the Liquidator developed, in consultation with the GIA, an appropriate reserve (the “**Estimated Reserve**”) to provide for:
- i. Unproven claims;
 - ii. Possible future Claims (“**Future Potential Claims**”);
 - iii. Interest on unproven claims at 5% per annum (in accordance with the WURA) up to and including July 31, 2018, a date by which the Liquidator estimates it will have resolved all claims;
 - iv. The Legal Fees Reserve pursuant to the Principal Officers Additional Claims Order, and the Protocol to Address Reserves re: A former Principal Officer;
 - v. Estimated costs to administer the Toronto Branch Liquidation through July 31, 2018; and
 - vi. Tax liabilities in respect of the post Winding-Up Date periods.
114. The Estimated Reserve was designed to fund the completion of the estate and protect any further claimants of the Toronto Branch while at the same time allowing for a further interim distribution to the German Estate of the Toronto Branch’s estimated surplus.

115. The Liquidator, in consultation with the GIA, has revised the components of the Estimated Reserve, as set out in the table below.

Summary of Estimated Reserve			
Amounts in \$CAD millions	13th Report	Revised	Changes
Unproven claims	\$ 11.9	\$ -	\$ (11.9)
Interest on unproven claims	1.5	-	\$ (1.5)
Future potential claims (inclusive of interest)	15.0	-	\$ (15.0)
Principal officers legal fee reserve	5.0	5.0	\$ -
Toronto Branch administration costs	1.3	-	\$ (1.3)
Post winding-up date tax liability	8.0	-	\$ (8.0)
CRA remittance accruals	2.2	-	\$ (2.2)
CRA reserve	-	5.0	\$ 5.0
General reserve	-	5.0	\$ 5.0
Data Custodian reserve	-	0.8	\$ 0.8
Total Estimated Reserve	\$ 44.8	\$ 15.8	\$ (29.0)

116. The prior reserves associated with (i) unproven claims, (ii) interest on unproven claims, and (iii) post Winding-Up Date tax liability were all in relation to the Initial CRA Claims. The Liquidator is proposing to collapse these three reserves into one CRA reserve (detailed further below).
117. The Future Potential Claims reserve was established to ensure that the Liquidator had sufficient funds to satisfy any valid claim that was filed in connection with the Toronto Branch estate. The Liquidator is proposing to reduce the future potential claims reserve to nil for the following reasons:
- i. The universe of potential Claims is now defined with a relative degree of certainty through both the Claims Procedure and the Principal Officers Claims Procedure;
 - ii. A significant passage of time has occurred since the Claims Procedure Order was issued on June 8, 2016, and since the Notice to all Creditors of a Claims Process was issued by the Liquidator on June 14, 2016;

- iii. A nominal value and number of claims have been filed since September 19, 2016, being the date that the Court ordered that all creditors with claims against the Toronto branch file their claims;
 - iv. The Principal Officers Additional Claims Bar Date (December 22, 2016) has passed with no valid claims being filed; and
 - v. Notices of distribution were published by the Liquidator in various newspapers in connection with:
 - a. The First Interim Distribution Order, dated November 18, 2016;
 - b. The Second Interim Distribution Order, dated March 10, 2017; and
 - c. The Third Interim Distribution Order, dated December 13, 2017.
118. The Principal Officers legal fee reserve has remained unchanged. This reserve provides for funding of a former Principal Officer's legal fees in respect of certain litigation that may be initiated against the former Principal Officer, pursuant to the Principal Officers Additional Claims Order and the Protocol to Address Reserves. Notwithstanding that there has been no claim asserted against the Principal Officer, the release of this reserve is conditional on the GIA issuing a release confirming that they do not intend to pursue legal action against the Principal Officer, which the GIA has not confirmed.
119. The Liquidator is proposing to reduce the Toronto Branch administration costs reserve to nil, and to establish a General reserve to replace same (detailed further below).
120. The CRA remittance accruals related to income tax, CPP and EI amounts deducted from the final settlement with the Executives. The Liquidator has since remitted these funds to CRA. As such, this reserve has been reduced to nil.
121. The Liquidator is proposing to establish a CRA reserve in the amount of \$5 million to provide for all amounts potentially owing to CRA, including amounts in connection with the Initial CRA Claims and the Amended CRA Claim. CRA has

consented to this reserve amount as evidenced by an email from the DOJ dated May 8, 2020, a copy of which is appended hereto as **Appendix G**.

122. The Liquidator is proposing to establish a General reserve of \$5 million to provide for the following:

- i. Fees and disbursements of the Liquidator and its counsel, in connection with:
 - a. The resolution of the Initial CRA Claims and the Amended CRA Claim; and
 - b. The completion of the liquidation of the Toronto Branch; and
- ii. Other unforeseen future costs to the Toronto Branch.

123. The Liquidator is proposing to establish a Data Custodian reserve in the amount of \$750k, to provide for costs associated with its role pursuant to the proposed Data Custodian Order.

PROPOSED DISTRIBUTION TO THE GIA

124. The table below summarizes (i) the net assets available for distribution, (ii) the Estimated Reserve, and (iii) the Estimated Surplus available for the Fourth Interim Distribution of approximately \$25.7 million as at May 31, 2020 (the “**Estimated Surplus**”), all of which is proposed to be distributed to the GIA (assuming that the Liquidator does not receive any additional claims by August 1, 2020, being 10 days following the publication of the July 21, 2020 Notice of Distribution)..

Estimated Surplus	
Amounts in CAD millions	May 31, 2020
Assets available for distribution	\$ 41.5
Less: Estimated Reserve	\$ (15.8)
Estimated Surplus	\$ 25.7

125. As the Estimated Surplus is held in a combination of Canadian dollars, U.S. dollars, and Euros, the Estimated Surplus available for distribution, if approved by the Court, will fluctuate with changes in the foreign exchange rates. For clarity,

the proposed Fourth Interim Distribution of approximately \$25.7 million will consist of the following:

- i. Approximately EUR 7.5 million (approximately CAD 11.3 million equivalent as at May 31, 2020); and
- ii. Approximately USD 10.4 million (approximately CAD 14.4 million equivalent as at May 31, 2020) (collectively, the “**Distribution Funds**”).

126. Should the Court approve the Fourth Interim Distribution, the Liquidator will consult with the GIA in respect of:

- i. Whether the GIA would like the Liquidator to convert any of the Distribution Funds to a specific currency, prior to initiating the Fourth Interim Distribution; and
- ii. Whether the GIA would like the Liquidator to (a) cash the short-term investment vehicles that the Distributed Funds are currently being held in; or (b) hold the short-term investment vehicles to maturity (being mid-August 2020), and initiate the Fourth Interim Distribution thereafter.

127. The Liquidator will convert all foreign currencies remaining in its possession following the Fourth Interim Distribution, which are estimated to be approximately USD 4.1 million, to CAD, in order to have the \$15.8 million Estimated Reserve held in CAD.

128. As discussed in previous reports, one of the primary stated objectives of the GIA is to obtain a distribution of the expected total surplus realized from the Toronto Branch as soon as practicable to the German Estate. The Liquidator is of the view that the Fourth Interim Distribution, of \$25.7 million is appropriate for the following reasons:

- i. All of the Assets of the Toronto Branch have been realized upon;
- ii. The universe of potential claims is now defined with a relative degree of certainty, as explained above;

- iii. Notices of the German Estate Interim Distribution, the Second Interim Distribution, and the Third Interim Distribution were posted in the National editions of *The Globe and Mail* and International editions of *The Wall Street Journal* on March 3, 2017, September 15, 2017, and December 8, 2017, respectively;
- iv. The July 21, 2020 Notice of Distribution notifying creditors of the Fourth Interim Distribution will be posted in the National editions of *The Globe and Mail* and International editions of *The Financial Times* on July 21, 2020;
- v. The Liquidator has provided for a reserve of \$5 million in relation to all potential amounts owing to CRA, which amount CRA has consented to. This is the only unresolved claim in the estate;
- vi. The GIA has stated that it is supportive of the Estimated Reserve;
- vii. The Fourth Interim Distribution, which will be paid to the GIA, is essentially a transfer from one insolvency administrator to another insolvency administrator for the benefit of the creditors of the German Estate;
- viii. The Fourth Interim Distribution permits the creditors of the German Estate to receive an interim distribution(s) in a timely manner. Such distribution(s) will allow the creditors of the German Estate to be treated more consistently with the treatment afforded to creditors of the Toronto Branch;
- ix. On account of the quantum of the Estimated Reserve, the Fourth Interim Distribution does not prejudice the interests of the creditors of the Toronto Branch; and
- x. A timely distribution of proceeds to the Toronto Branch stakeholders is the most efficient manner of handling the liquidation of the Toronto Branch.

6. LIQUIDATOR'S RECOMMENDATIONS

129. The Liquidator submits this Fourteenth Report to the Court in support of the Liquidator's Motion for the relief as set out in the Notice of Motion dated July 17, 2020 and recommends that the Court grant an order(s):
- i. Approving the Fourteenth Report, the activities of the Liquidator as described herein, and the statement of receipts and disbursements for the period February 16, 2016 to May 31, 2020;
 - ii. Approving the Liquidator's completion of its role under the Data Transfer Order and discharge from same;
 - iii. Appointing the Liquidator as Data Custodian;
 - iv. Approving the revisions to the Estimated Reserve;
 - v. Approving, *nunc pro tunc*, the July 21, 2020 Notice of Distribution;
 - vi. Approving the Fourth Interim Distribution in the amount of approximately \$25.7 million, subject to no claims being received by August 1, 2020, pursuant to the July 21, 2020 Notice of Distribution; and
 - vii. Granting such further relief as may be required in the circumstances and which this Court deems as just and equitable.

All of which is respectfully submitted at Toronto, Ontario this 17th day of July, 2020.

**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: _____



Nicholas Brearton
President

**This is Appendix “D” to the
Fifteenth Report of the Liquidator**



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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE CHIEF) **THURSDAY, THE 23rd**
)
JUSTICE MORAWETZ) **DAY OF JULY, 2020**

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:

THE ATTORNEY GENERAL OF CANADA

Applicant

-and-

MAPLE BANK GmbH

Respondent

DATA CUSTODIAN ORDER

THIS MOTION, made by KPMG Inc. (“**KPMG**”), in its capacity as court-appointed liquidator (the “**Liquidator**”) in respect of the winding-up of the business in Canada of Maple Bank GmbH (“**MBTOR**”) for an Order authorizing and appointing the Liquidator as custodian of certain data and records of Maple Bank (the “**Data Custodian**”) was heard this day via videoconference pursuant to the Court’s Practice Direction pertaining to the COVID-19 crisis.

ON READING the materials filed, namely the Motion Record filed by the Liquidator (the “**Motion Record**”), the Fourteenth Report of the Liquidator, and on hearing the submissions of counsel to the Liquidator, counsel to the German Insolvency Administrator (“**GIA**”), counsel to Deloitte Restructuring Inc., (“**Deloitte**”) in its capacity as trustee in bankruptcy (the “**Trustee**”) of Maple Financial Group Inc. (“**MFGI**”), counsel to Ontario Teachers’ Pension Plan (“**OTPP**”) and National Bank of Canada (“**NB**”), as former shareholders of MFGI, Osler, Hoskin & Harcourt (“**Osler**”), as counsel to Maple Securities Canada Limited (together with its predecessors “**MSCL**”) and as former counsel to MFGI, no other parties appearing although duly served with the Motion Record as evidenced by the affidavit of service of Adriana Gasparini sworn, and filed.

1. **THIS COURT ORDERS** that all defined terms used herein, not otherwise defined shall have the meaning attributed to them in the Fourteenth Report.

2. **THIS COURT ORDERS** that the Liquidator is hereby appointed as Data Custodian with respect to the Custodial Data, as defined below, and with the duties and obligations as contained in this Order.

3. **THIS COURT ORDERS** that pursuant to the Winding-Up Order dated February 16, 2016 (the “**Winding-Up Order**”) and section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act, (Canada)* (“**PIPEDA**”) the Data Custodian is hereby authorized and directed to take into its power, possession and control the following:

(i) certain data and records in the possession or control of MSCL, namely

(a) all electronic data currently stored in the storage facility located in the Greater Toronto Area and known as the “SunGard Facility” (the “**SunGard Facility**”);

(b) 195 boxes of physical commingled records currently stored at RecordsXpress;
and

(c) back-up tapes of historical data previously stored at the SunGard Facility, and currently stored at RecordsXpress;

(collectively the “**MSCL Data**”)

(ii) all data and records in the possession or control of the Liquidator pursuant to the Data Transfer Order (the “**Remaining DTO Data**”); and,

(iii) certain back-up tapes taken by the Liquidator of the data stored on the SunGard Facility after the Winding-Up Date (the “**Liquidator Back-up Tapes**”),

(the MSCL Data along with the Remaining DTO Data and the Liquidator Back-up Tapes collectively, the “**Custodial Data**”)

4. **THIS COURT ORDERS** that the Liquidator, in its capacity as Data Custodian, shall take into its possession, or control the Custodial Data described at paragraph 3 (i) above on the same terms that MSCL is currently holding the data and records.

5. **THIS COURT ORDERS** that, in conjunction with the appointment of the Data Custodian, the existing SunGard Services Agreement dated September 1, 2016 shall be assigned by MSCL to the Liquidator, in its capacity as Data Custodian. The Data Custodian shall also enter into an agreement with RecordsXpress to supersede the RecordsXpress Services Agreement dated October 1, 2016, and on substantially the same terms.

6. **THIS COURT ORDERS** that the Data Custodian’s appointment shall conclude and be terminated on the earlier of (i) August 31, 2021 and (ii) the date upon which KPMG is discharged as Liquidator for MBTOR. Upon the termination of the Liquidator’s appointment as Data Custodian, the GIA may bring a motion before this Court to seek the appointment of a replacement custodian, or otherwise seek an order for alternate arrangements.

7. **THIS COURT ORDERS** that the transfer of custody of the Custodial Data shall be without prejudice to any of the rights or access of the GIA or MSCL thereto, excluding any rights to transfer any portion of such data or documents the nature of which would be segregated by the terms of the Data Transfer Order, without further order of this Court, however, any such rights or access of the GIA or MSCL to the Segregated Data (as defined in the Data Transfer Order) shall be in accordance with and subject to the Data Transfer Order.

8. **THIS COURT ORDERS** that with the prior consent of the Data Custodian and upon MSCL providing the Data Custodian with three (3) business days written notice, MSCL shall have the right to access, use and copy any MSCL Data that is solely related to MSCL and its subsidiaries (and their respective predecessors) in order to complete the winding-up and dissolution of MSCL, copies of such data may be provided to the GIA and its counsel.

9. **THIS COURT ORDERS** that the transfer of the Custodial Data pursuant to this Order, which may be subject to a claim of privilege by any of MBTOR, Maple Bank, the GIA, MSCL, MFGI, OTPP or NB, shall not constitute or be deemed to constitute a waiver of any claims for privilege that the aforementioned parties may have in respect of the Custodial Data.

10. **THIS COURT ORDERS** and declares that the Liquidator has duly and properly satisfied, discharged, and performed all of its obligations, liabilities, responsibilities and duties in respect of the Data Transfer Order.

11. **THIS COURT ORDERS** that, effective as of the date upon which the Custodial Data is fully taken into the possession, or control of the Data Custodian (the "**Custody Date**"), the Liquidator shall be discharged and shall have no further duties, obligations, liabilities, or responsibilities under the Data Transfer Order, including without limitation with regard to the Remaining DTO Data.

12. **THIS COURT ORDERS** that the Liquidator and its counsel and each of their respective affiliates, officers, directors, partners, employees and agents (collectively, the "**Released Persons**") shall be and are hereby released and discharged from any and all claims that any person may have or be entitled to assert against the Released Persons, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the date of this Order is any way related to, arising out of or in respect of the Data Transfer Order, the Remaining Data and the Liquidator Back-up Tapes (the "**Released Claims**"), and any such Released Claims are hereby released, stayed, extinguished and forever barred, and the Released Persons shall have no liability in respect thereof, provided that the Released Claims

shall not include any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Released Persons.

13. **THIS COURT ORDERS** that, upon the Custody Date, MSCL and its counsel and each of their respective affiliates, officers, directors, partners, employees and agents shall be and are hereby released and discharged from and shall possess no further obligation or responsibility with respect to possession and control of the MSCL Data.

14. **THIS COURT ORDERS** that the estate of MBTOR shall be responsible to pay the reasonable costs incurred by the Data Custodian and its counsel to assemble, transfer and maintain in its custody, or control the Custodial Data, and take all necessary attendant steps and measures.

15. **THIS COURT ORDERS** that the Data Custodian and its counsel, Borden Ladner Gervais LLP, shall be the beneficiaries of a reserve of \$750,000, as established by the Liquidator in order to satisfy their reasonable costs, as provided for at paragraph 6 of the Fourth Interim Distribution Order, including their respective fees and disbursements, until the Liquidator's appointment as Data Custodian has been terminated by Order of this Court.

16. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Data Custodian under the *WURA* and as an officer of this Court, the Data Custodian 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 wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Data Custodian by the *WURA* or any applicable legislation.

17. **THIS COURT HEREBY REQUESTS** the aid, assistance and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States, United Kingdom, the Republic of Germany, including the assistance of the Amtsgericht Frankfurt am Main [Insolvency Court] to give effect to this Order and to assist the Data Custodian 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 Data Custodian, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Data Custodian and its agents in carrying out the terms of this Order.



Chief Justice Geoffrey B. Morawetz

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

JUL 27 2020

PER / PAR:

NB

IN THE MATTER OF THE 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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDINGS COMMENCED AT TORONTO

DATA CUSTODIAN ORDER

BORDEN LADNER GERVAIS LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West, Suite 3400
Toronto ON M5H 4E3

Alex MacFarlane - LSO No. 28133Q
Tel: 416.367.6305
Email: amacfarlane@blg.com

Bevan Brooksbank - LSO No. 56717U
Tel: 416.367.6604
Email: bbrooksbank@blg.com

Lawyers for KPMG Inc., in its capacity as Liquidator of
the business in Canada of Maple Bank GmbH

**This is Appendix “E” to the
Fifteenth Report of the Liquidator**



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

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE CHIEF) THURSDAY, THE 23rd DAY
JUSTICE MORAWETZ) OF JULY, 2020

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

FOURTH INTERIM DISTRIBUTION ORDER

THIS MOTION, made by KPMG Inc. (“**KPMG**”), in its capacity as the Court-appointed Liquidator (the “**Liquidator**”) pursuant to the *Winding-Up and Restructuring Act*, R.S.C. 1985, c. W-11, as amended (“*WURA*”) of the business in Canada (the “**Business**”) of Maple Bank GmbH (“**Maple Bank**”) and its assets as defined in section 618 of the *Bank Act*, S.C. 1991, C.46, as amended (the “*Bank Act*”) for an order:

- (a) abridging the time for service of the Notice of Motion and the Motion Record herein, if required, and validating service so that the Motion is properly returnable on the proposed date and dispensing with the requirement for any further service thereof;
- (b) approving the Fourteenth Report of the Liquidator dated July 17, 2020 (the “**Fourteenth Report**”) and the activities of the Liquidator as set out in the Fourteenth Report;
- (c) authorizing and directing the Liquidator to make a partial distribution in the amount of \$25.7 million to the GIA (as defined below) of a portion of the estimated surplus of funds, which have been realized by the Liquidator from the liquidation and/or sale of the Assets and the Business of the Toronto Branch (the “**Fourth Interim Distribution**”), on, or after August 1, 2020 (the “**Distribution Date**”);
- (d) approving the notice to creditors of the Toronto Branch published in the National Edition of the *Globe and Mail* and the International Edition of the *Financial Times* on July 21, 2020 giving notice of the Fourth Interim Distribution by the Distribution Date substantially in the form of the notice attached as Schedule “A”, hereto (the “**Distribution Notice**”);
- (e) approving the reduction of the reserves held by the Liquidator, as set out in the Fourteenth Report, including a reduction of the reserve for the claims of CRA to \$5 million;
- (f) approving the establishment of a general reserve of \$5 million (the “**General Reserve**”) and a further reserve of \$750,000 for the fees and expenses of the Data Custodian and its counsel (the “**Data Custodian Reserve**”); and
- (g) such further relief as may be required in the circumstances and which this Court deems as just and equitable,

was heard via videoconference pursuant to the Court's Practice Direction with respect to the COVID-19 crisis.

ON READING the Fourteenth Report, filed, and on hearing the submissions of counsel for the Liquidator, counsel for the German Insolvency Administrator ("GIA") of Maple Bank, counsel to Deloitte Restructuring Inc. in its capacity as trustee in bankruptcy of Maple Financial Group Inc., counsel to Ontario Teachers' Pension Plan and National Bank of Canada as former shareholders of MFGI, counsel to Maple Securities Canada Limited, and such other parties who were in attendance and no one else appearing although served as evidenced by the Affidavit of Service of Adriana Gasparini, filed,

1. **THIS COURT ORDERS** that all defined terms used herein, not otherwise defined shall have the meaning attributed to them in the Fourteenth Report.
2. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record is validated so that the Motion is properly returnable today and hereby dispenses with further service thereof, including without limitation, any prescribed notice requirements under the WURA.
3. **THIS COURT ORDERS** that the Fourteenth Report and the activities of the Liquidator as set out in the Fourteenth Report, be and are hereby approved.
4. **THIS COURT ORDERS** that the Liquidator is hereby authorized and directed to make the Fourth Interim Distribution on, or after, the Distribution Date.
5. **THIS COURT ORDERS** that the Distribution Notice be and is hereby approved, *nunc pro tunc*.
6. **THIS COURT ORDERS** that the (i) reduction of the reserves held by the Liquidator as set out in the Fourteenth Report of the Liquidator; (ii) establishment of the General Reserve; and, (iii) Custodian Reserve, be and are hereby approved.
7. **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 assistance of the Amtsgericht Frankfurt am Main [Insolvency Court]

to give effect to this Order and to assist the Liquidator and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory 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 or to assist the Liquidator and its agents in carrying out the terms of this Order.



Chief Justice Geoffrey B. Morawetz

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

JUL 27 2020

PER / PAR:



Schedule "A"

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

**RE: NOTICE OF DISTRIBUTION FOR MAPLE BANK PURSUANT TO THE
WINDING-UP AND RESTRUCTURING ACT (the "WURA")**

PLEASE TAKE NOTICE that this notice is being published in order to give notice that on July 23, 2020, KPMG Inc., in its capacity as a court appointed liquidator (the "**Liquidator**") of the business in Canada of Maple Bank and its related assets, will be requesting an order from the Ontario Superior Court of Justice (Commercial List) to approve a distribution by the Liquidator to the German Insolvency Administrator on or after August 1, 2020, in respect of a portion of the estimated surplus of funds, which have been realized from the liquidation and/or sale of the assets and the business in Canada of Maple Bank by the Liquidator.

DATED at Toronto this 21th day of July, 2020.

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

Attention: Nick Brearton
email: nbrearton@kpmg.ca
Fax: (416) 777-3364

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

FOURTH INTERIM DISTRIBUTION ORDER

BORDEN LADNER GERVAIS LLP
Bay Adelaide Centre, East Tower
22 Adelaide Street West, Suite 3400
Toronto ON M5H 4E3

Alex MacFarlane – LSO No. 28133Q
Tel: 416.367.6305
Email: amacfarlane@blg.com

Bevan Brooksbank – LSO No. 56717U
Tel: 416.367.6604
Email: bbrooksbank@blg.com

Lawyers for KPMG Inc., in its capacity as Liquidator of the
business in Canada of Maple Bank GmbH

**This is Appendix “F” to the
Fifteenth Report of the Liquidator**

From: "Hamam, Nathalie" <Nathalie.Hamam@justice.gc.ca>
Date: May 8, 2020 at 10:08:32 AM EDT
To: "MacFarlane, Alex" <AMacfarlane@blg.com>, "Fyfe, Stephen J." <SFyfe@blg.com>
Cc: "Winters, Diane" <Diane.Winters@justice.gc.ca>, "Rivamonte, Maria" <Maria.Rivamonte@justice.gc.ca>
Subject: Maple Bank (Toronto Branch) Tax Appeal: Proposed reserve

Good morning,

We now have instructions that the CRA does not oppose the proposed reduction of the reserve to \$5M.

I hope everyone is keeping well.

Nathalie

Nathalie Hamam

Counsel
Department of Justice Canada
120 Adelaide Street West, Suite 400
Toronto, ON M5H 1T1
Nathalie.hamam@justice.gc.ca

Tel: (o) 647-256-7380 (c) 416-574-0617
Fax: 416-973-0810

Avocate
Ministère de la Justice Canada
120, rue Adelaide Ouest, Pièce 400
Toronto, ON M5H 1T1
Nathalie.Hamam@justice.gc.ca
Tél: (b) 647-256-7380 (c) 416-574-0617
Télé: 416-973-0810