

Court File No.

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

REPORT OF KPMG INC.

Background

1. KPMG Inc. was appointed as agent (“KPMG”) of the Superintendent of Financial Institutions of Canada (“**Superintendent**”) on February 11, 2016 in connection with its taking of temporary control of the assets of the Canadian branch of Maple Bank GmbH (“**Maple Bank**”).
 2. In that capacity KPMG attended at the only office of the Canadian business of Maple Bank (being in Toronto) to gather information and to take steps to safeguard the assets of the Branch as defined in Section 618 of the Bank Act (Canada) (the “**Assets**”). Steps taken to safeguard the assets included the following:
 - Revisions to the procedures for employees to access the office (these revisions did not, however, affect the ability of employees to access the office during both the regular work day and after hours).
 - Controls to restrict the ability of employees to access the bank accounts of the Canadian branch of the Maple Bank.
 - Notification of certain parties holding assets of the Canadian branch of Maple Bank of KPMG’s appointment.
 3. On February 16, 2016, the Superintendent confirmed that KPMG continues to be designated as a representative of the Superintendent in connection with the Assets.
 4. This report has been filed to provide certain financial and other information that may be relevant to the Court’s consideration of the application for the winding-up of the
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Canadian business of Maple Bank and the appointment of a liquidator of its Assets. This information is based on discussions with senior management of the Canadian business of Maple Bank and, given the short time since KPMG's appointment, a limited review of the financial records of the Canadian business.

Nature of the Business

5. The Canadian business of Maple Bank has three major lines of business:
 - (a) the origination and securitization of real property mortgages in Canada primarily through the NHA Mortgage-Backed Securities Program and the Canada Mortgage Bond Program ("**Mortgage Securitization Business**");
 - (b) structured secured lending to borrowers (the vast majority of which are Canadian), being loans secured by investment grade financial assets ("**Structured Secured Lending**");
 - (c) security financing transactions, being primarily repurchase transactions ("repos") and reverse repurchase transactions ("reverse repos"), entered into with Canadian and other counterparties for treasury and cash management purposes and, to a limited extent, to facilitate securities transactions by the Maple group of entities ("**Security Finance Transactions**")
 6. In connection with the Canadian business of Maple Bank, including the funding of its lines of business and the maintenance of "Capital Equivalency Deposits" (cash or cash equivalents required to be maintained by the Superintendent for regulatory purposes), the Canadian business entered into extensive interest rate and foreign exchange derivatives.
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Financial Position

7. The assets and liabilities of the Canadian Business of Maple Bank as at February 10, 2016 are approximately \$5.5 billion and \$5.34 billion, respectively, as set out on the balance sheet for the Canadian business attached as Appendix A, which was prepared by Maple Bank's Canadian personnel.
 8. The assets of the Canadian business include mortgages securitized by the Branch in a total principal amount of approximately \$3.5 billion as at February 10, 2016. The Canadian business of Maple Bank was an approved issuer under the National Housing Act Mortgage-Backed Securities Program and an approved seller under Canada Mortgage Bond Program but was not an approved servicer under either program. Generally, the interest payable under each of the mortgages in the portfolio is greater than the interest payable by Maple Bank's Canadian business to the investors under the mortgage-backed securities and the cost of servicing the mortgages. The value of this differential, which is received over the life of the mortgages, is the real value to Maple Bank's Canadian business of the Mortgage Securitization Business.
 9. The liabilities of the Canadian business include approximately \$3.4 billion as at February 10, 2016 with respect to the Mortgage Securitization Business. Although the Canadian business continues to have various liabilities and obligations under each of the programs, the investors' recourse is generally limited to the mortgages in the various pools and the CMHC guarantee of such mortgages (or in the case of CMB, the bonds issued by the Canada Housing Trust).
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10. As noted in the affidavit of Paul Lavery sworn on February 15, 2016, Canada Mortgage Housing Corporation has declared the Canadian business of Maple Bank to be in default under the NHA Mortgage-Backed Securities Program and has commenced to exercise its remedies including to identify a successor Issuer to replace the Canadian business of Maple Bank.
 11. The Structured Secured Lending Business is comprised primarily of loans either guaranteed by governments or collateralised by investment grade financial instruments in a total amount of approximately \$362 million and are shown on the balance sheet as part of "Loans Receivable". The majority of these assets are located in Canada.
 12. The assets of the Canadian business of Maple Bank also include the "Capital Equivalency Deposit" required by the Superintendent in the amount of \$427 million currently held at a Toronto branch of the Bank of Montreal and additional cash and investments of approximately \$350 million (shown on the balance sheet as part of "Securities Long", "Cash" and various other categories), the majority of which are located in Canada.
 13. Among the major liabilities of the Canadian business of Maple Bank are amounts owing under Euro denominated term deposits by non-Canadian depositors, which are shown on the balance sheet under "Term Deposit Liability" in the amount of Cdn \$693 million as at February 10, 2016. We are advised by senior management of the Canadian business that these deposits vary in maturity from overnight to 10 years and are insured by a German statutory deposit scheme ("EdB") and potentially an industry funded German Deposit Protection Fund ("GDPF"). We have further been advised by senior management of the Canadian business that no payments have yet been made by EdB or the GDPF.
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14. Notwithstanding that the Canadian business is a branch of Maple Bank GmbH, also shown on the balance sheet of the Canadian business are advances from the Frankfurt branch of Maple Bank GmbH ("**Frankfurt**") primarily in the form of interest bearing advances (shown on the balance sheet under "Loan from MB Frankfurt" in the amount of \$706 million as at February 10, 2016 and non-interest bearing advances shown on the balance sheet under "Notional Capital" in the amount of \$132 million as at February 10, 2016. Note that these numbers exclude an \$87 million liability that is currently shown on the balance sheet under "MB Frankfurt Bank Account" as the accounting therefor has not yet been completed.

Shared Services and Sharing of Information with Frankfurt

15. Maple Securities Canada Limited ("**Maple Securities**"), a wholly owned subsidiary of Maple Bank GmbH, that operates a securities business in Canada is providing a number of services to the Canadian business of Maple Bank for a monthly fee pursuant to an agreement made as of October 1, 2014 including (a) the settlement, clearing, reconciliation and custody of securities, (b) provision of information technology infrastructure and systems, (c) payroll processing and maintenance of personnel records, (d) processing of accounts payable, (e) provision of central office services and (d) use of office space, furniture and equipment. The application seeking the appointment of a liquidator does not cover Maple Securities.
16. We are advised by senior management of the Canadian business of Maple Bank that it uses four main accounting programs, two of which are shared globally and maintained by Frankfurt:

- (a) Condor, a globally shared program that maintains the loans, deposits and derivatives information for the Canadian business;
- (b) Apex, a globally shared program that maintains the securities and investments information for the Canadian business;
- (c) TBSM, being a Canadian business program that tracks the mortgages in the Mortgage Securitization Business; and
- (d) Broadridge, being the core general ledger system which aggregates the information from Condor, Apex and TBSM.

As such, the Canadian business of Maple Bank is dependent on the Frankfurt branch for major portions of its information technology system.

Frankfurt has full access to the Condor and Apex systems and “read” only access to Broadridge. In addition, these depositors are all resident in Germany, the communication with them is in German and dealings with depositors has been outsourced by the Canadian business to Frankfurt under a formal outsourcing agreement. As such, the identity of the depositors and the financial details of their deposits are fully known and managed by Frankfurt.

Cooperation with the Germany Insolvency Administrator

17. If the Court grants the order appointing KPMG as Liquidator, the Liquidator is committed to (a) facilitating an exchange of information with Dr. Michael C. Frege, as Insolvency Administrator of Maple Bank GmbH, as appointed pursuant to the German
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Insolvency Code (the “**GmbH Administrator**”) regarding the assets and the business of Maple Bank in Canada as may be required by the GmbH Administrator to fulfill his statutory obligations; and (b) consulting with the GmbH Administrator in respect of (i) any proposed disposition of assets which would or would reasonably be expected to result in net proceeds in excess of \$10 million; and (ii) any proposed claims process or distribution to creditors of Maple Bank’s business in Canada. We would also recommend that the GmbH Administrator be appointed as a member of any creditors’ committee that may be appointed by the Court in the proposed winding up proceedings of Maple Bank.

18. We expect that it may be appropriate for the GmbH Administrator and the Liquidator to have discussions as to whether it would be beneficial to the administration of the two liquidation proceedings to enter into a formal cross-border protocol as between the Liquidator and the GmbH Administrator of Maple Bank. Accordingly, should KPMG be appointed as the Liquidator it would commence discussions with the GmbH Administrator to determine if this would be warranted and beneficial in the circumstances. Should a cross-border protocol be successfully negotiated, the Liquidator and the GmbH Administrator would seek approval from the respective Canadian and German courts.

KPMG Disclosure of Prior Engagements with Maple Bank GmbH

19. Prior to taking on its role as Agent to OSFI and in connection with accepting its proposed role as Liquidator of the Canadian branch of Maple Bank GmbH, KPMG has conducted its standard global conflict of interest and independence procedures. In this process and out of an abundance of caution, KPMG’s Canadian Risk Management personnel have
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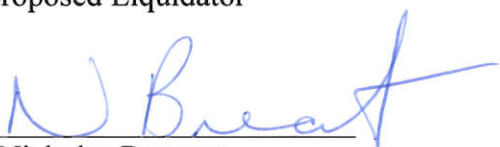
had discussions with KPMG's German Risk Management personnel, as KPMG Germany has undertaken a limited number of mandates for Maple Branch GmbH which are advisory and tax related. The result of that process was that KPMG concluded that it did not have a conflict of interest acting as either Agent or Liquidator of the Canadian assets of Maple Bank GmbH's foreign bank branch in Canada. In addition, KPMG has erected an ethical divider, and professionals undertaking the agency appointment, and those proposed to undertake any liquidation activities, have had no involvement with any of KPMG's Germany's mandates for Maple Bank GmbH in Germany. A limited number of Canadian Risk Management professionals are aware of the nature, type and extent of services provided KPMG Germany but have no detailed knowledge of the engagements or the specific procedures or advice provided.

20. If further details are required as to KPMG's prior mandates, KPMG is prepared to request that the GmbH Administrator release the details of KPMG's prior engagements, which are not currently available on account of confidentiality concerns with regard to Maple Bank GmbH. KPMG is of the opinion that our role as Agent and that of proposed Liquidator is free of conflict.

Respectfully Submitted.

KPMG Inc., in its capacity as Agent of
the Superintendent of Financial Institutions of Canada and proposed Liquidator

Per: 
Philip J. Reynolds
Senior Vice President

Per: 
Nicholas Brearton
President

Dated February 16, 2016
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