



Tel: 905 508 0080  
Fax: 905 508 0012  
www.bdo.ca

BDO Canada Limited  
45 Vogell Road  
Suite 300  
Richmond Hill ON L4B 3P6 Canada

16 February 2012

To: The Claimants:

Re: **The Toronto-Dominion Bank, Applicant**  
**AND:**  
**2026227 Ontario Inc., Respondent**

BDO Canada Limited ("BDO") was appointed Interpleaded Fund Advisor by Order of the Ontario Superior Court of Justice - Commercial List, with a mandate to conduct a Claims Bar Process, and to determine whether or not it could identify and trace funds currently being held in Court to funds pulled from customers' accounts by 2026227 Ontario Inc. ("202") on February 7, 8 and 9, 2011, and to advise the Court as to which claimants may be entitled to approximately \$2.4 million paid into Court by 202's banker when it closed the accounts of 202 following the incurrence of certain unauthorized bank overdrafts.

On December 16, 2011 BDO reported to the Court, as it was mandated to do, and reported on the tracing exercise conducted, and other issues which had come to the attention of BDO in carrying out its mandate.

The Court was unable to consider BDO's report until February 13, 2012, by which time the Claims Bar Process was virtually complete. Accordingly, BDO prepared an update, in the form of a Supplemental Report dated February 9, 2012, and also reported on its related fees of about \$140,000, plus legal fees of about \$28,000, both before HST, incurred in conducting both the tracing exercise and Claims Bar process.

As there are opposing views as to whether or not the funds in the account may be identified and traced to pulls from certain customers' accounts and that a tracing of funds should be followed, the Court has set a date of April 4, 2012 to hear legal arguments and decide on the allocation of the funds in Court to the various claimants.

To summarize the issue, there are about 430 claims totaling about \$5.1 million against the available funds of about \$2.4 million less professional costs of about \$200,000.



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In order to allow all claimants to be aware of the issues, and to be heard by the Court in the event they wish to make submissions, BDO has been instructed to furnish every claimant with:

- 1) its Report of December 16, 2011, including attachments;
- 2) its Supplemental Report of February 9, 2012, including attachments; and
- 3) the Reasons of the Honourable Mr. Justice Brown, dated February 13, 2012.

(Please particularly note paragraph 5 (vi) of Justice Brown's reasons)

For your additional information, we attach as well a list of the claims, as processed by BDO to date. We expect only minimal changes as we finalize this list.

Where ever possible, this distribution is being sent to claimants' email addresses.

Yours very truly,

**BDO CANADA LIMITED**

Per:

Uwe Manski, FCA, FCIRP  
Assistant Vice President

UM/ap