The Competition Bureau's Letter to the Toronto-Dominion Bank and Canada Trust

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Letter

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c.c The Honourable Paul Martin, P.C., M.P.
Minister of Finance

Dear Messrs. Baillie and Clark:

This letter sets out the results of the competition analysis the Competition Bureau conducted on the proposed merger of the Toronto-Dominion Bank and Canada Trust.

The mandate of the Competition Bureau is to ensure that Canada has a competitive marketplace and that all Canadians enjoy the benefits of competition. This requires that the Bureau review proposed mergers to determine if they are likely to substantially lessen or prevent competition.

After a comprehensive review, the Bureau has concluded that, as proposed, the merger is likely to substantially lessen or prevent competition, and that this would lead to higher prices and lower levels of service and choice for branch banking consumers in three local markets: Kitchener-Waterloo-Cambridge-Elmira, Port Hope and Brantford-Paris. The Bureau has also concluded that the merger will substantially lessen or prevent competition in the general-purpose credit card networks market in Canada.

In response to the Bureau's concerns, Toronto-Dominion and Canada Trust have proposed to sell branches in the three identified markets. They have also proposed to either sell the Canada Trust MasterCard credit card portfolio, with the exception of Powerline accounts, or convert Toronto-Dominion's Visa credit card portfolio to MasterCard. It is the Bureau's view that these proposed remedies, once fully implemented, will address the anti-competitive impact of the proposed merger.

Appendix D contains Toronto-Dominion and Canada Trust's undertakings to the Bureau to divest these assets. The Bureau will not make public certain schedules of either undertaking because they contain confidential information.

The Bureau assessed the proposed merger in the traditional manner by gathering information and analyzing any possible anti-competitive effects, such as undue concentration, that would indicate a lessening of competition should the merger proceed. The details of the process are contained in the *The Merger Enforcement Guidelines as Applied to a Bank Merger*, which the Competition Bureau issued in July 1998.

The Bureau assessed the likely competitive impact of the merger using a two-year timeframe and examined the impact for all banking services. The results of the examination indicated that further, detailed analysis was required for only two major lines of business: branch banking services to individuals and businesses, and credit cards.

While the Bureau anticipates a number of significant changes to the banking industry in the next decade due to innovation and technology, these are unlikely to mitigate the impact of the proposed merger in the affected markets within the next two years.

The Bureau has no regulatory authority to allow or disallow mergers between financial institutions. Its role is to review proposed mergers for their impact on competition and share the results of this analysis with the parties concerned. Under the *Bank Act* and the *Trust and Loan Companies Act*, it is the Minister of Finance who has the ultimate authority to approve such mergers. Consequently, the Bureau will send to the Minister of Finance a copy of this letter, together with the undertakings.

On the basis of the Bureau's analysis, and the negotiated divestiture package, my advice to the Minister of Finance on the competition aspects of this merger is that he either withhold approval of the merger until all divestitures have been completed or, alternatively, that he approve the merger on the condition that the undertakings to the Bureau be fully implemented to address all the competition issues.

Summary of Conclusions

As a result of the Bureau's review and on the basis of the materials submitted, the advice of experts and the information third parties provided, the merger as currently structured will have the following results.

A. Branch Banking

For individuals, branch banking services consist of personal transaction accounts, personal loans and lines of credit, and residential mortgages.

For businesses, in particular small and medium-sized businesses, these services consist of business transaction accounts and related services and operating loans.

The proposed merger:

- will substantially lessen or prevent competition in 3 of 74 local markets in which Toronto-Dominion and Canada Trust compete for branch banking services to individuals. However, the proposed branch divestitures, once fully implemented, will address the competition concerns;
- will not substantially lessen or prevent competition in the remaining 71 local markets for branch banking services to individuals; and
- will not substantially lessen or prevent competition in any markets for branch banking for businesses.

B. Credit Cards

The proposed merger:

- will substantially lessen or prevent competition in the general-purpose credit card networks market. However, the proposed divestiture of the Canada Trust MasterCard portfolio, with the exception of Powerline accounts, or the conversion of Toronto-Dominion's credit card portfolio from Visa to MasterCard, once fully implemented, will address the competition concerns.

The Proposed Merger

On August 3, 1999, Toronto-Dominion announced that it had entered into a binding agreement with British American Tobacco PLC (BAT) under which Toronto-Dominion would make a takeover bid for 100 percent of the shares of CT Financial Services, the parent company of Canada Trust. BAT owns 42 percent of Imasco, which, in turn, owns 98.2 percent of CT Financial Services. Toronto-Dominion agreed to pay $67 per share, for a total cash purchase of $8 billion.

This transaction would combine Canada's fifth largest bank based on the value of Canadian assets with the largest remaining Canadian trust company. The rationale for the merger is that it is necessary for the two companies to combine and become larger in order to be a more efficient and effective supplier of retail financial services. The two companies also asserted that the proposed merger would result in significant cost savings, and, by introducing the Canada Trust service model across the Toronto-Dominion branch network, force other large financial institutions to follow suit and become more competitive.

Scope of the Bureau's Review

The Bureau's mandate under the *Competition Act* is confined to assessing whether or not proposed mergers are likely to substantially lessen or prevent competition. This will be the case when a merger is likely to result in higher prices, less choice or reduced service. Any merger that is likely to have such an impact on competition may be prohibited under the *Competition Act*, unless the merger creates efficiencies that would be greater than, and would offset, the negative impact on competition.

In assessing competitive criteria, the Bureau relied on the conclusions it reached during its reviews of the proposed bank mergers in 1998. There have been no significant developments since then and no evidence presented that suggests those conclusions would not be applicable to this transaction.

The Bureau also relied on current information from Toronto-Dominion and Canada Trust, market contacts, and advice from experts in the credit card and retail banking sectors. In addition, Bureau staff met with representatives of Toronto-Dominion and Canada Trust at every stage of the process to ensure that the Bureau fully understood the parties' submissions, to obtain information, to explain the results of the review, and to discuss proposed remedies.

Analytical Approach

The Bureau's analysis covered an extensive range of products and geographic areas in which financial institutions compete. *The Merger Enforcement Guidelines as Applied to a Bank Merger* provided the framework for the analysis.

As explained in the Guidelines, there are four major steps in determining whether or not a particular transaction would substantially lessen or prevent competition.

- **Relevant markets are defined** to identify which products, where and with whom the banks compete. A relevant market consists of a group of products that are close substitutes. Each group represents a separate product market with its own geographic market dimensions.

- **Market shares and concentration levels are calculated** for each relevant market. A more detailed review is generally required if a) the share held by the banks is 35 percent or greater, or b) the combined share held by the four largest competitors is 65 percent or greater (and the share held by the merging banks exceeds 10 percent).

- **A variety of competitive criteria are evaluated** for each relevant market under detailed review. The goal is to determine whether or not the merger is likely to result in a substantial lessening or prevention of competition. Criteria examined typically include the extent of foreign competition the banks face, the barriers that would be encountered should other companies wish to enter a particular market, the impact of technology, whether or not the merger would remove a vigorous and effective competitor, the effectiveness of the remaining competition, and any other factor relevant to competition.

- **Claimed efficiencies are considered** if it is concluded that the merger results in a substantial lessening or prevention of competition. The *Competition Act* provides that a merger may proceed provided a) it is likely to result in efficiencies that would not otherwise be realized, and b) such efficiencies would be greater than, and would offset, the anti-competitive impact.

The Bureau's analytical approach presumes a merger will not harm competition when markets are unconcentrated, entry is easy and effective competition remains. Therefore, the analysis may end if at any stage the evidence demonstrates that the relevant market will not be subject to competition concerns.

Competition Analysis

This merger review examined three major lines of business in which the two financial institutions are engaged: branch banking services to individuals and businesses, credit cards and securities. As the Bureau soon determined that there is no significant overlap in the securities market, the detailed analysis focussed on the impact the merger would have on branch banking and credit cards.

A. Branch Banking

This section examines the markets for branch banking services provided to individuals and businesses in Canada.

Product Markets

Personal Financial Services

Within this category, the Bureau defined the following product markets:

Personal Long-term Investments
Personal Short-term Savings
Student Loans
Personal Transaction Accounts
Residential Mortgages
Personal Loans and Lines of Credit

Personal long-term investments include most mutual funds, stocks and bonds. Personal short-term savings include guaranteed investment certificates, money market mutual funds, Canada and provincial savings bonds, and treasury bills.

The Bureau concluded that no detailed review was required of personal long-term investments, personal short-term savings and student loans. In these product markets, either the remaining competition was effective or the applicable thresholds were not crossed.

Personal Transaction Accounts

Transaction accounts are the core of the personal banking relationship. They enable an account holder to make deposits and withdrawals through savings or chequing accounts and to receive reports on those activities. These transactions may take place either at the local branch or through some other means such as an automated banking machine, debit card, telephone, personal computer or the Internet.

Residential Mortgages

A residential mortgage is the principal form of long-term personal debt for many Canadians. Most mortgages are used to buy a home. For those with significant equity, it is possible to use a line of credit to fund a home purchase. However, this option is not open to home owners with lower levels of equity. Consequently, the Bureau has decided that residential mortgages are sufficiently distinct from lines of credit that they constitute a relevant product market.

Personal Loans and Lines of Credit

Personal loans and lines of credit are another distinct type of consumer credit for the purposes of our analysis. Credit cards, with the exception of low-rate credit cards, carry interest rates that are more than twice the interest rates of personal loans and lines of credit and, therefore, are not considered good substitutes. Similarly, loans from consumer finance companies are priced so much higher than loans from deposit-taking institutions that they have been excluded from this market.

Business Financial Services

Within this category, the Bureau defined the following product markets:

- Term Loans
- Business Transaction Accounts and Related Services
- Operating Loans

Term loans, including non-residential mortgages, are generally mid- to long-term in duration and are typically secured by collateral to purchase equipment, buildings and real estate. Leased equipment is also included in this category. The Bureau concluded that no detailed review was required for term loans either because the remaining competition was effective and provided businesses with adequate competitive alternatives, or the applicable thresholds were not crossed.

Business Transaction Accounts and Related Services

Transaction accounts are the core of the business banking relationship. They allow firms to pay bills and collect receivables. Other products, such as night deposit and cash and coin services, are generally linked to transaction accounts.

Operating Loans

Operating loans are intended for the short-term operating needs of businesses, such as financing receivables and inventory. Banks will generally not give an operating loan unless a business has its transaction account at the same bank. This gives the lending banks the ability to monitor a customer's business on a continuing basis.

Geographic Markets

The geographic market for branch banking is local. The Bureau identified 112 local markets in urban areas with populations of 10,000 to 100,000, based on the integrated economic areas identified by Statistics Canada as Census Agglomerations. It also identified 25 urban areas of more than 100,000 people, which Statistics Canada has grouped into individual Census Metropolitan Areas. Of the 137 local urban markets across Canada, Toronto-Dominion and Canada Trust operations overlap in 63 markets.

In rural areas, the Bureau examined the competitive environment of all Toronto-Dominion and Canada Trust branches within 20 kilometres of each other. Using this criteria, Toronto-Dominion and Canada Trust operations overlap in 11 rural markets.

In all, Toronto-Dominion and Canada Trust compete in 74 local markets.

Market Share and Concentration Levels

To calculate market share and concentration levels for branch banking products, the Bureau, in 1998, supplemented the Canadian Bankers Association market share database with information from many other financial institutions and the Canadian Payments Association. As a result, the database includes nearly all deposit-taking institutions. In 1998, Bureau staff also modified the database to accommodate products for which non-deposit-taking institutions are significant competitors, such as insurance companies dealing in residential mortgages. In addition, the Bureau updated the database with new information from Toronto-Dominion and Canada Trust.

This database is the best available in Canada at this time.

Competitive Criteria

Barriers to Entry

To assess the merger's competitive effect, the Bureau must consider the level of barriers to entry, and whether or not entry or expansion on a scale sufficient to offset the substantial lessening or prevention of competition is likely to occur within two years. Even when a merger exceeds the Bureau's thresholds, low barriers to entry (i.e. it is relatively easy to become established in a particular market) would increase the likelihood of new entrants and constrain the merged companies. As a result, the merged entity would be forced to behave in a manner consistent with a competitive market.

The Bureau has concluded that the barriers for new entrants into branch banking are high. The extensive branch networks of the major Canadian financial institutions represent a significant existing investment that is difficult for new entrants to replicate. Moreover, it takes an extended period of time (usually three to seven years) for a branch to break even. It should also be noted that the major banks have an advantage over new entrants because they have already secured the best locations in most markets.

In all the interviews the Bureau conducted in 1998, no one said they expected significant new entry into branch banking. Consequently, the Bureau concluded that new branch bank entry, other than by acquisition, is highly unlikely.

In addition to the costs of establishing a branch banking network, new entrants face a number of other barriers. There is some evidence that economies of scale and scope make entry more difficult for smaller firms. On transaction accounts, the evidence also indicates that customers are reluctant to switch their primary financial institution, which handles day-to-day banking, payroll deposits and automatic bill payments. The major financial institutions have also developed strong brand names through decades of advertising, and strong local branch presence throughout Canada.

An indication of the strength of customer loyalty is demonstrated by a 1998 report prepared for the Task Force on the Future of the Financial Services Sector. The report notes that no institution has gained more than one percent market share in any year, except by acquisition.

The Bureau recognizes that the supply of residential mortgage loans is becoming less branch-dependent due to the advent of alternative mortgage sources. However, the Bureau notes that new entrants for this product are constrained by consumer reluctance to obtain mortgages through independent mortgage brokers or the Internet, or by telephone or mail. This reluctance to use non-traditional mortgage outlets is most prevalent in rural and remote communities.

While existing competitors are not confronted by the same levels of barriers to entry new entrants face, their expansion is impeded by the high costs of gaining new customers. This is due to the cost to consumers of switching and the expectation that new branches may not be profitable for up to seven years.

Changes in Technology and Innovation

The Bureau looked at the impact technology and innovation might have on lowering barriers to entry in the banking sector and in expanding the scope of the geographic market. While it has been noted that Canadians are beginning to use technology for their banking, all evidence indicates that branches remain critical to the overall success of a bank. Toronto-Dominion and Canada Trust's proposed plan to extend the Canada Trust service model, with longer branch hours and superior counter service, to Toronto-Dominion branches would seem to support the Bureau's findings.

Foreign Competition

The Bureau defines foreign competition as foreign institutions that offer Canadian consumers financial services from outside Canada. Due to regulatory constraints, competition is minimal for individual banking products offered by foreign-controlled deposit-taking institutions operating in Canada.

Removal of an Effective Competitor

The proposed merger would eliminate the last major trust company in Canada — a company that has an acknowledged reputation for innovation in the financial services sector. It is also noted that Toronto-Dominion would adopt many of Canada Trust's service model practices and that Canada Trust's current President and Chief Executive Officer, Mr. Edmund Clark, would head Toronto-Dominion's retail operations. The Bureau is of the view that expanding the Canada Trust service model to one of the big five banks would be pro-competitive and could encourage other institutions to follow suit. However, the loss of such a major competitor in the trust company sector is cause for concern in light of the already high levels of concentration that exist in most local markets.

Effective Competition Remaining

Assessing the effectiveness of the remaining competition that would remain after a merger is an important consideration in determining whether or not the merging institution would be constrained in raising prices, or reducing the quality or level of service.

Canada Trust is a regional player with operations focussed in Southern Ontario, British Columbia and Alberta. Its presence in the rest of the country is limited to one or two branches in each of the other provinces. In nearly all of the markets the Bureau examined, the competition offered by the remaining banks, credit unions and other financial institutions is sufficient to address competition concerns of the Bureau. Exceptions to this view are the previously identified markets in Kitchener-Waterloo-Cambridge-Elmira, Port Hope and Brantford-Paris.

Interdependent Behaviour

The Bureau has examined the proposed transaction to determine the potential for a substantial lessening or prevention of competition through the exercise of interdependent behaviour at both local and national levels. This lessening can result from either explicit agreements or from implicit recognition among firms that, in the new post-merger environment, reduced competitive vigour would be more profitable for all.

A small number of sellers in any one market increases the risk of interdependent behaviour, and the Bureau has determined that the proposed merger increases concentration in an already concentrated industry. A high level of concentration in the relevant market is a necessary, but not a sufficient, condition for determining whether or not interdependent behaviour is likely to substantially lessen or prevent competition.

Other factors that facilitate interdependent behaviour are high barriers to entry, the homogeneity of products, the predictability of demand and costs, the stability of market shares, the quality of information about pricing and customers, and the degree of industry cooperation (e.g. in associations, joint ventures, alliances, networks and loan syndicates). To a large degree, these factors appear to be present in this industry.

Given that Canada Trust is a regional player with a more limited product offering than the major Schedule I banks and the fact that Toronto-Dominion would be adopting Canada Trust's unique service model, it is less likely that the merger will lead to interdependent behaviour. However, in view of the fact that Canada Trust has been characterized as an innovator in the industry, the loss of this firm raises the concern that the proposed merger could increase the risk for reduced competitive vigour among the remaining major banks.

Identification of Problem Markets

To identify those markets in which the merger will substantially lessen or prevent competition, the Bureau employed the principles set out in **Appendix B**.

Retail Banking

Applying these principles to services provided to individuals, the Bureau has concluded that the proposed merger:

- will substantially lessen or prevent competition in two local markets: Kitchener-Waterloo-Cambridge-Elmira and Port Hope;
- may substantially lessen or prevent competition in 14 local markets. Following additional review, the Bureau has determined that a remedy was required in only one market — Brantford-Paris — where the proposed merger will otherwise substantially lessen competition; and
- will not substantially lessen or prevent competition in 58 local markets.

Proposed Remedies

In response to these findings, Toronto-Dominion and Canada Trust have proposed to sell 11 branches in Kitchener-Waterloo-Cambridge-Elmira, as well as individual branches in Port Hope and Brantford-Paris. The Bureau is of the view that the sale of these branches to a viable long-term competitor will address the substantial lessening or prevention of competition that would otherwise result in these markets.

Appendix C provides a list of those markets where remedies are required as well as those where the Bureau has concluded that competition will not be substantially lessened or prevented.

Business Banking

Canada Trust is recognized as currently being a minor supplier of business credit in the geographic markets in which it competes. On the basis of its analysis, the Bureau concurs. In applying the above principles to identify problem markets, only one market — Fergus-Elora — raised potential competition concerns. On further examination, the Bureau concluded that competition was unlikely to be substantially lessened or prevented in this market. As a result, Toronto-Dominion's acquisition of Canada Trust will not substantially lessen or prevent competition in the supply of operating loans or other financial services to businesses in any market.

Conclusions

For individuals, branch banking services consist of personal transaction accounts, personal loans and lines of credit, and residential mortgages.

For businesses, in particular small and medium-sized businesses, these services consist of business transaction accounts and related services and operating loans.

The proposed merger:

- will substantially lessen or prevent competition in 3 of 74 local markets in which Toronto-Dominion and Canada Trust compete for branch banking services to individuals. However, the proposed branch divestitures, once fully implemented, will address the competition concerns;

- will not substantially lessen or prevent competition in the remaining 71 local markets for branch banking services to individuals; and
- will not substantially lessen or prevent competition in any markets for branch banking for businesses.

B. Credit Cards

Product Markets

Within this category, the Bureau defined the following product markets.

General-purpose Credit Card Issuing to Individuals
General-purpose Credit Card Issuing to Businesses
General-purpose Credit Card Networks
Visa Merchant Acquiring
MasterCard Merchant Acquiring
Primary Merchant Acquiring

General-purpose Credit Card Issuing to Individuals and Businesses

General-purpose credit cards include cards such as Visa, MasterCard, American Express and Diners Club/enRoute. The Bureau determined that the merged company would have less than 35 percent market share for general-purpose credit card issuing to individuals and businesses in Canada. In addition, the merged company would face continued competition from incumbents such as the Royal Bank of Canada, Canadian Imperial Bank of Commerce, Bank of Montreal, Bank of Nova Scotia, National Bank and American Express, as well as recent entrants such as MBNA and Capital One.

In light of these competitive factors, the Bureau has concluded that the merged entity would be unable to exercise market power in Canada. Therefore, the Bureau has determined that the merger will not substantially lessen or prevent competition for the issuing of general-purpose credit cards to individuals or businesses, provided that the competition issues in the networks market have been remedied as proposed.

Visa and MasterCard Merchant Acquiring
Primary Merchant Acquiring

In order to accept credit cards as a method of payment, merchants must contract with an acquirer to process and guarantee payment. Under the existing rules and policies of the Visa and MasterCard networks, members may not acquire the transactions of a competing card. By virtue of the exclusive membership of Toronto-Dominion and Canada Trust in the Visa and MasterCard networks, respectively, there is no direct overlap in either the Visa merchant acquiring or the MasterCard merchant acquiring markets.

Primary merchant acquiring is defined as a package of services sold to merchants that includes both the provision of terminal services as well as Visa or MasterCard acquiring services. While Toronto-Dominion is a significant participant in this market, which includes data transmission and software to route transactions to the appropriate network, Canada Trust is not.

Therefore, the Bureau has concluded that the proposed merger will not substantially lessen or prevent competition in the acquiring markets.

General-purpose Credit Card Networks

A general-purpose credit card network enables cardholders to have their cards widely accepted. Networks compete with each other to be the preferred method of payment for goods and services by promoting brand awareness and continually improving their systems.

The geographic market for general-purpose credit card networks is national.

Market Share and Concentration Levels

Toronto-Dominion (as a member of the Visa network) and Canada Trust (with MasterCard) are active issuers and acquirers for the two major competing general-purpose credit card networks in Canada. Since Toronto-Dominion and Canada Trust are currently members of different networks, the merged entity would have to choose membership in either Visa or MasterCard.

The Bureau examined whether the conversion of Canada Trust's MasterCard portfolio to Visa would have a negative impact on the MasterCard network, such that competition among the networks would be substantially lessened or prevented.

Visa is the largest network in Canada in terms of total dollar volume of transactions — that is, total dollars spent by customers with general-purpose credit and charge cards. Visa, the market leader, is followed by MasterCard, American Express and Diners Club/enRoute.

Canada Trust is a significant member of MasterCard. Consequently, Canada Trust's sizeable portfolio is important to maintaining a competitively viable and effective MasterCard network in Canada. Therefore, the loss of this MasterCard business would likely have the effect of weakening the MasterCard brand within Canada to the point that its viability would be in jeopardy.

It is the Bureau's view that this is likely to substantially lessen or prevent competition between the two major networks by reducing brand awareness and limiting the ability of MasterCard to effectively respond to ongoing competitive pressures.

Proposed Remedy

To address the competition concerns in the network market, Toronto-Dominion and Canada Trust have proposed that:

- the Canada Trust MasterCard portfolio, with the exception of Powerline accounts, be sold to a third party who is a new or existing member of MasterCard; **or**
- Toronto-Dominion will convert its Visa credit card portfolio to MasterCard and therefore would not sell the Canada Trust portfolio.

The objective of this remedy is to maintain competition in Canada among all credit card networks, including Visa and MasterCard. The proposed remedy is acceptable to the Bureau since under either option the pre-merger market position of MasterCard would, at a minimum, be maintained.

Conclusion

The proposed merger:

- will substantially lessen or prevent competition in the general-purpose credit card networks market. However, the proposed divestiture of the Canada Trust MasterCard portfolio, with the exception of Powerline accounts, or the conversion of Toronto-Dominion's credit card portfolio from Visa to MasterCard, once fully implemented, will address the competition concerns.

Summary

As the foregoing indicates, the proposed merger raises serious competition issues in only a small number of markets. However, those concerns will be addressed if Toronto-Dominion and Canada Trust implement the undertakings provided to the Bureau.

As required under the *Bank Act* and the *Trust and Loan Companies Act*, the Minister of Finance will decide whether the proposed merger should proceed, taking into account the undertakings provided to the Bureau.

On the basis of the Bureau's analysis, and the negotiated divestiture package, my advice to the Minister of Finance on the competition aspects of this merger is that he either withhold approval of the merger until all divestitures have been completed or, alternatively, that he approve the merger on the condition that the undertakings to the Bureau be fully implemented to address all the competition issues.

Yours sincerely,

Konrad von Finckenstein, Q.C.

Appendix B - The Competition Bureau's Letter to the Toronto-Dominion Bank and Canada Trust

To ensure that competition concerns in each local market in which the Toronto-Dominion and Canada Trust compete are accurately identified, the Competition Bureau used the following approach.

Personal and business transaction accounts in each local market are the core of most banking relationships for consumers and businesses. If the combined market share of Toronto-Dominion and Canada Trust:

- of either the personal or business transaction accounts is 45 percent or more, the local geographic market falls in the category *"Will result in a substantial lessening of competition."*

- of either the personal or business transaction accounts is between 35 and 45 percent, or any of the following product categories — personal loans and lines of credit, residential mortgages, small or medium-sized business operating loans — is 35 percent or greater, the local geographic market falls into the category *"May result in a substantial lessening of competition."*

- of either the personal or business transaction accounts, and any of the following product categories -- personal loans and lines of credit, residential mortgages, small or medium-sized business operating loans -- is below 35 percent, the local geographic market falls into the category *"Will not result in a substantial lessening of competition."*

These rules have been adjusted to discount very small changes in market share.

The detailed formula applied to each local market is set out below.

Will result in a substantial lessening of competition

Local geographic markets fall into this category if:

- the combined market share of the merging parties in:
    - **either** personal or business transaction accounts is 45 percent or more; **and**
    - the market share being acquired as a result of the merger is 5 percent or more.

May result in a substantial lessening of competition

Local geographic markets fall into this category if:

- the combined market share of the merging parties in:
    - **either** personal or business transaction accounts is 45 percent or more; **and**
    - the market share being acquired as a result of the merger is less than 5 percent.

or

- the combined market share of the merging parties in:
    - **either** personal or business transaction accounts is between 35 and 45 percent; **and**
    - the market share being acquired as a result of the merger is 5 percent or more.

or

- the combined market share of the merging parties in:
- any one of the following: personal loans and lines of credit, residential mortgages, small and medium-sized business operating loans are 35 percent or greater; **and**
- the market share being acquired as a result of the merger is 5 percent or more.

Will not result in a substantial lessening of competition

Local geographic markets fall into this category if:

- the combined market share of the parties is below 35 percent in any product market.

or

- the combined market share of the merging parties in:
- **either** personal or business transaction accounts is between 35 and 45 percent; **and**
- the market share being acquired as a result of the merger is less than 5 percent.

or

- the combined market share of the merging parties in:
- any of the following: personal loans and lines of credit, residential mortgages, small and medium-sized business operating loans are 35 percent or greater; **and**
- the market share being acquired as a result of the merger is less than 5 percent.

Competition Bureau

Appendix C - The Competition Bureau's Letter to the Toronto-Dominion Bank and Canada Trust

The urban and rural markets the Bureau examined during its review of the proposed merger between Toronto-Dominion and Canada Trust are set out in the following table.

The urban and rural markets

Province	Will Not Result in a Substantial Lessening or Prevention of Competition less than 35% 58 Geographic Markets	May Result in a Substantial Lessening or Prevention of Competition between 35% and 45% 14 Geographic Markets	Will Result in a Substantial Lessening or Prevention of Competition greater than 45% 2 Geographic Markets	Post-Remedy
Nfld.	St. John's			
P.E.I.	Charlottetown			
N.S.	Bridgewater			
N.S.	Cape Breton			
N.S.	Halifax			
N.B.	Fredericton			
N.B.	Moncton			
N.B.	Saint John			
Que.	Montréal			
Ont.	Amherstburg			
Ont.	Barrie			
Ont.	Belleville			
Ont.		Brantford		D
Ont.	Brockville			
Ont.	Chatham			
Ont.		Collingwood		NCI
Ont.	Cornwall			
Ont.		Dunnville		NCI
Ont.		Fergus		NCI
Ont.		Guelph		NCI
Ont.		Hamilton		NCI
Ont.	Hanover			
Ont.		Ingersoll		NCI
Ont.	Kerns			
Ont.	Kingston			
Ont.		Kirkland Lake		NCI
Ont.			Kitchener	D
Ont.	Leamington			
Ont.		London		NCI
Ont.		North Bay		NCI

Ont.		North Bay		NCI
Ont.		Norwich		NCI
Ont.	Orillia			
Ont.		Oshawa		NCI
Ont.	Ottawa			
Ont.	Owen Sound			
Ont.	Parksville			
Ont.	Peterborough			
Ont.			Port Hope	D
Ont.	Sarnia			
Ont.	Sault Ste. Marie			
Ont.		Simcoe		NCI
Ont.	St. Catharines			
Ont.	Stratford			
Ont.	Sudbury			
Ont.	Thunder Bay			
Ont.	Tillsonburg			
Ont.	Timmins			
Ont.	Toronto			
Ont.		Wilmot		NCI
Ont.	Windsor			
Ont.	Woodstock			
Man.	Brandon			
Man.	Winnipeg			
Sask.	Moose Jaw			
Sask.	Regina			
Sask.	Saskatoon			
Alta.	Calgary			
Alta.	Edmonton			
Alta.	Lethbridge			
Alta.	Medicine Hat			
Alta.	Red Deer			
B.C.	Abbotsford			
B.C.	Campbell River			
B.C.	Chilliwack			
B.C.	Courtenay			
B.C.	Duncan			
B.C.	Kamloops			
B.C.	Kelowna			
B.C.	Nanaimo			
B.C.	Penticton			
B.C.	Prince George			
B.C.	Vancouver			
B.C.	Vernon			
B.C.	Victoria			

"D" indicates divestitures that have to take place pursuant to the undertakings given.

NCI - No competition issue
Upon further examination, no competition issues remained.

Upon further examination, no competition issues remained.

Appendix D - The Competition Bureau's Letter to the Toronto-Dominion Bank and Canada Trust

Proposed Acquisition of CT Financial Services Inc. by the Toronto-Dominion Bank - Credit Cards (**PDF: 20 KB**)

Proposed Acquisition of CT Financial Services Inc. by the Toronto-Dominion Bank - Retail Banking (**PDF: 19 KB**)

THE TORONTO-DOMINION BANK
Head Office
P.O. Box 1, Toronto Dominion Centre
Toronto, Ontario M5K 1A2

January 28, 2000

Konrad von Finckenstein, Q.C.
Commissioner of Competition
Competition Bureau
Industry Canada
Phase 1, 21st Floor
50 Victoria Street
Hull, Quebec
K1A 0C9

Dear Mr. von Finckenstein:

Proposed Acquisition of CT Financial Services Inc.
by The Toronto-Dominion Bank - Credit Cards

We are writing to you in connection with the proposed acquisition of CT Financial Services Inc. ("CT") by The Toronto-Dominion Bank ("TD") (the "Proposed Acquisition") which is scheduled to be completed on February 1, 2000 (the "Closing Date").

TD believes that the overall effect of the Proposed Acquisition will be to enhance competition in that it will enable TD to increase the scale and scope of its operations and thereby to better compete with its larger domestic and international rivals. However, you have identified competition concerns with regard to the likely impact of the Proposed Acquisition in the credit card networks market and in certain local retail banking markets in Ontario.

This letter will confirm that in consideration of, but conditional upon, the Commissioner not filing an application with the Competition Tribunal in connection with the Proposed Acquisition, TD undertakes that it will make the divestitures and comply with the other undertakings set out herein with respect to CT's credit card operations. Retail banking is addressed in a separate letter of today's date that is being delivered contemporaneously with this letter.

<u>Divestiture</u>

1. Within the time period set out in paragraph 1 of Schedule “A” (the “Initial Period”), TD will commit to convert its Visa credit card business to the MasterCard network on terms and conditions acceptable to the Commissioner or:

(a) sell to a third party (a "Buyer") the assets comprising the CT Merchant MasterCard business (the "Merchant Business") as described in Schedule "B" hereto and enter into a services agreement (the "Merchant Post-Closing Processing Agreement") under which CT will agree to provide such Buyer with processing services for a period of up to one year from the commencement of such services agreement; and

(b) sell to a Buyer the assets comprising the CT MasterCard card account relationships (the "Divested Card Member Accounts") as described in Schedule "C" hereto and enter into a services agreement (the "Card Member Post-Closing Processing Agreement") under which CT will agree to provide such Buyer with processing services for a period of up to one year from the commencement of such services agreement.

2. Notwithstanding anything to the contrary herein, if prior to the expiry of the Initial Period, TD and a prospective Buyer enter into a legally binding agreement with respect to any divestitures described in paragraph 1 above, TD shall have the additional period set out in paragraph 2 of Schedule “A” following the Initial Period within which to complete such divestitures.

3. TD shall, every 30 days, file a report with the Commissioner describing its progress in the divestiture process. TD shall also promptly notify the Commissioner of any negotiations with a prospective Buyer that, in the reasonable opinion of TD, may lead to a sale and forward copies of any agreements to the Commissioner which it signs with any potential Buyer.

<u>Trustee Sale</u>

4. If any divestitures required by paragraph 1 have not been completed within the relevant time period, the Commissioner may appoint a person (the "Trustee") to effect the remaining divestitures on the following terms:

(a) the Trustee shall execute and deliver to the Commissioner and TD an agreement in writing to be bound by the terms of this letter;

(b) after the appointment of the Trustee becomes effective, the Trustee shall have the sole right to effect the divestiture (hereinafter referred to as a "Trustee Sale") on the terms set out below and shall be vested with the power by TD and CT to sell the assets to be divested for the purpose of effecting such divestiture;

(c) the Trustee shall have the full power and authority to effect a Trustee Sale and shall diligently attempt to do so within 90 days of the Trustee's appointment;

(d) the Trustee shall have the full power and authority to retain, on usual commercial terms, financial, legal and other professional advisors, including investment bankers, that may be reasonably necessary or advisable in advising and assisting the Trustee in effecting a Trustee Sale;

(e) the relevant assets shall be sold by the Trustee at the price and on the terms and conditions most favourable to TD then reasonably available in the circumstances;

(f) TD and CT shall use reasonable commercial efforts to assist the Trustee in effecting the Trustee Sale and shall execute such documents and do such other acts or things as may be reasonably requested by the Trustee in connection therewith;

(g) after its appointment, the Trustee shall, every 30 days, file reports with the Commissioner and TD describing the Trustee's efforts to effect the Trustee Sale;

(h) the Trustee shall promptly notify TD and the Commissioner of any negotiations with a prospective Buyer that, in the opinion of the Trustee, may lead to a Trustee Sale and forward copies of any agreement which it signs with any potential Buyer to the Commissioner and TD;

(i) all expenses reasonably and properly incurred by the Trustee in connection with a Trustee Sale, including the fees of any advisors retained by the Trustee as contemplated in paragraph 4(d), shall be paid by TD; and

(j) the proceeds of the Trustee Sale shall be paid to TD or as TD may direct.

<u>Approval of Divestiture</u>

5. Each divestiture described in paragraphs 1 and 4 above is subject to the approval of the Commissioner who shall, among other things, take into account the competitive impact of the acquisition by the proposed Buyer. TD or the Trustee, as the case may be, shall give a written notice (the "Divestiture Notice") to the Commissioner (and, in the case of a Trustee Sale, also to TD) of any proposed agreement (which shall be subject to the Commissioner's approval) reached for the divestiture or Trustee Sale, which Divestiture Notice shall set forth the details of the proposed divestiture or Trustee Sale. During the period of 10 days after the receipt of the Divestiture Notice, the Commissioner (and, in the case of a Trustee Sale, TD) may request additional information concerning the proposed divestiture, which information shall be

furnished to the Commissioner (and, in the case of a Trustee Sale, TD) by TD or the Trustee, as the case may be.

6. Within 10 days after receipt of the Divestiture Notice or, if additional information is requested by the Commissioner or TD as provided in paragraph 5 above, within 10 days after receipt of the additional information by the Commissioner or TD, as the case may be, the Commissioner shall notify TD, and, in the case of a Trustee Sale, the Commissioner or TD shall notify the Trustee, in writing, of any objections they may have to the proposed divestiture or Trustee Sale; provided that TD shall not object to a Trustee Sale on any grounds other than the Trustee's malfeasance, gross misconduct or breach of the terms of this letter. If, within such time period, the Commissioner does not object, the divestiture may be completed, subject to any injunction or other Court order that TD may obtain if it objects to the proposed divestiture.

Maintenance of the CT MasterCard Business as a Separate and Independent Business

7. During the period from the Closing Date to the sale closing of the divestitures described in paragraphs 1 and 4 above or the making of a commitment by TD to convert its Visa credit card business to the MasterCard network (the "Interim Period"), TD shall:

(a) not convert any CT MasterCard card accounts to Visa card accounts and shall maintain the Merchant Business and all its MasterCard card account relationships (collectively, the "CT MasterCard Business") as a separate and independent business from TD's Visa credit card business (the "TD Visa Business");

(b) use reasonable best efforts to maintain the competitive viability of the CT MasterCard Business;

(c) not take any steps toward integrating the assets, management, operations or books and records of the CT MasterCard Business with those of the TD Visa Business;

(d) use reasonable efforts to ensure that employees of the CT MasterCard Business will be available to be employed by a Buyer; and

(e) cause to be maintained, in accordance with generally accepted accounting principles, complete financial ledger books and records of material financial information in respect of the CT MasterCard Business.

8. TD will appoint a person (the "Interim Manager") to manage the CT MasterCard Business in accordance with the terms of this letter during the Interim Period. The Interim Manager will report to the individual identified in Schedule "D" (the "Senior Officer").

9. Subject to the terms of this letter, during the Interim Period the Interim Manager shall make all reasonable efforts and take all reasonable steps to avoid disclosure of any confidential information relating to the CT MasterCard Business to any employees of TD or CT other than persons reporting to the Interim Manager and the Senior Officer. TD and CT shall advise the Commissioner of the steps which have been taken in this regard within 14 days of the Closing Date.

10. The Senior Officer shall not disclose any confidential information relating to the CT MasterCard Business to any other officer or employee of TD or CT and, in any event, shall not use such information for any operational purpose (other than with respect to the CT MasterCard Business), except as is necessary to comply with the terms of this letter, and except for confidential financial information required by TD's financial officers and its accountants to prepare standard financial reports or to comply with statutory reporting, credit or other filing obligations.

11. The Interim Manager shall, during the Interim Period, provide monthly financial and operating reports ("Periodic Performance Reports") to the Senior Officer with respect to the CT MasterCard Business. Copies of such Periodic Financial Reports shall be provided to the Commissioner coincidentally with delivery to the Senior Officer, who shall not disclose such Periodic Performance Reports to any other person (other than accountants, independent financial advisors and legal counsel who agree to the confidentiality provisions in this letter), without the consent of the Commissioner.

12. Notwithstanding the foregoing, TD shall be entitled to approve decisions regarding material financing and credit arrangements, material capital investments, material disbursements, material asset sales, the repayment of any material loans other than pursuant to their terms, and the settlement of any material litigation in respect of the CT MasterCard Business which are not in the ordinary course of business, provided that TD's exercise of such power does not adversely affect the ability of the CT MasterCard Business to operate as an effective, competitive business. For the purposes of this paragraph, "material" shall refer to consideration in excess of $25 million in respect of any single transaction.

13. To the extent permitted by this letter, TD shall use commercially reasonable efforts during the Interim Period to:

(a) carry on the CT MasterCard Business in the ordinary course in accordance with generally prevailing industry standards;

(b) preserve the goodwill of the CT MasterCard Business; and

(c) not knowingly take any action that will materially adversely affect the competitiveness, assets, operations or financial status of the CT MasterCard Business.

14. TD and CT shall use commercially reasonable efforts during the Interim Period and for a period of twelve months thereafter to ensure that no TD or CT employees, or agents of TD or CT, actively solicit any customers of the CT MasterCard Business in respect of his or her credit card business (except for general advertising or marketing activities directed at the public or, subject to paragraph 16 below, TD's customer base at large).

15. Without limiting the generality of paragraphs 13 and 14 above, TD shall use reasonable efforts to ensure the CT MasterCard Business will not, other than as necessary to comply with this letter,

(a) without prior notice to the Commissioner, enter into or withdraw from any material contracts or arrangements relating to the CT MasterCard Business, make any material changes to such operations, or enter into any material agreement to lease or sell any assets of the CT MasterCard Business to any other person, that would have the effect of materially inhibiting or unreasonably delaying the divestiture of the CT MasterCard Business or materially reducing its value; or

(b) without prior notice to the Commissioner, curtail material marketing, sales, promotional or other activities of the CT MasterCard Business in connection with the solicitation of existing or prospective customers; or

(c) without prior notice to the Commissioner, terminate or materially alter any current employment, salary or benefit agreements for any executives, managerial, sales or marketing personnel employed primarily in relation to the CT MasterCard Business.

16. Upon completion of the closing of the sale transactions contemplated in paragraphs 1 and 4 above, TD and CT agree that they will not use any confidential information, whether stored in written, electronic or another form, relating to the CT MasterCard Business for the purposes of soliciting customers, soliciting employees or any other operational purpose whatsoever.

General

17. For greater certainty, nothing in this letter shall in any way bind the Minister of Finance or restrict or fetter the Minister of Finance in exercising any of his or her powers or authority under the *Bank Act* (Canada) or the *Trust and Loan Companies Act* (Canada) in respect of the Proposed Acquisition.

18. This letter will become effective upon the Closing Date.

19. Nothing in this letter shall restrict the obtaining and use of confidential information by TD or any other person in connection with the defence of any legal proceeding.

20. This letter sets forth all of the undertakings of TD to the Commissioner with respect to the Proposed Acquisition and the CT MasterCard Business.

Yours very truly,

THE TORONTO-DOMINION BANK

by: ______________________________
A. Charles Baillie
Chairman and Chief Executive Officer

The undersigned also agrees to be bound by the terms of this letter conditional upon TD acquiring a controlling interest in the common equity of CT.

CT FINANCIAL SERVICES INC.

by: ______________________________
W. Edmund Clark
President and Chief Executive Officer

by: ______________________________
Thomas J. Mullin
Executive Vice-President, Business
Development and Corporate Strategy

Schedule "B": Merchant Business

The entire merchant acquiring business, including all merchant contracts, supporting operations, infrastructure and equipment.

Schedule "C": Divested Card Member Accounts

All of the CT MasterCard accounts, both active and inactive, as at the Closing Date, with the exception of Powerline accounts and the accounts of former CT employees who continue as TD employees.

THE TORONTO-DOMINION BANK
Head Office
P.O. Box 1, Toronto Dominion Centre
Toronto, Ontario M5K 1A2

January 28, 2000

Konrad von Finckenstein, Q.C.
Commissioner of Competition
Competition Bureau
Industry Canada
Phase 1, 21st Floor
50 Victoria Street
Hull, Quebec
K1A 0C9

Dear Mr. von Finckenstein:

Proposed Acquisition of CT Financial Services Inc.
by The Toronto-Dominion Bank - Retail Banking

We are writing to you in connection with the proposed acquisition of CT Financial Services Inc. ("CT") by The Toronto-Dominion Bank ("TD") (the "Proposed Acquisition") which is scheduled to be completed on February 1, 2000 (the "Closing Date").

TD believes that the overall effect of the Proposed Acquisition will be to enhance competition in that it will enable TD to increase the scale and scope of its operations and thereby to better compete with its larger domestic and international rivals. However, you have identified competition concerns with regard to the likely impact of the Proposed Acquisition in the credit card networks market and in certain local retail banking markets in Ontario.

This letter will confirm that in consideration of, but conditional upon, the Commissioner not filing an application with the Competition Tribunal in connection with the Proposed Acquisition, TD undertakes that it will make the divestitures and comply with the other undertakings set out herein with respect to the retail banking operations of TD and CT. Credit cards are addressed in a separate letter of today's date that is being delivered contemporaneously with this letter.

Divestitures

1. Within the time period set out in paragraph 1 of Schedule "A" (the "Initial Period"), TD will sell to one or more third parties the retail banking assets of TD and CT described in paragraph 3 of Schedule "A" hereto (the "Retail Assets").

2. Notwithstanding anything to the contrary herein, if prior to the expiry of the Initial Period, TD and a prospective buyer of all or part of the Retail Assets enter into a legally binding agreement with respect to such Retail Assets, TD shall have the additional period set out in paragraph 2 of Schedule "A" following the Initial Period within which to complete such divestitures.

3. TD shall, every 30 days, file a report with the Commissioner describing its progress in the divestiture process. TD shall also promptly notify the Commissioner of any negotiations with a prospective buyer that, in the reasonable opinion of TD, may lead to a sale and forward copies to the Commissioner of any agreements which it signs with any prospective buyer.

Trustee Sale

4. If the divestiture of all or part of the Retail Assets described in section 1 above has not been completed within the relevant time period, the Commissioner may appoint a person (the "Trustee") to effect the divestiture of such Retail Assets on the following terms:

(a) the Trustee shall execute and deliver to the Commissioner and TD an agreement in writing to be bound by the terms of this letter;

(b) after the appointment of the Trustee becomes effective, the Trustee shall have the sole right to effect the divestiture (hereinafter referred to as a "Trustee Sale") on the terms set out below, and shall be vested with the power by TD and CT to sell the assets to be divested for the purpose of effecting such divestiture;

(c) the Trustee shall have the full power and authority to effect a Trustee Sale and shall diligently attempt to do so within 90 days of the Trustee's appointment;

(d) the Trustee shall have the full power and authority to retain, on usual commercial terms, financial, legal and other professional advisors, including investment bankers, that may be reasonably necessary or advisable in advising and assisting the Trustee in effecting a Trustee Sale;

(e) the relevant Retail Assets shall be sold by the Trustee at the price and on the terms and conditions most favourable to TD then reasonably available in the circumstances;

(f) TD and CT shall use reasonable commercial efforts to assist the Trustee in effecting the Trustee Sale and shall execute such documents and do such other acts or things as may be reasonably requested by the Trustee in connection therewith;

(g) after its appointment, the Trustee shall, every 30 days, file reports with the Commissioner and TD describing the Trustee's efforts to effect the Trustee Sale;

(h) the Trustee shall promptly notify TD and the Commissioner of any negotiations with a prospective purchaser that, in the opinion of the Trustee, may lead to a Trustee Sale and forward copies of any agreements which it signs with any potential buyer to the Commissioner and TD;

(i) all expenses reasonably and properly incurred by the Trustee in connection with a Trustee Sale, including the fees of any advisors retained by the Trustee as contemplated in paragraph 4(d), shall be paid by TD; and

(j) the proceeds of the Trustee Sale shall be paid to TD or as TD may direct.

Approval of Divestitures

5. Each divestiture described in paragraphs 1 and 4 above is subject to the approval of the Commissioner, who shall, among other things, take into account the competitive impact of the acquisition by the proposed purchaser. TD or the Trustee, as the case may be, shall give a written notice (the "Divestiture Notice") to the Commissioner (and, in the case of a Trustee Sale, also to TD) of any proposed agreement (which shall be subject to the Commissioner's approval) reached for the divestiture or Trustee Sale, which Divestiture Notice shall set forth the details of the proposed divestiture or Trustee Sale. During the period of 10 days after the receipt of the Divestiture Notice, the Commissioner (and, in the case of a Trustee sale, TD) may request additional information concerning the proposed divestiture, which information shall be furnished to the Commissioner (and, in the case of a Trustee Sale, TD) by TD or the Trustee, as the case may be.

6. Within 10 days after receipt of the Divestiture Notice or, if additional information is requested by the Commissioner or TD as provided in paragraph 5 above, within 10 days after receipt of the additional information by the Commissioner or TD, as the case may be, the Commissioner shall notify TD, and, in the case of a Trustee Sale, the Commissioner or TD shall notify the Trustee, in writing, of any objections they may have to the proposed divestiture or Trustee Sale; provided that TD shall not object to a Trustee Sale on any grounds other than the Trustee's malfeasance, gross misconduct or breach of the terms of this letter. If within such time period, the Commissioner does not object to the proposed divestiture or Trustee Sale, the divestiture may be completed, subject to any injunction or other Court order that TD may obtain if it objects to the proposed divestiture.

Maintenance of the Retail Assets

7. During the period from the Closing Date until the completion of the divestitures described in paragraphs 1 and 4 above (the "Interim Period"), TD and CT shall, to the extent permitted by this letter and unless otherwise permitted by the Commissioner:

(a) not dispose of any material assets comprising the Retail Assets;

(b) use reasonable best efforts to maintain the competitive viability of the Retail Assets;

(c) not take any steps toward integrating the assets, management, operations or books and records comprising the Retail Assets with the retail banking business of TD, CT or any other person;

(d) use reasonable efforts to ensure that employees employed primarily with respect to the Retail Assets or a part thereof will be available to be employed by the Buyer of the relevant Retail Assets (which shall be deemed to include any such employee regularly employed at any of the branches to be divested); and

(e) cause to be maintained, in accordance with generally accepted accounting principles, complete financial ledger books and records of material financial information in respect of the Retail Assets.

8. TD will appoint a person (the "TD Interim Manager") as the manager of the TD branches listed in Schedule "A" (the "TD Branches"). The TD Interim Manager will report to the individuals identified in Schedule "B" (collectively, the "Senior Officers"). The managers of the TD Branches will report only to the TD Interim Manager. The TD Interim Manager will not have any retail banking responsibilities other than to manage the TD Branches during the Interim Period in accordance with the terms of this letter.

9. Subject to the terms of this letter, and acknowledging the integrated electronic data-based platforms of TD and CT, the TD Interim Manager and TD shall make all reasonable efforts and take all reasonable steps to avoid disclosure of any confidential information relating specifically to the management or operations of any of the TD Branches to any employees of TD or CT other than persons reporting to the TD Interim Manager and the Senior Officers. TD and CT shall advise the Commissioner of the steps which have been taken in this regard within 14 days of the Closing Date.

10. CT will appoint a person (the "CT Interim Manager") as the manager of the CT branches listed in Schedule "A" (the "CT Branches"). The managers of the CT Branches will report only to the CT Interim Manager and the CT Interim Manager will not have any retail banking

responsibilities other than to manage the CT Branches during the Interim Period in accordance with the terms of this letter.

11. Subject to the terms of this letter and acknowledging the integrated electronic data-based platforms of TD and CT, during the Interim Period, the CT Interim Manager and CT shall make all reasonable efforts and take all reasonable steps to avoid disclosure of any confidential information relating specifically to the management or operations of any of the CT Branches to any employees of CT or TD other than persons reporting to the CT Interim Manager and the Senior Officers. TD and CT shall advise the Commissioner of the steps which have been taken in this regard within 14 days of the Closing Date.

12. The Senior Officers shall not disclose any confidential information received from either the TD Interim Manager or the CT Interim Manager relating to any Retail Assets to any other officer or employee of TD or CT and, in any event, shall not use such information for any operational purpose (other than with respect to the Retail Assets), except as is necessary to comply with the terms of this letter and except for confidential financial information required by TD's financial officers and its accountants to prepare standard financial reports or to comply with statutory reporting, credit or other filing obligations.

13. The TD Interim Manager and the CT Interim Manager shall, during the Interim Period, provide monthly financial and operating reports ("Periodic Performance Reports") to the Senior Officers with respect to the TD branches and CT branches, respectively. Copies of such Periodic Financial Reports shall be provided to the Commissioner coincidentally with delivery to the Senior Officers, who shall not disclose such Periodic Performance Reports to any other person (other than accountants, independent financial advisors and legal counsel who agree to be bound by the confidentiality provisions in this letter), without the consent of the Commissioner.

14. To the extent permitted by this letter, TD shall use commercially reasonable efforts during the Interim Period to:

(a) carry on the business comprising the Retail Assets in the ordinary course in accordance with generally prevailing industry standards;

(b) preserve the goodwill of the Retail Assets; and

(c) not knowingly take any action that will materially adversely affect the competitiveness, assets, operations or financial status of the Retail Assets.

15. TD and CT shall use commercially reasonable efforts during the Interim Period and for a period of twelve months thereafter to ensure that no TD or CT employees or agents of TD or CT, actively solicit any customer of any TD Branch or CT Branch in respect of his or her transaction accounts, personal credit or residential mortgage business (except for general advertising or

marketing activities directed at the public or, subject to paragraph 17 below, TD's customer base at large).

16. Without limiting the generality of paragraphs 14 and 15 above, TD will not other than as necessary to comply with this letter,

(a) without prior notice to the Commissioner, enter into or withdraw from any material contracts or arrangements relating to the Retail Assets, make any material changes to such operations, or enter into any material agreement to lease or sell any Retail Assets to any other person, that would have the effect of materially inhibiting or unreasonably delaying the divestiture of the Retail Assets or materially reducing their value; or

(b) without prior notice to the Commissioner, curtail material marketing, sales, promotional or other activities in respect of the Retail Assets in connection with the solicitation of existing or prospective customers; or

(c) without prior notice to the Commissioner, terminate or materially alter any current employment, salary or benefit agreements for any executives, managerial, sales or marketing personnel employed primarily in relation to the Retail Assets.

17. Upon completion of the divestitures contemplated in paragraphs 1 and 4 above, TD and CT agree that they will not use any confidential information, whether stored in written, electronic or another form, relating to the Retail Assets for the purposes of soliciting customers, employees or any other operational purpose whatsoever.

General

18. For greater certainty, nothing in this letter shall in any way bind the Minister of Finance or restrict or fetter the Minister of Finance in exercising any of his or her powers or authority under the *Bank Act* (Canada) or the *Trust and Loan Companies Act* (Canada) in respect of the Proposed Acquisition.

19. This letter will become effective upon the Closing Date.

20. Nothing in this letter shall restrict the obtaining and use of confidential information by TD or any other person in connection with the defence of any legal proceeding.

21. This letter sets forth all of the undertakings of TD to the Commissioner with respect to the Proposed Acquisition and the retail banking business carried on by TD and CT.

Yours very truly,

THE TORONTO-DOMINION BANK

by: ______________________________
A. Charles Baillie
Chairman and Chief Executive Officer

The undersigned also agrees to be bound by the terms of this letter conditional upon TD acquiring a controlling interest in the common equity of CT.

CT FINANCIAL SERVICES INC.

by: ______________________________
W. Edmund Clark
President and Chief Executive Officer

by: ______________________________
Thomas J. Mullin
Executive Vice-President, Business
Development and Corporate Strategy