



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

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20 Queen Street West
Toronto ON M5H 3S8

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20, rue queen ouest
Toronto ON M5H 3S8

**IN THE MATTER OF THE *SECURITIES ACT*,
R.S.O. 1990, c. S.5, AS AMENDED**

- AND -

**TD WATERHOUSE PRIVATE INVESTMENT COUNSEL INC.,
TD WATERHOUSE CANADA INC. and TD INVESTMENT SERVICES INC.**

**ORDER
(Subsections 127(1) and 127(2) and section 127.1)**

WHEREAS on November 7, 2014, the Ontario Securities Commission (the “Commission”) issued a Notice of Hearing pursuant to subsections 127(1) and 127(2) and section 127.1 of the *Securities Act*, R.S.O. 1990, c. S.5, as amended (the “Act”) in relation to the Statement of Allegations filed by Staff of the Commission (“Commission Staff”) on November 7, 2014 with respect to TD Waterhouse Private Investment Counsel Inc. (“TDWPIC”), TD Waterhouse Canada Inc. (“TD Waterhouse”) and TD Investment Services Inc. (“TDIS”) (collectively, the “TD Entities”) relating to four allegations of control and supervision inadequacies which resulted in clients of the TD Entities paying excess fees (the “Control and Supervision Inadequacies”);

AND WHEREAS Commission Staff are satisfied that the TD Entities discovered and self-reported the Control and Supervision Inadequacies to Commission Staff;

AND WHEREAS Commission Staff are satisfied that during the investigation of the Control and Supervision Inadequacies by Commission Staff, the TD Entities provided prompt, detailed and candid cooperation to Commission Staff, staff of the Investment Industry Regulatory Organization of Canada and staff of the Mutual Fund Dealers Association of Canada;

AND WHEREAS Commission Staff are satisfied that the TD Entities had formulated an intention to pay appropriate compensation to clients and former clients in connection with their report of the first three Control and Supervision Inadequacies to Commission Staff;

AND WHEREAS Commission Staff are satisfied that thereafter, the TD Entities co-operated with Commission Staff and agreed to pay appropriate compensation to clients and former clients that were harmed by any of the four Control and Supervision Inadequacies (the “Affected Clients”), in accordance with a plan submitted by the TD Entities to Commission Staff (the “Compensation Plan”);

AND WHEREAS the TD Entities entered into a Settlement Agreement with Commission Staff dated November 7, 2014 (the “Settlement Agreement”) in which the TD Entities and Commission Staff agreed to a proposed settlement of the proceeding commenced by the Notice of Hearing dated November 7, 2014, subject to approval by the Commission;

AND WHEREAS as part of the Settlement Agreement, the TD Entities undertake to:

- a. pay compensation to the Affected Clients in accordance with the Compensation Plan and to report to a manager or deputy director in the Compliance and Registrant Regulation Branch of the Commission (the “OSC Manager”) in accordance with the Compensation Plan;
- b. make a voluntary payment of \$50,000 to be allocated to the costs of the investigation in accordance with subsection 3.4(2)(a) of the Act; and
- c. make a further voluntary payment of \$600,000 to be designated for allocation to or for the benefit of third parties, or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act.

(the “Undertaking”)

AND WHEREAS the Notice of Hearing issued on November 7, 2014 also announced that the Commission proposed to hold a hearing to consider whether it is in the public interest to approve the Settlement Agreement;

AND UPON reviewing the Settlement Agreement, the Notices of Hearing and the Statement of Allegations of Commission Staff and upon hearing submissions of counsel for the TD Entities and from Commission Staff;

AND WHEREAS the Commission is of the opinion that it is in the public interest to make this order;

IT IS HEREBY ORDERED THAT:

- a) the Settlement Agreement is approved;
- b) within 90 days of the Order approving the Settlement Agreement, the TD Entities shall provide to the OSC Manager, revised written policies and procedures for each of the TD Entities (the “Revised Policies and Procedures”) that, to the satisfaction of the OSC Manager, are responsive to any remaining issues raised by Staff as at the date of the Order approving this Settlement Agreement with regard to the TD Entities’ policies and procedures to establish the Enhanced Control and Supervision Procedures;
- c) within 8 months of receiving confirmation from the OSC Manager that the Revised Policies and Procedures satisfy the remaining issues raised by Staff (the “Confirmation Date”), the TD Entities shall submit a letter (the "Attestation Letter"), signed by the Ultimate Designated Person (“UDP”) and the Chief Compliance Officer (“CCO”) for each of the TD Entities, to the OSC Manager, on whether the Enhanced Control and Supervision Procedures are (i) being followed by the TD Entities; (ii) working appropriately; and (iii) being adequately administered and enforced by the TD Entities for the six month period commencing from the Confirmation Date;

- d) the Attestation Letter shall be accompanied by a report which provides a description of the testing performed to support the conclusions contained in the Attestation Letter;
- e) the TD Entities shall submit such additional reports as may be requested by the OSC Manager for the purpose of satisfying the OSC Manager that the TD Entities have complied with subparagraphs (c)(i), (ii) and (iii) above;
- f) any of the TD Entities or Commission Staff may apply to the Commission for directions in respect of any issues that may arise with regard to the implementation of subparagraphs (b) to (e) above; and
- g) the TD Entities shall comply with the Undertaking to:
 - i. pay compensation to the Affected Clients in accordance with the Compensation Plan and to report to the OSC Manager in accordance with the Compensation Plan;
 - ii. make a voluntary payment of \$50,000 to be allocated to the costs of the investigation in accordance with subsection 3.4(2)(a) of the Act; and
 - iii. make a further voluntary payment of \$600,000 to be designated for allocation to or for the benefit of third parties, or for use by the Commission for the purpose of educating investors or promoting or otherwise enhancing knowledge and information of persons regarding the operation of the securities and financial markets in accordance with subsections 3.4(2)(b)(i) or (ii) of the Act.

DATED at Toronto, Ontario this 13th day of November, 2014

“Judith Robertson”

“Christopher Portner”

“Mary G. Condon”