

*No securities regulatory authority has expressed an opinion about these securities and it is an offence to claim otherwise.*

*This prospectus constitutes a public offering of these securities only in those jurisdictions where they may be lawfully offered for sale and therein only by persons permitted to sell such securities. The securities have not been and will not be registered under the United States Securities Act of 1933, as amended, and may not be offered or sold within the United States or to a U.S. Person. Information has been incorporated by reference in this prospectus from documents filed with the securities commissions or similar authorities in Canada (the permanent information record in Québec). Copies of the documents incorporated by reference may be obtained on request without charge from the Executive Vice President, General Counsel and Secretary of The Toronto-Dominion Bank at the following address: Toronto Dominion Bank Tower, Toronto-Dominion Centre, Toronto, Ontario, M5K 1A2, (telephone: (416) 308-6963).*

## PROSPECTUS

Initial Public Offering

October 15, 2002



**TD CAPITAL TRUST II™**  
*(a trust established under the laws of Ontario)*



\$350,000,000

350,000 TD Capital Trust II Securities — Series 2012-1 (TD CaTS II™)

TD Capital Trust II (the “Trust”) is an open-end trust established under the laws of Ontario by The Canada Trust Company (the “Trustee”) pursuant to a declaration of trust dated September 10, 2002, as amended and restated from time to time (the “Declaration of Trust”). The Trust proposes to issue and sell to investors pursuant to this prospectus (the “Offering”) transferable trust units called TD Capital Trust II Securities — Series 2012-1, or “TD CaTS II”, each of which represents an undivided beneficial ownership interest in the Trust Assets, principally comprised of one senior deposit note (the “Bank Deposit Note”) issued by The Toronto-Dominion Bank (the “Bank”). The TD CaTS II will constitute the first series of TD Capital Trust II Securities (all TD Capital Trust II Securities, including the TD CaTS II, are referred to in this prospectus as the “TD Capital Trust II Securities”) issued by the Trust. The Trust will also issue trust units called Special Trust Securities in series (the “Special Trust Securities” and, collectively with the TD Capital Trust II Securities, the “Trust Securities”) to the Bank. See “Description of the Trust Securities”. The Trust is not a trust company and does not carry on business as a trust company and, accordingly, the Trust is not registered under the trust company legislation of any jurisdiction.

The Trust will distribute its Net Distributable Funds on the last day of June and December of each year (each, a “Distribution Date”) commencing December 31, 2002. On each Distribution Date that is a Regular Distribution Date, a holder of TD Capital Trust II Securities will be entitled to receive a non-cumulative fixed cash distribution (an “Indicated Yield”). The Indicated Yield per TD CaTS II will be \$33.96, representing an annual yield of 6.792% of the \$1,000 initial issue price. The Bank Deposit Note will bear interest at a fixed annual rate of 6.792%, payable in equal semi-annual instalments in arrears of \$33.96 for each \$1,000 principal amount of the Bank Deposit Note, on the last day of June and December of each year (each, a “Bank Deposit Note Interest Payment Date”) commencing December 31, 2002. Each Distribution Date will be either a Regular Distribution Date or a Distribution Diversion Date. A Distribution Date will be a Regular Distribution Date if the Bank has declared Dividends as described under “Description of the Trust Securities — TD CaTS II — Indicated Yield”. On a Regular Distribution Date, the Trust will pay the Indicated Yield on the TD CaTS II and the holder of the Special Trust Securities will be entitled to receive the Net Distributable Funds, if any, of the Trust remaining after payment of the Indicated Yield. A Distribution Date will be a Distribution Diversion Date if the Bank has not declared Dividends on the basis described in this prospectus. In that case, although the Bank Deposit Note will pay interest to the Trust on the Bank Deposit Note Interest Payment Date, the Trust will not pay the Indicated Yield on the TD CaTS II; instead, it will pay the Net Distributable Funds, if any, as at such Distribution Diversion Date to the holder of the Special Trust Securities.

Pursuant to the terms of a Share Exchange Agreement between the Bank, the Exchange Trustee and the Trust (the “Share Exchange Agreement”), the Bank will agree for the benefit of holders of TD CaTS II (the “Dividend Stopper Undertaking”) that if, on any Regular Distribution Date, the Trust fails to pay the Indicated Yield in full on the TD

<sup>TM</sup> Trade marks of the Bank used under license by the Trustee.

CaTS II, the Bank will not pay dividends of any kind on any Class A First Preferred Shares of the Bank (the “Bank Class A Preferred Shares”), common shares of the Bank (“Bank Common Shares”), Bank Parity Preferred Shares (as defined herein), if any, or Bank Junior Preferred Shares (as defined herein) (collectively, the “Bank Dividend Restricted Shares”) until the 12<sup>th</sup> month following the Trust’s failure to pay the Indicated Yield in full on the TD CaTS II, unless the Trust first pays such Indicated Yield (or the unpaid portion thereof) to holders of TD CaTS II. **It is in the interest of the Bank to ensure, to the extent within its control, that the Trust complies with its obligation to pay the Indicated Yield on the TD CaTS II on each Regular Distribution Date so as to avoid triggering the Dividend Stopper Undertaking.** See “Description of the Trust Securities – TD CaTS II – Dividend Stopper Undertaking” and “Risk Factors.”

On December 31, 2007 and on any Distribution Date thereafter, the Trust, at its option, and with the prior approval (“Superintendent Approval”) of the Superintendent of Financial Institutions (Canada) (the “Superintendent”), may redeem any outstanding TD CaTS II, in whole or in part, without the consent of the holders, for an amount in cash per TD CaTS II equal to the Early Redemption Price, if the TD CaTS II are redeemed prior to December 31, 2012 and the Redemption Price, if the TD CaTS II are redeemed on or after December 31, 2012. See “Description of the Trust Securities — TD CaTS II — Trust Redemption Right”.

Upon the occurrence of a Regulatory Event or a Tax Event (each, a “Special Event”), the Trust, at its option, and with Superintendent Approval, may redeem all but not less than all of the TD CaTS II, without the consent of the holders, for an amount in cash per TD CaTS II equal to the Early Redemption Price, if the TD CaTS II are redeemed prior to December 31, 2012, and the Redemption Price, if the TD CaTS II are redeemed on or after December 31, 2012. See “Description of the Trust Securities — TD CaTS II — Trust Special Event Redemption Right”.

Holders of TD CaTS II will have the right (the “Holder Exchange Right”) at any time to exchange all or part of their TD CaTS II for newly issued non-cumulative Preferred Shares Series A2 of the Bank (“Bank Preferred Shares Series A2”). See “Description of the Trust Securities — TD CaTS II — Holder Exchange Right”. The Holder Exchange Right is subject to the right of the Bank to arrange substituted purchasers for the TD CaTS II, so long as the holder of the TD CaTS II so tendered has not withheld consent to the purchase of its TD CaTS II. If a substituted purchaser is found, the price to be paid to the holder of the TD CaTS II so tendered will be not less than 90% of the closing price of such TD CaTS II on the last trading day immediately before the date fixed for purchase. On and after June 30, 2013, so long as any Loss Absorption Event (as defined herein) that has occurred is not then continuing, the Bank Preferred Shares Series A2 will be convertible, at the option of a holder, into Bank Common Shares. See “Description of Share Capital of the Bank — Certain Provisions of the Bank Preferred Shares Series A2 and A3”.

If a Loss Absorption Event were to occur, all of the then outstanding TD CaTS II will be automatically exchanged (the “Automatic Exchange”), without the consent of the holders, for newly issued non-cumulative Preferred Shares Series A3 of the Bank (“Bank Preferred Shares Series A3”). On the Automatic Exchange, holders of TD CaTS II will cease to have any claim or entitlement in relation to the Trust Assets. **If the Automatic Exchange were to occur and Bank Preferred Shares Series A3 were issued in exchange for TD CaTS II, the cost-effective nature of the consolidated capital raised by the Bank through the issuance of the TD CaTS II (assuming the Superintendent approves the inclusion of the TD CaTS II as Tier 1 capital of the Bank) would be lost. Accordingly, it is in the interest of the Bank to ensure that a Loss Absorption Event does not occur, although the events that could give rise to a Loss Absorption Event may be beyond the control of the Bank.** See “Description of the Trust Securities — TD CaTS II — Automatic Exchange”. On and after June 30, 2013, so long as any Loss Absorption Event that has occurred is not then continuing, the Bank Preferred Shares Series A3 will be convertible, at the option of a holder, into Bank Common Shares. See “Description of Share Capital of the Bank — Certain Provisions of the Bank Preferred Shares Series A2 and A3”.

On and after December 31, 2007, the TD CaTS II may be purchased at any time, in whole or in part, by the Trust, at the direction of the holder of the Special Trust Securities. The purchases may be made in the open market or by tender or private contract at any price. Any such purchases will require Superintendent Approval. TD CaTS II purchased by the Trust will be cancelled and will not be reissued.

**An investment in TD CaTS II could be replaced in certain circumstances, without the consent of the holder, by an investment in the Bank Preferred Shares Series A3. Investors should therefore carefully consider the disclosure with respect to the Bank included and incorporated by reference in this prospectus. An investment in TD CaTS II is subject to certain risks. See “Risk Factors”. The Trust is a newly-formed entity and, accordingly, it is not possible to determine earnings coverages with respect to the TD CaTS II.**

There is no market through which these securities may be sold and purchasers may not be able to resell securities purchased under this prospectus.

The Trust is expected to be a registered investment for purposes of the *Income Tax Act (Canada)* (the “Tax Act”). So long as the Trust is a registered investment under the Tax Act, TD CaTS II will be qualified investments for Deferred Income Plans and will not be foreign property for purposes of Part XI of the Tax Act. See “Eligibility for Investment”.

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**Price: \$1,000 per TD CaTS II**

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	Price to the Public	Underwriters’ Fee <sup>(1)</sup>	Net Proceeds to the Trust <sup>(2)</sup>
Per TD CaTS II.....	\$1,000	\$10	\$990
Total.....	\$350,000,000	\$3,500,000	\$346,500,000

Notes:

- (1) The Underwriters’ fee is \$10 for each TD CaTS II sold. The “Per TD CaTS II” and “Total” amounts represent the Underwriters’ fee and net proceeds to the Trust based on the expected sales of the TD CaTS II. See “Plan of Distribution”.
- (2) The Offering expenses of the Trust, other than the Underwriters’ fee, are estimated to be \$1,000,000, and will be paid by the Trust from the proceeds of issue of the Special Trust Securities and funds borrowed under the Credit Facility. See “The Trust — Liquidity”.

The Underwriters, as principals, conditionally offer the TD CaTS II as described under “Plan of Distribution” and subject to prior sale if, as and when issued by the Trust and accepted by the Underwriters in accordance with the conditions contained in the Underwriting Agreement referred to under “Plan of Distribution” and subject to the approval of certain legal matters on behalf of the Trust and the Bank by McCarthy Tétrault LLP and on behalf of the Underwriters by Torys LLP. **TD Securities Inc. is a wholly-owned subsidiary of the Bank. Each of the Trust and the Bank is a related issuer of TD Securities Inc. under applicable securities legislation by virtue of the Bank’s interest in the Trust and TD Securities Inc. See “Plan of Distribution”.** This prospectus also qualifies for distribution the Holder Exchange Right and the Automatic Exchange (the “Exchange Provisions”), the Subscription Right, the Bank Common Share Conversion Right, the Bank Preferred Share Redemption Right and the Conversion Right.

Subscriptions for the TD CaTS II will be received by the Underwriters subject to rejection or allotment in whole or in part and the right is reserved to close the subscription books at any time without notice. It is expected that the closing date will be October 22, 2002 (the “Closing Date”) or such later date as the Trust and the Underwriters may agree, but in any event not later than November 20, 2002. The TD CaTS II will be issued in “book-entry only” form and, accordingly, physical certificates representing TD CaTS II will not be available except in limited circumstances. See “Description of the Trust Securities — TD CaTS II — Book-Entry Only Form”. Persons participating in this Offering may engage in transactions that stabilize, maintain or otherwise affect the price of the TD CaTS II. For a description of those activities, see “Plan of Distribution”.

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## ELIGIBILITY FOR INVESTMENT

In the opinion of McCarthy Tétrault LLP, counsel to the Trust, and Torys LLP, counsel to the Underwriters, subject to compliance with the prudent investment standards and the general investment provisions and restrictions of the statutes referred to below and, where applicable, the regulations thereunder and, in certain cases, subject to satisfaction of additional requirements relating to investment or lending policies or goals and, in certain cases, the filing of such policies or goals, the TD CaTS II to be issued by the Trust, if issued on the date hereof, would not be precluded as investments under or by the following statutes:

*Insurance Companies Act* (Canada)  
*Pension Benefits Standards Act, 1985* (Canada)  
*Trust and Loan Companies Act* (Canada)  
*Financial Institutions Act* (British Columbia)  
*Insurance Act* (Alberta)  
*Loan and Trust Corporations Act* (Alberta)  
*Pension Benefits Act* (Ontario)

*Supplemental Pension Plans Act* (Québec)  
(for a plan governed thereby)  
*An Act respecting insurance* (Québec) (for an insurer, as defined therein, other than a guarantee fund corporation)  
*An Act respecting trust companies and savings companies* (Québec) (for a trust company, as defined therein, investing its own funds and funds received as deposits and for a savings company, as defined therein, investing its funds)

Based in part on certain factual information provided by the Trust and the Underwriters to counsel, the Trust is expected to be a registered investment for purposes of the Tax Act effective at the time of closing. In the opinion of such counsel, so long as the Trust is a registered investment under the Tax Act, the TD CaTS II will be qualified investments under the Tax Act for trusts governed by registered retirement savings plans, registered retirement income funds, deferred profit sharing plans and registered education savings plans (each, a “Deferred Income Plan”). In addition, so long as the Trust is a registered investment under the Tax Act, the TD CaTS II will not be foreign property for purposes of Part XI of the Tax Act.

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**THE TD CaTS II, WHILE EXCHANGEABLE FOR THE BANK PREFERRED SHARES SERIES A2 AND THE BANK PREFERRED SHARES SERIES A3, AS THE CASE MAY BE, WHICH, IN TURN, ARE CONVERTIBLE UNDER CERTAIN CIRCUMSTANCES INTO BANK COMMON SHARES, DO NOT REPRESENT OBLIGATIONS OF OR INTERESTS IN, AND ARE NOT GUARANTEED OR INSURED BY, THE BANK OR THE TRUSTEE OR ANY OF THEIR RESPECTIVE AGENTS OR AFFILIATES. THE TD CaTS II ARE NOT INSURED OR GUARANTEED BY THE CANADA DEPOSIT INSURANCE CORPORATION OR ANY OTHER GOVERNMENTAL AGENCY OR INSTRUMENTALITY.**

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## FORWARD-LOOKING STATEMENTS

This prospectus, including those documents incorporated by reference, may contain forward-looking statements, including statements regarding the business and anticipated financial performance of the Bank. These statements are subject to a number of risks and uncertainties that may cause actual results to differ materially from those contemplated by the forward-looking statements. Some of the factors that could cause such differences include legislative or regulatory developments, competition, technological change, global capital market activity, interest rates, changes in government and economic policy, inflation and general economic conditions in geographic areas where the Bank operates. These and other factors should be considered carefully and undue reliance should not be placed on the Bank's forward-looking statements. The Bank does not undertake to update any forward-looking statements. See "Risk Factors".

## DOCUMENTS INCORPORATED BY REFERENCE

The following documents with respect to the Bank, filed with the various securities commissions or similar authorities in each of the provinces and territories of Canada, are specifically incorporated by reference in and form an integral part of this prospectus:

- (a) the Bank's Annual Information Form dated February 26, 2002 which incorporates by reference the Bank's:
  - (i) Annual Report to Shareholders (the "Annual Report") for the year ended October 31, 2001 which includes comparative consolidated audited financial statements and the auditors' report thereon and Management's Discussion and Analysis of Operating Performance; and
  - (ii) Management Proxy Circular dated as of February 26, 2002 (excluding those portions which, pursuant to National Instrument 44-101 of the Canadian Securities Administrators, are not required to be incorporated by reference herein);
- (b) the Bank's First Quarter 2002 Report to Shareholders for the three months ended January 31, 2002, which includes comparative consolidated interim financial statements (unaudited) and Management's Discussion and Analysis of Operating Performance;
- (c) the Bank's Second Quarter 2002 Report to Shareholders for the six months ended April 30, 2002, which includes comparative consolidated interim financial statements (unaudited) and Management's Discussion and Analysis of Operating Performance;
- (d) the Bank's Third Quarter 2002 Report to Shareholders for the nine months ended July 31, 2002, which includes comparative consolidated interim financial statements (unaudited) and Management's Discussion and Analysis of Operating Performance; and
- (e) the Bank's Material Change Report dated October 15, 2002 concerning the retirement of Mr. A.C. Baillie as Chief Executive Officer of the Bank.

Any documents of the type referred to above and any material change reports (excluding confidential material change reports), all as filed by the Bank with the various securities commissions or similar authorities in Canada pursuant to the requirements of applicable securities legislation, after the date of this prospectus and during the currency of this prospectus, shall be deemed to be incorporated by reference into this prospectus.

Any statement contained in this prospectus or in a document incorporated or deemed to be incorporated by reference herein shall be deemed to be modified or superseded for the purposes of this prospectus to the extent that a statement contained herein or in any other subsequently filed document which also is or is deemed to be incorporated by reference herein modifies or supersedes such statement. The modifying or superseding statement need not state that it has modified or superseded a prior statement or include any other information set forth in the document that it modifies or supersedes. The making of a modifying or superseding statement is not to be deemed an admission for any purposes that the modified or superseded statement, when made, constituted a

misrepresentation, an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made. Any statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this prospectus. Copies of the documents incorporated by reference herein may be obtained on request without charge from the Executive Vice President, General Counsel and Secretary of The Toronto-Dominion Bank, Toronto Dominion Bank Tower, Toronto-Dominion Centre, Toronto, Ontario, M5K 1A2 (telephone: (416) 308-6963). For the purpose of the Province of Québec, this prospectus contains information to be completed by consulting the permanent information record. A copy of the permanent information record may also be obtained from the Executive Vice-President, General Counsel and Secretary of the Bank.

## SUMMARY

The following summary information should be read in conjunction with the full text of this prospectus and is qualified in its entirety by the more detailed information appearing elsewhere or incorporated by reference in this prospectus.

### THE OFFERING

<b>Issuer:</b>	TD Capital Trust II, an open-end trust established under the laws of the Province of Ontario pursuant to the Declaration of Trust.
<b>Offering:</b>	350,000 TD Capital Trust II Securities — Series 2012-1, being a series of a class of units of the Trust.
<b>Amount of Offering:</b>	\$350,000,000
<b>Price:</b>	\$1,000 per TD CaTS II.
<b>Ratings:</b>	The TD CaTS II have received ratings of Ayn by Dominion Bond Rating Service Limited (“DBRS”) and P-1 (low) on the Canadian scale and A on the global scale by Standard & Poor’s Corporation (“S&P”). A security rating is not a recommendation to buy, sell or hold securities and may be subject to revision or withdrawal at any time by the assigning rating organization. See “Ratings”.
<b>Use of Proceeds:</b>	The net proceeds from the Offering of approximately \$345,500,000 will be used by the Trust to acquire the Bank Deposit Note from the Bank. The Bank, in turn, intends to use the proceeds from the issue of the Bank Deposit Note for general corporate purposes. The Bank expects that the proceeds from the sale of the TD CaTS II will be included in the Tier 1 capital of the Bank (assuming the Superintendent approves the inclusion of TD CaTS II as Tier 1 capital of the Bank). See “The Toronto-Dominion Bank — Capital Adequacy Requirements” and “Use of Proceeds”.
<b>Bank Deposit Note:</b>	The Bank Deposit Note will bear interest at a fixed annual rate of 6.792%, payable in equal semi-annual instalments in arrears of \$33.96 per \$1,000 principal amount of the Bank Deposit Note on each Bank Deposit Note Interest Payment Date commencing December 31, 2002. The Bank Deposit Note will have a maturity date of December 31, 2052. In addition to the Bank Deposit Note, the Trust may acquire other Eligible Investments. See “Description of the Bank Deposit Note”. The proceeds of \$2,000,000 from the subscription by the Bank for Special Trust Securities, pursuant to an agreement between the Bank and the Trust (the “Subscription Agreement”), together with \$18,400,000 to be borrowed by the Trust under the Credit Facility, will be used by the Trust to pay its expenses of the Offering and to acquire the Funding Note from the Bank. See “The Trust — Liquidity”.



**Indicated Yield:**

Each TD CaTS II entitles the holder to receive the Indicated Yield of \$33.96 on each Distribution Date provided that such date is a Regular Distribution Date, representing an annual yield of 6.792% of the \$1,000 initial issue price. A Distribution Date will be a “Regular Distribution Date” unless the Bank fails to declare regular dividends on (i) the Bank Class A Preferred Shares of any series or the Bank Parity Preferred Shares (if any), or (ii) if no Bank Class A Preferred Shares or Bank Parity Preferred Shares are then outstanding, the Bank Junior Preferred Shares (if any), or (iii) if no Bank Junior Preferred Shares are then outstanding, on Bank Common Shares, in accordance with the Bank’s ordinary dividend practice in effect from time to time (in any case, “Dividends”) in the “Dividend Reference Period” (each such failure being a “Distribution Diversion Event”). The “Dividend Reference Period” in respect of any Distribution Date is the 90-day period preceding the commencement of the Distribution Period ending on the day immediately preceding such Distribution Date. The periods commencing on and including the Closing Date to but excluding December 31, 2002 and thereafter from and including each Distribution Date to but excluding the next Distribution Date are referred to as “Distribution Periods”.

Whether or not the Indicated Yield on the TD CaTS II will be payable by the Trust on any Distribution Date will be determined prior to the commencement of the Distribution Period ending on the day immediately preceding that Distribution Date. On each Regular Distribution Date, the Trust will pay the Indicated Yield to the holders of TD CaTS II and the holder of the Special Trust Securities will be entitled to receive the Net Distributable Funds, if any, of the Trust remaining after payment of the Indicated Yield.

If a Distribution Diversion Event occurs, the Distribution Date occurring on the day immediately following the end of the first Distribution Period following the Distribution Diversion Event will be a Distribution Diversion Date. In that case, although the Bank Deposit Note will pay interest on the Bank Deposit Note Interest Payment Date, the Trust will not pay the Indicated Yield on the TD CaTS II on the Distribution Diversion Date; instead, it will distribute the Net Distributable Funds of the Trust, if any, as at such Distribution Diversion Date to the holder of the Special Trust Securities. See “Description of the Trust Securities — TD CaTS II — Indicated Yield”.

“Bank Class A Preferred Shares” means the non-cumulative Class A First Preferred Shares of the Bank (including the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3).

“Bank Parity Preferred Shares” means preferred or preference shares issued by the Bank ranking *pari passu* with the Bank Class A Preferred Shares.

“Bank Junior Preferred Shares” means preferred or preference shares issued by the Bank ranking junior to the Bank Class A Preferred Shares.

“Net Distributable Funds” means, at any time, the amount by which the sum of (i) income and gains derived by the Trust from the Trust Assets and (ii) amounts received by the Trust from the Bank that are designated by the Bank as such, in each case that have not previously been distributed to holders of TD Capital Trust II Securities or the holder of the Special Trust Securities, exceeds expenses of the Trust and any reserve for expenses established by the Trust.

**A holder of TD CaTS II will only be entitled to receive the Indicated Yield for a Distribution Period if the Bank has declared Dividends on certain classes of shares in the corresponding Dividend Reference Period. The Bank has paid a dividend on Bank Common Shares in each year since 1857.**

**Voting Rights:** The TD CaTS II are non-voting except in limited circumstances. See “Description of the Trust Securities — TD CaTS II — Voting Rights”.

**Trust Redemption Right:** On December 31, 2007 and on any Distribution Date thereafter, the Trust, at its option, and with Superintendent Approval, and on not less than 30 nor more than 60 days’ prior written notice, may redeem any outstanding TD CaTS II in whole or in part, without the consent of the holders, for an amount in cash per TD CaTS II equal to (i) the greater of (A) \$1,000 per TD CaTS II, together with any Unpaid Indicated Yield to the date of redemption (the “Redemption Date”) stated in the notice (the “Redemption Price”), and (B) the TD CaTS II Canada Yield Price (the greater of (A) and (B) being the “Early Redemption Price”), if the TD CaTS II are redeemed prior to December 31, 2012, and (ii) the Redemption Price, if the TD CaTS II are redeemed on or after December 31, 2012 (the “Trust Redemption Right”). See “Description of the Trust Securities — TD CaTS II — Trust Redemption Right”.

“TD CaTS II Canada Yield Price” means a price per TD CaTS II calculated to provide an annual yield thereon to December 31, 2012 equal to the Government of Canada Yield plus 0.38%, determined on the Business Day immediately preceding the date on which the Trust has given notice of the redemption of the TD CaTS II (whether pursuant to the Trust Redemption Right or the Trust Special Event Redemption Right) or the Business Day immediately preceding the date of the termination of the Trust, as the case may be, plus the Unpaid Indicated Yield to the date of redemption or termination, as the case may be. For this purpose, it is assumed that the Indicated Yield will be paid on each Distribution Date to and including December 31, 2012.

“Government of Canada Yield” means, on any date, the average of the yields determined by any two registered Canadian investment dealers selected by the Bank as being the annual yield to maturity on such date, compounded semi-annually, which a non-callable Government of Canada bond would carry if issued in Canadian dollars in Canada at 100% of its principal amount on the date of redemption or termination, as the case may be, with a maturity date of December 31, 2012.

“Business Day” means a day on which the Trustee is open for business in Toronto, Ontario other than a Saturday, Sunday or statutory or civic holiday in Toronto, Ontario.

“Unpaid Indicated Yield” means in respect of each outstanding series of TD Capital Trust II Securities, at any time, an amount per TD Capital Trust II Securities of that series equal to the sum of the Accumulated Unpaid Indicated Yield and the Current Indicated Yield.

“Accumulated Unpaid Indicated Yield” means in respect of each outstanding series of TD Capital Trust II Securities, at any time, an amount, if any, per TD Capital Trust II Securities of that series equal to the Indicated Yield payable by the Trust thereon in respect of all previous Regular Distribution Dates remaining unpaid by the Trust.

“Current Indicated Yield” means in respect of each outstanding series of TD Capital Trust II Securities, at any time, in respect of the current Distribution Period, an amount per TD Capital Trust II Securities of that series equal to the Indicated Yield pro-rated for the number of days elapsed from and including the first day of the Distribution Period to but excluding the Redemption Date, provided that there has not been a Distribution Diversion Event with respect to such Distribution Period.

**Trust Special Event Redemption Right:** Upon the occurrence of a Special Event, the Trust, at its option, and with Superintendent Approval, and on not less than 30 nor more than 90 days’ prior

written notice, may redeem at any time all but not less than all of the TD CaTS II, without the consent of the holders, for an amount in cash per TD CaTS II equal to (i) the Early Redemption Price, if the TD CaTS II are redeemed prior to December 31, 2012, and (ii) the Redemption Price, if the TD CaTS II are redeemed on or after December 31, 2012 (the “Trust Special Event Redemption Right”). See “Description of the Trust Securities — TD CaTS II — Trust Special Event Redemption Right”.

**Holder Exchange Right:**

Holders of TD CaTS II will have the right, at any time, on not less than three and not more than 90 days’ prior written notice to the Trust and the Bank, to surrender all or part of their TD CaTS II to the Trust at a price (the “Surrender Price”), for each TD CaTS II, equal to 40 newly issued Bank Preferred Shares Series A2 (the “Holder Exchange Right”). The Bank will have the right, at any time before the exchange is completed, to arrange for a substituted purchaser to purchase TD CaTS II tendered for exchange so long as the holder of the TD CaTS II so tendered has not withheld consent to the purchase of its TD CaTS II. If a substituted purchaser is found, the price to be paid to the holder of the TD CaTS II so tendered will be not less than 90% of the closing price of such TD CaTS II on the last trading day immediately before the date fixed for purchase and such purchase price is intended to represent a fair equivalent in cash of the Surrender Price.

The Bank Preferred Shares Series A2 will pay semi-annual non-cumulative cash dividends, as and when declared by the board of directors of the Bank (the “Board of Directors”), equal to \$0.55 per share, representing an annual yield of 4.40%.

The Holder Exchange Right will be effected through the conversion by the Trust of the corresponding principal amount of the Bank Deposit Note. The Trust, as holder of the Bank Deposit Note, will have the right, at any time, to convert all or part of the Bank Deposit Note into corresponding Bank Preferred Shares Series A2. Immediately following that conversion, the Trust will arrange through The Canadian Depository for Securities Limited or its nominee (“CDS”) to credit the accounts of the holders of TD CaTS II exercising the Holder Exchange Right with the requisite number of Bank Preferred Shares Series A2, and the TD CaTS II surrendered for exchange will be cancelled. See “Description of the Trust Securities — TD CaTS II — Holder Exchange Right”, “Description of the Trust Securities — TD CaTS II — Capital Reorganizations and Amalgamations”, “Description of Share Capital of the Bank — Certain Provisions of the Bank Preferred Shares Series A2 and A3” and “Description of the Bank Deposit Note”.

**Automatic Exchange:**

Each TD CaTS II will be exchanged automatically (the “Automatic Exchange”), without the consent of the holders, for 40 Bank Preferred Shares Series A3, upon the occurrence of any one of the following events: (i) an application for a winding-up order in respect of the Bank pursuant to the *Winding-up and Restructuring Act* (Canada) (the “Winding-Up Act”) is filed by the Attorney General of Canada or a winding-up order in respect of the Bank pursuant to the Winding-Up Act is granted by a court; (ii) the Superintendent advises the Bank in writing that the Superintendent has taken control of the Bank or its assets pursuant to the *Bank Act* (Canada) (the “Bank Act”); (iii) the Superintendent advises the Bank in writing that the Bank has a risk-based Tier 1 Capital ratio of less than 5.0% or a risk-based Total Capital ratio of less than 8.0%; (iv) the Board of Directors advises the Superintendent in writing that the Bank has a risk-based Tier 1 Capital ratio of less than 5.0% or a risk-based Total Capital ratio of less than 8.0%; or (v) the Superintendent directs the Bank, pursuant to the Bank Act, to increase its capital or provide additional liquidity and the Bank elects to cause the Automatic Exchange as a consequence of the issuance of such direction or the Bank does not comply with such direction to the satisfaction of the Superintendent within the time specified

(each, a “Loss Absorption Event”). On the Automatic Exchange, the holders of TD CaTS II immediately prior to the Automatic Exchange will cease to have any claim or entitlement in relation to the Trust Assets.

The Bank Preferred Shares Series A3 will pay semi-annual non-cumulative cash dividends, as and when declared by the Board of Directors, equal to \$0.64375 per share, representing an annual yield of 5.15%.

If, for any reason, the Automatic Exchange does not result in the exchange of all TD CaTS II then outstanding for Bank Preferred Shares Series A3, the Trust will redeem each TD CaTS II not so exchanged for consideration consisting of 40 Bank Preferred Shares Series A3. The Bank and the Trust will arrange through CDS to credit the accounts of the holders of TD CaTS II with the requisite number of Bank Preferred Shares Series A3 in accordance with their respective entitlements. **If the Automatic Exchange were to occur and Bank Preferred Shares Series A3 were ultimately issued in exchange for the TD CaTS II, the cost-effective nature of the consolidated capital raised by the Bank through the issuance of the TD CaTS II (assuming the Superintendent approves the inclusion of the TD CaTS II as Tier 1 capital of the Bank) would be lost. Accordingly, it is in the interest of the Bank to ensure that a Loss Absorption Event does not occur, although the events that could give rise to a Loss Absorption Event may be beyond its control.** See “Description of the Trust Securities — TD CaTS II — Automatic Exchange” and “Description of Share Capital of the Bank — Certain Provisions of the Bank Preferred Shares Series A2 and A3”.

**Conversion Rights of the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3**

On the last day of June and December of each year, commencing on June 30, 2013 (a “Conversion Date”), and provided that a Loss Absorption Event has not occurred and is not then continuing, each Bank Preferred Share Series A2 and each Bank Preferred Share Series A3 will be convertible, at the option of the holder, on not more than 90 and not less than 60 days’ prior written notice before the date fixed for conversion, into that number of fully-paid and freely tradeable Bank Common Shares determined by dividing \$25, together with any declared and unpaid dividends on the Bank Preferred Shares Series A2 or the Bank Preferred Shares Series A3, as applicable, to the date of conversion (the “Cash Conversion Price”), by the greater of \$1.00 and 95% of the weighted average trading price of the Bank Common Shares on the Toronto Stock Exchange (the “TSX”) or, if not then listed on that exchange, on another exchange or market chosen by the Board of Directors on which the Bank Common Shares are then traded, during the 20 consecutive trading-day period ending on the fourth trading day immediately prior to the date of conversion (the “Common Share Conversion Rate”). See “Description of Share Capital of the Bank — Certain Provisions of the Bank Preferred Shares Series A2 and A3”.

**Purchase for Cancellation:**

On and after December 31, 2007, any outstanding TD CaTS II may be purchased at any time, in whole or in part, by the Trust, at the direction of the holder of the Special Trust Securities. The purchases may be made in the open market or by tender or private contract at any price. Any such purchases will require Superintendent Approval. TD CaTS II purchased by the Trust will be cancelled and will not be reissued.

**Rights on Termination of the Trust:**

As long as any TD CaTS II are outstanding and held by any person other than the Bank, the Trust may only be terminated with the approval of the holder of the Special Trust Securities and with Superintendent Approval (i) upon the occurrence of a Special Event prior to December 31, 2007 or (ii) for any reason on December 31, 2007 or on June 30, 2008 or on the last day of June and December of each year thereafter. The Declaration of Trust will provide that holders of TD

Capital Trust II Securities are not entitled to initiate proceedings for the termination of the Trust.

Pursuant to the Share Exchange Agreement, the Bank will agree for the benefit of holders of TD CaTS II that, as long as any TD CaTS II are outstanding and held by any person other than the Bank, the Bank will not approve the termination of the Trust unless the Trust has sufficient funds to pay the Early Redemption Price or the Redemption Price, as applicable. Holders of each series of outstanding TD Capital Trust II Securities and holders of each series of outstanding Special Trust Securities will rank *pari passu* in the distribution of the property of the Trust in the event of a termination of the Trust, after the discharge of the claims of creditors, if any. See “Description of the Trust Securities — TD CaTS II — Rights on Termination of the Trust”.

**Dividend Stopper Undertaking:**

Pursuant to the Share Exchange Agreement, the Bank will agree for the benefit of holders of TD CaTS II that, if the Trust fails on any Regular Distribution Date to pay the Indicated Yield on the TD CaTS II in full, the Bank will not pay dividends on the “Bank Dividend Restricted Shares”, being the Bank Class A Preferred Shares, the Bank Common Shares, the Bank Parity Preferred Shares and the Bank Junior Preferred Shares, until the 12<sup>th</sup> month following the Trust’s failure to pay the Indicated Yield in full on the TD CaTS II (the “Dividend Payment Resumption Month”), unless the Trust first pays such Indicated Yield (or the unpaid portion thereof) to the holders of the TD CaTS II (the “Dividend Stopper Undertaking”). Any Indicated Yield (or portion thereof) that the Trust fails to pay to the holders of TD CaTS II on a Regular Distribution Date will form part of the Accumulated Unpaid Indicated Yield of that series. It is in the interest of the Bank to ensure, to the extent within its control, that the Trust pays the Indicated Yield on the TD CaTS II on each Regular Distribution Date so as to avoid triggering the Dividend Stopper Undertaking. See “Description of the Trust Securities — TD CaTS II — Dividend Stopper Undertaking” and “Risk Factors”.

**Additional Bank Covenants:**

In addition to the Dividend Stopper Undertaking, the Bank will agree for the benefit of the holders of TD CaTS II, pursuant to the Share Exchange Agreement, that:

- (i) all the outstanding Special Trust Securities will be owned at all times by the Bank;
- (ii) as long as any TD CaTS II are outstanding and held by any person other than the Bank, the Bank will not take any action to cause the termination of the Trust except as set forth under “Description of the Trust Securities — TD CaTS II — Rights on Termination of the Trust” and only with Superintendent Approval;
- (iii) the Bank will not assign or otherwise transfer any of its obligations under the Share Exchange Agreement, except in the case of a merger, amalgamation, reorganization or a sale of substantially all of the assets of the Bank, as the case may be. See “Description of the Trust Securities — TD CaTS II — Share Exchange Agreement”.

**Book-Entry Only Form:**

The TD CaTS II will be issued under the book-entry only system operated by CDS and must be purchased or transferred through participants (“Participants”) in the depository service of CDS. Participants include securities brokers and dealers, banks and trust companies. Accordingly, physical certificates representing the TD CaTS II will not be available except in the limited circumstances described under “Description of the Trust Securities — TD CaTS II — Book-Entry Only Form”.

**Special Trust Securities:** On the Closing Date, the Bank will subscribe for 2,000 Special Trust Securities for an issue price of \$1,000 per unit.

### **THE TRUST**

The Trust is an open-end trust established under the laws of Ontario by the Trustee pursuant to the Declaration of Trust. The Trust's business objective is to acquire and hold Trust Assets that will generate income for distribution to holders of Trust Securities. Immediately after the issuance by the Trust of the TD CaTS II pursuant to the Offering, the subscription by the Bank for the Special Trust Securities, the borrowing of funds by the Trust from the Bank under the Credit Facility, the acquisition by the Trust of the Bank Deposit Note and the acquisition by the Trust of the Funding Note, the Trust will have approximately \$365,900,000 in Trust Assets, \$350,000,000 of capital attributable to the TD CaTS II, \$2,000,000 of capital attributable to the Special Trust Securities and \$18,400,000 of funds borrowed under the Credit Facility, less \$4,500,000 of the Offering expenses of the Trust.

### **RISK FACTORS**

The purchase of TD CaTS II are subject to certain risks and prospective investors should carefully consider the risk factors and other information in this prospectus before purchasing TD CaTS II. See "Risk Factors".

## THE TRUST

### General

The Trust is an open-end trust established under the laws of Ontario by the Trustee pursuant to the Declaration of Trust. The Trust has been formed for the purpose of issuing the Trust Securities and acquiring the Trust Assets in order to generate income for distribution to holders of Trust Securities.

The principal office of the Trust is located at Canadian Pacific Tower, Toronto-Dominion Centre, Toronto, Ontario, M5K 1A2.

The Trust is not a trust company and does not carry on business as a trust company and, accordingly, the Trust is not registered under the trust company legislation of any jurisdiction. Trust Securities are not “deposits” within the meaning of the *Canada Deposit Insurance Corporation Act* (Canada) and are not insured under the provisions of that act or any other legislation.

### Business of the Trust

The Trust’s only undertaking is to invest its assets. The Trust’s investment objective is to acquire and hold Trust Assets in order to generate income for distribution to holders of Trust Securities. The initial assets of the Trust will consist primarily of the Bank Deposit Note, which is to be purchased pursuant to an agreement between the Trust and the Bank (the “Deposit Note Purchase Agreement”). The Trust’s assets may also include any securities into which the Bank Deposit Note is converted, cash, certain amounts receivable from third parties and other Eligible Investments (together with the Bank Deposit Note, the “Trust Assets”). The Bank Deposit Note is a senior unsecured obligation of the Bank that ranks on a parity with all other deposit and unsubordinated liabilities of the Bank. The Bank Deposit Note contains provisions that will permit the conversion of the Bank Deposit Note, in whole or in part, to reflect the operation of the Holder Exchange Right from time to time.

“Eligible Investments” means the Funding Note or any property, including money, securities, amounts receivable from third parties not related to the Bank for purposes of the Tax Act, mortgages, an interest in an Eligible Investment, and any debt obligation, that is a qualified investment under the Tax Act for Deferred Income Plans, except where the qualification of such property contains conditions regarding the annuitant, the beneficiary, the employer or the subscriber under the plan or fund unless the Trust is satisfied that such conditions are satisfied, except that the Bank Deposit Note will not be repaid with or converted into or exchanged for debt of the Bank or of any person related to the Bank within the meaning of the Tax Act and, following the maturity of the Bank Deposit Note, the proceeds of the repayment of the Bank Deposit Note will not be invested in debt of the Bank or of any person related to the Bank within the meaning of the Tax Act

### Capitalization

As a newly-formed entity, the Trust has no prior operating history. Immediately after the issuance by the Trust of the TD CaTS II pursuant to the Offering, the subscription by the Bank for the Special Trust Securities, the borrowing of funds by the Trust from the Bank under the Credit Facility, the acquisition by the Trust of the Bank Deposit Note and the acquisition by the Trust of the Funding Note, the Trust will have approximately \$365,900,000 in Trust Assets, \$350,000,000 of capital attributable to the TD CaTS II, \$2,000,000 of capital attributable to the Special Trust Securities and \$18,400,000 of funds borrowed under the Credit Facility, less \$4,500,000 of the Offering expenses of the Trust.

### Conflicts of Interest

Due to the nature of the Trust’s relationship with the Bank and its affiliates, it is possible that conflicts of interest will arise with respect to certain transactions, including the subscription by the Trust for the Bank Deposit Note and the Funding Note and the Trust’s potential acquisition of other Trust Assets from the Bank. It will be the Trust’s policy that the terms of any financial dealings with the Bank or any of its affiliates will be consistent with those available from third parties.

Conflicts of interest between the Trust and the Bank and its affiliates may also arise in connection with actions taken by the Bank, as holder of the Special Trust Securities. It is intended that any agreements and transactions between the Trust, on the one hand, and the Bank and its affiliates, on the other hand, including the Administration Agreement, will be fair to the parties.

## **Liquidity**

The Trust will only borrow funds from the Bank or its affiliates pursuant to an unsecured credit facility extended by such entity to the Trust (the “Credit Facility”). The Trust will use the Credit Facility only for the purposes of ensuring liquidity in the normal course of the Trust’s activities, to facilitate the payment by the Trust of the expenses of the Offering and to finance the purchase of a deposit note from the Bank (the “Funding Note”).

## **Administrative Agent**

The Trustee will enter into an agreement (the “Administration Agreement”) with the Bank, as “Administrative Agent”, pursuant to which the Trustee will delegate to the Bank certain of its obligations in relation to the administration of the Trust, including the day-to-day operations of the Trust and such other matters as may be requested from time to time by the Trustee. The Administrative Agent will be entitled to receive a reasonable administration fee consistent with market terms and conditions.

The Administration Agreement will continue for an initial term of 10 years and after that will be renewed automatically on an annual basis. The Trustee will have the right to terminate the Administration Agreement at any time on 90 days’ prior written notice on the occurrence of one or more events generally related to the failure of the Administrative Agent to perform its obligations under the Administration Agreement in a proper and timely manner.

## **Exemptions from Certain Continuous Disclosure Requirements**

As a result of the Offering, the Trust will become a reporting issuer in each of the provinces and territories of Canada where such concept exists; however, the Trust intends to apply to the securities regulatory authorities in those provinces and territories (the “Commissions”), as appropriate, for exemptions from certain continuous disclosure requirements prescribed by applicable securities legislation for reporting issuers as well as to qualify to distribute securities using a short form prospectus.

If granted, the exemptions will likely be conditional on holders of TD CaTS II receiving the interim unaudited and annual audited financial statements and annual report of the Bank, and the Bank continuing to file with the Commissions its interim unaudited and annual audited financial statements, annual filing or management information circular and, where applicable, its annual report. If these exemptions are granted, the Trust will not be required to file with the Commissions interim unaudited and annual audited financial statements, including management’s discussion and analysis of the financial condition and results of operation of the Trust, an information circular or an annual filing in lieu thereof (collectively, an “annual filing”), an annual information form of the Trust, and, where applicable, an annual report, and holders of TD CaTS II will not receive such financial statements and annual reports of the Trust. It is expected, however, that the Trust will remain subject to the requirement to file material change reports in the event of any material change in the affairs of the Trust.

Exemptive relief is being sought by the Trust based on the following terms and conditions of the TD CaTS II and for the following reasons. The operating activity of the Trust will consist of acquiring and holding Trust Assets for the purpose of generating income for distribution to holders of TD CaTS II and the holder of the Special Trust Securities. Accordingly, the information relating to the financial condition and operations of a reporting issuer that is contained in an annual information form and an annual filing will not, in respect of the Trust, be meaningful to holders of TD CaTS II. The payment of the Indicated Yield on TD CaTS II is dependent on the payment of Dividends by the Bank because the Indicated Yield will not be payable if the Bank fails to declare Dividends (see “Description of the Trust Securities — TD CaTS II — Indicated Yield”). Furthermore, in certain circumstances, including at a time when the Bank’s financial condition is deteriorating or proceedings for the winding-up of the Bank have been commenced (see “Description of the Trust Securities — TD CaTS II — Automatic Exchange”), the TD CaTS II will be automatically exchanged for Bank Preferred Shares Series A3. As a result of the foregoing and



because TD CaTS II are also exchangeable for Bank Preferred Shares Series A2 under other circumstances, details of the Bank's financial condition (as opposed to that of the Trust) will be of interest to holders of TD CaTS II.

### CAPITALIZATION OF THE TRUST

The following table sets out the capitalization of the Trust as at September 17, 2002 and at that date adjusted to reflect the closing of the Offering and the issuance of Special Trust Securities.

<i>(in thousands of Canadian dollars)</i>	<u>Outstanding as at September 17, 2002</u>	<u>Outstanding as at September 17, 2002 after giving effect to the Offering</u>
TD CaTS II.....	–	\$350,000
Special Trust Securities.....	–	2,000
Original Settlement Amount <sup>(1)</sup> .....	\$1	–
Net Offering Expenses <sup>(2)</sup> .....	–	(4,500)
Trust Capital.....	<u>\$1</u>	<u>\$347,500</u>

Notes:

- (1) Amount settled on the Trust's formation subsequently applied as part of the subscription price for the Special Trust Securities.
- (2) The Offering expenses of the Trust, other than the Underwriters' fee, are estimated to be \$1,000,000, and will be paid by the Trust from the proceeds of issue of the Special Trust Securities and funds borrowed under the Credit Facility.

This table should be read in conjunction with the financial statements of the Trust appearing elsewhere in this prospectus.

### THE TORONTO-DOMINION BANK

#### General

The Bank, a chartered bank subject to the provisions of the Bank Act, was formed on February 1, 1955 through the amalgamation of The Bank of Toronto (chartered in 1855) and The Dominion Bank (chartered in 1869).

As at July 31, 2002 the Bank was the second largest Canadian bank in terms of total assets, with approximately \$310 billion of total assets. The Bank offers a full range of financial services and products to approximately 13 million customers in Canada and around the world through the Bank and its subsidiaries. The Bank is organized into three key businesses: TD Canada Trust, providing personal and commercial banking services in Canada; TD Securities, providing wholesale banking services in Canada, the United States and abroad; and TD Wealth Management, providing wealth management services in Canada and including the global operations of TD Waterhouse.

The Bank's head office and registered office are located in the Toronto Dominion Bank Tower, Toronto-Dominion Centre, Toronto, Ontario, M5K 1A2.

The Bank, either directly or through its subsidiaries, owns 100% of the voting and non-voting securities of the principal subsidiaries listed on pages 75 and 76 of the Annual Report, except the non-voting securities of TD Mortgage Investment Corporation, TD Capital Trust and First Nations Bank of Canada and except certain securities of TD Capital Management L.P., TD Capital Canadian Private Equity Partners (Barbados) L.P. and TD European Funding Limited.

Certain information regarding the Bank is incorporated by reference into this prospectus. See “Documents Incorporated by Reference”.

### Recent Developments

On August 29, 2002, the Bank issued \$550,000,000 principal amount of 5.20% Medium Term Notes due September 4, 2012 (the “MTN Offering”).

On September 3, 2002, the Bank redeemed at par its \$25,000,000 5.65% debentures due September 3, 2007.

On October 1, 2002, the Bank’s U.S.\$150,000,000 floating rate debentures matured.

On October 10, 2002, Mr. A. Charles Baillie, the Chairman of the Board of Directors and Chief Executive Officer of the Bank announced his retirement as Chief Executive Officer effective December 20, 2002. Following Mr. Baillie’s announcement, the Board of Directors announced that Mr. W. Edmund Clark, currently the President and Chief Operating Officer of the Bank, will become Chief Executive Officer upon Mr. Baillie’s retirement.

### Consolidated Capitalization of the Bank

The following table sets forth the consolidated capitalization of the Bank at July 31, 2002 and the adjusted consolidated capitalization of the Bank at July 31, 2002 after giving effect to the Offering and the MTN Offering. This table should be read in conjunction with the Bank’s consolidated financial statements and the Bank’s Management’s Discussion and Analysis of Operating Performance incorporated by reference in this prospectus.

	As at July 31, 2002	
	Actual	Adjusted
<i>(in millions of Canadian dollars)</i>		
<b>Subordinated Debt</b> .....	\$ 4,080	\$ 4,080
<b>Non-Controlling Interest in Subsidiaries</b>		
Capital Trust Securities — Series 2009.....	900	900
TD Capital Trust II Securities — Series 2012-1 (the Offering).....	–	350
Total Non-Controlling Interest in Subsidiaries.....	4,980	5,330
<b>Shareholders’ Equity</b>		
Preferred Shares.....	1,491	1,491
Common Shares.....	2,782	2,782
Retained earnings <sup>(1)</sup> .....	9,194	9,194
Total Shareholders’ Equity.....	13,467	13,467
<b>Total Capitalization</b> .....	\$ 18,447	\$ 18,797

Note:

(1) The adjusted column does not reflect costs of \$4.5 in connection with the Offering.

### Capital Adequacy Requirements

The Bank Act requires the Bank to maintain adequate capital in relation to its operations. The Superintendent has established risk-based capital targets for Canadian chartered banks of 7% (Tier 1 Capital) and 10% (Total Capital). The Superintendent has issued guidelines concerning the maintenance of adequate capital (the “Capital

Guidelines”) and has statutory authority pursuant to subsection 485(3) of the Bank Act to direct the Bank to increase its capital even if the Bank is in compliance with the Capital Guidelines. The Bank has no reason to believe that the Superintendent intends to direct the Bank to increase its capital. Pursuant to the Capital Guidelines, requirements are applied to the Bank on a consolidated basis including all subsidiaries except insurance subsidiaries or other regulated financial institutions whose leverage is inappropriate for a deposit-taking institution and which, because of their size, would have a material impact on the leverage of the consolidated entity.

The following table sets forth the risk-based Tier 1 Capital ratios and risk-based Total Capital ratios of the Bank as at the dates indicated:

	<b>Risk-Based Tier 1 Capital Ratio</b>	<b>Risk-Based Total Capital Ratio</b>
July 31, 2002 .....	7.7%	10.6%
October 31, 2001 .....	8.4%	11.9%
October 31, 2000 .....	7.2%	10.8%
October 31, 1999 .....	10.1%	13.3%
October 31, 1998 .....	7.2%	11.0%
October 31, 1997 .....	6.6%	10.2%

The Offering will provide the Bank with a cost-effective means of raising Tier 1 capital for Canadian bank regulatory purposes. After giving effect to the proceeds of this Offering and the MTN Offering, the risk-based Tier 1 Capital ratio and risk-based Total Capital ratio levels of the Bank as at July 31, 2002, adjusted for such events, would have been 7.8% and 10.8%, respectively.

## DESCRIPTION OF THE TRUST SECURITIES

### **TD CaTS II**

The following is a summary of the rights, privileges, restrictions and conditions attaching to the TD CaTS II. This summary is qualified in its entirety by the provisions of the Declaration of Trust. For information concerning Bank Preferred Shares Series A2 and Bank Preferred Shares Series A3 into which, in certain circumstances, the TD CaTS II are exchangeable, see “Description of Share Capital of the Bank — Certain Provisions of the Bank Preferred Shares Series A2 and A3” and for information with respect to the Bank Deposit Note, see “Description of the Bank Deposit Note”.

#### ***Indicated Yield***

Holders of TD CaTS II will be entitled to receive an Indicated Yield, in cash, of \$33.96 per TD CaTS II in respect of each Distribution Period on the Distribution Date immediately following that Distribution Period unless a Distribution Diversion Event has occurred.

A Distribution Date will be a Regular Distribution Date unless the Bank fails to declare Dividends in the Dividend Reference Period. Accordingly, whether or not the Indicated Yield on the TD CaTS II will be payable by the Trust on any Distribution Date will be determined prior to the commencement of the Distribution Period ending on the day preceding that Distribution Date. On each Regular Distribution Date, the Trust will pay the Indicated Yield to the holders of TD CaTS II and the holder of the Special Trust Securities will be entitled to receive the Net Distributable Funds, if any, of the Trust remaining after payment of the Indicated Yield. If the Bank does not declare a Dividend during the relevant Dividend Reference Period, a Distribution Diversion Event will occur.

If a Distribution Diversion Event occurs, the Distribution Date occurring on the day immediately following the end of the first Distribution Period following the Distribution Diversion Event will be a Distribution Diversion Date.

In that case, although the Bank Deposit Note will pay interest to the Trust on the Bank Deposit Note Interest Payment Date, the Trust will not pay the Indicated Yield on the TD CaTS II on the Distribution Diversion Date; instead, it will pay the Net Distributable Funds, if any, as at such Distribution Diversion Date to the holder of the Special Trust Securities.

If the Net Distributable Funds of the Trust are insufficient to enable the Trust to pay the full amount of the Indicated Yield on the TD CaTS II and any other outstanding TD Capital Trust II Securities on a Regular Distribution Date (the amount of such insufficiency being the “Indicated Yield Deficit”), there will be added to the Accumulated Unpaid Indicated Yield in respect of each series of the TD Capital Trust II Securities an amount determined by multiplying the Indicated Yield Deficit by the percentage that the Indicated Yield on the particular series of TD Capital Trust II Securities represents of the aggregate Indicated Yield on all series of TD Capital Trust II Securities in respect of such Regular Distribution Date (the “Indicated Yield Ratio”) and the Trust will pay to holders of each series of TD Capital Trust II Securities the amount of the Net Distributable Funds determined by multiplying the Net Distributable Funds by the Indicated Yield Ratio in respect of the particular series of TD Capital Trust II Securities. The Trust may pay the Accumulated Unpaid Indicated Yield to the holders of the TD Capital Trust II Securities at any time; however, the Trust will not be obligated, and holders of TD Capital Trust II Securities will not have any right to cause the Trust, to pay such amount until the occurrence of an event giving rise to the obligation of the Trust to pay the Early Redemption Price or the Redemption Price, as the case may be. See “Description of the Trust Securities — TD CaTS II — Trust Redemption Right”, “Description of the Trust Securities — TD CaTS II — Trust Special Redemption Right” and “Description of the Trust Securities — TD CaTS II — Rights on Termination of the Trust”.

#### ***Voting Rights***

The TD CaTS II are non-voting except in the limited circumstances set out in the Declaration of Trust involving changes to the terms and conditions of the TD CaTS II. The Declaration of Trust provides that those terms and conditions may be changed if authorized by the holder of the Special Trust Securities. If the amendment would (i) give rise to a Regulatory Event without Superintendent Approval, or (ii) in the opinion of the Trustee, relying on a certificate of the Administrative Agent, be materially prejudicial to the rights of holders of the TD Capital Trust II Securities, such amendment must also be approved by the holders of TD Capital Trust II Securities, given by way of an Extraordinary Resolution. The Declaration of Trust provides that where changes affect the terms and conditions of the TD CaTS II differently than any other series of TD Capital Trust II Securities then outstanding, the terms and conditions may be changed only if authorized by the holders of the TD CaTS II by way of a Series Extraordinary Resolution. The holder of the Special Trust Securities must approve any such change and, in addition, any such change that would affect the status of the TD CaTS II as capital of the Bank is subject to Superintendent Approval. The terms “Extraordinary Resolution” and “Series Extraordinary Resolution” mean, in effect, a resolution passed by the holders of TD Capital Trust II Securities or a particular series of TD Capital Trust II Securities (including the TD CaTS II), respectively, representing not less than 66 2/3% of the TD Capital Trust II Securities or series of TD Capital Trust II Securities, respectively, represented and voted at a meeting of holders of TD Capital Trust II Securities or series of TD Capital Trust II Securities, respectively, or a resolution in writing signed by the holders of TD Capital Trust II Securities or series of TD Capital Trust II Securities, respectively, representing not less than 66 2/3% of the outstanding TD Capital Trust II Securities or series of TD Capital Trust II Securities, respectively. The quorum at any such meeting will be two or more holders of TD Capital Trust II Securities or series of TD Capital Trust II Securities, respectively, present in person or represented by proxy and owning or representing not less than 25% of the aggregate number of TD Capital Trust II Securities or series of TD Capital Trust II Securities, respectively, then outstanding, provided that if a quorum is not present and the meeting is adjourned, at the meeting following such adjournment those holders present in person or represented by proxy will constitute a quorum even though they may represent less than 25% of the aggregate number of TD Capital Trust II Securities or series of TD Capital Trust II Securities, respectively, then outstanding. Notwithstanding the foregoing, the Trustee may, without the consent of holders of TD CaTS II, execute instruments supplemental to the Declaration of Trust and any other relevant instruments for certain limited purposes, including curing ambiguities or defects, and making any modification that, in the opinion of the Trustee, would not be prejudicial to the interest of holders of TD CaTS II and making such changes as may be required to conform with applicable regulatory requirements from time to time. See also “Description of the Trust Securities — TD CaTS II — Additional Securities of the Trust”.

### ***Trust Redemption Right***

On December 31, 2007 and on any Distribution Date thereafter, the Trust, at its option, and with Superintendent Approval, and on not less than 30 nor more than 60 days' prior written notice, may redeem any outstanding TD CaTS II in whole or in part, without the consent of the holders, for an amount in cash per TD CaTS II equal to (i) the Early Redemption Price, if the TD CaTS II are redeemed prior to December 31, 2012, and (ii) the Redemption Price, if the TD CaTS II are redeemed on or after December 31, 2012.

Any partial redemption will be carried out by lot or in some other equitable manner.

### ***Trust Special Event Redemption Right***

Upon the occurrence of a Regulatory Event or a Tax Event, the Trust, at its option, and with Superintendent Approval, and on not less than 30 nor more than 90 days' prior written notice, may redeem at any time, all but not less than all of the TD CaTS II, without the consent of the holders, for an amount in cash per TD CaTS II, equal to (i) the Early Redemption Price, if the TD CaTS II are redeemed prior to December 31, 2012, and (ii) the Redemption Price, if the TD CaTS II are redeemed on or after December 31, 2012.

“Regulatory Event” means (assuming the Superintendent approves the inclusion of the TD CaTS II as Tier 1 capital of the Bank) the receipt by the Trust or the Bank of a notice or advice from the Superintendent that the TD CaTS II no longer qualify as eligible Tier 1 capital under the Superintendent's interpretation of the Capital Guidelines.

“Tax Event” means the receipt by the Bank or the Trust of an opinion of independent counsel of recognized standing in Canada experienced in such matters (who may be counsel to the Bank or the Trust) to the effect that, as a result of (i) any amendment to, clarification of, or change (including any announced prospective change) in, the laws, or any regulations thereunder, of Canada or any political subdivision or taxing authority thereof or therein, affecting taxation, (ii) any judicial decision, official administrative pronouncement, published or private ruling, regulatory procedure, notice or announcement (including any notice or announcement of an intention to adopt such procedures or regulations) by any legislative body, court, governmental authority or agency or regulatory body having appropriate jurisdiction (collectively, “Administrative Action”) or (iii) any amendment to, clarification of, or change in, the official position or the interpretation of any Administrative Action or any interpretation or pronouncement that provides for a position with respect to such Administrative Action that differs from the previously generally accepted position, in each case, by any legislative body, court, governmental authority or agency or regulatory body, irrespective of the manner in which such amendment, clarification, change, interpretation or pronouncement is made known, which amendment, clarification or change is effective or such interpretation or pronouncement is announced on or after October 15, 2002, there is more than an insubstantial risk that (A) the treatment of any of the Bank's or the Trust's items of income or expense (including the treatment by the Bank or the Trust of interest on the Bank Deposit Note or of distributions made on the TD CaTS II or the Special Trust Securities) or treatment of the Bank Deposit Note or other property of the Trust, in each case as reflected in tax returns filed (or to be filed), will be challenged by a taxing authority, and that such challenge could subject the Bank or the Trust to more than a *de minimis* amount of additional taxes, duties or other governmental charges or civil liabilities or (B) the Trust is, or will be, subject to more than a *de minimis* amount of taxes, duties or other governmental charges or civil liabilities.

### ***Holder Exchange Right***

Holders of TD CaTS II will have the right, at any time, on not less than three and not more than 90 days' prior written notice to the Trust and the Bank, to surrender all or part of their TD CaTS II to the Trust at a price, for each TD CaTS II, equal to 40 newly issued Bank Preferred Shares Series A2. The Trust will have the right, at any time before the exchange is completed, to arrange for a substituted purchaser to purchase TD CaTS II tendered for surrender to the Trust so long as the holder of the TD CaTS II so tendered has not withheld consent to the purchase of its TD CaTS II. If a substituted purchaser is found, the price to be paid to a holder of TD CaTS II so tendered will be not less than 90% of the closing price of such TD CaTS II on the last trading day immediately before the date fixed for purchase and such purchase price is intended to represent a fair equivalent in cash of the Surrender Price.

The Bank Preferred Shares Series A2 will pay semi-annual non-cumulative cash dividends, as and when declared by the Board of Directors, equal to \$0.55 per share, representing an annual yield of 4.40%. The Holder Exchange Right will be effected through the conversion by the Trust of the corresponding principal amount of the Bank Deposit Note. The Trust, as holder of the Bank Deposit Note, will have the right at any time to convert all or part of the Bank Deposit Note into the corresponding number of Bank Preferred Shares Series A2. Immediately following that conversion, the Trust will arrange through CDS to credit the accounts of the holders of TD CaTS II exercising the Holder Exchange Right with the requisite number of Bank Preferred Shares Series A2 and the TD CaTS II surrendered for exchange will be cancelled.

As long as the TD CaTS II are held in the CDS book-entry only system, beneficial owners of TD CaTS II may exercise the Holder Exchange Right by providing instructions to the Participants through whom they hold TD CaTS II. In turn, such Participants will communicate those exchange instructions to the Trustee through CDS. Participants may be required to include a declaration on behalf of any beneficial holder of TD CaTS II purporting to exercise the Holder Exchange Right for the purpose of establishing whether any such beneficial holder would as a result of the exercise of the Holder Exchange Right be an Ineligible Person or a Significant Shareholder. Where TD CaTS II are not held in the CDS book-entry only system, the Holder Exchange Right may be effected by the registered holder of TD CaTS II depositing with the Trustee, within the time periods referred to above, certificates representing the TD CaTS II with a duly completed exchange panel in the form contemplated by the Declaration of Trust.

“Significant Shareholder” means any person who beneficially owns directly, or indirectly through entities controlled by such person or persons associated with or acting jointly or in concert with such person, shares of any class of the Bank in excess of 10% of the total number of outstanding shares of that class.

Upon the exercise of the Holder Exchange Right, the Trust reserves the right not to deliver Bank Preferred Shares Series A2 to any person whose address is in, or whom the Trust or the Bank has reason to believe is a resident of, any jurisdiction outside Canada, to the extent that such delivery would require the Trust or the Bank to take any action to comply with securities, banking or analogous laws of such jurisdiction (an “Ineligible Person”) or to any person who would as a result of such delivery become a Significant Shareholder. In such circumstances, the Trustee will hold all Bank Preferred Shares Series A2 that would otherwise be delivered to Ineligible Persons or any Significant Shareholder, as agent for Ineligible Persons and Significant Shareholders, and the Trustee will attempt to sell such Bank Preferred Shares Series A2 (to parties other than the Bank and its affiliates) on behalf of such Ineligible Persons and Significant Shareholders. Such sales, if any, will be made at any time and any price. Neither the Bank nor the Trustee will be subject to any liability for failing to sell Bank Preferred Shares Series A2 on behalf of any such Ineligible Persons or Significant Shareholders at any particular price on any particular day. The net proceeds received by the Trustee from the sale of any Bank Preferred Shares Series A2 will be divided among the Ineligible Persons and Significant Shareholders in proportion to the number of Bank Preferred Shares Series A2 that would otherwise have been deliverable to them, after deducting the costs of sale and any applicable withholding taxes. The Trustee will make payment of the aggregate net proceeds to CDS (if the TD CaTS II are then held in the book-entry only system) or to the registrar and transfer agent (in all other cases) for distribution to such Ineligible Persons and Significant Shareholders in accordance with the customary practice and procedures of CDS (“CDS Procedures”) or otherwise.

### ***Automatic Exchange***

Each TD CaTS II will be exchanged automatically, without the consent of the holder, for 40 Bank Preferred Shares Series A3, upon the occurrence of a Loss Absorption Event. The Bank Preferred Shares Series A3 will pay semi-annual non-cumulative cash dividends, as and when declared by the Board of Directors, equal to \$0.64375 per share, representing an annual yield of 5.15%. The Automatic Exchange will be deemed to occur as of 8:00 a.m. (Eastern time) on the date that a Loss Absorption Event occurs. The Automatic Exchange will be effected pursuant to the terms of the Share Exchange Agreement and the Declaration of Trust. As of the time of the exchange, each holder of TD CaTS II shall be deemed to have exchanged and transferred to the Bank all of such holder’s right, title and interest in and to its TD CaTS II and shall cease to be a holder thereof and all rights of such holder as a securityholder of the Trust will cease and such person shall therefrom be deemed to be and shall be for all purposes a holder of Bank Preferred Shares Series A3. Upon an Automatic Exchange and the deemed exchange of the TD CaTS II by their holders, the Exchange Trustee will arrange through CDS to credit the accounts of the holders of TD

CaTS II with the requisite number of Bank Preferred Shares Series A3 in accordance with their respective entitlements. The Bank will mail notice of the occurrence of the Loss Absorption Event to the Trust within 10 days of such event. If for any reason the Automatic Exchange does not result in the exchange of all TD CaTS II then outstanding for Bank Preferred Shares Series A3, the Trust will redeem each TD CaTS II not so exchanged for 40 Bank Preferred Shares Series A3. The Trust will have the right, pursuant to the Subscription Right, to have the Bank issue to the Trust a sufficient number of Bank Preferred Shares Series A3 for that purpose.

Upon an Automatic Exchange, the Bank reserves the right not to deliver Bank Preferred Shares Series A3 to any Ineligible Person or to any person who would as a result of such delivery become a Significant Shareholder. In such circumstances, the Exchange Trustee will hold all Bank Preferred Shares Series A3 that would otherwise be issued to Ineligible Persons or Significant Shareholders, as their agent, and the Exchange Trustee will attempt to sell such Bank Preferred Shares Series A3 (to parties other than the Bank and its affiliates) on their behalf. Such sales, if any, will be made at any time and any price. Neither of the Bank or the Exchange Trustee will be subject to any liability for failing to sell Bank Preferred Shares Series A3 on behalf of any such Ineligible Persons or Significant Shareholders or at any particular price on any particular day. The net proceeds received by the Exchange Trustee from the sale of any Bank Preferred Shares Series A3 will be divided among Ineligible Persons and the Significant Shareholders in proportion to the number of Bank Preferred Shares Series A3 that would otherwise have been deliverable to them, after deducting the costs of sale and any applicable withholding taxes. The Exchange Trustee will make payment of the aggregate net proceeds to CDS (if the TD CaTS II are then held in the book-entry only system) or to the registrar and transfer agent (in all other cases) for distribution to such Ineligible Persons and Significant Shareholders in accordance with CDS Procedures or otherwise.

If an Automatic Exchange were to occur and Bank Preferred Shares Series A3 are issued in exchange for TD CaTS II, the cost-effective nature of the consolidated capital raised by the Bank through the issuance of the TD CaTS II (assuming the Superintendent approves the inclusion of the TD CaTS II as Tier 1 capital of the Bank) would be lost. Accordingly, it is in the interest of the Bank to ensure that a Loss Absorption Event does not occur, although the events that could give rise to a Loss Absorption Event may be beyond its control.

#### ***Non-Resident Ownership Restrictions***

Non-residents of Canada within the meaning of the Tax Act may not own in the aggregate more than 50% of the Trust Securities outstanding at any time. The Trust will not accept any subscription for TD Capital Trust II Securities from any person, issue any TD Capital Trust II Securities to any person or register or otherwise recognize a transfer of any TD Capital Trust II Securities to any person if, after giving effect thereto, more than 50% of the outstanding Trust Securities would be held or beneficially owned, directly or indirectly, by non-residents of Canada. The Declaration of Trust includes a mechanism to permit the Trust to sell TD Capital Trust II Securities, including TD CaTS II, held by such persons, upon notice, in order to remedy any contravention of this restriction.

#### ***Extinguishment of Rights of Holders***

As of the time of exchange, each holder of TD CaTS II surrendered for exchange or automatically exchanged will cease to be a holder thereof and all rights of such holder as a security holder of the Trust will cease. Such holder after that time will be deemed to be for all purposes and will be for all purposes a holder of Bank Preferred Shares Series A2 or Bank Preferred Shares Series A3, as the case may be (unless payment in the form of Bank Preferred Shares Series A2 or Bank Preferred Shares Series A3 is not made). TD CaTS II surrendered for exchange pursuant to the Holder Exchange Right will be cancelled and will not be reissued.

#### ***Purchase for Cancellation***

On and after December 31, 2007, the TD CaTS II may be purchased at any time, in whole or in part, by the Trust, at the direction of the holder of the Special Trust Securities. The purchases may be made in the open market or by tender or private contract at any price. Any such purchases will require Superintendent Approval. TD CaTS II purchased by the Trust will be cancelled and will not be reissued.

***Rights on Termination of the Trust***

As long as any TD CaTS II are outstanding and held by any person other than the Bank, the Trust may only be terminated with the approval of the holder of the Special Trust Securities and with Superintendent Approval (i) upon the occurrence of a Special Event prior to December 31, 2007, or (ii) for any reason on December 31, 2007 or on June 30, 2008, or on the last day of June and December of each year thereafter. The Declaration of Trust provides that holders of TD CaTS II are not entitled to initiate proceedings for the termination of the Trust.

Holders of each series of outstanding TD Capital Trust II Securities and holders of each series of outstanding Special Trust Securities will rank *pari passu* in the distribution of the property of the Trust in the event of a termination of the Trust, after the discharge of claims of creditors, if any. The entitlement of the holder of the TD CaTS II on a termination of the Trust will be determined by multiplying the Early Redemption Price (if the termination is as a result of action taken by the Bank and occurs prior to December 31, 2012), or the Redemption Price (in all other cases), in either case, by a fraction, the numerator of which is the value of the Trust Assets to be distributed to holders of Trust Securities and the denominator of which is an amount equal to the sum of (i) the aggregate Early Redemption Prices of all TD CaTS II then outstanding if the termination is as a result of action taken by the Bank and occurs prior to December 31, 2012, (ii) the aggregate Redemption Prices of all TD CaTS II then outstanding and not provided for under (i) above, and (iii) an amount equal to the aggregate subscription price for all Special Trust Securities then outstanding (such fraction being the “Termination Distribution Ratio”). Should additional series of TD Capital Trust II Securities be issued, then the Termination Distribution Ratio will be adjusted to reflect the issuance of such additional TD Capital Trust II Securities and to recognize that all outstanding series of TD Capital Trust II Securities will rank *pari passu*. The entitlement of the Bank, as the holder of the Special Trust Securities, will be determined by multiplying the Bank’s subscription price for all Special Trust Securities then outstanding by the Termination Distribution Ratio.

So long as any TD CaTS II are outstanding and held by any person other than the Bank, the Bank will not approve the termination of the Trust unless the Trust has sufficient funds to pay the Early Redemption Price or the Redemption Price, as applicable. See “Description of the Trust Securities — TD CaTS II — Share Exchange Agreement”.

***Dividend Stopper Undertaking***

If the Trust fails on any Regular Distribution Date to pay the Indicated Yield on the TD CaTS II in full, the Bank has agreed for the benefit of holders of TD CaTS II that the Bank will not pay dividends on the Bank Dividend Restricted Shares until the Dividend Payment Resumption Month, unless the Trust first pays such Indicated Yield (or the unpaid portion thereof) to the holders of all outstanding TD CaTS II. Any Indicated Yield (or portion thereof) that the Trust fails to pay to the holders of any outstanding TD CaTS II on a Regular Distribution Date will form part of the Accumulated Unpaid Indicated Yield. It is in the interest of the Bank to ensure, to the extent within its control, that the Trust pays the Indicated Yield on all outstanding TD CaTS II on each Regular Distribution Date so as to avoid triggering the Dividend Stopper Undertaking.

The following table indicates the relationship among the Dividend Reference Period, the Distribution Period, the Distribution Date and the Dividend Payment Resumption Month.

<b>Dividend Reference Period<sup>(1)</sup></b>	<b>Commencement of the Current Distribution Period<sup>(2)</sup></b>	<b>Distribution Date</b>	<b>Dividend Payment Resumption Month<sup>(3)</sup></b>
August, 2002 .....	Closing Date	December 31, 2002	December, 2003
November, 2002.....	December 31, 2002	June 30, 2003	June, 2004
May, 2003 .....	June 30, 2003	December 31, 2003	December, 2004



Notes:

- (1) The Bank's current practice with respect to the declaration of Dividends is to declare Dividends in February, May, August and November in each year although this practice may change in the future in terms of the timing or frequency of the declaration of Dividends. Based on the Bank's current practice, the declaration of Dividends by the Bank in the months of February or August will have no effect on whether the Indicated Yield is payable on the TD CaTS II on any Distribution Date.
- (2) Prior to the commencement of any Distribution Period, the question of whether the Distribution Date falling on the day immediately following such Distribution Period will be a Regular Distribution Date or a Distribution Diversion Date, and the entitlement of holders of TD CaTS II, will have been determined.
- (3) The Dividend Payment Resumption Month is only relevant if the Trust fails to pay the Indicated Yield in full on the TD CaTS II on any Regular Distribution Date.

### ***Share Exchange Agreement***

On closing of the Offering, the Trust, the Bank and the Exchange Trustee, as trustee for the holders of the TD CaTS II, the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3, will enter into a share exchange agreement (the "Share Exchange Agreement") providing for, among other things:

- (a) the Dividend Stopper Undertaking;
- (b) the grant by the Bank to the Exchange Trustee, for the benefit of the holders of TD CaTS II, the right to exchange TD CaTS II for Bank Preferred Shares Series A3 upon an Automatic Exchange and the grant by the Exchange Trustee on behalf of the holders of TD CaTS II to the Bank of the right to exchange TD CaTS II for Bank Preferred Shares Series A3 upon an Automatic Exchange; and
- (c) the grant by the Bank to the Trust of the right to subscribe for Bank Preferred Shares Series A2 in order to enable the Trust to satisfy its obligations under the Holder Exchange Right where the Trust cannot otherwise satisfy such obligations pursuant to its rights under the Bank Deposit Note, and the grant by the Bank to the Trust of the right to subscribe for Bank Preferred Shares Series A3 in order to enable the Trust to redeem TD CaTS II that have not been exchanged for Bank Preferred Shares A3 pursuant to the Automatic Exchange on a Loss Absorption Event (such rights being collectively referred to as the "Subscription Right").

In addition, pursuant to the provisions of the Bank Preferred Shares Series A2 and Bank Preferred Shares Series A3, holders of such shares will have the right to convert their shares into Bank Common Shares (the "Bank Common Share Conversion Right") subject to certain restrictions. See "Description of Share Capital of the Bank — Certain Provisions of the Bank Preferred Shares Series A2 and A3 — Conversion at the Option of the Holder".

The issuance of Bank Preferred Shares Series A2, Bank Preferred Shares Series A3 and Bank Common Shares pursuant to these rights is subject to Superintendent Approval and the obtaining of an exemption under applicable securities legislation in certain of the provinces and territories of Canada. Applications for Superintendent Approval and these exemptions have been made by the Bank. In addition, the Bank will take all necessary corporate action before the Closing Date to enable them to comply with their obligations in respect of these rights.

The Bank will also agree in the Share Exchange Agreement to take or refrain from taking certain actions so as to ensure that holders of TD CaTS II will receive the benefit of the Exchange Provisions, including obtaining the requisite approval of holders of the TD CaTS II to any amendment to the provisions of the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3 (other than any amendments relating to the Bank Class A Preferred Shares as a class).

The Share Exchange Agreement will also provide that:

- (a) all the outstanding Special Trust Securities will be owned at all times by the Bank;
- (b) as long as any TD CaTS II are outstanding and held by any person other than the Bank, the Bank will not take any action to cause the termination of the Trust except as set forth under "Description of the Trust Securities — TD CaTS II — Rights on Termination of the Trust" and only with Superintendent Approval; and

- (c) the Bank will not assign or otherwise transfer any of its obligations under the Share Exchange Agreement, except in the case of a merger, amalgamation, reorganization or a sale of substantially all of the assets of the Bank, as the case may be.

### ***Capital Reorganizations and Amalgamations***

If there is a capital reorganization, merger or amalgamation of the Bank or a comparable transaction affecting the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3, as applicable, the Declaration of Trust and the Share Exchange Agreement will provide that holders of TD CaTS II will be entitled to receive, pursuant to the Exchange Provisions, after the capital reorganization, merger or amalgamation of the Bank or comparable transaction affecting the Bank Preferred Shares Series A2 and Bank Preferred Shares Series A3, as applicable, the number of Bank Preferred Shares Series A2 and Bank Preferred Shares Series A3 or other securities or consideration of the Bank or of a corporation resulting, surviving or continuing from the capital reorganization, merger or amalgamation of the Bank or comparable transaction affecting the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3, as applicable, that such holder would have received had its TD CaTS II been exchanged, pursuant to the Exchange Provisions, for Bank Preferred Shares Series A2 and Bank Preferred Shares Series A3, as applicable, immediately prior to the record date of the capital reorganization, merger or amalgamation of the Bank or comparable transaction affecting the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3, as applicable. Similarly, the terms and conditions of the Bank Deposit Note will provide that the holder of the Bank Deposit Note will be entitled to receive, after the capital reorganization, merger or amalgamation of the Bank or comparable transaction affecting the Bank Preferred Shares Series A2, the number of Bank Preferred Shares Series A2 or other securities or consideration of the Bank or of a corporation resulting, surviving or continuing from the capital reorganization, merger or amalgamation of the Bank or comparable transaction affecting the Bank Preferred Shares Series A2 that such holder would have received had the Bank Deposit Note been converted into Bank Preferred Shares Series A2 immediately prior to the record date of the capital reorganization, merger or amalgamation of the Bank or comparable transaction affecting the Bank Preferred Shares Series A2. The entitlement of the Trust under the Subscription Right will be similarly adjusted.

### ***Additional Securities of the Trust***

The Trust may issue, at any time and from time to time, additional Special Trust Securities of any series or TD Capital Trust II Securities of another series without the authorization of holders of TD CaTS II. If the Trust issues additional series of TD Capital Trust II Securities, the rights, privileges, restrictions and conditions attached to those additional series may vary materially from those of the TD CaTS II. If the Trust issues such securities, the rights of the holders of TD CaTS II to receive the Indicated Yield from the Net Distributable Funds of the Trust on any Regular Distribution Date and the right of the holders of TD CaTS II to receive property of the Trust on termination of the Trust will rank at least *pari passu* with the rights of the holders of TD Capital Trust II Securities of one or more other series.

### ***Trust Assets***

Initially, the principal asset of the Trust will be the Bank Deposit Note, which will mature on December 31, 2052. If any TD CaTS II remain outstanding as of the date of maturity of the Bank Deposit Note, the Trust will invest the proceeds received on repayment of the Bank Deposit Note in Eligible Investments acquired from the Bank. Accordingly, the Bank Deposit Note will not be repaid with or converted into or exchanged for debt of the Bank or of any person related to the Bank within the meaning of the Tax Act and, following the maturity of the Bank Deposit Note, the proceeds of the repayment of the Bank Deposit Note will not be invested in debt of the Bank or of any person related to the Bank within the meaning of the Tax Act. Each of the Trust and the Bank have agreed, subject to Superintendent Approval, to enter into agreements by which the assets in which the Trust may invest such proceeds after December 31, 2052 will be held by the Trust for the purpose of meeting its obligations to the holders of any TD Capital Trust II Securities outstanding at that time.

### ***Book-Entry Only Form***

Except as otherwise provided below, the TD CaTS II will be issued in “book-entry only” form and must be purchased or transferred through Participants in the depository service of CDS. Participants include securities

brokers and dealers, banks and trust companies. On the Closing Date, the Trust will arrange for a global certificate representing the TD CaTS II to be delivered to, and registered in the name of, CDS. Except as described below, no holder of TD CaTS II will be entitled to a certificate or other instrument from the Trust or CDS evidencing that holder's ownership thereof, and no holder will be shown on the records maintained by CDS except through a book-entry account of a Participant acting on behalf of such holder. Each holder of TD CaTS II will receive a customer confirmation of purchase from the registered dealer from which the TD CaTS II are purchased in accordance with the practices and procedures of that registered dealer. The practices of registered dealers may vary, but generally customer confirmations are issued promptly after execution of a customer order.

CDS will be responsible for establishing and maintaining book-entry accounts for its Participants having interests in the TD CaTS II. If (i) the book-entry only system ceases to exist, (ii) the Trust determines that CDS is no longer willing or able to discharge properly its responsibilities as depository with respect to the TD CaTS II and the Trust is unable to locate a qualified successor, or (iii) the Trust at its option elects, or is required by applicable law or the rules of any securities exchange, to withdraw the TD CaTS II from the book-entry only system, then physical certificates representing the TD CaTS II will be issued to holders thereof or their nominees.

None of the Bank, the Trustee, the Exchange Trustee or the Underwriters will assume any liability for (i) any aspect of the records relating to the beneficial ownership of the TD CaTS II held by CDS or the payments or deliveries relating thereto, (ii) maintaining, supervising or reviewing any records relating to the TD CaTS II or (iii) any advice or representation made by or with respect to CDS relating to the rules governing CDS or any action to be taken by CDS or at the direction of Participants. The rules governing CDS provide that it acts as the agent and depository for the Participants. As a result, Participants must look solely to CDS, and persons, other than Participants having an interest in the TD CaTS II, must look solely to Participants, for payments or deliveries made by or on behalf of the Trust or the Bank to CDS in respect of the TD CaTS II.

### ***Transfers***

Transfers of ownership of TD CaTS II will be effected only through records maintained by CDS for such TD CaTS II with respect to interests of Participants and on the records of Participants with respect to interests of persons other than Participants. Holders of TD CaTS II who are not Participants, but who desire to purchase, sell or otherwise transfer ownership of or other interests in the TD CaTS II, may do so only through Participants. The ability of a holder to pledge TD CaTS II or otherwise take action with respect to such holder's interest in TD CaTS II (other than through a Participant) may be limited due to the lack of a physical certificate. See "Risk Factors — Risk Factors Specifically Associated with the TD CaTS II — Liquidity of and Dealings in TD CaTS II".

### ***Payments and Deliveries***

The Trust will make, or cause to be made, payments of the Indicated Yield in respect of TD CaTS II to CDS as the registered holder of the TD CaTS II and the Trust understands that the payments will be forwarded by CDS to Participants in accordance with CDS Procedures. Deliveries of Bank Preferred Shares Series A2 in respect of the exercise of the Holder Exchange Right or deliveries of Bank Preferred Shares Series A3 upon an Automatic Exchange will be made by or on behalf of the Trust and the Bank, as applicable, to CDS as the registered holder of the TD CaTS II and the Trust and the Bank, as applicable, understand that such shares will be forwarded by CDS to Participants in accordance with CDS Procedures. As long as CDS is the registered owner of the TD CaTS II, CDS will be considered the sole owner of the TD CaTS II for the purposes of receiving payments on the TD CaTS II, including payment of the Indicated Yield and the Early Redemption Price or Redemption Price on a redemption of the TD CaTS II by the Trust, or the delivery of the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3 upon the exercise or operation of the Exchange Provisions. As long as the TD CaTS II are held in the CDS book-entry only system, the responsibility and liability of the Trustee and/or the Bank in respect of the TD CaTS II is limited to making payment of any amount due on the TD CaTS II and/or making delivery of the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3 in respect thereof to CDS or its nominee, as registered holder of the TD CaTS II.

## **Special Trust Securities**

### ***Voting Rights***

The Declaration of Trust will provide that the Special Trust Securities are voting. The holder of Special Trust Securities will be entitled to vote in respect of, among other things (i) the termination of the Trust, as set forth under “Description of the Trust Securities — TD CaTS II — Rights on Termination of the Trust”, (ii) the removal and replacement of the Trustee and (iii) the removal and replacement of the Administrative Agent.

### ***Distributions***

On any Regular Distribution Date, the holder of the Special Trust Securities will be entitled to receive the Net Distributable Funds, if any, of the Trust remaining after payment of the Indicated Yield on the TD Capital Trust II Securities. On a Distribution Date that is a Distribution Diversion Date, the holder of the Special Trust Securities will be entitled to receive the Net Distributable Funds, if any, of the Trust and payment of the Indicated Yield will not be made on the TD CaTS II. On a Bank Deposit Note Interest Payment Date that is also a Distribution Diversion Date, the interest then due and payable on the Bank Deposit Note will be paid to the Trust which will then distribute such amount to the holder of the Special Trust Securities to the extent of the Net Distributable Funds.

### ***Redemption, Repurchase***

The Trust, with the consent of the holder of the Special Trust Securities, may redeem all or part of the Special Trust Securities at any time but will not redeem all unless there are no TD Capital Trust II Securities outstanding and held by any person other than the Bank. In addition, the Bank may require the Trust to repurchase at any time all, or from time to time part, of the Special Trust Securities but the Bank may not require the Trust to repurchase all of the Special Trust Securities unless there are no TD Capital Trust II Securities outstanding and held by any person other than the Bank. Any such redemption or repurchase will require Superintendent Approval.

### ***Rights on Termination of the Trust***

In the event of a termination of the Trust, after the discharge of the obligations of the Trust to creditors, the holder of the Special Trust Securities will be entitled to participate, *pari passu* with the holders of each series of TD Capital Trust II Securities, in the distribution of the remaining property of the Trust. On a termination of the Trust, the holder of the Special Trust Securities will be entitled to receive an amount equal to the subscription price of the Special Trust Securities then outstanding multiplied by the Termination Distribution Ratio.

## **DESCRIPTION OF SHARE CAPITAL OF THE BANK**

The Bank has authorized share capital consisting of an unlimited number of Bank Common Shares and an unlimited number of Bank Class A Preferred Shares.

### **Bank Common Shares**

The holders of Bank Common Shares are entitled to vote at all meetings of the shareholders of the Bank except meetings at which only holders of a specified class or series of shares are entitled to vote. After payment to the holders of the Bank Class A Preferred Shares of the amount or amounts to which they may be entitled, and after payment of all outstanding debts, the holders of Bank Common Shares shall be entitled to receive the remaining property of the Bank upon the liquidation, dissolution or winding-up thereof.

## Price Range and Trading Volume of Bank Common Shares

The following table sets forth the market price range and trading volume of Bank Common Shares on the TSX for the calendar periods indicated.

	<b>The Toronto Stock Exchange Bank Common Shares (\$ Price Range)</b>		
	<b>High</b>	<b>Low</b>	<b>Volume (000s)</b>
<b>2000</b>			
1 <sup>st</sup> Quarter.....	40.25	32.85	132,845
2 <sup>nd</sup> Quarter .....	39.70	33.60	117,898
3 <sup>rd</sup> Quarter .....	46.05	34.75	110,431
4 <sup>th</sup> Quarter .....	46.65	36.75	128,495
<b>2001</b>			
1 <sup>st</sup> Quarter.....	45.55	37.70	144,229
2 <sup>nd</sup> Quarter.....	42.20	37.95	109,896
3 <sup>rd</sup> Quarter .....	44.50	35.10	86,992
4 <sup>th</sup> Quarter .....	41.86	35.00	88,701
<b>2002</b>			
1 <sup>st</sup> Quarter.....	44.43	40.16	97,781
2 <sup>nd</sup> Quarter.....	45.03	32.40	140,413
3 <sup>rd</sup> Quarter .....	36.00	29.30	59,687
August .....	35.68	32.51	29,762
September .....	34.25	27.15	54,316
October (1-11) .....	29.25	25.17	30,109

On October 11, 2002, the closing price was \$29.25 per Bank Common Share on the TSX.

## Dividends Paid on Bank Common Shares

The Bank has paid a dividend on the Bank Common Shares in each year since 1857. The following table sets forth the dividends paid or payable on the Bank Common Shares for the financial periods of the Bank indicated. As of July 31, 2002, the Bank had approximately 643,228,956 Bank Common Shares outstanding.

	<b>Bank Common Shares Dividends Paid or Payable<sup>(1)</sup></b>
1997.....	\$0.56
1998.....	\$0.66
1999.....	\$0.72
2000.....	\$0.92
2001.....	\$1.09
2002 – 1 <sup>st</sup> Quarter .....	\$0.28
– 2 <sup>nd</sup> Quarter .....	\$0.28

	<b>Bank Common Shares Dividends Paid or Payable<sup>(1)</sup></b>
– 3 <sup>rd</sup> Quarter.....	\$0.28
– 4 <sup>th</sup> Quarter.....	\$0.28 <sup>(2)</sup>

Note:

- (1) Dividends per Bank Common Share have been restated to reflect the one-for-one stock dividend on the Bank Common Shares which was paid on July 31, 1999.
- (2) Payable on October 31, 2002.

The declaration and payment of future dividends and the amount thereof will be subject to the discretion of the Board of Directors, and will be dependent upon the results of operations, financial condition, cash requirements and future prospects of, and regulatory restrictions on the payment of dividends by, the Bank and other factors deemed relevant by the Board of Directors. In certain circumstances, the Bank may not declare dividends on the Bank Common Shares and the Bank Class A Preferred Shares. See “Description of the Trust Securities — TD CaTS II — Dividend Stopper Undertaking”.

### **Certain Provisions of the Bank Preferred Shares Series A2 and A3**

The following is a summary of the rights, privileges, restrictions and conditions attaching to the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3 (the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3 are collectively referred to as the “Bank Exchange Preferred Shares”). This summary is qualified in its entirety by the by-laws of the Bank and the actual terms and conditions of the Bank Exchange Preferred Shares. For information concerning Bank Common Shares into which Bank Exchange Preferred Shares are convertible, see “Description of Share Capital of the Bank — Bank Common Shares”.

#### ***Dividends***

Holders of Bank Preferred Shares Series A2 will be entitled to receive semi-annual non-cumulative preferential cash dividends, as and when declared by the Board of Directors and subject to the provisions of the Bank Act, equal to \$0.55 per share (representing an annual yield of 4.40%), payable on the last day of June and December in each year (each, a “Dividend Payment Date” for the purposes of this paragraph). Holders of Bank Preferred Shares Series A3 will be entitled to receive semi-annual non-cumulative preferential cash dividends, as and when declared by the Board of Directors and subject to the provisions of the Bank Act, equal to \$0.64375 per share (representing an annual yield of 5.15%), payable on each Dividend Payment Date. If the Board of Directors does not declare the dividends, or any part thereof, on the Bank Exchange Preferred Shares on or before the Dividend Payment Date for a particular semi-annual period, the rights of the holders of the Bank Exchange Preferred Shares to receive such dividends, or any part thereof, for such semi-annual period will be extinguished.

#### ***Redemption***

The Bank Exchange Preferred Shares will not be redeemable prior to December 31, 2007. On and after that date, but subject to the provisions of the Bank Act and Superintendent Approval and the provisions described below under “Restrictions on Dividends and Retirement of Shares”, the Bank may redeem at any time all, or from time to time any part, of the outstanding Bank Exchange Preferred Shares, without the consent of the holders, by either:

- (a) the payment of \$25 together with any declared and unpaid dividends on Bank Exchange Preferred Shares, as applicable, to the date of the redemption (the “Cash Redemption Price”); or
- (b) subject to the approval of any applicable regulatory authority, including any applicable stock exchange, the delivery of that number of fully-paid and freely tradeable Bank Common Shares listed on a recognized stock exchange in Canada for each such Bank Exchange Preferred Share so redeemed determined by

dividing the Cash Redemption Price by the Common Share Conversion Rate (the “Bank Preferred Share Redemption Right”).

Fractional Bank Common Shares will not be issued on any redemption of the Bank Exchange Preferred Shares, but instead, the Bank will make cash payments equal to the balance of the Cash Redemption Price not otherwise satisfied by the delivery of Bank Common Shares.

Written notice of any redemption will be given by the Bank at least 30 days and not more than 60 days prior to the date fixed for redemption. If less than all the outstanding Bank Exchange Preferred Shares are at any time to be redeemed, the shares to be redeemed will be selected by lot (in single shares or in units of 10 shares or less) or in such other manner as the Board of Directors may determine. See also “Exchange at the Option of the Holder”.

On a redemption of Bank Exchange Preferred Shares payable in Bank Common Shares, the Bank reserves the right not to deliver Bank Common Shares to any Ineligible Person or a person who, as a result, would become a Significant Shareholder.

### ***Conversion at the Option of the Holder***

Holders of the Bank Exchange Preferred Shares will be entitled to convert their Bank Exchange Preferred Shares with the Bank for Bank Common Shares in the following manner.

On any applicable Conversion Date, and provided that any Loss Absorption Event that has occurred is not then continuing, each Bank Exchange Preferred Share will be convertible, at the option of the holder on not more than 90 and not less than 60 days’ prior written notice before the date fixed for conversion (which notice will be irrevocable), into that number of fully-paid and freely tradeable Bank Common Shares determined by dividing the Cash Conversion Price by the Common Share Conversion Rate. Fractional Bank Common Shares will not be issued on any conversion of the Bank Exchange Preferred Shares but, instead, the Bank or an affiliate will make cash payments equal to the balance of the Cash Conversion Price not otherwise satisfied by the delivery of Bank Common Shares.

If a Loss Absorption Event has occurred and is continuing, on and after June 30, 2013, the right of holders of the Bank Exchange Preferred Shares to submit notice to the Bank of their intention to convert such shares into Bank Common Shares will be suspended until the Loss Absorption Event is no longer continuing and conversion notices may thereafter only be submitted in respect of Conversion Dates occurring after the cessation of the Loss Absorption Event, in accordance with the timing provisions referred to above. All notices of conversion delivered prior to the occurrence of the Loss Absorption Event in respect of any Conversion Date falling after such occurrence will be null and void. The Bank will issue press releases notifying holders of the Bank Exchange Preferred Shares as to the occurrence and cessation of any event giving rise to a suspension of the conversion right attached to the Bank Exchange Preferred Shares. Any holder of the Bank Exchange Preferred Shares that has submitted a conversion notice rendered null and void by the foregoing events will be required to submit a further conversion notice in order to subsequently convert its shares.

The terms of the Bank Preferred Shares Series A2 provide that a holder of TD CaTS II exercising the Holder Exchange Right with an effective Conversion Date on or after June 30, 2013, who wishes to immediately convert the Bank Preferred Shares Series A2 to be so received into Bank Common Shares may do so, provided that any Loss Absorption Event that has occurred is not then continuing, by completing the conversion instructions contained in the conversion panel of the TD CaTS II. In such circumstances, the conversion instructions so completed will be deemed to constitute a valid conversion notice pursuant to the terms of Bank Preferred Shares Series A2 with the result that, upon the first Conversion Date on or after issuance and delivery of the Bank Preferred Shares Series A2 pursuant to the Holder Exchange Right, such shares will be immediately converted into Bank Common Shares provided that any Loss Absorption Event that has occurred is not then continuing. Accordingly, in that case, on the first Conversion Date on or after the effective date of conversion pursuant to the Holder Exchange Right, the holder will receive Bank Common Shares if so elected. Fractional Bank Common Shares will not be issued on any conversion of Bank Preferred Shares Series A2, but instead, the Bank or an affiliate will make cash payments equal to the balance of the Cash Conversion Price not otherwise satisfied by the delivery of Bank Common Shares.

The Bank, subject to the provisions of the Bank Act, Superintendent Approval and the provisions described below under “Restrictions on Dividends and Retirement of Shares”, as applicable, by prior written notice given not later than 40 days before the date fixed for conversion to all holders who have given a conversion notice may either (i) redeem for cash on the Business Day after the date fixed for exchange all but not less than all of the Bank Exchange Preferred Shares forming the subject matter of the applicable conversion notice, or (ii) cause the holder of such Bank Exchange Preferred Shares to sell on the Business Day after the date fixed for conversion such Bank Exchange Preferred Shares to another purchaser or purchasers, if a purchaser or purchasers willing to purchase all but not less than all of such Bank Exchange Preferred Shares is or are found. Any such redemption or purchase will be made by the payment of an amount in cash equal to the Cash Redemption Price. In such event, the Bank Exchange Preferred Shares to be so redeemed or purchased will not be converted on the date set forth in the conversion notice.

Upon exercise by a holder of the Bank Common Share Conversion Right, the Bank reserves the right not to issue Bank Common Shares to any Ineligible Person or a person who, as a result, would become a Significant Shareholder.

#### ***Presentation for Exchange, Redemption or Sale***

An exchange, redemption, conversion or sale by a holder of the Bank Exchange Preferred Shares will be effected by the holder transferring its Bank Exchange Preferred Shares to be exchanged, redeemed, converted or sold, as the case may be, to the account of the Bank or other designated affiliate of the Bank in CDS (or, if the Bank Exchange Preferred Shares are not then issued in book-entry only form, by depositing with the transfer agent for the Bank Exchange Preferred Shares, at one of its principal offices, certificates representing such Bank Exchange Preferred Shares).

#### ***Purchase for Cancellation***

On and after December 31, 2007, but subject to the provisions of the Bank Act, Superintendent Approval and the provisions described below under “Restrictions on Dividends and Retirement of Shares”, the Bank may at any time purchase for cancellation any Bank Exchange Preferred Shares in the open market or by tender or private contract at any price.

#### ***Rights on Liquidation***

In the event of the liquidation, dissolution or winding-up of the Bank, the holders of the Bank Exchange Preferred Shares will be entitled to receive \$25 per share, together with any declared and unpaid dividends to the date of payment, before any amount will be paid or any assets of the Bank distributed to the holders of the Bank Common Shares or any shares ranking junior to the Bank Exchange Preferred Shares. The holders of the Bank Exchange Preferred Shares will not be entitled to share in any further distribution of the property or assets of the Bank.

#### ***Restrictions on Dividends and Retirement of Shares***

So long as any series of the Bank Exchange Preferred Shares are outstanding, the Bank will not at any time, without the approval of the holders of such series of the Bank Exchange Preferred Shares given as specified below under “Shareholder Approvals”:

- (a) declare any dividend on the Bank Common Shares or any other shares ranking junior to the series of the Bank Exchange Preferred Shares (other than stock dividends payable in the form of shares ranking junior to the series of the Bank Exchange Preferred Shares);
- (b) redeem, purchase or otherwise retire any Bank Common Shares or any other shares ranking junior to the series of the Bank Exchange Preferred Shares (except out of the net cash proceeds of a substantially concurrent issue of shares ranking junior to the series of the Bank Exchange Preferred Shares);



- (c) redeem, purchase or otherwise retire less than all the series of the Bank Exchange Preferred Shares; or
- (d) except pursuant to any purchase obligation, sinking fund, retraction privilege or mandatory redemption provisions attaching to any series of preferred shares of the Bank, redeem, purchase or otherwise retire any other shares ranking on a parity with the series of the Bank Exchange Preferred Shares;

unless, in each case, all dividends on the series of the Bank Exchange Preferred Shares up to and including those payable on the Dividend Payment Date for the last completed period for which dividends are payable and in respect of which the rights of holders have not been extinguished, and all dividends then accrued on all other shares ranking senior to or on a parity with the series of the Bank Exchange Preferred Shares up to the immediately preceding respective date or dates for payment and in respect of which the right of the holders thereof have not been extinguished, have been declared and paid or set aside for payment.

#### ***Issue of Additional Series of Bank Class A Preferred Shares***

The Bank may issue other series of Bank Class A Preferred Shares without the authorization of the holders of the Bank Exchange Preferred Shares.

#### ***Amendments***

The Bank will not, without the approval of the holders of the Bank Exchange Preferred Shares and any holders of TD CaTS II then outstanding given as described below under “Shareholder Approvals”, delete or vary any rights, privileges, restrictions and conditions attaching to the Bank Exchange Preferred Shares. In addition to this approval, the Bank will not without, but may from time to time with, Superintendent Approval, make any such deletion or variation which might affect the classification afforded the Bank Exchange Preferred Shares from time to time for capital adequacy requirements pursuant to the Bank Act or the Capital Guidelines.

#### ***Shareholder Approvals***

The approval of any amendments to the rights, privileges, restrictions and conditions attaching to a series of the Bank Exchange Preferred Shares or all series of the Bank Exchange Preferred Shares, respectively, may be given by a resolution carried by the affirmative vote of not less than 66 2/3% of the votes cast at a meeting of holders of such series of the Bank Exchange Preferred Shares or all series of the Bank Exchange Preferred Shares, respectively, at which at least a majority of the outstanding shares of the series or all series, respectively, is represented or, if no quorum is present at that meeting, at a meeting following such adjourned meeting at which no quorum requirement would apply. Pursuant to the Share Exchange Agreement, the Bank will agree that, for as long as the TD CaTS II remain outstanding, no amendment will be made to the rights, privileges, restrictions and conditions of the Bank Exchange Preferred Shares (other than any amendments relating to the Bank Exchange Preferred Shares as a class) without the prior approval of 66 2/3% of the holders of the TD CaTS II.

#### ***Voting Rights***

Subject to applicable law, the holders of the Bank Exchange Preferred Shares as such will not be entitled to receive notice of or to attend or to vote at any meeting of the shareholders of the Bank unless and until the first time at which the rights of such holders to any undeclared dividends have become extinguished as described under “Certain Provisions of the Bank Preferred Shares Series A2 and A3 – Restrictions on Dividends and Retirement of Shares”. In that event, the holders of the Bank Exchange Preferred Shares will be entitled to receive notice of and to attend all meetings of shareholders at which directors are to be elected and will be entitled to one vote for each Bank Exchange Preferred Share held. The voting rights of the holders of the Bank Exchange Preferred Shares shall forthwith cease upon payment by the Bank of the first dividend on the Bank Exchange Preferred Shares to which the holders are entitled subsequent to the time such voting rights first arose. At such time as the rights of such holders to any undeclared dividends on the Bank Exchange Preferred Shares have again become extinguished, such voting rights shall become effective again and so on from time to time.

### ***Capital Reorganizations and Amalgamations***

If there is a capital reorganization, merger or amalgamation of the Bank, the Share Exchange Agreement and the provisions of the Bank Exchange Preferred Shares will provide that holders of the Bank Exchange Preferred Shares will be entitled to receive, pursuant to the Bank Common Share Conversion Right, after the capital reorganization, merger or amalgamation, the number of Bank Common Shares or consideration of the Bank or of a corporation resulting, surviving or continuing from the capital reorganization, merger or amalgamation that such holder would have received had its Bank Exchange Preferred Shares been converted, pursuant to the Bank Common Share Conversion Right, for Bank Common Shares immediately prior to the record date of the capital reorganization, merger or amalgamation.

### ***Book-Entry Only Form***

Unless the Bank elects otherwise, the Bank Exchange Preferred Shares will be issued in “book-entry only” form, and may be purchased, held and transferred in substantially the same manner as the TD CaTS II. See “Description of the Trust Securities — TD CaTS II — Book-Entry Only Form”.

### ***Listing***

Pursuant to the Share Exchange Agreement, the Bank will undertake to list on the TSX any Bank Exchange Preferred Shares Series A2 and A3 issued upon the exercise of the Holder Exchange Right or the occurrence of an Automatic Exchange.

## **BANK ACT RESTRICTIONS**

The Bank Act contains restrictions on the issue, transfer, acquisition, beneficial ownership and voting of all shares of a chartered bank. The following is a summary of such restrictions. No person shall be a major shareholder of a bank if the bank has equity of \$5 billion or more (which would include the Bank). A person is a major shareholder of a bank where: (i) the aggregate of shares of any class of voting shares owned by that person, by entities controlled by that person and by any person associated or acting jointly or in concert with that person is more than 20% of that class of voting shares; or (ii) the aggregate of shares of any class of non-voting shares beneficially owned by that person, by entities controlled by that person and by any person associated or acting jointly or in concert with that person is more than 30% of that class of non-voting shares. No person shall have a significant interest in any class of shares of a bank, including the Bank, unless the person first receives the approval of the Minister of Finance (Canada). For purposes of the Bank Act, a person has a significant interest in a class of shares of a bank where the aggregate of any shares of the class beneficially owned by that person, by entities controlled by that person and by any person associated or acting jointly or in concert with that person exceeds 10% of all of the outstanding shares of that class of shares of such bank. For greater certainty, a person who, as a result of the exercise of the Holder Exchange Right would become a Significant Shareholder by virtue of the acquisition of the Bank Preferred Shares Series A2 shall be deemed not to be a Significant Shareholder if such person has elected to concurrently convert all or any of such Bank Preferred Shares Series A2 into Bank Common Shares and, immediately following the effective date of the exchange pursuant to the Holder Exchange Right, such person would, directly or indirectly, hold 10% or less of the total number of outstanding Bank Class A Preferred Shares and Bank Common Shares, respectively. Purchasers of TD CaTS II (and Participants) may be required to furnish declarations relating to ownership (and ownership by clients of such Participants) in a form prescribed by the Bank.

Under the Bank Act, the Bank cannot redeem or purchase any of its shares, including the Bank Exchange Preferred Shares, unless the consent of the Superintendent has been obtained. In addition, the Bank Act prohibits a payment to purchase or redeem any shares or the payment of a dividend if there are reasonable grounds for believing that the Bank is, or the payment would cause the Bank to be, in contravention of the Bank Act requirement to maintain, in relation to its operations, adequate capital and appropriate forms of liquidity and to comply with any regulations or directions of the Superintendent in relation thereto.

## **DESCRIPTION OF THE BANK DEPOSIT NOTE**

The following is a summary of the terms and conditions attaching to the Bank Deposit Note. This summary is qualified in its entirety by the terms of the Bank Deposit Note.

### **Interest**

Interest on the Bank Deposit Note will be payable at a fixed annual rate of 6.792%, payable in equal semi-annual instalments in arrears of \$33.96 per \$1,000 principal amount of the Bank Deposit Note on each Bank Deposit Note Interest Payment Date, commencing December 31, 2002. Interest on the Bank Deposit Note will be payable to the Trust on every Bank Deposit Note Interest Payment Date regardless of whether the corresponding Distribution Date is a Regular Distribution Date or a Distribution Diversion Date.

### **Redemption at the Option of the Bank**

On and after December 31, 2007 and on any Bank Deposit Note Interest Payment Date thereafter, the Bank Deposit Note will be redeemable at the option of the Bank in whole or in part without the consent of the holder, subject to Superintendent Approval and upon not less than 30 nor more than 60 days' prior written notice by the Bank for an amount in cash equal to (i) a cash amount per \$1,000 principal amount of the Bank Deposit Note to be redeemed equal to the greater of (A) an amount equal to \$1,000 plus any accrued and unpaid interest thereon to the date of redemption per \$1,000 principal amount of the Bank Deposit Note to be redeemed (the "Deposit Note Redemption Price") and (B) the Deposit Note Canada Yield Price, if the Bank Deposit Note is redeemed prior to December 31, 2012 (the greater of (A) and (B) being the "Deposit Note Early Redemption Price"), or (ii) the Deposit Note Redemption Price, if the Bank Deposit Note is redeemed on or after December 31, 2012. If the Bank has redeemed the Bank Deposit Note, in whole or in part, the Trust will be required to redeem a corresponding amount of TD CaTS II. It is the intention of the Trust to use the proceeds of redemption received in respect of the Bank Deposit Note to make payment to the holders of the TD CaTS II to be redeemed, as required.

"Deposit Note Canada Yield Price" means a price per \$1,000 principal amount of the Bank Deposit Note to be redeemed calculated to provide an annual yield thereon to December 31, 2012 equal to the Government of Canada Yield plus 0.38%, determined on the Business Day immediately preceding the date on which the Bank has given notice of the redemption of the Bank Deposit Note (including as a result of the occurrence of a Special Event) plus accrued and unpaid interest thereon to the date of redemption.

### **Conversion at Option of the Holder**

Each \$1,000 principal amount of the Bank Deposit Note will be convertible at any time at the option of the holder into 40 Bank Preferred Shares Series A2. The Trust will exercise its right to convert the Bank Deposit Note in circumstances in which holders of TD CaTS II exercise the Holder Exchange Right to acquire Bank Preferred Shares Series A2, so as to enable the Trust to fulfil its obligations under the Holder Exchange Right. Upon any such conversion of the Bank Deposit Note, the Bank Preferred Shares Series A2 so acquired by the Trust will be delivered to the holders of TD CaTS II who have exercised the Holder Exchange Right in accordance with their respective entitlements.

The right to convert the Bank Deposit Note into Bank Preferred Shares Series A2 is called the "Conversion Right".

### **Redemption Upon Special Event**

Upon the occurrence of a Special Event, the Bank, at its option, and with Superintendent Approval, and on not less than 30 nor more than 90 days' prior written notice, may redeem at any time the Bank Deposit Note in whole (but not in part), without the consent of the holder, for an amount in cash for each \$1,000 principal amount of the Bank Deposit Note being redeemed equal to (i) the Deposit Note Early Redemption Price, if the Bank Deposit Note is redeemed prior to December 31, 2012, or (ii) the Deposit Note Redemption Price, if the Bank Deposit Note is

redeemed on or after December 31, 2012. If the Bank has redeemed the Bank Deposit Note, the Trust will be required to redeem all of the TD CaTS II.

### **Events of Default**

Failure by the Bank to make payments or to satisfy its other obligations under the Bank Deposit Note will not entitle the Trust to accelerate the Bank Deposit Note.

### **Priority of the Bank Deposit Note**

The Bank Deposit Note will rank on a parity with all other deposit and unsubordinated liabilities of the Bank. Upon any distribution of assets of the Bank to creditors upon any dissolution, winding-up, liquidation, reorganization, bankruptcy or insolvency, all principal and accrued interest due on the Bank Deposit Note must be paid in full before holders of junior or subordinated debentures are entitled to receive any payment. If a liquidation, dissolution or winding-up of the Bank occurs, the Bank Deposit Note will rank in priority to any shares of the Bank with respect to payments and the distribution of assets.

### **Maturity Date**

The Bank Deposit Note will mature on December 31, 2052. On maturity of the Bank Deposit Note, the Bank will be required to pay the principal amount of the Bank Deposit Note and any accrued and unpaid interest thereon to the date of payment to the Trust in cash. If any TD CaTS II remain outstanding as of that date, the Trust will invest the proceeds received on repayment of the Bank Deposit Note in Eligible Investments, for a price equal to the fair market value thereof. Accordingly, the Bank Deposit Note will not be repaid with or converted into or exchanged for debt of the Bank or of any person related to the Bank within the meaning of the Tax Act and, following the maturity of the Bank Deposit Note, the proceeds of the repayment of the Bank Deposit Note will not be invested in debt of the Bank or of any person related to the Bank within the meaning of the Tax Act. If, following maturity of the Bank Deposit Note, a holder of TD CaTS II exercises the Holder Exchange Right, the Trust will subscribe for, and the Bank has agreed to issue, pursuant to the Subscription Right, Bank Preferred Shares Series A2 to satisfy the Trust's obligation to deliver 40 Bank Preferred Shares Series A2 for each TD CaTS II tendered for exchange pursuant to the exercise of the Holder Exchange Right. The Bank Preferred Shares Series A2 tendered will then be delivered to the relevant holders of TD CaTS II and the TD CaTS II will be cancelled.

## **CANADIAN FEDERAL INCOME TAX CONSIDERATIONS**

In the opinion of McCarthy Tétrault LLP, counsel to the Trust, and Torys LLP, counsel to the Underwriters, the following is a summary of the principal Canadian federal income tax considerations generally applicable to the Trust and a holder of TD CaTS II who acquires TD CaTS II under the Offering and who, for purposes of the Tax Act, at all relevant times, (i) is resident or deemed to be resident in Canada, (ii) deals at arm's length with and is not affiliated with the Bank and the Trust, (iii) holds TD CaTS II, any Bank Exchange Preferred Shares and any Bank Common Shares as capital property, and (iv) is not exempt from tax under Part I of the Tax Act. This summary does not take into account the "mark-to-market" rules contained in the Tax Act which apply to certain financial institutions. Furthermore, the part of this summary dealing with the Bank Exchange Preferred Shares does not apply to a specified financial institution (as defined in the Tax Act) that receives (or is deemed to receive), alone or together with persons with whom it does not deal at arm's length, in the aggregate dividends in respect of more than 10% of the Bank Preferred Shares Series A2 or the Bank Preferred Shares Series A3 outstanding at the time a dividend is received. This summary also assumes that all issued and outstanding Bank Exchange Preferred Shares are listed on a prescribed stock exchange in Canada (as defined in the Tax Act) at such times as dividends (including deemed dividends) are paid or received on such shares.

**The summary is of a general nature only and is not intended to be, nor should it be construed to be, legal or tax advice to any particular investor. Consequently, investors are urged to consult their own tax advisors with respect to their particular circumstances.**

This summary is based upon the current provisions of the Tax Act and the regulations issued thereunder, all specific proposals to amend the Tax Act and the regulations publicly announced by the Minister of Finance (Canada) prior to the date hereof, and counsels' understanding of the current administrative and assessing policies of the Canada Customs and Revenue Agency (the "Agency"). This summary is not exhaustive of all possible Canadian federal income tax considerations and, except as mentioned above, does not take into account any changes in law or administrative and assessing policies, whether by legislative, governmental or judicial decision or action, nor does it take into account or consider any other federal tax considerations or provincial, territorial or foreign tax considerations. With respect to the proposed amendments to the Tax Act and the regulations, no assurance can be given that the proposed amendments will become law as proposed or at all.

## **TD CaTS II**

### ***Taxation of the Trust***

The Declaration of Trust requires that, in each taxation year of the Trust, the net income, including net realized taxable capital gains, if any, of the Trust as would otherwise be taxable in the Trust will be payable to holders of TD CaTS II or the holder of the Special Trust Securities. Consequently, the Trust is not expected to be liable for income tax under Part I of the Tax Act. Capital or income losses incurred by the Trust cannot be allocated to holders of the TD CaTS II or the holder of Special Trust Securities but may, subject to certain limitations, be deducted by the Trust from taxable capital gains or net income realized in other years.

As a registered investment, the Trust is potentially subject to special taxes under the Tax Act. The Declaration of Trust requires the Trust to restrict its investments to the effect that it is not expected to be subject to any of these special taxes.

### ***Taxation of Holders of TD CaTS II***

#### ***Distributions***

A holder of TD CaTS II will be required to include in computing its income for a taxation year all net income, including net realized taxable capital gains, if any, paid or payable to it in that taxation year. All or substantially all of the amounts payable to holders of TD CaTS II are expected to be treated as income from a trust, rather than capital gains, for income tax purposes.

#### ***Dispositions***

A holder of TD CaTS II who disposes of or is deemed to dispose of TD CaTS II will generally realize a capital gain (or sustain a capital loss) to the extent that the proceeds of disposition, net of any reasonable costs of disposition, exceed (or are less than) the adjusted cost base of the TD CaTS II to the holder. A disposition or deemed disposition of a holder's TD CaTS II will be considered to occur on, among other events: (i) an exchange of the TD CaTS II for Bank Preferred Shares Series A2 pursuant to the exercise by a holder of the Holder Exchange Right (in which event a holder's proceeds of disposition generally will be equal to the fair market value of the Bank Preferred Shares Series A2 received on the exchange), (ii) an exchange of the TD CaTS II for Bank Preferred Shares Series A3 pursuant to the operation of the Automatic Exchange (in which event a holder's proceeds of disposition generally will be equal to the fair market value of the Bank Preferred Shares Series A3 received on the exchange), (iii) a redemption of the TD CaTS II on the Trust Special Event Redemption Right or the Trust Redemption Right (in which event a holder's proceeds of disposition will be equal to the Redemption Price; in cases where the Early Redemption Price is payable, the excess of the Early Redemption Price over the Redemption Price will be allocated to the holder as income) and (iv) a termination of the Trust.

### ***Share Exchange Agreement***

The Bank and the Trust have been advised by TD Securities Inc. that the value to holders of the rights under the Share Exchange Agreement is nominal and, therefore, the Bank is of the view that no amount should be allocated to such rights. However, this determination is not binding on the Agency.

## **Bank Common Shares and Bank Exchange Preferred Shares**

### ***Dividends***

Dividends (including deemed dividends) received on the Bank Common Shares or the Bank Exchange Preferred Shares by an individual will be included in the individual's income and will be subject to the gross-up and dividend tax credit rules normally applicable to taxable dividends received from taxable Canadian corporations. Dividends (including deemed dividends) on the Bank Common Shares or the Bank Exchange Preferred Shares received by a corporation to which this part of the summary applies will be included in computing its income and will generally be deductible in computing its taxable income.

The Bank Exchange Preferred Shares will be taxable preferred shares as defined in the Tax Act. The terms of the Bank Preferred Shares Series A2 and the Bank Preferred Shares Series A3 require the Bank to make an election under Part VI.1 of the Tax Act so that corporate shareholders will not be subject to tax under Part IV.1 of the Tax Act on dividends received (or deemed to be received) on the Bank Exchange Preferred Shares.

A private corporation, as defined in the Tax Act, or any other corporation controlled, whether by reason of a beneficial interest in one or more trusts or otherwise, by or for the benefit of an individual (other than a trust) or a related group of individuals (other than trusts), will generally be liable to pay a 33 1/3% refundable tax under Part IV of the Tax Act on dividends received (or deemed to be received) on the Bank Common Shares and the Bank Exchange Preferred Shares to the extent such dividends are deductible in computing its taxable income.

### ***Redemption and Exchange***

If the Bank redeems for cash or otherwise acquires the Bank Common Shares, the Bank Preferred Shares Series A2 or the Bank Preferred Shares Series A3, respectively, other than by a purchase in the manner in which these shares are normally purchased by a member of the public in the open market or by reason of a conversion of the Bank Preferred Shares Series A2 or the Bank Preferred Shares Series A3 into Bank Common Shares pursuant to the Bank Preferred Share Redemption Right or the Bank Common Share Conversion Right, the holder will be deemed to have received a dividend equal to the amount, if any, paid by the Bank, as applicable, in excess of the paid-up capital of such shares at such time. The difference between the amount paid and the amount of the deemed dividend will be treated as proceeds of disposition for the purposes of computing the capital gain or capital loss arising on the disposition of such shares. In the case of a corporate shareholder, it is possible that in certain circumstances all or part of the amount so deemed to be a dividend may be treated as proceeds of disposition and not as a dividend.

The conversion of the Bank Preferred Shares Series A2 or the Bank Preferred Shares Series A3 into Bank Common Shares pursuant to the Bank Preferred Share Redemption Right or the Bank Common Share Conversion Right will be deemed not to be a disposition of property and accordingly will not give rise to any deemed dividend or capital gain or capital loss. The cost to a holder of Bank Common Shares received on the conversion will, subject to the averaging rules, be deemed to be equal to the holder's adjusted cost base of such Bank Preferred Shares Series A2 or Bank Preferred Shares Series A3 immediately before the conversion. A holder who receives cash of \$200 or less in lieu of a fraction of a Bank Common Share may either include the capital gain or capital loss on the partial disposition in computing income, or reduce the adjusted cost base of the Bank Common Shares received by the amount of the cash.

### ***Dispositions***

A holder of Bank Common Shares, Bank Preferred Shares Series A2 or Bank Preferred Shares Series A3 who disposes of or is deemed to dispose of the Bank Common Shares, the Bank Preferred Shares Series A2 or the Bank Preferred Shares Series A3 (including on a redemption or other acquisition by the Bank) will generally realize a capital gain (or sustain a capital loss) to the extent that the proceeds of disposition, net of any reasonable costs of disposition, exceed (or are less than) the adjusted cost base of such shares to the holder thereof. If the shareholder is a corporation, any such capital loss may in certain circumstances be reduced by the amount of any dividends, including deemed dividends, which have been received on such shares. Analogous rules apply to a partnership or trust of which a corporation, trust or partnership is a member or beneficiary.

### ***Tax Treatment of Capital Gains and Losses***

Generally, one-half of a capital gain will be included in computing the holder's income as a taxable capital gain and one-half of a capital loss may be deducted from the holder's taxable capital gains in accordance with the rules contained in the Tax Act. Taxable capital gains of a Canadian-controlled private corporation may be subject to an additional refundable tax of 6 2/3% of such taxable gains. Capital gains realized by an individual may give rise to alternative minimum tax under the Tax Act.

### **PLAN OF DISTRIBUTION**

Pursuant to an agreement (the "Underwriting Agreement") dated October 15, 2002 between the Trust, the Bank, TD Securities Inc., RBC Dominion Securities Inc., BMO Nesbitt Burns Inc., CIBC World Markets Inc., Scotia Capital Inc., National Bank Financial Inc., Merrill Lynch Canada Inc., HSBC Securities (Canada) Inc., Desjardins Securities Inc. and Trilon Securities Corporation (the "Underwriters"), the Trust has agreed to sell, and the Underwriters have agreed to purchase, on October 22, 2002, or on such other date not later than November 20, 2002 as may be agreed upon, all but not less than all of the 350,000 TD CaTS II being offered hereby at a price of \$1,000 per TD CaTS II, subject to the terms and conditions set forth in the Underwriting Agreement. The Trust has agreed to pay to the Underwriters a fee of \$10 for each TD CaTS II sold. Based on the expected sales of the TD CaTS II, the aggregate Underwriters' fee will be \$3,500,000.

The Underwriting Agreement also provides that the Underwriters may, at their discretion, terminate their obligations thereunder upon the occurrence of certain stated events.

The Offering is being made concurrently in all provinces and territories of Canada. The TD CaTS II have not been and will not be registered under the United States Securities Act of 1933, as amended. The Underwriters have agreed not to offer for sale or sell the TD CaTS II in the United States or to any U.S. Person within the meaning of applicable U.S. securities laws.

TD Securities Inc., one of the Underwriters, is a wholly-owned subsidiary of the Bank. Each of the Trust and the Bank is a related issuer of TD Securities Inc. under applicable securities legislation by virtue of the Bank's interest in the Trust and TD Securities Inc. The terms of the Offering were negotiated at arm's length between the Bank, the Trust and the Underwriters. TD Securities Inc. will not receive any benefit in connection with the Offering other than as described herein. RBC Dominion Securities Inc., an underwriter in respect of which neither the Trust nor the Bank is a related or connected issuer, has participated in the structuring and pricing of the Offering and in the due diligence activities performed by the Underwriters for the Offering.

Pursuant to policy statements of the Ontario Securities Commission and the Commission des valeurs mobilières du Québec, the Underwriters may not, throughout the period of distribution under this prospectus, bid for or purchase TD CaTS II. The foregoing restriction is subject to certain exceptions, as long as the bid or purchase is not engaged in for the purpose of creating actual or apparent active trading in or raising the price of such securities. These exceptions include a bid or purchase permitted under the by-laws and rules of the TSX relating to market stabilization and passive market making activities and a bid or purchase made for and on behalf of a customer when the order was not solicited during the period of distribution provided that the bid or purchase was not engaged in for the purpose of creating actual or apparent active trading in, or raising the price of, such securities. Pursuant to the first mentioned exception, in connection with this Offering and subject to applicable law, the Underwriters may effect the transactions which stabilize or maintain the market price of such securities at levels other than those which might otherwise prevail on the open market. Such transactions, if commenced, may be discontinued at any time.

## RATINGS

The TD CaTS II have received ratings as follows:

<u>Rating Agency</u>	<u>Rating</u>
DBRS	Ayn <sup>(1)</sup>
S&P	P-1 (low) <sup>(1)</sup> (on the Canadian scale) A <sup>(1)</sup> (on the global scale)

Note:

(1) With negative outlook. A rating outlook, expressed as positive, stable or negative, provides an opinion regarding the likely direction of any medium-term rating actions.

Neither of these ratings should be construed as a recommendation to buy, sell or hold the TD CaTS II and either rating may be revised or withdrawn at any time by the respective rating organization.

## USE OF PROCEEDS

The proceeds to the Trust from the sale of the TD CaTS II will be \$350,000,000 (before Offering expenses of \$4,500,000). The Trust will use the proceeds to be received on closing of the Offering to purchase the Bank Deposit Note.

The Bank intends to use the proceeds from the sale of the Bank Deposit Note for general corporate purposes. The Bank expects that the proceeds from the sale of the TD CaTS II will be included in the Tier 1 capital of the Bank (assuming the Superintendent approves the inclusion of TD CaTS II as Tier 1 capital of the Bank). See “The Toronto-Dominion Bank — Capital Adequacy Requirements”.

## LEGAL PROCEEDINGS

The Bank and its subsidiaries are engaged in litigation arising in the ordinary course of business. None of this litigation, however, is expected to have a material adverse effect on the consolidated financial position or results of operations of the Bank. The Trust is not engaged in any litigation.

## RISK FACTORS

*Investors should carefully consider the risks described below before deciding whether to invest in TD CaTS II. Investors should also carefully consider any risks that may be described in other filings the Bank makes with securities or banking regulators including, without limitation, the section entitled “Management’s Discussion and Analysis of Operating Performance” contained in the Annual Report, and management’s discussion and analysis of operating performance for the nine months ended July 31, 2002, incorporated by reference in this prospectus. These analyses discuss, among other things, certain known material trends and events, and risks or uncertainties that have had a material effect on, and may reasonably be expected to have a material effect on, the Bank’s business, financial condition or results of operations, including legislative or regulatory developments, competition, technological change, global capital market activity, interest rates, inflation and general economic conditions in geographic areas where the Bank operates.*

### **Risk Factors Specifically Associated with the TD CaTS II**

#### ***Automatic Exchange of TD CaTS II for Bank Preferred Shares Series A3***

The purchase of TD CaTS II involves risk with respect to the performance and capital levels of the Bank. If a Loss Absorption Event occurs, the TD CaTS II will be automatically exchanged for Bank Preferred Shares Series A3, without the consent of the holders. These shares would then be an investment in the Bank and not in the Trust. As a result, holders of TD CaTS II could become shareholders of the Bank at a time when the Bank’s financial condition is deteriorating or when the Bank has become insolvent or bankrupt or resolved to wind-up or has been ordered wound-up or liquidated. An investment in the Bank is also subject to certain risks that are distinct from the



risks associated with an investment in the Trust, including the general risks inherent in equity investments in depository institutions. In the event of a liquidation of the Bank, the claims of depositors and creditors of the Bank would be entitled to a priority of payment over the claims of holders of equity interests such as Bank Preferred Shares Series A2 or Bank Preferred Shares Series A3. If the Bank were to become insolvent or bankrupt or resolved to wind-up or were ordered wound-up or liquidated after the Automatic Exchange or if the Automatic Exchange were to occur after the insolvency of the Bank, the holders of Bank Preferred Shares Series A3 may receive, if anything, substantially less than the holders of the TD CaTS II would have received had the TD CaTS II not been exchanged for Bank Preferred Shares Series A3. Potential investors in the TD CaTS II should carefully consider the description of the Bank set forth under “The Toronto-Dominion Bank”. See also “Description of the Trust Securities — TD CaTS II — Automatic Exchange”.

### ***Restrictions on Ownership of Bank Shares***

Under the Bank Act, no person shall have a significant interest in any class of shares of the Bank, unless the person first receives the approval of the Minister of Finance (Canada). See “Bank Act Restrictions”. Accordingly, the right of a holder to exchange all or some of the TD CaTS II held by it may be restricted. In addition, certain holders of TD CaTS II who are to acquire Bank Exchange Preferred Shares upon the exercise or operation of the Holder Exchange Right or the Automatic Exchange or Bank Common Shares upon the conversion or exchange of Bank Exchange Preferred Shares may have some or all of such shares disposed of on their behalf pursuant to the procedures referred to under “Description of the Trust Securities — TD CaTS II — Automatic Exchange”, “Description of the Trust Securities — TD CaTS II — Share Exchange Agreement” and “Description of Share Capital of the Bank — Redemption”.

### ***Liquidity of and Dealings in TD CaTS II***

There can be no assurance that an active trading market will develop or be sustained or that the TD CaTS II may be resold at or above the initial public offering price. The ability of a holder to pledge TD CaTS II or otherwise take action with respect to its interest in TD CaTS II (other than through a Participant) may be limited due to the lack of a physical certificate.

No prediction can be made as to the effect, if any, that future issues of TD Capital Trust II Securities, or the availability of such TD Capital Trust II Securities for future issue, will have on the market price of issued TD CaTS II prevailing from time to time. Issues from treasury or sales in the public market by holders of TD CaTS II involving substantial numbers or principal amounts of TD CaTS II in the public market, or the perception that such issues or sales could occur, could adversely affect prevailing market prices for such TD CaTS II and the issuer’s ability to raise additional capital in the equity and debt markets.

### ***Indicated Yield is Non-Cumulative***

The Indicated Yield on the TD CaTS II is non-cumulative. The Indicated Yield on the TD CaTS II is payable by the Trust on each Regular Distribution Date out of the Net Distributable Funds of the Trust. If the Indicated Yield on the TD CaTS II for any Distribution Date is not paid by reason of the occurrence of a Distribution Diversion Event, holders of TD CaTS II will not be entitled to receive the Indicated Yield. See “Description of the Trust Securities — TD CaTS II — Indicated Yield”.

## **MATERIAL CONTRACTS**

The material contracts to be entered into by the Trust in connection with the Offering are as follows:

1. the Declaration of Trust described under “The Trust”;
2. the Administration Agreement described under “The Trust — Administrative Agent”;
3. the Share Exchange Agreement described under “Description of the Trust Securities — TD CaTS II — Share Exchange Agreement”;

4. the Subscription Agreement described under “Summary — Use of Proceeds”;
5. the Deposit Note Purchase Agreement described under “The Trust — Business of the Trust”;
6. the Credit Facility described under “The Trust — Liquidity”; and
7. the Underwriting Agreement described under “Plan of Distribution”.

#### **PRINCIPAL HOLDERS OF SECURITIES**

It is intended that, at all times following the Closing Date, the Bank will own all of the Special Trust Securities. See “Capitalization of the Trust”.

#### **INTERESTS OF THE BANK AND ITS AFFILIATES IN MATERIAL TRANSACTIONS**

Pursuant to the Administration Agreement, the Bank will administer the day-to-day operations of the Trust.

The Bank and its affiliates may have interests, which are not identical to those of the Trust. Consequently, conflicts of interest may arise with respect to transactions, including the renewal, termination or modification of the Administration Agreement. It is the intention of the Trust and the Bank that any agreements and transactions between the Trust, on the one hand, and the Bank and its affiliates, on the other hand, are fair to all parties and consistent with market terms and conditions.

#### **EXPERTS**

Certain legal matters in connection with the Offering will be passed upon by McCarthy Tétrault LLP, on behalf of the Trust and the Bank, and by Torys LLP, on behalf of the Underwriters. The partners, counsel and associates of McCarthy Tétrault LLP and Torys LLP, as a group, beneficially own, directly or indirectly, less than 1% of any class of security issued by the Trust and the Bank. A partner of McCarthy Tétrault LLP is an officer of various affiliates of the Bank through which the Bank administers certain of its real estate investments.

#### **TRANSFER AGENT AND REGISTRAR AND EXCHANGE TRUSTEE**

CIBC Mellon Trust Company will act as transfer agent, registrar and exchange trustee for the TD CaTS II (the “Exchange Trustee”). The TD CaTS II will be issued in book-entry only form through CDS. See “Description of the Trust Securities — TD CaTS II — Book-Entry Only Form”. Subject to the CDS Procedures, registration and transfer of the TD CaTS II may be effected at the principal office of CDS in Toronto, Ontario.

#### **AUDITORS**

Ernst & Young LLP, Chartered Accountants, Toronto, Ontario are the auditors of the Trust.

#### **PROMOTER**

The Bank is the promoter of the Trust by reason of its taking the initiative in creating, structuring and promoting the Trust. The Bank will not receive any benefits, directly or indirectly, from the issuance of the TD CaTS II other than as described in this prospectus. See “The Trust — Business of the Trust”.

Under the Administration Agreement, the Bank, as Administrative Agent, will provide various services in connection with the Offering and the ongoing operations, maintenance and regulatory compliance of the Trust. The Bank will receive an administration fee under the Administration Agreement.

## **STATUTORY RIGHTS OF WITHDRAWAL AND RESCISSION**

Securities legislation in several of the provinces and territories provides purchasers with the right to withdraw from an agreement to purchase securities within two business days after receipt or deemed receipt of a prospectus and any amendment. In several of the provinces and territories, securities legislation further provides a purchaser with remedies for rescission or, in some jurisdictions, damages where the prospectus and any amendment contains a misrepresentation or is not delivered to the purchaser, provided that such remedies for rescission or damages are exercised by the purchaser within the time limit prescribed by the securities legislation of the purchaser's province or territory. The purchaser should refer to any applicable provisions of the securities legislation of the purchaser's province or territory for the particulars of these rights or consult with a legal advisor.

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## COMPILATION REPORT

To the Trustee of TD Capital Trust II

We have reviewed, as to compilation only, the accompanying pro forma balance sheet of TD Capital Trust II as at September 17, 2002 which has been prepared solely for inclusion in this prospectus relating to the sale and issue of TD Capital Trust II Securities — Series 2012-1 of TD Capital Trust II. In our opinion, the pro forma balance sheet has been properly compiled to give effect to the proposed transactions and assumptions described in the notes thereto.

Toronto, Canada  
October 15, 2002

(Signed) Ernst & Young LLP  
Chartered Accountants

## TD Capital Trust II

### Pro Forma Balance Sheet as at September 17, 2002 (unaudited) (in thousands)

	As at September 17, 2002, 2002	Pro Forma Adjustments	Notes	Pro Forma As at September 17, 2002
<b>Assets</b>				
Cash	\$ 1	\$ 350,000	2 (a)	
		1,999	2 (b)	
		18,400	2 (c)	
		(15,900)	2 (c)	
		(4,500)	2 (d)	
		(350,000)	2 (e)	\$ -
Funding Note		15,900	2 (c)	15,900
Bank Deposit Note		350,000	2 (e)	350,000
	<u>\$ 1</u>	<u>\$ 365,899</u>		<u>\$ 365,900</u>
<b>LIABILITIES AND UNITHOLDERS' EQUITY</b>				
<b>Liability</b>				
Loans Payable		<u>\$ 18,400</u>	2 (c)	<u>\$ 18,400</u>
		<u>18,400</u>		<u>18,400</u>
<b>Trust Capital</b>				
TD Capital Trust II Securities – Series 2012-1		350,000	2 (a)	350,000
Special Trust Securities		2,000	2 (b)	2,000
Original Settlement Amount	\$ 1	(1)	2 (b)	-
Issue Costs		(4,500)	2 (d)	(4,500)
Total Trust Capital	<u>1</u>	<u>347,499</u>		<u>347,500</u>
	<u>\$ 1</u>	<u>\$ 365,899</u>		<u>\$ 365,900</u>

See accompanying notes

## **TD Capital Trust II**

### **Notes to Pro Forma Balance Sheet**

**September 17, 2002**

**(unaudited)**

**(in thousands of dollars except share amounts)**

#### **1. Basis of Presentation**

The pro forma balance sheet is based upon the audited balance sheet of TD Capital Trust II (the “Trust”) as at September 17, 2002, adjusted to reflect the issue of TD Capital Trust II Securities-Series 2012-1, the issue of Special Trust Securities to The Toronto-Dominion Bank (the “Bank”) and the purchase of a bank deposit note from the Bank (the “Bank Deposit Note”).

The pro forma balance sheet has been prepared by management of the Bank, as administrative agent of the Trust, in accordance with Canadian generally accepted accounting principles.

The pro forma balance sheet should be read in conjunction with the audited balance sheet of the Trust as at September 17, 2002.

#### **2. Pro Forma Assumptions and Adjustments**

The pro forma balance sheet gives effect to the following transactions as if they had occurred on September 17, 2002:

- (a) the issue of 350,000 TD Capital Trust II Securities-Series 2012-1 for \$1 each, for total gross proceeds of \$350,000;
- (b) the issue of Special Trust Securities to the Bank for total proceeds received on closing of \$2,000. The original settlement amount on the Trust’s formation was applied as part of the subscription price for the Special Trust Securities;
- (c) the non-interest-bearing loan to the Trust from the Bank to fund the fees and expenses related to the Offering and to fund the purchase of a deposit note from the Bank (the “Funding Note”);
- (d) the payment of estimated costs, including underwriters’ commission and expenses of the offering, relating to the issuance of the TD Capital Trust II Securities – Series 2012-1 of \$4,500; and
- (e) the purchase of the Bank Deposit Note from the Bank for a purchase price of \$350,000.

## AUDITORS' REPORT

To the Trustee of TD Capital Trust II

We have audited the balance sheet of TD Capital Trust II (the "Trust") as at September 17, 2002. This financial statement is the responsibility of The Toronto-Dominion Bank, as administrative agent of the Trust. Our responsibility is to express an opinion on this balance sheet based on our audit.

We conducted our audit in accordance with Canadian generally accepted auditing standards. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the balance sheet is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the balance sheet. An audit also includes assessing the accounting principles used and significant estimates made by the administrative agent, as well as evaluating the overall balance sheet presentation.

In our opinion, the balance sheet referred to above presents fairly, in all material respects, the financial position of the Trust as at September 17, 2002 in accordance with Canadian generally accepted accounting principles.

Toronto, Canada  
October 15, 2002

(Signed) Ernst & Young LLP  
Chartered Accountants



**TD Capital Trust II**  
**Balance Sheet**  
**As at September 17, 2002**

Cash .....	<b><u>\$ 1,000</u></b>
Trust Capital.....	<b><u>\$ 1,000</u></b>

On behalf of the Administrative Agent of the Trustee:

By: (Signed) ALAN J. JETTE

By: (Signed) PETER J. AUST

See accompanying notes

## **TD Capital Trust II**

### **Notes to Balance Sheet September 17, 2002**

#### **1. Establishment and Organization**

TD Capital Trust II (the "Trust") is a open-end trust formed on September 10, 2002 by The Canada Trust Company (the "Trustee"), a subsidiary of The Toronto-Dominion Bank (the "Bank"), pursuant to the Declaration of Trust. An amount of \$1,000 was settled on the Trust's formation and that amount will be applied as part of the subscription price for the Special Trust Securities. The Trust intends to make investments and to conduct its activities at all times in such a manner as to qualify as a registered investment under the provisions of the Income Tax Act (Canada).

#### **2. Trust Capital**

##### **(a) Authorized Trust Capital**

The Trust's authorized capital consists of an unlimited number of Special Trust Securities and an unlimited number of TD Capital Trust II Securities issuable in series.

##### **(b) TD CaTS II**

A series of TD Capital Trust II Securities has been designated as TD Capital Trust II Securities – Series 2012 –1 ("TD CaTS II").

The TD CaTS II are non-voting except in certain limited circumstances.

The holders of TD CaTS II will be entitled to non-cumulative fixed cash distributions of the Trust's income in the amount of \$33.96 ("Indicated Yield"), payable semi-annually on the last day of June and December of each year provided that the Bank is paying dividends on its preferred and common shares in accordance with ordinary Bank dividend practice.

On and after December 31, 2007 but subject to the provisions of the Act and to the prior approval of the Superintendent of Financial Institutions Canada (the "Superintendent"), the TD CaTS II will be redeemable at the option of the Trust in whole or in part and without the consent of the holders thereof.

Subject to the approval of the Superintendent, upon the occurrence of certain regulatory and tax events ("Special Event"), prior to December 31, 2007, the TD CaTS II will be redeemable at the option of the Trust in whole (but not in part) and without the consent of the holders thereof.

Each TD CaTS II can be surrendered to the Trust at any time for a price equal to 40 Preferred Shares Series A2 of the Bank at the option of the holder. In certain circumstances the Trust may arrange for substitute purchasers to purchase such TD CaTS II.

Each TD CaTS II will be automatically exchanged for 40 Preferred Shares Series A3 of the Bank without the consent of the holders, upon the occurrence of certain events such as the winding-up of the Bank, the Superintendent taking control of the Bank's assets, the Bank being under the required capital ratios, or the Superintendent directs the Bank to increase its capital.

On and after December 31, 2007, any outstanding TD CaTS II may be purchased at any time, in whole or in part, by the Trust, at the direction of the holder of the Special Trust Securities and with the approval of the Superintendent.

## **TD Capital Trust II**

### **Notes to Balance Sheet September 17, 2002**

#### **(c) Special Trust Securities**

The holders of the Special Trust Securities are entitled to vote at all meetings of the holders of Special Trust Securities.

The Bank intends to maintain direct or indirect ownership of 100% of the outstanding Special Trust Securities.

Holders of Special Trust Securities will be entitled, after the payment of the Indicated Yield if due to holders of TD CaTS II, to the net distributable funds of the Trust.

#### **3. Related party transactions**

The Trust has engaged TD Securities Inc., a wholly-owned subsidiary of the Bank, and other underwriters to offer for sale to the public on a firm underwritten basis 350,000 TD CaTS II pursuant to a prospectus dated October 15, 2002. TD Securities Inc. will receive a fee upon the issue of the TD CaTS II.

The proceeds of \$350,000,000 received from the offering of the TD CaTS II will be used to purchase a senior deposit note of the Bank (the "Bank Deposit Note"). The Bank's subscription for Special Trust Securities, together with amounts borrowed by the Trust under the Credit Facility, will be used to purchase a deposit note of the Bank (the "Funding Note") and to pay the Underwriters' commission and offering expenses.

The Bank Deposit Note will bear interest at a fixed annual rate of 6.792%, payable in equal semi-annual installments in arrears of \$33.96 for each \$1,000 principal amount of the Bank Deposit Note, on the last day of June and December of each year (each, a "Bank Deposit Note Interest Payment Date"). On and after December 2007, and on any Bank Deposit Note Interest Payment Date thereafter, the Bank Deposit Note will be redeemable at the option of the Bank in whole or in part without the consent of the holder, subject to Superintendent approval. Each \$1,000 principal amount of the Bank Deposit Note will be convertible at any time at the option of the holder into 40 Bank Preferred Shares Series A2. Upon the occurrence of a Special Event, the Bank, at its option and with Superintendent approval, and not less than 30 nor more than 90 days prior written notice, may redeem at any time the Bank Deposit Note in whole (but not in part), without the consent of the holder. The Bank Deposit Note will mature on December 31, 2052.

The Trustee will enter into an Administration and Advisory Agreement with the Bank pursuant to which the Bank will serve as administrative agent of the Trust. Accordingly, the Bank will receive an administration fee in acting in that capacity.

The Canada Trust Company is the Trustee for the Trust.

#### **4. Proposed issue**

Pursuant to an underwriting agreement dated October 15, 2002, the Trust proposes to issue 350,000 TD CaTS II for gross proceeds of \$350,000,000. The underwriting commission and other expenses payable by the Trust are estimated at \$4,500,000.

Concurrently with the closing of such offering, the Bank, the Trust and CIBC Mellon Trust Company as the Exchange Trustee for the holders of the TD CaTS II, Bank Preferred Shares Series A2 and Bank Preferred Shares Series A3, will enter into the Share Exchange Agreement providing for, among other things, the respective rights and obligations of the Bank, the Trust, the Exchange Trustee and the holders of the TD CaTS II, Bank Preferred Shares Series A2 and Bank Preferred Shares Series A3 with respect to the exchange of TD CaTS II for Bank Preferred Shares Series A2 or Bank Preferred Shares Series A3, and to the conversion of Bank Preferred Shares

**TD Capital Trust II**

**Notes to Balance Sheet  
September 17, 2002**

Series A2 or Bank Preferred Shares Series A3 for Bank Common Shares in connection with certain conversion provisions. Immediately following the closing of such offering, and after the subscription by the Bank for Special Trust Securities, the Trust will acquire from the Bank the Bank Deposit Note for a purchase equal to \$350,000,000, and the Funding Note for a purchase price equal to \$15,900,000.

## CERTIFICATE OF THE TRUST

Dated: October 15, 2002

The foregoing, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part 9 of the *Securities Act* (British Columbia), by Part 8 of the *Securities Act* (Alberta), by Part XI of the *Securities Act, 1988* (Saskatchewan), by Part VII of *The Securities Act* (Manitoba), by Part XV of the *Securities Act* (Ontario), by the *Securities Act* (Nova Scotia), by Section 13 of the *Security Frauds Prevention Act* (New Brunswick), by Part II of the *Securities Act* (Prince Edward Island), by Part XIV of *The Securities Act, 1990* (Newfoundland), by the *Securities Act* (Northwest Territories), by the *Securities Act* (Yukon) and by the *Securities Act* (Nunavut) and the respective regulations thereunder. For the purpose of the Province of Québec, this prospectus, as supplemented by the permanent information record, contains no misrepresentation that is likely to affect the value or the market price of the securities to be distributed within the meaning of the *Securities Act* (Québec) and the regulations thereunder.

TD CAPITAL TRUST II  
by its Administrative Agent  
THE TORONTO-DOMINION BANK

By: (Signed) ALAN J. JETTE  
Senior Vice President, Treasury  
and Balance Sheet Management

By: (Signed) PETER J. AUST  
Vice President, Capital Finance

## CERTIFICATE OF THE TORONTO-DOMINION BANK

Dated: October 15, 2002

The foregoing, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part 9 of the *Securities Act* (British Columbia), by Part 8 of the *Securities Act* (Alberta), by Part XI of the *Securities Act, 1988* (Saskatchewan), by Part VII of *The Securities Act* (Manitoba), by Part XV of the *Securities Act* (Ontario), by the *Securities Act* (Nova Scotia), by Section 13 of the *Security Frauds Prevention Act* (New Brunswick), by Part II of the *Securities Act* (Prince Edward Island), by Part XIV of *The Securities Act, 1990* (Newfoundland), by the *Securities Act* (Northwest Territories), by the *Securities Act* (Yukon) and by the *Securities Act* (Nunavut) and the respective regulations thereunder. For the purpose of the Province of Québec, this prospectus, as supplemented by the permanent information record, contains no misrepresentation that is likely to affect the value or the market price of the securities to be distributed within the meaning of the *Securities Act* (Québec) and the regulations thereunder.

(Signed) A.C. BAILLIE  
Chairman and  
Chief Executive Officer

(Signed) D.A. MARINANGELI  
Executive Vice President and  
Chief Financial Officer

### On behalf of the Board of Directors

(Signed) HELEN K. SINCLAIR  
Director

(Signed) RICHARD M. THOMSON  
Director

**CERTIFICATE OF THE UNDERWRITERS**

Dated: October 15, 2002

To the best of our knowledge, information and belief, the foregoing, together with the documents incorporated herein by reference, constitutes full, true and plain disclosure of all material facts relating to the securities offered by this prospectus as required by Part 9 of the *Securities Act* (British Columbia), by Part 8 of the *Securities Act* (Alberta), by Part XI of the *Securities Act, 1988* (Saskatchewan), by Part VII of *The Securities Act* (Manitoba), by Part XV of the *Securities Act* (Ontario), by the *Securities Act* (Nova Scotia), by Section 13 of the *Security Frauds Prevention Act* (New Brunswick), by Part II of the *Securities Act* (Prince Edward Island), by Part XIV of *The Securities Act, 1990* (Newfoundland), by the *Securities Act* (Northwest Territories), by the *Securities Act* (Yukon) and by the *Securities Act* (Nunavut) and the respective regulations thereunder. For the purpose of the Province of Québec, to our knowledge, this prospectus, as supplemented by the permanent information record, contains no misrepresentation that is likely to affect the value of the market price of the securities to be distributed within the meaning of the *Securities Act* (Québec) and the regulations thereunder.

TD SECURITIES INC.

By: (Signed) J. DAVID BEATTIE

RBC DOMINION SECURITIES INC.

By: (Signed) BARRY NOWOSELSKI

BMO NESBITT BURNS INC.

By: (Signed) THOMAS E. FLYNN

CIBC WORLD MARKETS INC.

By: (Signed) DONALD A. FOX

SCOTIA CAPITAL INC.

By: (Signed) MARY ROBERTSON

NATIONAL BANK FINANCIAL INC.

By: (Signed) PETER RUSHELEAU

MERRILL LYNCH CANADA INC.

By: (Signed) M. MARIANNE HARRIS

HSBC SECURITIES (CANADA) INC.

By: (Signed) PATRICK M. NOLAN

DESJARDINS SECURITIES INC.

By: (Signed) JEAN-PIERRE COLIN

TRILON SECURITIES CORPORATION

By: (Signed) TREVOR KERR



**Bank**