



Ontario
Securities
Commission

Commission des
valeurs mobilières
de l'Ontario

22nd Floor
20 Queen Street West
Toronto ON M5H 3S8

22e étage
20, rue Queen Ouest
Toronto ON M5H 3S8

Citation: The Toronto-Dominion Bank (Re), 2019 ONSEC 29

Date: 2019-08-30

File No. 2019-31

**IN THE MATTER OF
THE TORONTO-DOMINION BANK**

**ORAL REASONS FOR APPROVAL OF SETTLEMENT
(Subsections 127 and 127.1 of the *Securities Act*, RSO 1990, c S.5)**

Hearing: August 30, 2019

Decision: August 30, 2019

Panel: D. Grant Vingoe Vice-Chair and Chair of the Panel
Lawrence Haber Commissioner
Heather Zordel Commissioner

Appearances: Cullen Price For Staff of the Commission
Alexandra Matushenko
Kai Olson
Ryan Lapensee

Paul H. Le Vay For The Toronto-Dominion Bank
Ben Kates

ORAL REASONS FOR APPROVAL OF SETTLEMENT

The following reasons have been prepared for publication in the Ontario Securities Commission Bulletin, based on the reasons delivered orally in the hearing as edited and approved by the panel, to provide a public record of the oral reasons.

[1] This is a hearing to consider a settlement agreement entered into by The Toronto-Dominion Bank (**TD**) with Staff of the Ontario Securities Commission (**Staff**), dated August 23, 2019 (the **Settlement Agreement**) regarding allegations described in the Statement of Allegations, dated August 26, 2019.

[2] Staff alleges that TD, over a period of at least three years, from 2011 to 2013 (the **Material Time**), failed to have sufficient supervision and controls in its FX trading business. In addition, Staff alleges that TD did not promote a culture of compliance in its FX trading business during the Material Time, which allowed FX traders to behave in a manner which put TD's economic interests ahead of the interests of its customers, other market participants and the integrity of the capital markets. I refer to these circumstances as the "Supervisory Inadequacies".

[3] Staff further alleges that the Supervisory Inadequacies allowed TD's FX traders to inappropriately share confidential customer information with its competitors' FX traders through electronic chat rooms on a regular basis during the Material Time.

[4] In the Statement of Allegations, Staff alleges that this conduct was contrary to the public interest.

[5] Staff and TD have entered into a settlement agreement in which the facts underlying these allegations have been acknowledged and agreed to by TD. TD also acknowledges and admits that this conduct was contrary to the public interest. As a result, TD failed to meet the high standards of conduct expected of a market participant, which potentially put its customers at risk.

[6] The Settlement Agreement is the result of extensive negotiations between Staff and TD, and the Commission affords significant deference to negotiated agreements reached by parties. As such, the Panel's consideration of the settlement before us is based only on the facts described by Staff and Staff's conclusions as set out in the Settlement Agreement, as agreed to by TD. However, we must still be satisfied that the measures called for in the Settlement Agreement are within a reasonable range and in the public interest.

[7] This Panel had the opportunity to meet with Staff and counsel for TD in a confidential settlement conference. We reviewed the proposed settlement agreement and heard submissions from Staff and TD. We have also heard submissions from Staff and TD at today's hearing.

[8] The role of the Panel in reviewing a settlement agreement is to determine whether the terms of the settlement as a whole are fair and reasonable in the circumstances and whether the approval of the settlement is in the public interest. In making a determination of what is in the public interest, the Panel must have regard to the purposes of the

