

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

January 28, 2000

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

Dear Mr. von Finckenstein:

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

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

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

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

Divestiture

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

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

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

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

Trustee Sale

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

- (a) the Trustee shall execute and deliver to the Commissioner and TD an agreement in writing to be bound by the terms of this letter;
- (b) after the appointment of the Trustee becomes effective, the Trustee shall have the sole right to effect the divestiture (hereinafter referred to as a "Trustee Sale") on the

terms set out below and shall be vested with the power by TD and CT to sell the assets to be divested for the purpose of effecting such divestiture;

- (c) the Trustee shall have the full power and authority to effect a Trustee Sale and shall diligently attempt to do so within 90 days of the Trustee's appointment;
- (d) the Trustee shall have the full power and authority to retain, on usual commercial terms, financial, legal and other professional advisors, including investment bankers, that may be reasonably necessary or advisable in advising and assisting the Trustee in effecting a Trustee Sale;
- (e) the relevant assets shall be sold by the Trustee at the price and on the terms and conditions most favourable to TD then reasonably available in the circumstances;
- (f) TD and CT shall use reasonable commercial efforts to assist the Trustee in effecting the Trustee Sale and shall execute such documents and do such other acts or things as may be reasonably requested by the Trustee in connection therewith;
- (g) after its appointment, the Trustee shall, every 30 days, file reports with the Commissioner and TD describing the Trustee's efforts to effect the Trustee Sale;
- (h) the Trustee shall promptly notify TD and the Commissioner of any negotiations with a prospective Buyer that, in the opinion of the Trustee, may lead to a Trustee Sale and forward copies of any agreement which it signs with any potential Buyer to the Commissioner and TD;
- (i) all expenses reasonably and properly incurred by the Trustee in connection with a Trustee Sale, including the fees of any advisors retained by the Trustee as contemplated in paragraph 4(d), shall be paid by TD; and
- (j) the proceeds of the Trustee Sale shall be paid to TD or as TD may direct.

Approval of Divestiture

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

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

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

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

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

- (a) not convert any CT MasterCard card accounts to Visa card accounts and shall maintain the Merchant Business and all its MasterCard card account relationships (collectively, the "CT MasterCard Business") as a separate and independent business from TD's Visa credit card business (the "TD Visa Business");
- (b) use reasonable best efforts to maintain the competitive viability of the CT MasterCard Business;
- (c) not take any steps toward integrating the assets, management, operations or books and records of the CT MasterCard Business with those of the TD Visa Business;
- (d) use reasonable efforts to ensure that employees of the CT MasterCard Business will be available to be employed by a Buyer; and
- (e) cause to be maintained, in accordance with generally accepted accounting principles, complete financial ledger books and records of material financial information in respect of the CT MasterCard Business.

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

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

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

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

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

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

- (a) carry on the CT MasterCard Business in the ordinary course in accordance with generally prevailing industry standards;
- (b) preserve the goodwill of the CT MasterCard Business; and
- (c) not knowingly take any action that will materially adversely affect the competitiveness, assets, operations or financial status of the CT MasterCard Business.

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

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

- (a) without prior notice to the Commissioner, enter into or withdraw from any material contracts or arrangements relating to the CT MasterCard Business, make any material changes to such operations, or enter into any material agreement to lease or sell any assets of the CT MasterCard Business to any other person, that would have the effect of materially inhibiting or unreasonably delaying the divestiture of the CT MasterCard Business or materially reducing its value; or
- (b) without prior notice to the Commissioner, curtail material marketing, sales, promotional or other activities of the CT MasterCard Business in connection with the solicitation of existing or prospective customers; or
- (c) without prior notice to the Commissioner, terminate or materially alter any current employment, salary or benefit agreements for any executives, managerial, sales or marketing personnel employed primarily in relation to the CT MasterCard Business.

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

General

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

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

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

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

Yours very truly,

THE TORONTO-DOMINION BANK

by: _____

A. Charles Baillie

Chairman and Chief Executive Officer

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

CT FINANCIAL SERVICES INC.

by: _____

W. Edmund Clark

President and Chief Executive Officer

by: _____

Thomas J. Mullin

Executive Vice-President, Business

Development and Corporate Strategy

Schedule “B”: Merchant Business

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

Schedule “C”: Divested Card Member Accounts

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