

Schedule A - Settlement Agreement

**SETTLEMENT AGREEMENT**

Made as of September 11, 2024

Between

**MANOJKUMAR AGGARWAL**

**(“Plaintiff”)**

and

**TD ASSET MANAGEMENT INC.**

**(“Defendant”)**

**SETTLEMENT AGREEMENT**  
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## RECITALS

A. WHEREAS the Action was commenced by the plaintiff, Manojkumar Aggarwal, in Ontario, on December 7, 2022;

B. WHEREAS the Action alleges, among other things, that the Defendant paid trailing commissions out of the assets of the TD Mutual Funds to Discount Brokers, and that the Defendant breached its duties as a trustee and fiduciary because the trailing commissions paid to Discount Brokers were excessive, inflated and/or unearned, and further that the Defendant made misrepresentations about the nature of the trailing commission payments in the fund facts documents it prepared and filed with securities regulators to permit the sale of units of the TD Mutual Funds;

C. WHEREAS the Defendant has denied and continues to deny each and all of the claims and allegations of wrongdoing made by the Plaintiff in the Action, including any and all allegations that the Plaintiff and/or the Class Members have suffered any harm or damage whatsoever, and all claims and allegations of wrongdoing or liability against it arising out of any of the conduct, statements, acts, or omissions alleged, or that could have been alleged, in the Action, or otherwise;

D. WHEREAS the Plaintiff, Class Counsel and the Defendant agree that neither this Settlement Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be an admission by or evidence against the Releasees or evidence of the truth of any of the Plaintiff's allegations against the Releasees, which allegations are expressly denied by the Defendant;

E. WHEREAS the Plaintiff and Class Counsel have concluded, after due investigation and after carefully considering the relevant circumstances, including, without limitation, the claims asserted in the Action, the legal and factual defences thereto, and the applicable law, that: (1) it is in the best interests of the Class to enter into this Settlement Agreement in order to avoid the uncertainties of litigation and to ensure that the benefits reflected herein, including the amount to be paid by the Defendant under this Settlement Agreement, are obtained for the Class; and (2) the settlement set forth in this Settlement Agreement is fair, reasonable, and in the best interests of the Class;

F. WHEREAS the Defendant is entering into this Settlement Agreement in order to achieve a final resolution of all claims asserted or which could have been asserted against the Releasees by the Plaintiff and the Class in the Action, and to avoid further expense, inconvenience and the distraction of burdensome and protracted litigation;

G. WHEREAS counsel for the Defendant and Class Counsel have engaged in arm's-length settlement discussions and negotiations, resulting in this Settlement Agreement;

H. WHEREAS as a result of these settlement discussions and negotiations, the Defendant and the Plaintiff have entered into this Settlement Agreement, which embodies all of the terms and conditions of the settlement between the Defendant and the Plaintiff, both individually and on behalf of the Class, subject to approval of the Court;

I. WHEREAS the Plaintiff and Class Counsel have reviewed and fully understand the terms of this Settlement Agreement and, based on their analyses of the facts and law applicable to the Plaintiff's claims, having regard to the burdens and expense in prosecuting the Action, including the risks and uncertainties associated with trials and appeals, and having regard to the value of the Settlement Agreement, the Plaintiff and Class Counsel have concluded that this Settlement Agreement is fair, reasonable and in the best interests of the Plaintiff and the Class;

J. WHEREAS the Parties therefore wish to and hereby finally resolve, without admission of liability, the Action against the Defendant;

NOW THEREFORE, in consideration of the covenants, agreements and releases set forth herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by the Parties that the Action be settled and dismissed with prejudice, all without costs as to the Plaintiff, the Class or the Defendant, subject to the approval of the Court, on the following terms and conditions:

## SECTION 1 - DEFINITIONS

For the purposes of this Settlement Agreement only, including the recitals and schedules hereto:

(1) **2018 Actions** means, collectively, *Westwood v. TD Asset Management Inc.*, Ontario Superior Court of Justice, File No. CV-18-595380-00CP, *Sage v. 1832 Asset Management L.P.*,

Ontario Superior Court of Justice, Court File No. CV-18-600380-00CP, *Gilani v. BMO Investments Inc.*, Ontario Superior Court of Justice, Court File No. CV-18-611748-00CP, *Pozgaj v. Canadian Imperial Bank of Commerce et al.*, Ontario Superior Court of Justice, Court File No. CV-18-605345-00CP, *Pozgaj v. Mackenzie Financial Corporation et al.*, Ontario Superior Court of Justice, Court File No. CV-18-610311-00CP, *Pozgaj v. National Bank Investments Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-18-611745-00CP, and *Ross v. RBC Global Asset Management Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-18-611743-00CP.

(2) **Action** means *Aggarwal v TD Asset Management Inc.*, Ontario Superior Court of Justice, Court File No. CV-22-691344-00CP.

(3) **Administration Expenses** means all fees, disbursements, expenses, costs, taxes and any other amounts incurred or payable by the Plaintiff, Class Counsel or otherwise for the approval, implementation and operation of this Settlement Agreement, including the costs of notices, but excluding Class Counsel Fees and Class Counsel Disbursements.

(4) **Administrator** means the third party professional firm and any employees of such firm, selected at arm's-length by Class Counsel, and appointed by the Court to facilitate dissemination of notices, receive and review claims and administer the Settlement Amount in accordance with the Distribution Protocol, and report to the Parties and the Court on the administration of the Settlement.

(5) **Adverse Decision** has the meaning given to such term in Section 13.1(1)(a).

(6) **Class** means all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to the Date of Execution, units of a TD Mutual Fund, other than through a Discount Broker, except for the Excluded Persons.

(7) **Class Counsel** means Kalloghlian Myers LLP.

(8) **Class Counsel Disbursements** means the disbursements, administration expenses, and applicable taxes incurred by Class Counsel in the prosecution of the Action, as well as any adverse costs awards issued against the Plaintiff in the Action.

- (9) **Class Counsel Fees** means the fees of Kalloghlian Myers LLP, and any applicable taxes or charges thereon, including any amounts payable as a result of the Settlement Agreement by Class Counsel or the Class Members to any other body or Person.
- (10) **Class Member** means a member of the Class.
- (11) **Court** means the Ontario Superior Court of Justice.
- (12) **Date of Execution** means the date on the cover page hereof as of which the Parties have executed this Settlement Agreement.
- (13) **Defendant** means TD Asset Management Inc.
- (14) **Defendant Claims** means claims, including Unknown Claims, that any Releasee may have against a Releasor or Class Counsel relating to the institution, prosecution, or settlement of the Action.
- (15) **Discount Broker Actions** means, collectively, *Frayce et al. v. BMO InvestorLine Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-20-638868-00CP, *Frayce v. BMO InvestorLine Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-20-634551-00CP, and *Michaud et al. v BBS Securities Inc. et al.*, Supreme Court of British Columbia, Court File No. VLC-S-1912710.
- (16) **Discount Brokers** means entities providing “order-execution only services” as defined in Rule 3200 of the IIROC Dealer Member Rules or entities performing a function similar to “order-execution only services” prior to the introduction of that definition in Rule 3200 of the IIROC Dealer Member Rules, including (without limitation) TD Direct Investing, a division of TD Waterhouse Canada Inc., a subsidiary of The Toronto-Dominion Bank, or such other discount brokerage business operated by The Toronto-Dominion Bank from time to time.
- (17) **Dismiss Order** has the meaning given to such term in Section 2.3(1).
- (18) **Distribution Order** has the meaning given to such term in Section 2.3(1).
- (19) **Distribution Protocol** means the plan for distributing the Settlement Amount and accrued interest, in whole or in part, as approved by the Court.



(20) **Effective Date** means the date on which the Dismiss Order has become a Final Order.

(21) **Excluded Persons** means:

(a) the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant, the past and present members of the independent review committee of each TD Mutual Fund; or

(b) any Person who would otherwise be a Class Member but who validly excluded themselves from the Action.

(22) **Existing TD Mutual Funds** means all mutual fund trusts (including, without limitation, all series of units thereof) of which the Defendant is trustee as at the date of execution.

(23) **Final Order** means an order of the Court from which no appeal lies or in respect of which any right of appeal has expired without the initiation of proceedings in respect of that appeal such as the delivery of a notice of motion for leave to appeal or a notice of appeal.

(24) **First Notice** means the short-form, long-form and internet banner notices of the pendency of the motion for the Dismiss Order and the Distribution Order substantially in the forms attached as **Schedule E, Schedule F** and **Schedule G** hereto or as fixed by the Court.

(25) **First Order** has the meaning given to such term in Section 2.2(1).

(26) **Former Unitholders** means members of the Class who no longer hold units of a TD Mutual Fund.

(27) **Funder** means the Ontario Class Proceedings Fund.

(28) **Implementation Date** means the date on which both the Dismiss Order and the Distribution Order have become Final Orders.

(29) **Material Adverse Litigation Event** has the meaning given to such term in Section 13.1(1)(a).

(30) **Other 2022 Actions** means, collectively, *Ciardullo v. 1832 Asset Management L.P. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-684723-00CP, *Ciardullo et al. v. 1832 Asset Management L.P. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-685386-00CP, *Yeats v. 1832 Asset Management L.P.*, Ontario Superior Court of Justice, Court File No. CV-22-690373-00CP, *Woodard v. Canadian Imperial Bank of Commerce et al.*, Ontario Superior Court of Justice, Court File No. CV-22-690374-00CP, *Yeats v. BMO Investments Inc.*, Ontario Superior Court of Justice, Court File No. CV-22-690519-00CP, *DeJong v. RBC Global Asset Management Inc. et al.*, Ontario Superior Court of Justice, Court File No. CV-22-691343-00CP, and *Aizic v. Natcan Trust Company et al.*, Ontario Superior Court of Justice, Court File No. CV-23-00697428-00CP.

(31) **Net Settlement Amount** means the amount available in the Trust Account for distribution pursuant to the Distribution Protocol after payment of all Class Counsel Fees, Class Counsel Disbursements, Administration Expenses, the Funding Commission and any other amounts approved by the Court.

(32) **Parties** means the Defendant, the Plaintiff and, where necessary, the Class Members.

(33) **Person** means an individual, corporation, partnership, limited partnership, limited liability company, association, joint stock company, estate, legal representative, trust, trustee, executor, beneficiary, unincorporated association, government or any political subdivision or agency thereof, and any other business or legal entity and their heirs, predecessors, successors, representatives, or assignees.

(34) **Plaintiff** means Manojkumar Aggarwal.

(35) **Plan of Notice** means the plan for disseminating the First Notice and the Second Notice to the Class substantially in the form attached as **Schedule D** hereto or as fixed by the Court.

(36) **Released Claims** mean any and all manner of claims, including Unknown Claims, causes of action, cross-claims, counter-claims, charges, liabilities, demands, judgments, suits, obligations, debts, setoffs, rights of recovery, or liabilities for any obligations of any kind whatsoever (however denominated), whether class or individual, in law or equity or arising under constitution, statute, regulation, ordinance, contract, or otherwise in nature, for fees, costs, penalties, fines, debts, expenses, lawyers' fees, disgorgement, restitution and damages, whenever incurred, and liabilities

of any nature whatsoever (including joint and several, and solidarily in the Province of Quebec), known or unknown, suspected or unsuspected, asserted or unasserted, arising from or relating in any way to any conduct alleged or that could have been alleged in and arising from the factual predicate of the Action, or any amended complaint or pleading therein, from the beginning of time until the Effective Date, which shall be deemed to include but not be limited to any concerns relating to trailing commissions paid by the Defendant to Discount Brokers in respect of the TD Mutual Funds.

(37) **Releasees** means, jointly and severally, individually and collectively, the Defendant and each of its past, present and future, direct and indirect parents (including holding companies), owners, subsidiaries, divisions, predecessors, successors, affiliates, associates (as defined in the *Canada Business Corporations Act*, RSC 1985, c C-44), partners, insurers, and all other Persons, partnerships or corporations with whom any of the former have been, or are now, affiliated, and each of their respective past, present and future officers, directors, employees, agents, shareholders, attorneys, legal or other representatives, trustees, servants and representatives, members, managers and the predecessors, successors, purchasers, heirs, executors, administrators and assigns of each of the foregoing; but excluding TD Waterhouse Canada Inc.

(38) **Releasers** means, jointly and severally, individually and collectively, the Plaintiff and the Class Members and their respective parents, subsidiaries, affiliates, predecessors, successors, heirs, executors, administrators, insurers, assigns, beneficiaries, trustees, agents and legal or other representatives.

(39) **Second Notice** means the short-form, long-form and internet banner notices of the Dismiss Order and the Distribution Order substantially in the forms attached as **Schedule H**, **Schedule I** and **Schedule J** hereto or as fixed by the Court.

(40) **Settlement** means the settlement of the Action on the terms provided in this Settlement Agreement.

(41) **Settlement Agreement** means this agreement, including the recitals and schedules.

(42) **Settlement Amount** means eight million five hundred thousand Canadian dollars (C\$8,500,000).

(43) **Subsequent Settlement** has the meaning given to such term in Section 13.1(1)(b).

(44) ***Subsequent Settlement Amount*** has the meaning given to such term in Section 13.1(1)(c).

(45) ***TD Mutual Funds*** means all mutual fund trusts (including, without limitation, all series of units thereof) of which the Defendant is trustee or was trustee at any time on or prior to the Date of Execution (but only in respect of the period during which the Defendant is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

(46) ***Termination Notice*** has the meaning given to such term in Section 6.1(1).

(47) ***Trust Account*** means a guaranteed investment product, liquid money market account or equivalent security with a rating equivalent to or better than that of a Canadian Schedule I bank (a bank listed in Schedule I of the *Bank Act*, SC 1991, c 46) held at a Canadian financial institution under the control of Class Counsel or the Administrator, once appointed, for the benefit of the Class Members, as provided for in this Settlement Agreement.

(48) ***Unknown Claims*** means any and all Released Claims against the Releasees which Releasors do not know or suspect to exist in his, her, or its favour as of the Effective Date, and any Defendant Claims against Releasors which Releasees do not know or suspect to exist in his, her, or its favour as of the Effective Date, which if known by the Releasors or Releasees might have affected his, her, or its decision(s) with respect to the settlement. The Releasors and Releasees may hereafter discover facts other than or different from those which he, she, or it now knows or believes to be true with respect to the subject matter of the Released Claims and Defendant Claims. Nevertheless, the Plaintiff and the Releasees shall expressly, fully, finally, and forever settle and release, and each Class Member, upon the Effective Date, shall be deemed to have, and by operation of the Dismiss Order (when it becomes a Final Order) shall have, fully, finally, and forever settled and released, any and all Released Claims and Defendant Claims, whether or not concealed or hidden, without regard to the subsequent discovery or existence of such different or additional facts. The Plaintiff and the Releasees acknowledge, and Class Members shall be deemed to have acknowledged, that the inclusion of Unknown Claims in the definition of Released Claims and Defendant Claims was separately bargained for and was a key element of the Settlement Agreement.

The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined.

## SECTION 2 – APPROVAL AND NOTICE PROCESS

### 2.1 Commercially Reasonable Efforts

(1) The Parties shall use their commercially reasonable efforts to implement this Settlement Agreement and to secure the prompt, complete and final dismissal with prejudice of the Action.

### 2.2 Motion for First Order

(1) The Plaintiff shall file a motion before the Court, as soon as practicable after the Date of Execution, for an order substantially in the form attached as **Schedule A (“First Order”)**.

(2) The Defendant will consent to the issuance of the First Order.

(3) As soon as practicable following entry of the First Order, Class Counsel shall cause the First Notice to be published and distributed in accordance with the Plan of Notice and the direction of the Court. The costs of publishing and distributing the First Notice shall be paid from the Trust Account as and when incurred.

### 2.3 Motion for Dismiss Order and Distribution Order

(1) The Plaintiff shall file a motion before the Court for orders substantially in the form attached as **Schedule B (“Dismiss Order”)** and **Schedule C (“Distribution Order”)** as soon as practicable after:

- (a) the First Order has been granted; and
- (b) the First Notice has been published.

(2) The Defendant will consent to the issuance of the Dismiss Order. The Defendant will not oppose the issuance of the Distribution Order.

(3) At the motion for the Dismiss Order and the Distribution Order, Class Counsel shall seek Court approval of the Distribution Protocol.

(4) The Distribution Protocol will require, among other things, the Defendant to deposit a portion of the Net Settlement Amount into the Existing TD Mutual Funds pursuant to a direction by Class Counsel. This aspect of the Distribution Protocol is a material term of this settlement, shall not be considered separately from the approval of the Settlement and is a condition of the approval of the Settlement itself.

(5) The Defendant will take no position or make any submission to the Court concerning the Distribution Protocol, except as requested or required by the Court.

(6) The Plaintiff may make any amendments to the Distribution Protocol, the Distribution Order, the Second Notice and the Plan of Notice as it relates to the Second Notice as requested or directed by the Court.

(7) As soon as practicable following the Implementation Date, Class Counsel and the Administrator shall cause the Second Notice to be published and disseminated in accordance with the Plan of Notice as approved by the Court. The costs of publishing the Second Notice shall be paid from the Trust Account as and when incurred.

#### **2.4 Pre-Motion Confidentiality**

(1) Until the motion required by Section 2.2 is brought, the Parties shall keep all of the terms of the Settlement Agreement confidential and shall not disclose them without the prior consent of counsel for the Defendant and Class Counsel, as the case may be, except as required for the purposes of financial reporting, the preparation of financial records (including tax returns and financial statements), pursuant to regulatory requirements as necessary to give effect to its terms, or as otherwise required by law.

### **SECTION 3 – SETTLEMENT BENEFITS**

#### **3.1 Payment of Settlement Amount**

(1) The Defendant shall pay the Settlement Amount to Class Counsel by November 8, 2024 for deposit into the Trust Account.

(2) Payment of the amount specified in Section 3.1(1) shall be made by wire transfer. At least ten (10) days prior to the Settlement Amount becoming due, Class Counsel will provide, in writing,

the following information necessary to complete the wire transfers: name of bank, address of bank, ABA number, SWIFT number, name of beneficiary, beneficiary's bank account number, beneficiary's address, and bank contact details.

(3) The Settlement Amount and other consideration to be provided in accordance with the terms of this Settlement Agreement shall be provided in full satisfaction of the Released Claims against the Releasees.

(4) The Settlement Amount shall be inclusive of all amounts, including interest, taxes and costs.

(5) The Releasees shall have no obligation to pay any amount in addition to the Settlement Amount, for any reason, pursuant to or in furtherance of this Settlement Agreement or the Action, including, but not limited to, legal fees, judicial costs, taxes or costs of notice.

(6) Class Counsel shall maintain the Trust Account as provided for in this Settlement Agreement.

(7) Class Counsel shall not pay out all or any part of the monies in the Trust Account, except in accordance with this Settlement Agreement, or in accordance with an order of the Court obtained after notice to the Parties.

(8) Within thirty (30) days of the Effective Date, Class Counsel shall transfer control of the Trust Account to the Administrator, but before doing so Class Counsel may deduct and retain from the monies in the Trust Account the Class Counsel Fees and the Class Counsel Disbursements approved by the Court.

### **3.2 Taxes and Interest**

(1) Except as hereinafter provided, all interest earned on the Settlement Amount in the Trust Account shall accrue to the benefit of the Class and shall become and remain part of the Trust Account.

(2) Subject to Section 3.2(3), all taxes payable on any interest which accrues on the Settlement Amount in the Trust Account or otherwise in relation to the Settlement Amount shall be the responsibility of the Class. The Administrator shall be solely responsible to fulfill all tax reporting

and payment requirements arising from the Settlement Amount in the Trust Account, including any obligation to report taxable income and make tax payments. All taxes (including interest and penalties) due with respect to the income earned by the Settlement Amount shall be paid from the Trust Account.

(3) The Defendant shall have no responsibility to make any filings relating to the Trust Account and will have no responsibility to pay tax on any income earned on the Settlement Amount or pay any taxes on the monies in the Trust Account, unless this Settlement Agreement is terminated, in which case the interest earned on the Settlement Amount in the Trust Account or otherwise shall be paid to the Defendant who, in such case, shall be responsible for the payment of all taxes on such interest not previously paid by the Administrator.

#### **SECTION 4 – NO REVERSION**

##### **4.1 No Reversion**

(1) Unless this Settlement Agreement is terminated as provided herein, the Defendant shall not be entitled to the repayment from the Plaintiff of any portion of the Settlement Amount or any interest earned on the Settlement Amount in the Trust Account. In the event this Settlement Agreement is terminated, the Defendant shall be entitled to the repayment only to the extent of and in accordance with the Section 6.3(1).

#### **SECTION 5 – OPTING-OUT**

##### **5.1 Opt-Outs**

(2) An opt-out right will be provided to those Class Members in accordance with the First Order.

(3) The Plaintiff, through Class Counsel, expressly waives his right to opt out of the Action.

#### **SECTION 6 – TERMINATION OF SETTLEMENT AGREEMENT**

##### **6.1 Right of Termination**

(1) The Plaintiff and the Defendant shall, in their respective discretions, have the right to terminate the settlement set forth in this Settlement Agreement by providing written notice of their



election to do so (“**Termination Notice**”) to the other Party hereto within thirty (30) days of the date on which:

- (a) the Court declines to dismiss the Action against the Defendant;
- (b) the Court declines to approve this Settlement Agreement or any material part hereof;
- (c) the Court approves this Settlement Agreement in a materially modified form;
- (d) the Court issues a settlement approval order that is not substantially in the form attached to this Settlement Agreement as **Schedule B**, and such order becomes a Final Order; or
- (e) the Dismiss Order is reversed on appeal and the reversal becomes a Final Order.

(2) Except as provided for in Section 6.4, if the Settlement Agreement is terminated, the Settlement Agreement shall be null and void and have no further force or effect, and shall not be binding on the Parties, and shall not be used as evidence or otherwise in any litigation.

(3) Any order, ruling or determination made by the Court with respect to the Distribution Order, Class Counsel Fees or Class Counsel Disbursements, or the Distribution Protocol, shall not be deemed to be a material modification of all, or a part, of this Settlement Agreement and shall not provide any basis for the termination of this Settlement Agreement.

## **6.2 If Settlement Agreement is Terminated**

(1) If this Settlement Agreement is not approved, is terminated in accordance with its terms or otherwise fails to take effect for any reason:

- (a) no motion to approve this Settlement Agreement, which has not been decided, shall proceed; and
- (b) any order approving this Settlement Agreement shall be set aside and declared null and void and of no force or effect, and the Parties shall be estopped from asserting otherwise.

### **6.3 Return of Settlement Amount Following Termination**

(1) If the Settlement Agreement is terminated, Class Counsel, within thirty (30) business days of the written notice advising that the Settlement Agreement has been terminated in accordance with its terms, shall return to the Defendant the amount the Defendant has paid to Class Counsel, plus all accrued interest thereon and less any costs incurred with respect to the notices required by Section 2.2(3), and any costs of translation required by Section 14.12, such costs in total not to exceed one hundred and fifty thousand Canadian dollars (CAD \$150,000).

### **6.4 Survival of Provisions After Termination**

(1) If this Settlement Agreement is not approved, is terminated or otherwise fails to take effect for any reason, the provisions of Sections 3.2(3), (3), 6.1, 6.2, 6.3, 6.4, 9.1 and 9.2 (the “**Surviving Provisions**”), and the recitals, definitions and Schedules applicable thereto shall survive the termination and continue in full force and effect. The recitals, definitions and Schedules shall survive only for the limited purpose of the interpretation of the Surviving Provisions within the meaning of this Settlement Agreement, but for no other purposes. All other provisions of this Settlement Agreement and all other obligations pursuant to this Settlement Agreement shall cease immediately.

## **SECTION 7 – RELEASES AND DISMISSALS**

### **7.1 Release of Releasees**

(1) The obligations incurred pursuant to this Settlement Agreement shall be in full and final disposition of: (i) the Action against the Defendant; and (ii) any and all Released Claims as against all Releasees.

(2) Upon the Effective Date, subject to Section 7.2, each of the Releasers: (i) shall be deemed to have, and by operation of the Dismiss Order, shall have, fully, finally, and forever waived, released, relinquished, and discharged all Released Claims that the Releasers, or any of them, whether directly, indirectly, derivatively, or in any other capacity, ever had, now have or hereafter can, shall or may have against the Releasees, regardless of whether such Releaser executes and delivers a proof of claim and release form; (ii) shall forever be enjoined from prosecuting in any forum any Released Claim against any of the Releasees; and (iii) agrees and covenants not to sue

any of the Releasees on the basis of any Released Claims or to assist any third party in commencing or maintaining any suit against any Releasee related in any way to any Released Claims.

## **7.2 Covenant Not To Sue**

(1) Upon the Effective Date, and notwithstanding Section 7.1, for any Class Members resident in any province or territory where the release of one tortfeasor is a release of all other tortfeasors, the Releasors do not release the Releasees but instead covenant and undertake not to make any claim in any way or to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.

## **7.3 No Further Claims**

(1) Upon the Effective Date, the Releasors shall not then or thereafter institute, continue, maintain or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any action, suit, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim. For the avoidance of doubt, this Section 7.3(1) does not apply to the 2018 Actions, the Other 2022 Actions, or the Discount Broker Actions. For greater certainty and without limiting the generality of the foregoing, the Releasors shall not assert or pursue a Released Claim against any Releasee under the laws of any foreign jurisdiction.

## **7.4 Dismissal of the Action**

(1) Upon the Effective Date, the Action shall be dismissed with prejudice and without costs as against the Defendant.

## **7.5 Releases a Material Term**

(1) The releases contemplated in this Section shall be considered a material term of the Settlement Agreement and the failure of the Court to approve the releases contemplated herein shall give rise to a right of termination pursuant to Section 6.1 of the Settlement Agreement.

## **SECTION 8 – CLAIMS AGAINST OTHER ENTITIES**

### **8.1 Claims Against Other Entities Reserved**

(1) Except as provided herein, this Settlement Agreement does not settle, compromise, release or limit in any way whatsoever any claim by the Releasors against any Person other than the Releasees.

## **SECTION 9 – EFFECT OF SETTLEMENT**

### **9.1 No Admission of Liability**

(1) The Plaintiff and the Releasees expressly reserve all of their rights if the Settlement Agreement is not approved, is terminated, or otherwise fails to take effect for any reason. Further, whether or not the Settlement Agreement is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be deemed, construed, or interpreted to be an admission of any violation of any statute or law, or of any wrongdoing or liability by the Releasees or any one of them, or of the truth of any of the claims or allegations contained in the Action, or any other pleading filed by the Plaintiff.

### **9.2 Agreement Not Evidence**

(1) The Parties agree that, whether or not it is finally approved, is terminated, or otherwise fails to take effect for any reason, this Settlement Agreement and anything contained herein, and any and all negotiations, documents, discussions and proceedings associated with this Settlement Agreement, and any action taken to carry out this Settlement Agreement, shall not be referred to, offered as evidence or received in evidence in any pending or future civil, criminal or administrative action or proceeding, except in a proceeding to approve and/or enforce this Settlement Agreement, to defend against the assertion of Released Claims, as necessary in any insurance-related proceeding, or as otherwise required by law.

### **9.3 No Further Litigation**

(1) Neither Class Counsel, nor anyone currently or hereafter employed by or a partner with Class Counsel, may directly or indirectly participate or be involved in or in any way assist with respect to any claim made or action commenced by any Person which relates to or arises from the Released Claims. Moreover, these Persons may not divulge to anyone for any purpose any information obtained in the course of the Action or the negotiation and preparation of this Settlement Agreement, except to the extent such information is otherwise publicly available or unless ordered to do so by a court. For the avoidance of doubt, this Section 9.3(1) does not apply to the 2018 Actions, the Other 2022 Actions, or the Discount Broker Actions.

## **SECTION 10 – ADMINISTRATION AND IMPLEMENTATION**

### **10.1 Appointment of the Administrator**

(1) By order of the Court, the Administrator will be appointed to serve until such time as the Net Settlement Amount is distributed in accordance with this Settlement Agreement and the Distribution Protocol, on the terms and conditions and with the powers, rights, duties and responsibilities set out in this Settlement Agreement and in the Distribution Protocol.

### **10.2 Information and Assistance from the Defendant**

(1) The ordinary course reporting documents of each Existing TD Mutual Fund into which a portion of the Net Settlement Amount is deposited shall accurately reflect the amount of the deposit and disclose that such deposit was made pursuant to this Settlement.

### **10.3 No Responsibility for Administration or Fees**

(1) Subject to sections 2.3(4) and 10.2, the Defendant shall not have any additional responsibility, financial obligations or liability whatsoever with respect to the investment, distribution or administration of monies in the Trust Account, including, but not limited to, Administration Expenses, Class Counsel Fees and Class Counsel Expenses.

## **SECTION 11 – CLASS COUNSEL FEES, CLASS COUNSEL DISBURSEMENTS AND ADMINISTRATION EXPENSES**

### **11.1 Class Counsel Fees, Class Counsel Disbursements and Administration Expenses**

(1) The Defendant shall not be liable for any fees, disbursements or taxes of any of Class Counsel's, the Plaintiff's or Class Members' respective lawyers, experts, advisors, agents, or representatives.

(2) Class Counsel shall pay the costs of the notices required by Sections 2.2(3) and 2.3(7) and any costs of translation required by Section 14.12 from the Trust Account, as they become due. The Releasees shall not have any responsibility for the costs of the notices or translation.

(3) Class Counsel may seek the Court's approval to pay Class Counsel Fees and Class Counsel Disbursements contemporaneous with seeking approval of this Settlement Agreement. Class Counsel Fees and Class Counsel Disbursements shall be reimbursed and paid solely out of the Trust Account after the Effective Date. No Class Counsel Fees or Class Counsel Disbursements shall be paid from the Trust Account prior to the Effective Date.

(4) Except as provided herein, Administration Expenses may only be paid out of the Trust Account after the Effective Date.

(5) The Defendant shall not be liable for any fees, disbursements or taxes of any of the lawyers, experts, advisors, agents, or representatives retained by Class Counsel, the Plaintiff or the Class Members, or any lien of any Person on any payment to any Class Member from the Settlement Amount.

## **SECTION 12 – FUNDING AND HONORARIUM**

### **12.1 Funding and Honorarium**

(1) Immediately following the motion for the Dismiss Order and the Distribution Order, Class Counsel may seek orders from the Court relating to the payment of the Funding Commission or the payment of an honorarium to the Plaintiff.

(2) Class Counsel are not precluded from making additional motions to the Court relating to the payment of the Funding Commission or the payment of an honorarium to the Plaintiff.

(3) The Defendant acknowledges that it is not party to any motion concerning the payment of the Funding Commission or the payment of an honorarium to the Plaintiff, it will have no involvement in any such motion, and it will not take any position or make any submissions to the Court concerning any such motion, except as requested and required by the Court.

(4) Any order or proceeding relating to payment of the Funding Commission or the payment of an honorarium to the Plaintiff, or any appeal from any order relating thereto or reversal or modification thereof, shall not operate to terminate or cancel this Settlement Agreement or affect or delay the Effective Date and the settlement of this Action provided herein.

## **SECTION 13– SUBSEQUENT SETTLEMENTS OF OTHER 2022 ACTIONS**

### **13.1 Definitions**

(1) For the purposes of sections 13.1 and 13.2 hereof:

- (a) **“Material Adverse Litigation Event”** means an event that has a material adverse effect on the quantum of potential recovery and/or overall likelihood of success against the defendant(s) in the Other 2022 Actions in which there is a Subsequent Settlement and meets the following criteria. This event would only occur if there is a decision of a Court in any of the Other 2022 Actions (**“Adverse Decision”**) or a change in the financial circumstances of the defendant(s) in the applicable Other 2022 Action that would cause Class Counsel, acting reasonably and in good faith, to materially alter its assessment of its client’s position in settlement negotiations with the defendant(s) and (a) has a material adverse effect upon the quantum of potential recovery and/or overall likelihood of success and/or enforcement against the defendant(s), or (b) has the effect of materially decreasing the valuation of the applicable Other 2022 Action. An **“Adverse Decision”** might include, but is not limited to, a judgment dismissing a motion for certification in the applicable Other 2022 Action, a judgment that materially reduces the size of the class relative to the class proposed in the applicable Other 2022 Action, a judgment that materially reduces the class period relative to the proposed class period in the applicable Other 2022 Action, and a judgment dismissing (in whole or in part) the applicable Other 2022 Action.

- (b) “**Subsequent Settlement**” means any settlement of any of the Other 2022 Actions;  
and
- (c) “**Subsequent Settlement Amount**” means the amount that the defendant(s) in any  
of the Other 2022 Actions agrees to pay pursuant to a Subsequent Settlement.

### **13.2 Obligations in the Event of a Subsequent Settlement**

(1) Class Counsel acknowledges its professional obligations and that it intends to maximize the recovery of damages in the Other 2022 Actions. As such, Class Counsel will endeavour to, acting reasonably and in good faith, negotiate terms in any Subsequent Settlement that are at least as favourable to the class members in the Other 2022 Actions than the settlement in this Settlement Agreement.

(2) As soon as, and in the event that, such disclosure is permitted pursuant to the terms of a Subsequent Settlement, Class Counsel shall advise the Defendant in writing of the Subsequent Settlement and the Subsequent Settlement Amount. Class Counsel shall also advise the Defendant in writing whether in Class Counsel’s opinion, acting reasonably and in good faith, the Subsequent Settlement is at least as favourable to the class members in the applicable Other 2022 Action as the settlement set forth in this Settlement Agreement is to the Class Members, having regard to the following factors:

- (a) the Subsequent Settlement Amount, compared to the Settlement Amount under this Settlement Agreement;
- (b) the percentage equal to the Subsequent Settlement Amount as a percentage of Class Counsel’s estimate, acting reasonably and in good faith, of the amount of the trailing commissions paid to Discount Brokers by the defendant(s) in the applicable Other 2022 Action, compared to the percentage equal to the Settlement Amount as a percentage of Class Counsel’s estimate, acting reasonably and in good faith, of the amount of the trailing commissions paid to Discount Brokers by the Defendant;
- (c) differences in the facts of the applicable Other 2022 Action and this Action that in Class Counsel’s opinion, acting reasonably and in good faith, affected the quantum of potential recovery or overall likelihood of success of the claims of the class



members in the applicable Other 2022 Action, compared to the quantum of potential recovery or overall likelihood of success of the claims of the Class Members in this Action;

- (d) whether in Class Counsel's opinion, acting reasonably and in good faith, a Material Adverse Litigation Event has occurred; and
- (e) any other factor that in Class Counsel's opinion, acting reasonably and in good faith, affected the quantum of potential recovery or overall likelihood of success of the claims of the class members in the applicable Other 2022 Action, compared to the quantum of potential recovery or overall likelihood of success of the claims of the Class Members in this Action.

(3) The Defendant acknowledges and understands that the quantification of the trailing commissions paid to Discount Brokers by the Defendant or the defendant(s) in the applicable Other 2022 Action under Section 13.2(2)(b) may not be able to be precisely and accurately determined because of, among other things, incomplete or insufficient data. In such circumstances, Class Counsel's estimate, acting reasonably, in good faith and relying on expert evidence, of the amount of the trailing commissions paid to Discount Brokers shall be accepted by the Defendant as a reasonable estimation of the trailing commissions for the purposes of sections 13.1 and 13.2.

(4) In advising the Defendant under Section 13.2(1), Class Counsel, acting reasonably and in good faith, shall provide the Defendant with a written summary of the factors considered by Class Counsel under Sections 13.2(2)(a) to 13.2(2)(e), subject to any legal privilege owed to its client(s) in the applicable Other 2022 Action or confidentiality obligations to the defendant(s) in the applicable Other 2022 Action.

(5) On the motion for Court approval of a Subsequent Settlement, Class Counsel shall include in the evidence filed in support of the motion a statement as to whether in Class Counsel's opinion, acting reasonably and in good faith, the Subsequent Settlement is at least as favourable to the class members in the applicable Other 2022 Action as the settlement set forth in this Settlement Agreement is to the Class Members, having regard to the factors set out in Sections 13.2(2)(a) to 13.2(2)(e).

(6) None of the provisions of this Section 13 shall be interpreted to impose any obligation on Class Counsel to (i) disclose any information which it would not otherwise be legally permitted to disclose in the course of seeking approval of a Subsequent Settlement, (ii) waive any settlement, litigation, solicitor-client or other privilege absent the requisite permission or instructions to do so; or (iii) do anything in the Other 2022 Actions other than comply with its fiduciary duty to maximize recovery for its clients.

(7) Other than what is expressly provided in this section, this section and this Settlement Agreement confer no rights of standing to the Defendant in respect of the Other 2022 Actions.

## **SECTION 14– MISCELLANEOUS**

### **14.1 Motions for Directions**

(1) Class Counsel or the Defendant may apply to the Court for directions in respect of the interpretation, implementation and administration of this Settlement Agreement.

(2) All motions contemplated by this Settlement Agreement shall be on notice to the Parties.

### **14.2 Releasees Have No Liability for Administration**

(1) Subject to sections 2.3(4) and 10.2, the Releasees have no responsibility for and no liability whatsoever with respect to the administration of the Settlement Agreement.

### **14.3 Headings, etc.**

(1) In this Settlement Agreement:

(a) the division of the Settlement Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Settlement Agreement; and

(b) the terms “this Settlement Agreement,” “hereof,” “hereunder,” “herein,” and similar expressions refer to this Settlement Agreement and not to any particular section or other portion of this Settlement Agreement.

#### **14.4 Computation of Time**

(1) In the computation of time in this Settlement Agreement, except where a contrary intention appears,

- (a) where there is a reference to a number of days between two events, the number of days shall be counted by excluding the day on which the first event happens and including the day on which the second event happens, including all calendar days; and
- (b) only in the case where the time for doing an act expires on a holiday as “holiday” is defined in the *Rules of Civil Procedure*, RRO 1990, Reg 194, the act may be done on the next day that is not a holiday.

#### **14.5 Ongoing Jurisdiction**

(1) The Parties agree that the Court shall retain exclusive and continuing jurisdiction over the Action, the Parties and the Class Members to interpret and enforce the terms, conditions and obligations under this Settlement Agreement, the First Order, the Dismiss Order and the Distribution Order.

#### **14.6 Governing Law**

(1) This Settlement Agreement shall be governed by and construed and interpreted in accordance with the laws of the Province of Ontario.

#### **14.7 Entire Agreement**

(1) This Settlement Agreement constitutes the entire agreement among the Parties, and supersedes all prior and contemporaneous understandings, undertakings, negotiations, representations, promises, agreements, agreements in principle and memoranda of understanding in connection herewith. None of the Parties will be bound by any prior obligations, conditions or representations with respect to the subject matter of this Settlement Agreement, unless expressly incorporated herein.

#### **14.8 Amendments**

(1) This Settlement Agreement may not be modified or amended except in writing and on consent of all of the Parties, and any such modification or amendment must be approved by the Court.

#### **14.9 Binding Effect**

(1) This Settlement Agreement shall be binding upon, and enure to the benefit of, the Plaintiff, the Class Members, the Defendant, the Releasors, the Releasees and all of their successors and assigns. Without limiting the generality of the foregoing, each and every covenant and agreement made by the Plaintiff shall be binding upon all Releasors and each and every covenant and agreement made by the Defendant shall be binding upon all of the Releasees.

#### **14.10 Counterparts**

(1) This Settlement Agreement may be executed in counterparts, all of which taken together will be deemed to constitute one and the same agreement, and a facsimile or PDF signature shall be deemed an original signature for purposes of executing this Settlement Agreement.

#### **14.11 Negotiated Agreement**

(1) This Settlement Agreement has been the subject of negotiations and discussions among the undersigned, each of which has been represented and advised by competent counsel, so that any statute, case law, or rule of interpretation or construction that would or might cause any provision to be construed against the drafter of this Settlement Agreement shall have no force and effect. The Parties further agree that the language contained in or not contained in previous drafts of this Settlement Agreement, or any agreement in principle, shall have no bearing upon the proper interpretation of this Settlement Agreement.

#### **14.12 Language**

(1) The Parties acknowledge that they have required and consented that this Settlement Agreement and all related documents be prepared in English; *les parties reconnaissent avoir exigé que la présente convention et tous les documents connexes soient rédigés en anglais*. Nevertheless, if required to by the Court, Class Counsel and/or a translation firm selected by Class Counsel shall

prepare a French translation of the Settlement Agreement, the cost of which shall be paid from the Settlement Amount. In the event of any dispute as to the interpretation or application of this Settlement Agreement, only the English version shall govern.

#### **14.13 Recitals**

(1) The recitals to this Settlement Agreement are true and form part of the Settlement Agreement.

#### **14.14 Schedules**

(1) The schedules annexed hereto form part of this Settlement Agreement.

#### **14.15 Acknowledgements**

(1) Each of the Parties hereby affirms and acknowledges that:

- (a) he, she or a representative of the Party with the authority to bind the Party with respect to the matters set forth herein has read and understood the Settlement Agreement;
- (b) the terms of this Settlement Agreement and the effects thereof have been fully explained to him, her or the Party's representative by his, her or its counsel;
- (c) he, she or the Party's representative fully understands each term of the Settlement Agreement and its effect; and
- (d) no Party has relied upon any statement, representation or inducement (whether material, false, negligently made or otherwise) of any other Party, beyond the terms of the Settlement Agreement, with respect to the first Party's decision to execute this Settlement Agreement.

#### **14.16 Authorized Signatures**

(1) Each of the undersigned represents that he or she is fully authorized to enter into the terms and conditions of, and to execute, this Settlement Agreement on behalf of the Parties identified above their respective signatures and their law firms.

#### **14.17 Notice**

(1) Where this Settlement Agreement requires a Party to provide notice or any other communication or document to another, such notice, communication or document shall be provided by email to the representatives for the Party to whom notice is being provided, as identified below:

##### **For the Plaintiff and for Class Counsel:**

Serge Kalloghlian  
Kalloghlian Myers LLP  
Email: [serge@kalloghlianmyers.com](mailto:serge@kalloghlianmyers.com)

##### **For the Defendant:**

Shane D'Souza  
McCarthy Tétrault LLP  
Email: [sdsouza@mccarthy.ca](mailto:sdsouza@mccarthy.ca)

#### **14.18 Date of Execution**

(1) The Parties have executed this Settlement Agreement as of the date on the cover page.

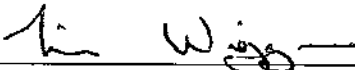
**MANOJKUMAR AGGARWAL** on his own behalf and on behalf of the Class, by his counsel:

Name of Authorized Signatory: Serge Kalloghlian

Signature of Authorized Signatory:   
Kalloghlian Myers LLP

**TD ASSET MANAGEMENT INC.:**

Name of Authorized Signatory: Tim WIGGAN

Signature of Authorized Signatory:   
Tim Wiggan, TD Bank Group

**SCHEDULE A**  
**FIRST ORDER**



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) \_\_\_\_\_, the \_\_\_\_\_ day  
)  
JUSTICE J.T. AKBARALI ) of \_\_\_\_\_, \_\_\_\_\_

BETWEEN:

MANOJKUMAR AGGARWAL

Plaintiff

- and -

TD ASSET MANAGEMENT INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**THIS MOTION**, made by the Plaintiff for an Order, among other things, certifying the action as a class proceeding for settlement, approving the notices of the settlement approval hearing and the method of dissemination of the notices, and setting an opt-out process and deadline, was heard on *[insert]* at *[insert]*.

**ON READING** the materials filed, including the settlement agreement between the Plaintiff and the Defendant dated *[insert]* attached to this Order as **Schedule 1** (“**Settlement Agreement**”), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendant;

**AND ON BEING ADVISED** that the Defendant consents to this Order;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.
4. **THIS COURT ORDERS** that the action is certified as a class proceeding under section 5 of the *Class Proceedings Act, 1992*.
5. **THIS COURT ORDERS** that Manojkumar Aggarwal is appointed representative plaintiff.
6. **THIS COURT ORDERS** the class is defined as:

All persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD Mutual Fund other than through a Discount Broker, except for the Excluded Persons.

“Excluded Persons” means: (a) the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; or (b) any Person who would otherwise be a Class Member but who validly excluded themselves from the Action.

(the “**Class**” or “**Class Member**”)

7. **THIS COURT ORDERS** that the short-form, long-form and internet banner notices of the settlement approval hearing (“**First Notice**”) are hereby approved substantially in the forms attached hereto respectively as **Schedule 2**, **Schedule 3** and **Schedule 4**.

8. **THIS COURT ORDERS** that the plan of dissemination for the First Notice (“**Plan of Notice**”) is hereby approved in the form attached hereto as **Schedule 5**, and that the First Notice shall be disseminated in accordance with the Plan of Notice.
9. **THIS COURT ORDERS** that Class Members may opt out of this action in accordance with this Order.
10. **THIS COURT ORDERS** that the opt-out form (“**Opt-Out Form**”), substantially in the form attached as Appendix “A” to the long-form First Notice, is hereby approved.
11. **THIS COURT ORDERS** that the deadline to opt out of the action (“**Opt-Out Deadline**”) is the date that is sixty (60) days after the day on which the First Notice is first published.
12. **THIS COURT ORDERS** that any person who opts out of this class proceeding by the Opt-Out Deadline, by complying with the instructions set out in the long-form First Notice and fully completing a Opt-Out Form, shall not be a Class Member on and after the date that such person opts out of the class proceeding.
13. **THIS COURT ORDERS** that Class Members who wish to file with the Court an objection to, or comment on, the settlement, the Distribution Protocol or the request for approval of Class Counsel Fees and Class Counsel Disbursements shall deliver a written statement to Class Counsel, at the address indicated in the First Notice, no later than 21 calendar days prior to the hearing of the settlement approval motion.

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J.T. Akbarali J.

**SCHEDULE B**  
**DISMISS ORDER**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) \_\_\_\_\_, the \_\_\_\_\_ day  
 )  
JUSTICE J.T. AKBARALI ) of \_\_\_\_\_, \_\_\_\_\_

BETWEEN:

MANOJKUMAR AGGARWAL

Plaintiff

- and -

TD ASSET MANAGEMENT INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**THIS MOTION**, made by the Plaintiff for an Order, among other things, approving the settlement between the Plaintiff and the Defendant and dismissing this action as against the Defendant, was heard on [insert] at [insert].

**ON READING** the materials filed, including the settlement agreement between the Plaintiff and the Defendant dated [insert] attached to this Order as **Schedule 1** (“**Settlement Agreement**”), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendant;

**AND ON BEING ADVISED** that the deadline for objecting to the Settlement Agreement has passed and there have been [insert] written objections to the Settlement Agreement;

**AND ON BEING ADVISED** that the Defendant consents to this Order;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.
4. **THIS COURT ORDERS** that this Order, including the Settlement Agreement, is binding upon each Class Member including those Persons who are minors or mentally incapable and the requirements of Rules 7.04(1) and 7.08(4) of the *Rules of Civil Procedure* are dispensed with in respect of the Action.
5. **THIS COURT ORDERS** that the Settlement Agreement is fair, reasonable and in the best interests of the Class.
6. **THIS COURT ORDERS** that the Settlement Agreement is hereby approved pursuant to section 29 of the *Class Proceedings Act, 1992* and shall be implemented and enforced in accordance with its terms.
7. **THIS COURT ORDERS** that, upon the Effective Date, subject to paragraph 8, each Releasor has released and shall be conclusively deemed to have forever and absolutely released the Releasees from the Released Claims.
8. **THIS COURT ORDERS** that the use of the terms “Releasors” and “Released Claims” in this Order does not constitute a release of claims by those Class Members who are resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors.

9. **THIS COURT ORDERS** that, upon the Effective Date, each Class Member who is resident in any province or territory where the release of one tortfeasor is a release of all tortfeasors, covenants and undertakes not to make any claim in any way nor to threaten, commence, participate in or continue any proceeding in any jurisdiction against the Releasees in respect of or in relation to the Released Claims.
10. **THIS COURT ORDERS** that, upon the Effective Date, each Releasor shall not now or hereafter institute, continue, maintain, intervene in or assert, either directly or indirectly, whether in Canada or elsewhere, on their own behalf or on behalf of any class or any other Person, any proceeding, cause of action, claim or demand against any Releasee, or any other Person who may claim contribution or indemnity or other claims over relief from any Releasee, in respect of any Released Claim. For the avoidance of doubt, this does not apply to the 2018 Actions, the Other 2022 Actions, or the Discount Broker Actions.
11. **THIS COURT ORDERS** that for purposes of administration and enforcement of the Settlement Agreement and this Order, this Court will retain an ongoing supervisory role and the Defendant attorns to the jurisdiction of this Court solely for the purpose of implementing, administering and enforcing the Settlement Agreement and this Order, and subject to the terms and conditions set out in the Settlement Agreement and this Order.
12. **THIS COURT ORDERS** that no Releasee shall have any responsibility or liability whatsoever relating to the administration of the Settlement Agreement or with respect to the Distribution Protocol, including administration, investment, or distribution of the Trust Account.

13. **THIS COURT ORDERS** that, upon the Effective Date, the Action is hereby dismissed as against the Defendant, without costs and with prejudice.

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J.T. Akbarali J.



**SCHEDULE C**  
**DISTRIBUTION ORDER**

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) \_\_\_\_\_, the \_\_\_\_\_ day  
 )  
JUSTICE J.T. AKBARALI ) of \_\_\_\_\_, \_\_\_\_\_

BETWEEN:

MANOJKUMAR AGGARWAL

Plaintiff

- and -

TD ASSET MANAGEMENT INC.

Defendant

Proceeding under the *Class Proceedings Act, 1992*

**ORDER**

**THIS MOTION**, made by the Plaintiff for an Order, among other things, approving the notices of settlement approval and the method of dissemination of the notices, approving the Distribution Protocol, and approving the claims process, was heard on *[insert]* at *[insert]*.

**ON READING** the materials filed, including the settlement agreement between the Plaintiff and the Defendant dated *[insert]* attached to this Order as **Schedule 1** (“**Settlement Agreement**”), and on hearing the submissions of counsel for the Plaintiff and counsel for the Defendant;

**AND ON BEING ADVISED** that the deadline for objecting to the Distribution Protocol has passed and there have been *[insert]* written objections to the Settlement Agreement;

**AND ON BEING ADVISED** that the Defendant does not oppose this Order;

**AND ON BEING ADVISED** that [*insert*] consents to being appointed as the Administrator;

1. **THIS COURT ORDERS** that for the purposes of this Order, except to the extent that they are modified in this Order, the definitions set out in the Settlement Agreement apply to and are incorporated into this Order.
2. **THIS COURT ORDERS** that in the event of a conflict between this Order and the Settlement Agreement, this Order shall prevail.
3. **THIS COURT ORDERS** that this Order shall be set aside, declared null and void and of no force and effect on subsequent motion made on notice in the event that the Settlement Agreement is terminated in accordance with its terms.
4. **THIS COURT ORDERS** that the short-form, long-form and internet banner notices of settlement approval (“**Second Notice**”) are hereby approved substantially in the forms attached hereto respectively as **Schedule 2**, **Schedule 3** and **Schedule 4**.
5. **THIS COURT ORDERS** that the plan of dissemination for the Second Notice (“**Plan of Notice**”) is hereby approved in the form attached hereto as **Schedule 5**, and that the Second Notice shall be disseminated in accordance with the Plan of Notice.
6. **THIS COURT ORDERS** that the Distribution Protocol, substantially in the form attached hereto as **Schedule 6**, is approved for the purposes of distributing the Net Settlement Amount.
7. **THIS COURT ORDERS** that the form and content of the claim form (“**Claim Form**”), substantially in the form attached hereto as **Schedule 7**, is approved.
8. **THIS COURT ORDERS** that [*insert*] is appointed as the Administrator.

9. **THIS COURT ORDERS** that to be entitled to participate in a distribution from the Net Settlement Amount, a Class Member who is a Former Unitholder must:
- (a) submit a properly completed Claim Form to the Administrator, using the online claim portal established by the Administrator or by submitting a paper Claim Form by mail or courier to the Administrator, postmarked or received by the Administrator on or before 11:59 pm Toronto (Eastern) time on the date that is one hundred and eighty (180) calendar days after the date on which any part of Part 2 of the Plan of Notice is first completed (“**Claims Bar Deadline**”);
  - (b) submit, together with the Claim Form, any supporting documentation for the transactions reported therein, in the form of broker confirmation slips, broker account statements, an authorized statement from the broker containing the transactional information found in a broker confirmation slip, or such other documentation as is deemed adequate by the Administrator; and
  - (c) otherwise comply with the instructions set out in the Claim Form.
10. **THIS COURT ORDERS** that the ordinary course reporting documents of each Existing TD Mutual Fund into which a portion of the Net Settlement Amount is deposited shall accurately reflect the amount of the deposit and disclose that such deposit was made pursuant to the Settlement and this Order.

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J.T. Akbarali J.

**SCHEDULE D**  
**PLAN OF NOTICE**

## PLAN OF NOTICE

Unless otherwise modified herein, the definitions set out in the Settlement Agreement dated August [insert], 2024 apply.

***Part 1: First Notice will be disseminated (or caused to be disseminated) by Class Counsel as follows:***

1. Short-form notice (substantially in the form attached as **Schedule E** to the Settlement Agreement):
  - (a) disseminated as a news release in Canada across Canada NewsWire or other reputable newswire service (in English and French);
  - (b) emailed by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French);
  - (c) posted by Class Counsel on <https://www.kalloghlianmyers.com/trailing>, in English and French; and
  - (d) filed by the Defendant as a news release on SEDAR.
2. Long-form notice (substantially in the form attached as **Schedule F** to the Settlement Agreement):
  - (a) posted by Class Counsel on <https://www.kalloghlianmyers.com/trailing>, in English and French.
3. Internet banner (substantially in the form attached as **Schedule G** to the Settlement Agreement):
  - (a) published as a Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, for no less than 30 days and no more than 35 days; and
  - (b) published as a 12-day sponsored news link on Stockhouse.

***Part 2: Second Notice will be disseminated by Class Counsel and the Administrator as follows:***

1. Short-form notice (substantially in the form attached as **Schedule H** to the Settlement Agreement):
  - (a) disseminated as a news release in Canada across Canada NewsWire or other reputable newswire service (in English and French);
  - (b) emailed (or mailed, if an email address is not available) by Class Counsel to any potential Class Member who has previously contacted Class Counsel for the purposes of receiving notice of developments in the Action (in English and French); and

- (c) posted by Class Counsel on <https://www.kalloghlianmyers.com/trailing>, in English and French.
- 2. Long-form notice (substantially in the form attached as **Schedule I** to the Settlement Agreement):
  - (a) posted by Class Counsel on <https://www.kalloghlianmyers.com/trailing>, in English and French.
- 3. Internet banner (substantially in the form attached as **Schedule J** to the Settlement Agreement):
  - (a) published as a Google banner ad for approximately 700,000 impressions/views across Canada to an investor focused audience, in English and French, for no less than 30 days and no more than 35 days; and
  - (b) published as a 12-day sponsored news link on Stockhouse.

**SCHEDULE E**  
**SHORT-FORM FIRST NOTICE**



*DRAFT TEXT (subject to design)*

## **TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers**

### **Notice of Proposed Settlement and Opt-Out Deadline**

Have you held units of a TD mutual fund (other than through a discount broker)?

A class action settlement has been reached with TD Asset Management Inc. for C\$8.5 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to *[insert Date of Execution]*, units of a TD mutual fund trust, other than through a discount broker (“Class”).

The settlement is subject to approval by the Ontario Superior Court of Justice. A settlement approval hearing has been set for *[insert]*. At that same hearing, the Court will also consider a motion to approve Class Counsel’s fees, which will not exceed *[insert]*, plus reimbursement for expenses incurred by Class Counsel in the litigation, plus taxes on the fees and disbursements.

If you wish to object to the settlement, Class Counsel’s fees and disbursements, or the Distribution Protocol that sets out the manner in which the net settlement funds will be distributed among eligible Class Members, you must do so by *[insert]*.

If you do not want to be part of the class action and be bound by the terms of the settlement, you must opt out by submitting a supplemental opt-out form by *[insert opt-out deadline]*.

For important information regarding the class action, to determine if you are a member of the Class, to obtain a copy of the opt-out form, to object, and to understand your legal rights:

- View the long-form notice at <https://www.kalloghlianmyers.com/trailing>
- Call Class Counsel at *[insert]*

This settlement is not for persons who held units of a TD mutual fund trust through a discount broker.

If you held units of a TD mutual fund through a discount broker (e.g. BMO InvestorLine, CIBC Investor’s Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers), there is a separate settlement for you. Please visit *[insert relevant website]* for more information about that settlement.

***The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario***

**SCHEDULE F**  
**LONG-FORM FIRST NOTICE**

DRAFT TEXT (subject to design)

## TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

### Notice of Proposed Settlement and Opt-Out Deadline

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to *[insert Date of Execution]*, units of a TD Mutual Fund, other than through a discount broker, except for the Excluded Persons (“**Class**” and “**Class Members**”).

In the above class definition:

“**TD Mutual Funds**” means all mutual fund trusts (including, without limitation, all series of units thereof) of which TD Asset Management Inc. (“**Defendant**”) is trustee or was trustee at any time on or prior to *[insert Date of Execution]* (but only in respect of the period during which the Defendant is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

“**Excluded Persons**” means the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; and any person who validly opts out of the class action.

A settlement (“**Settlement**”) has been reached in the class action in the Ontario Superior Court of Justice against the Defendant (“**Action**”). This notice contains important details about the Settlement.

### IMPORTANT DEADLINES

**Objection Deadline** (to object to the Settlement, Class Counsel’s fee request or the Distribution Protocol): *[insert]*

**Opt-Out Deadline** (for Class Members to exclude themselves from the Action and the settlement): *[insert]*

### IMPORTANT NOTE ABOUT SEPARATE SETTLEMENT FOR DISCOUNT BROKER HOLDERS OF TD MUTUAL FUNDS

This settlement is **not** for persons who held units of a TD mutual fund through a discount broker. If you held units of a TD mutual fund through a discount broker (e.g. BMO InvestorLine, CIBC Investor’s Edge, National Bank Direct Brokerage, RBC Direct Investing, Scotia iTRADE, TD Direct Investing, CI Direct Trading, Qtrade, Desjardins Online Brokerage, HSBC InvestDirect, Laurentian Bank Discount Brokerage, Wealthsimple, Questrade, and Interactive Brokers), there is a separate settlement for you. Please visit *[insert relevant website]* for more information about that settlement.

### THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendant paid trailing commissions, out of the TD Mutual Fund assets, to discount brokers. The TD Mutual Funds are trusts governed by trust instruments. The Defendant is both trustee and manager of the TD Mutual Funds. It is alleged that the Defendant breached its duties as a trustee and fiduciary because the trailing commissions paid to discount brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendant made misrepresentations about the nature of the trailing commission payments.

The Defendant has denied these allegations and continues to deny all allegations.

On behalf of the Class, the Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust and fiduciary duty.

## THE CERTIFICATION ORDER

By Orders dated *[insert]*, the Ontario Superior Court of Justice (“**Court**”) certified the Action as a class proceeding under the Ontario *Class Proceedings Act, 1992*. The Court appointed the plaintiff, Manojkumar Aggarwal, as the representative plaintiff for the Class (“**Plaintiff**”).

## THE SETTLEMENT

On *[insert]*, the Plaintiff and the Defendant executed a Settlement Agreement (“**Settlement Agreement**”), which is subject to approval by the Court. The Settlement Agreement provides for the payment of C\$8.5 million (“**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members.

**The Settlement Agreement provides that if approved by the Court, the claims of Class Members asserted or that could have been asserted in the Action will be fully and finally released, and the Action will be dismissed.**

The Settlement Agreement is not an admission of liability, wrongdoing, or fault on the part of the Defendant, which has denied, and continues to deny, the allegations against it.

## SETTLEMENT APPROVAL HEARING

The Settlement Agreement is conditional on approval by the Court. The Settlement Agreement will be approved if the Court determines that it is fair and reasonable and in the best interests of the Class Members to approve it.

The Court will hear a motion for approval of the Settlement on *[insert]* at *[insert]*.

## CLASS COUNSEL’S FEES AND OTHER EXPENSES

The Plaintiff and the Class are represented by Kalloghlian Myers LLP LLP (“**Class Counsel**”). Class Counsel are conducting the Action on a contingent fee basis. On *[insert]*, Class Counsel will make a motion to the Court for approval of their fees, which in the aggregate will not exceed *[insert]*, plus reimbursement for expenses incurred in the litigation in the maximum amount of *[insert]*, plus applicable taxes on the fees and expenses.

The Ontario Class Proceedings Fund (the “**Funder**”) is funding this action. Amounts owing to the Funder will be deducted from the amounts to be distributed to the Class Members before the actual distribution.

On *[insert]*, Class Counsel will also seek the Court’s approval for the payment of an honorarium to the Plaintiff in the maximum amount of *[insert]*. Class Counsel will be requesting that the honorarium be deducted directly from the Settlement Amount.

The fees of the claims administrator, together with any other costs relating to approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”), will also be paid from the Settlement Amount.

## CLASS MEMBERS' ENTITLEMENT TO COMPENSATION

If the Settlement Agreement is approved by the Court, the Settlement Amount, after deduction of Class Counsel's fees and expenses, amounts payable to the Funder, any approved honorarium for the Plaintiff and Administration Expenses ("**Net Settlement Amount**") will be distributed to Class Members in accordance with the Distribution Protocol.

On *[insert]*, the Plaintiff will seek the Court's approval of the Distribution Protocol and a process by which certain Class Members can claim compensation from the Net Settlement Amount.

The Net Settlement Amount will be allocated between Class Members that still own units of a TD Mutual Fund ("**Current Holders**") and those that no longer hold any units of a TD Mutual Fund ("**Former Holders**"). The allocation of the Net Settlement Fund between Current and Former Holders will be specified in the Distribution Protocol, which will be posted on <https://www.kalloghlianmyers.com/trailing> on or before *[date]*.

The proposed Distribution Protocol will provide that:

- (a) **Current Holders will not be required to submit a claim for compensation.** Instead, a portion of the Net Settlement Amount into each TD Mutual Fund trust, which will increase the value of your units. We acknowledge that this will also benefit unitholders who acquired units after the period covered by this class action. However, the benefits to this approach are that: (i) it will ensure the maximum amount of affected persons benefit from the settlement because it will not require current TD Mutual Fund unit holders to submit a claim for compensation; and (ii) it will reduce the amount of settlement funds expended to administer and distribute the settlement fund.
- (b) **Former Holders must submit a claim for compensation.**

## PARTICIPATION IN THE APPROVAL MOTION

The following material will be posted on Class Counsel's website dedicated to the Action (<https://www.kalloghlianmyers.com/trailing>) on or before the dates set out below:

1. the Settlement Agreement (posted prior to or at the time of the publication of this notice);
2. the proposed Distribution Protocol (posted by *[6 weeks prior to settlement approval hearing]*); and
3. a summary of the basis upon which Class Counsel recommends the Settlement and Distribution Protocol (posted by *[6 weeks prior to settlement approval hearing]*).

Class Members who wish to comment on, or make an objection to, the approval of the Settlement Agreement, the Distribution Protocol or the fees and disbursements of Class Counsel shall deliver (by email, mail or courier) a written submission to Class Counsel, to be postmarked or received no later than *[insert]*, at the following email address or mailing address:

Serge Kalloghlian  
Kalloghlian Myers LLP  
35 Prince Arthur Avenue, Toronto, ON M5R 1B2  
Email: [TDsettlement@kalloghlianmyers.com](mailto:TDsettlement@kalloghlianmyers.com)

Any objections delivered by that date will be filed with the Court.

Class Members may attend at the hearing whether or not they deliver an objection. Class Members who wish to have a lawyer speak on their behalf at the hearing may retain one to do so at their own expense.

## OPT-OUT RIGHT

If you are a Class Member and you do not want to be bound by the outcome of the Action, including the terms of the Settlement if approved, you must “opt out”, meaning that you must exclude yourself from the Action in accordance with the following procedure.

Class Members who do not opt out will (i) be entitled to participate in the Settlement; (ii) be bound by the terms of the Settlement; and (iii) not be permitted to bring other legal proceedings in relation to the matters alleged in the Action against the Defendant, or any person released by the approved Settlement. Conversely, if you opt out of the Action, you will not be able to make a claim to receive compensation from the Settlement Amount but will maintain the right to pursue your own claim against the Defendant relating to the matters alleged in the Action.

If you wish to opt out of the Action, you must complete, sign and return (by email, mail or courier) the supplemental opt-out form provided at Appendix “A” hereto to Class Counsel.

In order for your opt-out to be valid, your complete and signed opt-out form must be postmarked or received by Class Counsel by no later than **[insert]**.

## ADDITIONAL INFORMATION

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on Class Counsel’s website at <https://www.kalloghlianmyers.com/trailing>

Questions relating to the Action may be directed to Class Counsel using the contact details above.

Si vous avez besoin d’aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

***The publication of this notice was authorized by the Ontario Superior Court of Justice***

DRAFT TEXT – SUBJECT TO DESIGN

APPENDIX “A”

OPT-OUT FORM  
TD MUTUAL FUNDS CLASS ACTION

This Opt-Out Form is for Class Members who held units of a TD Mutual Fund, other than through a Discount Broker.

If you are such a person, complete and return this Opt-Out Form by no later than [DATE], **only if you do not wish to participate in the class action, including the settlement if approved.**

It must be postmarked or received by Class Counsel by no later than [DATE].

<b>Name:</b>
<b>Organization and title (if applicable):</b>
<b>Phone number:</b>
<b>Fax number:</b>
<b>Email:</b>
<b>Address:</b>

Please provide the below information on the TD Mutual Fund units that you hold or held, other than through a Discount Broker. Please use additional paper if necessary.

<b>Name of the TD Mutual Fund(s) Currently or Previously Held</b>	<b>Fund Code</b>	<b>Date of Acquisition</b>	<b>Date of Disposition (if applicable)</b>	<b>Current Number of Units (if applicable)</b>




(PLEASE CIRCLE THE APPROPRIATE LANGUAGE)

I believe that **I am / the organization that I represent is** a member of the Class in the Action.

I believe that **I am not / the organization that I represent is not** amongst the persons and entities excluded from the Action.

I understand that by opting out of the Action, **I will not be eligible / the organization that I represent will not be eligible** for any benefit that may be available to the Class upon resolution of this matter, if and when such resolution may occur.

I, \_\_\_\_\_ (print your full name), **OPT OUT FROM THE ACTION** and wish to be excluded from this class action.

I wish to opt out from this class action for the following reason(s) (*optional*):

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I, \_\_\_\_\_ (print your full name), **CERTIFY** that the information provided herein is complete and true.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

**In order to validly opt out, you must complete and send this Opt-Out Form by no later than [DATE] to:**

Serge Kalloghlian  
 Kalloghlian Myers LLP  
 35 Prince Arthur Avenue, Toronto, ON M5R 1B2  
 Email: TDsettlement@[kalloghlianmyers.com](mailto:kalloghlianmyers.com)

**SCHEDULE G**  
**INTERNET BANNER FIRST NOTICE**

*DRAFT TEXT (subject to design)*

Have you held units of a TD mutual fund,  
other than through a discount broker?

You may be affected by a proposed class  
action settlement.

Click to learn your legal rights.

[Link to  
<https://www.kalloghlianmyers.com/trailing>]

**SCHEDULE H**  
**SHORT-FORM SECOND NOTICE**

*DRAFT TEXT (subject to design)*

## **TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers**

### **Notice of Approved Settlement and Commencement of Claim-Filing Process**

Have you held units of a TD mutual fund, other than through a discount broker?

The Ontario Superior Court of Justice approved a class action settlement with TD Asset Management Inc. for C\$8.5 million to resolve the claims asserted on behalf of all persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to *[insert Date of Execution]*, units of a TD mutual fund trust, other than through a discount broker (“Class”).

This settlement is not an admission of liability or wrongdoing by the Defendant. It is an efficient compromise between the parties of their disputed positions.

Class Members who still own units of a TD Mutual Fund are not required to submit a claim for compensation. Instead, Class Counsel will direct the Defendant to deposit a portion of the Net Settlement Amount into each TD Mutual Fund trust.

Class Members who no longer hold any units of a TD Mutual Fund must submit a claim for compensation. To be eligible to obtain compensation from the settlement, Class Members who no longer hold any units of a TD Mutual Fund must submit a Claim Form to the Administrator at *[insert Administrator website]* by *[insert]*.

For important information regarding the class action, to determine if you are a member of the Class, and to learn how to make a claim for compensation:

- View the long-form notice at *[insert Administrator website]*
- Contact the Administrator at:

*[insert Administrator contact details]*

**This settlement is only for the benefit of persons who held units of a TD mutual fund trust other than through a discount broker. If you held units of a TD mutual fund through a discount broker, there is a separate settlement for you. Please visit *[insert relevant website]* for more information about that settlement.**

***The publication of this notice was authorized by the Superior Court of Justice of the Province of Ontario***

**SCHEDULE I**  
**LONG-FORM SECOND NOTICE**

DRAFT TEXT (subject to design)

## TD Mutual Funds Class Action Regarding Trailing Commissions Paid to Discount Brokers

### Notice of Approved Settlement and Commencement of Claim-Filing Process

Read this notice carefully as it may affect your legal rights

THIS NOTICE IS TO:

All persons, wherever they may reside or be domiciled, who held or hold, at any time on or prior to [*insert Date of Execution*], units of a TD Mutual Fund, other than through a discount broker, except for the Excluded Persons (“**Class**” and “**Class Members**”).

In the above class definition:

“**TD Mutual Funds**” means all mutual fund trusts (including, without limitation, all series of units thereof) of which TD Asset Management Inc. (“**Defendant**”) is trustee or was trustee at any time on or prior to [*insert Date of Execution*] (but only in respect of the period during which the Defendant is trustee or was trustee, as applicable), including, for greater certainty, (i) those mutual funds that have been terminated, (ii) those mutual funds that have been merged into other mutual funds, and (iii) those mutual funds that have undergone name changes.

“**Excluded Persons**” means the Defendant; the past and present parents, subsidiaries, affiliates, officers, directors, senior employees, legal representatives, heirs, predecessors, successors and assigns of the Defendant; the past and present members of the independent review committee of each TD Mutual Fund; and any person who previously opted out of the class action.

A settlement (“**Settlement**”) has been reached in the class action against the Defendant (“**Action**”). The Ontario Superior Court of Justice (“**Court**”) has approved the Settlement. This notice contains important details about the Settlement and how to submit a claim for compensation from the Settlement.

### IMPORTANT DEADLINE TO FILE CLAIM FOR COMPENSATION

**Claims Bar Deadline** (to file a claim for compensation): [*insert*]

### IMPORTANT NOTE ABOUT SEPARATE SETTLEMENT FOR DISCOUNT BROKER HOLDERS OF TD MUTUAL FUNDS

This settlement is only for the benefit of persons who held units of a TD mutual fund trust other than through a discount broker. If you held units of a TD mutual fund through a discount broker, there is a separate settlement for you. Please visit [*insert relevant website*] for more information about that settlement.

### THE NATURE OF THE CLAIMS ASSERTED

It is alleged that the Defendant paid trailing commissions, out of the TD Mutual Fund assets, to discount brokers. The TD Mutual Funds are trusts governed by trust instruments. The Defendant is both trustee and manager of the TD Mutual Funds. It is alleged that the Defendant breached its duties as a trustee and fiduciary because the trailing commissions paid to discount brokers are excessive, inflated and/or unearned.

It is further alleged that the Defendant made misrepresentations about the nature of the trailing commission payments.

The Defendant has denied these allegations and continues to deny all allegations.

On behalf of the Class, the Action asserts claims under section 130 of the Ontario *Securities Act* and, if necessary, the equivalent provisions of the securities legislation of the other Canadian provinces and territories. Additionally, the Action advances claims under section 23.1 of the *Trustee Act*, and for breach of trust and fiduciary duty.

## SETTLEMENT APPROVAL, FEE APPROVAL AND OTHER MATTERS

On [insert], the Court approved the Settlement. The Settlement provides for the payment of C\$8.5 million (“**Settlement Amount**”) in consideration of the full and final settlement of the claims of Class Members.

The Settlement Agreement provides that the claims of Class Members (who did not opt out) asserted or that could have been asserted in the Action will be fully and finally released, and the Action will be dismissed.

The Settlement Agreement is not an admission of liability, wrongdoing or fault on the part of the Defendant, which has denied, and continues to deny, the allegations against it.

The Court awarded Kalloghlian Myers LLP (“**Class Counsel**”) total legal fees in the amount of [insert], plus disbursements of [insert], plus applicable taxes on the fees and expenses. As is customary in such cases, Class Counsel conducted the class action on a contingent fee basis. Class Counsel was not paid as the matter proceeded and funded the expenses of conducting the litigation. The approved fees and disbursements will be deducted from the Settlement Amount before it is distributed to Class Members.

The Class Proceedings Fund (the “Funder”) funded this action. The amount owing to the Funder will be deducted from the Settlement Amount.

The Court also approved the payment of an honorarium to the Plaintiff in the amount of [insert]. The honorarium will be deducted from the Settlement Amount before it is distributed to Class Members.

Expenses incurred or payable relating to approval, notification, implementation and administration of the Settlement (“**Administration Expenses**”) will also be paid from the Settlement Amount before it is distributed to Class Members.

The Settlement Amount includes all legal fees, the Funder’s commission, taxes and administrative expenses.

## CLAIMS ADMINISTRATOR

The Court has appointed [insert] as the claims administrator for the Settlement (“**Administrator**”). The Administrator will, among other things: (i) receive and process claims for compensation from the Settlement; (ii) determine Class Members’ eligibility for and entitlement to compensation pursuant to the Distribution Protocol; (iii) communicate with Class Members regarding claims for compensation; and (iv) manage and distribute the Settlement Amount in accordance with the Settlement Agreement and the orders of the Court.

The Administrator can be contacted at:

[insert Administrator full contact details]

## CLASS MEMBERS’ ENTITLEMENT TO COMPENSATION

The Settlement Amount, after deduction of Class Counsel’s fees and expenses, amounts payable to the Funder, the approved honorarium for the Plaintiff and Administration Expenses (“**Net Settlement Amount**”) will be distributed to Class Members in accordance with the Distribution Protocol approved by the Court.

Class Members who still own units of a TD Mutual Fund are not required to submit a claim for compensation. Instead, Class Counsel will direct the Defendant to deposit a portion of the Net Settlement Amount into each TD Mutual Fund trust.



Class Members who no longer hold any units of a TD Mutual Fund must submit a claim for compensation. To be eligible to obtain compensation from the settlement, Class Members who no longer hold any units of a TD Mutual Fund must submit a Claim Form, including any supporting documentation, to the Administrator at *[insert Administrator website]* **no later than *[insert]*** (“**Claims Bar Deadline**”).

The most efficient way to file a claim is to visit the Administrator’s website at *[insert]* and file an online claim. The website provides step by step instructions on how to file a claim. In order to verify claims, the Administrator will require supporting documentation, including brokerage statements or confirmations evidencing the claimed transactions. Accordingly, Class Members should visit the Administrator’s site as soon as possible so that they have time to obtain the required documentation prior to the Claims Bar Deadline.

While online claims are recommended and preferred, the Administrator will also accept Claim Forms filed by mail or courier. To obtain a copy of the Claim Form, Class Members may contact the Administrator to have one sent by email or regular mail. Claim Forms sent by mail or courier should be sent to the Administrator using the contact details above.

If you have questions about how to complete or file a Claim Form, the documentation required to support a claim, or whether you are a Class Member, please contact the Administrator.

#### **ADDITIONAL INFORMATION**

This notice has been approved by the Ontario Superior Court of Justice. The Court offices cannot answer any questions about the matters in this notice. The Orders of the Court and other information in both languages are available on the Administrator’s website at *[insert]*.

Questions relating to the Action may be directed to the Administrator using the contact details above or Class Counsel:

Serge Kalloghlian  
Kalloghlian Myers LLP  
35 Prince Arthur Avenue, Toronto, ON M5R 1B2  
Email: [TDsettlement@kalloghlianmyers.com](mailto:TDsettlement@kalloghlianmyers.com)

Si vous avez besoin d’aide en français, veuillez contacter les avocats du groupe en utilisant les coordonnées ci-dessus et nous dirigerons votre demande vers une personne appropriée.

***The publication of this notice was authorized by the Ontario Superior Court of Justice***

**SCHEDULE J**  
**INTERNET BANNER SECOND NOTICE**

*DRAFT TEXT (subject to design)*

Have you held units of a TD mutual fund,  
other than through a discount broker?

You may be eligible to obtain compensation  
from a class action settlement.

Click to learn your legal rights.

*[Link to Administrator website]*