

**IN THE MATTER OF THE SECURITIES LEGISLATION OF ONTARIO, BRITISH
COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, QUEBEC, NOVA SCOTIA,
NEWFOUNDLAND AND LABRADOR,
NEW BRUNSWICK, AND PRINCE EDWARD ISLAND**

AND

**IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR
EXEMPTIVE RELIEF APPLICATIONS**

AND

IN THE MATTER OF 5BANC SPLIT INC.

AND

IN THE MATTER OF TD SECURITIES INC.

MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of Ontario, British Columbia, Alberta, Saskatchewan, Manitoba, Quebec, Nova Scotia, Newfoundland and Labrador, New Brunswick, and Prince Edward Island (the "Jurisdictions") has received an application from 5Banc Split Inc. (the "Company") and TD Securities Inc. ("TD Securities") for decisions under the securities legislation (the "Legislation") of the Jurisdictions that the following requirements contained in the applicable Legislation shall not apply to the Company and/or TD Securities, as applicable:

(a) in the case of the Legislation of each of the Jurisdictions other than Manitoba and Québec, the prohibitions contained therein prohibiting trading in portfolio shares by persons or companies having information concerning the trading programs of mutual funds (the "Principal Trading Prohibitions") shall not apply to TD Securities in connection with the Principal Sales and Principal Purchases (both as hereinafter defined);

(b) in the case of the Legislation of each of the Jurisdictions other than Manitoba, the restrictions contained therein prohibiting the Company from making investments in the common shares of the Banks (as defined below), each of which is, or is likely to be, a substantial security holder of a distribution company of the Company (the "Investment Restrictions"), shall not apply to the Company in connection with the initial public offering (the "Offering") of the class A capital shares (the "Capital Shares") and class A preferred shares (the "Preferred Shares") of the Company; and

(c) the requirements contained in the Legislation of each of the Jurisdictions other than Québec to file and obtain a receipt for a preliminary prospectus and final

prospectus (the "Prospectus Requirements") shall not apply to Market Making Trades (as hereinafter defined) by TD Securities in Preferred Shares and Capital Shares of the Company;

subject to certain restrictions;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Ontario Securities Commission is the principal regulator for this application;

AND WHEREAS the Company has represented to the Decision Makers that:

1. TD Securities is a direct, wholly-owned subsidiary of The Toronto-Dominion Bank (the "TD Bank") and is registered under the Legislation as a dealer in the categories of "broker" and "investment dealer" and is a member of the Investment Dealers Association of Canada and The Toronto Stock Exchange (the "TSE").
2. TD Securities is the promoter of the Company and will be establishing a credit facility in favour of the Company in order to facilitate the acquisition of the Portfolio Shares (as defined below) by the Company.
3. The Company was incorporated on November 9, 2001 under the laws of the Province of Ontario and is authorized to issue an unlimited number of Class E Shares.
4. The Company has filed with the securities regulatory authorities of the Jurisdictions a preliminary prospectus dated November 9, 2001 (the "Preliminary Prospectus") in respect of the proposed Offering of Capital Shares and Preferred Shares to the public.
5. The Company intends to become a reporting issuer under the Legislation by filing a final prospectus (the "Final Prospectus") relating to the Offering. Prior to the filing of the Final Prospectus, the Articles of the Company will be amended so that the authorized capital of the Company will consist of an unlimited number of Capital Shares, an unlimited number of Preferred Shares, an unlimited number of Class B, Class C and Class D Capital Shares, issuable in series, an unlimited number of Class B, Class C and Class D Preferred Shares, issuable in series, and an unlimited number of Class E voting shares, having the attributes set forth under the headings "Description of Share Capital" and "Details of the Offerings" in the Preliminary Prospectus.
6. The Capital Shares and Preferred Shares may be surrendered for retraction at any time in the manner described in the Preliminary Prospectus.
7. Application will be made to list the Capital Shares and Preferred Shares on the TSE.
8. The Class E Shares will be the only voting shares in the capital of the Company. There are currently, and will be at the time of filing the Final Prospectus, 100 Class E Shares issued and outstanding. TD Securities owns 50 of the issued and outstanding Class E Shares of the Company and 5Banc Split Holdings Corporation owns the remaining 50 issued and outstanding

Class E Shares of the Company. Two employees of TD Securities each own 50% of the issued and outstanding common shares of 5Banc Split Holdings Corporation.

9. The Company has a board of directors which currently consists of five directors, three of whom are employees of TD Securities and two of whom are independent of TD Securities. The President/Chief Executive Officer and Chief Financial Officer/Secretary of the Company are employees of TD Securities.

10. Pursuant to an agreement (the "Agency Agreement") to be made between the Company and TD Securities, Scotia Capital Inc. and such other agents as may be appointed after the date of this application (collectively, the "Agents" and individually, an "Agent"), the Company will appoint the Agents, as its agents, to offer the Capital Shares and Preferred Shares of the Company on a best efforts basis and the Final Prospectus qualifying the Offering will contain a certificate signed by each of the Agents in accordance with the Legislation.

11. The Company is considered to be a mutual fund as defined in the Legislation, except in Qu_顛c. Since the Company does not operate as a conventional mutual fund, it has made application for a waiver from certain requirements of National Instrument 81-102 Mutual Funds.

12. The Company is a passive investment company whose principal undertaking will be to invest the net proceeds of the Offering in a portfolio (the "Portfolio") of common shares (the "Portfolio Shares") of Bank of Montreal, The Bank of Nova Scotia, Canadian Imperial Bank of Commerce, Royal Bank of Canada and the TD Bank (collectively, the "Banks" and individually, a "Bank"). The purpose of the Company is to generate dividend income for the holders of the Preferred Shares and to enable holders of Capital Shares to participate in any capital appreciation in the Portfolio Shares and to benefit from any increase in the dividends paid on the Portfolio Shares.

13. The Final Prospectus will disclose the acquisition cost of the Portfolio Shares to the Company and selected financial information and dividend and trading history with respect to the Portfolio Shares.

14. The Portfolio Shares are listed and traded on the TSE.

15. The Company is not, and will not upon the completion of the Offering, be an insider of any of the issuers of the Portfolio Shares within the meaning of the Legislation.

16. TD Securities does not have knowledge of a material fact or material change with respect to any of the issuers of the Portfolio Shares that has not been generally disclosed.

17. TD Securities' economic interest in the Company and in the material transactions involving the Company are disclosed in the Preliminary Prospectus and will be disclosed in the Final Prospectus under the heading "Interest of Management and Others in Material Transactions".

18. The net proceeds from the sale of the Capital Shares and Preferred Shares under the Final Prospectus, after payment of commissions to the Agents, expenses of issue and carrying costs relating to the acquisition of the Portfolio Shares, will be used by the Company to:

(a) pay the acquisition cost (including any related costs or expenses) of the Portfolio Shares; and

(b) pay the initial fee payable to TD Securities for its services under the Administration Agreement (as defined below).

19. All Capital Shares and Preferred Shares outstanding on a date approximately five years from the closing of the Offering will be redeemed by the Company on such date (the "Redemption Date") as will be specified in the Final Prospectus, and Preferred Shares will be redeemable at the option of the Company on any Annual Retraction Payment Date, as described in the Preliminary Prospectus.

20. Pursuant to an agreement (the "Securities Purchase Agreement") to be entered into between the Company and TD Securities, TD Securities will purchase, as agent for the benefit of the Company, Portfolio Shares in the market on commercial terms or from non-related parties with whom TD Securities and the Company deal at arm's length. Subject to receipt of all necessary regulatory approvals, TD Securities may, as principal, sell Portfolio Shares to the Company (the "Principal Sales"). The aggregate purchase price to be paid by the Company for the Portfolio Shares (together with carrying costs and other expenses incurred in connection with the purchase of Portfolio Shares) will not exceed the net proceeds from the Offering.

21. The Preliminary Prospectus discloses and the Final Prospectus will disclose that any Principal Sale will be made in accordance with the rules of the applicable stock exchange and the price paid to TD Securities (inclusive of all transaction costs, if any) will not be greater than the price which would have been paid (inclusive of all transaction costs, if any) if the acquisition had been made through the facilities of the principal stock exchange on which the Portfolio Shares are listed and posted for trading at the time of the purchase from TD Securities. TD Securities may realize a gain or loss in respect of the Principal Sales, which is described in the Preliminary Prospectus and will be described in the Final Prospectus.

22. TD Securities will not receive any commissions from the Company in connection with the Principal Sales and all Principal Sales will be approved by the two independent directors of the Company.

23. For the reasons set forth in paragraphs 20 and 21 above, and the fact that no commissions are payable to TD Securities in connection with the Principal Sales, in the case of the Principal Sales, the interests of the Company and the shareholders of the Company may be enhanced by insulating the Company from price increases in respect of the Portfolio Shares.

24. None of the Portfolio Shares to be sold by TD Securities as principal to the Company have been acquired, nor has TD Securities agreed to acquire, any Portfolio Shares while TD Securities had access to information concerning the investment program of the Company, although certain of the Portfolio Shares to be held by the Company may be acquired or TD Securities may agree to acquire such Portfolio Shares on or after the date of this Decision Document.

25. It will be the policy of the Company to hold the Portfolio Shares and to not engage in any trading of the Portfolio Shares, except:

- (a) to fund retractions or redemptions of Capital Shares and Preferred Shares;
- (b) to fund a portion of the fixed distribution on the Preferred Shares;
- (c) following receipt of stock dividends on the Portfolio Shares; or
- (d) in certain other limited circumstances as described in the Preliminary Prospectus.

26. Pursuant to an administration agreement (the "Administration Agreement") to be entered into, the Company will retain TD Securities to administer the ongoing operations of the Company and will pay TD Securities (i) a monthly fee of 1/12 of 0.15% of the market value of the Portfolio Shares held in the Portfolio, and (ii) interest income earned by the Company from time to time.

27. In connection with the services to be provided by TD Securities to the Company pursuant to the Administration Agreement, TD Securities may sell Portfolio Shares, as agent on behalf of the Company, to pay a portion of the dividends payable on the Preferred Shares, to fund retractions of Capital Shares and Preferred Shares prior to the Redemption Date and upon liquidation of Portfolio Shares prior to the Redemption Date. However, in certain circumstances, such as where a small number of Capital Shares and Preferred Shares have been surrendered for retraction, TD Securities may purchase Portfolio Shares as principal (the "Principal Purchases") subject to receipt of all regulatory approvals.

28. In connection with any Principal Purchases, TD Securities will comply with the rules, procedures and policies of the applicable stock exchange of which it is a member and in accordance with orders obtained from all applicable securities regulatory authorities. The Final Prospectus will disclose that TD Securities may realize a gain or loss on the resale of such securities.

29. The Administration Agreement will provide that TD Securities must take reasonable steps, such as soliciting bids from other market participants or such other steps as TD Securities, in its discretion, considers appropriate after taking into account prevailing market conditions and other relevant factors, to enable the Company to obtain the best price reasonably available for the Portfolio Shares so long as the price obtained (net of all transaction costs, if any) by the Company from TD Securities is at least as advantageous to the Company as the price which is available (net of all transaction costs, if any) through the facilities of the applicable stock exchange at the time of the trade.

30. TD Securities will not receive any commissions from the Company in connection with Principal Purchases and, in carrying out the Principal Purchases, TD Securities shall deal fairly, honestly and in good faith with the Company.

31. TD Securities will be a significant maker of markets for the Capital Shares and Preferred Shares, although it is not anticipated that TD Securities will be appointed the registered pro-trader by the TSE with respect to the Company. As a result, TD Securities will, from time to time, purchase and sell Capital Shares and Preferred Shares as principal and trade in such securities as agent on behalf of its clients, the primary purpose of such trades (the "Market Making Trades") being to provide liquidity to the holders of Capital Shares and Preferred Shares. All trades made by TD Securities as principal will be recorded daily by the TSE.

32. Each Bank is a substantial security holder of an investment dealer subsidiary, which is, or is likely to be, a distribution company of the Company. Each of the Agents will be a distribution company of the Company for the purposes of the Legislation.

33. As TD Securities owns 50% of the Class E Shares of the Company, TD Securities will be deemed to be in a position to effect materially the control of the Company and consequently, each Market Making Trade will be a "distribution" or "distribution to the public" within the meaning of the Legislation.

AND WHEREAS under the System, this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Maker with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers pursuant to the Legislation is that:

A. The Principal Trading Prohibitions shall not apply to TD Securities in connection with the Principal Sales and Principal Purchases.

B. The Investment Restrictions shall not apply to the Company in connection with investments in Portfolio Shares for the purposes of the Offering as described in the Preliminary Prospectus.

C. The Prospectus Requirements shall not apply to the Market Making Trades by TD Securities in the Capital Shares and Preferred Shares provided that at the time of each Market Making Trade, TD Securities and its affiliates do not beneficially own or have the power to exercise control or direction over a sufficient number of voting securities of a Bank, securities convertible into voting securities of a Bank, options to acquire voting securities of a Bank, or any other securities which provide the holder with the right to exercise control or direction over voting securities of a Bank which in the aggregate, permit TD Securities to affect materially the control of such Bank and without limiting the generality of the foregoing, the beneficial ownership of or the power to exercise control or direction over securities representing in the aggregate 20% or more of the votes attaching to all the then issued and outstanding voting securities of a Bank shall, in the absence of evidence to the contrary, be deemed to affect materially the control of such Bank.

DATED December 12, 2001.

Headnote

Mutual Reliance Review System for Exemptive Relief Applications – subdivided offering – the prohibitions contained in the Legislation prohibiting trading in portfolio shares by persons or companies having information concerning the trading programs of mutual funds shall not apply to the promoter/agent with respect to certain trades with the issuer in securities comprising the issuer's portfolio - issuer's portfolio consisting of common shares of five Canadian chartered banks.

Market making trades by promoter/agent shall not be subject to requirements to file and obtain a receipt for a preliminary and final prospectus provided that the promoter/agent and its affiliates do not beneficially own or have the power to exercise control of a sufficient number of voting securities of an issuer of the securities comprising the issuer's portfolio to permit the promoter/agent to affect materially the control of such issuer.

Issuer, a mutual fund, exempted from restriction against making an investment in any person or company who is a substantial security holder of the mutual fund, its management company or distribution company.

Applicable Ontario Statutes:

Securities Act, R.S.O. 1990, c.S.5., as amended, ss. 1(1), 53(1), 74(1), 111(2)(a), 113, 119, 121(2)(a)(ii).