

To Norges Bank

05.03.2025

UNOFFICIAL ENGLISH TRANSLATION

**Recommendation to place
Toronto-Dominion Bank
under observation**

Summary

The Council on Ethics recommends that Toronto-Dominion Bank (TD) be placed under observation pursuant to section 4(g) of the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (the ethical guidelines), which addresses gross corruption and other serious financial crime.

TD is one of Canada's largest banks. Headquartered in Toronto, it has more than 95,000 employees worldwide. The company has a significant presence and activity along the USA's eastern seaboard. TD is listed on the Toronto Stock Exchange (TSX) and the New York Stock Exchange (NYSE). As at 31 December 2024, the Norwegian Government Pension Fund Global (GPFG) owned 1.05 per cent of the company's shares, worth just over NOK 11 billion.

The Council's inquiries have found that TD may be linked to multiple allegations of financial crime and money laundering. In 2024, the company was fined USD 3 billion by the authorities in the USA and over CAD 9 million by the authorities in Canada for wide-ranging failings in its anti-money laundering (AML) programme. In addition, the US authorities' investigation led to TD's wholly owned US subsidiary pleading guilty to offences relating to non-compliance with regulatory requirements and anti-money laundering provisions in the period 2014 to 2024. For example, TD is alleged to have laundered proceeds of crime worth more than USD 600 million, primarily related to the sale of narcotics. TD received a civil, administrative fine for similar, though less serious, offences in 2013.

Because the GPFG's ethical guidelines are forward looking, the issue under assessment is whether there is an unacceptable risk that the company will contribute to, or be responsible for, equivalent norm violations in the future. When assessing whether an unacceptable risk exists, the Council attaches importance not only to the measures and systems a company has implemented to prevent further incidents, but also the extent to which its previous history may, overall, establish a pattern of behaviour that raises the risk of new financial crimes being committed to an unacceptable level.

In its assessment of TD, the Council has attached considerable importance to the fact that employees at various branches of the bank have, independently of each other, been able to help several criminal networks to launder money over multiple years. The Council considers that this, combined with the US investigation's allegation that leading employees knew about the company's failings, is indicative of ingrained systemic and cultural problems at the company. Furthermore, the Council considers that the repeated fines imposed on TD and multiple allegations relating to financial crime, including failure to properly comply with regulatory requirements in relation to money laundering, could indicate a pattern of behaviour that raises the risk of new financial crimes being committed to an unacceptable level.

The above notwithstanding, the Council has decided to recommend that TD be placed under observation rather than be excluded from investment by the GPFG. This is because the fines imposed on TD in 2024, combined with requirements for improvement, provide an incentive for the company to avoid future episodes of this type. Furthermore, TD has made wide-ranging personnel changes and announced investments and measures intended to prevent anything similar happening again. At the same time, the company recognises that it may not succeed in achieving certain critical targets in its improvement plan. The Council therefore considers that uncertainty attaches to developments going forward, see section 6(5) of the ethical guidelines.

Observation of TD will enable the Council to obtain information about the company's improvement process and monitor whether new information linking TD to financial crime comes to light.

Contents

Introduction	1
Background to the Council's assessment	1
Sources	2
The Council's investigations	2
TD fined in 2024 for extensive anti-money laundering failures in the USA	3
Investigation of employees	6
Investigation of third parties	8
Fines for breach of US anti-money laundering legislation	10
Fine for regulatory infractions in Canada	10
Other matters	11
Information provided by the company	16
Tone from the top	16
Risk assessments / analyses	17
Training and employees:	18
Other measures	19
The Council's assessment	21
Recommendation	23

Introduction

The Council on Ethics for the Norwegian Government Pension Fund Global (GPFG) has assessed the Fund's investments in Toronto-Dominion Bank (henceforward "TD" or the "company")¹ against the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global (the ethical guidelines).² The company has been linked to multiple allegations of money laundering and non-compliance with statutory requirements intended to prevent and detect money laundering.

TD is Canada's second-largest bank. It also has a significant presence in the USA. TD offers a wide range of financial services to commercial enterprises and private individuals. The company is listed on the Toronto Stock Exchange (TSX) and the New York Stock Exchange (NYSE).

As at 31 December 2024, the GPFG owned 1.05 per cent of TD's shares, worth just over NOK 11 billion.

Background to the Council's assessment

Over the past 10–15 years, TD has been linked to a number of cases relating to financial crime, money laundering and non-compliance with regulatory requirements intended to prevent and detect money laundering. Pursuant to section 4(g) of the ethical guidelines, a company may be excluded from investment by the GPFG or placed under observation if there is an unacceptable risk that it is contributing to, or is itself responsible for, serious financial crime.

The ethical guidelines' preparatory works establish that serious financial crime includes money laundering as well as non-compliance with regulations intended to prevent and detect financial crime, such as anti-money laundering legislation.³ On the basis of Norwegian law and international conventions, the Council presumes that money laundering is taking place if a company, through its representatives, helps someone to conceal, transfer or in some other way

¹ Issuer ID: 110755

² Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global:
https://www.regjeringen.no/contentassets/9d68c55c272c41e99f0bf45d24397d8c/2022.09.05_gpfg_guidelines_observation_exclusion.pdf.

³ Norwegian Official Report Values and Responsibility – The Ethical Framework for the Norwegian Government Pension Fund Global (English summary):
<https://www.regjeringen.no/contentassets/86dac65c22384dda9584dc2b1a052a91/en-gb/pdfs/nou202020200007000engpdfs.pdf> ; Full version (in Norwegian) NOU 2020: 7, *Verdier og Ansvar*, p. 198: <https://www.regjeringen.no/no/dokumenter/nou-2020-7/id2706536/>.

safeguard monies or assets that derive from a criminal act.⁴ Correspondingly, the Council presumes that banks have a duty under national AML legislation to report suspicious activity to the authorities, and an associated duty to identify their customers and follow-up and investigate any suspicious matters.⁵ Non-compliance with such legislation may create a risk that the company is contributing to, or is itself responsible for, serious financial crime as proscribed by the ethical guidelines.

When assessing the risk of new norm violations taking place in the future, the Council attaches importance to the measures the company has implemented to prevent, detect and respond to any new instances of money laundering and/or non-compliance. On the basis of the statements in the ethical guidelines' preparatory works, the Council also attaches considerable weight to whether the company has been involved in repeated incidents that *"in total may establish a pattern of behaviour that results in an unacceptable risk that new incidents of financial crime will occur."*⁶

Sources

The information that has been obtained about the allegations against TD derive largely from US, Canadian and international media outlets, court documents in the USA as well as plea agreements and associated annexes and comments from the financial supervisory authorities in the USA and Canada. The Council's assessment of the company's anti-money laundering measures and endeavours to ensure compliance with relevant legislation is based on information published on TD's website, in annual reports and through written communication between the Council and the company.

The Council's investigations

The Council's investigations have revealed that TD may be linked to multiple allegations of money laundering, corruption and other financial crimes, including non-compliance with regulatory requirements for the prevention of money laundering in Canada and the USA. While some matters are being actively investigated, other have been adjudicated by the supervisory authorities or

⁴ United Nations Convention against Transnational Organized Crime and the Protocols thereto, Palermo 2000 Art. 6(1): https://www.unodc.org/documents/middleeastandnorthafrica/organised-crime/UNITED_NATIONS_CONVENTION_AGAINST_TRANSNATIONAL_ORGANIZED_CRIME_AND_THE_PROTOCOLS_THERETO.pdf; and United Nations Convention against Corruption, New York 2003 Art. 23: https://www.unodc.org/documents/brussels/UN_Convention_Against_Corruption.pdf.

⁵ FATF, November 2023, *The FATF Recommendations*: <https://www.fatf-gafi.org/content/dam/fatf-gafi/recommendations/FATF%20Recommendations%202012.pdf.coredownload.inline.pdf>.

⁶ NOU 2020: 7, *Verdier og Ansvar*, p. 198.

courts of law. Still others are claims reported in the media without these having been investigated by the authorities.

TD fined in 2024 for extensive anti-money laundering failures in the USA

On 10 October 2024, it became known that two of TD's wholly owned subsidiaries, the US holding company TD Bank U.S. Holding Company (TDBUSH) and its subsidiary TD Bank, N.A. (TDBNA), which acted as the operative banking entity, had agreed to pay fines and enter into several out-of-court agreements with the US authorities as a result of extensive defects and failings in their anti-money laundering programmes.⁷

In total, the fines amounted to over USD 3 billion, the largest fine ever imposed on a bank for violation of US anti-money laundering legislation (Bank Secrecy Act).⁸

As part of the plea agreements with the US Department of Justice (DOJ), TDBUSH and TDBNA pleaded guilty of, in their respective roles, deliberately failing to establish, implement and maintain a functioning anti-money laundering programme, and for submitting no reports or incomplete reports to the authorities as banks are required to do in certain circumstances.⁹ TDBNA also pleaded guilty to laundering the proceeds of crime both knowingly and willingly.¹⁰ All the guilty pleas relate to conspiracy to commit a crime. A federal judge approved the plea agreements on 7 November 2024.¹¹

Neither party contests the facts set out in the plea agreements with the US DOJ, which describe extensive and enduring systemic problems relating to TD's anti-money laundering endeavours.¹² Despite vigorous growth in the period 2014 to

⁷ U.S. Department of Justice, 10 October 2024, *TD Bank Pleads Guilty to Bank Secrecy Act and Money Laundering Conspiracy Violations in § 1.8 B Resolution*: <https://www.justice.gov/opa/pr/td-bank-pleads-guilty-bank-secrecy-act-and-money-laundering-conspiracy-violations-18b>; and U.S. Department of the Treasury Financial Crimes Enforcement Network, 10 October 2024, *FinCEN Assesses Record \$ 1.3 Billion Penalty against TD Bank*: <https://www.fincen.gov/news/news-releases/fincen-assesses-record-13-billion-penalty-against-td-bank>.

⁸ Financial Times, 11 October 2024, *'An easy target': the Canadian bank favoured by money launderers*: <https://www.ft.com/content/846e7cbf-05c1-42bc-a5d4-8c3487297fe4>

⁹ U.S. Department of Justice, 10 October 2024, *Plea Agreement Re: United States v. TD Bank US Holding Company*: <https://www.justice.gov/opa/media/1373151/dl>.

¹⁰ U.S. Department of justice, 10 October 2024, *Plea Agreement Re: United States v. TD Bank, N.A.*: <https://www.justice.gov/archives/opa/media/1373336/dl>.

¹¹ American Banker, 7 November 2024, *"Judge approves TD Bank plea deal, including five years of probation"*: <https://www.americanbanker.com/news/judge-approves-td-bank-plea-deal-including-five-years-of-probation>

¹² U.S. Department of Justice, 10 October 2024, *Plea Agreement Re: United States v. TD Bank US Holding Company*, Attachment A: <https://www.justice.gov/opa/media/1373151/dl>; and U.S.

2023, TD down-prioritised its anti-money laundering programme through a so-called “flat-cost paradigm”. This meant that costs associated with the anti-money laundering programme should not increase from year to year. In consequence, the system used to monitor transactions and flag suspicious transactions was not updated or maintained. As a result, only 8 per cent of all transactions were adequately monitored in the period 2014 to 2022. From 2018 to 2024, transactions worth an estimated USD 18,300 billion passed through TD unmonitored.

The lack of follow-up made it possible for three money laundering networks to use TD to launder over USD 600 million between 2019 and 2023. This was partly enabled by TD employees who, in one case, actively collaborated with criminals to launder USD 39 million in transfers to Colombia. In the most wide-ranging case, more than USD 470 million is alleged to have been laundered through TD. This was facilitated through bribes paid to employees in the period January 2019 to March 2020. The money laundering operation is alleged to have consisted of substantial cash deposits, sometime amounting to over USD 1 million per day. Although, TD occasionally submitted reports of suspicious activity, these were inadequate and incomplete.

Underpinning the description of the facts is an assumption that individual members of company management, including at least two people with overarching responsibility for the anti-money laundering programme, were aware of TD’s persistent, comprehensive and systemic failings with respect to this programme. In a letter to the Council, TD disclosed that none of the managers with direct responsibility for these failings is still employed by the company.¹³

The plea agreement with the DOJ also cites findings from the criminal investigation which prove that employees were aware of and actively colluded in money laundering operations.¹⁴ For example:

- *“In October 2021, when asked by a colleague what “the bad guys” thought about the Bank’s AML program, GAML’s lead AML technologist and one of Individual-1’s direct reports summarized the program as follows:*
 - o *AML Technologist: what do the bad guys have to say about us*
 - o *GAML Manager: Lol*
 - o *GAML Manager: Easy target*

Department of Justice, 10 October 2024, *Plea Agreement Re: United States v. TD Bank, N.A.*, Attachment A: <https://www.justice.gov/archives/opa/media/1373336/dl>.

¹³ Letter from TD dated 6 February 2025.

¹⁴ U.S. Department of Justice, 10 October 2024, *Plea Agreement Re: United States v. TD Bank US Holding Company*, Attachment A, pp. 21–25: <https://www.justice.gov/opa/media/1373151/dl>

- *"Other employees, both in GAML and retail, consistently commented on the Bank's instant messaging platform about the Bank's motto, "America's Most Convenient Bank," and directly linked it to the Bank's approach to AML. For example, a US-AML employee noted that a reason the Bank had not stopped one of the below-referenced money laundering typologies was because "we r the most convenient bank lol." Similarly, when two US-AML employees discussed another one of the below-referenced money laundering typologies, as well as other customers engaged in potentially suspicious activity, the following conversation occurred:*
 - o *Employee 1: p why all the really awful ones bank here lol*
 - o *Employee 2: because...*
 - o *Employee 2: we are convenient*
 - o *Employee 2: hahah*
 - o *Employee 1: bahahahaha"*
- *"TDBNA Retail employees at multiple levels understood and acknowledged the likely illegality of XX's activity. In August 2020, one TDBNA store manager emailed another store manager and remarked, "You guys really need to shut this down LOL." In late 2020, another store manager implored his supervisors (several TDBNA regional managers) to act, noting that "[i]t is getting out of hand and my tellers are at the point that they don't feel comfortable handling these transactions." In February 2021, one TDBNA store employee saw that XX's Network had purchased more than \$1 million in official bank checks with cash in a single day and asked, "How is that not money laundering," to which a back-office employee responded, "oh it 100% is.""*

The DOJ notes in the plea agreements that TD has cooperated with its investigations, but that the company did not self-report any of the incidents on which the financial penalty is based, and that the company's cooperation in certain areas was limited.

Overall, this qualified for a 20 per cent reduction in the size of the fine.¹⁵ The maximum reduction allowable under the guidelines for such is 50 per cent.¹⁶ In a letter to the Council, TD has commented on this, pointing out that the company fully and proactively cooperates with the authorities, and that this was acknowledged at the DOJ's press conference when the plea agreement was announced and in the agreement's final text.¹⁷

¹⁵ U.S. Department of Justice, 10 October 2024, *Plea Agreement Re: United States v. TD Bank US Holding Company*, pp. 4–6: <https://www.justice.gov/opa/media/1373151/dl>.

¹⁶ U.S. Department of Justice, Criminal Division Corporate Enforcement: 9-47.120 – *Criminal Division Corporate Enforcement and Voluntary Self-Disclosure Policy*: <https://www.justice.gov/criminal/criminal-fraud/file/1562831/dl?inline>.

¹⁷ Letter from TD dated 20 November 2024.

In addition to the fine, TD has been put under the oversight of two external monitors who are tasked with following up the mandated improvements. Restrictions on the company's growth in the USA (an asset cap) were also imposed. Commentators in the business press have expressed reservations about the likelihood of the fine and the restrictions imposed being sufficient to prevent similar incidents occurring in the future. They also speculate about the possible existence of other, similar problems at the company.¹⁸

FinCEN and other regulatory authorities

In addition to the plea agreements with the DOJ, other regulatory authorities in the US have imposed fines and penalties on TD with respect to the above-mentioned matters. These include the US Financial Crimes Enforcement Network (FinCEN), which imposed an administrative fine of USD 1.3 billion on TD.¹⁹ FinCEN points to several of the same incidents as mentioned above and refers to violation of anti-money laundering legislation arising from inadequate reporting of suspicious transactions, with an associated backlog in TD's investigation of suspicious activities, inadequate investments in the anti-money laundering programme, including technology and personnel, significant flaws in the transaction monitoring programme and inadequate training and internal controls. In addition to the fine, TD has been put under the oversight of a special monitor by FinCEN and ordered to hire an independent consultant to review past transactions to identify potentially suspicious activity.

Investigation of employees

Employees and individuals who have used TD for money laundering have also been prosecuted by the US authorities in relation to this case.

On 30 October 2023, the US authorities arrested a person on suspicion of money laundering and receiving bribes in their capacity as an employee of an international financial institution's New Jersey branch. According to a press release published by the United States Attorney for the District of New Jersey, the allegations involve the laundering of proceeds from the sale of illegal drugs,

¹⁸ The Wall Street Journal, 11 October 2024, *The Money Laundering Behind TD Bank's \$3 Billion Fine*: https://www.wsj.com/podcasts/the-journal/the-money-laundering-behind-td-banks-3-billion-fine/b1909345-00dd-4357-b674-5951138a1275?mod=Searchresults_pos2&page=1; and The Globe and Mail, 19 October 2024, *TD has a big problem with its U.S. operations. No, not that one*: <https://www.theglobeandmail.com/investing/markets/inside-the-market/article-td-has-a-big-problem-with-its-us-operations-no-not-that-one/?cmpid=rss>.

¹⁹ Financial Crimes Enforcement Network (FinCEN), 10 October 2024, *Consent order imposing civil money penalty, TD Bank, N.A. and TD Bank USA, N.A.*: https://www.fincen.gov/sites/default/files/enforcement_action/2024-10-10/FinCEN-TD-Bank-Consent-Order-508FINAL.pdf.

which the defendant is alleged to have assisted with since early 2022. The defendant is also accused of using their position to open bank accounts for shell companies and then granting their accomplices access to these accounts via online banking solutions and associated bank cards. These were largely used in Colombia as part of the money laundering process. The defendant is described as having single-handedly facilitated the laundering of millions of dollars over a period of less than two years. In return for this, the defendant is alleged to have received several thousand dollars for each account they opened.²⁰

A police report linked to the US Attorney's press release describes the defendant as a sales manager and the primary point of contact for both new and existing customers at the branch concerned. Furthermore, the document describes how the defendant issued dozens of bank cards that their accomplice(s) used to make more than 20,000 cash withdrawals from cash points (ATMs) in Colombia. In total more than USD 4 million was withdrawn in this fashion. The police report states that the financial institution had policies and procedures intended to prevent money laundering and bribery/corruption.²¹

The financial institution has subsequently been identified as TD, which stated in a comment that it was cooperating with the authorities and had terminated the employment of the person concerned.²²

On 14 March 2024, the United States Attorney for the District of New Jersey announced that a man had been arrested in connection with an investigation that had uncovered bribes and the laundering of millions of dollars that had been transferred to Colombia. According to the US Attorney's press release, the defendant worked at a branch of an international financial institution in Florida.

²³

A police report linked to the press release describes how the defendant, from April 2022 until their arrest, repeatedly accepted bribes in return for creating

²⁰ United States Attorney's Office, District of New Jersey, 30 October 2023, *Bank Insider Charged with Accepting Bribes to Facilitate Millions of Dollars of Money Laundering*: <https://www.justice.gov/usao-nj/pr/bank-insider-charged-accepting-bribes-facilitate-millions-dollars-money-laundering>.

²¹ United States District Court of New Jersey, 27 October 2023, *Criminal Complaint*: <https://www.justice.gov/usao-nj/media/1322026/dl?inline>.

²² The Globe and Mail, 10 January 2024, *Former TD employee charged with money laundering, accepting bribes in drug-trafficking case*: <https://www.theglobeandmail.com/business/article-td-bank-employee-money-laundering/>.

²³ United States Attorney's Office, District of New Jersey, 14 March 2024, *Bank Insider Charged with Obstruction after Making False Statements to Agents About Accepting Bribes*: <https://www.justice.gov/usao-nj/pr/bank-insider-charged-obstruction-after-making-false-statements-agents-about-accepting>.

bank accounts and issuing bank cards in violation of internal guidelines and procedures. On at least one occasion, the financial institution halted suspicious transactions that the defendant had facilitated, by blocking two bank cards issued on incorrect and false premises. The defendant then successfully persuaded the institution to unblock the cards. The police report also indicates that the defendant had similar arrangements relating to Venezuela, Israel, Bolivia and Peru. The funds the defendant received for his cooperation with the Colombian counterparty, a total of USD 5,600, were paid into his private account at the financial institution for which he worked. The police report also refers to the fact that the financial institution had policies, routines and procedures intended to prevent money laundering and bribery.²⁴

The financial institution was subsequently identified as TD, which has disclosed that the person concerned's employment has been terminated.²⁵

On 11 December 2024, the DOJ announced that a former employee at a TD branch in Florida had been arrested and charged with abusing his position at the bank to facilitate money laundering to Colombia.²⁶

Investigation of third parties

The largest case in terms of monetary value relates to TD's role in the laundering of proceeds from the sale of the narcotic substance fentanyl for Chinese and Mexican criminal networks. Although several banks are alleged to have engaged in such money laundering, the prosecuting authorities' main focus has been TD. According to an article published in the Wall Street Journal on 2 May 2024, agents from the US Drug Enforcement Administration (DEA) had engaged in a surveillance operation during which they observed individuals entering several bank premises carrying large bags filled with cash. On one occasion, the surveillance team is said to have observed members of the money laundering network visit three separate TD branches in a single day.²⁷

²⁴ United States District Court of New Jersey, 12 March 2024, *Criminal Complaint*: <https://www.justice.gov/usao-nj/media/1343701/dl?inline>.

²⁵ The Globe and Mail, 3 June 2024, *TD bank employee accused of helping clients skirt controls in new U.S. money-laundering case*: <https://www.theglobeandmail.com/business/article-td-bank-employee-accused-of-helping-clients-skirt-controls-in-new-us/>.

²⁶ U.S. Department of Justice, 11 December 2024, *TD Bank Insider Arrested and Charged with Facilitating Money Laundering*, <https://www.justice.gov/archives/opa/pr/td-bank-insider-arrested-and-charged-facilitating-money-laundering>

²⁷ Wall Street Journal, 2 May 2024, *TD Bank Probe Tied to Laundering of Illicit Fentanyl Profits*: <https://www.wsj.com/articles/td-bank-probe-tied-to-laundering-of-illicit-fentanyl-profits-aae71243>.

One of those involved was arrested in 2022 on suspicion of playing a role in coordinating the laundering of USD 653 million. According to a press release published by the United States Attorney for the District of New Jersey, this activity is alleged to have taken place in the period 2016–2021. The defendant is said to have pleaded guilty. Documents and evidence given in court show that gift cards and other valuables were used to bribe bank employees to circumvent internal control systems intended to detect suspicious and unusual transactions.²⁸

Fentanyl is described as one of the primary causes of an epidemic of drug overdoses in the USA. In 2023 alone, it was the cause of more than 70,000 fatal overdoses in the USA.²⁹ As part of the effort to combat this epidemic, the US Financial Crimes Enforcement Network (FinCEN) issued an advisory alert to financial institutions in the USA to warn them about and make them better able to detect and report financial activity related to the illegal buying and selling of fentanyl.³⁰ In 2019, TD had a substantial presence in the USA through its 1,241 branches along the East Coast.³¹ Chinese and Mexican cartels' laundering of the proceeds of drug trafficking, including the sale of fentanyl, has also been highlighted in the US authorities' national money laundering risk assessments in the years 2018 and 2022.³²

²⁸ United States Attorney's Office, District of New Jersey, 22 February 2022, *Queens Man Admits Orchestrating \$653 Million Money Laundering Conspiracy, Operating Unlicensed Money Transmitting Business, and Bribing Bank Employees*: <https://www.justice.gov/usao-nj/pr/queens-man-admits-orchestrating-653-million-money-laundering-conspiracy-operating>.

²⁹ Centers for Disease Control and Prevention, National Center for Health Statistics, *Drug Overdoses*: <https://injuryfacts.nsc.org/home-and-community/safety-topics/drugoverdoses/data-details/>.

³⁰ Financial Crimes Enforcement Network (FinCEN), 21 August 2019, *FinCEN Advisory Alerts Financial Sector to Fentanyl Trafficking Schemes*: <https://www.fincen.gov/news/news-releases/fincen-advisory-alerts-financial-sector-fentanyl-trafficking-schemes>

³¹ Toronto-Dominion Bank, *Annual Report 2019*: <https://www.td.com/document/PDF/ar2019/ar2019-Complete-Report.pdf> (p. 26).

³² Respectively, U.S. Department of the Treasury, *National Money Laundering Risk Assessment*: [https://home.treasury.gov/system/files/136/2018NMLRA_12-18.pdf#:~:text=The%202018%20National%20Money%20Laundering%20Risk%20Assessment%20%282018,Laundering%20Risk%20Assessment%20%282015%20NMLRA%29.%201%20Relevant%20component](https://home.treasury.gov/system/files/136/2018NMLRA_12-18.pdf#:~:text=The%202018%20National%20Money%20Laundering%20Risk%20Assessment%20%282018,Laundering%20Risk%20Assessment%20%282015%20NMLRA%29.%201%20Relevant%20component;); and *National Money Laundering Risk Assessment February 2022*: <https://home.treasury.gov/system/files/136/2022-National-Money-Laundering-Risk-Assessment.pdf>.

In response to the Council's specific questions, TD declined to provide more detailed information about its own risk assessments, including how FinCEN's warning was handled and incorporated into the bank's practices.³³

Fines for breach of US anti-money laundering legislation

TD has also previously been fined for failures equivalent to those which, in 2024, formed the basis for a record-high fine. In 2013, one year before the start of the period for which the 2024-fine was imposed, TD received an administrative, civil fine totalling USD 52.5 million. The authorities' response at that time was prompted by a Ponzi scheme in connection with which TD was alleged to have performed several thousand transactions. The scheme's mastermind was subsequently sentenced to 50 years in gaol for a fraud that amounted to USD 1.2 billion. The investigation into this affair also included leading employees at TD.³⁴ This case resulted in responses from FinCEN, the Office of the Comptroller of the Currency (OCC) and the Securities and Exchange Commission (SEC). According to FinCEN, in the period April 2008 to September 2009, TD *"...wilfully violated the Bank Secrecy Act's reporting requirements by failing to detect and adequately report suspicious activities in a timely manner..."*.³⁵

In its communications with the Council, TD pointed out that these were matters for which it assumed responsibility following an acquisition.³⁶ In a press release dated 23 September 2013, in connection with charges filed by the SEC against TD, among others, it is stated that the principal offender opened 22 accounts with Commerce Bank and TD, and that these two merged in 2008.³⁷

Fine for regulatory infractions in Canada

On 9 April 2024, TD was fined almost 9.2 million Canadian dollars (CAD) by the Financial Transactions and Reports Analysis Centre of Canada (FinTRAC). FinTRAC is Canada's financial intelligence unit (FIU) and anti-money laundering and anti-terrorist financing supervisor. The fine was a result of an inspection carried out in 2023, which revealed that TD:

³³ Letter from TD dated 3 September 2024.

³⁴ Reuters, 23 September 2013, *TD Bank to pay \$52.5 million in U.S. settlements over Ponzi scheme*: <https://www.reuters.com/article/business/td-bank-to-pay-525-million-in-us-settlements-over-ponzi-scheme-idUSBRE98M10Y/>.

³⁵ Financial Crimes Enforcement Network (FinCEN), 22 September 2013, *United States of America Department of the Treasury Financial Crimes Enforcement Network in the Matter of TD Bank, N.A. Wilmington, DE*: https://www.fincen.gov/sites/default/files/enforcement_action/2020-05-21/TD_ASSESSMENT_09222013.pdf

³⁶ Letter from TD dated 20 November 2024.

³⁷ U.S. Securities and Exchange Commission (SEC), 23 September 2013. *SEC charges TD Bank and Former Executive for Roles in Rothstein Ponzi Scheme in South Florida*: <https://www.sec.gov/newsroom/press-releases/2013-192>.

- i) had failed to report suspicious transactions when there were grounds to do so.
- ii) had failed to perform and document adequate risk assessments with respect to money laundering and the financing of terrorism.
- iii) had failed to introduce enhanced procedures for high-risk customers.
- iv) had failed to perform regular surveillance and logging of the measures implemented and the information obtained from the surveillance process.

The fine was an administrative penalty, since the infractions were not deemed to constitute a criminal offence.³⁸

The fine is the largest of its kind ever imposed on a Canadian bank by FinTRAC.³⁹ The deficiencies penalised in Canada took place during the same time period as those matters relating to the USA that are described in section 2.1 above. However, they are independent of each other and took place in parallel.⁴⁰

In a letter to the Council, TD underlined that there is no connection between this fine and the combined fine imposed by US authorities in 2024. TD further commented that even though FinTRAC identified certain matters which had to be remedied, the authority's feedback was that TD had designed a comprehensive set of guidelines and procedures which appeared to be commensurate with the nature, size and scope of the business.⁴¹

Other matters

TD is also mentioned in connection with several other cases of financial crime or regulatory non-compliance which relate either to the company as such or to individual employees. In a letter to the Council, TD has commented on these in general as being specific and isolated incidents, with every case leading to the company initiating measures to remedy, deal with or address identified failings or causes.⁴² In addition, certain cases were commented on as follows:

Market manipulation – “Spoofing”

³⁸ Financial Transactions and Reports Analysis Centre of Canada (FinTRAC), 2 May 2024, *FINTRAC imposes an administrative monetary penalty on The Toronto-Dominion Bank*: <https://fintrac-canafe.canada.ca/new-neuf/nr/2024-05-02-eng>.

³⁹ Reuters, 2 May 2024, *Canada's anti-money laundering agency imposes \$6.7 mln fine on TD Bank*: <https://www.reuters.com/business/finance/canadas-anti-money-laundering-agency-imposes-67-mln-fine-td-bank-2024-05-02/>.

⁴⁰ Letter from TD dated 3 September 2024.

⁴¹ Letter from TD dated 20 November 2024.

⁴² Letter from TD dated 20 November 2024.

On 30 September 2024, the US Department of Justice (DOJ)⁴³ and the Securities and Exchange Commission (SEC)⁴⁴ announced that a wholly owned subsidiary of TD (TD Securities) had entered into an out-of-court settlement relating to allegations of market manipulation through an illegal trading strategy called “spoofing”. The allegations also included inadequate supervision of a senior employee, who is said to have carried out hundreds of illegal trades between April 2018 and May 2019, despite warnings of suspicious trading activity. The employee was indicted on charges relating to this in 2013.⁴⁵ The settlement means, in part, that TD has agreed to pay a fine totalling more than USD 20 million, including compensation to the victims, as well as confiscation of gains deriving from the illegal actions.⁴⁶

Theft from a customer

Another case relates to an employee who, in their capacity as branch manager, is alleged to have stolen USD 200,000 from one of TD’s customers over a period of four months in 2020. According to a press release published by the United States Attorney for the District of New Jersey, the employee pleaded guilty as charged.⁴⁷ On 5 November 2024, they were sentenced to 13 months in gaol and ordered to repay the customer’s losses.⁴⁸

⁴³ U.S. Department of Justice, Office of Public Affairs, 30 September 2024, *TD Securities to Pay \$ 15.5M in Connection with Scheme to Defraud U.S. Treasuries Markets*: <https://www.justice.gov/opa/pr/td-securities-pay-155m-connection-scheme-defraud-us-treasuries-markets>.

⁴⁴ U.S. Securities and Exchange Commission (SEC), 30 September 2024, *TD Securities Charged in Spoofing Scheme*: <https://www.sec.gov/newsroom/press-releases/2024-160>.

⁴⁵ U.S. Department of Justice, Office of Public Affairs, 8 November 2023, *Wall Street Director and Head Trader Charged for U.S. Treasuries Market Fraud Scheme*: <https://www.justice.gov/opa/pr/wall-street-director-and-head-trader-charged-us-treasuries-market-fraud-scheme>.

⁴⁶ The Globe and Mail, 30 September 2024, *TD Bank to pay more than \$20-million to resolve ‘spoofing’ case*: <https://www.theglobeandmail.com/business/article-td-bank-to-pay-over-us20-million-to-resolve-spoofing-case/>.

⁴⁷ United States Attorney’s Office, District of New Jersey, 16 May 2024, *Bank Manager Admits Using Position to Steal Hundreds of Thousands of Dollars from Customer*: <https://www.justice.gov/usao-nj/pr/bank-manager-admits-using-position-steal-hundreds-thousands-dollars-customer>.

⁴⁸ U.S. Department of Justice, 6 November 2024, *Bank Manager Sentenced to Prison for Misusing Position to Steal Hundreds of Thousands of Dollars from Bank Customer*: <https://www.justice.gov/archives/opa/pr/bank-manager-sentenced-prison-misusing-position-steal-hundreds-thousands-dollars-bank>.

TD is not mentioned in the press release. However, the media have linked the incident to a branch of TD in New York, and point to the defendant allegedly having falsified emails to enable them to steal the customer's money.⁴⁹

Links to the Italian mafia

In the spring of 2024, it was reported that a Canadian police investigation in 2017 had revealed how two employees at TD allegedly assisted the Italian mafia by laundering money on its behalf in Canada. Police sources were quoted as saying that one of the two TD employees was fully aware of the mafia group's money laundering operation. Neither of the employees was charged in relation to the case.⁵⁰

According to court documents filed in connection with the case, the police perceived one TD employee to be a kind of "personal banker" for a mafia-associated individual who had been charged with money laundering. The charge did not lead to indictment or trial. The police are said to have observed a meeting between the TD employee and mafia-linked individuals concerning the creation of a corporate account that, according to the police, was supposed to be used for the purpose of money laundering.

Due to the unlawful investigative methods used by the police, the case was subsequently dropped on procedural grounds. In a comment on the case, a spokesperson stated that TD had cooperated with the authorities and that it was taking steps with respect to former and current employees.

In a letter to the Council, TD disclosed that the employee who allegedly knew about the money laundering operation has been suspended without access to company systems while its internal inquiry remains ongoing. Furthermore, TD asserted that it has zero tolerance for employees' involvement in criminal activity and that it regularly assists the police and prosecuting authorities in their efforts to fight crime.⁵¹

Connection to convicted financier

⁴⁹ Bloomberg, 3 June 2024, *TD Bribery Woes Spread to Florida as New Allegations Surface*: <https://www.bloomberg.com/news/articles/2024-06-03/td-s-bribery-woes-spread-to-florida-as-fresh-allegations-surface>.

⁵⁰ Organized Crime and Corruption Reporting Project (OCCRP), 18 April 2024, *'You're Never Too Busy For Your Banker': How Italy's 'Ndrangheta Mafia Allegedly Infiltrated Canadian Banks*: <https://www.occrp.org/en/investigation/youre-never-too-busy-for-your-banker-how-italys-ndrangheta-mafia-allegedly-infiltrated-canadian-banks>.

⁵¹ Letter from TD dated 3 September 2024.

On 20 September 2019, Bloomberg reported that TD entered into a customer relationship with a convicted sex offender after another, larger financial institution had cut their ties to this person due to allegations of sexual abuse and human trafficking.⁵² The previous banking services provider was subsequently fined USD 150 million, in part for failing to check and monitor activity on the financier's account. This included following up transactions that could be linked to sexual abuse.⁵³

The Council does not know whether TD has been or still is subject to formal inquiries or investigations in relation this matter.

TD has declined to answer the Council's questions relating to this case on the grounds of client confidentiality.⁵⁴

Laundering the proceeds of corruption in China / Cullen Commission

In 2019, a commission of inquiry was established in the Canadian state of British Columbia – the co-called Cullen Commission. The objective was to investigate allegations of widespread money laundering, for example, via the property market and casino industry in Vancouver.⁵⁵

One of the cases that was investigated in more detail related to a Chinese property developer who had invested vast sums in the Canadian property market. Despite having a moderate income and asset value on arrival in Canada in 2006, this individual is alleged to have transferred at least CAD 114 million, largely from Hong Kong, to banks in Canada in the period to 2016.⁵⁶

Only one of the multiple banks linked to the Chinese property developer reported suspicious transactions to the authorities, as they are obliged to by law, when they failed to receive satisfactory answers from this customer. This bank was not TD. The bank account concerned was closed in 2012. In subsequent

⁵² Bloomberg, 20 September 2019, *TD Took Epstein Money After Deutsche Bank Kicked Out Felon*: <https://www.bloomberg.com/news/articles/2019-09-20/td-took-epstein-money-after-deutsche-bank-kicked-out-the-felon>.

⁵³ Department of Financial Services, New York State, 7 July 2020, *Superintendent Lacewell Announces DFS Imposes \$150 Million Penalty on Deutsche Bank in Connection with Bank's Relationship with Jeffrey Epstein and Correspondent Relationships with Danske Estonia and FBME Bank*: https://www.dfs.ny.gov/reports_and_publications/press_releases/pr202007071.

⁵⁴ Letter from TD dated 3 September 2024.

⁵⁵ Commission of Inquiry into Money Laundering in British Colombia: <https://cullencommission.ca>.

⁵⁶ Organized Crime and Corruption Reporting Project, 26 May 2022, *Following a Trail of Tainted Money From China Into Vancouver Real Estate*: <https://www.occrp.org/en/investigation/following-a-trail-of-tainted-money-from-china-into-vancouver-real-estate>.

reports, the source of the funds has been traced to corrupt property deals in China, in connection with which one person has been gaoled for life. The Chinese property developer has, via their attorney, disclosed that they were part of a controversial property deal in China, but that this did not involve bribes.⁵⁷

It has not been alleged that any of the banks were aware of this particular circumstance. However, several “experts” in the field, who have been consulted by the media, have pointed out that the case bears the classic hallmarks of money laundering. In a comment on the case, TD has asserted that it has fulfilled the regulatory obligations that applied at that time.⁵⁸ TD told the Cullen Commission that it had received CAD 16.4 million from one company linked to the Chinese property developer via at least 43 transfers in the period 2011–2014.⁵⁹

TD has declined to answer the Council’s questions relating to this case on the grounds of client confidentiality.⁶⁰

In its final report, the Cullen Commission concluded that, on the whole, the banks that had been part of the inquiry, including TD, had robust compliance programmes. However, an evaluation of the *effectiveness* of these programmes lay outside the scope of its mandate.⁶¹

Nevertheless, the Commission found time to describe TD’s attitude to Project Athena, a voluntary initiative between the public and private sectors intended to prevent and combat money laundering through British Columbia’s casinos. The project sprang from the authorities’ concerns about increased use of anonymous

⁵⁷ Toronto Star, 26 May 2022, *Luxury mansions. Millions in suspicious bank transfers. And concern that a Chinese businessman accused of bribery helped froth Canada’s housing market*:

https://www.thestar.com/news/investigations/luxury-mansions-millions-in-suspicious-bank-transfers-and-concern-that-a-chinese-businessman-accused-of/article_26702896-74d2-5927-84d2-65f83bb310c1.html.

⁵⁸ Toronto Star, 30 May 2022, *There were telltale signs of money laundering. Why didn’t Canada’s major banks flag millions of dollars in suspicious wire transfers?*:

https://www.thestar.com/news/investigations/there-were-telltale-signs-of-money-laundering-why-didn-t-canada-s-major-banks-flag/article_8ec462f6-4b56-5337-88bd-4687d3760a9e.html.

⁵⁹ Overview Report: Case Study #1039, *Exhibits* to the Commission of Inquiry into Money Laundering in British Columbia – Appendix H: https://ag-pssg-sharedservices-ex.objectstore.gov.bc.ca/ag-pssg-cc-exh-prod-bkt-ex/1039%20-%20Case%20Study%20Overview%20Report%20-%20May%2014%202021_Redacted.pdf.

⁶⁰ Letter from TD dated 3 September 2024.

⁶¹ Commission of Inquiry into Money Laundering in British Columbia – Final Report, June 2022, p.1010: <https://www.cullencommission.ca/files/reports/CullenCommission-FinalReport-Full.pdf>.

bank drafts in casinos. Among the initiatives under discussion was a solution in which a name or account number would be added to the bank draft to limit the opportunities for money laundering offered by anonymous drafts. Canada's six largest banks participated in the project. While no other bank was highlighted, the Cullen Commission devoted several pages to a description of TD's approach to the initiative, i.e. its lack of willingness or ability to engage with it. Among other things, the Commission's chair wrote that he was *"troubled by TD's delay in implementing a change to its bank drafts ... to address a money laundering vulnerability flagged by law enforcement."* He also wrote that although TD, via the initiative, had been notified of the vulnerability represented by bank drafts in December 2018, it made no changes until September 2020 – over a year after the other banks had implemented remedial measures. Moreover, the steps taken by TD in 2020 were deemed by the Commission as being *"prompted by inquiries by Commission counsel, raising the question of whether it would have occurred otherwise."* TD's dilatory implementation is described as *"surprising given that senior management in TD's anti-money laundering unit were aware by at least May 2019 that their bank was the single largest source of suspicious bank drafts being tendered at BC casinos, representing a sum of \$26 million from March 2018 to January 2019 alone. Despite this information, a request for a five-person investigation team was declined, and it appears that TD determined it did not have a single person it could spare to analyze the data being provided by Project Athena. Instead, Ms. XX was told to stand down from the initiative. Although this may have involved some miscommunication, I find it concerning that one of Canada's largest financial institutions was so delayed in addressing a vulnerability to bank drafts that had been identified by law enforcement."*⁶²

Information provided by the company

Tone from the top

The Council has reviewed openly accessible information on TD's website, including its annual and sustainability reports and policy documents, to find written examples of the "tone from the top" with respect to anti-money laundering, anti-corruption etc. In the introduction to TD's Code of Conduct and Ethics, the company's CEO and Board Chair highlight the importance of behaving ethically and with integrity.⁶³ In the company's 2023 annual report, the company's CEO expresses disappointment about what is described as *"some*

⁶² Commission of Inquiry into Money Laundering in British Columbia – Final Report, June 2022, pp. 1002–1003: <https://www.cullencommission.ca/files/reports/CullenCommission-FinalReport-Full.pdf>.

⁶³ TD Bank Group, January 2023, *Code of Conduct and Ethics for Employees and Directors*: https://www.td.com/document/PDF/governance/2023_code_conduct_ethics_en.pdf.

shortcomings in our anti-money laundering control environment."⁶⁴ The need for improvement and an acknowledgement of previous failings were key messages from the CEO and Board Chair in TD's 2024 annual report.⁶⁵

Apart from this, the Council has requested specific examples of communications or steps taken by executive management that are intended to communicate the importance of ethical behaviour and a culture of compliance. In its reply, the company – referring to the 2023 annual report – has provided a more overarching description of TD's framework and processes to promote responsibility, ethical behaviour and open communication from management down through the organisation.⁶⁶

In a letter to the Council, the company stated that one of the measures intended to strengthen the culture of compliance is to reinforce the message from the top. In general terms, the company also asserted that this has been a topic at management and other company conferences in 2024.⁶⁷

Risk assessments / analyses

In a letter to the Council, TD referred primarily to the company's 2023 annual report with respect to its procedures for the identification, analysis and assessment of risk.⁶⁸ It elaborated on this somewhat by stating that it performs regular assessments supported by internal tools. However, the company declined to reply to the Council's request to comment specifically on the risks the company prioritised or had identified as being elevated in the area of financial crime in the period prior to the revelations about money laundering and corruption at its US branches. The same applies to the Council's queries about how TD implemented and dealt with the advisory notice relating to fentanyl that the US authorities issued to financial institutions in 2019.⁶⁹

⁶⁴ TD Bank Group Annual Report 2023, p. 3.

⁶⁵ TD Bank Group Annual Report 2024: <https://www.td.com/content/dam/tdcom/canada/about-td/pdf/quarterly-results/2024/q4/2024-annual-report-en.pdf>, pp. 2–3.

⁶⁶ Letter from TD dated 3 September 2024.

⁶⁷ Letter from TD dated 6 February 2025.

⁶⁸ Letter from TD dated 3 September 2024.

⁶⁹ Financial Crimes Enforcement Network (FinCEN), 21 August 2019, *FinCEN Advisory Alerts Financial Sector to Fentanyl Trafficking Schemes*: <https://www.fincen.gov/news/news-releases/fincen-advisory-alerts-financial-sector-fentanyl-trafficking-schemes>.

Training and employees:

The key governing document for the company's expectations with respect to employee behaviour is TD's Code of Conduct and Ethics.⁷⁰ According to the Code, all employees must undergo annual training in the topics it covers, including corruption and money laundering.⁷¹ The company states that 100 per cent of its employees undertook this training in 2023, and refers to its sustainability report for that year.⁷² Furthermore, TD states in a letter to the Council that the company has a particular focus on continuous learning, particularly from previous experience. This also seems to include the (unfortunate) experiences of competitors/third parties, with the Code stating: *"We continue to hear news stories regarding ethical lapses at many leading organizations, which further supports the critical importance TD places on having a strong ethical culture."*⁷³

When asked why the company and its employees nevertheless failed to comply with their own ethical guidelines, TD referred to the fact that criminals are constantly on the outlook for opportunities to launder money and fund their illegal activities.⁷⁴

According to TD's 2023 sustainability report, customer-facing employees are also supposed to undergo annual training in the company's Know your Customer (KYC) and anti-money laundering policies, among other topics. The report confirms that 100 per cent of the company's workforce received training in the Code of Conduct and Ethics in 2023, and that the same had been the case in 2022 and 2021. Furthermore, 99.9 per cent, 99.9 per cent and 99.8 per cent of the relevant employees had undergone the mandatory anti-money laundering training in 2023, 2022 and 2021, respectively.⁷⁵ Similar figures are reported for the years 2019–2020, with 100 per cent undergoing training in the Code of

⁷⁰ Respectively, letter from the Council on Ethics, dated 20 August 2024, and reply from TD dated 3 September 2024.

⁷¹ TD Bank Group, January 2023, *Code of Conduct and Ethics for Employees and Directors*, p. 18: https://www.td.com/document/PDF/governance/2023_code_conduct_ethics_en.pdf.

⁷² Letter from TD dated 3 September 2024.

⁷³ TD Bank Group, January 2023, *Code of Conduct and Ethics for Employees and Directors*, p. 1: https://www.td.com/document/PDF/governance/2023_code_conduct_ethics_en.pdf.

⁷⁴ Letter from TD dated 3 September 2024.

⁷⁵ TD Bank Group Sustainability Report 2023, pp. 28 and 75: <https://www.td.com/content/dam/tdcom/canada/about-td/pdf/esg/2023-sustainability-report-en.pdf>.

Conduct and Ethics, while 99 per cent completed anti-money laundering training in 2019 and 98.4 per cent in 2020.⁷⁶

In relation to the most recent events in the USA (see section 2.1 above), the company's then CEO said that TD must increase the sense of responsibility for this type of risk (i.e. money laundering/corruption) felt by both front-line employees and those exercising control functions (second line).⁷⁷ The significance of recruitment and personnel was also highlighted as key success factors by the company's new CEO, who disclosed that TD has recently reinforced its front-line and second-line with respect to combatting money laundering.⁷⁸

The US investigation has resulted in the dismissal of more than a dozen employees for violation of the company's Code of Conduct and Ethics. In addition, ten employees in the legal affairs and compliance departments have been replaced. In a letter to the Council, TD said that it has improved its training programme to make it easier for employees to identify suspicious transactions and other activities which may be associated with financial crime.⁷⁹

Other measures

Both publicly and in its communications with the Council, TD has disclosed a number of measures that it has initiated to remedy the failings and defects on which the fines imposed in 2024 were based. As part of a wide-ranging review of its anti-money laundering programme, the company has invested USD 500 million in improvements and remedial measures.⁸⁰ As part of a multi-year effort in this area, TD has recruited 40 new managers and over 700 anti-money laundering specialists, in addition to strengthening monitoring functions and corporate governance at the company.

A dedicated board subcommittee, the Remediation Committee, has been established to monitor and follow up the company's efforts to remedy failings in the anti-money laundering area. New standards and processes have been

⁷⁶ TD Bank Group 2020 ESG Report, p. 79:

<https://www.td.com/content/dam/tdcom/canada/about-td/pdf/esg/2020-esg-report.pdf>.

⁷⁷ Bloomberg, 4 September 2024, *TD Chief Says Probes Show Need for Better Staff Accountability*: <https://www.bloomberg.com/news/articles/2024-09-04/td-chief-says-probes-show-need-for-better-staff-accountability>.

⁷⁸ BankingDive, 7 January 2025, *TD's next CEO talks about AML fiasco*:

<https://www.bankingdive.com/news/td-aml-remediation-fines-future-ceo-chun/736684/>

⁷⁹ Letter from TD dated 6 February 2025.

⁸⁰ TD Stories, 3 May 2024, *TD addresses media reports about its AML program*:

<https://stories.td.com/ca/en/news/2024-05-03-td-addresses-media-reports-about-its-aml-program>; and letter from TD dated 3 September 2024.

established, along with technological solutions which are increasing TD's capacity to prevent unwanted incidents and identify and measure risk.⁸¹

In its communications with the Council, TD intimated that the internal improvement process will largely be completed by the end of 2025, with subsequent third-party validation and confirmation processes taking place with effect from 2026.⁸² This is also reflected in TD's 2024 annual report.⁸³

In its report for the fourth quarter 2024, TD highlighted specific risks relating to the likelihood of the company succeeding in implementing its improvement measures by the deadlines set.⁸⁴ One factor mentioned is the company's ability to recruit and retain key employees in the anti-money laundering/compliance area. In January 2025, it became known that TD's *Chief Anti-Money Laundering Officer* had left the company after one year in the position, although no comment was made on the underlying reason for this move.⁸⁵

The interim report further mentions risk relating to third parties' ability to meet their contractual obligations and the successful development and implementation of technological solutions. At the same time, it was acknowledged that implementation of the plan is to some extent impacted by circumstances outside of TD's control. Commentators in the area have also pointed out that the challenges are real and that there is no guarantee that TD will succeed.⁸⁶

On 17 January 2025, it was announced that TD was accelerating the process of onboarding its new CEO, from an original start date of 10 April to 1 February 2025.⁸⁷ TD's new CEO was previously its Chief Operating Officer (COO). Before that he served as Group Head, Canadian Banking. Over a 30-year career with the

⁸¹ TD Stories, 10 October 2024, *TD Bank Group announces resolution of AML investigations*: <https://stories.td.com/ca/en/news/2024-10-10-td-bank-group-announces-resolution-of-aml-investigations>.

⁸² Letter from TD dated 6 February 2025.

⁸³ TD Bank Group Annual Report 2024: <https://www.td.com/content/dam/tdcom/canada/about-td/pdf/quarterly-results/2024/q4/2024-annual-report-en.pdf>, pp. 2 and 26.

⁸⁴ TD Stories, 5 December 2024, *TD Bank Group Reports Fourth Quarter and Fiscal 2024 Results*: <https://stories.td.com/ca/en/news/2024-12-05-td-bank-group-reports-fourth-quarter-and-fiscal-2024-results>.

⁸⁵ The Globe & Mail, 23 January 2025, *TD's top anti-money laundering executive departs a year after joining the bank*: <https://www.theglobeandmail.com/business/article-tds-top-anti-money-laundering-executive-departs-a-year-after-joining/>.

⁸⁶ The Globe & Mail, 6 December 2024, *Can TD Bank ever recover from its U.S. money-laundering saga?*: <https://www.theglobeandmail.com/business/commentary/article-can-td-bank-ever-recover-from-its-us-money-laundering-saga/>.

⁸⁷ TD Stories, 17 January 2025, *TD Bank Group Accelerates CEO Transition; Announces Board and Committee Renewal*: <https://stories.td.com/ca/en/news/2025-01-17-td-bank-group-accelerates-ceo-transition-3b-announces-board-an>.

company, he has held a number of senior positions.⁸⁸ In addition to various changes in the composition of TD's board of directors, it was further announced that the company's Board Chair, who has held the position since February 2024, would retire on 31 December 2025. The press release also revealed that the outgoing CEO would have his pay and remuneration package for 2024 reduced by 89 per cent compared with 2023 as a result of the US money laundering cases. Other senior company executives have also had their pay and remuneration for 2024 cut by at least 25 per cent.

In its communications with the Council, TD said this move was a sign of the company's focus on individual accountability.⁸⁹ Commentators have questioned why the compensation cuts have been linked to performance in 2024 alone, since the US fines relate to matters starting in 2014.⁹⁰

The Council's assessment

On the basis of the information available, the Council has assessed the GPFG's investment in TD against the criterion relating to gross corruption and other serious financial crime set out in section 4(g) of the Guidelines for Observation and Exclusion of Companies from the Government Pension Fund Global.

The Council's inquiries have found that TD may be linked to multiple allegations of financial crime in general and money laundering in particular. As a financial institution, TD is subject to a strict regulatory regime which, among other things, presumes that the company has guidelines, procedures and training programmes relating to the prevention and detection of money laundering and other financial crime (a compliance programme). Although police reports and public inquiries have presumed that the company has such a programme "on paper", the authorities in Canada and the USA independently concluded in 2024 that TD's programme was so weak and deficient that it gave grounds for record-high fines. TD, including wholly owned subsidiaries, has agreed to pay the fines and has, furthermore, recently pleaded guilty to several criminal offences in the USA.

The Council would like to draw particular attention to the fact that TD, over a long period of time and despite a high percentage of participation in its

⁸⁸ TD Bank Group Newsroom, 19 September 2024, *TD Bank Group President and CEO Bharat Masrani to Retire April 10, 2025; Board Names Raymond Chun as Successor*: <https://td.mediaroom.com/2024-09-19-TD-Bank-Group-President-and-CEO-Bharat-Masrani-to-Retire-April-10,-2025-Board-Names-Raymond-Chun-as-Successor>.

⁸⁹ Letter from TD dated 6 February 2025.

⁹⁰ The Globe and Mail, 19 January 2025, *TD playing catch-up on accountability gives little comfort to stakeholders*: <https://www.theglobeandmail.com/business/commentary/article-td-playing-catch-up-on-accountability-gives-little-comfort-to/>.

employee training programme, was involved in multiple cases in which employees behaved in violation of guidelines, policies and legal statutes. In these cases, employees were able to circumvent the company's internal control systems with apparent ease in order to assist at least three criminal money laundering networks. This was done independently of each other and at various locations. In the Council's opinion, the communications between TD employees, cited in the plea agreement with the DOJ and the disclosure that leading employees were aware of the highly deficient transaction monitoring but failed to do anything about it, may be indicative of ingrained systemic and cultural problems at the company.

The Council also notes that, in its governing Code of Conduct and Ethics, TD has made a particular point of highlighting other companies' past errors and deficiencies. In the Council's opinion, this is illustrative of TD's lack of internal control and oversight, since the US investigation has demonstrated similarities with matters for which other banks and financial institutions have been fined in the past 10–15 years.

In its assessment, the Council has attached considerable importance to the fact that TD was fined by FinCEN in 2013 for its role in a major Ponzi scheme. FinCEN's ruling pointed out that the company had failed to fulfil its obligation to identify, monitor and report incidents to the authorities from 2008 to 2009. Following such a reaction on the part of the authorities, it would be natural to expect changes and improvements to be made. Nevertheless, the fine recently imposed by the DOJ and others shows that just one year after the FinCEN fine, in 2014, the company's compliance/anti-money laundering programme had significant defects in both its design and execution. These defects lasted for a whole decade – until 2024. Together with the other reported incidents described above, such repeated, serious faults and omissions may, in the Council's opinion, indicate a pattern of behaviour that makes the risk of new financial crimes being committed unacceptably high.

The Council takes as its starting point that the penalties TD has already received will probably give the company a powerful incentive to avoid the reoccurrence of similar incidents. The Council notes that the company has reinforced relevant functions and has an ambitious plan to have put a satisfactory system in place by the end of this year. The Council also notes that TD has made, or is in the process of making, major changes in its leadership, including the appointment of a new CEO and Board Chair.

TD has acknowledged failings and deficiencies in its procedures and has pointed out that it will take a long time and extensive investments to remedy them. The company acknowledges that tangible risks attach to this process, some of which lie outside of TD's control. The Council further notes that TD's new CEO was

recruited internally. Having first joined the company in 1992, they have been employed at TD throughout the period covered by the Council's investigations.

In light of the serious matters that have been uncovered, combined with indications of systemic and cultural issues within the company and what appears to be a pattern of non-compliance over time, the Council considers that there is a risk of similar incidents happening again. However, taking account of the incentives and the measures that have been initiated to prevent this, the Council considers that a degree of uncertainty attaches to the extent to which this risk is unacceptable and how the situation will develop forward in time, see section 6(5) of the ethical guidelines.

The Council therefore recommends that TD be placed under observation for a period of four years. During the observation period, the Council will particularly seek to obtain information on:

- i) The company's ability to recruit and retain necessary expertise;
- ii) The extent to which the improvement process's milestones are reached, including whether these are approved on an ongoing basis;
- iii) Indications of cultural changes in the form of clear communication from the company's senior management, particularly in light of the fact that TD has a new, internally recruited CEO and a newly created board subcommittee to monitor the remediation process;
- iv) Any new cases coming to light which may indicate that the improvement process is not working.

Recommendation

The Council on Ethics recommends to place Toronto-Dominion Bank under observation for four years.

*

Svein Richard
Brandtzæg
Chair

(Sign.)

Siv Helen Rygh
Torstensen

(Sign.)

Cecilie
Hellestveit

(Sign.)

Vigdis Vandvik

(Sign.)

Egil Matsen

(Sign.)