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March 9, 2022

Via E-Apps

Colette A. Fried  
Assistant Vice President  
Federal Reserve Bank of Chicago  
230 South LaSalle Street  
Chicago, IL 60604-1413

Re: Additional Information Regarding Application by Bank of Montreal and BMO Financial Corp. to Acquire Bank of the West

Dear Ms. Fried:

We are submitting this letter and the related exhibits in response to your request for additional information, dated February 23, 2022, regarding the application seeking the prior approval of the Board of Governors of the Federal Reserve System (the "Federal Reserve") for Bank of Montreal ("BMO") and BMO Financial Corp. ("BFC") to acquire all the shares of BancWest Holding Inc. ("BW Holding") and thereby acquire control of its subsidiary bank, Bank of the West ("BOTW") (the "Application"). For ease of reference, your questions are

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included in bold with the responses immediately following. Capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Application.

\* \* \*

Confidential treatment is being requested under the federal Freedom of Information Act, 5 U.S.C. § 552 (the “FOIA”), and the implementing regulations of the Federal Reserve, for the information contained in the Confidential Exhibits Volume to this response (the “Confidential Materials”). The Confidential Materials include, for example, nonpublic pro forma financial information and information regarding the business strategies and plans of (1) BMO, BFC and BHB and (2) BNP Paribas S.A. (“BNPP”), BW Holding and BOTW, and other information regarding additional matters of a similar nature, which is commercial or financial information that is both customarily and actually treated as private by BMO, BFC, BHB, BNPP, BW Holding and BOTW and provided to the government under an assurance of privacy. Certain information in the Confidential Materials also includes confidential supervisory information, which is protected from disclosure. None of this information is the type of information that would otherwise be made available to the public under any circumstances. All such information, if made public, could result in substantial and irreparable harm to BMO, BFC, BHB, BNPP, BW Holding and BOTW. Other exemptions from disclosure under the FOIA may also apply. In addition, investors and potential investors could be influenced or misled by such information, which is not reported in any documents filed or to be filed in accordance with the disclosure requirements of applicable securities laws, as a result of which BMO, BFC, BHB, BNPP, BW Holding and BOTW could be exposed to potential inadvertent violations of law or exposure to legal claims. Accordingly, confidential treatment is respectfully requested for the Confidential Materials under the FOIA and the Federal Reserve’s implementing regulations.

Please contact me or Richard K. Kim (212-403-1354) before any public release of any of this information pursuant to a request under the FOIA or a request or demand for disclosure by any governmental agency, congressional office or committee, court or grand jury. Such prior notice is necessary so that BMO, BFC, BHB, BNPP, BW Holding and BOTW may take appropriate steps to protect such information from disclosure.

If you have any questions about this submission or confidential treatment request, please do not hesitate to contact me.

Very truly yours,

*Rosemary Spaziani*  
Rosemary Spaziani

Enclosures

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**Response to Federal Reserve Additional Information Request**

**Regulation L and Regulation Y**

- 1) **With respect to the Transitional Services and Reverse Transitional Services Agreements (“Agreements”):**
  - a. **Provide copies of the draft and final Agreements when available. To the extent that drafts of the Agreements are not yet available, provide an update on when the Agreements will be available and a detailed summary of the anticipated services that will be provided pursuant to each Agreement.**

As part of their integration planning, BMO-FG and BOTW continue to evaluate the potential services that will need to be addressed under the Agreements and will provide an update on such required services within the next two months. BMO-FG will provide copies of the Agreements when they are available.

- b. **Discuss how the Agreements comply with sections 23A and 23B of the Federal Reserve Act, 12 U.S.C. §§ 371c and 371c-1, and the Board’s Regulation W, 12 CFR part 223. In your discussion, clarify whether BHB or BOTW may be required to pay for, or will be liable for, services received by an affiliate pursuant to the Agreements.**

It is not expected that there will be a material amount of services provided via affiliates. All Agreements will adhere to the BFC Regulation W Policy to the extent that a subsidiary member bank is providing services to or receiving services from an affiliate. BMO-FG maintains a comprehensive Regulation W compliance program that includes all three lines of defense. Additionally, BMO-FG maintains a Related Parties Transactions Standard (the “Related Parties Standard”). The Related Parties Standard establishes the minimum requirements for entities within BMO-FG to execute, document, record, monitor and report all related party transactions.

- 2) **Clarify whether any management official (as defined in 12 CFR 212.2) of BFC, BHB, BOTW or any *affiliate* of BFC, BHB, or BOTW is or would be a management official of an unaffiliated depository institution, depository institution holding company, or any *affiliate* thereof. If so, discuss the permissibility of that management official’s simultaneous service under the Depository Institution Management Interlocks Act, 12 U.S.C. § 3201 et seq., and the Board’s Regulation L, 12 CFR part 212.**

No management officials (as defined in 12 CFR part 212.2) of BFC, BHB, BOTW or any of their affiliates, will be a management official of an unaffiliated depository institution, depository institution holding company, or any affiliate thereof.

**Comprehensive Supervision**

- 3) **In 2011, the Board determined that Bank of Montreal is subject to comprehensive**

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**supervision on a consolidated basis by its home country supervisor. See Bank of Montreal (order dated June 20, 2011)[(“BMO Order”)], 97 Fed. Res. Bull. 24 (Oct. 2011). Confirm that Bank of Montreal is currently supervised by its home country supervisor on substantially the same terms and conditions. If not, detail in what ways it has changed.**

BMO confirms that it continues to be subject to comprehensive supervision by the Office of the Superintendent of Financial Institutions (“OSFI”), an independent agency of the Government of Canada, as its home country regulator on substantially the same terms and conditions since the BMO Order.

#### **Section 4 of the BHC Act**

- 4) Provide a list of the subsidiaries of BOTW that the Applicants propose to acquire. Describe the activities of each subsidiary, and identify the authorities under section 4 of the BHC Act and the Board’s Regulation Y the Applicants intend to use to hold the voting shares of each subsidiary during the following periods: (i) the period beginning from the time of the merger between BFC and BW Holding until the time immediately before the merger of BHB and BOTW; and (2) the period on and after the merger of BHB and BOTW.**

Please see Exhibit 1 for the authority to hold the voting shares under the Board’s Regulation Y for the momentary period between the time of the merger between BFC and BW Holding and the merger of BHB and BOTW, as well as the applicable authority to hold such subsidiaries after the Closing.

#### **Financial Stability**

- 5) Provide a list of activities and products in which Bank of Montreal either plans to initiate new operations or expand existing operations, subsequent to the closing of the acquisition.**

Following the Closing, BHB expects to offer Veterans Affairs (VA) real estate secured loans, secured credit cards, and specialized financing activities, such as marine and recreational vehicles, which are currently offered by BOTW, but currently not offered by BHB. BHB continues to evaluate BOTW offerings for other opportunities that might be beneficial for the combined customer base.

- 6) For Bank of Montreal’s consolidated U.S. operations (“BMO-CUSO”), provide the total amount for each of the following FR Y-15 line items. If the values cannot be provided, please provide approximations, along with a description of the method used to formulate the approximations:**
- a. Average risk-weighted assets (Y895)**
  - b. Short-term wholesale funding metric (Y896)**

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Please see Confidential Exhibit A.

- 7) **Provide an estimate of BMO-CUSO's Method 2 score, calculated pursuant to the Board's GSIB surcharge rule (see 12 CFR part 217, subpart H).**

Please see Confidential Exhibit A.

- 8) **For each of BMO-CUSO and BW Holding, provide the five largest counterparties rolled up to the parent company and their corresponding amounts:**

- a. **Total exposure (Y832)**
- b. **Total intra-financial system assets (M362)**
- c. **Total intra-financial system liabilities (M370)**
- d. **Total securities outstanding (M376)**
- e. **Payments activity (M390)**
- f. **Assets held as a custodian on behalf of customers (M405)**
- g. **Total underwriting activity (M408)**
- h. **OTC derivative contracts settled bilaterally (M410)**
- i. **Total notional amount of OTC derivatives (M411)**
- j. **Total adjusted trading and AFS securities (N255)**
- k. **Assets valued using Level 3 measurement inputs (G506)**
- l. **Foreign claims on an ultimate-risk basis (M422)**
- m. **Total cross-jurisdictional liabilities (M426)**
- n. **Total short-term wholesale funding, by maturity (Y890, Y891, Y892, Y893)**
- o. **Total short-term wholesale funding (Y894)**
- p. **Average risk-weighted assets (Y895)**
- q. **Total short-term wholesale funding metric (Y894)**

Please see Confidential Exhibit B.

- 9) **For each of BMO-CUSO and BW Holding, provide the five largest counterparties, rolled up to the parent company, and the corresponding amounts of each component of intra-financial system assets and liabilities (as defined by the FR Y-15 codes listed below) for the most recent quarter:**

- a. **For intra-financial system assets:**
  - i. **Funds deposited with or lent to other financial institution (M351)**
  - ii. **Unused portion of committed lines extended to other financial institution (J458)**
  - iii. **Holdings of securities issued by other financial institution (M352 + M353 + M354 + M345 + M356 - M357)**
  - iv. **Net positive current exposure of securities financing transactions ("SFTs") with other financial institution (M358)**

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- v. **Over-the-counter (“OTC”) derivative contracts with other financial institutions that have a net positive fair value (M359 + M360)**
- b. **For intra-financial system liabilities:**
  - i. **Deposits due to other financial institutions (M363 + M364)**
  - ii. **Borrowings obtained from other financial institutions (Y833)**
  - iii. **Unused portion of committed lines obtained from other financial institutions (M365)**
  - iv. **Net negative current exposure of SFTs with other financial institution (M366)**
  - v. **OTC derivative contracts with other financial institutions that have a net negative fair value (M367 + M368)**

Please see Confidential Exhibit C.

- 10) For BW Holding, provide the corresponding amount of the following indicators:**
- a. **For intra-financial system assets:**
    - i. **Funds deposited with or lent to other financial institution (M351)**
    - ii. **Unused portion of committed lines extended to other financial institution (J458)**
    - iii. **Holdings of securities issued by other financial institution (M352 + M353 + M354 + M345 + M356 - M357)**
    - iv. **Net positive current exposure of SFTs with other financial institution (M358)**
    - v. **OTC derivative contracts with other financial institutions that have a net positive fair value (M359 + M360)**
  - b. **For intra-financial system liabilities:**
    - i. **Deposits due to other financial institutions (M363 + M364)**
    - ii. **Borrowings obtained from other financial institutions (Y833)**
    - iii. **Unused portion of committed lines obtained from other financial institutions (M365)**
    - iv. **Net negative current exposure of SFTs with other financial institution (M366)**
    - v. **OTC derivative contracts with other financial institutions that have a net negative fair value (M367 + M368)**

Please see Confidential Exhibit D.

- 11) Provide the dollar amounts for the five largest categories of trading securities and available-for-sale securities, for both BMO-CUSO and BW Holding.**

Please see Confidential Exhibit E.

- 12) Provide the dollar amounts for the five largest categories of held-to-maturity**

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**securities for both BMO-CUSO and BW Holding.**

Please see Confidential Exhibit E.

- 13) Provide the current market exposure - gross, and net of collateral and other risk mitigants - for the five largest counterparties, rolled up to the parent company, of OTC derivatives of both BMO-CUSO and BW Holding's U.S. operations, as measured by:**
- a. Positive current exposure after netting arrangements.**
  - b. Negative current exposure after netting arrangements.**

Please see Confidential Exhibit F.

- 14) To the extent not already provided, identify whether BMO-CUSO and BW Holding are involved in each of the following activities, discuss the nature of this involvement, and provide a brief listing of other firms that engage in the same activity in the United States. For each of BMO-CUSO and BW Holding provide measures of the scale of each activity specified, for both the most recent quarter and the most recently completed year. Measures should be stated both in U.S. dollars and as a percentage of overall U.S. activity; derivatives should be stated as notional dollar amounts. Responses may be confined to information maintained in the regular course of business:**
- a. Short-term lending**
    - i. Reverse bilateral repurchase agreements (volume)**
    - ii. Reverse tri-party repurchase agreements (volume)**
    - iii. Fed funds (volume)**
    - iv. Tri-party repo dealing (volume)**
  - b. Commercial lending**
    - i. Syndicated lending (volume)**
    - ii. Syndicated pipeline commitments (volume)**
    - iii. Lending to small and medium-sized enterprises (volume)**
    - iv. Unfunded commitments (volume)**
  - c. Underwriting services**
    - i. Issuance of new equities (volume)**
    - ii. Corporate bonds (volume)**
    - iii. Commercial paper (volume)**
    - iv. Asset backed securities (volume)**
    - v. Other debt securities (volume)**
  - d. Total provisions of services in the following sectors:**
    - i. Prime brokerage (number of funds and fund sponsors, and total assets under management)**
    - ii. Securities lending (report value of securities lent as a custodian and**



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- securities lent from trading book)
- iii. Corporate trust
- iv. Correspondent banking
- v. Wealth management (total assets under management)
- vi. Insurance (by segment, including reinsurance)

Please see Confidential Exhibit G.

**15) How, if at all, would the proposed transaction increase financial stability risks of the United States banking or financial system? What steps does Bank of Montreal plan to take to mitigate such risks and vulnerabilities?**

As discussed in the *Financial Stability Risk Considerations* section of the Application, the Proposed Transaction will not result in greater or more concentrated risks to the stability of the U.S. banking or financial system. The agencies, through approvals of bank and bank holding company acquisitions, have set forth a number of key metrics that they believe capture the systemic “footprint” of the resulting banking organization and the incremental effect of the transaction on the systemic footprint of the acquiring banking organization (“Financial Stability Factors”).<sup>1</sup> Many of the metrics considered by the Federal Reserve seek to measure an institution’s activities relative to the U.S. financial system. These metrics include:

- the size of the resulting banking organization;
- the availability of substitute providers for any critical products and services offered by the resulting firm;
- the interconnectedness of the resulting firm with the banking or financial system;
- the extent of the cross-border activities of the resulting firm; and
- the extent to which the resulting firm contributes to the complexity of the financial system.

Also interwoven into the Federal Reserve’s analysis is the relative degree of difficulty of resolving the resulting firm if it were to experience financial distress. The Federal Reserve has noted that the opaqueness and complexity of an institution’s internal organization are relevant to

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<sup>1</sup> See *Capital One Financial Corporation*, FRB Order No. 2012-2 (Feb. 14, 2012) (the “Capital One Order”). See also, e.g., *First Citizens Bancshares, Inc.*, FRB Order No. 2021-12 (Dec. 17, 2021); *The PNC Financial Services Group, Inc.*, FRB Order No. 2021-04 (May 14, 2021); *Huntington Bancshares Incorporated*, FRB Order No. 2021-07 (May 25, 2021); *BB&T Corporation*, FRB Order No. 2019-16 (Nov. 19, 2019); *CIT Group, Inc.*, FRB Order No. 2015-20 (July 19, 2015); *M&T Bank Corporation*, FRB Order No. 2022-10 (March 4, 2022); Letter to Jason J. Cabral, Esq. from Stephen A. Lybarger, CRA Decision #2017-186 (Oct. 16, 2017); *CIT Group, Inc.*, FRB Order No. 2015-20 (July 19, 2015); Letter to Joseph M. Otting from Stephen A. Lybarger (July 21, 2015) (OCC approval of CIT Bank’s acquisition of OneWest Bank, N.A.); OCC Corporate Decision #2012-05 (April 2012); *The PNC Financial Services Group, Inc.*, 98 Fed. Res. Bull. 16 (2012).

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resolvability aspects of the banking organization.<sup>2</sup> A banking organization that can be resolved in an orderly manner is less likely to inflict material damage to the U.S. financial system or economy.

The detailed analysis of these Financial Stability Factors provided in the Application demonstrates that the Proposed Transaction would not result in any meaningful increase in any of the metrics used by the Federal Reserve to evaluate the systemic footprint of a post-acquisition organization and that the footprint of BMO-CUSO is currently limited in terms of systemic presence. A summary of the analysis for each of the factors is set forth below.

**Size.** BMO-CUSO accounts for only approximately 0.78% of total domestic deposits of all insured banks and thrifts in the United States, as of June 30, 2021 (“nationwide deposits”).<sup>3</sup> The deposits of BOTW to be assumed account for only 0.49% of total nationwide deposits.<sup>4</sup> The pro forma total deposits of BMO-CUSO, as of June 30, 2021, would represent only 1.27% of nationwide deposits. This is far less than the nationwide deposit concentrations of various bank holding companies in the United States classified as a GSIB, for example: JPMorgan Chase & Co. – 11.7%; Bank of America – 11.0%; Wells Fargo – 8.7%; and Citigroup Inc. – 3.9% and less than the several bank holding companies considered to be super regional banking organizations, for example: PNC Financial Services Group, Inc. – 2.6%; U.S. Bancorp 2.5%; Truist Financial Corporation – 2.4%; TD Group U.S. Holdings LLC – 2.2%; and Capital One Financial Corporation – 2.2%. The Proposed Transaction is much closer to the M&T/People’s transaction approved by the Federal Reserve on March 4, 2022, where the combined organization will have approximately 1% of nationwide deposits.<sup>5</sup>

Based on pro forma total consolidated assets, BMO-CUSO would be meaningfully less than the total asset size of each of the five U.S. super regional banking organizations named above. In addition, the pro forma total assets of BMO-CUSO on consummation of the Proposed Transaction would be approximately \$394.0 billion as of September 30, 2021, and represent only approximately 1.7% of the total assets of the U.S. banking system<sup>6</sup> and a significantly smaller share of the total assets of the U.S. financial system. In addition, when the pro forma asset size of BMO-CUSO is measured using the total exposures of BMO-CUSO and BOTW, as defined for purposes of the size

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<sup>2</sup> E.g., *BB&T Corporation*, FRB Order No. 2019-16 (Nov. 19, 2019).

<sup>3</sup> As of June 30, 2021, according to the FDIC Statistics on Depository Institutions, FDIC-insured banks and thrifts held \$17.2 trillion in domestic deposits. National deposit data include deposits controlled by BMO’s depository subsidiaries that are insured by the FDIC. If deposits held in branches that are not insured by the FDIC are included, BMO-CUSO controlled deposits of approximately \$175.8 billion in the United States as of June 30, 2021.

<sup>4</sup> If national deposit share is calculated according to the methodology for the 10% national deposit cap, BMO’s held 0.78% of total U.S. adjusted deposits as of June 30, 2021, and BOTW held 0.47%. Under that calculation, the total U.S. adjusted deposits as of such date were \$17.7 trillion. Following the Proposed Transaction, BMO’s pro forma share of national deposits would be 1.25%.

<sup>5</sup> *M&T Bank Corporation*, FRB Order No. 2022-10 (March 4, 2022).

<sup>6</sup> The amount of total assets of the U.S. financial system is conservatively approximated by using total assets of FDIC-insured banks and thrifts plus BMO’s uninsured U.S. branches, as of September 30, 2021, which was \$23.3 trillion.

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indicators section of the Federal Reserve FR Y-15 report, it becomes even clearer that the Proposed Transaction would not result in systemic risk under the size factor.

**Substitutability.** The substitutability factor recognizes that a banking organization is more systemically important if it provides important products and services that customers would have difficulty replacing if the banking organization were to fail. In the United States, BHB and BOTW offer primarily retail and commercial deposit products, consumer and commercial loan products, commercial lease financing and related services, securities brokerage, insurance agency and brokerage, capital markets services, investment advisory, asset management, wealth management, trust operations and fiduciary services, risk management and asset management services, community development investment, payments, merchant services and treasury management services.

BHB serves as a settlement bank for members of U.S. futures, securities and options clearinghouses, including members of the Chicago Mercantile Exchange (CME), ICE Clear U.S., the OCC, the Depository Trust Company/National Securities Clearing Corporation (DTC/NSSC) and the Fixed Income Clearing Corporation (FICC). In this capacity, BHB provides cash settlement and intraday depository services between clearinghouses and their clearing members, thereby facilitating the movement of cash to and from the clearinghouses. BHB plans to continue to offer its products and services to both customers of BHB and BOTW, and their subsidiaries. None of the other products or services of BHB or BOTW can be regarded as highly specialized or “critical” financial products or services that are available from only a small number of providers. Indeed, for each product and service that BOTW will add to BHB, there are numerous providers nationally, regionally and, to the extent relevant, in the local banking markets in which BOTW and BHB operate. The Federal Reserve has previously noted that there are numerous competitors for the services that BOTW will add to BHB, including for securities brokerage, investment advisory and wealth management activities.<sup>7</sup> The Proposed Transaction would result in BMO-FG having only a modest increase in market share in such activities and, thus, would not raise financial stability risk concerns under the substitutability factor.

**Interconnectedness.** None of BFC, BHB or BOTW currently engages in business activities or participates in markets to a degree that would pose significant risk to other institutions in the event of financial distress at BMO in the future. Moreover, the Proposed Transaction would not cause BFC or BHB to add any critical services or to increase their interconnectedness to other firms or markets such that they would pose a significant risk to the financial system in the event of financial distress. Instead, the Proposed Transaction will enable BHB to grow its retail and commercial banking products and services, including deposit products, residential home mortgages, home equity lines of credit, small business loans and commercial loans, equipment lease financing and various other financial services, including insurance agency, investment advisory and securities brokerage services and some investment banking services, in highly competitive markets. Therefore, the

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<sup>7</sup> See *The Toronto-Dominion Bank*, FRB Order No. 2017-23 (Sep. 13, 2017); *Canadian Imperial Bank of Commerce*, FRB Order No. 2017-15 (June 7, 2017); *Huntington Bancshares Incorporated*, FRB Order No. 2016-13 (July 29, 2016).

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Proposed Transaction would not increase the interconnectedness of the combined organization in any meaningful manner.

**Cross-Border Activity.** BMO-CUSO will not materially increase its cross-border activities as a result of the Proposed Transaction. As of September 30, 2021, BMO-CUSO's cross border activities include cross-jurisdictional claims of \$45.5 billion and cross-jurisdictional liabilities of \$9.3 billion. Such activities consist of settlement bank services, commercial lending transactions, cross-border payment activities, certain interest rate management products and services, funding, securities financing and investment activities. As an initial matter, BFC and BHB are not acquiring any material entities or locations outside the U.S. as part of the Proposed Transaction. Moreover, the cross-border activities of BOTW that BHB would acquire as part of the Proposed Transaction would be limited primarily to those of international remittances, some international wealth services, a commercial card program and the limited cross-border payment activities of BOTW's customers. Currently, BHB engages in a limited amount of cross-border activities, primarily relating to settlement bank services, commercial lending transactions, cross-border payment activities, certain interest rate management products and services, funding activities and wealth management services.

Therefore, the Proposed Transaction would not result in any meaningful increase in BMO's cross-border operations or activities and would not create difficulties in coordinating any resolution of the combined company or otherwise increase the risk to U.S. financial stability.

**Complexity.** As noted, the Proposed Transaction does not involve the purchase or assumption of any complex assets, liabilities or operations. Accordingly, the Proposed Transaction would not cause the resulting organization to have a complex organizational structure, add complex interrelationships or add any unique characteristics that would complicate resolution of the firm, or otherwise pose a significant risk to the financial system, in the event of financial distress. BMO-FG and BOTW have satisfactorily complied with the regulatory requirements for resolution planning, and BMO-FG expects to continue to do so following consummation.

In view of all the foregoing, the Proposed Transaction will not result in greater or more concentrated risks to the stability of the U.S. banking or financial system, and, therefore, the financial stability risk considerations are consistent with approval of the Proposed Transaction.

**16) How, if at all, would the proposed acquisition promote financial stability of the United States banking or financial system?**

In the Federal Reserve's Order approving Capital One's acquisition of ING's U.S. retail banking operations, in applying the financial stability factor, the Federal Reserve noted it would "consider whether the proposed transaction would provide any financial stability benefits and whether enhanced prudential standards applicable to the combined organization would offset any potential risks".<sup>8</sup> Notably, in two Federal Reserve approvals since 2010 that involved global systemically important banks ("GSIB"), the Federal Reserve focused on these balancing

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<sup>8</sup> See Capital One Federal Reserve Board Order No. 2012-2 (February 14, 2012).

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considerations. In the approval of Goldman Sachs Bank USA's acquisition of certain assets and liabilities of GE Capital Bank, the Federal Reserve noted the effect of the transaction in improving Goldman Sachs Bank USA's funding diversity and stability.<sup>9</sup> In the approval of Morgan Stanley's acquisition of E\*Trade, the Federal Reserve noted that the expansion of more stringent prudential standards to the acquired assets and liabilities is a favorable consideration under the financial stability factor.<sup>10</sup>

The Proposed Transaction will promote financial stability by creating an even more stable banking organization and implementing a more stringent regulatory regime. The combined company will reduce its risk by achieving greater diversification of business lines, customers and geographies, enhanced earnings prospects and operational efficiencies. Such diversification and regional expansion will result in a safer and stronger BHB. In addition, BHB will be better positioned to compete against the exponentially larger banking organizations that have steadily and disproportionately increased their banking and financial service market share concentrations during the last decade, as well as the largest super-regional banks.

With respect to a more stringent regulatory regime, BFC and BHB currently qualify as Category IV organizations and expect to become Category III firms following the consummation of the Proposed Transaction. As a result, the assets and liabilities of these companies, including the assets and liabilities of BOTW acquired in the Proposed Transaction, would become subject to the Supplementary Leverage Ratio and the Countercyclical Capital Buffer requirements of the banking agencies' regulatory capital rules, as well as the LCR and NSFR requirements that will apply when these companies become Category III firms.

An institution that has greater diversity and stability of earnings has less risk of failure and more franchise value in the highly unlikely event of failure. Based on the foregoing, BMO-FG believes that the Proposed Transaction satisfies all of these factors and clearly promotes financial stability. Accordingly, the financial stability factor is consistent with approval of the Proposed Transaction.

**17) Please provide summary materials on Bank of Montreal's due diligence of BW Holding and its affiliates in connection with the proposed transaction.**

BMO-FG conducted a thorough due diligence review of BW Holding and BOTW across all of its major businesses and functional areas. Such diligence confirmed that BW Holding did not have any material activities or assets, aside from serving as the holding company for BOTW; therefore the diligence findings were largely related to BOTW's activities. Please see the Due Diligence Summary in Confidential Exhibit D of the Application for additional information.

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<sup>9</sup> See Goldman Sachs Bank USA Federal Reserve Board Order No. 2016-03 (March 21, 2016).

<sup>10</sup> See Morgan Stanley/E\*Trade Federal Reserve Board Order 2020-05 (Sept. 30, 2020).

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- 18) In 2016, the Federal Deposit Insurance Corporation adopted a rule requiring institutions with at least 2 million deposit accounts to improve the quality of their deposit data and make changes to their information systems so that regulators could make a rapid and accurate deposit insurance determination in the event of failure (see Final Rule: Recordkeeping for Timely Deposit Insurance Determination, 81 Fed. Reg. 87734, 87746, Dec. 5, 2016). Provide a description of the extent to which the applicants have either complied or intend to comply with this rule, voluntarily or otherwise.**

Please see Confidential Exhibit H.

- 19) Provide the volume of total deposits, core deposits, brokered deposits, and uninsured deposits for both BMO-CUSO and BW Holding.**

Please see Confidential Exhibit I.

- 20) Provide the size of the matched book for BMO Capital Markets (RSSD ID: 3206401) and BMO Chicago Branch (RSSD ID: 525839).**

Please see Confidential Exhibit J.

### **Consumer Compliance**

- 21) Confirm whether BHB plans on retaining consumer compliance program and staff from BOTW following the merger. If so, identify what parts of BOTW's consumer compliance program and which staff BHB will retain.**

BHB has established an Integration Management Office and a Compliance workstream focused on the implementation of a transitional compliance program that allows for alignment of key pillars of the program for regulatory compliance risk aggregation purposes, including the consumer compliance program. During the integration period preceding and the conversion period following Closing, BHB will continue to evaluate its staffing requirements, but post-Closing staffing levels will be higher than they are today and will include former BOTW employees.

- 22) Provide further information on how BHB plans to adjust its fair lending program to accommodate the merger and anticipated expansion of the bank's customer base.**

During the integration planning, BHB is conducting a fair lending risk assessment of BOTW using publicly available information, where possible, and will further conduct fair lending risk assessments beginning immediately after the Proposed Transaction to identify any additional risks and implement any required adjustments to its program. Such risk assessment and potential adjustments to the fair lending program will be discussed with BHB's local supervisory teams in the ordinary course. Following Closing, BHB will continue to evaluate its fair lending program in accordance with its standard practices.

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**23) Confirm whether BHB plans on retaining Community Reinvestment Act (“CRA”) program and staff from BOTW following the merger. If so, identify what parts of BOTW’s CRA program and which staff BHB will retain.**

BOTW has a strong CRA program with strong relationships with the community that BHB wants to continue to foster following the Proposed Transaction. As part of this commitment, BHB and BOTW have met and continue to meet with community and advocacy groups to understand the impacts and needs of LMI and underserved communities and will prioritize the findings to serve the communities throughout their respective AAs, including LMI and other underserved communities.

While the integration planning is ongoing, BHB expects to take the best elements of the BHB and the BOTW CRA programs to provide enhanced CRA support across the newly expanded footprint. During the integration period preceding and the conversion period following Closing, BHB will continue to evaluate its staffing requirements for its CRA strategy and program, but post-Closing staffing levels will be higher than they are today and will include former BOTW employees.

**24) Identify any community development activities of either bank that are expected to be discontinued.**

There are currently no plans to discontinue any community development activities of either bank. As discussed in the *Commitment to the CRA* section of the Application, BHB will leverage its strong performance in Community Development Lending and Investment to improve performance in the BOTW footprint leveraging BHB’s experience in this area.

**25) Indicate any community development activities not currently undertaken by BOTW that would be provided in the markets of BOTW after the merger.**

BMO New Markets Fund, LLC, is a Community Development Entity (“CDE”) that has expertise in new market tax credit investments and authority to allocate federal new market tax credits. BHB expects to continue this activity through its CDE and expand it, over time, to community development projects in a number of BOTW’s markets. In addition to its CDE activity, BHB expects to deploy additional community investment capital in a number of BOTW markets using preservation/workforce housing investment funds, SBIC funds and direct CRA-eligible investments in real estate development projects.

**26) Indicate any products and services to be made available to BOTW customers that are not currently made available by BOTW.**

BHB offers a number of products and services that will be made available to BOTW following the Proposed Transaction. A few examples of products and services that BHB offers that are not currently offered by BOTW include:

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- The CD Credit Builder Loan. This product gives customers the opportunity to build, establish, or re-establish a positive credit history to assist them in qualifying for other credit products.
- BMO Smart Money. Bank On Certified checking account that works to ensure everyone has access to a safe, affordable transactional account.
- True Name. A Mastercard feature available on BHB debit and credit cards that allows customers, especially those in the LGBTQIA+ community, to choose the first name they want to appear on their card to reflect their true identity.

### **Financial considerations**

**27) Please provided actual and pro forma balance sheets, income statements, and capital ratios as of December 31, 2021, for each of Bank of Montreal, BFC, and BHB. All statements should be accompanied by detailed explanatory footnotes. Pro forma statements should clearly show each step of the proposed transaction and include goodwill and/or other intangibles.**

Please see Confidential Exhibit K.

**28) Please provide proforma asset quality information, including total allowance for loan losses for BFC and BHB, as of December 31, 2021. Include a discussion of why the proposed level of capital and loan loss reserves would be adequate to support the level of nonperforming assets following consummation of the proposed transaction.**

Please see Confidential Exhibit K.

**29) Please provide actual and pro forma risk-based capital ratios (and supporting documentation) calculated according to CECL as of December 31, 2021.**

Please see Confidential Exhibit K.

**30) The proposed financing of the transaction includes common equity to be raised and the issuance of additional tier 1 capital instruments/subordinated notes. Please provide an update as to when the funding will be available.**

BMO has not set a specific date for execution of the equity raise or the incremental tier 1 or subordinated debt. It periodically issues tier 1 capital instruments and subordinated debt and expects to complete the financing transactions over the next few quarters. While the equity raise timing is actively being evaluated, BMO is confident it will be executed and available well before the Closing.



**BOTW Subsidiaries**

All of the subsidiaries being acquired by BHB in connection with the Bank Merger are reflected on Confidential Exhibit C of the Application.<sup>1</sup> Below is a description of the activities of such subsidiaries and the related analysis of their permissibility under section 4 of the BHC Act and Regulation Y, as applicable during the period prior to the Bank Merger, and under the OCC's regulations.

- CLAAS JV is a Delaware limited liability company and a joint venture among BOTW and CLAAS Financial Services, Inc. and CLAAS of America Inc. BOTW is the managing member and the majority owner of CLAAS JV, owning 51% of the membership units. CLAAS JV provides lease and loan financing to commercial entities acquiring agricultural equipment manufactured by CLAAS KGaA mbH and its affiliates and sold in the United States. CLAAS JV does not engage in any activity aside from lease and loan financing; therefore, its activities are permissible under 12 U.S.C. § 24(Seventh) and 12 CFR § 5.34(f)(5)(iii). As shares eligible for investment under 12 U.S.C. § 24(Seventh), such subsidiary is permissible under 12 U.S.C. § 1843(c)(5). In addition, such activity is permissible under 12 CFR § 225.28(b)(1) and (3).
- BWIS is a Delaware corporation and a wholly-owned subsidiary of BOTW. BWIS is a registered introducing broker and currently engages Pershing as its clearing broker. BWIS is a registered investment advisor that also offers investment and insurance services. BWIS' investment advisory services primarily assist customers in choosing strategists to manage their funds. BOTW does not directly or indirect provide insurance underwriting. BWIS is the only BOTW entity selling insurance and is licensed as an insurance agency in California under the name "BancWest Insurance Agency" and in all other states where it is licensed to do business it does so under the name "BancWest Investment Services."

BWIS does not engage in any activity aside from the foregoing; therefore, its activities are permissible under 12 U.S.C. § 24(Seventh) and 12 CFR § 5.34(f)(5)(xviii) (serving as an introducing broker), 12 CFR § 5.34(f)(5)(ix) (investment advisory services) and 12 CFR § 5.34(f)(5)(xvi) (insurance brokerage services). As shares eligible for investment under 12 U.S.C. § 24(Seventh), such subsidiary is permissible under 12 U.S.C. § 1843(c)(5). In addition, such activities are permissible under 12 CFR § 225.28(b)(7) (serving as introducing broker), 12 CFR § 225.28(b)(6) (investment advisory activities), and 12 CFR § 225.28(b)(11) (insurance brokerage services).

- First Santa Clara Corporation is a California corporation that serves in the nominal role of third party trustee on deeds of trust for California and Nevada properties securing commercial and residential loans BOTW holds and/or services as lender/beneficiary and does not engage in any other activities. Therefore, its activities are permissible under 12 U.S.C. § 24(Seventh) and 12 CFR 5.34(f)(5)(i)-(ii). As shares eligible for investment under 12 U.S.C. § 24(Seventh), such subsidiary is permissible under 12 U.S.C. § 1843(c)(5) and 12 CFR § 225.22(d)(4). In addition, such activity is permissible under 12 CFR § 225.28(b)(2), as activities related to extending credit.

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<sup>1</sup> Note that the executive compensation trusts that are included in Confidential Exhibit C of the Application were for reference and would not be considered to be subsidiaries; therefore they are not included herein.

## Exhibit 1

- Ursus Real Estate, Inc. is a wholly owned California corporation. Ursus Real Estate, Inc. directly or indirectly holds wholly owned or partial interests in foreclosed properties for BOTW and does not engage in any other activities. At this time Ursus does not have any subsidiaries or own any partial interests in properties, and none are contemplated; therefore, its activities are permissible under 12 U.S.C. § 24(Seventh) and 12 CFR § 5.34(f)(5)(i). As shares eligible for investment under 12 U.S.C. § 24(Seventh), such subsidiary is permissible under 12 U.S.C. § 1843(c)(5). In addition, such activity is permissible under 12 CFR § 225.28(b)(2), as activities related to extending credit.
- Bank of the West Business Park Association, L.L.C. is Nebraska limited liability company of which BOTW holds a 38.18% interest. It is responsible for managing the Bank of the West Business Park in Omaha, Nebraska, of which BOTW is an occupant; therefore its activities are permissible under 12 U.S.C. § 29 and 12 CFR § 7.1024. The ownership of the premises is further permitted under 12 U.S.C. § 1843(c)(1) and 12 CFR § 225.22(b)(2).
- BOW Auto Receivables LLC is a Delaware limited liability company. BOW Auto Receivables LLC is primarily in the business of issuing asset-backed securities. It holds financial assets that are permissible for a national bank to own prior to the sale of such assets to the relevant trusts. Its activities, and those of its subsidiaries reflected on Confidential Exhibit C of the Application, are permissible under 12 U.S.C. § 24(Seventh) and 12 CFR § 5.34(f)(5)(iii). As shares eligible for investment under 12 U.S.C. § 24(Seventh), such subsidiary is permissible under 12 U.S.C. § 1843(c)(5). In addition, such activity is permissible under 12 CFR § 225.28(b)(1) and (3).
- All other subsidiaries referenced on Confidential Exhibit C of the Application are engaged in public welfare investment activities permissible under 12 U.S.C. § 24(Eleventh) and, thus, under 12 U.S.C. § 1843(c)(5). In addition, such activity is permissible under 12 CFR § 225.28(b)(11).