

# SUMMARY OF THE PROPOSED BANKING BUSINESS TRANSFER SCHEME UNDER PART VII OF THE UK FINANCIAL SERVICES AND MARKETS ACT 2000 FOR THE TRANSFER OF PART OF THE BANKING BUSINESS OF THE UK BRANCH OF RBC INVESTOR SERVICES TRUST TO THE UK BRANCH OF CACEIS BANK

## 1. INTRODUCTION

- 1.1 As more particularly specified in the document detailing the Scheme (the "**Scheme Document**"), it is proposed that RBC Investor Services Trust (the **Transferor**) will transfer part of the custody and middle office business of its UK branch (**IS Trust, UK Branch**) (including the acceptance of deposits) (the **Transferring Business**) to the UK branch of CACEIS Bank (the **Transferee**).
- 1.2 The transfer of the Transferring Business (the **Transfer**) is to be effected by a statutory banking business transfer scheme under Part VII of the Financial Services and Markets Act 2000 (the **Act**) (the **Scheme**). The Transfer is made pursuant to, and aligned with, the long-term strategy of the Transferor to divest its international investor services business and focus on the Transferor's domestic (Canadian) markets.
- 1.3 The Transfer is subject to the approval of the High Court of England and Wales (the **Court**) under section 111 of the Act.
- 1.4 Subject to the approval of the Court, it is intended that the Scheme will take effect across three Phases, each at 00:01 on the following dates ~~4 November~~9 December 2023 (the **Phase 1 Transfer Date**), ~~18 November 2023~~20 January 2024 (the **Phase 2 Transfer Date**) and ~~2 December 2023~~10 February 2024 (the **Phase 3 Transfer Date**), or such other time and date as may be specified in accordance with the Scheme (collectively, the **Effective Dates** and each an **Effective Date**).
- 1.5 In general, the Scheme provides a mechanism to transfer the Transferring Business either:
- (a) on the relevant Effective Date (for assets and liabilities that are able to transfer and vest in the Transferee on that date); or
  - (b) on subsequent dates (for any residual transferring assets and liabilities),
- (in each case, the **Relevant Date**), without any further steps being required.
- 1.6 This Explanatory Statement provides details of the terms of the Scheme, as required by regulation 5(4) of the Financial Services and Markets Act 2000 (Control of Business Transfers) (Requirements on Applicants) Regulations 2001.
- 1.7 The information in this document is only a summary of the Scheme. A full description of the products and services that will transfer, subject to approval, can be found in the Scheme Document. Further information and a copy of the Scheme document can be obtained by visiting <https://www.rbcits.com/en/who-we-are/governance.page>, <https://www.rbcits.com/en/who-we-are/caceis/rbcis-t-rust-uk-transfer.page> or by writing to us at [partvii\\_client\\_queries@rbc.com](mailto:partvii_client_queries@rbc.com).

## 2. PROCESS

- 2.1 To become effective, the Scheme requires the sanction of the Court. It is anticipated that the final Court hearing to sanction the Scheme (the "**Final Hearing**") will be held on 931 October 2023. The Court process has been initiated by an application to the Court (the "**Application**") and involved an initial Court hearing at which the Court made provision for various procedural matters. At the Final Hearing the Court will consider and, if thought fit, sanction the Scheme. The FCA and PRA are entitled to appear at the Final Hearing, and the

Transferor and the Transferee have been liaising closely with the FCA and PRA as part of the Scheme process.

- 2.2 Any person (including any customer of IS Trust, UK Branch) who claims that they will be adversely affected by the carrying out of the Scheme is entitled to be heard by the Court or make representations in writing to it, as is the FCA and the PRA. Any such person who wishes to attend the Final Hearing, or wishes to instruct a barrister or solicitor advocate, at their own cost, to attend the Final Hearing and make representations on their behalf, or who wishes to make a written representation to the Court is requested, but is not required, to give notice in writing of their intentions and their objections, as soon as possible and in any event on or before ~~22~~<sup>24</sup> October 2023 to the Transferor at the following address: 100 Bishopsgate, London, EC2N 4AA.

### **3. TRANSFER DATE**

The Scheme will become effective at 00:01 on each Effective Date in respect of the relevant parts of the Transferring Business that are transferred to Transferee on each Effective Date.

### **4. THE BUSINESS TO BE TRANSFERRED**

4.1 The Transferor is authorised and regulated by the Office of the Superintendent of Financial Institutions of Canada and operates in the UK through the IS Trust, UK Branch which is subject to regulation in the UK by the FCA and limited regulation by the PRA. The principal business activity carried on by RBC IS Trust, UK Branch is the provision of the safekeeping and administration of financial instruments. Under the Scheme, the Transferring Business consists of the custody and middle office business of IS Trust, UK Branch carried on in the UK, comprised of the "Transferring Business Assets" and "Transferring Business Liabilities" but excluding the "Excluded Business" (each as defined in the Scheme Document).

4.2 In summary, this consists of (i) the agreements with UK contracted clients of IS Trust, UK Branch for (a) custody and related services (including the acceptance of deposits and account control agreements), (b) middle office services (including trade order management services, corporate action management services, IBOR services and EMIR trade reporting services), (ii) a cash amount equal to the deposits held by IS Trust, UK Branch under custody agreements with clients of IS Trust, UK Branch and (iii) relevant business records. Further information on the perimeter of the transferring business is set out in the Scheme Document.

### **5. THE EFFECT OF THE TRANSFER**

5.1 The Transferring Business shall transfer to, vest in or (as the case may be) become liabilities of the Transferee on the Relevant Date without any further act or instrument, such that the Transferee shall succeed to the Transferring Business as if in all respects it was the same person in law as the Transferor.

#### **Contracts**

5.2 Every "Transferring Customer Contract" (as defined in the Scheme Document) shall have effect on and from the applicable Effective Date as if the contract had been made with the UK branch of the Transferee, instead of the UK branch of the Transferor, and in respect of anything falling to be done after the Effective Date, a reference to CACEIS Bank, UK Branch shall be substituted in place of a reference to IS Trust, UK branch (with any reference to the IS Trust group being construed and taking effect as a reference to the CACEIS Bank group).

5.3 The transfer and vesting of any contract, asset or liability under the Scheme shall not:

- (a) cause any contract, security or other thing, or any term of any of them, to be invalid, non-binding, unenforceable, discharged or cancellable;
- (b) require any further registration or amendment of existing registration in respect of any security or other instrument registered in the UK;

- (c) constitute a breach of, or default under, or require compliance with any notice or consent provision or require any obligation to be performed sooner or later than would have otherwise been the case under, any contract or instrument to which the Transferee or the Transferor is a party or is bound;
- (d) allow person to terminate, default or cross-default any contract, whether an agreement to which the Transferor or Transferee is a party or not, when that party would not otherwise have been able to terminate, default or cross-default it, or to treat any interest or right under that contract as terminated, defaulted, cross-defaulted or modified;
- (e) entitle any party to any contract to which the Transferor or the Transferee is a party to vary the terms of that contract when that party would not otherwise have been able to vary those terms or confer a right or benefit on that party which that party would not otherwise have had;
- (f) entitle the Transferor or the Transferee to terminate, default, cross-default, reduce, suspend, delay, alter, discharge or otherwise secure any contract or liability where the Transferor or Transferee would not otherwise have been able to do so;
- (g) affect the enforceability, priority or ranking of any security;
- (h) require or deem any representation or warranty to be made or repeated;
- (i) enable any person to bring a claim, whether in contract, tort, equity or otherwise;
- (j) cause the imposition of any greater or lesser obligation on any party to any contract to which the Transferor or the Transferee is a party when that greater or lesser obligation would not otherwise have been imposed; or
- (k) constitute a breach of, or default under, any court order by any court of any jurisdiction.

### **Residual Assets and Liabilities**

5.4 Any part of the Transferring Business that for any reason is not capable of being transferred on the Effective Date will be retained by IS Trust, UK Branch as a Residual Asset or Residual Liability but will be transferred to CACEIS Bank, UK Branch subsequently, in accordance with the terms of the Scheme Document.

5.5 Residual Assets and Residual Liabilities shall, as from their respective Subsequent Transfer Dates, be respectively vested in and owned by the Transferee in all respects on the same terms as if the relevant assets or liabilities had been transferred under the Scheme on the relevant Effective Date.

5.6 With respect to any Asset under Custody that relates to a Custody Agreement forming part of the Transferring Business that remains with the Transferor as a Residual Asset following the relevant Effective Date, the relevant Custody Agreement shall be replicated as between the Transferor and the Customer on the same terms pending the Subsequent Transfer Date.

### **Assets under Custody held in Roy Nominees**

5.7 Save for the Residual Assets referred to in paragraphs 5.4 to 5.6 above, all assets that are capable of transfer and that are held under custody by the UK branch of the Transferor (either directly or by any sub-custodian, central securities depository or other third party appointed by the Transferor) will transfer, as of the applicable Effective Date, to the UK branch of the Transferee (or its nominee, including any sub-custodian, central securities depository or other third party appointed by it). However, certain assets (which are currently held by Roy Nominees, as nominee of IS Trust, UK Branch) are not readily transferrable, as they are the subject of insolvency proceedings or other legal barriers to transfer (the **RNL Assets**). The RNL Assets will not transfer under the Scheme and will continue to be held by the

UK branch of the Transferor (in Roy Nominees, as its appointed sub-custodian [or nominee](#)). In respect of the RNL Assets held by Roy Nominees on behalf of a Transferring Customer and in connection with a Custody Agreement, such Custody Agreement shall be replicated as between the Transferor and the Transferring Customer on the same terms pending the date on which this replicated Custody Agreement is terminated by either party. This affects 10 Transferring Customers who will be separately notified.

### **Rights against the Transferor and Transferee**

5.8 Any asset and liability transferring under the Scheme shall be transferred to, and vested in, the Transferee subject to any security (if any) that affects it and every Transferring Customer shall, at and with effect from the Relevant Date, become entitled to any rights which he may have had against the Transferor under his or her relevant Transferring Customer Contract in relation to the Transferring Business, to the same rights against the Transferee as were available to him against the Transferor prior to the Relevant Date. However, all claims, obligations and liabilities arising from or associated with a Transferring Customer Contract arising prior to the Effective Date (other than the Transferring Deposit Liabilities) will be retained by the Transferor.

### **Instructions and Authorities**

5.9 Any existing instruction, order, direction, mandate, power of attorney, authority or consent given to or by the Transferor in respect of the Transferring Business shall have effect on and from the Relevant Date as if given to or, as the case may be, by the Transferee.

### **Sanctioned and Frozen Assets**

5.10 In relation to any Assets, and any other associated Residual Liabilities, forming part of the Transferring Business and which are affected by a Freezing Order (terms as defined in the Scheme Document), the Transferee shall, on and from the Relevant Date, be entitled to the same rights and priorities and be subject to the same obligations and incidents pursuant to the Freezing Order to which the Transferor would itself have been entitled and subject if it had continued to hold the such deposits and assets.

5.11 Each Sanctioned Asset, and any other associated Residual Liabilities subject to Sanctions that relate to a Customer who holds a Sanctioned Asset (terms as defined in the Scheme Document), shall not transfer to the Transferee and shall be Residual Assets unless and until the Transferor or the Transferee (as applicable) has been granted any relevant licences or consents required to make such transfer in accordance with applicable law, or the relevant restrictions preventing such transfer cease to apply.

### **Financial Services Compensation Scheme Cover**

5.12 Customers of IS Trust, UK Branch are covered by the UK Financial Services Compensation Scheme (the "FSCS"). The FSCS can pay compensation to clients if a financial institution is unable to meet its financial obligations. The FSCS is the UK's Deposit Guarantee Scheme and can pay compensation in respect of an eligible deposit if a bank is unable to meet its financial obligations. Subject to eligibility, a depositor is entitled to claim up to the current FSCS limit, which is £85,000. The level of cover provided from the FSCS in respect of investment business is limited to £85,000.

5.13 Customers who hold deposits with only the Transferor and not the Transferee will not be impacted with respect to protection under the FSCS as they will retain the same level of protection. The Transferor and the Transferee have confirmed that the Transferring Business does not include customers who are already customers the Transferee as at July 2023. In any case, each Transferring Customer will have the ability to withdraw their funds without penalty should they chose to do so.

## **6. CONTINUITY OF PROCEEDINGS AND CLAIMS**

6.1 As part of the Scheme, any regulatory, judicial, quasi-judicial or arbitral right of action (including any right of action under any other dispute resolution proceeding) (a **Proceeding or Complaint**) and any such remedy (including regulatory enforcement action) available in consequence of which accrues, arises or becomes enforceable or available before the Relevant Date by or against the Transferor and which arises from or is associated with a Transferring Customer Contract shall be retained by the Transferor.

6.2 After the Relevant Date, any Proceedings or Complaints arising from or associated with the Transferring Customer Contracts and arising in respect of the period from but not prior to the Relevant Date, concerning the Transferring Business shall be commenced by or against the Transferee. Any such Proceedings or Complaints commenced after the Relevant Date in error against the Transferor shall be deemed to have been commenced and shall be continued against the Transferee without the need for further order, whether for substitution of parties or otherwise. In any event, the Transferee will be entitled to all defences, counterclaims and rights of set-off that would have been available to the Transferor in relation to those proceedings or complaints and the Transferor shall have no liability under those proceedings or complaints.

## **7. CONFIDENTIALITY AND DATA PROTECTION**

7.1 As part of the Scheme, all personal data obtained by the Transferor from its customers in respect of the Transferring Business will be disclosed to the Transferee who will become a data controller in respect of such data. Any consent given by customers in relation to the use of their data will be deemed to have been given in relation to the Transferee. The Transferee will use this data in order to carry on the Transferring Business and references to the Transferor (or any member of the Transferor group) in any such information data protection statements or consents will be construed as references to the Transferee. The Transferee shall owe, to any Transferring Customer and to any person who had previously been a customer of the Transferring Business, the same duties of confidentiality and privacy on, and with effect from, the Relevant Date.

## **8. EMPLOYMENT**

8.1 No contract of employment, and no right, power, duty, liability or claim in connection with such contracts of employment, will be transferred under the Scheme, provided that nothing in the Scheme prevents such transfer taking place under and in accordance with the provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006.

8.2 The transfer of employees will take place in two tranches on the Phase ~~+2~~ Effective Date and ~~the~~ Phase 3 Effective Dates.

## **9. MODIFICATIONS OR ADDITIONS**

9.1 The Transferor and Transferee may consent jointly for and on behalf of themselves and all other persons concerned to make any modification of or addition to the Scheme which the Court may approve or impose prior to its sanction of the Scheme.

9.2 In relation to any modification or addition to the Scheme which may be proposed to be made after its sanction by the Court, the Transferor and the Transferee shall respectively be at liberty to apply to the Court for consent to amend its terms, provided that in any case the Prudential Regulation Authority has been notified of, and has the right to be heard at, any hearing of the Court at which such application is considered. If such consent is granted, the Transferor and the Transferee may amend the terms of this Scheme in accordance with such consent.

**10. PROCESS**

More information on how to express your views or participate in the formal court process in relation to the Scheme can be found at:  
~~<https://www.rbcits.com/en/who-we-are/governance.page>~~ <https://www.rbcits.com/en/who-we-are/caceis/rbcis-trust-uk-transfer.page>

**11. GOVERNING LAW**

The Scheme is governed and construed in accordance with English law.

<b>Summary report:</b> <b>Litera Compare for Word 11.3.0.46 Document comparison done on</b> <b>25/10/2023 16:52:42</b>	
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