

Prospectus Supplement  
(to the Prospectus Dated December 29, 2021)

# Scotiabank®

THE BANK OF NOVA SCOTIA

US\$750,000,000

**8.625% Fixed Rate Resetting  
Limited Recourse Capital Notes, Series 4  
(Non-Viability Contingent Capital (NVCC))  
(subordinated indebtedness)**

The US\$750,000,000 aggregate principal amount of 8.625% Fixed Rate Resetting Limited Recourse Capital Notes, Series 4 (Non-Viability Contingent Capital (NVCC)) (subordinated indebtedness) (the “Notes”) offered by this prospectus supplement (this “Prospectus Supplement”) mature on October 27, 2082 (the “Maturity Date”). From and including October 25, 2022 (the “Issue Date”) to, but excluding, October 27, 2027 (such date and each fifth (5<sup>th</sup>) anniversary date thereafter, a “Reset Date”), interest will accrue on the Notes at an initial rate equal to 8.625% per annum. From and including each Reset Date to, but excluding, the next following Reset Date, interest will accrue on the Notes at a rate per annum equal to the sum, as determined by the Calculation Agent (as defined herein), of (i) the then-prevailing U.S. Treasury Rate (as defined herein) on the relevant Reset Rate Determination Date (as defined herein) and (ii) 4.389%. The Bank of Nova Scotia (the “Bank”) will pay interest on the Notes quarterly in arrears on January 27, April 27, July 27 and October 27 of each year, commencing on January 27, 2023 (each, an “Interest Payment Date”).

**In the event of a Recourse Event (as defined herein), which includes a non-payment in cash by the Bank of the Redemption Price (as defined herein) for the Notes when due, the occurrence of a Failed Principal Payment Date, Failed Coupon Payment Date, Event of Default and Trigger Event (each term as defined herein), while a Noteholder will have a claim against the Bank for the principal amount of the Notes and any accrued and unpaid interest (which will then be due and payable), the Noteholder’s sole recourse in respect of such claim will be limited to such Noteholder’s proportionate share of the Corresponding Trust Assets (as defined herein) held by the LRT Trustee (as defined herein) in respect of the Notes in the Limited Recourse Trust (as defined herein), which initially shall consist of AT1 Notes (as defined herein). See “Description of the Notes – Limited Recourse”.**

This Prospectus Supplement also relates to the offering and issuance of 8.625% Fixed Rate Resetting Perpetual Subordinated Additional Tier 1 Capital Notes (Non-Viability Contingent Capital (NVCC)) (subordinated indebtedness) (the “AT1 Notes”) to the LRT Trustee as Corresponding Trust Assets. The AT1 Notes will be issued on or before the Issue Date.

**The AT1 Notes deliverable upon a Recourse Event have no scheduled maturity and AT1 Noteholders (as defined herein) do not have the right to call for their redemption. Interest on the AT1 Notes will be due and payable only at the Bank’s sole and absolute discretion at any time while the AT1 Notes are no longer held by the LRT Trustee, and the Bank may cancel (in whole or in part) any interest payment at any time. Any cancelled interest payments will not be cumulative. Accordingly, the Bank is not required to make any repayment of the principal amount of the AT1 Notes except in the event of bankruptcy or insolvency and provided that an NVCC Automatic Conversion (as defined herein) has not occurred. As a result, if Noteholders’ (as defined herein) investment in the Notes becomes an investment in the AT1 Notes pursuant to the limited recourse feature of the Notes, Noteholders could lose part or all of their investment in the Notes. See “Description of the Notes — Limited Recourse” and “Description of the AT1 Notes — NVCC Automatic Conversion.”**

The Notes, and the AT1 Notes to the extent they are held by Noteholders after a Recourse Event, are intended to qualify as Additional Tier 1 capital of the Bank within the meaning of the regulatory capital adequacy requirements to which the Bank is subject. The Notes and the AT1 Notes will be the Bank’s direct unsecured obligations. The Notes and the AT1 Notes will constitute subordinated indebtedness for the purposes of the *Bank Act* (Canada) (the “*Bank Act*”). In the event of the Bank’s insolvency or winding-up, a Recourse Event will have occurred with respect to the Notes and the sole remedy of a holder of the Notes (a “*Noteholder*”) shall be recourse to such Noteholder’s proportionate share of the Corresponding Trust Assets. Upon delivery to the Noteholders of their proportionate share of the Corresponding Trust Assets following such Recourse Event, all Notes will cease to be outstanding. In the event of the Bank’s insolvency or winding-up, the AT1 Notes will rank (a) subordinate in right of payment to the prior payment in full of all Higher Ranked Indebtedness (as defined herein) and (b) in right of payment equally with and not prior to Deeply Subordinated Indebtedness (as defined herein) (other than Deeply Subordinated Indebtedness which by its terms ranks subordinate to the AT1 Notes) of the Bank, in each case, from time to time outstanding. In the event of the Bank’s insolvency or winding-up, the AT1 Notes will rank ahead of the Bank’s Common Shares (as defined below) and preferred shares.

The occurrence of a Trigger Event (as defined herein) will constitute a Recourse Event. If a Trigger Event occurs, each Noteholder will be entitled to receive, and the LRT Trustee will deliver to each Noteholder, such Noteholder’s proportionate share of Common Shares issued upon the conversion of the AT1 Notes into Common Shares upon a Trigger Event, and recourse of each Noteholder will be limited to the Noteholder’s proportionate share of the Corresponding Trust Assets. Upon the occurrence of a Trigger Event, each outstanding AT1 Note, whether held by the Limited Recourse Trust or the AT1 Noteholders, will automatically and immediately be converted, on a full and permanent basis, without the consent of the Noteholders, the AT1 Noteholders, the Indenture Trustees (as defined herein), the LRT Trustee or the AT1 Indenture Trustees (as defined herein), into that number of fully-paid common shares of the Bank (the “*Common Shares*”) determined by dividing (a) the product of the Multiplier (as defined herein) and the Note Value (as defined herein), by (b) the Conversion Price (as defined herein) (rounded down, if necessary, to the nearest whole number of Common Shares). See “Description of the AT1 Notes — NVCC Automatic Conversion.” This Prospectus Supplement also relates to the offering of the Common Shares issuable pursuant to an NVCC Automatic Conversion of the AT1 Notes upon a Trigger Event. See “Description of Common Shares and Preferred Shares” in the accompanying prospectus of the Bank dated December 29, 2021 (the “*Prospectus*”).

The Bank may, at its option, with the prior written approval of the Superintendent of Financial Institutions (Canada) (the “*Superintendent*”), redeem the Notes, (i) in whole or in part, on October 27, 2027 and each Interest Payment Date (as defined herein) thereafter (the “*Optional Redemption*”), (ii) in whole but not in part, at any time following a Regulatory Event Date (as defined herein) and (iii) in whole but not in part, at any time following the occurrence of a Tax Event (as defined herein), in each case, at the Redemption Price (as defined herein). Upon any redemption by the Bank of the AT1 Notes held in the Limited Recourse Trust in accordance with their terms on any date other than the Maturity Date (such redemption will be subject to the prior written approval of the Superintendent), outstanding Notes with an aggregate principal amount equal to the aggregate principal amount of AT1 Notes redeemed by the Bank shall automatically and immediately be redeemed, for a cash amount equal to the Redemption Price (as defined herein) thereof, without any action on the part of, or the consent of, the Indenture Trustees or the Noteholders. See “Description of the Notes — Redemption.”

The AT1 Notes are redeemable as described under “Description of the AT1 Notes—Redemption.”

In order to qualify as Additional Tier 1 capital of the Bank within the meaning of the regulatory capital adequacy requirements to which the Bank is subject, the Notes and the AT1 Notes must meet certain requirements. These requirements include, among other things, that (i) the Notes and the AT1 Notes have a minimum par or stated value of US\$1,000, (ii) the Notes and the AT1 Notes must be traded on institutional desks and therefore may not be listed on any exchange, (iii) the Notes may only be issued to institutional investors in the primary distribution, and (iv) the Notes may only be issued in minimum denominations of at least US\$200,000 and integral multiples of US\$1,000 in excess thereof.

It is not currently anticipated that the Notes or the AT1 Notes will be listed on any stock exchange or quotation system and, consequently, there is no market through which the Notes or the AT1 Notes may be sold and purchasers may not be able to resell the Notes purchased under this Prospectus Supplement or the AT1 Notes received pursuant to a distribution of the Corresponding Trust Assets. Our Common Shares are listed on the New York Stock Exchange (“*NYSE*”) and the Toronto Stock Exchange (“*TSX*”) under the trading symbol “*BNS*.” On October 14, 2022 the last reported sale price of our Common Shares was US\$47.15 per share on the NYSE and \$65.47 per share on the TSX.

**Investing in the Notes (and the AT1 Notes upon certain Recourse Events and Common Shares following a Recourse Event that is a Trigger Event) involves risks. See “Risk Factors” beginning on page S-22 of this Prospectus Supplement and page 7 of the accompanying Prospectus.**

**Prospective investors should be aware that the acquisition of the Notes and the AT1 Notes described herein may have tax consequences both in the United States and in Canada. Such consequences for investors who are resident in, or citizens of, the United States may not be described fully herein.**

**The enforcement by investors of civil liabilities under the United States federal securities laws may be affected adversely by the fact that the Bank is a Canadian bank, that many of its officers and directors, and some of the experts named in this Prospectus Supplement, may be residents of Canada and that all or a substantial portion of the assets of the Bank and such persons may be located outside the United States.**

**Neither the U.S. Securities and Exchange Commission (the “*SEC*”) nor any state securities commission has approved or disapproved of the Notes, the AT1 Notes or the Common Shares, or determined if this Prospectus Supplement or the accompanying Prospectus is truthful or complete. Any representation to the contrary is a criminal offense.**

	<u>Per Note</u>	<u>Total</u>
Price to public <sup>(1)</sup> .....	100.000%	US\$750,000,000
Underwriters’ fees .....	1.000%	US\$ 7,500,000
Net proceeds, before expenses, to the Bank <sup>(1)</sup> .....	99.000%	US\$742,500,000

(1) Plus accrued interest, if any, from October 25, 2022 to the date of delivery.

**Neither the Notes nor the AT1 Notes will constitute deposits that are insured under the *Canada Deposit Insurance Corporation Act* (Canada) or by the United States Federal Deposit Insurance Corporation. Neither the Notes nor the AT1 Notes will be subject to Bail-In Conversion (as defined herein).**

The principal executive office of the Bank is located at 1709 Hollis Street, Halifax, Nova Scotia, B3J 3B7 and its executive offices are at Scotia Plaza, 44 King Street West, Toronto, Ontario, M5H 1H1.

The Notes will be ready for delivery through the book-entry facilities of The Depository Trust Company and its direct and indirect participants, including Euroclear Bank SA/NV and Clearstream Banking S.A., on or about October 25, 2022.

*Joint Bookrunner, Structuring Agent & Global Coordinator*

**Scotiabank**

*Joint Bookrunners*

**Citigroup**

**Morgan Stanley**

**SOCIETE GENERALE**

October 17, 2022

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**We have not, and the underwriters have not, authorized anyone to provide you with information other than the information contained or incorporated by reference in this Prospectus Supplement, the accompanying Prospectus or in any free writing prospectus we have authorized. We take no responsibility for and can make no assurance as to the reliability of any other information that others may give you. We are not, and the underwriters are not, making an offer to sell any Notes, AT1 Notes or Common Shares in any jurisdiction where the offer or sale is not permitted. You should not assume that the information contained in this Prospectus Supplement, the accompanying Prospectus, the documents incorporated by reference or any free writing prospectus we may authorize to be delivered to you is accurate as of any date**

**other than the dates thereon. Our business, financial condition, results of operations and prospects may have changed since those dates.**

**Prohibition of sales to EEA retail investors** — The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the European Economic Area (“*EEA*”). For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU (as amended, “*MiFID II*”); or (ii) a customer within the meaning of Directive (EU) 2016/97 (as amended, the “*Insurance Distribution Directive*”), where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II. Consequently, no key information document required by Regulation (EU) No 1286/2014 (the “*PRIIPs Regulation*”) for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

**Prohibition of sales to UK retail investors** — The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the United Kingdom (“*UK*”). For these purposes, a retail investor means a person who is one (or more) of (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the European Union (Withdrawal) Act 2018, as amended, (“*EUWA*”); or (ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the FSMA to implement the Insurance Distribution Directive, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 (as amended) as it forms part of domestic law by virtue of the EUWA. Consequently, no key information document required by Regulation (EU) No 1286/2014 as it forms part of domestic law by virtue of the EUWA (the “*UK PRIIPs Regulation*”) for offering or selling the Notes or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.

This Prospectus Supplement has been prepared on the basis that any offer of Notes in any Member State of the EEA will be made pursuant to an exemption under Regulation (EU) 2017/1129, as amended, (the “*Prospectus Regulation*”) from the requirement to publish a prospectus for offers of Notes.

This Prospectus Supplement has been prepared on the basis that any offer of securities in the UK will be made pursuant to an exemption under the UK Prospectus Regulation and the FSMA from the requirement to publish a prospectus for offers of Notes. The expression FSMA means the Financial Services and Markets Act 2000 (as amended) and the expression UK Prospectus Regulation means Regulation (EU) 2017/1129 as it forms part of UK domestic law by virtue of the EUWA.

Any distributor subject to MiFID II subsequently offering, selling or recommending the Notes is responsible for undertaking its own target market assessment in respect of the Notes and determining the appropriate distribution channels for the purposes of the MIFID II product governance rules under Commission Delegated Directive (EU) 2017/593 (the “*Delegated Directive*”). Neither the Bank nor any of the underwriters make any representations or warranties as to a distributor’s compliance with the Delegated Directive.

Any distributor subject to the FCA Handbook Product Intervention and Product Governance Sourcebook (the “*UK MiFIR Product Governance Rules*”) is responsible for undertaking its own target market assessment in respect of the Notes and determining appropriate distribution channels. Neither the Bank nor any of the book-running managers make any representations or warranties as to a distributor’s compliance with the UK MiFIR Product Governance Rules.

## **ABOUT THIS PROSPECTUS SUPPLEMENT**

This document consists of two parts. The first part is this Prospectus Supplement, which describes the specific terms of this offering. The second part, the accompanying Prospectus, gives more general information, some of which may not apply to this offering. If information in this Prospectus Supplement is inconsistent with the accompanying Prospectus, investors should rely on the information in this Prospectus Supplement.

This Prospectus Supplement, the accompanying Prospectus and the documents incorporated by reference into each of them include important information about the Bank, the Notes being offered and other information investors should know before investing in the Notes.

Unless otherwise mentioned or unless the context requires otherwise, all references in this Prospectus Supplement to the “Bank,” “we,” “us,” “our” or similar references mean The Bank of Nova Scotia and do not include the subsidiaries of The Bank of Nova Scotia.

The distribution of this Prospectus Supplement, the accompanying Prospectus and any free writing prospectus we have authorized and the offering of the Notes in certain jurisdictions may be restricted by law. Persons who come into possession of this Prospectus Supplement, the accompanying Prospectus or any free writing prospectus we have authorized should inform themselves about and observe any such restrictions. This Prospectus Supplement, the accompanying Prospectus and any free writing prospectus we have authorized do not constitute, and may not be used in connection with, an offer or solicitation by anyone in any jurisdiction in which such offer or solicitation is not authorized or in which the person making such offer or solicitation is not qualified to do so or to any person to whom it is unlawful to make such offer or solicitation.

You should not consider any information in this Prospectus Supplement, the accompanying Prospectus or any free writing prospectus we have authorized to be investment, legal or tax advice. You should consult your own counsel, accountant and other advisors for legal, tax, business, financial and related advice regarding the purchase of the Notes. We are not making any representation to you regarding the legality of an investment in the Notes by you under applicable investment or similar laws.

## CAUTION REGARDING FORWARD-LOOKING STATEMENTS

This Prospectus Supplement and the accompanying Prospectus, including documents incorporated by reference herein and therein, may contain forward-looking information or forward-looking statements (collectively, “forward-looking statements”). All such statements are made pursuant to the “safe harbor” provisions of the U.S. Private Securities Litigation Reform Act of 1995 and any applicable Canadian securities legislation. Forward-looking statements may include, but are not limited to, statements made in this Prospectus Supplement and the accompanying Prospectus, the “Management’s Discussion and Analysis” in the Bank’s Annual Report on Form 40-F for the fiscal year ended October 31, 2021 under the headings “Outlook”, as updated by the Bank’s quarterly reports and in other statements regarding the Bank’s objectives, strategies to achieve those objectives, the regulatory environment in which the Bank operates, anticipated financial results, and the outlook for the Bank’s businesses and for the Canadian, U.S. and global economies. Such statements are typically identified by words or phrases such as “believe,” “expect,” “foresee,” “forecast,” “anticipate,” “intend,” “estimate,” “plan,” “goal,” “project,” and similar expressions of future or conditional verbs, such as “will,” “may,” “should,” “would” and “could.”

By their very nature, forward-looking statements require the Bank to make assumptions and are subject to inherent risks and uncertainties, which give rise to the possibility that our predictions, forecasts, projections, expectations or conclusions will not prove to be accurate, that our assumptions may not be correct and that our financial performance objectives, vision and strategic goals will not be achieved. We caution readers not to place undue reliance on forward-looking statements, as a number of risk factors, many of which are beyond the Bank’s control and the effects of which can be difficult to predict, could cause actual results to differ materially from the expectations, targets, estimates or intentions expressed in such forward-looking statements. The future outcomes that relate to forward-looking statements may be influenced by many factors, including but not limited to: general economic and market conditions in the countries in which the Bank operates; changes in currency and interest rates; increased funding costs and market volatility due to market illiquidity and competition for funding; the failure of third parties to comply with their obligations to the Bank and its affiliates; changes in monetary, fiscal, or economic policy and tax legislation and interpretation; changes in laws and regulations or in supervisory expectations or requirements, including capital, interest rate and liquidity requirements and guidance, and the effect of such changes on funding costs; changes to the Bank’s credit ratings; operational and infrastructure risks; reputational risks; the accuracy and completeness of information the Bank receives on customers and counterparties; the timely development and introduction of new products and services, and the extent to which products or services previously sold by the Bank require the Bank to incur liabilities or absorb losses not contemplated at their origination; the Bank’s ability to execute its strategic plans, including the successful completion of acquisitions and dispositions, including obtaining regulatory approvals; critical accounting estimates and the effect of changes to accounting standards, rules and interpretations on these estimates; global capital markets activity; the Bank’s ability to attract, develop and retain key executives; the evolution of various types of fraud or other criminal behaviour to which the Bank is exposed; disruptions in or attacks (including cyberattacks) on the Bank’s information technology, internet, network access, or other voice or data communications systems or services; increased competition in the geographic and business areas in which the Bank operates, including through internet and mobile banking and non-traditional competitors; exposure related to significant litigation and regulatory matters; climate change and other environmental and social risks, including sustainability that may arise, including from the Bank’s business activities; the occurrence of natural and unnatural catastrophic events and claims resulting from such events; the emergence of widespread health emergencies or pandemics, including the magnitude and duration of the COVID-19 pandemic and its impact on the global economy, financial market conditions and the Bank’s business, results of operations, financial condition and prospects; and the Bank’s anticipation of and success in managing the risks implied by the foregoing. A substantial amount of the Bank’s business involves making loans or otherwise committing resources to specific companies, industries or countries. Unforeseen events affecting such borrowers, industries or countries could have a material adverse effect on the Bank’s financial results, businesses, financial condition or liquidity. These and other factors may cause the Bank’s actual performance to differ materially from that contemplated by forward-looking statements. The Bank cautions that the preceding list is not exhaustive of all possible risk factors and other factors could also adversely affect the Bank’s results. For more information, see

the “Risk Management” section of the Bank’s Annual Report on Form 40-F for the fiscal year ended October 31, 2021, as may be updated by the Bank’s quarterly reports.

Material economic assumptions underlying the forward-looking statements contained in this Prospectus Supplement and the accompanying Prospectus are set out in the Bank’s Annual Report on Form 40-F for the fiscal year ended October 31, 2021 under the headings “Outlook” as updated by quarterly reports. The “Outlook” sections are based on the Bank’s views and the actual outcome is uncertain. Readers should consider the above-noted factors when reviewing these sections.

When relying on forward-looking statements to make decisions with respect to the Bank and its securities, investors and others should carefully consider the preceding factors, other uncertainties and potential events. Any forward-looking statements contained in this Prospectus Supplement and any accompanying Prospectus are presented for the purpose of assisting the holders of the Bank’s securities, including the Notes offered hereby, and financial analysts in understanding the Bank’s financial position, objectives and priorities, and anticipated financial performance as at and for the periods ended on the dates presented, and may not be appropriate for other purposes. Except as required by law, the Bank does not undertake to update any forward-looking statements, whether written or oral, that may be made from time to time by or on its behalf.

## INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to “incorporate by reference” into this Prospectus Supplement and the accompanying Prospectus the information in certain documents we file with it. This means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be a part of this Prospectus Supplement and the accompanying Prospectus and should be read with the same care. When we update the information contained in documents that have been incorporated by reference by making future filings with the SEC the information incorporated by reference in this Prospectus Supplement and the accompanying Prospectus is considered to be automatically updated and superseded. The modifying or superseding statement need not state that it has modified or superseded a prior statement or include any other information set forth in the document that it modifies or supersedes. In other words, in the case of a conflict or inconsistency between information contained in this Prospectus Supplement or the accompanying Prospectus and information incorporated by reference into this Prospectus Supplement or the accompanying Prospectus, you should rely on the information contained in the document that was filed later. The making of a modifying or superseding statement shall not be deemed an admission for any purposes that the modified or superseded statement, when made, constituted a misrepresentation, an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made. Any statement so modified or superseded shall not be deemed, except as so modified or superseded to constitute a part of this Prospectus Supplement and the accompanying Prospectus.

We incorporate by reference the documents listed below and all documents which we subsequently file with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with the SEC rules) pursuant to Section 13(a), 13(c), 14 or 15(d) of the U.S. Securities Exchange Act of 1934, as amended (the “*Exchange Act*”), until the termination of the offering of the Notes under this Prospectus Supplement:

- Annual Report on Form 40-F for the fiscal year ended October 31, 2021, filed on November 30, 2021;
- Reports on Form 6-K filed on November 30, 2021 (eight filings) (Acc-nos: 0001193125-21-343026; 0001193125-21-343049; 0001193125-21-343062; 0001193125-21-343137; 0001193125-21-343203; 0001279569-21-001715; 0001193125-21-343515; and 0001193125-21-343527);
- Report on Form 6-K filed on December 3, 2021 (Acc-no: 0001279569-21-001733);
- Report on Form 6-K filed on December 6, 2021 (Acc-no: 0001279569-21-001745);
- Reports on Form 6-K filed on March 1, 2022 (five filings) (Acc-nos: 0001193125-22-059896; 0001193125-22-059879; 0001193125-22-059867; 0001193125-22-059859; and 0001193125-22-059825);
- Report on Form 6-K filed on March 3, 2022 (Acc-no: 0001193125-22-063705);
- Report on Form 6-K filed on March 28, 2022 (Acc-no: 0001279569-22-000440);
- Report on Form 6-K filed on April 5, 2022 (Acc-no: 0001193125-22-095975);
- Report on Form 6-K filed on May 25, 2022 (five filings) (Acc-nos: 0001193125-22-159060; 0001193125-22-159079; 0001193125-22-159090; 0001193125-22-159095; 0001193125-22-159116);
- Report on Form 6-K filed on August 23, 2022 (five filings) (Acc-nos: 0001193125-22-226973; 0001193125-22-226968; 0001193125-22-226960; 0001193125-22-226953; 0001193125-22-226940); and
- Reports on Form 6-K filed on September 26, 2022 (Acc-nos: 0001193125-22-250865 and 0001279569-22-001586).

We may also incorporate any other Form 6-K that we furnish to the SEC on or after the date hereof and prior to the termination of this offering of the Notes under this Prospectus Supplement if the Form 6-K filing specifically states that it is incorporated by reference into the registration statement of which the accompanying Prospectus forms a part.



We will provide without charge to each person, including any beneficial owner, to whom this Prospectus Supplement is delivered, upon his or her written or oral request, a copy of any or all documents referred to above which have been or may be incorporated by reference into this Prospectus Supplement excluding exhibits to those documents, unless they are specifically incorporated by reference into those documents. You may obtain copies of those documents by requesting them in writing or by telephoning us at the following address:

The Bank of Nova Scotia  
Scotia Plaza  
44 King Street West  
Toronto, Ontario  
Canada M5H 1H1  
Attention: Secretary  
Telephone: (416) 866-3672

## SUMMARY OF THE OFFERING OF NOTES

The summary below describes the principal terms of the Notes. Certain of the terms and conditions described below are subject to important limitations and exceptions. The “Description of the Notes” section of this Prospectus Supplement and the “Description of the Debt Securities We May Offer” and “Description of Certain Provisions Relating to the Debt Securities We May Offer” sections of the accompanying Prospectus contain a more detailed description of the terms and conditions of the Notes, and the “Description of Common Shares and Preferred Shares” section of the accompanying Prospectus contains a more detailed description of Common Shares to be delivered as Corresponding Trust Assets (as defined below) pursuant to a Recourse Event (as defined below) that is a Trigger Event (as defined below). As used in this section, the “Bank,” “we,” “us” and “our” refer to The Bank of Nova Scotia and not to its subsidiaries.

Issuer	The Bank of Nova Scotia
Notes Offered	US\$750,000,000 aggregate principal amount of 8.625% Fixed Rate Resetting Limited Recourse Capital Notes, Series 4 (Non-Viability Contingent Capital (NVCC)) (subordinated indebtedness) (the “Notes”).
Issue Date	October 25, 2022.
Maturity Date	October 27, 2082 (60 years) (the “Maturity Date”)  On the Maturity Date, the Bank will repay to holders of the Notes (the “Noteholders”) the principal amount, plus accrued and unpaid interest to, but excluding, the Maturity Date. See also under “Limited Recourse” below.
Interest Rate	From and including the Issue Date to, but excluding, October 27, 2027 (the “Initial Rate Period”), interest will accrue on the Notes at an initial rate equal to 8.625% per annum . From and including each Reset Date to, but excluding, the next following Reset Date (each such period, a “Reset Rate Period”), the applicable per annum interest rate will be equal to the sum, as determined by the Calculation Agent, of (i) the then-prevailing U.S. Treasury Rate (as defined below) on the relevant Reset Rate Determination Date (as defined below) and (ii) 4.389%.
Reset Dates	October 27, 2027 and each fifth (5 <sup>th</sup> ) anniversary date thereafter (each, a “Reset Date”).
Reset Rate Determination Dates	The second business day immediately preceding each Reset Date (each, a “Reset Rate Determination Date”).
Interest Payment Dates	Interest on the Notes will be payable quarterly in arrears on January 27, April 27, July 27 and October 27 of each year, commencing on January 27, 2023 (each, an “Interest Payment Date”).
U.S. Treasury Rate and Fallbacks	<p>“U.S. Treasury Rate” means, with respect to any Reset Rate Period for which such rate applies, the rate per annum equal to:</p> <ul style="list-style-type: none"> <li>• The average of the yields on actively traded U.S. treasury securities adjusted to constant maturity, for five-year maturities, for the five business days preceding the applicable Reset Rate Determination Date appearing under the caption “Treasury Constant Maturities” in the most recently published statistical</li> </ul>

release designated H.15 Daily Update or any successor publication which is published by the Federal Reserve Board, as determined by the Calculation Agent in its sole discretion.

- If no calculation is provided as described above, then the Calculation Agent, after consulting such sources as it deems comparable to any of the foregoing calculations, or any such source as it deems reasonable from which to estimate the five-year treasury rate, shall determine the U.S. Treasury Rate in its sole discretion, provided that if the Calculation Agent determines there is an industry-accepted successor five-year treasury rate, then the Calculation Agent shall use such successor rate. If the Calculation Agent has determined a substitute or successor base rate in accordance with the foregoing, the Calculation Agent in its sole discretion may determine the business day convention, the definition of business day and the Reset Rate Determination Date to be used and any other relevant methodology for calculating such substitute or successor base rate, including any adjustment factor needed to make such substitute or successor base rate comparable to the five-year treasury rate, in a manner that is consistent with industry accepted practices for such substitute or successor base rate.

The U.S. Treasury Rate will be determined by the Calculation Agent on the relevant Reset Rate Determination Date.

Interest Deferrability . . . . . Interest payments are non-deferrable.

Immediately after a Failed Coupon Payment Date (as defined herein), pursuant to the limited recourse feature described below, each Noteholder will receive such Noteholder's proportionate share of the Corresponding Trust Assets (as defined herein). Upon delivery to the Noteholders of their proportionate share of the Corresponding Trust Assets following any Failed Coupon Payment Date in accordance with the limited recourse feature described below, all Notes will cease to be outstanding and each Noteholder will cease to be entitled to interest thereon. See "Description of the Notes — Limited Recourse."

Status and Subordination . . . . . The Notes will be direct unsecured subordinated indebtedness of the Bank and rank (a) subordinate to all of the Bank's Higher Ranked Indebtedness (as defined herein) and (b) in right of payment equally with and not prior to Deeply Subordinated Indebtedness (other than Deeply Subordinated Indebtedness (as defined herein) which by its terms ranks subordinate to the Notes) of the Bank, in each case from time to time issued and outstanding. For greater clarity, Deeply Subordinated Indebtedness includes the AT1 Notes. The Notes will constitute subordinated indebtedness for the purposes of the Bank Act.

Upon the occurrence of a Recourse Event, including a Trigger Event or an Event of Default (which includes the insolvency or winding-up of the Bank), recourse of each Noteholder will be limited to the Noteholder's proportionate share of the Corresponding Trust Assets.

The receipt by a Noteholder of its proportionate share of the Corresponding Trust Assets upon the occurrence of a Recourse Event shall exhaust the remedies of such Noteholder under the Notes and the Notes will cease to be outstanding. If a Noteholder does not receive its proportionate share of the Corresponding Trust Assets under such circumstances, the sole remedy of the Noteholder for any claims against the Bank shall be limited to a claim for the delivery of its proportionate share of such Corresponding Trust Assets. If the Corresponding Trust Assets that are delivered to the Noteholders under such circumstances comprise AT1 Notes or Common Shares, such AT1 Notes or Common Shares will rank on parity with the Bank's other Deeply Subordinated Indebtedness or Common Shares, as applicable.

The Notes will not constitute deposits that are insured under the *Canada Deposit Insurance Corporation Act* (Canada) or by the United States Federal Deposit Insurance Corporation. The Notes will not be subject to Bail-In Conversion.

Optional Redemption . . . . . The Bank may, at its option, with the prior written approval of the Superintendent of Financial Institutions (Canada) (the "*Superintendent*") and on not less than 10 days' and not more than 60 days' notice to each Noteholder, redeem the Notes, in whole or in part, on October 27, 2027 and each Interest Payment Date thereafter (an "*Optional Redemption*"), at the Redemption Price.

The Bank may, at its option, with the prior written approval of the Superintendent and on not less than 10 days' and not more than 60 days' notice to each Noteholder, redeem the Notes, in whole but not in part, (i) at any time following a Regulatory Event Date (as defined herein), or (ii) at any time following the occurrence of a Tax Event (as defined herein), in either case at the Redemption Price.

"*Redemption Price*" of the Notes means the aggregate of (i) the principal amount thereof, and (ii) any accrued and unpaid interest up to, but excluding, the date fixed for redemption.

The failure of the Bank to pay the applicable Redemption Price for the Notes in cash when due will constitute a Recourse Event whereupon recourse of the Noteholders shall be limited to their proportionate share of the Corresponding Trust Assets held by the LRT Trustee, pursuant to the limited recourse feature as described in "Description of the Notes — Limited Recourse."

The Bank will not redeem the Notes under any circumstances if such redemption would, directly or indirectly, result in the Bank's breach of any provision of the *Bank Act* (Canada) (the "*Bank Act*") or the OSFI Capital Adequacy Requirements (CAR) Guideline (as defined herein).

Any Notes redeemed by the Bank shall be cancelled and may not be reissued.

Automatic Redemption . . . . . Upon any redemption by the Bank of the AT1 Notes held in the Limited Recourse Trust in accordance with their terms on any date

other than the Maturity Date (such redemption will be subject to the prior written approval of the Superintendent), outstanding Notes with an aggregate principal amount equal to the aggregate principal amount of AT1 Notes redeemed by the Bank shall automatically and immediately be redeemed, for a cash amount equal to the Redemption Price thereof, without any action on the part of, or the consent of, the Indenture Trustees (as defined herein) or the Noteholders. For certainty, to the extent that the Bank has immediately prior to or concurrently with such AT1 Notes redemption redeemed or purchased for cancellation a corresponding principal amount of Notes in accordance with the terms of the Indenture (as defined herein), such requirement to redeem a corresponding aggregate principal amount of Notes shall be deemed satisfied.

The failure of the Bank to pay the applicable Redemption Price for the Notes in cash when due will constitute a Recourse Event whereupon recourse of the Noteholders shall be limited to their proportionate share of the Corresponding Trust Assets held by the LRT Trustee, pursuant to the limited recourse feature as described in “Description of the Notes — Limited Recourse.”

See “Description of the Notes — Redemption” and “Description of the AT1 Notes — Redemption.”

Redemption of the AT1 Notes upon

Redemption of the Notes . . . . . If at any time the Bank redeems the Notes in accordance with their terms (including in connection with an Optional Redemption) or purchases Notes, in whole or in part, by tender offer, open market purchases, negotiated transactions or otherwise, for cancellation, then the Bank shall, subject to the provisions of the Bank Act and the prior written approval of the Superintendent, redeem such aggregate principal amount of AT1 Notes that is equal to the aggregate principal amount of Notes redeemed or purchased for cancellation by the Bank, by the payment of an amount in cash equal to the aggregate principal amount of the AT1 Notes to be redeemed, together with all accrued and unpaid interest, if any and except to the extent such unpaid interest was cancelled as described in “Description of the AT1 Notes — Waiver and Cancellation of Interest Payments”, up to, but excluding, the date fixed for redemption.

Limited Recourse . . . . . While a Noteholder will have a claim against the Bank for the principal amount of the Notes and any accrued and unpaid interest (which will then be due and payable) if (i) a Failed Principal Payment Date occurs, (ii) a Failed Coupon Payment Date occurs, (iii) the Bank does not pay the Redemption Price in cash when due in connection with a redemption of the Notes, (iv) an Event of Default (as defined herein) occurs, or (v) a Trigger Event (as defined herein) occurs (each such event, a “*Recourse Event*”), the Noteholder’s sole recourse in respect of such claim will be limited to such Noteholder’s proportionate share of the assets (the “*Corresponding Trust Assets*”) held by a third party trustee (the “*LRT Trustee*”) in respect of the Notes in Scotiabank LRCN Trust (the “*Limited Recourse Trust*”). Initially, the LRT Trustee will hold assets in the Limited Recourse

Trust in respect of more than one series of limited recourse capital notes, and the assets (including the Bank's subordinated additional tier 1 capital notes) for each such series will be held separate from the assets for other series. Initially, Computershare Trust Company of Canada will act both as the LRT Trustee and one of the Indenture Trustees.

Pursuant to the Limited Recourse Trust Declaration (as defined herein), prior to a Recourse Event, the LRT Trustee shall hold as Corresponding Trust Assets for each US\$1,000 principal amount of Notes outstanding a US\$1,000 principal amount of AT1 Notes or the related cash redemption proceeds.

*"Failed Coupon Payment Date"* means the fifth business day immediately following an Interest Payment Date upon which the Bank does not pay interest on the Notes in cash and has not cured such non-payment by subsequently paying such interest prior to such fifth business day.

*"Failed Principal Payment Date"* means the Maturity Date, if there is non-payment by the Bank of the principal amount of the Notes, together with any accrued and unpaid interest, in cash on such date.

Initially, at the time of issuance of the Notes, the Corresponding Trust Assets will consist of US\$750,000,000 aggregate principal amount of 8.625% Fixed Rate Resetting Perpetual Subordinated Additional Tier 1 Capital Notes (Non-Viability Contingent Capital (NVCC)) (subordinated indebtedness) of the Bank ("*AT1 Notes*") issued on or before the Issue Date at an issue price of 100.000%. From time to time, the Corresponding Trust Assets may alternatively consist of (i) AT1 Notes (or proceeds with respect to the subscription for units of the Limited Recourse Trust by the Bank, which are to be used by the Limited Recourse Trust to subscribe for AT1 Notes), (ii) cash if the AT1 Notes are redeemed for cash by the Bank with the prior written approval of the Superintendent (other than the portion of the redemption proceeds comprising accrued and unpaid interest (if any)) (iii) common shares of the Bank ("*Common Shares*") issued upon the conversion of the AT1 Notes into Common Shares as a result of a Trigger Event, or (iv) any combination thereof, depending on the circumstances. At no time shall the Corresponding Trust Assets include any interest paid on the AT1 Notes.

The aggregate principal amount of the AT1 Notes issued on or before the Issue Date and held in the Limited Recourse Trust will be equal to the aggregate principal amount of the Notes to be issued on the Issue Date.

Upon the occurrence of a Recourse Event that is not a Trigger Event, the LRT Trustee will deliver to each Noteholder an aggregate principal amount of AT1 Notes that is equal to the aggregate principal amount of Notes held by such Noteholder, and such delivery of AT1 Notes will be each Noteholder's sole remedy against the Bank for

repayment of the principal amount of the Notes and any accrued but unpaid interest thereon then due and payable.

Upon the occurrence of a Recourse Event that is a Trigger Event, each Noteholder will receive, and the LRT Trustee will deliver to each Noteholder, such Noteholder's proportionate share of Common Shares issued upon the conversion of the AT1 Notes into Common Shares upon a Trigger Event. The number of Common Shares issuable in connection with the Trigger Event pursuant to each outstanding AT1 Note will be determined by dividing (a) the product of the Multiplier and the Note Value, by (b) the Conversion Price (each as defined below in the AT1 Notes Indicative Term Sheet). Such delivery of Common Shares will be each Noteholder's sole remedy against the Bank for repayment of the principal amount of the Notes and any accrued but unpaid interest thereon then due and payable. See "Description of the AT1 Notes — NVCC Automatic Conversion."

The receipt by a Noteholder of such Noteholder's proportionate share of the Corresponding Trust Assets upon the occurrence of a Recourse Event shall exhaust the remedies of the Noteholders under the Notes. If a Noteholder does not receive its proportionate share of the Corresponding Trust Assets under such circumstances, the sole remedy of the Noteholder for any claims against the Bank shall be limited to a claim for the delivery of its proportionate share of such Corresponding Trust Assets.

In case of any shortfall resulting from the value of the Corresponding Trust Assets being less than the principal amount of and any accrued and unpaid interest on the Notes, all losses arising from such shortfall shall be borne by the Noteholders.

All claims of Noteholders against the Bank under the Notes will be extinguished upon receipt of the Corresponding Trust Assets.

See "Description of the Notes — Limited Recourse."

Purchase for Cancellation . . . . . Subject to the prior written approval of the Superintendent, the Bank may at any time and from time to time, in whole or in part, purchase for cancellation the Notes in the open market, by tender offer, open market purchases, negotiated transactions or otherwise in accordance with applicable securities laws and regulations, so long as such acquisition does not otherwise violate the terms of the Indenture, upon such terms and at such prices as the Bank may determine.

Any Notes purchased by the Bank will be cancelled and may not be reissued.

If any Notes are to be cancelled, subject to the provisions of the Bank Act, the consent of the Superintendent and the terms of the AT1 Notes, the Bank shall redeem a corresponding aggregate principal amount of AT1 Notes (which amount shall equal the aggregate principal amount of the Notes to be cancelled) then held by the Limited Recourse Trust.

Payment of Additional Amounts . . . . .	The Bank will pay additional amounts (as defined herein) in respect of any withholding or deduction imposed in respect of payments on the Notes subject to certain exemptions as described under “Description of the Notes — Payment of Additional Amounts.”
NVCC Automatic Conversion . . . . .	<p>Upon the occurrence of a Trigger Event (as defined herein), each AT1 Note held in the Limited Recourse Trust will automatically and immediately be converted, without any action on the part of, or the consent of the Noteholders, the AT1 Noteholders, the LRT Trustee, the Indenture Trustees or the AT1 Indenture Trustees (as defined herein), on a full and permanent basis, into that number of Common Shares determined by dividing (a) the product of the Multiplier and the Note Value, by (b) the Conversion Price (each term as defined herein) (an “<i>NVCC Automatic Conversion</i>”). See “Description of the AT1 Notes — NVCC Automatic Conversion.”</p> <p>Immediately following such NVCC Automatic Conversion, pursuant to the limited recourse feature described above, each Noteholder will be entitled to receive, and the LRT Trustee will deliver to each Noteholder, such Noteholder’s proportionate share of Common Shares issued upon the conversion of the AT1 Notes into Common Shares upon a Trigger Event. See “Description of the Notes — Limited Recourse.”</p>
Trigger Event . . . . .	<p>Trigger Event has the meaning set out in the Office of the Superintendent of Financial Institutions (Canada) (“<i>OSFI</i>”), Guideline for Capital Adequacy Requirements (CAR), Chapter 2 — Definition of Capital (the “<i>OSFI Capital Adequacy Requirements (CAR) Guideline</i>”), effective November 2018, as such term may be amended or superseded by OSFI from time to time, which term currently provides that each of the following constitutes a Trigger Event:</p> <ul style="list-style-type: none"> <li>• the Superintendent publicly announces that the Bank has been advised, in writing, that the Superintendent is of the opinion that the Bank has ceased, or is about to cease, to be viable and that, after the conversion of the AT1 Notes and all other contingent instruments issued by the Bank and taking into account any other factors or circumstances that are considered relevant or appropriate, it is reasonably likely that the viability of the Bank will be restored or maintained; or</li> <li>• a federal or provincial government in Canada publicly announces that the Bank has accepted or agreed to accept a capital injection, or equivalent support, from the federal government or any provincial government or political subdivision or agent or agency thereof without which the Bank would have been determined by the Superintendent to be non-viable.</li> </ul>
Prohibited Owners . . . . .	The terms and conditions of the Notes will contain provisions that will provide the Bank with the right to have the LRT Trustee not: (a) deliver some or all, as applicable, of the Common Shares (held as Corresponding Trust Assets following a Recourse Event that is a



Trigger Event) to any Ineligible Person (as defined herein) or any person who, by virtue of the delivery, would become a Significant Shareholder (as defined herein) or (b) record in its securities register a transfer or issue of Common Shares (issued upon an NVCC Automatic Conversion) to any person whom the Bank or its transfer agent has reason to believe is an Ineligible Government Holder. See “Description of the Notes — Right Not to Deliver Common Shares pursuant to an NVCC Automatic Conversion.”

Events of Default . . . . . An Event of Default with respect to the Notes will occur only if the Bank becomes bankrupt or insolvent or becomes subject to the provisions of the *Winding-up and Restructuring Act* (Canada) or if the Bank goes into liquidation, either voluntarily or under an order of a court of competent jurisdiction, passes a resolution for the winding-up, liquidation or dissolution of the Bank, is ordered wound-up or otherwise acknowledges its insolvency. None of a default in the performance of any covenant contained in the Indenture, or the failure to make a payment on the Notes when due (including any interest payment), or an NVCC Automatic Conversion upon the occurrence of a Trigger Event will constitute an Event of Default (although the occurrence of a Failed Principal Payment Date, Failed Coupon Payment Date, non-payment in cash of the Redemption Price when due in connection with a redemption of the Notes or Trigger Event will constitute a Recourse Event).

The occurrence of an Event of Default is a Recourse Event for which the sole remedy of the Noteholders shall be the delivery of the Corresponding Trust Assets. In case of an Event of Default, the delivery of the Corresponding Trust Assets to the Noteholders will exhaust all remedies of such Noteholders in connection with such Event of Default. See “Description of the Notes — Limited Recourse.”

Voting Rights . . . . . None, other than in certain limited circumstances to be described in the Supplemental Indenture applicable to the Notes.

Form and Denomination . . . . . The Notes will be issued in book-entry only form and will be represented by one or more fully registered global notes registered in the name of the nominee name Cede & Co. of The Depository Trust Company. The Notes will be issued only in minimum denominations of US\$200,000 and integral multiples of US\$1,000 in excess thereof.

Governing Law . . . . . The Notes and the Indenture (as defined herein) under which they will be issued will be governed by the laws of the State of New York, except that the provisions of the Indenture and the Notes relating to subordination will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

The Limited Recourse Trust is formed under the laws of the Province of Manitoba.

Trustees . . . . . Computershare Trust Company, N.A., as United States trustee, and Computershare Trust Company of Canada, as Canadian trustee (each, a “Trustee” and together, the “Indenture Trustees”).

Calculation Agent . . . . .	Computershare Trust Company, N.A. (in such capacity, the “ <i>Calculation Agent</i> ”)
Use of Proceeds . . . . .	The net proceeds of this offering will be used for general business purposes. See “Use of Proceeds”.
No Public Trading Market . . . . .	<p>We do not intend to list the Notes on any national securities exchange or to arrange for quotation on any automated dealer quotation systems. There can be no assurance that an active trading market will develop for the Notes.</p> <p>Upon a Trigger Event, pursuant to the limited recourse feature described in “Description of the Notes — Limited Recourse”, Noteholders will become holders of Common Shares. See “Description of the Notes — NVCC Automatic Conversion.” We currently intend to apply to list such Common Shares on the TSX and the NYSE in accordance with their respective rules and requirements.</p>
Conflicts of Interest . . . . .	As described in “Underwriting (Conflicts of Interest),” Scotia Capital (USA) Inc. is an affiliate of the Bank and, as such, has a “conflict of interest” in this offering within the meaning of FINRA Rule 5121. Consequently, the offering is being conducted in compliance with the provisions of FINRA Rule 5121.
Risk Factors . . . . .	See “Risk Factors” in this Prospectus Supplement beginning on page S-22 and in the accompanying Prospectus beginning on page 7 for a discussion of factors you should carefully consider before deciding to invest in the Notes (and AT1 Notes or Common Shares upon certain Recourse Events).

## SUMMARY OF THE AT1 NOTES

The summary below describes the principal terms of the AT1 Notes. Certain of the terms and conditions described below are subject to important limitations and exceptions. The “Description of the AT1 Notes” section of this Prospectus Supplement and the “Description of the Debt Securities We May Offer” and “Description of Certain Provisions Relating to the Debt Securities We May Offer” sections of the accompanying Prospectus contain a more detailed description of the terms and conditions of the AT1 Notes and the “Description of Common Shares and Preferred Shares” section of the accompanying Prospectus contains a more detailed description of Common Shares to be issued upon a Trigger Event (as defined below). As used in this section, the “Bank,” “we,” “us” and “our” refer to The Bank of Nova Scotia and not to its subsidiaries.

Issuer	The Bank of Nova Scotia
Notes Offered	US\$750,000,000 aggregate principal amount of 8.625% Fixed Rate Resetting Perpetual Subordinated Additional Tier 1 Capital Notes (Non-Viability Contingent Capital (NVCC)) (subordinated indebtedness) (the “AT1 Notes”).
Maturity Date	The AT1 Notes have no scheduled maturity or redemption date. Accordingly, the Bank is not required to make any repayment of the principal amount of the AT1 Notes except in the event of bankruptcy or insolvency and provided that an NVCC Automatic Conversion has not occurred. See “Description of the AT1 Notes — Events of Default” and “Description of the Notes — NVCC Automatic Conversion.”
Interest Rate	From and including the Issue Date to, but excluding, October 27, 2027 (the “AT1 Initial Rate Period”), interest will accrue on the AT1 Notes at an initial rate equal to 8.625% per annum. From and including each Reset Date to, but excluding, the next following Reset Date (each such period, an “AT1 Reset Rate Period”), interest will accrue on the AT1 Notes at a rate per annum equal to the sum, as determined by the Calculation Agent, of (i) the then-prevailing U.S. Treasury Rate (as defined below) on the relevant AT1 Reset Rate Determination Date (as defined herein) and (ii) 4.389%.
Reset Dates	October 27, 2027 and each fifth (5 <sup>th</sup> ) anniversary date thereafter (each, a “AT1 Reset Date”).
Reset Rate Determination Dates	The second business day immediately preceding each AT1 Reset Date (each, an “AT1 Reset Rate Determination Date”).
Interest Payment Dates	Subject to the Bank’s right to cancel interest payments, interest on the AT1 Notes will be payable quarterly in arrears on January 27, April 27, July 27 and October 27 of each year, commencing on January 27, 2023 (each, an “AT1 Interest Payment Date”).
U.S. Treasury Rate and Fallback	<p>“U.S. Treasury Rate” means, with respect to any AT1 Reset Rate Period for which such rate applies, the rate per annum equal to:</p> <ul style="list-style-type: none"> <li>• The average of the yields on actively traded U.S. treasury securities adjusted to constant maturity, for five-year maturities, for the five business days preceding the applicable AT1 Reset Rate Determination Date appearing under the caption “Treasury Constant Maturities” in the most recently published statistical</li> </ul>

release designated H.15 Daily Update or any successor publication which is published by the Federal Reserve Board, as determined by the Calculation Agent in its sole discretion.

- If no calculation is provided as described above, then the Calculation Agent, after consulting such sources as it deems comparable to the foregoing calculation, or any such source as it deems reasonable from which to estimate the five-year treasury rate, shall determine the U.S. Treasury Rate in its sole discretion, provided that if the Calculation Agent determines there is an industry-accepted successor five-year treasury rate, then the Calculation Agent shall use such successor rate. If the Calculation Agent has determined a substitute or successor base rate in accordance with the foregoing, the Calculation Agent in its sole discretion may determine the business day convention, the definition of business day and the AT1 Reset Rate Determination Date to be used and any other relevant methodology for calculating such substitute or successor base rate, including any adjustment factor needed to make such substitute or successor base rate comparable to the five-year treasury rate, in a manner that is consistent with industry accepted practices for such substitute or successor base rate.

The U.S. Treasury Rate will be determined by the Calculation Agent on the relevant AT1 Reset Rate Determination Date.

Waiver and Discretionary Cancellation  
of Interest Payments . . . . .

The LRT Trustee, as trustee of the Limited Recourse Trust, will, by written notice, provide to the Bank a waiver (the “*Waiver*”) of its right to receive any and all interest on the AT1 Notes during the period from and including the date of the Waiver to and including the AT1 Interest Payment Date falling on or immediately prior to the date upon which the Waiver ceases to be in effect. The Waiver shall remain in effect until the earlier of (i) the date upon which the LRT Trustee, as trustee, provides, by written notice, a revocation of the Waiver and (ii) the date upon which the LRT Trustee is no longer a legal and registered holder of AT1 Notes. On the date the Waiver is given, the Bank will cancel any interest payments that would otherwise be paid while the Waiver is in effect. Accordingly, for so long as the LRT Trustee has waived the right to receive interest, no interest is expected to be paid or payable on the AT1 Notes held in the Limited Recourse Trust on any AT1 Interest Payment Date on which the LRT Trustee is the holder of the AT1 Notes. The Waiver is applicable only to the LRT Trustee and not any subsequent holder of the AT1 Notes (an “*AT1 Noteholder*”). The Bank will provide a covenant to the LRT Trustee that, at any time while AT1 Notes are held by the LRT Trustee and the Waiver is no longer in effect, if the Bank pays cash interest on any of its other outstanding series of subordinated additional tier 1 capital notes (other than trust assets then held in respect of other series of limited recourse capital notes issued by the Bank), then the Bank will pay interest in full on the AT1

Notes on the next succeeding AT1 Interest Payment Date, provided that the AT1 Notes are held by the LRT Trustee on such AT1 Interest Payment Date.

In addition, interest will be due and payable on an AT1 Interest Payment Date only if it is not cancelled by the Bank. Any cancelled interest payments will not be cumulative. The Bank has the sole and absolute discretion at any time while the AT1 Notes are no longer held by the LRT Trustee and for any reason to cancel (in whole or in part), with notice to the AT1 Noteholders, any interest payment that would otherwise be payable on any AT1 Interest Payment Date. As a result, AT1 Noteholders may not receive any interest on any AT1 Interest Payment Date or at any other times, and AT1 Noteholders will have no claims whatsoever in respect of that cancelled interest.

At no time shall the Corresponding Trust Assets include any interest paid on the AT1 Notes.

See “Description of the AT1 Notes — Waiver and Cancellation of Interest Payments.”

Status and Subordination . . . . . The AT1 Notes will be the Bank’s direct unsecured obligations and, in the event of the Bank’s insolvency or winding-up, will rank (a) subordinate in right of payment to the prior payment in full of all Higher Ranked Indebtedness (as defined herein) and (b) in right of payment equally with and not prior to Deeply Subordinated Indebtedness (as defined herein) (other than Deeply Subordinated Indebtedness which by its terms ranks subordinate to the AT1 Notes) of the Bank, in each case, from time to time outstanding. For greater clarity, Deeply Subordinated Indebtedness includes the Notes. The AT1 Notes will constitute subordinated indebtedness for the purposes of the Bank Act. In the event of the Bank’s insolvency or winding-up, the AT1 Notes will rank ahead of the Bank’s Common Shares and preferred shares.

The AT1 Notes will not constitute deposits that are insured under the *Canada Deposit Insurance Corporation Act* (Canada) or by the United States Federal Deposit Insurance Corporation. The AT1 Notes will not be subject to Bail-In Conversion.

Optional Redemption . . . . . The Bank may, at its option, with the prior written approval of the Superintendent of Financial Institutions (Canada) (the “*Superintendent*”) and on not less than 10 days and not more than 60 days’ notice to each AT1 Noteholder, redeem the AT1 Notes, in whole or in part, on October 27, 2027 and each AT1 Interest Payment Date thereafter, at a redemption price equal to 100% of the principal amount thereof, plus any accrued and unpaid interest up to, but excluding, the date of redemption (except to the extent such unpaid interest was cancelled as described in “Description of the AT1 Notes — Waiver and Cancellation of Interest Payments”) (the “*AT1 Redemption Price*”).

The Bank may, at its option, with the prior written approval of the Superintendent and on not less than 10 days’ and not more than

60 days' notice to each AT1 Noteholder, redeem the AT1 Notes, in whole but not in part, at any time following (i) when the AT1 Notes are held by the Limited Recourse Trust, a Regulatory Event Date (as defined herein), or (ii) when the AT1 Notes are no longer held by the Limited Recourse Trust, an AT1 Regulatory Event Date, at the AT1 Redemption Price.

Additionally, the Bank may, at its option, with the prior written approval of the Superintendent and on not less than 10 days' and not more than 60 days' notice to each AT1 Noteholder, redeem the AT1 Notes, in whole but not in part, at any time following the occurrence of (i) when the AT1 Notes are held by the Limited Recourse Trust, a Tax Event, or (ii) when the AT1 Notes are no longer held by the Limited Recourse Trust, an AT1 Tax Event (as defined herein), at the AT1 Redemption Price.

See "Description of the AT1 Notes — Redemption."

Automatic Redemption . . . . . If at any time the Bank redeems the Notes, in whole or in part, in accordance with their terms (including in connection with an Optional Redemption) or purchases Notes, in whole or in part, by tender offer, open market purchases, negotiated transactions or otherwise, for cancellation, then the Bank shall, subject to the provisions of the Bank Act and the prior written approval of the Superintendent, redeem such aggregate principal amount of AT1 Notes that is equal to the aggregate principal amount of Notes redeemed or purchased for cancellation by the Bank, at the AT1 Redemption Price, without any action on the part of, or the consent of, the LRT Trustee, the AT1 Indenture Trustees or the AT1 Noteholders.

Optional Redemption Upon Maturity of the Notes . . . . . Concurrently with or upon the maturity of the Notes, subject to the provisions of the Bank Act and the prior written approval of the Superintendent, the Bank may, at the Bank's option, redeem all but not less than all of the outstanding AT1 Notes at the AT1 Redemption Price.

Payment of Additional Amounts . . . . . Subject to the Bank's sole and absolute right to cancel interest payments at any time while the AT1 Notes are no longer held by the LRT Trustee, the Bank will pay additional amounts in respect of any withholding or deduction imposed in respect of payments on the AT1 Notes subject to certain exemptions as described under "Description of the AT1 Notes — Payment of Additional Amounts."

NVCC Automatic Conversion . . . . . Upon the occurrence of a Trigger Event, each outstanding AT1 Note, whether held by the Limited Recourse Trust or the AT1 Noteholders, will automatically and immediately be converted, on a full and permanent basis, without any action on the part of, or the consent of, the Noteholders, the Indenture Trustees, the AT1 Noteholders, the LRT Trustee or the AT1 Indenture Trustees, into that number of Common Shares determined by dividing (a) the product of the Multiplier and the Note Value, by (b) the Conversion Price (rounded down, if necessary, to the nearest whole number of Common Shares)

(each term as defined herein) (an “*NVCC Automatic Conversion*”). See “Description of the AT1 Notes — *NVCC Automatic Conversion*.”

Trigger Event . . . . . Trigger Event has the meaning set out in the Office of the Superintendent of Financial Institutions (Canada) (“*OSFI*”), Guideline for Capital Adequacy Requirements (CAR), Chapter 2 — Definition of Capital effective November 2018, as such term may be amended or superseded by OSFI from time to time, which term currently provides that each of the following constitutes a Trigger Event:

- the Superintendent publicly announces that the Bank has been advised, in writing, that the Superintendent is of the opinion that the Bank has ceased, or is about to cease, to be viable and that, after the conversion of the AT1 Notes and all other contingent instruments issued by the Bank and taking into account any other factors or circumstances that are considered relevant or appropriate, it is reasonably likely that the viability of the Bank will be restored or maintained; or
- a federal or provincial government in Canada publicly announces that the Bank has accepted or agreed to accept a capital injection, or equivalent support, from the federal government or any provincial government or political subdivision or agent or agency thereof without which the Bank would have been determined by the Superintendent to be non-viable.

Dividend Stopper and Restriction on

Retirement of Shares . . . . . If on any AT1 Interest Payment Date, the Bank does not pay in full the applicable interest on the AT1 Notes that is due and payable on such AT1 Interest Payment Date (whether as a result of cancellation or otherwise) except where such interest has been waived by the LRT Trustee pursuant to the Waiver, the Bank will not (a) declare dividends on the Common Shares or the preferred shares of the Bank or (b) redeem, purchase or otherwise retire any Common Shares or preferred shares of the Bank (except pursuant to any purchase obligation, retraction privilege or mandatory redemption provisions attaching to any preferred shares of the Bank), in each case, until the month commencing immediately after the Bank makes an interest payment in full on the AT1 Notes.

Common Share Corporate Event . . . . . In the event of a capital reorganization, consolidation, merger or amalgamation of the Bank or comparable transaction affecting the Common Shares, the Bank will take necessary action to ensure that AT1 Noteholders receive, pursuant to an *NVCC Automatic Conversion*, the number of Common Shares or other securities that such AT1 Noteholders would have received if the *NVCC Automatic Conversion* occurred immediately prior to the record date for such event.

Prohibited Owners . . . . . The terms and conditions of the AT1 Notes will contain provisions that will provide the Bank with the right not to: (a) deliver some or

all, as applicable, of the Common Shares (issued upon a Trigger Event) to any Ineligible Person (as defined herein) or any person who, by virtue of that delivery, would become a Significant Shareholder (as defined herein) or (b) record in its securities register a transfer or issue of Common Shares (issued upon an NVCC Automatic Conversion) to any person whom the Bank or its transfer agent has reason to believe is an Ineligible Government Holder. See “Description of the AT1 Notes — Right Not to Deliver Common Shares pursuant to an NVCC Automatic Conversion.”

Events of Default . . . . . An Event of Default with respect to the AT1 Notes will occur only if the Bank becomes bankrupt or insolvent or becomes subject to the provisions of the Winding-up and Restructuring Act (Canada) or if the Bank goes into liquidation, either voluntarily or under an order of a court of competent jurisdiction, passes a resolution for the winding-up, liquidation or dissolution of the Bank, is ordered wound-up or otherwise acknowledges its insolvency. None of a default in the performance of any covenant of the Bank contained in the AT1 Indenture (as defined herein), or the failure to make a payment on the AT1 Notes when due (including any interest payment, whether as a result of cancellation or otherwise) or an NVCC Automatic Conversion upon the occurrence of a Trigger Event will constitute an Event of Default.

If an Event of Default has occurred, and a Trigger Event has not occurred, the entire principal amount of and accrued and unpaid interest on all of the AT1 Notes (except to the extent such unpaid interest was cancelled) will become immediately due and payable without any declaration or other act on the part of the AT1 Indenture Trustees or any AT1 Noteholders.

See “Description of the AT1 Notes — Events of Default.”

Form and Denomination . . . . . For so long as the AT1 Notes are held by the Limited Recourse Trust, the AT1 Notes will be issued in definitive form. Thereafter, except in limited circumstances, the AT1 Notes will be issued in book-entry only form and will be represented by a global note registered in the nominee name Cede & Co. of The Depository Trust Company. The AT1 Notes will be issued only in minimum denominations of US\$1,000 and integral multiples of US\$1,000 in excess thereof.

Governing Law . . . . . The AT1 Notes and the indenture governing the AT1 Notes will be governed by the laws of the State of New York, except that the provisions relating to an NVCC Automatic Conversion and the subordination provisions will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

The Limited Recourse Trust is formed under the laws of the Province of Manitoba.

Trustees . . . . . Computershare Trust Company, N.A., as United States trustee, and Computershare Trust Company of Canada, as Canadian trustee (in such capacity, each, a “AT1 Trustee” and together, the “AT1 Indenture Trustees”).



Calculation Agent . . . . . Computershare Trust Company, N.A. (in such capacity, the “*Calculation Agent*”)

No Public Trading Market . . . . . We do not intend to list the AT1 Notes on any national securities exchange or to arrange for quotation on any automated dealer quotation systems. There can be no assurance that an active trading market will develop for the AT1 Notes.

Upon a Trigger Event, any outstanding AT1 Notes will automatically be converted into Common Shares. See “Description of the AT1 Notes — NVCC Automatic Conversion.” We currently intend to apply to list such Common Shares on the TSX and the NYSE in accordance with their respective rules and requirements.

Risk Factors . . . . . See “Risk Factors” in this Prospectus Supplement beginning on page S-22 and in the accompanying Prospectus beginning on page 7 for a discussion of factors you should carefully consider before deciding to invest in the Notes (and the AT1 Notes or Common Shares upon certain Recourse Events).

## RISK FACTORS

*An investment in the Notes (and the AT1 Notes or Common Shares upon certain Recourse Events) is subject to certain risks. Before deciding whether to invest in the Notes, investors should carefully consider the risks set out herein and incorporated by reference in this Prospectus Supplement and in the Prospectus (including subsequently filed documents incorporated by reference herein).*

### **The Notes and the AT1 Notes are loss-absorption financial instruments that involve significant risk and may not be a suitable investment for all investors.**

The Notes and the AT1 Notes are loss-absorption financial instruments designed to comply with applicable Canadian banking regulations and involve significant risks. Each potential investor in the Notes must determine the suitability (either alone or with the help of a financial adviser) of that investment in light of its own circumstances. In particular, each potential investor should understand thoroughly the terms of the Notes and the AT1 Notes, such as the provisions governing the limited remedies of Noteholders and NVCC Automatic Conversion, including the circumstances constituting a Recourse Event, including a Trigger Event. A potential investor should not invest in the Notes unless it has the knowledge and expertise (either alone or with a financial adviser) to evaluate how the Notes will perform under changing conditions, the likelihood of an NVCC Automatic Conversion into Common Shares, the delivery of Corresponding Trust Assets and the value of the Notes, and the impact this investment will have on the potential investor's overall investment portfolio. Prior to making an investment decision, potential investors should consider carefully, in light of their own financial circumstances and investment objectives, all the information contained in this Prospectus Supplement and the Prospectus or incorporated by reference herein.

### **The value of the Notes and the AT1 Notes will be affected by the general creditworthiness of the Bank.**

Any payment to be made on the Notes and the AT1 Notes depends on the ability of the Bank to satisfy its obligations as they come due. As a result, the actual and perceived creditworthiness of the Bank may affect the market value of the Notes and the AT1 Notes and, in the event the Bank was to default on its obligations, Noteholders may not receive the amounts owed to them under the terms of the Notes, in which case the Noteholders will have limited remedies. See “— Noteholders will have limited remedies” below. Upon the occurrence of a Recourse Event that is a Trigger Event, each Noteholder will receive, and the LRT Trustee will deliver to each Noteholder, such Noteholder's proportionate share of Common Shares issued upon the conversion of the AT1 Notes into Common Shares upon the happening of an NVCC Automatic Conversion upon the occurrence of such Trigger Event. The number of Common Shares issuable in connection with the Trigger Event pursuant to each outstanding AT1 Note will be determined by dividing (a) the product of the Multiplier and the Note Value, by (b) the Conversion Price (rounded down, if necessary, to the nearest whole number of Common Shares). Such delivery of Common Shares will be each Noteholder's sole remedy against the Bank for repayment of the principal amount of the Notes and any accrued but unpaid interest thereon then due and payable. See “Description of the AT1 Notes — NVCC Automatic Conversion” and “— An investment in the Notes may become an investment in AT1 Notes or Common Shares of the Bank in certain circumstances” below. Prospective investors should consider the categories of risks identified in the Bank's most recent Annual Report filed on Form 40-F, as updated by quarterly reports, which is incorporated by reference herein, including credit risk, market risk, liquidity risk, operational risk, reputational risk, environmental risk, strategic risk and insurance risk.

### **Noteholders will have limited remedies.**

In the event of a non-payment in cash by the Bank of the Redemption Price for the Notes when due or the occurrence of an Event of Default, Failed Principal Payment Date, Failed Coupon Payment Date or another Recourse Event, the sole remedy of Noteholders shall be the delivery of the Corresponding Trust Assets. The market value of the Corresponding Trust Assets could be significantly less than the face value of the Notes. In

the event that the value of the Corresponding Trust Assets delivered to Noteholders is less than the principal amount of and any accrued and unpaid interest on, or the Redemption Price of, the Notes, all losses arising from such shortfall shall be borne by such Noteholders and no claim may be made against the Bank.

**An investment in the Notes may become an investment in AT1 Notes or Common Shares of the Bank in certain circumstances.**

In the event of a non-payment in cash by the Bank of the Redemption Price for the Notes when due or the occurrence of a Failed Principal Payment Date, Failed Coupon Payment Date or another Recourse Event, the sole remedy of Noteholders will be the delivery of the Corresponding Trust Assets, which may consist of cash, AT1 Notes or, upon a Trigger Event, Common Shares. All claims of the Noteholders against the Bank under the Notes will be extinguished upon receipt of the Corresponding Trust Assets. Upon the occurrence of a Recourse Event that is not a Trigger Event, you may become an AT1 Noteholder, in which case your investment will be governed by the terms of the AT1 Notes as described in “Description of the AT1 Notes” and the risks related thereto as described herein. Upon delivery of Corresponding Trust Assets upon a Trigger Event (which constitutes a Recourse Event), you may become a shareholder of the Bank at a time when the Bank’s financial condition is deteriorating or when the Bank has become insolvent or have been ordered to be wound-up or liquidated. In the event of the Bank’s liquidation, the claims of the Bank’s depositors and creditors (including holders of Higher Ranked Indebtedness) would be entitled to priority of payment over AT1 Noteholders or Common Shares. If the Bank were to become insolvent or be ordered to be wound-up or liquidated after your investment in the Notes has become an investment in AT1 Notes or Common Shares of the Bank, you may receive, if anything, substantially less than you would have received as a holder of notes without a limited recourse feature.

**The AT1 Notes have no scheduled maturity and no scheduled redemption date and AT1 Noteholders will not have any right to accelerate the repayment of the principal amount of the AT1 Notes.**

The AT1 Notes have no scheduled maturity and no scheduled redemption date and, if you become an AT1 Noteholder, you will not have the right to cause the AT1 Notes to be redeemed. Although the Bank may elect to redeem the AT1 Notes under certain circumstances as described under “Description of the AT1 Notes — Redemption,” the Bank has no obligation prior to an event of default to return the principal amount of the AT1 Notes to AT1 Noteholders. In addition, there is no right of acceleration in the case of any non-payment of interest (whether by cancellation or otherwise) on or other amounts owing under the AT1 Notes or in the case of a failure by the Bank to perform any other covenant under the AT1 Notes or under the AT1 Indenture (as defined herein). An Event of Default (as defined in the AT1 Indenture) will occur only if the Bank becomes bankrupt or insolvent or becomes subject to the provisions of the *Winding-up and Restructuring Act* (Canada), the Bank goes into liquidation, either voluntary or under court order, resolves to wind-up, liquidate or dissolve, is ordered wound-up or otherwise acknowledges its insolvency. Accordingly, the Bank is not required to make any repayment of the principal amount of the AT1 Notes except in the event of bankruptcy or insolvency and provided that an NVCC Automatic Conversion has not occurred. The operation of any of these provisions may cause AT1 Noteholders to lose part or all of their investment in the AT1 Notes.

**Interest on the AT1 Notes will be due and payable only at the Bank’s sole and absolute discretion at any time while the AT1 Notes are no longer held by the LRT Trustee, and the Bank may cancel interest payments (in whole or in part). Cancelled interest shall not be due and shall not accumulate or be payable at any time thereafter and you shall have no rights thereto.**

Interest on the AT1 Notes will be due and payable only at the Bank’s sole and absolute discretion at any time while the AT1 Notes are no longer held by the LRT Trustee and the Bank may, for any reason, cancel (in whole or in part) any interest payment that would otherwise be payable on any AT1 Interest Payment Date. Interest will only be due and payable to an AT1 Noteholder on an AT1 Interest Payment Date to the extent it is not cancelled in accordance with the terms of the AT1 Notes.

Cancelled interest shall not be due and shall not accumulate or be payable at any time thereafter, and AT1 Noteholders shall have no rights thereto or to receive any additional interest or compensation as a result of such

cancellation. Accordingly, the Bank will be under no obligation to make up for such non-payment at any later point in time. Any such cancellation will also not constitute an Event of Default under the AT1 Indenture or the AT1 Notes and will not permit any acceleration of the repayment of any principal on the AT1 Notes. As a result, if you become an AT1 Noteholder, you may not receive any interest on any AT1 Interest Payment Date or at any other time, and you will have no claims whatsoever in respect of that cancelled interest. Failure to provide notice of a cancellation of interest to AT1 Noteholders will not have any impact on the effectiveness of, or otherwise invalidate, any such cancellation of interest, or give AT1 Noteholders any rights as a result of such failure.

The market may have certain expectations with respect to the Bank making interest payments in the future on the basis of past practice or otherwise and such expectations may be reflected in the market price of the AT1 Notes. Any actual or anticipated cancellation of interest on the AT1 Notes will likely have an adverse effect on the market price of the AT1 Notes. In addition, as a result of the interest cancellation provisions of the AT1 Notes, the market price of the AT1 Notes may be more volatile than the market prices of other debt securities on which interest accrues that are not subject to such cancellation and may be more sensitive generally to adverse changes in the Bank's financial condition.

**The interest rate on the Notes and the AT1 Notes will reset on each Reset Date or AT1 Reset Date, as applicable.**

The interest rate on the Notes and the AT1 Notes will initially be 8.625% per annum. However, the interest rate will be reset on each Reset Date or AT1 Reset Date, as applicable, such that from and including each Reset Date or AT1 Reset Date and to, but excluding, the next following Reset Date, AT1 Reset Date or, with respect to the Notes, the Maturity Date, as applicable, the applicable per annum interest rate will be equal to the sum, as determined by the Calculation Agent, of (i) the then-prevailing U.S. Treasury Rate on the relevant Reset Rate Determination Date or AT1 Reset Rate Determination Date immediately preceding the relevant Reset Date or AT1 Reset Date and (ii) the Reset Spread or the AT1 Reset Spread. The interest rate following any Reset Date or AT1 Reset Date may be less than the initial interest rate and/or the interest rate that applies immediately prior to such Reset Date or AT1 Reset Date, which could affect the amount of any interest payments under the Notes and (to the extent interest is not cancelled) the AT1 Notes and so affect the market value of the Notes and the AT1 Notes.

In the past, the level of the U.S. Treasury Rate experienced fluctuations. Historical levels, fluctuations and trends of the U.S. Treasury Rate are not necessarily indicative of future levels, fluctuations and trends. Any historical upward or downward trend in the U.S. Treasury Rate is not an indication that the U.S. Treasury Rate is more or less likely to increase or decrease in respect of any Reset Rate Period, and you should not take the historical levels of the U.S. Treasury Rate as an indication of its future performance.

**The Notes and the AT1 Notes are subject to optional redemption on October 27, 2027 and each Interest Payment Date or AT1 Interest Payment Date, respectively, thereafter, at any time following a Regulatory Event Date or AT1 Regulatory Event Date, as applicable, and upon the occurrence of a Tax Event or AT1 Tax Event, as applicable, subject to certain conditions.**

The Bank may, at its option, with the prior written approval of the Superintendent, redeem the Notes or the AT1 Notes, as applicable, (i) in whole or in part, on October 27, 2027 and each Interest Payment Date or AT1 Interest Payment Date, respectively, thereafter (an "*Optional Redemption*"), (ii) in whole but not in part, at any time following a Regulatory Event Date or AT1 Regulatory Event Date, as applicable (each as defined herein) and (iii) in whole but not in part, at any time following the occurrence of a Tax Event or AT1 Tax Event, as applicable (each as defined herein), in each case at the Redemption Price (as defined herein) or the AT1 Redemption Price (as defined herein), as applicable.

Upon any redemption by the Bank of the AT1 Notes held in the Limited Recourse Trust in accordance with their terms prior to the Maturity Date (such redemption will be subject to the prior written approval of the Superintendent), outstanding Notes with an aggregate principal amount equal to the aggregate principal amount of AT1 Notes redeemed by the Bank shall automatically and immediately be redeemed, for a cash amount equal

to the Redemption Price thereof, without any action on the part of, or the consent of, the Indenture Trustees or the Noteholders. For certainty, to the extent that the Bank has immediately prior to or concurrently with such AT1 Notes redemption redeemed a corresponding principal amount of Notes in accordance with the terms of the Indenture (as defined herein), such requirement to redeem a corresponding aggregate principal amount of Notes shall be deemed satisfied.

If at any time the Bank redeems the Notes in accordance with their terms (including in connection with an Optional Redemption) or purchases Notes, in whole or in part, by tender offer, open market purchases, negotiated transactions or otherwise, for cancellation, then the Bank shall, subject to the provisions of the Bank Act and the prior written approval of the Superintendent, redeem such aggregate principal amount of AT1 Notes that is equal to the aggregate principal amount of Notes redeemed by the Bank, by the payment of an amount in cash equal to the aggregate principal amount of the AT1 Notes to be redeemed, together with all accrued and unpaid interest, if any and except to the extent such unpaid interest was cancelled as described in “Description of the AT1 Notes—Waiver and Cancellation of Interest Payments”, up to, but excluding, the date fixed for redemption.

In addition, concurrently with or upon the maturity of the Notes, subject to the provisions of the Bank Act and the prior written approval of the Superintendent, the Bank may, at the Bank’s option, redeem all but not less than all of the outstanding AT1 Notes at the AT1 Redemption Price.

An optional redemption feature is likely to limit the market value of the Notes and the AT1 Notes. During any period when the Bank may elect to redeem the Notes or the AT1 Notes, the market value of the Notes or the AT1 Notes, as applicable, generally will not rise substantially above the price at which they can be redeemed. This may also be true prior to any redemption period. In addition, investors will not receive a make-whole amount or any other compensation in the event of any redemption of Notes or AT1 Notes.

It is not possible to predict whether any of the circumstances mentioned above will occur and so lead to the circumstances in which the Bank is able to elect to redeem the Notes or the AT1 Notes, and if so, whether or not the Bank will elect to exercise such option to redeem the Notes or the AT1 Notes. Additionally, although the terms of the Notes and the AT1 Notes have been established to satisfy the criteria for Additional Tier 1 regulatory capital within the meaning of the regulatory capital adequacy requirements to which the Bank is subject, it is possible that the Notes and the AT1 Notes may not satisfy the criteria in future rulemaking or interpretations. If the Bank redeems the Notes or the AT1 Notes in any of the circumstances mentioned above, there is a risk that the Notes or the AT1 Notes may be redeemed at times when the redemption proceeds are less than the current market value of the Notes or the AT1 Notes, as applicable, or when prevailing interest rates may be relatively low, in which latter case investors may only be able to reinvest the redemption proceeds in securities with a lower yield. Potential investors should consider reinvestment risk in light of other investments available at that time.

**The AT1 Notes are subject to an NVCC Automatic Conversion and will automatically be converted into Common Shares upon a Trigger Event, in which case an investment in the Notes or the AT1 Notes will become an investment in Common Shares.**

Upon the occurrence of a Trigger Event, whether held by the Limited Recourse Trust or the AT1 Noteholders, each outstanding AT1 Note will automatically and immediately be converted, on a full and permanent basis, without the consent of the Noteholders, the AT1 Noteholders, the LRT Trustee, the Indenture Trustees or the AT1 Indenture Trustees, into Common Shares. Immediately following such NVCC Automatic Conversion, pursuant to the limited recourse feature described in “Description of the Notes—Limited Recourse”, each Noteholder will be entitled to receive, and the LRT Trustee will deliver to each Noteholder, such Noteholder’s proportionate share of Common Shares issued in connection with the Trigger Event upon the conversion of the AT1 Notes into Common Shares upon such Trigger Event. Prior to the conversion of the AT1 Notes to Common Shares pursuant to an NVCC Automatic Conversion and the distribution of the Corresponding Trust Assets (if applicable), neither the Noteholders nor the AT1 Noteholders are entitled to any rights of holders of Common Shares, including any rights of shareholders to receive notice, to attend or to vote at any meeting of the shareholders of the Bank. The claims of Noteholders and AT1 Noteholders have certain priority of payment over the claims of holders of Common Shares. After an NVCC Automatic Conversion and, if applicable, delivery

of the Corresponding Trust Assets, a Noteholder or AT1 Noteholder will no longer have any rights as a Noteholder or an AT1 Noteholder and will only have rights as a holder of Common Shares and, as a result, the terms and conditions of the Notes and AT1 Notes, including with respect to priority and subordination, will no longer be relevant. Given the nature of a Trigger Event, a Noteholder or AT1 Noteholder will become a holder of Common Shares, rather than a Noteholder or an AT1 Noteholder, at a time when the Bank's financial condition has deteriorated. If the Bank were to become insolvent or wound-up after the occurrence of a Trigger Event, as a result of an NVCC Automatic Conversion and the delivery of the Corresponding Trust Assets, the holders of Common Shares may receive, if anything, substantially less than the Noteholders or AT1 Noteholders might have received had the AT1 Notes comprising the Corresponding Trust Assets not been converted into Common Shares. An NVCC Automatic Conversion may also occur at a time when a federal or provincial government or other government agency in Canada has provided, or will provide, a capital injection or equivalent support, the terms of which may rank in priority to the Common Shares with respect to the payment of dividends, rights on liquidation or other terms.

**A Trigger Event may involve a subjective determination outside the Bank's control.**

The decision as to whether a Trigger Event will occur may involve a subjective determination by the Superintendent that the Bank has ceased, or is about to cease, to be viable and that the conversion of all contingent instruments is reasonably likely, taking into account any other factors or circumstances that are considered relevant or appropriate by the Superintendent, to restore or maintain the viability of the Bank. Such determination may be beyond the control of the Bank. See the definition of Trigger Event under "Description of the AT1 Notes — NVCC Automatic Conversion."

OSFI has stated that the Superintendent will consult with the Canada Deposit Insurance Corporation ("CDIC"), the Bank of Canada, the Department of Finance and the Financial Consumer Agency of Canada prior to making a non-viability determination. The conversion of contingent instruments alone may not be sufficient to restore an institution to viability and other public sector interventions, including liquidity assistance, would likely be used along with the conversion of contingent instruments to maintain an institution as a going concern.

In assessing whether the Bank has ceased, or is about to cease, to be viable and that, after the conversion of all contingent instruments, it is reasonably likely that the viability of the Bank will be restored or maintained, OSFI has stated that the Superintendent will consider, in consultation with the authorities referred to above, all relevant facts and circumstances. Those facts and circumstances may include, in addition to other public sector interventions, a consideration of whether, among other things:

- the assets of the Bank are, in the opinion of the Superintendent, sufficient to provide adequate protection to the Bank's depositors and creditors;
- the Bank has lost the confidence of depositors or other creditors and the public (for example, ongoing increased difficulty in obtaining or rolling over short-term funding);
- the Bank's regulatory capital has, in the opinion of the Superintendent, reached a level, or is eroding in a manner, that may detrimentally affect its depositors and creditors;
- the Bank has failed to pay any liability that has become due and payable or, in the opinion of the Superintendent, the Bank will not be able to pay its liabilities as they become due and payable;
- the Bank failed to comply with an order of the Superintendent to increase its capital;
- in the opinion of the Superintendent, any other state of affairs exists in respect of the Bank that may be materially prejudicial to the interests of the Bank's depositors or creditors or the owners of any assets under the Bank's administration; and
- the Bank is unable to recapitalize on its own through the issuance of Common Shares or other forms of regulatory capital (for example, no suitable investor or group of investors exists that is willing or capable of investing in sufficient quantity and on terms that will restore the Bank's viability, nor is there any reasonable prospect of such an investor emerging in the near-term in the absence of conversion of contingent instruments).

Upon the occurrence of a Trigger Event and an NVCC Automatic Conversion, and delivery of the Corresponding Trust Assets, the interests of depositors, other creditors of the Bank, and holders of securities of the Bank other than Common Shares that are not contingent instruments will all rank in priority to the holders that previously held contingent instruments, including the Notes and the AT1 Notes. The Superintendent retains full discretion to choose not to trigger non-viable contingent capital notwithstanding a determination that the Bank has ceased, or is about to cease, to be viable. Under such circumstances, the Noteholders or AT1 Noteholders may be exposed to losses through the use of other resolution tools or in liquidation.

**Number and value of Common Shares to be received pursuant to an NVCC Automatic Conversion is variable.**

The number of Common Shares to be received for each AT1 Note is calculated by reference to the Current Market Price of the Common Shares immediately prior to a Trigger Event, subject to the Floor Price. If there is an NVCC Automatic Conversion at a time when the Current Market Price of the Common Shares is below the Floor Price, investors may receive Common Shares with an aggregate market price less than the Note Value.

The Bank is expected to have outstanding from time to time other capital notes, subordinated debt and preferred shares that will automatically convert into Common Shares upon a Trigger Event. Other capital notes, subordinated debt and preferred shares of the Bank that are convertible into Common Shares upon a Trigger Event may also use a lower effective floor price (for example, using a different multiplier) than that applicable to the AT1 Notes to determine the maximum number of Common Shares to be issued to holders of such instruments pursuant to an NVCC Automatic Conversion. In such cases, the Noteholders, pursuant to the distribution of Corresponding Trust Assets or otherwise pursuant to an NVCC Automatic Conversion, or the AT1 Noteholders pursuant to an NVCC Automatic Conversion, may receive Common Shares at a time when other capital notes or subordinated debt of the Bank are converted into Common Shares at a conversion rate that is more favorable to the holder of such instruments and preferred shares are converted into Common Shares at a conversion rate that may be more favorable to the holder of such instruments, in each case, than the rate applicable to the AT1 Notes, thereby causing substantial dilution to holders of Common Shares, including Noteholders or AT1 Noteholders, who will become holders of Common Shares after a Trigger Event.

In addition, fractions of Common Shares will not be issued or delivered pursuant to an NVCC Automatic Conversion and no cash payment will be made in lieu of a fractional Common Share.

**The Common Shares to be received pursuant to an NVCC Automatic Conversion may be subject to further dilution.**

In the circumstances surrounding a Trigger Event, the Superintendent or other governmental authorities or agencies may also require other steps to be taken to restore or maintain the viability of the Bank under the Canadian bank resolution powers, including the injection of new capital and the issuance of additional Common Shares or other securities. Accordingly, in connection with a distribution of Corresponding Trust Assets or otherwise pursuant to an NVCC Automatic Conversion, Noteholders or AT1 Noteholders will receive Common Shares at a time when other debt obligations of the Bank may be converted into Common Shares, at a conversion rate that is more favorable to the holders of such obligations than the rate applicable to the AT1 Notes, and additional Common Shares or securities ranking in priority to the Common Shares may be issued, thereby causing substantial dilution to holders of Common Shares, the holders of shares other than Common Shares, and the Noteholders or AT1 Noteholders that will become holders of Common Shares pursuant to the distribution of Corresponding Trust Assets following a Recourse Event that is a Trigger Event or otherwise upon a Trigger Event.

In particular, as part of the Canadian bank resolution powers, certain provisions of, and regulations under, the Bank Act, the *Canada Deposit Insurance Corporation Act* (Canada) and certain other Canadian federal statutes pertaining to banks provide for a bank recapitalization regime (collectively, the “*Bail-In Regime*”) for banks designated by the Superintendent as domestic systemically important banks, which include the Bank. If the CDIC were to take action under the Canadian bank resolution powers with respect to the Bank, this could result

in a conversion of prescribed types of shares and liabilities in whole or in part — by means of a transaction or series of transactions and in one or more steps — into Common Shares of the Bank or any of its affiliates (a “*Bail-In Conversion*”). Subject to certain exceptions, including for certain structured notes, senior debt issued on or after September 23, 2018, with an initial or amended term to maturity (including explicit or embedded options) greater than 400 days, that is unsecured or partially secured and that has been assigned a CUSIP or ISIN or similar identification number, is subject to Bail-In Conversion. Subordinated debt and shares, other than common shares, issued on or after September 23, 2018 are also subject to a Bail-In Conversion, unless they are non-viability contingent capital.

Given that the Notes and the AT1 Notes are non-viability contingent capital, they are not subject to Bail-In Conversion. However, the Bail-In Regime provides that the CDIC must use its best efforts to ensure that the prescribed types of shares and liabilities are converted only if all subordinate prescribed shares and liabilities and any subordinate non-viability contingent capital (such as the Notes and the AT1 Notes) have previously been converted or are converted at the same time. Accordingly, in the case of a Bail-In Conversion, the AT1 Notes would be subject to NVCC Automatic Conversion prior to, or at the same time as, a Bail-In Conversion. In addition, the Bail-in Regime prescribes that holders of unsubordinated or senior ranking instruments that are subject to Bail-In Conversion must receive more common shares per dollar amount converted than holders of any subordinate ranking instruments that are subject to Bail-In Conversion or NVCC instruments converted, including the Notes and the AT1 Notes. The holders of senior ranking instruments that are subject to Bail-In Conversion would therefore receive Common Shares at a conversion rate that would be more favorable to the holders of such obligations than the rate applicable to the Notes and the AT1 Notes.

**The terms and conditions of the Notes and the AT1 Notes will contain provisions that will provide the Bank with the right not to deliver, or to have the LRT Trustee not deliver, as applicable, Common Shares upon a Trigger Event.**

The terms and conditions of the Notes and the AT1 Notes will contain provisions that will provide the Bank with the right to not deliver, or to have the LRT Trustee not: (a) deliver Common Shares (held as Corresponding Trust Assets following a Recourse Event that is a Trigger Event) to any Ineligible Person or any person who, by virtue of that delivery, would become a Significant Shareholder or (b) record in its securities register a transfer or issue of Common Shares (issued upon an NVCC Automatic Conversion) to any person whom the Bank or its transfer agent has reason to believe is an Ineligible Government Holder. In such circumstances, the Bank will hold, as agent for such persons, the Common Shares that would have otherwise been delivered to such persons and will attempt to facilitate the sale of such Common Shares to parties other than the Bank and its affiliates on behalf of such persons through a registered dealer to be retained by the Bank on behalf of such persons. Those sales (if any) may be made at any time and at any price. The Bank will not be subject to any liability for failure to sell such Common Shares on behalf of such persons or at any particular price on any particular day. The net proceeds received by the Bank from the sale of any such Common Shares will be divided among the applicable persons in proportion to the number of Common Shares that would otherwise have been delivered to them after deducting the costs of sale and any applicable withholding taxes.

**Circumstances surrounding a potential NVCC Automatic Conversion may have an adverse effect on the market price of the Notes and the AT1 Notes.**

The occurrence of a Trigger Event may involve a subjective determination by the Superintendent that the conversion of all contingent instruments is reasonably likely to restore or maintain the viability of the Bank. As a result, an NVCC Automatic Conversion may occur in circumstances that are beyond the control of the Bank. Also, even in circumstances where the market expects the Superintendent to cause an NVCC Automatic Conversion, the Superintendent may choose not to take that action. Because of the inherent uncertainty regarding the determination of when an NVCC Automatic Conversion may occur, it will be difficult to predict, when, if at all, the AT1 Notes will be mandatorily converted into Common Shares. Accordingly, trading behavior in respect of the Notes and the AT1 Notes is not necessarily expected to follow trading behavior associated with other types of convertible or exchangeable securities. Any indication, whether real or perceived, that the Bank is trending towards a Trigger Event can be expected to have an adverse effect on the market price of the Notes, the AT1 Notes and the Common Shares, whether or not such Trigger Event actually occurs.



**In the event of insolvency or winding-up of the Bank, an investment in the Notes will become an investment in the AT1 Notes and the AT1 Notes will rank subordinate to all Higher Ranked Indebtedness, and the rights of the Noteholders and the AT1 Noteholders will be further subordinated upon a Trigger Event.**

The Notes and the AT1 Notes will be the Bank's direct unsecured obligations. The Notes and the AT1 Notes will constitute subordinated indebtedness for the purposes of the Bank Act. In the event of the Bank's insolvency or winding-up, a Recourse Event that is an Event of Default will have occurred with respect to the Notes and the sole remedy of a Noteholder shall be recourse to such Noteholder's proportionate share of the Corresponding Trust Assets. Upon delivery to the Noteholders of their proportionate share of the Corresponding Trust Assets following such Recourse Event, all Notes will cease to be outstanding. See "— Noteholders will have limited remedies."

In the event of the Bank's insolvency or winding-up, the AT1 Notes will rank (a) subordinate in right of payment to the prior payment in full of all Higher Ranked Indebtedness, and (b) in right of payment equally with and not prior to Deeply Subordinated Indebtedness (other than Deeply Subordinated Indebtedness which by its terms ranks subordinate to the AT1 Notes) of the Bank, in each case, from time to time outstanding. In the event of the Bank's insolvency or winding-up, the AT1 Notes will rank ahead of the Bank's Common Shares and preferred shares. If the Bank becomes insolvent or is wound-up while the AT1 Notes remain outstanding, and provided that a Trigger Event has not occurred, the Bank's assets must be used to pay Higher Ranked Indebtedness, including other Subordinated Indebtedness, except Deeply Subordinated Indebtedness before payments may be made on the AT1 Notes. Except to the extent regulatory capital requirements affect the Bank's decisions to issue subordinated or more senior debt, there is no limit on the Bank's ability to incur additional subordinated debt or more senior debt.

In addition, upon the occurrence of a Trigger Event, all of the Bank's obligations under the AT1 Notes shall be deemed paid in full by the issuance of Common Shares upon a Trigger Event, and each AT1 Noteholder will be effectively further subordinated due to the change in their status following an NVCC Automatic Conversion from being the holder of a debt instrument ranking ahead of holders of Common Shares to being a holder of Common Shares. If the Trigger Event occurs when the AT1 Notes are held by the Limited Recourse Trust, immediately following such NVCC Automatic Conversion, pursuant to the limited recourse feature described in "Description of the Notes — Limited Recourse", each Noteholder will be entitled to receive, and the LRT Trustee will deliver to each Noteholder, such Noteholder's proportionate share of Common Shares issued upon the conversion of the AT1 Notes into Common Shares upon a Trigger Event. In this case, the priority of the AT1 Notes to be delivered to the Noteholders following a Recourse Event that is an Event of Default as described above will not be relevant as such Common Shares will rank on parity with all other issued and outstanding Common Shares.

As a result, pursuant to the distribution of Corresponding Trust Assets following a Recourse Event that is a Trigger Event or otherwise upon a Trigger Event, the Noteholders could lose all or part of their investment in the Notes or the AT1 Notes, as applicable, irrespective of whether the Bank has sufficient assets available to settle what would have been the claims of the Noteholders or the AT1 Noteholders, as applicable, or other securities subordinated to the same extent as the Notes or the AT1 Notes, as applicable in proceedings relating to an insolvency or winding-up.

**AT1 Noteholders may not be entitled to receive U.S. dollars in a winding-up.**

If you are entitled to any recovery with respect to the AT1 Notes in any winding-up, you might not be entitled in those proceedings to a recovery in U.S. dollars and might be entitled only to a recovery in Canadian dollars. In addition, under current Canadian law, the Bank's liability to you, if any, would have to be converted into Canadian dollars at a date close to the commencement of proceedings against it and you would be exposed to currency fluctuations between that date and the date you receive proceeds pursuant to such proceedings, if any.

**The value of the Notes and the AT1 Notes may be affected by changes in credit ratings.**

Real or anticipated changes in credit ratings on the Bank's deposit liabilities may affect the market value of the Notes and the AT1 Notes. In addition, real or anticipated changes in credit ratings can affect the cost at which the Bank can transact or obtain funding, and thereby affect the Bank's liquidity, business, financial condition or results of operations and, therefore, the Bank's ability to make payments on the Notes or the AT1 Notes could be adversely affected.

**The value of the Notes and the AT1 Notes may be affected by market value and interest rate fluctuations.**

The value of the Notes and the AT1 Notes may be affected by market value fluctuations resulting from factors which influence the Bank's operations, including legal and regulatory developments, competition and global market activity. Such changes in law may include changes in statutory, tax and regulatory regimes during the life of the Notes and the AT1 Notes.

Prevailing interest rates will affect the market value of the Notes and the AT1 Notes. Assuming all other factors remain unchanged, the market value of the Notes and the AT1 Notes will decline as prevailing interest rates for similar debt instruments rise, and increase as prevailing interest rates for comparable debt instruments decline.

**There is no established trading market for the Notes or the AT1 Notes.**

The Notes and the AT1 Notes are new issues of securities and there may be no market through which the Notes and the AT1 Notes may be sold and purchasers may therefore be unable to resell such Notes or AT1 Notes. In addition, the Bank does not intend to apply for listing or quotation of the Notes or the AT1 Notes on any securities exchange or automated quotation system. These factors may affect the pricing of the Notes and the AT1 Notes in any secondary market, the transparency and availability of trading prices and the liquidity of the Notes and the AT1 Notes.

There can be no assurance that an active trading market will develop for the Notes and the AT1 Notes after this offering, or if developed, that such a market will be sustained at the offering price of the Notes and the AT1 Notes. While certain of the underwriters intend to make a market in the Notes, the underwriters will not be obligated to do so and may stop their market-making at any time. In addition, any market-making activities will be subject to limits of the U.S. Securities Act of 1933, as amended (the "*Securities Act*") and the Exchange Act.

If any of the Notes or the AT1 Notes are traded after their initial issuance, they may trade at a discount from their initial offering price. Future trading prices of the Notes and the AT1 Notes will depend on many factors, including prevailing interest rates, the market for similar securities, general economic conditions and our financial condition, performance, prospects and other factors. Accordingly, you may be required to bear the financial risk of an investment in the Notes or the AT1 Notes for an indefinite period of time.

We currently intend to apply to list the Common Shares to be issued upon a Trigger Event on the TSX and the NYSE in accordance with their respective rules and requirements. However, there is no assurance that the Common Shares will be listed on the TSX and the NYSE.

**If a trading market develops, the AT1 Notes may trade with accrued interest even though interest may not be paid on the relevant AT1 Interest Payment Date.**

If an active trading market develops for the AT1 Notes, their prices are expected to appear with accrued interest. However, if a payment of interest on any AT1 Interest Payment Date is cancelled (in each case, in whole or in part) and thus is not due and payable, AT1 Noteholders will not be entitled to that interest payment (in whole or in part, as applicable) on the relevant AT1 Interest Payment Date. This may affect AT1 Noteholders' ability to sell the AT1 Notes in the secondary market and, as a result, the value of AT1 Noteholders' investment in the AT1 Notes.

**The Bank has no limitation on issuing senior or pari passu securities.**

The indentures governing the Notes and the AT1 Notes (together, the “*Indentures*”) will not contain any financial covenants and will contain only limited restrictive covenants. In addition, the Indentures will not limit the Bank’s or its subsidiaries’ ability to incur additional indebtedness, issue or repurchase securities or engage in transactions with affiliates. The Bank’s ability to incur additional indebtedness and use its funds for any purpose in the Bank’s discretion may increase the risk that the Bank may be unable to service its debt, including paying its obligations under the Notes and the AT1 Notes.

**The Notes and the AT1 Notes are governed by New York law.**

The Notes, the Indenture, the AT1 Notes and the AT1 Indenture will be governed by, and construed in accordance with, the laws of the State of New York (other than the provisions relating to an NVCC Automatic Conversion in respect of the AT1 Notes and the subordination provisions in respect of the Notes and the AT1 Notes, which will be governed by the laws of the Province of Ontario and applicable laws of Canada). Generally, in an action commenced in a Canadian court for the enforcement of the Indenture or the Notes or the AT1 Indenture or the AT1 Notes, a plaintiff will be required to prove those non-Canadian laws as a matter of fact by the evidence of persons who are experts in those laws. The Limited Recourse Trust is established under the laws of the Province of Manitoba.

**The Notes and the AT1 Notes are denominated in U.S. dollars and may have tax consequences for investors.**

The Notes and the AT1 Notes will be denominated in U.S. dollars. If you are a non-U.S. investor who purchases the Notes or receives the AT1 Notes as part of a distribution of Corresponding Trust Assets, changes in rates of exchange may have an adverse effect on the value, price or returns of your investment. This Prospectus Supplement does not address the tax consequences to non-U.S. investors of purchasing the Notes or receiving the AT1 Notes as part of a distribution of Corresponding Trust Assets. If you are a non-U.S. investor, you should consult your tax advisors as to the consequences, under the tax laws of the country where you are resident for tax purposes, of acquiring, holding and disposing of the Notes and the AT1 Notes and receiving the payments that might be due under the Notes and the AT1 Notes.

**The U.S. federal income tax treatment of instruments such as the Notes and the AT1 Notes is uncertain and, accordingly, the United States Internal Revenue Service (“IRS”) may take a different position than an investor regarding the appropriate characterization and treatment of the Notes or the AT1 Notes.**

There is no authority that addresses the U.S. federal income tax treatment of an instrument such as the Notes or the AT1 Notes. While it is more likely than not that the Notes should be treated as debt for U.S. federal income tax purposes and the AT1 Notes should be treated as equity for U.S. federal income tax purposes, the IRS could assert an alternative tax treatment of the Notes and the AT1 Notes for U.S. federal income tax purposes. There can be no assurance that any alternative tax treatment, if successfully asserted by the IRS would not have adverse U.S. federal income tax consequences to a United States Noteholder or AT1 Noteholder. Each United States prospective investor should consult their own tax advisor regarding the appropriate characterization of the Notes and the AT1 Notes and the tax consequences to them if the IRS successfully asserts a characterization that differs from the investor’s characterization of the Notes or the AT1 Notes.

**A Recourse Event may constitute a taxable event for U.S. federal income tax purposes.**

Upon a Recourse Event, the receipt of AT1 Notes generally should constitute a recapitalization, and a U.S. holder generally should not recognize gain or loss upon such Recourse Event. However, a Recourse Event could constitute a taxable event to U.S. holders, in which case such U.S. holders would recognize gain or loss. U.S. holders are urged to consult their tax advisors regarding the U.S. federal income tax considerations of a Recourse Event.

## CAPITALIZATION

The following table sets out the capitalization of the Bank and its consolidated subsidiaries as at July 31, 2022:

- on an actual basis; and
- as adjusted to give effect to the sale and issuance of the Notes and the AT1 Notes in this offering (based on the Canadian dollar/U.S. dollar exchange rate as of October 17, 2022).

This table should be read in conjunction with the Bank's Audited Consolidated Financial Statements and Management's Discussion and Analysis for the year ended October 31, 2021, furnished as an exhibit to the Bank's Annual Report on Form 40-F filed on November 30, 2021 and the Bank's Condensed Interim Consolidated Financial Statements and Management's Discussion and Analysis for the three and nine month period ended July 31, 2022, furnished as an exhibit to the Bank's Current Report on Form 6-K filed on August 23, 2022, both of which are incorporated by reference into this Prospectus Supplement.

	As at July 31, 2022	
	Actual	As adjusted
<b>Subordinated debentures</b> .....	\$ 8,413	\$ 8,413
<b>Equity:</b>		
Common equity		
Common shares .....	18,728	18,728
Retained earnings .....	53,151	53,146
Accumulated other comprehensive income (loss) .....	(6,684)	(6,684)
Other reserves .....	(152)	(152)
Total common equity .....	65,043	65,038
Preferred shares and other equity instruments <sup>(2)</sup> .....	7,052	8,082
Total equity attributable to equity holders of the Bank .....	72,095	73,120
Non-controlling interests in subsidiaries .....	1,490	1,490
Total equity .....	73,585	74,610
<b>Total capitalization</b> .....	<b>\$81,998</b>	<b>\$83,023</b>

- (1) For accounting purposes, the Notes and the AT1 Notes are compound financial instruments which contain liability and equity features. The Notes, if outstanding, and the AT1 Notes, if not held by the LRT Trustee, are recorded as Preferred shares and other equity instruments within equity as a result of a nominal value ascribed to the respective liability components. For accounting purposes, the AT1 Notes, if held by the LRT Trustee, would be eliminated on the Bank's consolidated balance sheet.

### **USE OF PROCEEDS**

The net proceeds to the Bank from the sale of the Notes, after deducting the estimated expenses payable by the Bank and the underwriters' discounts and commissions, will amount to approximately US\$741,000,000. Such net proceeds will be added to the Bank's funds and will be used for general business purposes.

## DESCRIPTION OF THE NOTES

*The following is a description of the terms of the US\$750,000,000 aggregate principal amount of 8.625% Fixed Rate Resetting Limited Recourse Capital Notes, Series 4 (Non-Viability Contingent Capital (NVCC)) (subordinated indebtedness) offered by this Prospectus Supplement (which are referred to in this Prospectus Supplement as the “Notes” and in the accompanying Prospectus as “subordinated debt securities”).*

*The Notes are to be issued under a subordinated debt securities indenture (non-viability contingent capital) (NVCC), dated as of October 12, 2017 (the “Base Indenture”), among the Bank, Computershare Trust Company, N.A., as United States trustee (the “U.S. Trustee”), and Computershare Trust Company of Canada, as Canadian trustee (the “Canadian Trustee” and, together with the U.S. Trustee, the “Trustees”), as amended and supplemented by a seventh supplemental indenture, to be dated as of October 25, 2022, among the Bank and the Trustees (the “Supplemental Indenture” and, together with the Base Indenture, the “Indenture”), establishing the terms of the Notes. You may request a copy of the Indenture from us as described under “Incorporation of Certain Information by Reference.” The following summaries of certain provisions of the Notes and the Indenture do not purport to be complete and are subject to and qualified in their entirety by reference to all of the provisions of the Notes and the Indenture, including the definitions of certain terms used in the Indenture. We urge you to read these documents because they, and not this description, define your rights as a Noteholder.*

*As used in this description, the terms the “Bank,” “we,” “us” and “our” refer only to The Bank of Nova Scotia and not to any of its subsidiaries. All capitalized terms used under this heading “Description of the Notes” that are not defined herein have the meanings ascribed thereto in the accompanying Prospectus.*

### General

The Notes will be the Bank’s direct unsecured obligations and will rank (a) subordinate in right of payment to the prior payment in full of all Higher Ranked Indebtedness (as defined herein) and (b) in right of payment equally with and not prior to Deeply Subordinated Indebtedness (as defined herein) (other than Deeply Subordinated Indebtedness which by its terms ranks subordinate to the Notes) of the Bank, in each case, from time to time outstanding, provided that, in case of the Bank’s non-payment in cash of the Redemption Price for the Notes when due or the occurrence of a Failed Principal Payment Date (as defined herein) or Failed Coupon Payment Date (as defined herein), the sole remedy of the Noteholders shall be the delivery of the Corresponding Trust Assets. While a Noteholder will have a claim against the Bank for the principal amount of the Notes and any accrued and unpaid interest (which will then be due and payable) if (i) a Failed Principal Payment Date occurs, (ii) a Failed Coupon Payment Date occurs, (iii) the Bank does not pay the Redemption Price in cash when due in connection with a redemption of the Notes, (iv) an Event of Default occurs, or (v) a Trigger Event occurs (each such event, a “Recourse Event”), the Noteholder’s sole recourse in respect of such claim will be limited to such Noteholder’s proportionate share of the assets (the “Corresponding Trust Assets”) held by a third party trustee (the “LRT Trustee”) in respect of the Notes in Scotiabank LRCN Trust (the “Limited Recourse Trust”). The Notes will constitute subordinated indebtedness for the purposes of the Bank Act. In the event of the Bank’s insolvency or winding-up, pursuant to the limited recourse feature described in “— Limited Recourse”, an investment in the Notes will become an investment in the AT1 Notes, subject to the subordination provisions as described in “Description of the AT1 Notes — Status and Subordination”. Upon such delivery of the Corresponding Trust Assets, all Notes will cease to be outstanding.

If a Recourse Event that is a Trigger Event occurs, pursuant to the limited recourse feature described in “— Limited Recourse” below, an investment in the Notes will become an investment in Common Shares, and terms and conditions of the Notes and the AT1 Notes, including with respect to priority and subordination, will no longer be relevant as the Noteholders will have received their proportionate share of the Corresponding Trust Assets consisting of Common Shares, which will rank on parity with all other outstanding Common Shares.

**The Notes will not constitute deposits that are insured under the *Canada Deposit Insurance Corporation Act (Canada)* or by the *United States Federal Deposit Insurance Corporation*. The Notes will not be subject to Bail-In Conversion (as defined herein).**

Notwithstanding any provision of the Indenture, the Bank may not, without the prior approval of the Superintendent, amend or vary terms of the Notes that would affect the recognition of the Notes as regulatory capital under capital adequacy requirements adopted by the Superintendent.

Payment of the principal and interest on the Notes will be made in U.S. dollars. The Bank will pay the principal and interest in immediately available funds to The Depository Trust Company, as depository, or its nominee as the registered owner of the global notes representing the book-entry Notes.

The Notes are not entitled to the benefits of any sinking fund.

The Notes will be issued in denominations of US\$200,000 and integral multiples of US\$1,000 in excess of such amount. Upon issuance, the Notes will be represented by one or more fully registered global notes. Each global note will be deposited with, or on behalf of, The Depository Trust Company, as depository. You may elect to hold interests in the global notes through either the depository (in the United States), Euroclear Bank SA/NV, Clearstream Banking S.A., or indirectly through organizations that are participants in such systems. See “Legal Ownership and Book-Entry Issuance” in the accompanying Prospectus.

### **Status and Subordination**

The Notes will be the Bank’s direct unsecured obligations and will rank (a) subordinate in right of payment to the prior payment in full of all Higher Ranked Indebtedness (as defined below) and (b) in right of payment equally with and not prior to Deeply Subordinated Indebtedness (as defined below) (other than Deeply Subordinated Indebtedness which by its terms ranks subordinate to the Notes) of the Bank, in each case, from time to time outstanding, provided that, in the event of the occurrence of a Recourse Event, the sole remedy of a Noteholder shall be the delivery of such Noteholder’s proportionate share of the Corresponding Trust Assets. The Notes will constitute subordinated indebtedness for the purposes of the Bank Act. In the event of the insolvency or winding-up of the Bank, a Recourse Event that is an Event of Default will have occurred and pursuant to the limited recourse feature described in “— Limited Recourse”, an investment in the Notes will become an investment in AT1 Notes and will become subject to the subordination provisions of the AT1 Notes, as described in “Description of the AT1 Notes — Status and Subordination”.

For the purposes of the foregoing:

“Deeply Subordinated Indebtedness” means Indebtedness which by its terms ranks equally in right of payment with, or is subordinate to, the Notes. For greater clarity, Deeply Subordinated Indebtedness includes the AT1 Notes.

“Higher Ranked Indebtedness” at any time means all Indebtedness of the Bank then outstanding (including all Subordinated Indebtedness of the Bank then outstanding other than Deeply Subordinated Indebtedness).

“Indebtedness” at any time means all deposit liabilities of the Bank and all other liabilities and obligations of the Bank which in accordance with the accounting rules established for Canadian chartered banks issued under the authority of the Superintendent pursuant to the Bank Act or with IFRS as issued by the IASB, as the case may be, would be included in determining the total liabilities of the Bank at such time, other than liabilities for paid-up capital, contributed surplus, retained earnings and general reserves of the Bank.

“Subordinated Indebtedness” at any time means the Bank’s subordinated indebtedness within the meaning of the Bank Act.

If a Recourse Event that is a Trigger Event occurs, pursuant to the limited recourse feature described in “— Limited Recourse” below, an investment in the Notes will become an investment in Common Shares, and terms and conditions of the Notes, including with respect to priority and subordination, will no longer be relevant as the Noteholders will have received their proportionate share of the Corresponding Trust Assets consisting of Common Shares, which will rank on parity with all other outstanding Common Shares.

The subordination provisions of the Indenture will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

## **Maturity**

The Notes will mature on October 27, 2082.

## **Interest**

### ***Initial Rate Period***

From and including October 25, 2022 to, but excluding, October 27, 2027 (the “*Initial Rate Period*”), the Notes will bear interest at the annual rate of 8.625%, and the Bank will pay interest on the Notes quarterly in arrears on January 27, April 27, July 27 and October 27, of each year, commencing on January 27, 2023 (each, an “*Interest Payment Date*”). Interest will be payable on each Interest Payment Date to the persons in whose name the Notes are registered at the close of business on the preceding January 12, April 12, July 12 or October 12, whether or not a business day (each, a “*Record Date*”). If any Interest Payment Date during the Initial Rate Period falls on a day that is not a business day, the Bank will postpone the making of such interest payment to the next succeeding business day (and no interest will be paid in respect of the delay). A “*business day*” means each Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which banking institutions are authorized or required by law or executive order to close in The City of New York, New York or Toronto, Ontario.

During the Initial Rate Period, interest on the Notes will accrue from and including October 25, 2022 to, but excluding, the first Interest Payment Date in the Initial Rate Period and then from and including each Interest Payment Date in the Initial Rate Period to which interest has been paid or duly provided for to, but excluding, the next Interest Payment Date in the Initial Rate Period, any redemption date or October 27, 2027, as the case may be. During the Initial Rate Period, interest on the Notes will be computed on the basis of a 360-day year consisting of twelve 30-day months.

### ***Reset Rate Period***

From and including October 27, 2027 (such date and each fifth (5th) anniversary date thereafter, a “*Reset Date*”) to, but excluding, the next following Reset Date or the Maturity Date, as applicable (each such period, a “*Reset Rate Period*”), the applicable per annum interest rate will be equal to the sum, as determined by the Calculation Agent, of (i) the then-prevailing U.S. Treasury Rate (as defined herein) on the second business day immediately preceding each Reset Date (each such date, the “*Reset Rate Determination Date*”) and (ii) 4.389% (the “*Reset Spread*”). During each of the Reset Rate Periods, the Bank will pay interest on the Notes quarterly in arrears on each Interest Payment Date, commencing on January 27, 2028. Interest will be payable on each Interest Payment Date to the persons in whose name the Notes are registered on the relevant Record Date. If any Interest Payment Date during any Reset Rate Period falls on a day that is not a business day, the Bank will postpone the making of such interest payment to the next succeeding business day (and no interest will be paid in respect of the delay).

After the Initial Rate Period, interest on the Notes will accrue from and including October 27, 2027 to, but excluding, the next Interest Payment Date and then from and including each Interest Payment Date to which interest has been paid or duly provided for to, but excluding, the next Interest Payment Date, any redemption date or the Maturity Date, as the case may be. During each Reset Rate Period, interest on the Notes will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Upon request from any Noteholder, the Calculation Agent will provide the interest rate in effect for the Notes during the current Reset Rate Period and, if it has been determined, the interest rate to be in effect for the next Reset Rate Period.

“*U.S. Treasury Rate*” means, with respect to any Reset Rate Period for which such rate applies, the rate per annum equal to:

- The average of the yields on actively traded U.S. treasury securities adjusted to constant maturity, for five-year maturities, for the five business days preceding the applicable Reset Rate Determination Date



appearing under the caption “Treasury Constant Maturities” in the most recently published statistical release designated H.15 Daily Update or any successor publication which is published by the Federal Reserve Board, as determined by the Calculation Agent in its sole discretion.

- If no calculation is provided as described above, then the Calculation Agent, after consulting such sources as it deems comparable to any of the foregoing calculations, or any such source as it deems reasonable from which to estimate the five-year treasury rate, shall determine the U.S. Treasury Rate in its sole discretion, provided that if the Calculation Agent determines there is an industry-accepted successor five-year treasury rate, then the Calculation Agent shall use such successor rate. If the Calculation Agent has determined a substitute or successor base rate in accordance with the foregoing, the Calculation Agent in its sole discretion may determine the business day convention, the definition of business day and the Reset Rate Determination Date to be used and any other relevant methodology for calculating such substitute or successor base rate, including any adjustment factor needed to make such substitute or successor base rate comparable to the five-year treasury rate, in a manner that is consistent with industry accepted practices for such substitute or successor base rate.

The U.S. Treasury Rate will be determined by the Calculation Agent on the relevant Reset Rate Determination Date.

All percentages resulting from any calculation of the interest rate on the Notes during any Reset Rate Period will be rounded to the nearest one hundred-thousandth of a percentage point with five one millionths of a percentage point rounded upwards (e.g., 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655)), and all dollar amounts used in or resulting from such calculation on the Notes will be rounded to the nearest cent (with one half cent being rounded upward). Each calculation of the interest rate on the Notes by the Calculation Agent will (in absence of manifest error) be final and binding on the Noteholders and the Bank. The interest rate on the Notes will in no event be higher than the maximum rate permitted by New York law as the same may be modified by United States law of general application. In no event will the interest rate on the Notes be less than zero.

## **Redemption**

### ***Optional Redemption***

The Bank may, at its option, with the prior written approval of the Superintendent and on not less than 10 days’ and not more than 60 days’ notice to each Noteholder, redeem the Notes, in whole or in part, on October 27, 2027, and each Interest Payment Date thereafter, at the Redemption Price (an “*Optional Redemption*”).

The Bank may, at its option, with the prior written approval of the Superintendent and on not less than 10 days’ and not more than 60 days’ notice to each Noteholder, redeem the Notes, in whole but not in part, (i) at any time following a Regulatory Event Date, or (ii) at any time following the occurrence of a Tax Event, in either case at the Redemption Price.

The Bank will not redeem the Notes under any circumstances if such redemption would, directly or indirectly, result in the Bank’s breach of any provision of the *Bank Act* (Canada) (the “*Bank Act*”) or the OSFI Capital Adequacy Requirements (CAR) Guideline.

Any Notes redeemed by the Bank shall be cancelled and may not be reissued.

For purposes of the foregoing:

“*Redemption Price*” of the Notes means the aggregate of (i) the principal amount thereof, and (ii) any accrued and unpaid interest up to, but excluding, the date fixed for redemption.

“*Regulatory Event Date*” means the date specified in a letter from the Superintendent to the Bank on which the Notes will no longer be recognized in full as eligible “Additional Tier 1 Capital” or will no longer be eligible to be included in full as risk-based “Total Capital” on a consolidated basis under the guidelines for capital adequacy requirements for banks as interpreted by the Superintendent.

“*Tax Event*” means the Bank has received an opinion of independent counsel of nationally recognized standing experienced in such matters (who may be counsel to the Bank or the Limited Recourse Trust) to the effect that:

- (i) as a result of, (A) any amendment to, clarification of, or change (including any announced prospective change) in, the laws, or any regulations thereunder, or any application or interpretation thereof, of Canada, or any political subdivision or taxing authority thereof or therein, affecting taxation; (B) any judicial decision, administrative pronouncement, published or private ruling, regulatory procedure, rule, notice, announcement, assessment or reassessment (including any notice or announcement of intent to adopt or issue such decision, pronouncement, ruling, procedure, rule, notice, announcement, assessment or reassessment) (collectively, an “administrative action”); or (C) any amendment to, clarification of, or change (including any announced prospective change) in, the official position with respect to or the interpretation of any administrative action or any interpretation or pronouncement that provides for a position with respect to such administrative action that differs from the theretofore generally accepted position, in each of case (A), (B) or (C), by any legislative body, court, governmental authority or agency, regulatory body or taxing authority in Canada, irrespective of the manner in which such amendment, clarification, change, administrative action, interpretation or pronouncement is made known, which amendment, clarification, change or administrative action is effective or which interpretation, pronouncement or administrative action is announced on or after the date of issue of the Notes, there is more than an insubstantial risk (assuming any proposed or announced amendment, clarification, change, interpretation, pronouncement or administrative action is effective and applicable) that (xx) the Bank or the Limited Recourse Trust is, or may be, subject to more than a de minimis amount of additional taxes, duties or other governmental charges or civil liabilities because the treatment of any of its items of income, taxable income, expense, taxable capital or taxable paid-up capital with respect to the Notes (including the treatment by the Bank of interest on the Notes) or the AT1 Notes or the treatment of the Notes or the AT1 Notes or other assets of the Limited Recourse Trust or the Limited Recourse Trust, as or as would be reflected in any tax return or form filed, to be filed, or otherwise could have been filed, will not be respected by a taxing authority, provided that this clause (xx) shall not apply in respect of the deductibility of interest on the AT1 Notes, or (yy) the Limited Recourse Trust is, or will be, subject to more than a de minimis amount of taxes, duties or other governmental charges or civil liabilities;
- (ii) as a result of any change (including any announced prospective change) in or amendment to the laws or treaties (or any rules, regulations, rulings or administrative pronouncements thereunder) of Canada (or the jurisdiction of organization of the successor to the Bank) or of any political subdivision or taxing authority thereof or therein affecting taxation, or any change in official position regarding the application or interpretation of such laws, treaties, rules, regulations, rulings or administrative pronouncements (including a holding by a court of competent jurisdiction), which change or amendment is announced or becomes effective on or after the date of this Prospectus Supplement (or, in the case of a successor to the Bank, after the date of succession), the Bank (or its successor) has or will become obligated to pay, on the next succeeding date on which interest is due, additional amounts with respect to the Notes as described under “— Payment of Additional Amounts” below (assuming, in the case of any announced prospective change, that such announced change will become effective as of the date specified in such announcement and in the form announced); or
- (iii) on or after the date of this Prospectus Supplement (or, in the case of a successor to the Bank, after the date of succession), any action has been taken by any taxing authority of, or any decision has been rendered by a court of competent jurisdiction in, Canada (or the jurisdiction of organization of the successor to the Bank) or any political subdivision or taxing authority thereof or therein, including any of those actions specified in the paragraph immediately above, whether or not such action was taken or decision was rendered with respect to the Bank (or its successor), or any change, amendment, application or interpretation shall be officially proposed, which, in any such case, will result in the Bank (or its successor) becoming obligated to pay, on the next succeeding date on which interest is

due, additional amounts with respect to the Notes as described under “—Payment of Additional Amounts” below (assuming, in the case of any announced prospective change, that such announced change will become effective as of the date specified in such announcement and in the form announced);

and, in any such case of clause (ii) or (iii), the Bank (or its successor), in its business judgment, determines that such obligation cannot be avoided by the use of reasonable measures available to it (or its successor). For the avoidance of doubt, reasonable measures do not include a change in the terms of the Notes or the AT1 Notes or a substitution of the debtor.

### ***Automatic Redemption***

Upon any redemption by the Bank of the AT1 Notes held in the Limited Recourse Trust in accordance with their terms on any date other than the Maturity Date (such redemption will be subject to the prior written approval of the Superintendent), outstanding Notes with an aggregate principal amount equal to the aggregate principal amount of AT1 Notes redeemed by the Bank shall automatically and immediately be redeemed, for a cash amount equal to the Redemption Price thereof, without any action on the part of, or the consent of, the Indenture Trustees or the Noteholders. For certainty, to the extent that the Bank has immediately prior to or concurrently with such AT1 Notes redemption redeemed or purchased for cancellation a corresponding principal amount of Notes in accordance with the terms of the Indenture, such requirement to redeem a corresponding aggregate principal amount of Notes shall be deemed satisfied.

### ***Redemption of the AT1 Notes upon Redemption of the Notes***

If at any time the Bank redeems the Notes in accordance with their terms (including in connection with an Optional Redemption) or purchases Notes, in whole or in part, by tender offer, open market purchases, negotiated transactions or otherwise, for cancellation, then the Bank shall, subject to the provisions of the Bank Act and the prior written approval of the Superintendent, redeem such aggregate principal amount of AT1 Notes that is equal to the aggregate principal amount of Notes redeemed or purchased for cancellation by the Bank, by the payment of an amount in cash equal to the aggregate principal amount of the AT1 Notes to be redeemed, together with all accrued and unpaid interest, if any and except to the extent such unpaid interest was cancelled as described in the “Description of the AT1 Notes — Waiver and Cancellation of Interest Payments”, up to, but excluding, the date fixed for redemption.

The failure of the Bank to pay the applicable Redemption Price for the Notes in cash when due will constitute a Recourse Event whereupon recourse of the Noteholders shall be limited to their proportionate share of the Corresponding Trust Assets held by the LRT Trustee, pursuant to the limited recourse feature as described in “Description of the Notes — Limited Recourse”.

The Bank will not redeem the Notes or the AT1 Notes under any circumstances if such redemption would, directly or indirectly, result in the Bank’s breach of any provision of the Bank Act or OSFI’s Capital Adequacy Requirements (CAR) Guideline.

Any Notes redeemed by the Bank may not be reissued.

**The Notes are not subject to repayment at the option of the Noteholders.**

### **Purchase for Cancellation**

Subject to the prior written approval of the Superintendent, the Bank may at any time and from time to time, in whole or in part, purchase for cancellation the Notes, in whole or in part, in the open market, by tender offer, open market purchases, negotiated transactions or otherwise in accordance with applicable securities laws and regulations, so long as such acquisition does not otherwise violate the terms of the Indenture, upon such terms and at such prices as the Bank may determine.

Any Notes purchased by the Bank will be cancelled and may not be reissued.

If any Notes are to be cancelled, subject to the provisions of the Bank Act, the consent of the Superintendent and the terms of the AT1 Notes, the Bank shall redeem a corresponding aggregate principal amount of AT1

Notes (which amount shall equal the aggregate principal amount of the Notes to be cancelled) then held by the Limited Recourse Trust.

### **Limited Recourse**

In the event of a non-payment in cash by the Bank of the Redemption Price for the Notes when due or the occurrence of a Failed Principal Payment Date or Failed Coupon Payment Date, while a Noteholder will have a claim against the Bank for the principal amount of the Notes and any accrued and unpaid interest (which will then be due and payable), the sole remedy of Noteholders shall be the delivery of the Corresponding Trust Assets held by the LRT Trustee from time to time in respect of the Notes.

The Limited Recourse Trust is a trust established under the laws of the Province of Manitoba and the federal laws of Canada applicable therein, governed by a declaration of trust dated March 29, 2021 (as may be amended or restated from time to time, the “*Limited Recourse Trust Declaration*”) made by the LRT Trustee. The Limited Recourse Trust’s objectives include the acquisition and holding of the Corresponding Trust Assets in accordance with the terms of the Limited Recourse Trust Declaration. Initially, the LRT Trustee will hold trust assets in respect of more than one series of limited recourse capital notes of the Bank, and the LRT Trustee will hold the trust assets for each such series of notes (including a series of the Bank’s subordinated additional tier 1 capital notes) separate from the trust assets for any other series of such notes and, upon a Recourse Event, shall deliver to Noteholders only such trust assets as comprise Corresponding Trust Assets as defined herein. From time to time, the Corresponding Trust Assets may alternatively consist of (i) AT1 Notes (or proceeds with respect to the subscription for units of the Limited Recourse Trust by the Bank, which are to be used by the Limited Recourse Trust to subscribe for AT1 Notes), (ii) cash proceeds from an AT1 Redemption with the prior written approval of the Superintendent (other than the portion of the AT1 Redemption proceeds comprising accrued and unpaid interest (if any)) (iii) common shares of the Bank (“*Common Shares*”) issued upon the conversion of the AT1 Notes into Common Shares as a result of a Trigger Event, or (iv) any combination thereof, depending on the circumstances. At no time shall the Corresponding Trust Assets include any interest paid on the AT1 Notes.

Pursuant to the Limited Recourse Trust Declaration, prior to a Recourse Event, the LRT Trustee shall hold as Corresponding Trust Assets for each US\$1,000 principal amount of Notes outstanding a US\$1,000 principal amount of AT1 Notes or the related cash redemption proceeds.

For purposes of the foregoing:

“*AT1 Redemption*” means any redemption by the Bank of AT1 Notes held as Corresponding Trust Assets by the LRT Trustee in accordance with the terms of such AT1 Notes as described in “Description of the AT1 Notes — Redemption”.

On the closing of the offering of the Notes, the Corresponding Trust Assets in respect of the Notes shall consist of the AT1 Notes. Upon a Recourse Event, the principal amount of, and accrued and unpaid interest on, all of the Notes will become due and payable by the Bank without any declaration or other act on the part of the Indenture Trustees or any Noteholders, provided that the sole remedy of the Noteholders for such amounts due and payable by the Bank shall be the delivery of the Corresponding Trust Assets (which, in the case of a Recourse Event that is a Trigger Event, shall consist of the Common Shares issued in connection with the Trigger Event).

If a Recourse Event occurs, the Bank will, no later than one business day after the occurrence of such Recourse Event, notify the LRT Trustee of the occurrence of such Recourse Event. “*Recourse Event*” means any of the following: (i) a Failed Principal Payment Date occurs, (ii) a Failed Coupon Payment Date occurs, (iii) the Bank does not pay the Redemption Price in cash when due in connection with a redemption of the Notes, (iv) an Event of Default (defined below) occurs, or (v) a Trigger Event occurs.

For purposes of the foregoing:

“*Failed Coupon Payment Date*” means the fifth business day immediately following an Interest Payment Date upon which the Bank does not pay interest on the Notes in cash and has not cured such non-payment by subsequently paying such interest in cash prior to such fifth business day.

*“Failed Principal Payment Date”* means the Maturity Date, if there is non-payment by the Bank of the principal amount of the Notes, together with any accrued and unpaid interest, in cash on such date.

Following receipt of a notice of a Recourse Event, the Bank will take any necessary actions to cause the LRT Trustee to deliver the Corresponding Trust Assets in respect of the Notes to the Noteholders in accordance with the terms of the Limited Recourse Trust Declaration and the Indenture; provided that, notwithstanding any other provision in the Limited Recourse Trust Declaration, the terms and conditions of the Notes will contain provisions that will provide the Bank with the right to have the LRT Trustee not: (a) deliver Common Shares (held as Corresponding Trust Assets following a Recourse Event that is a Trigger Event) to any Ineligible Person (as defined herein) or any person who, by virtue of that delivery, would become a Significant Shareholder (as defined herein) or (b) record in its securities register a transfer or issue of Common Shares (issued upon an NVCC Automatic Conversion) to any person whom the Bank or its transfer agent has reason to believe is an Ineligible Government Holder. In such circumstances, the Bank will hold, as agent for such persons, the Common Shares that would have otherwise been delivered to such persons and will attempt to facilitate the sale of such Common Shares to parties other than the Bank and its affiliates on behalf of such persons through a registered dealer to be retained by the Bank on behalf of such persons. Those sales (if any) may be made at any time and at any price. The Bank shall not be subject to any liability for failure to sell any such Common Shares on behalf of such persons or at any particular price on any particular day. The net proceeds received by the Bank from the sale of any such Common Shares will be divided among the applicable persons in proportion to the number of Common Shares that would otherwise have been delivered to them after deducting the costs of sale and any applicable withholding taxes.

Subject to the foregoing restrictions regarding Ineligible Persons, Significant Shareholders and Ineligible Government Holders, (i) upon the occurrence of a Recourse Event that is not a Trigger Event, the LRT Trustee will deliver to each Noteholder an aggregate principal amount of AT1 Notes that is equal to the aggregate principal amount of Notes held by such Noteholder, and such delivery of AT1 Notes will be each Noteholder’s sole remedy against the Bank for repayment of the principal amount of the Notes and any accrued but unpaid interest thereon then due and payable, and (ii) upon the occurrence of a Recourse Event that is a Trigger Event, each Noteholder will be entitled to receive, and the LRT Trustee will deliver to each Noteholder, such Noteholder’s proportionate share of Common Shares issued upon the conversion of the AT1 Notes into Common Shares upon a Trigger Event. See “Description of the AT1 Notes — NVCC Automatic Conversion”. The number of Common Shares issuable in connection with the Trigger Event pursuant to each outstanding AT1 Note will be determined by dividing (a) the product of the Multiplier and the Note Value, by (b) the Conversion Price (rounded down, if necessary, to the nearest whole number of Common Shares). Such delivery of Common Shares will exhaust each Noteholder’s sole remedy against the Bank for repayment of the principal amount of the Notes and any accrued but unpaid interest thereon then due and payable. Such delivery of Common Shares will be each Noteholder’s sole remedy against the Bank for repayment of the principal amount of the Notes and any accrued but unpaid interest thereon then due and payable.

The Limited Recourse Trust will continue until no earlier than the point at which no AT1 Notes (or any trust assets in respect of other series of limited recourse capital notes issued by the Bank) continue to be held by the Limited Recourse Trust.

Any amendment or supplement to the Limited Recourse Trust Declaration for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of the Limited Recourse Trust Declaration (other than with respect to certain immaterial matters) requires the prior consent of the Noteholders in accordance with the terms of the Indenture and the holders of any other limited recourse capital notes issued by the Bank and for which trust assets are held by the Limited Recourse Trust, in each case accordance with the terms of the indentures under which they are issued.

By acquiring any Note, each Noteholder irrevocably acknowledges and agrees with, and for the benefit of, the Bank and the Indenture Trustees that the delivery of the applicable Corresponding Trust Assets to a Noteholder shall exhaust all remedies of such Noteholder under the Notes including in connection with any Event of Default. All claims of a Noteholder against the Bank shall be extinguished upon receipt by such

Noteholder of the applicable Corresponding Trust Assets. If the Bank does not deliver, or fails to cause the LRT Trustee to deliver, the applicable Corresponding Trust Assets to a Noteholder, the sole remedy of such Noteholder for any claims against the Bank shall be recourse to the applicable Corresponding Trust Assets. The delivery of AT1 Notes or Common Shares comprising Corresponding Trust Assets to the Noteholders shall extinguish all claims of such Noteholder against the Bank for repayment of the principal amount of the Notes and any accrued and unpaid interest thereon when due and payable. In case of any shortfall resulting from the value of the Corresponding Trust Assets being less than the principal amount of and any accrued and unpaid interest on the Notes, all losses arising from such shortfall shall be borne by the Noteholders.

The Bank has entered into an agreement (the “*Indemnity Agreement*”) to indemnify the LRT Trustee against certain claims, liabilities, losses and damages suffered by the LRT Trustee in connection with acting as trustee of the Limited Recourse Trust. The LRT Trustee has agreed to exercise and exhaust all its remedies against the Bank under the Indemnity Agreement prior to exercising any rights of indemnity under the Limited Recourse Trust Declaration. Provided that the LRT Trustee has so exercised and exhausted its rights under the Indemnity Agreement, the LRT Trustee will be indemnified and saved harmless by out of the assets of the Limited Recourse Trust (including the Corresponding Trust Assets) from and against all claims, liabilities, losses, damages, penalties, actions, suits, demands, levies, expenses and disbursements including, without limitation, any and all reasonable legal and adviser fees and disbursements, whether groundless or otherwise, including costs (including legal costs on a solicitor and client basis), charges and expenses in connection therewith, brought, commenced or prosecuted against it for or in respect of any act, deed, matter or thing whatsoever made, done, acquiesced in or omitted in or about or in relation to the execution of its duties as LRT Trustee and also from and against all other costs (including legal costs on a solicitor and client basis), charges, and expenses which it sustains or incurs in or about or in relation to the affairs of the Limited Recourse Trust, except such as may be incurred as a result of the willful misconduct, gross negligence, or bad faith of the LRT Trustee.

In addition, the LRT Trustee has entered into an agreement (as amended from time to time, the “*Administration Agreement*”) with the Bank, as “*Administrative Agent*”, pursuant to which the LRT Trustee has delegated to the Bank certain of its obligations in relation to the administration of the Limited Recourse Trust, including the day-to-day operations of the Limited Recourse Trust and such other matters as may be requested from time to time by the LRT Trustee, in each case subject to certain limitations and restrictions. The Administrative Agent will not be entitled to receive any fees in connection with its services under the Administration Agreement, and is solely responsible for all administrative and operating expenses (plus any applicable taxes) properly incurred on behalf of the Limited Recourse Trust in the ordinary course of the Limited Recourse Trust’s operations.

The Administrative Agent’s rights and obligations under the Administration Agreement will terminate if the Administrative Agent receives a termination notice in writing from the Limited Recourse Trust or the Limited Recourse Trust receives a termination notice in writing from the Administrative Agent, in each case at least 20 business days prior to the last business day of a month, in which case the Administration Agreement will terminate on the last day of that month. Notwithstanding the foregoing, the Administrative Agent will not be permitted to resign until a replacement Administrative Agent has been appointed and has entered into an administration agreement whereby the replacement Administrative Agent will assume, in all material respects, the obligations of the Administrative Agent under the Administration Agreement.

## **Covenants**

The Bank will not be restricted by the Indenture or the Notes from incurring, assuming or becoming liable for any type of debt or other obligations or purchasing or redeeming its capital stock. Neither the Indenture nor the Notes will require the maintenance of any financial ratios or specified levels of net worth or liquidity, nor will they contain any covenants or other provisions that would limit the Bank or its subsidiaries’ rights to incur additional indebtedness, enter into any sale and leaseback transaction or grant liens on the Bank’s or its subsidiaries’ assets. Neither the Indenture nor the Notes will contain any provisions that would require the Bank

to repurchase or redeem or otherwise modify the terms of the Notes upon a change in control or other events that may adversely affect the creditworthiness of the Notes, for example, a highly leveraged transaction.

Pursuant to the Indenture, the Bank will covenant with the Trustees for the benefit of the Trustees and the Noteholders that, so long as any Notes remain outstanding, the Bank (i) will duly and punctually pay all amounts as they become due in accordance with the terms of the Notes; and (ii) will, subject to certain exceptions, maintain its corporate existence.

### **Payment of Additional Amounts**

All payments made by or on behalf of the Bank under or with respect to the Notes will be made free and clear of and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and other liabilities related thereto) imposed or levied by or on behalf of the Government of Canada or any province or territory thereof or by any authority or agency therein or thereof having power to tax (hereafter “*Canadian taxes*”), unless the Bank is required to withhold or deduct Canadian taxes by law or by the interpretation or administration thereof. If the Bank is so required to withhold or deduct any amount for or on account of Canadian taxes from any payment made under or with respect to the Notes, we will pay to each Noteholder as additional interest such additional amounts (“*additional amounts*”) as may be necessary so that the net amount received by each such Noteholder after such withholding or deduction (and after deducting any Canadian taxes on such additional amounts) will not be less than the amount such Noteholder would have received if such Canadian taxes had not been withheld or deducted, except as described below. However, no additional amounts will be payable with respect to a payment made to a Noteholder (such Noteholder, an “*excluded holder*”) in respect of the beneficial owner thereof:

- with which the Bank does not deal at arm’s length (for the purposes of the Income Tax Act (Canada)) at the time of the making of such payment or which is entitled to the payment in respect of a debt or other obligation to pay an amount to a person with which the Bank does not deal at arm’s length (within the meaning of the Income Tax Act (Canada)) at the time of making such payment;
- which is subject to such Canadian taxes by reason of the Noteholder or beneficial owner being a resident, domiciliary or national of, engaged in business or maintaining a permanent establishment or other physical presence in or otherwise having some connection with Canada or any province or territory thereof otherwise than by the mere holding of the Notes or the receipt of payments thereunder;
- which is subject to such Canadian taxes by reason of the Noteholder’s or beneficial owner’s failure to comply with any certification, identification, documentation or other reporting requirements if compliance is required by law, regulation, administrative practice or an applicable treaty as a precondition to exemption from, or a reduction in the rate of deduction or withholding of, such Canadian taxes (provided that the Bank advises the Indenture Trustees and the Noteholders then outstanding of any change in such requirements);
- with respect to any Note presented for payment more than 30 days after the later of (i) the date payment is due and (ii) the date on which funds are made available for payment, except to the extent that the Noteholder or beneficial owner thereof would have been entitled to such additional amounts on presenting same for payment on or before such thirtieth day;
- with respect to any estate, inheritance, gift, sale, transfer, personal property or similar tax or other governmental charge;
- which is a fiduciary or partnership or person other than the sole beneficial owner of such payment to the extent that the Canadian taxes would not have been imposed on such payment had such Noteholder been the sole beneficial owner of such Notes; or
- which is subject to deduction or withholding on account of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the application of Sections 1471 through 1474 of the United States Internal Revenue Code of 1986 (or any successor provisions), any regulation,

pronouncement, or agreement thereunder, official interpretations thereof, or any law implementing an intergovernmental approach thereto, whether currently in effect or as published and amended from time to time.

For the avoidance of doubt, the Bank will not have any obligation to pay any Noteholders additional amounts on any Canadian tax which is payable otherwise than by deduction or withholding from payments made under or in respect of the Notes.

The Bank will also:

- make such withholding or deduction; and
- remit the full amount deducted or withheld to the relevant authority in accordance with applicable law.

The Bank will furnish to the Noteholders, within 60 days after the date the payment of any Canadian taxes is due pursuant to applicable law, certified copies of tax receipts or other documents evidencing such payment by such person.

The Bank will indemnify and hold harmless each Noteholder (other than an excluded holder) from and against, and upon written request reimburse each such Noteholder for the amount (excluding any additional amounts that have previously been paid by the Bank with respect thereto) of:

- any Canadian taxes so levied or imposed and paid by such Noteholder as a result of payments made by or on behalf of the Bank under or with respect to the Notes;
- any liability (including penalties, interest and expenses) arising therefrom or with respect thereto; and
- any Canadian taxes imposed with respect to any reimbursement under the preceding two bullet points, but excluding any such Canadian taxes on such Noteholder's net income.

In any event, no additional amounts or indemnity amounts will be payable under the provisions described above in respect of any Note in excess of the additional amounts and the indemnity amounts which would be required if, at all relevant times, such Noteholder were a resident of the United States for purposes of and was entitled to the benefits of the Canada-U.S. Income Tax Convention (1980), as amended, including any protocols thereto. As a result of the limitation on the payment of additional amounts and indemnity amounts discussed in the preceding sentence, the additional amounts or indemnity amounts received by certain Noteholders may be less than the amount of Canadian taxes withheld or deducted or the amount of Canadian taxes (and related amounts) levied or imposed giving rise to the obligation to pay the indemnity amounts, as the case may be, and, accordingly, the net amount received by such Noteholders may be less than the amount such Noteholders would have received had there been no such withholding or deduction in respect of Canadian taxes or had such Canadian taxes (and related amounts) not been levied or imposed.

Wherever in the Indenture there is mentioned, in any context, the payment of principal, interest, or any other amount payable under or with respect to a Note, such mention shall be deemed to include mention of the payment of additional amounts to the extent that, in such context, additional amounts are, were or would be payable in respect thereof.

In the event of the occurrence of any transaction or event resulting in a successor to the Bank, all references to Canada in the preceding paragraphs of this subsection shall be deemed to be references to the jurisdiction of organization of the successor entity.

Payments of principal and interest in respect of the Notes are subject in all cases to any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the "*Code*") or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, official interpretations thereof, or any law implementing an intergovernmental approach thereto.

### **NVCC Automatic Conversion**

Upon the occurrence of a Trigger Event, each AT1 Note held in the Limited Recourse Trust will automatically and immediately be converted, on a full and permanent basis, without the consent of the



Noteholders, the Indenture Trustees, the LRT Trustee or the AT1 Indenture Trustees, into that number of fully-paid common shares of the Bank (the “*Common Shares*”) determined by dividing (a) the product of the Multiplier and the Note Value, by (b) the Conversion Price (rounded down, if necessary, to the nearest whole number of Common Shares) (an “*NVCC Automatic Conversion*”), each as defined in “Description of the AT1 Notes — NVCC Automatic Conversion”.

Immediately following such NVCC Automatic Conversion, pursuant to the limited recourse feature described in “— Limited Recourse”, each Noteholder will be entitled to receive, and the LRT Trustee will deliver to each Noteholder, such Noteholder’s proportionate share of Common Shares issued in connection with the Trigger Event upon the conversion of the AT1 Notes into Common Shares upon such Trigger Event.

#### **Right Not to Deliver Common Shares pursuant to an NVCC Automatic Conversion**

The terms and conditions of the Notes will contain provisions that will provide the Bank with the right to have the LRT Trustee not: (a) deliver some or all, as applicable, of the Common Shares (held as Corresponding Trust Assets following a Recourse Event that is a Trigger Event) to any Ineligible Person (as defined herein) or any person who, by virtue of that delivery would become a Significant Shareholder (as defined herein) or (b) record in its securities register a transfer or issue of Common Shares (issued upon an NVCC Automatic Conversion) to any person whom the Bank or its transfer agent has reason to believe is an Ineligible Government Holder. In such circumstances, the Bank will hold, as agent for such persons, the Common Shares that would have otherwise been delivered to such persons and will attempt to facilitate the sale of such Common Shares to parties other than the Bank and its affiliates on behalf of such persons through a registered dealer to be retained by the Bank on behalf of such persons. Those sales (if any) may be made at any time and at any price. The Bank will not be subject to any liability for failure to sell such Common Shares on behalf of such persons or at any particular price on any particular day. The net proceeds received by the Bank from the sale of any such Common Shares will be divided among the applicable persons in proportion to the number of Common Shares that would otherwise have been delivered to them after deducting the costs of sale and any applicable withholding taxes.

#### **Mergers and Similar Events**

The Indenture and the Notes will provide that the Bank will be permitted to merge, amalgamate, consolidate or otherwise combine with another entity, or to sell or lease substantially all of its assets to another entity, as long as the following conditions are met:

- When the Bank merges, amalgamates, consolidates or otherwise is combined with another entity, or sells or leases substantially all of its assets, the surviving, resulting or acquiring entity is a duly organized entity and is legally responsible for and assumes, either by agreement, operation of law or otherwise, the Bank’s obligations under the Indenture and the Notes.
- The merger, amalgamation, consolidation, other combination, or sale or lease of assets, must not result in an Event of Default under the Indenture.

If the conditions described above are satisfied, the Bank will not need to obtain the consent of the Noteholders in order to merge, amalgamate, consolidate or otherwise combine with another entity or to sell or lease substantially all of its assets.

The Bank will not need to satisfy the conditions described above if it enters into other types of transactions, including:

- any transaction in which the Bank acquires the stock or assets of another entity but in which the Bank does not merge, amalgamate, consolidate or otherwise combine;
- any transaction that involves a change of control but in which the Bank does not merge, amalgamate, consolidate or otherwise combine; or
- any transaction in which the Bank sells less than substantially all of its assets.

It is possible that this type of transaction may result in a reduction in the Bank’s credit rating, may reduce its operating results or may impair its financial condition. Noteholders, however, will have no approval right with respect to any transaction of this type.

## Events of Default

The Indenture and the Notes will provide that an Event of Default in respect of the Notes will occur only if the Bank becomes bankrupt or insolvent or becomes subject to the provisions of the *Winding-up and Restructuring Act* (Canada), or if the Bank goes into liquidation, either voluntarily or under an order of a court of competent jurisdiction, passes a resolution for the winding-up, liquidation or dissolution of the Bank, is ordered wound-up or otherwise acknowledges its insolvency. None of a default in the performance of any covenant contained in the Indenture, or the failure to make a payment on the Notes when due (including any interest payment), or an NVCC Automatic Conversion upon the occurrence of a Trigger Event will constitute an Event of Default (although the occurrence of a Failed Principal Payment Date, a Failed Coupon Payment Date, non-payment in cash of the Redemption Price when due in connection with a redemption of the Notes, or a Trigger Event will constitute a Recourse Event).

*Remedies if an Event of Default Occurs.* The occurrence of an Event of Default is a Recourse Event for which the sole remedy of the Noteholders shall be the delivery of the Corresponding Trust Assets. In case of an Event of Default, the delivery of the Corresponding Trust Assets to the Noteholders will exhaust all remedies of such Noteholders in connection with such Event of Default. See “—Limited Recourse”.

## Modification and Waiver of the Notes

There are three types of changes the Bank can make to the Indenture and the Notes. However, any deletion, addition or variation of the terms and conditions of the Notes which might affect the classification afforded the Notes under the capital adequacy requirements pursuant to the Bank Act and the regulations and guidelines thereunder will require the prior written approval of the Superintendent.

*Changes Requiring Consent of All Noteholders.* First, there are changes that cannot be made to the Indenture or the Notes without the consent of each Noteholder. Following is a list of those types of changes:

- reduce the principal amount thereof or the principal amount that is payable upon acceleration of the Notes following an Event of Default;
- reduce the rate or change the time of payment of interest on the Notes in any manner not permitted pursuant to the terms of the Notes;
- change the coin or currency in which the Notes or interest thereon is payable;
- change the place of payment;
- impair a Noteholder’s right to sue for payment;
- reduce the percentage of Noteholders whose consent is needed to modify or amend the Indenture;
- reduce the percentage of Noteholders whose consent is needed to waive compliance with certain provisions of the Indenture or to waive certain defaults;
- modify the subordination provisions of the Indenture in a manner adverse to Noteholders; or
- modify any other aspect of the provisions dealing with modification and waiver of the Indenture.

*Changes Requiring a Majority Consent.* The second type of change to the Indenture and the Notes is the kind that requires the consent of Noteholders owning not less than a majority of the principal amount of the Notes. Most changes fall into this category, except for clarifying changes and certain other changes that would not adversely affect in any material respect Noteholders. The Bank may also obtain a waiver of a past default from the Noteholders owning a majority of the principal amount of the Notes. However, the Bank cannot obtain a waiver of any aspect of the Indenture or the Notes listed in the first category described above under “— Changes Requiring Consent of All Noteholders” unless the Bank obtains the individual consent of each Noteholder to the waiver.

*Changes Not Requiring Consent.* The third type of change to the Indenture and the Notes does not require consent by Noteholders. This type is limited to certain changes that would not adversely affect in any material respect the interests of the Noteholders. Following is a list of those types of changes:

- to evidence the succession of another person to the Bank and the assumption by any such successor of the Notes;
- to add to the covenants of the Bank for the benefit of the Noteholders;
- to add any additional Events of Default for the benefit of the Noteholders;
- to facilitate the issuance of Notes in bearer form;
- to secure the Notes;
- to provide for the issuance of additional Notes;
- to evidence the appointment of a successor trustee;
- to comply with the provisions of the depository or the Trustees relating to transfers and exchanges of Notes or beneficial interests in Notes; or
- to cure any ambiguity, to correct or supplement any provision in the Indenture which may be defective or inconsistent with any other provision in the Indenture, or to make any other provisions with respect to matters or questions arising under the Indenture, provided that such action shall not adversely affect the interests of the Noteholders in any material respect.

*Further Details Concerning Voting.* The Notes will not be considered outstanding, and therefore not eligible to vote or take other action under the Indenture, if the Bank has given a notice of redemption and deposited or set aside in trust for the Noteholders money for the payment or redemption of those Notes. Notes will also not be considered outstanding, and therefore not eligible to vote or take other action under the Indenture, if the Bank or one of its affiliates is the beneficial owner of the Notes.

The Bank will generally be entitled to set any day as a record date for the purpose of determining the holders of outstanding Notes that are entitled to vote or take other action under the Indenture. In certain limited circumstances, the Trustees will be entitled to set a record date for action by Noteholders. If the Trustees or the Bank sets a record date for a vote or other action to be taken by Noteholders, that vote or action may be taken only by persons who are holders of outstanding Notes on the record date.

Book-entry and other indirect Noteholders should consult their banks, brokers or other financial institutions for information on how approval may be granted or denied if the Bank seeks to change the Indenture or the Notes or requests a waiver.

### **Further Issues**

Subject to regulatory capital requirements applicable to the Bank, there is no limit on the amount of subordinated indebtedness we may issue. The Bank may from time to time, without notice to or the consent of the registered Noteholders, create and issue further Notes ranking *pari passu* with the Notes in all respects (other than issue date, issue price and, if applicable, the first interest payment date and the initial interest accrual date) and so that such further Notes may be consolidated and form a single series with the Notes and have the same terms as to status, redemption or otherwise as the Notes.

### **Governing Law**

The Notes and the Indenture will be governed by the laws of the State of New York, except that the subordination provisions in the Indenture and the Notes will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Limited Recourse Trust is formed under the laws of the Province of Manitoba.

## DESCRIPTION OF THE AT1 NOTES

*The following is a description of the terms of the US\$750,000,000 aggregate principal amount of 8.625% Fixed Rate Resetting Perpetual Subordinated Additional Tier 1 Capital Notes (Non-Viability Contingent Capital (NVCC)) (subordinated indebtedness) offered by this Prospectus Supplement (which are referred to in this Prospectus Supplement as the “AT1 Notes” and in the accompanying Prospectus as “subordinated debt securities”).*

*The AT1 Notes are to be issued under an indenture, dated as of October 12, 2017 (the “AT1 Base Indenture”), among the Bank, Computershare Trust Company, N.A., as United States trustee (the “U.S. AT1 Trustee”), and Computershare Trust Company of Canada, as Canadian trustee (the “Canadian AT1 Trustee” and, together with the U.S. AT1 Trustee, the “AT1 Indenture Trustees”), as amended and supplemented by a sixth supplemental indenture, to be dated as of October 24, 2022, among the Bank and the AT1 Indenture Trustees (the “AT1 Supplemental Indenture” and, together with the AT1 Base Indenture, the “AT1 Indenture”), establishing the terms of the AT1 Notes. You may request a copy of the AT1 Indenture from us as described under “Incorporation of Certain Information by Reference.” The following summaries of certain provisions of the AT1 Notes and the AT1 Indenture do not purport to be complete and are subject to and qualified in their entirety by reference to all of the provisions of the AT1 Notes and the AT1 Indenture, including the definitions of certain terms used in the AT1 Indenture. We urge you to read these documents because they, and not this description, define your rights as an AT1 Noteholder.*

*As used in this description, the terms the “Bank,” “we,” “us” and “our” refer only to The Bank of Nova Scotia and not to any of its subsidiaries. All capitalized terms used under this heading “Description of the AT1 Notes” that are not defined herein have the meanings ascribed thereto in the accompanying Prospectus.*

### General

The AT1 Notes will be the Bank’s direct unsecured obligations and, in the event of the Bank’s insolvency or winding-up, will rank (a) subordinate in right of payment to the prior payment in full of all Higher Ranked Indebtedness (as defined herein) and (b) in right of payment equally with and not prior to Deeply Subordinated Indebtedness (as defined herein) (other than Deeply Subordinated Indebtedness which by its terms ranks subordinate to the AT1 Notes) of the Bank, in each case, from time to time outstanding. The AT1 Notes will constitute subordinated indebtedness for the purposes of the Bank Act. In the event of the Bank’s insolvency or winding-up, the AT1 Notes will rank ahead of the Bank’s Common Shares and preferred shares.

**The AT1 Notes have no scheduled maturity or scheduled redemption date.**

**Interest will be due and payable on an AT1 Interest Payment Date (as defined below) only if it is not cancelled. By acquiring the AT1 Notes, the AT1 Noteholders acknowledge and agree that the Bank has the sole and absolute discretion at any time while the AT1 Notes are no longer held by the LRT Trustee and for any reason to cancel (in whole or in part), with notice to the AT1 Noteholders, any interest payment that would otherwise be payable on any AT1 Interest Payment Date.**

Upon the occurrence of a Trigger Event, each outstanding AT1 Note will automatically and immediately be converted, on a full and permanent basis, without the consent of the Noteholders, the AT1 Noteholders, the LRT Trustee or the AT1 Indenture Trustees or the Indenture Trustees, into that number of fully-paid Common Shares of the Bank determined by dividing (a) the product of the Multiplier and the Note Value, by (b) the Conversion Price (rounded down, if necessary, to the nearest whole number of Common Shares). See “— NVCC Automatic Conversion.”

The LRT Trustee, as trustee of the Limited Recourse Trust, will, by written notice, provide to the Bank a waiver (the “Waiver”) of its right to receive any and all interest on the AT1 Notes during the period from and including the date of the Waiver to and including the AT1 Interest Payment Date falling on or immediately prior to the date upon which the Waiver ceases to be in effect. The Waiver shall remain in effect until the earlier of (i) the date upon which the LRT Trustee, as trustee, provides, by written notice, a revocation of the Waiver and

(ii) the date upon which the LRT Trustee is no longer a legal and registered holder of AT1 Notes. See “— Waiver and Cancellation of Interest Payments.”

**The AT1 Notes will not constitute deposits that are insured under the *Canada Deposit Insurance Corporation Act* (Canada) or by the United States Federal Deposit Insurance Corporation. The AT1 Notes will not be subject to Bail-In Conversion (as defined herein).**

Notwithstanding any provision of the AT1 Indenture, the Bank may not, without the prior approval of the Superintendent, amend or vary terms of the AT1 Notes that would affect the recognition of the AT1 Notes as regulatory capital under capital adequacy requirements adopted by the Superintendent.

Payment of the principal and interest, if any, on the AT1 Notes will be made in U.S. dollars. The Bank will pay the principal and interest, if any, in immediately available funds to The Depository Trust Company, as depository, or its nominee as the registered owner of the global notes representing the book-entry AT1 Notes.

The AT1 Notes are not entitled to the benefits of any sinking fund.

The AT1 Notes will be issued in denominations of US\$1,000 and integral multiples of US\$1,000 in excess of such amount. The AT1 Notes will be represented by one or more fully registered global notes. Each global note will be deposited with, or on behalf of, The Depository Trust Company, as depository. If you become an AT1 Noteholder pursuant to a Recourse Event, you may elect to hold interests in the global notes through either the depository (in the United States), Euroclear Bank SA/NV, Clearstream Banking S.A., or indirectly through organizations that are participants in such systems. See “Legal Ownership and Book-Entry Issuance” in the accompanying Prospectus.

### **Status and Subordination**

The AT1 Notes will be the Bank’s direct unsecured obligations and, in the event of the Bank’s insolvency or winding-up, will rank (a) subordinate in right of payment to the prior payment in full of all Higher Ranked Indebtedness (as defined below) and (b) in right of payment equally with and not prior to Deeply Subordinated Indebtedness (as defined below) (other than Deeply Subordinated Indebtedness which by its terms ranks subordinate to the AT1 Notes) of the Bank, in each case, from time to time outstanding. The AT1 Notes will constitute subordinated indebtedness for the purposes of the Bank Act. In the event of the Bank’s insolvency or winding-up, the AT1 Notes will rank ahead of the Bank’s Common Shares and preferred shares.

For the purposes of the foregoing:

“*Deeply Subordinated Indebtedness*” means Indebtedness which by its terms ranks equally in right of payment with, or is subordinate to, the AT1 Notes. For greater clarity, Deeply Subordinated Indebtedness includes the Notes.

“*Higher Ranked Indebtedness*” at any time means all Indebtedness of the Bank then outstanding (including all Subordinated Indebtedness of the Bank then outstanding other than Deeply Subordinated Indebtedness).

“*Indebtedness*” at any time means all deposit liabilities of the Bank and all other liabilities and obligations of the Bank which in accordance with the accounting rules established for Canadian chartered banks issued under the authority of the Superintendent pursuant to the Bank Act or with IFRS as issued by the IASB, as the case may be, would be included in determining the total liabilities of the Bank at such time, other than liabilities for paid-up capital, contributed surplus, retained earnings and general reserves of the Bank.

“*Subordinated Indebtedness*” at any time means the Bank’s subordinated indebtedness within the meaning of the Bank Act.

If a Trigger Event occurs, the rights, terms and conditions of the AT1 Notes, including with respect to priority and subordination, will no longer be relevant as all the AT1 Notes will have been converted into Common Shares which will rank on parity with all other outstanding Common Shares.

The subordination provisions and the provisions relating to an NVCC Automatic Conversion of the AT1 Indenture will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

## **Maturity**

**The AT1 Notes have no scheduled maturity or scheduled redemption date.**

## **Interest**

### ***Initial Rate Period***

From and including October 24, 2022 to, but excluding, October 27, 2027 (the “*AT1 Initial Rate Period*”), the AT1 Notes will bear interest at the annual rate of 8.625%, and the Bank will pay interest, if any, on the AT1 Notes quarterly in arrears on January 27, April 27, July 27 and October 27 of each year, commencing on January 27, 2023 (each, an “*AT1 Interest Payment Date*”), subject to the Bank’s rights and the Waiver as described in, “— Waiver and Cancellation of Interest Payments.” Interest, if any, will be payable on each AT1 Interest Payment Date to the persons in whose name the AT1 Notes are registered at the close of business on the preceding January 12, April 12, July 12 or October 12, whether or not a business day (each, an “*AT1 Record Date*”). If any AT1 Interest Payment Date during the AT1 Initial Rate Period falls on a day that is not a business day, the Bank will postpone the making of such interest payment, if any, to the next succeeding business day (and no interest will be paid in respect of the delay). A “*business day*” means each Monday, Tuesday, Wednesday, Thursday or Friday that is not a day on which banking institutions are authorized or required by law or executive order to close in The City of New York, New York or Toronto, Ontario.

During the AT1 Initial Rate Period, interest on the AT1 Notes will accrue from and including October 24, 2022 to, but excluding, the first AT1 Interest Payment Date and then from and including each AT1 Interest Payment Date to which interest has been paid or duly provided for (whether or not such interest is paid or cancelled) to, but excluding, the next AT1 Interest Payment Date, any redemption date or October 27, 2027, as the case may be. During the AT1 Initial Rate Period, interest on the AT1 Notes, if any, will be computed on the basis of a 360-day year consisting of twelve 30-day months.

### ***Reset Rate Period***

From and including October 27, 2027 (such date and each fifth (5th) anniversary date thereafter, a “*AT1 Reset Date*”) to, but excluding, the next following AT1 Reset Date (each such period, a “*AT1 Reset Rate Period*”), the applicable per annum interest rate will be equal to the sum, as determined by the Calculation Agent, of (i) the then-prevailing U.S. Treasury Rate on the second business day immediately preceding each AT1 Reset Date (each such date, the “*AT1 Reset Rate Determination Date*”) and (ii) 4.389% (the “*AT1 Reset Spread*”). During each of the AT1 Reset Rate Periods, the Bank will pay interest, if any, on the AT1 Notes quarterly in arrears on each AT1 Interest Payment Date, commencing on January 27, 2028, subject to the Bank’s rights and the Waiver as described in, “— Waiver and Cancellation of Interest Payments.” Interest, if any, will be payable on each AT1 Interest Payment Date to the persons in whose name the AT1 Notes are registered on the relevant AT1 Record Date. If any AT1 Interest Payment Date during any AT1 Reset Rate Period falls on a day that is not a business day, the Bank will postpone the making of such interest payment, if any, to the next succeeding business day (and no interest will be paid in respect of the delay).

After the AT1 Initial Rate Period, interest on the AT1 Notes will accrue from and including October 27, 2027 to, but excluding, the next AT1 Interest Payment Date and then from and including each AT1 Interest Payment Date to which interest has been paid or duly provided for (whether or not such interest is paid or cancelled) to, but excluding, the next AT1 Interest Payment Date or any redemption date, as the case may be. During each AT1 Reset Rate Period, interest on the AT1 Notes, if any, will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Upon request from any AT1 Noteholder, the Calculation Agent will provide the interest rate in effect for the AT1 Notes during the current AT1 Reset Rate Period and, if it has been determined, the interest rate to be in effect for the next AT1 Reset Rate Period.

“*U.S. Treasury Rate*” means, with respect to any AT1 Reset Rate Period for which such rate applies, the rate per annum equal to:

- The average of the yields on actively traded U.S. treasury securities adjusted to constant maturity, for five-year maturities, for the five business days preceding the applicable AT1 Reset Rate Determination Date appearing under the caption “Treasury Constant Maturities” in the most recently published statistical release designated H.15 Daily Update or any successor publication which is published by the Federal Reserve Board, as determined by the Calculation Agent in its sole discretion.
- If no calculation is provided as described above, then the Calculation Agent, after consulting such sources as it deems comparable to any of the foregoing calculations, or any such source as it deems reasonable from which to estimate the five-year treasury rate, shall determine the U.S. Treasury Rate in its sole discretion, provided that if the Calculation Agent determines there is an industry-accepted successor five-year treasury rate, then the Calculation Agent shall use such successor rate. If the Calculation Agent has determined a substitute or successor base rate in accordance with the foregoing, the Calculation Agent in its sole discretion may determine the business day convention, the definition of business day and the AT1 Reset Rate Determination Date to be used and any other relevant methodology for calculating such substitute or successor base rate, including any adjustment factor needed to make such substitute or successor base rate comparable to the five-year treasury rate, in a manner that is consistent with industry accepted practices for such substitute or successor base rate.

The U.S. Treasury Rate will be determined by the Calculation Agent on the relevant AT1 Reset Rate Determination Date.

All percentages resulting from any calculation of the interest rate on the AT1 Notes during any AT1 Reset Rate Period will be rounded to the nearest one hundred-thousandth of a percentage point with five one millionths of a percentage point rounded upwards (e.g., 9.876545% (or .09876545) would be rounded to 9.87655% (or .0987655)), and all dollar amounts used in or resulting from such calculation on the AT1 Notes will be rounded to the nearest cent (with one half cent being rounded upward). Each calculation of the interest rate on the AT1 Notes by the Calculation Agent will (in absence of manifest error) be final and binding on the AT1 Noteholders and the Bank. The interest rate on the AT1 Notes will in no event be higher than the maximum rate permitted by New York law as the same may be modified by United States law of general application. In no event will the interest rate on the AT1 Notes be less than zero.

#### **Waiver and Cancellation of Interest Payments**

The LRT Trustee, as trustee of the Limited Recourse Trust, will, by written notice, provide to the Bank the Waiver of its right to receive any and all interest on the AT1 Notes during the period from and including the date of the Waiver to and including the AT1 Interest Payment Date falling on or immediately prior to the date upon which the Waiver ceases to be in effect. The Waiver shall remain in effect until the earlier of (i) the date upon which the LRT Trustee, as trustee, provides, by written notice, a revocation of the Waiver and (ii) the date upon which the LRT Trustee is no longer a legal and registered holder of AT1 Notes. On the date the Waiver is given, the Bank will cancel any interest payments that would otherwise be paid while the Waiver is in effect. Accordingly, for so long as the LRT Trustee has waived the right to receive interest, no interest is expected to be paid or payable on the AT1 Notes held in the Limited Recourse Trust on any AT1 Interest Payment Date on which the LRT Trustee is the holder of the AT1 Notes. The Waiver is applicable only to the LRT Trustee and not any subsequent AT1 Noteholder. The Bank will provide a covenant to the LRT Trustee that at any time while AT1 Notes are held by the LRT Trustee and the Waiver is no longer in effect, if the Bank pays cash interest on any of its other outstanding series of subordinated additional tier 1 capital notes (other than trust assets then held in respect of other series of limited recourse capital notes issued by the Bank), then the Bank will pay interest in full on the AT1 Notes on the next succeeding AT1 Interest Payment Date, provided that the AT1 Notes are held by the LRT Trustee on such AT1 Interest Payment Date.

In addition, interest will be due and payable on an AT1 Interest Payment Date only if it is not cancelled. The Bank has the sole and absolute discretion at any time while the AT1 Notes are no longer held by the LRT Trustee

and for any reason to cancel (in whole or in part), with notice to the AT1 Noteholders, any interest payment that would otherwise be payable on any AT1 Interest Payment Date. **As a result, if you become an AT1 Noteholder, you may not receive any interest on any AT1 Interest Payment Date or at any other times, and you will have no claims whatsoever in respect of that cancelled interest.**

Such cancelled interest shall not accumulate or be due and payable at any time thereafter and the AT1 Noteholders and the beneficial owners of the AT1 Notes shall not have any right to or claim against the Bank with respect to such interest amount. Any such cancellation shall not constitute an Event of Default (as defined in the AT1 Indenture) and the AT1 Noteholders shall have no rights thereto or to receive any additional interest or compensation as a result of such cancellation.

Except while the Limited Recourse Trust is the sole AT1 Noteholder and the Waiver is in effect, upon any election by the Bank to cancel (in whole or in part) any interest payment, the Bank shall give notice to the AT1 Noteholders through the depository and to the AT1 Indenture Trustees on or prior to the relevant AT1 Interest Payment Date, specifying the amount of the relevant interest cancellation and, accordingly, the amount (if any) of the interest that will be paid on such AT1 Interest Payment Date. Failure to provide such notice will not have any impact on the effectiveness of, or otherwise invalidate, any such cancellation of interest, or give AT1 Noteholders any rights as a result of such failure.

In the event that the Bank has not cancelled interest that is due and payable on any AT1 Interest Payment Date and has not punctually paid or duly provided for payment on such AT1 Interest Payment Date, such interest will be paid by the Bank on the next succeeding AT1 Interest Payment Date; provided that no additional interest or compensation shall accrue on such unpaid interest or be payable as a result of such delay in payment.

### **Restrictions on the Payment of Dividends and Retirement of Shares**

If on any AT1 Interest Payment Date, the Bank does not pay in full the applicable interest on the AT1 Notes that is due and payable on such AT1 Interest Payment Date (whether as a result of cancellation or otherwise) except where such interest has been waived by the LRT Trustee pursuant to the Waiver, the Bank will not (a) declare dividends on the Common Shares or the preferred shares of the Bank or (b) redeem, purchase or otherwise retire any Common Shares or preferred shares of the Bank (except pursuant to any purchase obligation, retraction privilege or mandatory redemption provisions attaching to any preferred shares of the Bank), in each case, until the month commencing immediately after the Bank makes an interest payment in full on the AT1 Notes.

### **Redemption**

#### ***Optional Redemption***

The Bank may, at its option, with the prior written approval of the Superintendent and on not less than 10 days and not more than 60 days' notice to each AT1 Noteholder, redeem the AT1 Notes, in whole or in part, on October 27, 2027 and each AT1 Interest Payment Date thereafter, at a redemption price equal to 100% of the principal amount thereof, plus any accrued and unpaid interest up to, but excluding, the date of redemption (except to the extent such unpaid interest was cancelled) (the "*AT1 Redemption Price*").

The Bank may also, at its option, with the prior written approval of the Superintendent and on not less than 10 days' and not more than 60 days' notice to each AT1 Noteholder, redeem the AT1 Notes, in whole but not in part, at any time following (i) when the AT1 Notes are held by the Limited Recourse Trust, a Regulatory Event Date, or (ii) when the AT1 Notes are no longer held by the Limited Recourse Trust, an AT1 Regulatory Event Date (as defined below), at the AT1 Redemption Price. Additionally, the Bank may, at its option, with the prior written approval of the Superintendent and on not less than 10 days' and not more than 60 days' notice to each AT1 Noteholder, redeem the AT1 Notes, in whole but not in part, at any time following (i) when the AT1 Notes are held by the Limited Recourse Trust, a Tax Event, or (ii) when the AT1 Notes are no longer held by the



Limited Recourse Trust, the occurrence of an AT1 Tax Event (as defined below) at the AT1 Redemption Price. For the purposes of the foregoing:

“*AT1 Regulatory Event Date*” means the date specified in a letter from the Superintendent to the Bank on which the AT1 Notes will no longer be recognized in full as eligible “Additional Tier 1 Capital” or will no longer be eligible to be included in full as risk-based “Total Capital” on a consolidated basis under the guidelines for capital adequacy requirements for banks as interpreted by the Superintendent.

“*AT1 Tax Event*” means the Bank has received an opinion of independent counsel of nationally recognized standing experienced in such matters (who may be counsel to the Bank) to the effect that:

- (i) as a result of, (A) any amendment to, clarification of, or change (including any announced prospective change) in, the laws, or any regulations thereunder, or any application or interpretation thereof, of Canada, or any political subdivision or taxing authority thereof or therein, affecting taxation; (B) any judicial decision, administrative pronouncement, published or private ruling, regulatory procedure, rule, notice, announcement, assessment or reassessment (including any notice or announcement of intent to adopt or issue such decision, pronouncement, ruling, procedure, rule, notice, announcement, assessment or reassessment) (collectively, an “*administrative action*”); or (C) any amendment to, clarification of, or change (including any announced prospective change) in, the official position with respect to or the interpretation of any administrative action or any interpretation or pronouncement that provides for a position with respect to such administrative action that differs from the theretofore generally accepted position, in each case (A), (B) or (C), by any legislative body, court, governmental authority or agency, regulatory body or taxing authority in Canada, irrespective of the manner in which such amendment, clarification, change, administrative action, interpretation or pronouncement is made known, which amendment, clarification, change or administrative action is effective or which interpretation, pronouncement or administrative action is announced on or after the date of the issue of the AT1 Notes, there is more than an insubstantial risk (assuming any proposed or announced amendment, clarification, change, interpretation, pronouncement or administrative action is effective and applicable) that the Bank is, or may be, subject to more than a de minimis amount of additional taxes, duties or other governmental charges or civil liabilities because the treatment of any of its items of income, taxable income, expense, taxable capital or taxable paid-up capital with respect to the AT1 Notes or the treatment of the AT1 Notes, as or as would be reflected in any tax return or form filed, to be filed, or otherwise could have been filed, will not be respected by a taxing authority, provided that this clause shall not apply in respect of the deductibility of interest on the AT1 Notes;
- (ii) as a result of any change (including any announced prospective change) in or amendment to the laws or treaties (or any rules, regulations, rulings or administrative pronouncements thereunder) of Canada (or the jurisdiction of organization of the successor to the Bank) or of any political subdivision or taxing authority thereof or therein affecting taxation, or any change in official position regarding the application or interpretation of such laws, treaties, rules, regulations, rulings or administrative pronouncements (including a holding by a court of competent jurisdiction), which change or amendment is announced or becomes effective on or after the date of this Prospectus Supplement (or, in the case of a successor to the Bank, after the date of succession), the Bank (or its successor) has or will become obligated to pay, on the next succeeding date on which interest is due, additional amounts with respect to the AT1 Notes as described under “—Payment of Additional Amounts” below (assuming, in the case of any announced prospective change, that such announced change will become effective as of the date specified in such announcement and in the form announced); or
- (iii) on or after the date of this Prospectus Supplement (or, in the case of a successor to the Bank, after the date of succession), any action has been taken by any taxing authority of, or any decision has been rendered by a court of competent jurisdiction in, Canada (or the jurisdiction of organization of the successor to the Bank) or any political subdivision or taxing authority thereof or therein, including any of those actions specified in the paragraph immediately above, whether or not such action was taken or decision was rendered with respect to the Bank (or its successor), or any change, amendment,

application or interpretation shall be officially proposed, which, in any such case, will result in the Bank (or its successor) becoming obligated to pay, on the next succeeding date on which interest is due, additional amounts with respect to the AT1 Notes as described under “—Payment of Additional Amounts” below (assuming, in the case of any announced prospective change, that such announced change will become effective as of the date specified in such announcement and in the form announced);

and, in any such case of clause (ii) or (iii), the Bank (or its successor), in its business judgment, determines that such obligation cannot be avoided by the use of reasonable measures available to it (or its successor). For the avoidance of doubt, reasonable measures do not include a change in the terms of the AT1 Notes or a substitution of the debtor.

### ***Automatic Redemption***

If at any time the Bank redeems the Notes, in whole or in part, in accordance with their terms (including in connection with an Optional Redemption) or purchases Notes, in whole or in part, by tender offer, open market purchases, negotiated transactions or otherwise, for cancellation, then the Bank shall, subject to the provisions of the Bank Act and the prior written approval of the Superintendent, redeem such aggregate principal amount of AT1 Notes that is equal to the aggregate principal amount of Notes redeemed or purchased for cancellation by the Bank, at the AT1 Redemption Price, without any action on the part of, or the consent of, the LRT Trustee or the AT1 Noteholders.

### ***Optional Redemption Upon Maturity of the Notes***

Concurrently with or upon the maturity of the Notes, subject to the provisions of the Bank Act and the prior written approval of the Superintendent, the Bank may, at the Bank’s option, redeem all but not less than all of the outstanding AT1 Notes at the AT1 Redemption Price.

The Bank will not redeem the AT1 Notes under any circumstances if such redemption would, directly or indirectly, result in the Bank’s breach of any provision of the *Bank Act* (Canada) (the “*Bank Act*”) or the OSFI Capital Adequacy Requirements (CAR) Guideline.

Any AT1 Notes redeemed by the Bank may not be reissued.

**The AT1 Notes are not subject to repayment at the option of the AT1 Noteholders.**

### **Purchase for Cancellation**

If the AT1 Notes are not held by the LRT Trustee in the Limited Recourse Trust, and subject to the prior written approval of the Superintendent, the Bank may, at any time that the AT1 Notes are not held by the Limited Recourse Trust, purchase for cancellation the AT1 Notes, in whole or in part, in the open market, by tender offer, open market purchases, negotiated transactions or otherwise in accordance with applicable securities laws and regulations, so long as such acquisition does not otherwise violate the terms of the AT1 Indenture, upon such terms and at such prices as the Bank may determine. Any AT1 Notes purchased or otherwise acquired by the Bank will be surrendered to the AT1 Indenture Trustees for cancellation and will not be re-issued or resold. Notwithstanding the foregoing, any subsidiary of the Bank may purchase AT1 Notes in the ordinary course of its business of dealing in securities. The Bank may not purchase any AT1 Notes for cancellation while such AT1 Notes are held by the LRT Trustee in the Limited Recourse Trust.

### **Covenants**

The Bank will not be restricted by the AT1 Indenture or the AT1 Notes from incurring, assuming or becoming liable for any type of debt or other obligations or purchasing or redeeming its capital stock except as set forth in “—Restrictions on the Payment of Dividends and Retirement of Shares.” Neither the AT1 Indenture nor the AT1 Notes will require the maintenance of any financial ratios or specified levels of net worth or liquidity, nor will they contain any covenants or other provisions that would limit the Bank or its subsidiaries’

rights to incur additional indebtedness, enter into any sale and leaseback transaction or grant liens on the Bank's or its subsidiaries' assets. Neither the AT1 Indenture nor the AT1 Notes will contain any provisions that would require the Bank to repurchase or redeem or otherwise modify the terms of the AT1 Notes upon a change in control or other events that may adversely affect the creditworthiness of the AT1 Notes, for example, a highly leveraged transaction.

Pursuant to the AT1 Indenture, the Bank will covenant with the AT1 Indenture Trustees for the benefit of the AT1 Indenture Trustees and the AT1 Noteholders that, so long as any AT1 Notes remain outstanding, the Bank (i) will duly and punctually pay all amounts as they become due in accordance with the terms of the AT1 Notes and, with respect to interest, subject to cancellation in accordance with the terms of the AT1 Notes and, if applicable, the Waiver; and (ii) will, subject to certain exceptions, maintain its corporate existence.

### **Payment of Additional Amounts**

Subject to the Bank's sole and absolute right to cancel interest payments at any time while the AT1 Notes are no longer held by the LRT Trustee, all payments made by or on behalf of the Bank under or with respect to the AT1 Notes will be made free and clear of and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and other liabilities related thereto) imposed or levied by or on behalf of the Government of Canada or any province or territory thereof or by any authority or agency therein or thereof having power to tax (hereafter "*Canadian taxes*"), unless the Bank is required to withhold or deduct Canadian taxes by law or by the interpretation or administration thereof. If the Bank is so required to withhold or deduct any amount for or on account of Canadian taxes from any payment made under or with respect to the AT1 Notes, we will pay to each AT1 Noteholder as additional interest such additional amounts ("*additional amounts*") as may be necessary so that the net amount received by each such AT1 Noteholder after such withholding or deduction (and after deducting any Canadian taxes on such additional amounts) will not be less than the amount such AT1 Noteholder would have received if such Canadian taxes had not been withheld or deducted, except as described below. However, no additional amounts will be payable with respect to a payment made to an AT1 Noteholder (such AT1 Noteholder, an "*excluded holder*") in respect of the beneficial owner thereof:

- with which the Bank does not deal at arm's length (for the purposes of the *Income Tax Act* (Canada)) at the time of the making of such payment or which is entitled to the payment in respect of a debt or other obligation to pay an amount to a person with which the Bank does not deal at arm's length (within the meaning of the *Income Tax Act* (Canada)) at the time of making such payment;
- which is subject to such Canadian taxes by reason of the AT1 Noteholder or beneficial owner being a resident, domiciliary or national of, engaged in business or maintaining a permanent establishment or other physical presence in or otherwise having some connection with Canada or any province or territory thereof otherwise than by the mere holding of the AT1 Notes or the receipt of payments thereunder;
- which is subject to such Canadian taxes by reason of the AT1 Noteholder's or beneficial owner's failure to comply with any certification, identification, documentation or other reporting requirements if compliance is required by law, regulation, administrative practice or an applicable treaty as a precondition to exemption from, or a reduction in the rate of deduction or withholding of, such Canadian taxes (provided that the Bank advises the AT1 Indenture Trustees and the AT1 Noteholders of any change in such requirements);
- with respect to any AT1 Note presented for payment more than 30 days after the later of (i) the date payment is due and (ii) the date on which funds are made available for payment, except to the extent that the AT1 Noteholder or beneficial owner thereof would have been entitled to such additional amounts on presenting same for payment on or before such thirtieth day;
- with respect to any estate, inheritance, gift, sale, transfer, personal property or similar tax or other governmental charge;

- which is a fiduciary or partnership or person other than the sole beneficial owner of such payment to the extent that the Canadian taxes would not have been imposed on such payment had such AT1 Noteholder been the sole beneficial owner of such AT1 Notes; or
- which is subject to deduction or withholding on account of any tax, assessment, or other governmental charge that is imposed or withheld by reason of the application of Sections 1471 through 1474 of the United States Internal Revenue Code of 1986 (or any successor provisions), any regulation, pronouncement, or agreement thereunder, official interpretations thereof, or any law implementing an intergovernmental approach thereto, whether currently in effect or as published and amended from time to time.

For the avoidance of doubt, the Bank will not have any obligation to pay any AT1 Noteholders additional amounts on any Canadian tax which is payable otherwise than by deduction or withholding from payments made under or in respect of the AT1 Notes.

The Bank will also:

- make such withholding or deduction; and
- remit the full amount deducted or withheld to the relevant authority in accordance with applicable law.

The Bank will furnish to the AT1 Noteholders, within 60 days after the date the payment of any Canadian taxes is due pursuant to applicable law, certified copies of tax receipts or other documents evidencing such payment by such person.

The Bank will indemnify and hold harmless each AT1 Noteholder (other than an excluded holder) from and against, and upon written request reimburse each such AT1 Noteholder for the amount (excluding any additional amounts that have previously been paid by the Bank with respect thereto) of:

- any Canadian taxes so levied or imposed and paid by such AT1 Noteholder as a result of payments made by or on behalf of the Bank under or with respect to the AT1 Notes;
- any liability (including penalties, interest and expenses) arising therefrom or with respect thereto; and
- any Canadian taxes imposed with respect to any reimbursement under the preceding two bullet points, but excluding any such Canadian taxes on such AT1 Noteholder's net income.

In any event, no additional amounts or indemnity amounts will be payable under the provisions described above in respect of any AT1 Note in excess of the additional amounts and the indemnity amounts which would be required if, at all relevant times, such AT1 Noteholder were a resident of the United States for purposes of and was entitled to the benefits of the Canada-U.S. Income Tax Convention (1980), as amended, including any protocols thereto. As a result of the limitation on the payment of additional amounts and indemnity amounts discussed in the preceding sentence, the additional amounts or indemnity amounts received by certain AT1 Noteholders may be less than the amount of Canadian taxes withheld or deducted or the amount of Canadian taxes (and related amounts) levied or imposed giving rise to the obligation to pay the indemnity amounts, as the case may be, and, accordingly, the net amount received by such AT1 Noteholders may be less than the amount such AT1 Noteholders would have received had there been no such withholding or deduction in respect of Canadian taxes or had such Canadian taxes (and related amounts) not been levied or imposed.

Wherever in the AT1 Indenture there is mentioned, in any context, the payment of principal, interest, if any, or any other amount payable under or with respect to an AT1 Note, such mention shall be deemed to include mention of the payment of additional amounts to the extent that, in such context, additional amounts are, were or would be payable in respect thereof.

In the event of the occurrence of any transaction or event resulting in a successor to the Bank, all references to Canada in the preceding paragraphs of this subsection shall be deemed to be references to the jurisdiction of organization of the successor entity.

Payments of principal and interest in respect of the AT1 Notes are subject in all cases to any withholding or deduction required pursuant to an agreement described in Section 1471(b) of the U.S. Internal Revenue Code of 1986 (the “Code”) or otherwise imposed pursuant to Sections 1471 through 1474 of the Code, any regulations or agreements thereunder, official interpretations thereof, or any law implementing an intergovernmental approach thereto.

### **NVCC Automatic Conversion**

Upon the occurrence of a Trigger Event, each outstanding AT1 Note will automatically and immediately be converted, on a full and permanent basis, without any action on the part of, or the consent of, the Noteholders, the AT1 Noteholders, the LRT Trustee, the AT1 Indenture Trustees or the Indenture Trustees, into that number of fully-paid Common Shares determined by dividing (a) the product of the Multiplier and the Note Value, by (b) the Conversion Price (rounded down, if necessary, to the nearest whole number of Common Shares) (an “*NVCC Automatic Conversion*”). For the purposes of the foregoing:

“*Conversion Price*” means, in respect of each AT1 Note, the greater of (i) the Floor Price, and (ii) the Current Market Price.

“*Current Market Price*” means the volume weighted average trading price of the Common Shares on the TSX or, if not then listed on the TSX, on another exchange or market chosen by the board of directors of the Bank on which the Common Shares are then traded, for the 10 consecutive trading days ending on the trading day immediately prior to the date on which the Trigger Event occurs (with the conversion occurring as of the start of business on the date on which the Trigger Event occurs), converted (if not denominated in U.S. dollars) into U.S. dollars at the Prevailing Rate on the day immediately prior to the date on which the Trigger Event occurs. If no such trading prices are available, “Current Market Price” shall be the Floor Price.

“*Floor Price*” means the U.S. dollar equivalent of CAD\$5.00 converted into U.S. dollars at the Prevailing Rate on the day immediately prior to the date on which the Trigger Event occurs, subject to adjustment in the event of (i) the issuance of Common Shares or securities exchangeable for or convertible into Common Shares to all holders of Common Shares as a stock dividend, (ii) the subdivision, redivision or change of the Common Shares into a greater number of Common Shares, or (iii) the reduction, combination or consolidation of the Common Shares into a lesser number of Common Shares, in which case the Floor Price shall be adjusted so that it will equal the price determined by multiplying the Floor Price in effect immediately prior to such effective date or record date of such event by a fraction:

- (i) the numerator of which shall be the total number of Common Shares outstanding on such effective date or record date before giving effect to such Common Share reorganization; and
- (ii) the denominator of which shall be the total number of Common Shares outstanding immediately after giving effect to such Common Share reorganization (including, in the case where the securities exchangeable for or convertible into Common Shares are distributed, the number, without duplication, of Common Shares that would have been outstanding had all such securities been exchanged for or converted into Common Shares on such effective date or record date).

The adjustment shall be calculated to the nearest one-tenth of one cent provided that no adjustment of the Floor Price shall be required unless such adjustment would require an increase or decrease of at least 1% of the Floor Price then in effect; provided, *however*, that in such case any adjustment that would otherwise be required to be made will be carried forward and will be made at the time of and together with the next subsequent adjustment which, together with any adjustments so carried forward, will amount to at least 1% of the Floor Price.

“*Independent Financial Adviser*” means an independent financial institution of international repute appointed by the Bank at its own expense.

“*Multiplier*” means 1.25.

“*Note Value*” means, in respect of each AT1 Note, US\$1,000 plus (i) when the AT1 Notes are held by the Limited Recourse Trust, any accrued and unpaid interest on each US\$1,000 principal amount of Notes up to, but excluding, the date of the Trigger Event, or (ii) when the AT1 Notes are no longer held by the Limited Recourse Trust, any accrued and unpaid interest on each AT1 Note up to, but excluding, the date of the Trigger Event (except to the extent such unpaid interest was cancelled).

“*Prevailing Rate*” means, in respect of any currencies on any day, the spot rate of exchange between the relevant currencies prevailing as at or about 12:00 noon (New York City time) on that date as appearing on or derived from the Relevant Page or, if such a rate cannot be determined at such time, the rate prevailing as at or about 12:00 noon (New York City time) on the immediately preceding day on which such rate can be so determined or, if such rate cannot be so determined by reference to the Relevant Page, the rate determined in such other manner as an Independent Financial Adviser shall consider in good faith appropriate.

“*Relevant Page*” means the relevant page on Bloomberg or such other information service provider that displays the relevant information.

“*Trigger Event*” has the meaning set out in the OSFI Guideline for Capital Adequacy Requirements (CAR), Chapter 2 — Definition of Capital, effective November 2018, as such term may be amended or superseded by OSFI from time to time, which term currently provides that each of the following constitutes a Trigger Event:

- the Superintendent publicly announces that the Bank has been advised, in writing, that the Superintendent is of the opinion that the Bank has ceased, or is about to cease, to be viable and that, after the conversion of the AT1 Notes and all other contingent instruments issued by the Bank and taking into account any other factors or circumstances that are considered relevant or appropriate, it is reasonably likely that the viability of the Bank will be restored or maintained; or
- a federal or provincial government in Canada publicly announces that the Bank has accepted or agreed to accept a capital injection, or equivalent support, from the federal government or any provincial government or political subdivision or agent or agency thereof without which the Bank would have been determined by the Superintendent to be non-viable.

In any case where the aggregate number of Common Shares to be issued to a AT1 Noteholder pursuant to an NVCC Automatic Conversion includes a fraction of a Common Share, such number of Common Shares to be issued to such AT1 Noteholder shall be rounded down to the nearest whole number of Common Shares and no cash payment shall be made in lieu of such fractional Common Share. Notwithstanding any other provision of the AT1 Notes, the conversion of the AT1 Notes shall not be an Event of Default and the only consequence of a Trigger Event under the provisions of the AT1 Indenture and the AT1 Notes will be the conversion of such AT1 Notes into Common Shares. Upon an NVCC Automatic Conversion, any accrued and unpaid interest (except to the extent such unpaid interest was cancelled), together with the principal amount of the AT1 Notes, will be deemed paid in full by the issuance of Common Shares upon such conversion and the AT1 Noteholders shall have no further rights and the Bank shall have no further obligations under the AT1 Indenture. If tax is required to be withheld from such payment of interest in the form of Common Shares, the number of Common Shares received by an AT1 Noteholder will reflect an amount net of any applicable withholding tax.

In the event of a capital reorganization, consolidation, merger or amalgamation of the Bank or comparable transaction affecting the Common Shares, the Bank will take necessary action to ensure that AT1 Noteholders receive, pursuant to an NVCC Automatic Conversion, the number of Common Shares or other securities that such AT1 Noteholders would have received if the NVCC Automatic Conversion occurred immediately prior to the record date for such event.

#### **Right Not to Deliver Common Shares pursuant to an NVCC Automatic Conversion**

The terms and conditions of the AT1 Notes will contain provisions that will provide the Bank with the right to have the LRT Trustee not: (a) deliver Common Shares (held as Corresponding Trust Assets following a Recourse Event that is a Trigger Event) to any Ineligible Person (as defined herein) or any person who, by virtue of by virtue of that delivery, would become a Significant Shareholder (as defined herein) or (b) record in its securities register a transfer or issue of Common Shares (issued upon an NVCC Automatic Conversion) to any

person whom the Bank or its transfer agent has reason to believe is an Ineligible Government Holder. In such circumstances, the Bank will hold, as agent for such persons, the Common Shares that would have otherwise been delivered to such persons and will attempt to facilitate the sale of such Common Shares to parties other than the Bank and its affiliates on behalf of such persons through a registered dealer to be retained by the Bank on behalf of such persons. Those sales (if any) may be made at any time and at any price. The Bank will not be subject to any liability for failure to sell such Common Shares on behalf of such persons or at any particular price on any particular day. The net proceeds received by the Bank from the sale of any such Common Shares will be divided among the applicable persons in proportion to the number of Common Shares that would otherwise have been delivered to them upon the NVCC Automatic Conversion after deducting the costs of sale and any applicable withholding taxes. For the purposes of the foregoing:

*“Ineligible Government Holder”* means any person who is the federal or a provincial government in Canada or agent or agency thereof, or the government of a foreign country or any political subdivision of a foreign country, or any agent or agency of a foreign government, in each case to the extent that the recording in the Bank’s securities register of a transfer or issue of any share of the Bank to such person would cause the Bank to contravene the Bank Act.

*“Ineligible Person”* means (i) any person whose address is in, or whom the Bank or either AT1 Trustee has reason to believe is a resident of, any jurisdiction outside of Canada or the United States of America to the extent that the issuance by the Bank of Common Shares or delivery of such shares by its transfer agent to that person, pursuant to an NVCC Automatic Conversion, would require the Bank to take any action to comply with securities, banking or analogous laws of that jurisdiction, and (ii) any person to the extent that the issuance by the Bank of Common Shares, or delivery of such shares by its transfer agent to that person, pursuant to an NVCC Automatic Conversion, would, at the time of the Trigger Event, cause the Bank to be in violation of any law to which the Bank is subject.

*“Significant Shareholder”* means any person who beneficially owns directly, or indirectly through entities controlled by such person or persons associated with or acting jointly or in concert with such person, a percentage of the total number of outstanding shares of a class of the Bank that is in excess of that permitted by the Bank Act.

### **Mergers and Similar Events**

The AT1 Indenture and the AT1 Notes will provide that the Bank will be permitted to merge, amalgamate, consolidate or otherwise combine with another entity, or to sell or lease substantially all of its assets to another entity, as long as the following conditions are met:

- When the Bank merges, amalgamates, consolidates or otherwise is combined with another entity, or sells or leases substantially all of its assets, the surviving, resulting or acquiring entity is a duly organized entity and is legally responsible for and assumes, either by agreement, operation of law or otherwise, the Bank’s obligations under the AT1 Indenture and the AT1 Notes.
- The merger, amalgamation, consolidation, other combination, or sale or lease of assets, must not result in an Event of Default under the AT1 Indenture.

If the conditions described above are satisfied, the Bank will not need to obtain the consent of the AT1 Noteholders in order to merge, amalgamate, consolidate or otherwise combine with another entity or to sell or lease substantially all of its assets.

The Bank will not need to satisfy the conditions described above if it enters into other types of transactions, including:

- any transaction in which the Bank acquires the stock or assets of another entity but in which the Bank does not merge, amalgamate, consolidate or otherwise combine;
- any transaction that involves a change of control but in which the Bank does not merge, amalgamate, consolidate or otherwise combine; or
- any transaction in which the Bank sells less than substantially all of its assets.

It is possible that this type of transaction may result in a reduction in the Bank's credit rating, may reduce its operating results or may impair its financial condition. AT1 Noteholders, however, will have no approval right with respect to any transaction of this type.

### **Events of Default**

The AT1 Indenture and the AT1 Notes will provide that an Event of Default in respect of the AT1 Notes will occur only if the Bank becomes bankrupt or insolvent or becomes subject to the provisions of the *Winding-up and Restructuring Act* (Canada), or if the Bank goes into liquidation, either voluntarily or under an order of a court of competent jurisdiction, passes a resolution for the winding-up, liquidation or dissolution of the Bank, is ordered wound-up or otherwise acknowledges its insolvency. None of a default in the performance of any covenant contained in the AT1 Indenture, or the failure to make a payment on the AT1 Notes when due (including any interest payment, whether as a result of cancellation or otherwise), or an NVCC Automatic Conversion upon the occurrence of a Trigger Event will constitute an Event of Default.

**There will be no right of acceleration in the case of a cancellation of any payment of interest on the AT1 Notes, in the case of a default in the performance of any covenant of the Bank in the AT1 Indenture or upon the occurrence of a Trigger Event.**

### **Modification and Waiver of the AT1 Notes**

There are three types of changes the Bank can make to the AT1 Indenture and the AT1 Notes. However, any deletion, addition or variation of the terms and conditions of the AT1 Notes which might affect the classification afforded the AT1 Notes under the capital adequacy requirements pursuant to the Bank Act and the regulations and guidelines thereunder will require the prior written approval of the Superintendent.

*Changes Requiring Consent of All AT1 Noteholders.* First, there are changes that cannot be made to the AT1 Indenture or the AT1 Notes without the consent of each AT1 Noteholder. Following is a list of those types of changes:

- reduce the principal amount thereof or the principal amount that is payable upon acceleration of the AT1 Notes following an Event of Default;
- reduce the rate or change the time of payment of interest on the AT1 Notes in any manner not permitted pursuant to the terms of the AT1 Notes;
- change the coin or currency in which the AT1 Notes or interest thereon is payable;
- change the place of payment;
- impair an AT1 Noteholder's right to sue for payment;
- reduce the percentage of AT1 Noteholders whose consent is needed to modify or amend the AT1 Indenture;
- reduce the percentage of AT1 Noteholders whose consent is needed to waive compliance with certain provisions of the AT1 Indenture or to waive certain defaults;
- modify the subordination provisions of the AT1 Indenture in a manner adverse to AT1 Noteholders; or
- modify any other aspect of the provisions dealing with modification and waiver of the AT1 Indenture.

*Changes Requiring a Majority Consent.* The second type of change to the AT1 Indenture and the AT1 Notes is the kind that requires the consent of AT1 Noteholders owning not less than a majority of the principal amount of the AT1 Notes. Most changes fall into this category, except for clarifying changes and certain other changes that would not adversely affect in any material respect AT1 Noteholders. The Bank may also obtain a waiver of a past default from the AT1 Noteholders owning a majority of the principal amount of the AT1 Notes. However, the Bank cannot obtain a waiver of any aspect of the AT1 Indenture or the AT1 Notes listed in the first category described above under “— Changes Requiring Consent of All AT1 Noteholders” unless the Bank obtains the individual consent of each AT1 Noteholder to the waiver.



*Changes Not Requiring Consent.* The third type of change to the AT1 Indenture and the AT1 Notes does not require consent by AT1 Noteholders. This type is limited to certain changes that would not adversely affect in any material respect the interests of the AT1 Noteholders. Following is a list of those types of changes:

- to evidence the succession of another person to the Bank and the assumption by any such successor of the AT1 Notes;
- to add to the covenants of the Bank for the benefit of the AT1 Noteholders;
- to add any additional Events of Default for the benefit of the AT1 Noteholders;
- to facilitate the issuance of AT1 Notes in bearer form;
- to secure the AT1 Notes;
- to provide for the issuance of additional AT1 Notes;
- to evidence the appointment of a successor trustee;
- to comply with the provisions of the depositary or the AT1 Indenture Trustees relating to transfers and exchanges of AT1 Notes or beneficial interests in AT1 Notes; or
- to cure any ambiguity, to correct or supplement any provision in the AT1 Indenture which may be defective or inconsistent with any other provision in the AT1 Indenture, or to make any other provisions with respect to matters or questions arising under the AT1 Indenture, provided that such action shall not adversely affect the interests of the AT1 Noteholders in any material respect.

*Further Details Concerning Voting.* The AT1 Notes will not be considered outstanding, and therefore not eligible to vote or take other action under the AT1 Indenture, if the Bank has given a notice of redemption and deposited or set aside in trust for the AT1 Noteholders money for the payment or redemption of those AT1 Notes. AT1 Notes will also not be considered outstanding, and therefore not eligible to vote or take other action under the AT1 Indenture, if the Bank or one of its affiliates is the beneficial owner of the AT1 Notes.

The Bank will generally be entitled to set any day as a record date for the purpose of determining the holders of outstanding AT1 Notes that are entitled to vote or take other action under the AT1 Indenture. In certain limited circumstances, the AT1 Indenture Trustees will be entitled to set a record date for action by AT1 Noteholders. If the AT1 Indenture Trustees or the Bank sets a record date for a vote or other action to be taken by AT1 Noteholders, that vote or action may be taken only by persons who are holders of outstanding AT1 Notes on the record date.

Book-entry and other indirect AT1 Noteholders should consult their banks, brokers or other financial institutions for information on how approval may be granted or denied if the Bank seeks to change the AT1 Indenture or the AT1 Notes or requests a waiver.

### **Further Issues**

Subject to regulatory capital requirements applicable to the Bank, there is no limit on the amount of subordinated indebtedness we may issue. The Bank may from time to time, without notice to or the consent of the registered Noteholders, create and issue further AT1 Notes ranking pari passu with the AT1 Notes in all respects (other than issue date, issue price and, if applicable, the first interest payment date and the initial interest accrual date) and so that such further AT1 Notes may be consolidated and form a single series with the AT1 Notes and have the same terms as to status, redemption or otherwise as the AT1 Notes.

### **Governing Law**

The AT1 Notes and the AT1 Indenture will be governed by the laws of the State of New York, except that the provisions relating to an NVCC Automatic Conversion and the subordination provisions in the AT1 Indenture and the AT1 Notes will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein. The Limited Recourse Trust is formed under the laws of the Province of Manitoba.

## CERTAIN UNITED STATES FEDERAL INCOME TAX CONSIDERATIONS

This section describes the material U.S. federal income tax consequences to a U.S. holder (as defined below) of owning the Notes and the AT1 Notes. It is the opinion of Shearman & Sterling LLP, counsel to the Bank. It applies to you only if you acquire your securities at their original issuance, and you hold your securities as capital assets for U.S. federal income tax purposes. This section does not apply to you if you are a member of a class of holders subject to special rules, such as:

- a dealer in securities or currencies,
- a trader in securities that elects to use a mark-to-market method of accounting for your securities holdings,
- a bank,
- a life insurance company,
- a tax-exempt organization,
- a person that actually or constructively owns 10% or more of our stock (by vote or value),
- a person that holds securities as part of a straddle or a hedging or conversion transaction, or
- a person whose functional currency for tax purposes is not the U.S. dollar.

This section is based on the U.S. Internal Revenue Code of 1986 (the “Code”), its legislative history, existing and proposed Treasury regulations promulgated under the Code, published rulings and court decisions, as well as the income tax treaty between the United States and Canada (the “Treaty”), all as currently in effect. These laws are subject to change, possibly on a retroactive basis.

If a partnership holds the Notes or the AT1 Notes, the U.S. federal income tax treatment of a partner will generally depend on the status of the partner and the tax treatment of the partnership. A partner in a partnership holding the Notes or the AT1 Notes should consult its tax advisor with regard to the U.S. federal income tax treatment of an investment in the Notes or the AT1 Notes. This summary does not address tax consequences applicable to holders of equity interests in a holder of the Notes or the AT1 Notes, U.S. federal estate, gift or alternative minimum tax considerations, or non-U.S., state or local tax considerations.

*Please consult your own tax advisor concerning the consequences of owning the Notes or the AT1 Notes in your particular circumstances under the Code and the laws of any other taxing jurisdiction.*

You are a U.S. holder if you are a beneficial owner of a Note or AT1 Note and you are:

- a citizen or individual resident of the United States,
- a domestic corporation,
- an estate whose income is subject to U.S. federal income tax regardless of its source, or
- a trust if (1) a U.S. court can exercise primary supervision over the trust’s administration and one or more U.S. persons are authorized to control all substantial decisions of the trust or (2) the trust has a valid election in effect under applicable Treasury regulations to be treated as a U.S. person.

### U.S. Federal Income Tax Treatment of The Notes

#### *Characterization of the Notes*

There is no authority that addresses the U.S. federal income tax treatment of an instrument such as the Notes. The remainder of this discussion assumes that the Notes will be treated as debt for U.S. federal income tax purposes, but the IRS could assert an alternative tax treatment of the Notes for U.S. federal income tax purposes. There can be no assurance that any alternative tax treatment, if successfully asserted by the IRS, would not have

adverse U.S. federal income tax consequences to you. However, treatment of the Notes as equity for U.S. federal income tax purposes, assuming payments on the Notes are not treated as “qualified dividend income” (as described in the accompanying Prospectus), should not result in inclusions of income with respect to the Notes that are materially different in amount than the U.S. federal income tax consequences if the Notes are treated as debt for U.S. federal income tax purposes.

If the Notes are characterized as equity for U.S. federal income tax purposes, the U.S. federal income tax consequences to you would be as described in “United States Taxation — Tax consequences to holders of our shares” in the accompanying Prospectus.

You are urged to consult your tax advisors regarding the characterization of the Notes as debt or equity for U.S. federal income tax purposes.

#### *Payments of Interest*

You will be taxed on any interest on your Notes as ordinary income at the time you receive the interest or when it accrues, depending on your method of accounting for tax purposes.

Interest that we pay on the Notes is treated as income from sources outside the United States subject to the rules regarding the U.S. foreign tax credit allowable to you. Under the U.S. foreign tax credit rules, interest will, depending on your circumstances, be treated as either “passive” or “general” income for purposes of computing the U.S. foreign tax credit.

#### *Purchase, Sale and Retirement of the Notes*

You will generally recognize capital gain or loss on the sale or retirement of a Note equal to the difference between the amount you realize on the sale or retirement and your tax basis in the Note. Your tax basis in a Note will generally be the cost of the Note. Capital gain of a noncorporate U.S. holder is generally taxed at preferential rates where the property is held for more than one year. The deduction for capital losses is subject to limitations.

You must treat any capital gain or loss that you recognize on the sale or retirement of a Note as U.S. source ordinary income or loss for purposes of the U.S. foreign tax credit rules.

#### **U.S. Federal Income Tax Treatment of a Recourse Event**

Upon a Recourse Event, the receipt of AT1 Notes generally should constitute a recapitalization, and you generally should not recognize gain or loss upon such Recourse Event. Under such treatment, your aggregate tax basis in any AT1 Notes received upon a Recourse Event generally will be equal to your aggregate tax basis in the Notes that were redeemed as a result of the Recourse Event. Your holding period in such AT1 Notes will include the holding period of the Notes that were redeemed. You are urged to consult your tax advisors regarding the U.S. federal income tax considerations of a Recourse Event.

#### **U.S. Federal Income Tax Treatment of the AT1 Notes**

##### *Characterization of the AT1 Notes*

There is no authority that addresses the U.S. federal income tax treatment of an instrument such as the AT1 Notes that is denominated as a subordinated debt instrument but that provides for an NVCC Automatic Conversion upon the occurrence of a Trigger Event. While the AT1 Notes should be treated as equity for U.S. federal income tax purposes, the IRS could assert an alternative tax treatment of the AT1 Notes for U.S. federal income tax purposes. There can be no assurance that any alternative tax treatment, if successfully asserted by the IRS, would not have adverse U.S. federal income tax consequences to you. However, treatment of the AT1 Notes as debt for U.S. federal income tax purposes generally should not result in inclusions of income with respect to the AT1 Notes that are materially different in amount than the U.S. federal income tax consequences if the AT1 Notes are treated as equity for U.S. federal income tax purposes, although, if the AT1 Notes were treated as debt for U.S. federal income tax purposes, noncorporate holders may not be entitled to treatment as “qualified dividend income” (as defined below).

If the AT1 Notes are characterized as equity for U.S. federal income tax purposes, the U.S. federal income tax consequences to a United States holder of the AT1 Notes would be as described in “United States Taxation — Tax consequences to holders of our shares” in the accompanying Prospectus.

The conversion of the AT1 Notes into Common Shares upon the occurrence of a Trigger Event should be treated as a recapitalization for U.S. federal income tax purposes. As a result, upon such conversion, a United States holder should not recognize any gain or loss, the tax basis in the Common Shares received should be equal to the tax basis in the AT1 Notes that were converted and the holding period of the Common Shares received should include the holding period of the AT1 Notes that were converted.

If the AT1 Notes are characterized as debt for U.S. federal income tax purposes, the U.S. federal income tax consequences to you would be as described in “United States Taxation — Tax consequences to holders of our debt securities” in the accompanying Prospectus.

You are urged to consult your tax advisors regarding the characterization of the AT1 Notes as debt or equity for U.S. federal income tax purposes. The remainder of this discussion assumes that the AT1 Notes will be treated as equity for U.S. federal income tax purposes.

### **Information with Respect to Foreign Financial Assets**

Certain holders that own “specified foreign financial assets” with an aggregate value in excess of US\$50,000 on the last day of the taxable year (or an aggregate value in excess of US\$75,000 at any time during the taxable year) will generally be required to file an information report with respect to such assets with their tax returns. “Specified foreign financial assets” include any financial accounts maintained by foreign financial institutions, as well as any of the following, but only if they are not held in accounts maintained by financial institutions: (i) stock or securities issued by non-U.S. persons, (ii) financial instruments and contracts held for investment that have non-U.S. issuers or counterparties, and (iii) interests in foreign entities. The Notes or AT1 Notes may be subject to these rules. If you are a U.S. holder that is an individual, you are urged to consult your tax advisors regarding the application of this legislation to your ownership of the Notes or AT1 Notes.

### **Backup Withholding and Information Reporting**

If you are a noncorporate U.S. holder, information reporting requirements, on IRS Form 1099, generally will apply to (i) dividend payments or payments of principal and interest on a Note or AT1 Note, as applicable, or other taxable distributions made to you within the United States, including payments made by wire transfer from outside the United States to an account you maintain in the United States, and (ii) the payment of the proceeds from the sale of a Note or AT1 Note effected at a U.S. office of a broker.

Additionally, backup withholding will apply to such payments if you are a noncorporate U.S. holder that (i) fails to provide an accurate taxpayer identification number, (ii) is notified by the IRS that you have failed to report all interest and dividends required to be shown on your federal income tax returns, or (iii) in certain circumstances, fails to comply with applicable certification requirements.

Payment of the proceeds from the sale of a Note or AT1 Note effected at a foreign office of a broker generally will not be subject to information reporting or backup withholding. However, a sale of a Note or AT1 Note that is effected at a foreign office of a broker will generally be subject to information reporting and backup withholding if (i) the proceeds are transferred to an account maintained by you in the United States, (ii) the payment of proceeds or the confirmation of the sale is mailed to you at a U.S. address, or (iii) the sale has some other specified connection with the United States as provided in U.S. Treasury regulations.

In addition, a sale of a Note or an AT1 Note effected at a foreign office of a broker will generally be subject to information reporting if the broker is:

- a U.S. person,
- a controlled foreign corporation for U.S. federal income tax purposes,

- a foreign person 50% or more of whose gross income is effectively connected with the conduct of a U.S. trade or business for a specified three-year period, or
- a foreign partnership, if at any time during its tax year (i) one or more of its partners are “U.S. persons,” as defined in Treasury regulations, who in the aggregate hold more than 50% of the income or capital interest in the partnership, or (ii) such foreign partnership is engaged in the conduct of a U.S. trade or business.

Backup withholding will apply if the sale is subject to information reporting and the broker has actual knowledge that you are a U.S. person. You generally may obtain a refund of any amounts withheld under the backup withholding rules that exceed your income tax liability by filing a refund claim with the IRS.

## CERTAIN CANADIAN FEDERAL INCOME TAX CONSIDERATIONS

The following is a summary of the principal Canadian federal income tax considerations generally applicable to a purchaser who acquires Notes, as beneficial owner, including entitlements to all payments thereunder, pursuant to this offering (and may acquire AT1 Notes, as beneficial owner, including entitlements to all payments thereunder, on a Recourse Event that is not a Trigger Event or Common Shares on a Recourse Event that is a Trigger Event) and who, at all relevant times, for purposes of the application of the *Income Tax Act* (Canada) and the Income Tax Regulations (collectively, the “*Tax Act*”) is not, and is not deemed to be, resident in Canada, deals at arm’s length with the Bank and with any transferee resident (or deemed to be resident) in Canada to whom the purchaser disposes of the Notes or AT1 Notes, is not affiliated with the Bank, holds Notes and will hold any AT1 Notes or Common Shares (as applicable) as capital property, does not use or hold the Notes and will not use or hold any AT1 Notes or Common Shares in a business carried on in Canada, is not a “specified shareholder” and is not a person who does not deal at arm’s-length with a “specified shareholder” (as defined for purposes of subsection 18(5) of the Tax Act) of the Bank, is not a “specified entity” as defined in legislative proposals to amend the Tax Act on April 29, 2022 with respect to “hybrid mismatch arrangements” (the “*Hybrid Mismatch Proposals*”) and does not receive any payment of interest on the Notes and will not receive any payment of interest on the AT1 Notes in respect of a debt or other obligation to pay an amount to a person with whom the Bank does not deal at arm’s-length (a “*Non-resident Holder*”). Special rules, which are not discussed in this summary, may apply to a Non-resident Holder that is an insurer that carries on an insurance business in Canada and elsewhere.

Generally, Notes, AT1 Notes and Common Shares will be capital property to a holder, provided the holder does not acquire Notes, AT1 Notes or Common Shares in the course of carrying on a business of trading or dealing in securities and does not acquire them as part of an adventure or concern in the nature of trade.

This summary is based upon the current provisions of the Tax Act, the *Canada-United States Tax Convention* and an understanding of the current administrative policies and assessing practices of the Canada Revenue Agency published in writing prior to the date hereof. This summary takes into account all specific proposals to amend the Tax Act publicly announced by or on behalf of the Minister of Finance (Canada) prior to the date hereof (the “*Tax Proposals*”) and assumes that all Tax Proposals will be enacted in the form proposed. However, no assurance can be given that the Tax Proposals will be enacted as proposed or at all. This summary does not otherwise take into account or anticipate any changes in law or in administrative policies or assessing practices, whether by legislative, regulatory, administrative or judicial action, nor does it take into account any other federal or any provincial, territorial or foreign tax considerations, which may differ from those discussed herein.

**This summary is of a general nature only and is not, and is not intended to be, legal or tax advice to any particular purchaser and no representation with respect to the income tax consequences to any particular purchaser is made. This summary is not exhaustive of all Canadian federal income tax considerations. Accordingly, prospective purchasers of Notes should consult their own tax advisors with respect to their particular circumstances.**

**Generally, for purposes of the Tax Act, all amounts relating to the acquisition, holding or disposition of the Notes, AT1 Notes and Common Shares must be determined in Canadian dollars in accordance with the Tax Act, including the amount of interest and dividends required to be included in the income of, and capital gains or capital losses realized by, a Non-resident Holder.**

### Notes

#### *Interest on and Disposition of the Notes*

Under the Tax Act, interest, principal and premium, if any, paid or credited, or deemed to be paid or credited to a Non-resident Holder on Notes will be exempt from Canadian non-resident withholding tax. No other taxes on income (including taxable capital gains) will be payable under the Tax Act in respect of the acquisition, holding, redemption or disposition of Notes, or the receipt of interest, premium or principal thereon by a Non-resident Holder solely as a consequence of such acquisition, holding, redemption or disposition of Notes.

### ***Recourse Events***

A Recourse Event will result in a disposition of Notes for purposes of the Tax Act. A Non-resident Holder will not generally be subject to tax under the Tax Act in respect of such disposition. The cost to a Non-resident Holder of AT1 Notes or Common Shares received on a Recourse Event will generally equal the fair market value of such AT1 Notes or Common Shares, as the case may be, on the date of acquisition and will be averaged with the adjusted cost base of all other AT1 Notes or Common Shares, as the case may be, held by such Non-resident Holder as capital property immediately before such time for the purpose of determining thereafter the adjusted cost base of each such AT1 Notes or Common Shares, as the case may be.

### **AT1 Notes**

#### ***Interest on and Disposition of the AT1 Notes***

Under the Tax Act, interest, principal and premium, if any, paid or credited, or deemed to be paid or credited to a Non-resident Holder on AT1 Notes will be exempt from Canadian non-resident withholding tax. No other taxes on income (including taxable capital gains) will be payable under the Tax Act in respect of the acquisition, holding, redemption or disposition of AT1 Notes, or the receipt of interest, premium or principal thereon by a Non-resident Holder solely as a consequence of such acquisition, holding, redemption or disposition of AT1 Notes.

#### ***NVCC Automatic Conversion of AT1 Notes***

An NVCC Automatic Conversion will result in a disposition of AT1 Notes for purposes of the Tax Act. A Non-resident Holder will not generally be subject to tax under the Tax Act in respect of such disposition. The cost of a Common Share received on such NVCC Automatic Conversion will generally equal the fair market value of such share on the date of acquisition and will be averaged with the adjusted cost base of all other Common Shares held by such Non-resident Holder as capital property immediately before such time for the purpose of determining thereafter the adjusted cost base of each such share.

### **Common Shares**

The Canadian federal income tax consequences to a Non-resident Holder of holding the Common Shares are described in “Canadian Taxation — Shares” of the accompanying Prospectus.

## UNDERWRITING (CONFLICTS OF INTEREST)

Under the terms and subject to the conditions contained in an underwriting agreement dated the date of this Prospectus Supplement (the “*underwriting agreement*”), the underwriters listed in the table below, for whom Scotia Capital (USA) Inc., Citigroup Global Markets Inc., Morgan Stanley & Co. LLC and SG Americas Securities, LLC are acting as representatives, have severally agreed to purchase, and we have agreed to sell to them, the principal amount of the Notes set forth opposite each underwriter’s name below.

<u>Underwriter</u>	<u>Principal Amount of Notes</u>
Scotia Capital (USA) Inc. . . . .	US\$375,000,000
Citigroup Global Markets Inc. . . . .	150,000,000
Morgan Stanley & Co. LLC . . . . .	150,000,000
SG Americas Securities, LLC . . . . .	75,000,000
Total . . . . .	US\$750,000,000

The Notes are being offered by the underwriters subject to approval of legal matters by counsel for the underwriters and other conditions. The underwriting agreement provides that the underwriters are obligated to purchase all of the Notes if any are purchased. The underwriting agreement also provides that if an underwriter defaults, the purchase commitments of the non-defaulting underwriters may also be increased or the offering may be terminated.

The underwriters propose initially to offer the Notes to the public at the public offering price on the cover page of this Prospectus Supplement and may offer the Notes to dealers at that price less a concession not in excess of 0.600% of the principal amount per Note. The underwriters may allow, and the dealers may reallocate, a discount not in excess of 0.300% of the principal amount of the Notes to other dealers. After the initial public offering of the Notes, the underwriters may change the public offering price and discount to broker-dealers.

The expenses of the offering of the Notes and the issuance of the AT1 Notes, not including the underwriting commissions, are estimated to be US\$1,500,000 and are payable by the Bank.

The Notes are a new issue of securities with no established trading market. The underwriters intend to make a secondary market for the Notes. However, they are not obligated to do so and may discontinue making a secondary market for the Notes at any time without notice. If a trading market develops, no assurance can be given as to how liquid that trading market for the Notes will be.

The Bank has agreed to indemnify each of the underwriters against liabilities under the Securities Act, or contribute to payments that the underwriters may be required to make in that respect.

In connection with this offering of the Notes, the underwriters may engage in stabilizing transactions, syndicate covering transactions and penalty bids in accordance with Regulation M under the Exchange Act. Stabilizing transactions permit bids to purchase the underlying security so long as the stabilizing bids do not exceed a specified maximum. Syndicate covering transactions involve purchases of the Notes in the open market after the distribution has been completed in order to cover syndicate short positions. A short position is more likely to be created if the underwriters are concerned that there may be downward pressure on the price of the Notes in the open market after pricing that could adversely affect investors who purchase in the offering. Penalty bids permit the underwriters to reclaim a selling concession from a broker-dealer when the Notes originally sold by such broker-dealer are purchased in a stabilizing or covering transaction to cover short positions.

These stabilizing transactions, syndicate covering transactions and penalty bids may have the effect of raising or maintaining the market price of the Notes or preventing or retarding a decline in the market price of the Notes. As a result, the price of the Notes may be higher than the price that might otherwise exist in the open market. These transactions, if commenced, may be discontinued at any time.



We expect that delivery of the Notes will be made against payment therefor on or about the business day following the date of pricing of the Notes (this settlement cycle being referred to as “T+6”). Under Rule 15c6-1 of the Exchange Act, trades in the secondary market generally are required to settle in two business days, unless the parties to any such trade expressly agree otherwise. Accordingly, purchasers who wish to trade their Notes on any date prior to two business days before delivery will be required, by virtue of the fact that the Notes initially will settle in T+6, to specify an alternate settlement cycle at the time of any such trade to prevent a failed settlement. Purchasers of Notes who wish to trade their Notes on any date prior to two business days before delivery should consult their own advisor.

We will use this Prospectus Supplement in the initial sale of the Notes. In addition, Scotia Capital (USA) Inc. may use this Prospectus Supplement in market-making transactions in any Notes after their initial sale.

The Bank does not expect to receive any proceeds from market-making transactions. The Bank does not expect that Scotia Capital (USA) Inc. or any other affiliate that engages in these transactions will pay any proceeds from its market-making resales to the Bank. Information about the trade and settlement dates, as well as the purchase price, for a market-making transaction will be provided to the purchaser in a separate confirmation of sale. Unless the Bank or an agent informs you in your confirmation of sale that your Notes are being purchased in its original offering and sale, you may assume that you are purchasing your Notes in a market-making transaction. In this Prospectus Supplement, the term “this offering” means the initial offering of Notes made in connection with their original issuance. This term does not refer to any subsequent resales of Notes in market-making transactions.

This Prospectus Supplement also relates to the offering of the AT1 Notes. The AT1 Notes to which this Prospectus Supplement also relates will be issued to the LRT Trustee. No underwriter has been involved in the offering of the AT1 Notes to which this Prospectus Supplement relates. The offering price of the AT1 Notes was established by us.

This Prospectus Supplement also relates to our Common Shares issuable pursuant to an NVCC Automatic Conversion upon a Trigger Event. The Bank intends to apply to list such Common Shares on the TSX and the NYSE in accordance with their respective rules and requirements.

### **Conflicts of Interest**

Because Scotia Capital (USA) Inc. is an affiliate of the Bank and is participating in the distribution of the Notes in this offering as an underwriter, Scotia Capital (USA) Inc. has a “conflict of interest” as defined in FINRA Rule 5121. Consequently, this offering is being conducted in compliance with FINRA Rule 5121. Scotia Capital (USA) Inc. is not permitted to sell Notes in this offering to accounts over which discretionary control is exercised without the prior specific written authority of the account holder.

Some of the underwriters and their affiliates have engaged in, and may in the future engage in, financial advisory, investment banking and other commercial dealings in the ordinary course of business with us or our affiliates. They have received, or may in the future receive, customary fees and commissions for these transactions.

In addition, in the ordinary course of their business activities, the underwriters and their affiliates may make or hold a broad array of investments and actively trade debt and equity securities (or related derivative securities) and financial instruments (including bank loans) for their own account and for the accounts of their customers. Such investments and securities activities may involve securities and/or instruments of ours or our affiliates. Certain of the underwriters or their affiliates that have a lending relationship with us routinely hedge their credit exposure to us consistent with their customary risk management policies. Typically, such underwriters and their affiliates would hedge such exposure by entering into transactions which consist of either the purchase of credit default swaps or the creation of short positions in our securities, including potentially the Notes offered hereby. Any such short positions could adversely affect future trading prices of the Notes offered hereby. The underwriters and their affiliates may also make investment recommendations and/or publish or express independent research views in respect of such securities or financial instruments and may hold, or recommend to clients that they acquire, long and/or short positions in such securities and instruments.

## **Offering Restrictions**

With the exception of sales from Scotia Capital (USA) Inc. to Scotia Capital Inc., each underwriter has represented and agreed that it has not offered or sold, directly or indirectly, and that it will not, directly or indirectly, offer, sell or deliver, any of the Notes in or from Canada or to any resident of Canada without the consent of the Bank. Each underwriter has also agreed that it will include a comparable provision in any sub-underwriting, banking group or selling group agreement or similar arrangement with respect to the Notes that may be entered into by such underwriter.

### ***European Economic Area***

This Prospectus Supplement has been prepared on the basis that any offer of Notes in any Member State of the EEA will be made pursuant to an exemption under the Prospectus Regulation from the requirement to publish a prospectus for offers of Notes.

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the EEA. For these purposes, a “retail investor” means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of MiFID II; or (ii) a customer within the meaning of the Insurance Distribution Directive, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II. Consequently, no key information document required by the PRIIPs Regulation for offering or selling the Notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

Each person in a Member State of the EEA who receives any communication in respect of, or who acquires any Notes under, the offers to the public contemplated in this Prospectus Supplement will be deemed to have represented, warranted and agreed to and with each underwriter and the Bank that it and any person on whose behalf it acquires Notes is not a retail investor (as defined above).

### ***United Kingdom***

This Prospectus Supplement has been prepared on the basis that any offer of securities in the UK will be made pursuant to an exemption under the UK Prospectus Regulation and the FSMA from the requirement to publish a prospectus for offers of securities.

The Notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the UK. For these purposes, a retail investor means a person who is one (or more) of (i) a retail client, as defined in point (8) of Article 2 of Regulation (EU) No 2017/565 as it forms part of domestic law by virtue of the EUWA; or (ii) a customer within the meaning of the provisions of the FSMA and any rules or regulations made under the FSMA to implement the Insurance Distribution Directive, where that customer would not qualify as a professional client, as defined in point (8) of Article 2(1) of Regulation (EU) No 600/2014 as it forms part of domestic law by virtue of the EUWA. Consequently, no key information document required by UK PRIIPs Regulation for offering or selling the Notes or otherwise making them available to retail investors in the UK has been prepared and therefore offering or selling the Notes or otherwise making them available to any retail investor in the UK may be unlawful under the UK PRIIPs Regulation.

Each person in the UK who receives any communication in respect of, or who acquires any Notes under, the offers to the public contemplated in this Prospectus Supplement will be deemed to have represented, warranted and agreed to and with each underwriter and the Bank that it and any person on whose behalf it acquires Notes is not a retail investor (as defined above).

This Prospectus Supplement and the accompanying Prospectus are for distribution only to persons who (i) have professional experience in matters relating to investments and qualifying as investment professionals falling within Article 19(5) of the Financial Promotion Order, (ii) are persons falling within Article 49(2)(a) to (d) (“high net worth companies, unincorporated associations, etc.”) of the Financial Promotion Order, (iii) are

outside the United Kingdom, or (iv) are persons to whom an invitation or inducement to engage in investment activity (within the meaning of section 21 of the FSMA in connection with the issue or sale of any securities may otherwise lawfully be communicated or caused to be communicated (all such persons together being referred to as “*relevant persons*”). This Prospectus Supplement and the accompanying Prospectus are directed only at relevant persons and must not be acted on or relied on by persons who are not relevant persons. Any investment or investment activity to which this Prospectus Supplement and the accompanying Prospectus relate is available only to relevant persons and will be engaged in only with relevant persons.

### ***Hong Kong***

The Notes may not be offered or sold in Hong Kong by means of any document other than (i) in circumstances which do not constitute an offer to the public within the meaning of the Companies Ordinance (Cap. 32, Laws of Hong Kong), or (ii) to “professional investors” within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder, or (iii) in other circumstances which do not result in the document being a “prospectus” within the meaning of the Companies Ordinance (Cap. 32, Laws of Hong Kong) and no advertisement, invitation or document relating to the Notes may be issued or may be in the possession of any person for the purpose of issue (in each case whether in Hong Kong or elsewhere), which is directed at, or the contents of which are likely to be accessed or read by, the public in Hong Kong (except if permitted to do so under the laws of Hong Kong) other than with respect to Notes which are or are intended to be disposed of only to persons outside Hong Kong or only to “professional investors” within the meaning of the Securities and Futures Ordinance (Cap. 571, Laws of Hong Kong) and any rules made thereunder.

### ***Japan***

The Notes offered in this Prospectus Supplement have not been and will not be registered under the Financial Instruments and Exchange Law of Japan (Law No. 25 of 1948, as amended) (the “*Financial Instruments and Exchange Law*”). The Notes have not been offered or sold and will not be offered or sold, directly or indirectly, in Japan or to or for the account of any resident of Japan (which term as used herein means any person resident in Japan, including any corporation or other entity organized under the laws of Japan), or to others for re-offering or resale, directly or indirectly, in Japan or to a resident of Japan, except (i) pursuant to an exemption from the registration requirements of the Financial Instruments and Exchange Law and (ii) in compliance with any other applicable requirements of Japanese law.

### ***Korea***

The Notes may not be offered, sold and delivered directly or indirectly, or offered or sold to any person for re-offering or resale, directly or indirectly, in Korea or to any resident of Korea except pursuant to the applicable laws and regulations of Korea, including the Financial Investment Services and Capital Markets Act and the Foreign Exchange Transaction Law and the decrees and regulations thereunder. The Notes have not been registered with the Financial Services Commission of Korea for public offering in Korea. Furthermore, the Notes may not be re-sold to Korean residents unless the purchaser of the Notes complies with all applicable regulatory requirements (including but not limited to government approval requirements under the Foreign Exchange Transaction Law and its subordinate decrees and regulations) in connection with their purchase.

### ***Singapore***

This Prospectus Supplement and the accompanying Prospectus have not been registered as a Prospectus with the Monetary Authority of Singapore. Accordingly, this Prospectus Supplement, the accompanying Prospectus, and any other document or material in connection with the offer or sale, or invitation for subscription or purchase, of the Notes may not be circulated or distributed, nor may the Notes be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore other than (i) to an institutional investor under Section 274 of the Securities and Futures Act, Chapter 289 of Singapore (the “*SFA*”), (ii) to a relevant person pursuant to Section 275(1), or any person pursuant to

Section 275(1A), and in accordance with the conditions specified in Section 275 of the SFA or (iii) otherwise pursuant to, and in accordance with the conditions of, any other applicable provision of the SFA, in each case subject to compliance with conditions set forth in the SFA.

Where the Notes are subscribed or purchased under Section 275 of the SFA by a relevant person which is (a) a corporation (which is not an accredited investor (as defined in Section 4A of the SFA)) the sole business of which is to hold investments and the entire share capital of which is owned by one or more individuals, each of whom is an accredited investor; or (b) a trust (where the trustee is not an accredited investor) whose sole purpose is to hold investments and each beneficiary of the trust is an individual who is an accredited investor, shares, notes and units of shares and notes of that corporation or the beneficiaries' rights and interest (howsoever described) in that trust shall not be transferred within six months after that corporation or that trust has acquired the Notes pursuant to an offer made under Section 275 of the SFA except: (1) to an institutional investor under Section 274 of the SFA or to a relevant person pursuant to Section 275(1A) of the SFA and in accordance with the conditions specified in Section 275 of the SFA; (2) where no consideration is or will be given for the transfer; or (3) where the transfer is by operation of law.

*Singapore Securities and Futures Act Product Classification* — Solely for the purposes of its obligations pursuant to sections 309B(1)(a) and 309B(1)(c) of the SFA, the Bank has determined, and hereby notifies all relevant persons (as defined in Section 309A of the SFA) that the Notes are prescribed capital markets products (as defined in the Securities and Futures (Capital Markets Products) Regulations 2018) and Excluded Investment Products (as defined in MAS Notice SFA 04-N12; Notice on the Sale of Investment Products and MAS Notice FAA-N16; Notice on Recommendations on Investment Products).

#### ***Switzerland***

The Notes may not be publicly offered, directly or indirectly, in Switzerland within the meaning of the Swiss Financial Services Act (as amended, the “FinSA”), no application has or will be made to admit the Notes to trading on any trading venue (exchange or multilateral trading facility) in Switzerland, neither this Prospectus Supplement nor any other offering or marketing material relating to the Notes constitutes a prospectus pursuant to the FinSA, and neither this Prospectus Supplement nor any other offering or marketing material relating to the Notes may be publicly distributed or otherwise made publicly available in Switzerland.

#### ***Taiwan***

The Notes have not been and will not be registered with the Financial Supervisory Commission of Taiwan pursuant to relevant securities laws and regulations and may not be sold, issued or offered within Taiwan through a public offering or in circumstances which constitutes an offer within the meaning of the Securities and Exchange Act of Taiwan that requires a registration or approval of the Financial Supervisory Commission of Taiwan. No person or entity in Taiwan has been authorized to offer, sell, give advice regarding or otherwise intermediate the offering and sale of the Notes in Taiwan.

#### ***Australia***

No prospectus or other disclosure document (as defined in the Corporations Act 2001 (the “Corporations Act”)) in relation to the Notes has been, or will be, lodged with the Australian Securities and Investments Commission (“ASIC”), the Australian Securities Exchange (the “ASX”), or any other stock exchange or trading facility licensed under the Corporations Act. Each Agent has represented and agreed that it:

(a) has not (directly or indirectly) offered, and will not offer for issue or sale and has not invited, and will not invite, applications for issue, or offers to purchase, the Notes in, to or from Australia (including an offer or invitation which is received by a person in Australia); and

(b) has not distributed or published, and will not distribute or publish, any offering circular or any other offering material or advertisement relating to the Notes in Australia,

unless:

(a) the aggregate consideration payable by each offeree or invitee is at least A\$500,000 (or its equivalent in other currencies, in either case, disregarding moneys lent by the offeror or its associates (as defined in the Corporations Act)) or the offer or invitation otherwise does not require disclosure to investors in accordance with Parts 6D.2 or 7.9 of the Corporations Act;

(b) such action complies with all applicable laws, regulations and directives;

(c) such action does not require any document to be lodged with ASIC or the ASX; and

(d) the offer or invitation is not made to a person who is a “retail client” within the meaning of section 761G of the Corporations Act.

### ***United Arab Emirates***

This Prospectus Supplement and the accompanying Prospectus is strictly private and confidential and is being issued to a limited number of investors who are exempt from the requirements of the Securities and Commodities Authority (“SCA”) Board of Directors’ Chairman Decision No.(3/R.M.) of 2017 on the Regulation of Promotion and Introduction (“PIRs”).

No Notes have been or are being publicly offered, sold, promoted or advertised in the United Arab Emirates (“UAE”) in accordance with the PIRs. The Notes will be sold outside the UAE and are not part of a public offering in the UAE. This Prospectus Supplement and the accompanying Prospectus and the relevant documents have not been reviewed, approved or licensed by the UAE Central Bank, SCA or any other relevant licensing authorities or governmental agencies in the UAE. This Prospectus Supplement is strictly private and confidential and has not been reviewed, deposited or registered with any licensing authority or governmental agency in the UAE.

This Prospectus Supplement and the accompanying Prospectus must not be shown, made available or provided to any person other than the original recipient and may not be reproduced or used for any other purpose. The Notes may not be offered or sold directly or indirectly to the public in the UAE. If you do not understand the contents of this Prospectus Supplement you should consult an authorised financial adviser.

Each Agent has represented and agreed that the Notes have not been and will not be offered, sold or publicly promoted or advertised by it in the UAE other than in compliance with any laws applicable in the UAE governing the issue, offering and sale of Notes.

### ***Dubai International Financial Centre***

This Prospectus Supplement and the accompanying Prospectus is for distribution only to persons who (a) are outside the Dubai International Financial Centre, (b) are persons who meet the Professional Client criteria set out in Rule 2.3.4 of the DFSA Conduct of Business Module or (c) are persons to whom an invitation or inducement in connection with the issue or sale of any securities may otherwise lawfully be communicated or caused to be communicated (all such persons together being referred to as “relevant persons” for the purposes of this paragraph). This Prospectus Supplement and the accompanying Prospectus is directed only at relevant persons and must not be acted on or relied on by persons who are not relevant persons. Any investment or investment activity to which this Prospectus Supplement and the accompanying Prospectus relates is available only to relevant persons and will be engaged in only with relevant persons.

This Prospectus Supplement and the accompanying Prospectus relate to an Exempt Offer in accordance with the Offered Securities Rules of the Dubai Financial Services Authority (“DFSA”). This Prospectus Supplement and the accompanying Prospectus is intended for distribution only to persons of a type specified in the Offered Securities Rules of the DFSA. It must not be delivered to, or relied on by, any other person. The DFSA has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The DFSA has not approved Prospectus Supplement and the accompanying Prospectus nor taken steps to verify the information set forth herein and has no responsibility for the Prospectus Supplement and the accompanying Prospectus. The

Notes to which this Prospectus Supplement and the accompanying Prospectus relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the Notes offered should conduct their own due diligence on the Notes. If you do not understand the contents of this Prospectus Supplement and the accompanying Prospectus you should consult an authorized financial advisor.

***Abu Dhabi Global Market***

This Prospectus Supplement and the accompanying Prospectus is for distribution only to persons who (a) are outside the Abu Dhabi Global Market, or (b) are Authorised Persons or Recognised Bodies (as such terms are defined in the Financial Services and Markets Regulations 2015 (“FSMR”)), or (c) are persons to whom an invitation or inducement to engage in investment activity (within the meaning of section 18 of FSMR) in connection with the issue or sale of any securities may otherwise lawfully be communicated or caused to be communicated (all such persons together being referred to as “relevant persons” for the purposes of this paragraph). This Prospectus Supplement and the accompanying Prospectus is directed only at relevant persons and must not be acted on or relied on by persons who are not relevant persons.

This offer document is an Exempt Offer in accordance with the Market Rules of the ADGM Financial Services Regulatory Authority. This Exempt Offer document is intended for distribution only to Persons of a type specified in the Market Rules. It must not be delivered to, or relied on by, any other Person. The ADGM Financial Services Regulatory Authority has no responsibility for reviewing or verifying any documents in connection with Exempt Offers. The ADGM Financial Services Regulatory Authority has not approved this Exempt Offer document nor taken steps to verify the information set out in it and has no responsibility for it. The Notes to which this Exempt Offer relates may be illiquid and/or subject to restrictions on their resale. Prospective purchasers of the Notes offered should conduct their own due diligence on the Securities. If you do not understand the contents of this Exempt Offer document you should consult an authorised financial advisor.

## **LEGAL MATTERS**

The validity of the Notes and the AT1 Notes offered hereby will be passed upon for us by Osler, Hoskin & Harcourt LLP, Toronto, Ontario, as to matters of Canadian law and applicable matters of Ontario law, and by Shearman & Sterling LLP, Toronto, Ontario, as to matters of New York law. The underwriters have been represented by Mayer Brown LLP, New York, New York as to matters of New York law.

## **EXPERTS**

KPMG LLP, Chartered Professional Accountants, Toronto, Ontario, is the external auditor who prepared the Report of Independent Registered Public Accounting Firm with respect to the consolidated statements of financial position of the Bank as at October 31, 2021 and 2020, the consolidated statements of income, comprehensive income, changes in equity and cash flows for each of the years in the three-year period ended October 31, 2021 and the related notes, and who prepared the Report of Independent Registered Public Accounting Firm on the Bank's internal control over financial reporting as of October 31, 2021. These financial statements and management's assessment of the effectiveness of the internal control over financial reporting as of October 31, 2021 have been so incorporated by reference herein in reliance on their reports given on their authority as experts in auditing and accounting. KPMG LLP is independent with respect to the Bank within the meaning of the relevant rules and related interpretations prescribed by the relevant professional bodies in Canada and any applicable legislation or regulation. Further, KPMG LLP is an independent accountant with respect to the Bank under all relevant U.S. professional and regulatory standards.





**Common Shares  
Preferred Shares  
Senior Debt Securities  
Subordinated Debt Securities**

*up to an aggregate initial offering price of US\$50,000,000,000  
or the equivalent thereof in other currencies.*

The Bank of Nova Scotia (the “Bank”) may from time to time offer and issue common shares, preferred shares, senior debt securities or subordinated debt securities. This prospectus provides information about the Bank and describes some of the general terms that may apply to these securities. The specific terms of any securities to be offered, and any other information relating to a specific offering, will be set forth in one or more supplements to this prospectus. We may offer and sell these securities to or through one or more underwriters, dealers or agents, or directly to purchasers, on a continuous or delayed basis. The names of the underwriters, dealers or agents will be set forth in supplements to this prospectus. You should read this prospectus and any applicable prospectus supplement carefully before you invest in any of the securities of the Bank.

The common shares of the Bank are listed on the New York Stock Exchange and the Toronto Stock Exchange under the symbol “BNS.”

**Investing in the securities described herein involves a number of risks. See “Risk Factors” on page 7 of this prospectus.**

**NEITHER THE SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES COMMISSION HAS APPROVED OR DISAPPROVED OF THESE SECURITIES OR PASSED UPON THE ADEQUACY OR ACCURACY OF THIS PROSPECTUS. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.**

Prospective investors should be aware that the acquisition of the securities described herein may have tax consequences both in the United States and in Canada. Such consequences for investors who are resident in, or citizens of, Canada or the United States may not be described fully herein or in any applicable prospectus supplement.

The enforcement by investors of civil liabilities under the United States federal securities laws may be affected adversely by the fact that the Bank is a Canadian bank, that many of its officers and directors, and some or all of the underwriters or experts named in this prospectus, may be residents of Canada and that all or a substantial portion of the assets of the Bank and such persons may be located outside the United States.

The securities will not constitute deposits that are insured under the *Canada Deposit Insurance Corporation Act* (the “CDIC Act”) or by the United States Federal Deposit Insurance Corporation or any other Canadian or U.S. government agency or instrumentality.

Securities that are bail-inable debt securities (as defined herein) are subject to conversion in whole or in part—by means of a transaction or series of transactions and in one or more steps—into common shares of the Bank or any of its affiliates under subsection 39.2(2.3) of the CDIC Act and to variation or extinguishment in consequence, and subject to the application of the laws of the Province of Ontario and the federal laws of Canada applicable therein in respect of the operation of the CDIC Act with respect to the bail-inable debt securities.

The Bank may use this prospectus in the initial sale of any securities. In addition, the Bank or any of its affiliates, may use this prospectus in a market-making or other transaction in any security after its initial sale. ***Unless the Bank or its agent informs the purchaser otherwise in the confirmation of sale, this prospectus is being used in a market-making transaction.***

**This prospectus is dated December 29, 2021.**

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## ABOUT THIS PROSPECTUS

### General

This document is called a prospectus and is part of a registration statement that we filed with the U.S. Securities and Exchange Commission (the “SEC”) using a “shelf” registration or continuous offering process. Under this shelf registration, we may from time to time sell any combination of the common shares, preferred shares, senior debt securities or subordinated debt securities described in this prospectus in one or more offerings, and which we collectively refer to herein as the “securities.” The registration statement containing this prospectus, including exhibits to the registration statement, provides additional information about us and the securities offered under this prospectus. The registration statement can be read at the SEC website mentioned under the heading “Where You Can Find More Information.”

This prospectus provides you with a general description of the securities we may offer. Each time we sell securities under this shelf registration statement we will provide one or more supplements to this prospectus containing specific information about the terms of the securities being offered. Any such supplements, which we refer to in this prospectus as the “applicable prospectus supplements,” may include a discussion of any additional risk factors or other special considerations that apply to those securities and may also add to, update or change the information in this prospectus. The applicable prospectus supplements relating to each series of securities will be attached to the front of this prospectus. If there is any inconsistency between the information in this prospectus and any applicable prospectus supplement, you should rely on the information in the most recent applicable prospectus supplement. We urge you to read carefully both this prospectus and any applicable prospectus supplement accompanying this prospectus, together with the information incorporated herein and in any applicable prospectus supplement by reference under the heading “Where You Can Find More Information,” before deciding whether to invest in any of the securities being offered.

We are responsible for the information provided in this prospectus and the applicable prospectus supplements, including the information incorporated by reference herein and therein. We have not authorized anyone to give you any other information or to make any representation different from or in addition to that contained or incorporated by reference in this prospectus and any applicable prospectus supplement. We take no responsibility for and can make no assurance as to the reliability of any other information that others may give you. If you are in a jurisdiction where offers to sell, or solicitations of offers to purchase, the securities offered by this prospectus are unlawful, or if you are a person to whom it is unlawful to direct these types of activities, then the offer presented in this prospectus does not extend to you. The information contained in this prospectus speaks only as of the date of this prospectus unless the information specifically indicates that another date applies. Therefore, you should not assume that the information contained in this prospectus or any applicable prospectus supplement is accurate on any date subsequent to the date set forth on the front of the document or that any information we have incorporated by reference is correct on any date subsequent to the date of the document incorporated by reference, even though this prospectus and any applicable prospectus supplement is delivered or securities are sold on a later date.

We may sell securities to underwriters who will sell the securities to the public on terms fixed at the time of sale. In addition, the securities may be sold by us directly or through dealers or agents designated from time to time, some of which may be our affiliates. If we, directly or through dealers or agents, solicit offers to purchase the securities, we reserve the sole right to accept and, together with the applicable dealers or agents, to reject, in whole or in part, any of those offers. An applicable prospectus supplement will contain the names of the underwriters, dealers or agents, if any, together with the terms of the offering, the compensation of those persons and the net proceeds to us. Any underwriters, dealers or agents participating in the offering may be deemed “underwriters” within the meaning of the Securities Act of 1933, as amended (the “Securities Act”).

In this prospectus, unless the context otherwise indicates, the “Bank,” “we,” “us” or “our” means The Bank of Nova Scotia and its subsidiaries.

## **PRESENTATION OF FINANCIAL INFORMATION**

The Bank prepares its consolidated financial statements in accordance with International Financial Reporting Standards (“IFRS”) as issued by the International Accounting Standards Board. Additionally, the Bank publishes its consolidated financial statements in Canadian dollars. In this prospectus and any applicable prospectus supplement, currency amounts are stated in Canadian dollars, unless specified otherwise. References to “\$,” “Cdn\$” and “dollars” are to Canadian dollars, and references to “US\$” are to U.S. dollars.

## CAUTION REGARDING FORWARD-LOOKING STATEMENTS

This prospectus and any applicable prospectus supplement, including documents incorporated by reference herein and therein, may contain forward-looking information or forward-looking statements (collectively, “forward-looking statements”). All such statements are made pursuant to the “safe harbor” provisions of the U.S. Private Securities Litigation Reform Act of 1995 and any applicable Canadian securities legislation. Forward-looking statements may include, but are not limited to, statements made in this prospectus, any applicable prospectus supplement, the “Management’s Discussion and Analysis” in the Bank’s Annual Report on Form 40-F for the fiscal year ended October 31, 2021 under the headings “Outlook”, as updated by the Bank’s quarterly reports and in other statements regarding the Bank’s objectives, strategies to achieve those objectives, the regulatory environment in which the Bank operates, anticipated financial results (including those in the area of risk management), and the outlook for the Bank’s businesses and for the Canadian, U.S. and global economies. Such statements are typically identified by words or phrases such as “believe,” “expect,” “foresee,” “forecast,” “anticipate,” “intend,” “estimate,” “plan,” “goal,” “project,” and similar expressions of future or conditional verbs, such as “will,” “may,” “should,” “would” and “could.”

By their very nature, forward-looking statements require us to make assumptions and are subject to inherent risks and uncertainties, both general and specific, which give rise to the possibility that our predictions, forecasts, projections, expectations or conclusions will not prove to be accurate, that our assumptions may not be correct and that our financial performance objectives, vision and strategic goals will not be achieved. We caution readers not to place undue reliance on forward-looking statements, as a number of important factors, many of which are beyond the Bank’s control and the effects of which can be difficult to predict, could cause actual results to differ materially from the estimates and intentions expressed in such forward-looking statements. These factors include, but are not limited to: general economic and market conditions in the countries in which the Bank operates; changes in currency and interest rates; increased funding costs and market volatility due to market illiquidity and competition for funding; the failure of third parties to comply with their obligations to the Bank and its affiliates; changes in monetary, fiscal, or economic policy and tax legislation and interpretation; changes in laws and regulations or in supervisory expectations or requirements, including capital, interest rate and liquidity requirements and guidance, and the effect of such changes on funding costs; changes to the Bank’s credit ratings; operational and infrastructure risks; reputational risks; the accuracy and completeness of information the Bank receives on customers and counterparties; the timely development and introduction of new products and services, and to the extent to which products or services previously sold by the Bank require the Bank to incur liabilities or absorb losses not contemplated at their origination; the Bank’s ability to execute its strategic plans, including the successful completion of acquisitions and dispositions and obtaining regulatory approvals; critical accounting estimates and the effect of changes to accounting standards, rules and interpretations on these estimates; global capital markets activity; the Bank’s ability to attract, develop and retain key executives; the evolution of various types of fraud or other criminal behaviour to which the Bank is exposed; disruptions in or attacks (including cyberattacks) on the Bank’s information technology, internet, network access, or other voice or data communications systems or services; increased competition in the geographic and business areas in which the Bank operates, including through internet and mobile banking and non-traditional competitors; exposure related to significant litigation and regulatory matters; climate change and other environmental and social risks, including sustainability that may arise, including from the Bank’s business activities; the occurrence of natural and unnatural catastrophic events and claims resulting from such events; the emergence of widespread health emergencies or pandemics, including the magnitude and duration of the COVID-19 pandemic and its impact on the global economy and financial market conditions and the Bank’s business, results of operations, financial condition and prospects; and the Bank’s anticipation of and success in managing the risks implied by the foregoing. A substantial amount of the Bank’s business involves making loans or otherwise committing resources to specific companies, industries or countries. Unforeseen events affecting such borrowers, industries or countries could have a material adverse effect on the Bank’s financial results, businesses, financial condition or liquidity. These and other factors may cause the Bank’s actual performance to differ materially from that contemplated by forward-looking statements. For more information, see the “Risk Management” section of the Bank’s Annual Report on Form 40-F for the fiscal year ended October 31, 2021, as may be updated by the Bank’s quarterly reports.

Material economic assumptions underlying the forward-looking statements contained in this prospectus are set out in the Bank's Annual Report on Form 40-F for the fiscal year ended October 31, 2021 under the headings "Outlook", as updated by quarterly reports. The "Outlook" sections are based on the Bank's views and the actual outcome is uncertain. Readers should consider the above-noted factors when reviewing these sections.

The preceding list of factors is not exhaustive of all possible risk factors and other factors could also adversely affect the Bank's results. When relying on forward-looking statements to make decisions with respect to the Bank and its securities, investors and others should carefully consider the preceding factors, other uncertainties and potential events. The forward-looking statements contained in this prospectus and any accompanying prospectus supplement are presented for the purpose of assisting the holders of the Bank's securities and financial analysts in understanding the Bank's financial position and results of operations as at and for the periods ended on the dates presented, as well as the Bank's financial performance objectives, vision and strategic goals, and may not be appropriate for other purposes. Except as required by law, the Bank does not undertake to update any forward-looking statements, whether written or oral, that may be made from time to time by or on its behalf.

## WHERE YOU CAN FIND MORE INFORMATION

In addition to the continuous disclosure obligations under the securities laws of the provinces and territories of Canada, the Bank is subject to the informational reporting requirements of the U.S. Securities Exchange Act of 1934, as amended (the “Exchange Act”), and in accordance therewith files or furnishes reports and other information with the SEC. Under the multijurisdictional disclosure system adopted by the United States and Canada, such reports and other information may be prepared in accordance with the disclosure requirements of the provincial and territorial securities regulatory authorities of Canada, which requirements are different from those of the United States. As a foreign private issuer, the Bank is exempt from the rules under the Exchange Act prescribing the furnishing and content of proxy statements, and the Bank’s officers and directors are exempt from the reporting and short swing profit recovery provisions contained in Section 16 of the Exchange Act. The Bank’s reports and other information filed with or furnished to the SEC are available, and reports and other information filed or furnished in the future with or to the SEC will be available, from the SEC’s Electronic Document Gathering and Retrieval System (<http://www.sec.gov>), which is commonly known by the acronym “EDGAR,” as well as from commercial document retrieval services. The Bank’s website address is [www.scotiabank.com](http://www.scotiabank.com). The information contained on, or accessible through, the website does not constitute a part of this prospectus. The Bank has included the website address in this prospectus solely as an inactive textual reference. The Bank’s common shares are listed on the New York Stock Exchange and the Toronto Stock Exchange.

The Bank has filed with the SEC, under the Securities Act, a registration statement on Form F-3 with respect to the securities and of which this prospectus forms a part. This prospectus does not contain all of the information that is set forth in the registration statement, certain parts of which are omitted in accordance with the rules and regulations of the SEC. Statements made in this prospectus as to the contents of any contract, agreement or other document referred to are not necessarily complete, and in each instance, reference is made to an exhibit, if applicable, for a more complete description of the matter, each such statement being qualified in its entirety by such reference. For further information with respect to the Bank and the securities, reference is made to the registration statement and the exhibits thereto, which are publicly available as described in the preceding paragraph.

## INCORPORATION OF CERTAIN INFORMATION BY REFERENCE

The SEC allows us to “incorporate by reference” into this prospectus the information in certain documents we file with it. This means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is considered to be a part of this prospectus and should be read with the same care. When we update the information contained in documents that have been incorporated by reference by making future filings with the SEC the information incorporated by reference in this prospectus is considered to be automatically updated and superseded. The modifying or superseding statement need not state that it has modified or superseded a prior statement or include any other information set forth in the document that it modifies or supersedes. In other words, in the case of a conflict or inconsistency between information contained in this prospectus and information incorporated by reference into this prospectus, you should rely on the information contained in the document that was filed later. The making of a modifying or superseding statement shall not be deemed an admission for any purposes that the modified or superseded statement, when made, constituted a misrepresentation, an untrue statement of a material fact or an omission to state a material fact that is required to be stated or that is necessary to make a statement not misleading in light of the circumstances in which it was made. Any statement so modified or superseded shall not be deemed, except as so modified or superseded to constitute a part of this prospectus.

We incorporate by reference the documents listed below and all documents which we subsequently file with the SEC (other than, in each case, documents or information deemed to have been furnished and not filed in accordance with the SEC rules) pursuant to Section 13(a), 13(c), 14, or 15(d) of the Exchange Act until the termination of the offering of the securities under this prospectus:

- Registration Statement on Form 40-FR12B filed on May 3, 2002;
- Report on Form 6-K filed on April 9, 2015 (Acc-no: 0001193125-15-124428);
- Annual Report on Form 40-F for the fiscal year ended October 31, 2021, filed on November 30, 2021;
- Reports on Form 6-K filed on November 30, 2021 (eight filings) (Acc-nos: 0001193125-21-343026; 0001193125-21-343049; 0001193125-21-343062; 0001193125-21-343137; 0001193125-21-343203; 0001279569-21-001715; 0001193125-21-343515; and 0001193125-21-343527);
- Report on Form 6-K filed on December 3, 2021 (Acc-no: 0001279569-21-001733); and
- Report on Form 6-K filed on December 6, 2021 (Acc-no: 0001279569-21-001745).

We may also incorporate any other Form 6-K that we furnish to the SEC on or after the date of this prospectus and prior to the termination of this offering if the Form 6-K filing specifically states that it is incorporated by reference into the registration statement of which this prospectus forms a part.

You may request a copy of these filings, other than an exhibit to a filing unless that exhibit is specifically incorporated by reference into that filing, at no cost, by writing to or telephoning us at the following address:

The Bank of Nova Scotia  
Scotia Plaza  
44 King Street West  
Toronto, Ontario  
Canada M5H 1H1  
Attention: Secretary  
Telephone: (416) 866-3672



## RISK FACTORS

Investment in these securities is subject to various risks including those risks inherent in conducting the business of a diversified financial institution. Before deciding whether to invest in any securities, you should consider carefully the risks set out herein and incorporated by reference in this prospectus (including subsequently filed documents incorporated by reference) and, if applicable, those described in the applicable prospectus supplements relating to a specific offering of securities. For a discussion of the recent COVID-19 pandemic and its impact on our business, see our Annual Report on Form 40-F for the year ended October 31, 2021 under the heading “Management’s Discussion and Analysis—Overview of Performance—Impact of COVID-19”. You should also consider the categories of risks identified and discussed in the Bank’s Annual Report on Form 40-F for the fiscal year ended October 31, 2021, as amended by the Bank’s quarterly reports, which are incorporated herein by reference, including credit risk, market risk, liquidity risk, operational risk, reputational risk, environmental risk, insurance risk and strategic risk, those summarized under “Caution Regarding Forward-Looking Statements” above, as well as the following:

### **It may be difficult to enforce U.S. civil liability claims against the Bank.**

The Bank is incorporated under the federal laws of Canada under the *Bank Act* (Canada) (the “Bank Act”). Substantially all of our directors and executive officers, and all or a substantial portion of our assets and the assets of such persons are located outside the United States. As a result, it may be difficult for you to effect service of process within the United States upon such persons, or to realize upon judgments rendered against us or such persons by the courts of the United States predicated upon, among other things, the civil liability provisions of the federal securities laws of the United States. In addition, it may be difficult for you to enforce, in original actions brought in courts in jurisdictions located outside the United States, among other things, civil liabilities predicated upon such securities laws. Based on the foregoing, it may not be possible for U.S. investors to enforce against us any judgments obtained in U.S. courts in civil and commercial matters, including judgments under the U.S. federal securities laws.

### **Holders may not be entitled to receive U.S. dollars in a winding-up.**

If you are entitled to any recovery with respect to your securities in any winding-up, you might not be entitled in those proceedings to a recovery in U.S. dollars and might be entitled only to a recovery in Canadian dollars.

### **Foreign Account Tax Compliance Act Withholding may affect payments on the securities.**

Sections 1471 through 1474 of the United States Internal Revenue Code of 1986, as amended, or similar law implementing an intergovernmental approach thereto (“FATCA”) may affect payments on the securities. See “United States Taxation—Foreign Account Tax Compliance Act Withholding” for a discussion of the effects of FATCA on the ownership of the securities.

### **Risks Related to the Bank’s Debt Securities**

*The Bank’s debt securities will be subject to risks, including non-payment in full or, in the case of bail-inable debt securities, conversion in whole or in part—by means of a transaction or series of transactions and in one or more steps—into common shares of the Bank or any of its affiliates, under Canadian bank resolution powers.*

Under Canadian bank resolution powers, the Canada Deposit Insurance Corporation (“CDIC”) may, in circumstances where the Bank has ceased, or is about to cease, to be viable, assume temporary control or ownership of the Bank and may be granted broad powers by one or more orders of the Governor in Council (Canada), each of which we refer to as an “Order,” including the power to sell or dispose of all or a part of the

assets of the Bank, and the power to carry out or cause the Bank to carry out a transaction or a series of transactions the purpose of which is to restructure the business of the Bank. As part of the Canadian bank resolution powers, certain provisions of, and regulations under, the Bank Act, the CDIC Act and certain other Canadian federal statutes pertaining to banks, which we refer to collectively as the “bail-in regime,” provide for a bank recapitalization regime for banks designated by the Superintendent of Financial Institutions (*Canada*) (the “Superintendent”) as domestic systemically important banks, which include the Bank. We refer to those domestic systemically important banks as “D-SIBs.” See “Description of the Debt Securities We May Offer—Canadian Bank Resolution Powers” for a description of the Canadian bank resolution powers, including the bail-in regime.

If the CDIC were to take action under the Canadian bank resolution powers with respect to the Bank, this could result in holders or beneficial owners of the debt securities being exposed to losses and, in the case of bail-inable debt securities, conversion of such bail-inable debt securities in whole or in part—by means of a transaction or series of transactions and in one or more steps—into common shares of the Bank or any of its affiliates, which we refer to as a “bail-in conversion.” Subject to certain exceptions discussed under “Description of the Debt Securities We May Offer—Canadian Bank Resolution Powers,” including for certain structured notes, senior debt securities issued on or after September 23, 2018, with an initial or amended term to maturity (including explicit or embedded options) greater than 400 days, that are unsecured or partially secured and that have been assigned a CUSIP or ISIN or similar identification number, are subject to bail-in conversion. Shares, other than common shares, and subordinated debt securities of the Bank are also subject to a bail-in conversion, unless they are non-viability contingent capital. We refer to senior debt securities that are subject to bail-in conversion as “bail-inable debt securities.”

Upon a bail-in conversion, if your bail-inable debt securities or any portion thereof are converted into common shares of the Bank or any of its affiliates, you will be obligated to accept those common shares, even if you do not at the time consider the common shares to be an appropriate investment for you, and despite any change in the Bank or any of its affiliates, or the fact that the common shares may be issued by an affiliate of the Bank, or any disruption to or lack of a market for the common shares or disruption to capital markets generally.

As a result, you should consider the risk that you may lose all of your investment, including the principal amount plus any accrued interest, if the CDIC were to take action under the Canadian bank resolution powers, including the bail-in regime, and that any remaining outstanding debt securities, or common shares of the Bank or any of its affiliates into which bail-inable debt securities are converted, may be of little value at the time of a bail-in conversion and thereafter. Such losses may not be offset by compensation, if any, received as part of the compensation process.

***The senior debt securities indenture will provide only limited acceleration and enforcement rights for bail-inable debt securities issued thereunder and includes other provisions intended to qualify bail-inable debt securities as TLAC.***

In connection with the bail-in regime, the Office of the Superintendent of Financial Institutions’ (“OSFI”) guideline (the “TLAC Guideline”) on Total Loss Absorbing Capacity (“TLAC”) applies to and establishes standards for D-SIBs, including the Bank. Under the TLAC Guideline, beginning November 1, 2021, the Bank is required to maintain a minimum capacity to absorb losses composed of unsecured external long-term debt that meets the prescribed criteria or regulatory capital instruments to support recapitalization in the event of a failure. Bail-inable debt securities and regulatory capital instruments that meet certain prescribed criteria, which are discussed under “Description of the Debt Securities We May Offer—Canadian Bank Resolution Powers,” will constitute TLAC of the Bank.

In order to comply with the TLAC Guideline, where the bail-inable debt securities contain events of default, the indenture under which bail-inable debt securities may be issued provides that, for any bail-inable debt securities, acceleration will only be permitted (i) if we default in the payment of the principal of, or interest on, any debt security of that series and, in each case, the default continues for a period of 30 business days, or (ii) certain bankruptcy, insolvency or reorganization events occur.

Holders or beneficial owners of bail-inable debt securities may only exercise, or direct the exercise of, the rights described under “Description of the Debt Securities We May Offer—Events of Default—Remedies If an Event of Default Occurs” where an Order has not been made under Canadian bank resolution powers pursuant to subsection 39.13(1) of the CDIC Act in respect of the Bank. Notwithstanding the exercise of those rights, bail-inable debt securities will continue to be subject to bail-in conversion until repaid in full.

The senior debt securities indenture also provides that holders or beneficial owners of bail-inable debt securities will not be entitled to exercise, or direct the exercise of, any set-off or netting rights with respect to bail-inable debt securities. In addition, where an amendment, modification or other variance that can be made to the senior debt securities indenture or the bail-inable debt securities as described under “Description of the Debt Securities We May Offer—Modification and Waiver of the Debt Securities” would affect the recognition of those bail-inable debt securities by the Superintendent as TLAC, that amendment, modification or variance will require the prior approval of the Superintendent.

***The circumstances surrounding a bail-in conversion are unpredictable and can be expected to have an adverse effect on the market price of bail-inable debt securities.***

The decision as to whether the Bank has ceased, or is about to cease, to be viable is a subjective determination by the Superintendent that is outside the control of the Bank. Upon a bail-in conversion, the interests of depositors and holders of liabilities and securities of the Bank that are not converted will effectively all rank in priority to the portion of bail-inable debt securities that are converted. In addition, except as provided for under the compensation process, the rights of holders in respect of the bail-inable debt securities that have been converted will rank in parity with other holders of common shares of the Bank (or, as applicable, common shares of the affiliate whose common shares are issued on the bail-in conversion).

There is no limitation on the type of Order that may be made where it has been determined that the Bank has ceased, or is about to cease, to be viable. As a result, you may be exposed to losses through the use of Canadian bank resolution powers other than bail-in conversion or in liquidation. See “—*The Bank’s debt securities will be subject to risks, including non-payment in full or, in the case of bail-inable debt securities, conversion in whole or in part—by means of a transaction or series of transactions and in one or more steps—into common shares of the Bank or any of its affiliates, under Canadian bank resolution powers.*” above.

Because of the uncertainty regarding when and whether an Order will be made and the type of Order that may be made, it will be difficult to predict when, if at all, bail-inable debt securities could be converted into common shares of the Bank or any of its affiliates, and there is not likely to be any advance notice of an Order. As a result of this uncertainty, trading behavior in respect of bail-inable debt securities may not follow trading behavior associated with convertible or exchangeable securities or, in circumstances where the Bank is trending towards ceasing to be viable, other senior debt securities. Any indication, whether real or perceived, that the Bank is trending towards ceasing to be viable can be expected to have an adverse effect on the market price of bail-inable debt securities, whether or not the Bank has ceased, or is about to cease, to be viable. Therefore, in those circumstances, holders of bail-inable debt securities may not be able to sell such bail-inable debt securities easily or at prices comparable to those of debt securities not subject to bail-in conversion.

***The number of common shares to be issued in connection with, and the number of common shares that will be outstanding following, a bail-in conversion are unknown. It is also unknown whether the shares to be issued will be those of the Bank or one of its affiliates.***

Under the bail-in regime, there is no fixed and pre-determined contractual conversion ratio for the conversion of bail-inable debt securities, or other shares or liabilities of the Bank that are subject to a bail-in conversion, into common shares of the Bank or any of its affiliates, nor are there specific requirements regarding whether liabilities subject to a bail-in conversion are converted into common shares of the Bank or any of its affiliates. CDIC determines the timing of the bail-in conversion, the portion of bail-inable shares and liabilities to

be converted and the terms and conditions of the conversion, subject to parameters set out in the bail-in regime, which are discussed under “Description of the Debt Securities We May Offer—Canadian Bank Resolution Powers.”

As a result, it is not possible to anticipate the potential number of common shares of the Bank or its affiliates that would be issued in respect of any bail-inable debt security converted in a bail-in conversion, the aggregate number of such common shares that will be outstanding following the bail-in conversion, the effect of dilution on the common shares received from other issuances under or in connection with an Order or related actions in respect of the Bank or its affiliates or the value of any common shares you may receive for your converted bail-inable debt securities, which could be significantly less than the principal amount of those bail-inable debt securities. It is also not possible to anticipate whether shares of the Bank or shares of its affiliates would be issued in a bail-in conversion. There may be an illiquid market, or no market at all, in the common shares issued upon a bail-in conversion and you may not be able to sell those common shares at a price equal to the value of your converted bail-inable debt securities and as a result may suffer significant losses that may not be offset by compensation, if any, received as part of the compensation process. Fluctuations in exchange rates may exacerbate those losses.

***By acquiring bail-inable debt securities, you are deemed to agree to be bound by a bail-in conversion and so will have no further rights in respect of your bail-inable debt securities to the extent those bail-inable debt securities are converted in a bail-in conversion, other than those provided under the bail-in regime. Any potential compensation to be provided through the compensation process under the CDIC Act is unknown.***

The CDIC Act provides for a compensation process for holders of bail-inable debt securities who, immediately prior to the making of an Order, directly or through an intermediary, own bail-inable debt securities that are converted in a bail-in conversion. Given the considerations involved in determining the amount of compensation, if any, that a holder that held bail-inable debt securities may be entitled to following an Order, it is not possible to anticipate what, if any, compensation would be payable in such circumstances. By acquiring an interest in any bail-inable debt security, you are deemed to agree to be bound by a bail-in conversion and so will have no further rights in respect of your bail-inable debt securities to the extent those bail-inable debt securities are converted in a bail-in conversion, other than those provided under the bail-in regime. See “Description of the Debt Securities We May Offer—Canadian Bank Resolution Powers” in this prospectus for a description of the compensation process under the CDIC Act.

***Following a bail-in conversion, holders or beneficial owners that held bail-inable debt securities that have been converted will no longer have rights against the Bank as creditors.***

Upon a bail-in conversion, the rights, terms and conditions of the portion of bail-inable debt securities that are converted, including with respect to priority and rights on liquidation, will no longer apply as the portion of converted bail-inable debt securities will have been converted on a full and permanent basis into common shares of the Bank or any of its affiliates ranking on parity with all other outstanding common shares of that entity. If a bail-in conversion occurs, then the interest of the depositors, other creditors and holders of liabilities of the Bank not bailed in as a result of the bail-in conversion will all rank in priority to those common shares.

Given the nature of the bail-in conversion, holders or beneficial owners of bail-inable debt securities that are converted will become holders or beneficial owners of common shares at a time when the Bank’s and potentially its affiliates’ financial condition has deteriorated. They may also become holders or beneficial owners of common shares at a time when the relevant entity may have received or may receive a capital injection or equivalent support with terms that may rank in priority to the common shares issued in a bail-in conversion with respect to payment of dividends, rights on liquidation or other terms although there is no certainty that any such capital injection or support will be forthcoming.

***We may redeem bail-inable debt securities after the occurrence of a TLAC Disqualification Event.***

If a TLAC Disqualification Event (as defined herein) is specified in the applicable prospectus supplement, we may, at our option, with the prior approval of the Superintendent, redeem all but not less than all of the particular bail-inable debt securities prior to their stated maturity date after the occurrence of the TLAC Disqualification Event, at the time or times and at the redemption price or prices specified in that prospectus supplement, together with unpaid interest accrued thereon to, but excluding, the date fixed for redemption. If we redeem bail-inable debt securities, you may not be able to reinvest the redemption proceeds in securities offering a comparable anticipated rate of return. Additionally, although the terms of the bail-inable debt securities are anticipated to be established to satisfy the TLAC criteria within the meaning of the TLAC Guideline to which the Bank is subject, it is possible that any bail-inable debt securities may not satisfy the criteria in future rulemakings or interpretations.

***Although the indentures and our debt securities are primarily governed by New York law, certain provisions are governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.***

The indentures and our debt securities will be governed by, and construed in accordance with, the laws of the State of New York, except for the provisions relating to the bail-in acknowledgment of holders and beneficial owners of bail-inable debt securities in the senior debt securities indenture, the subordination provisions in the subordinated debt securities indentures, the non-viability contingent capital (“NVCC”) provisions in the NVCC subordinated debt securities indenture (or in the subordinated debt securities indenture pursuant to any amendment or supplement thereto) and certain provisions relating to the status of the senior debt securities, which will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Generally, in an action commenced in a Canadian court for the enforcement of an indenture or any debt securities, a plaintiff will be required to prove those non-Canadian laws as a matter of fact by the evidence of persons who are experts in those laws.

***Risks Relating to Debt Securities Denominated or Payable in or Linked to a Non-U.S. Dollar Currency***

If you intend to invest in a non-U.S. dollar debt security—e.g., a debt security whose principal and/or interest is payable in a currency other than U.S. dollars or that may be settled by delivery of or reference to a non-U.S. dollar currency or property denominated in or otherwise linked to a non-U.S. dollar currency—you should consult your own financial and legal advisors as to the currency risks entailed by your investment. Debt securities of this kind may not be an appropriate investment for investors who are unsophisticated with respect to non-U.S. dollar currency transactions. The information in this prospectus is directed primarily at investors who are U.S. residents. Investors who are not U.S. residents should consult their own financial and legal advisors about currency-related risks particular to their investments.

***An investment in a non-U.S. dollar debt security involves currency-related risks.***

An investment in a non-U.S. dollar debt security entails significant risks that are not associated with a similar investment in a debt security that is payable solely in U.S. dollars and where settlement value is not otherwise based on a non-U.S. dollar currency. These risks include the possibility of significant changes in rates of exchange between the U.S. dollar and the various non-U.S. dollar currencies or composite currencies and the possibility of the imposition or modification of foreign exchange controls or other conditions by either the United States or non-U.S. governments. These risks generally depend on factors over which the Bank has no control, such as economic and political events and the supply of and demand for the relevant currencies in the global markets.

***Changes in currency exchange rates can be volatile and unpredictable.***

Rates of exchange between the U.S. dollar and many other currencies have been highly volatile, and this volatility may continue and perhaps spread to other currencies in the future. Fluctuations in currency exchange

rates could adversely affect an investment in a debt security denominated in, or where value is otherwise linked to, a specified currency other than U.S. dollars. Depreciation of the specified currency against the U.S. dollar could result in a decrease in the U.S. dollar-equivalent value of payments on the debt security, including the principal payable at maturity. That in turn could cause the market value of the debt security to fall. Depreciation of the specified currency against the U.S. dollar could result in a loss to the investor on a U.S. dollar basis.

In courts outside of New York, investors may not be able to obtain judgment in a specified currency other than U.S. dollars. For example, a judgment for money in an action based on a non-U.S. dollar debt security in many other U.S. federal or state courts ordinarily would be enforced in the United States only in U.S. dollars. The date used to determine the rate of conversion of the currency in which any particular debt security is denominated into U.S. dollars will depend upon various factors, including which court renders the judgment.

***Government policy can adversely affect foreign currency exchange rates and an investment in a non-U.S. dollar debt security.***

Foreign currency exchange rates can either float or be fixed by sovereign governments. From time to time, governments use a variety of techniques, such as intervention by a country's central bank or imposition of regulatory controls or taxes, to affect the exchange rate of their currencies. Governments may also issue a new currency to replace an existing currency or alter the exchange rate or exchange characteristics by devaluation or revaluation of a currency. Thus, a special risk in purchasing non-U.S. dollar debt securities is that their yields or payouts could be significantly and unpredictably affected by governmental actions. Even in the absence of governmental action directly affecting currency exchange rates, political or economic developments in the country issuing the specified currency for a non-U.S. dollar debt security or elsewhere could lead to significant and sudden changes in the exchange rate between the U.S. dollar and the specified currency. These changes could affect the value of the debt security as participants in the global currency markets move to buy or sell the specified currency or U.S. dollars in reaction to these developments.

Governments have imposed from time to time and may in the future impose exchange controls or other conditions, including taxes, with respect to the exchange or transfer of a specified currency that could affect exchange rates as well as the availability of a specified currency for a debt security at its maturity or on any other payment date. In addition, the ability of a holder to move currency freely out of the country in which payment in the currency is received or to convert the currency at a freely determined market rate could be limited by governmental actions.

***Information about exchange rates will not be indicative of future performance.***

If the Bank issues a non-U.S. dollar debt security, it may include in the relevant pricing supplement a currency supplement that provides information about historical exchange rates for the relevant non-U.S. dollar currency or currencies. Any information about exchange rates that the Bank may provide will be furnished as a matter of information only, and you should not regard the information as indicative of the range of, or trends in, fluctuations in currency exchange rates that may occur in the future. That rate will likely differ from the exchange rate used under the terms that apply to a particular debt security.

## THE BANK OF NOVA SCOTIA

The Bank is a Canadian chartered bank under the Bank Act. The Bank Act is the charter of the Bank and governs its operations.

The Bank is Canada's international bank and a leading financial services provider in the Americas. Through its team of more than 89,000 employees and assets of \$1.185 billion (as at October 31, 2021), the Bank and its affiliates offer a broad range of advice, products and services, including personal and commercial banking, wealth management and private banking, corporate and investment banking, and capital markets to its 25 million customers. The Bank's common shares trade on the Toronto Stock Exchange (TSX:BNS) and New York Stock Exchange (NYSE: BNS).

A list of the principal subsidiaries directly or indirectly owned or controlled by the Bank as at October 31, 2021 is incorporated by reference from the Bank's Annual Report on Form 40-F for the fiscal year ended October 31, 2021.

The registered and head office of the Bank is located at 1709 Hollis Street, Halifax, Nova Scotia, B3J 1W1 and its executive offices are located at Scotia Plaza, 44 King Street West, Toronto, Ontario, M5H 1H1 and its telephone number is (416) 866-3672.

### **Certain Matters Relating to the Bank's Board of Directors**

Under the Bank Act, the Bank's board of directors must have at least seven members and the Bank's board of directors may establish by by-law a minimum and maximum number of directors. Under the Bank's by-laws, the minimum number of directors is the minimum required by the Bank Act and the maximum number of directors is 35. The Bank's by-laws also provide that the number of directors to be elected at any annual meeting of shareholders of the Bank will be fixed by the board of directors before the meeting. The Bank currently has 15 directors. The Bank Act requires that no more than two-thirds of the directors may be affiliated with the Bank, and no more than 15% of the directors may be employees of the Bank or a subsidiary of the Bank, except that up to four employees may be directors if they constitute not more than 50% of the directors. Under the Bank Act, a majority of the directors of the Bank must be resident Canadians and, except in limited circumstances, directors may not transact business at a meeting of directors or a committee of directors at which a majority of the directors present are not resident Canadians. Under the Bank Act, the directors may not transact business at a meeting of the directors unless at least one of the directors who is not affiliated with the Bank is present unless an unaffiliated director subsequently approves the business transacted at the meeting. Subject to the Bank Act, a quorum for the transaction of business at any meeting of the board of directors shall consist of a majority of directors. The Bank Act also requires the directors of a bank to appoint from their members a chief executive officer who must ordinarily be resident in Canada.

Under the Bank Act, any director or the entire board of directors may be removed, with or without cause, with the approval of a majority of the votes cast at a special meeting of shareholders. A vacancy created by such removal may be filled at the meeting or by a quorum of the directors. In accordance with the Bank's governance policy, directors appointed or elected before December 3, 2010 must retire on the earlier of (1) April 1, 2021, or (2) when they turn 70. However, if at age 70 a director appointed before December 3, 2010 has not served 10 years, their term is extended and they must retire by the end of a 10 year term. Directors appointed or elected between December 3, 2010 and July 1, 2015 must retire on the earlier of (1) the completion of a 15 year term, or (2) when they turn 70. However, if at age 70 a director elected between December 3, 2010 and July 1, 2015 has not served 10 years, their term is extended and they must retire by the end of a 10 year term. Directors appointed or elected after July 1, 2015 may serve on the board for a twelve year term.

### ***Conflicts of Interest***

The Bank Act contains detailed provisions with regard to a director's power to vote on a material contract or material transaction in which the director is interested. These provisions include procedures for: disclosure of the conflict of interest and the timing for such disclosure; the presence of directors at board meetings where the contract or transaction giving rise to the conflict of interest is being considered, and voting with respect to the contract or transaction giving rise to the conflict of interest; and other provisions for dealing with such conflicts of interest. The Bank Act also contains detailed provisions regarding transactions with persons who are related parties of the Bank, including directors of the Bank. See "—Borrowing Powers."

### ***Compensation***

The by-laws of the Bank have provisions with regard to remuneration of directors. The board of directors may, from time to time, by resolution determine their remuneration that may be paid, but such remuneration may not exceed in each year an aggregate cap set out in the by-laws, and individually may be in such amounts as the board may determine by resolution. The directors may also be paid their reasonable out-of-pocket expenses incurred in attending meetings of the board, shareholders or committees of the board.

Directors are required to hold common shares and/or directors' deferred stock units ("DDSU") with a value of not less than five times the equity portion of their remuneration (\$725,000 for directors and \$850,000 for the Chairman) and directors have five years to meet this requirement. The redemption value of a DDSU is equal to the market value of a common share at the time of redemption. The value of DDSUs is tied to the future value of the common shares. However, DDSUs do not entitle the holder to voting or other shareholder rights.

### ***Borrowing Powers***

The directors of the Bank may, without authorization of the shareholders, authorize the Bank to borrow money. The Bank Act, however, prohibits the Bank from entering into transactions with persons who are deemed to be related parties of the Bank, subject to certain exceptions. Related party transactions may include loans made on the credit of the Bank.



## CONSOLIDATED CAPITALIZATION OF THE BANK

The following table sets forth the consolidated capitalization of the Bank at October 31, 2021. This table should be read in conjunction with the Bank's audited consolidated financial statements and the management's discussion and analysis for the year ended October 31, 2021, furnished as an exhibit to the Bank's Annual Report on Form 40-F filed on November 30, 2021 and which is incorporated by reference in this prospectus.

	<u>As at October 31, 2021 (In millions of Canadian Dollars)</u>
<b>Subordinated debentures</b> .....	\$ 6,334
<b>Equity</b>	
Common equity	
Common shares .....	18,507
Retained earnings .....	51,354
Accumulated other comprehensive income (loss) .....	(5,333)
Other reserves .....	222
Total common equity .....	64,750
Preferred shares and other equity instruments .....	6,052
Total equity attributable to equity holders of the Bank .....	70,802
Non-controlling interests	
Non-controlling interests in subsidiaries .....	2,090
Total equity .....	72,892
<b>Total capitalization</b> .....	<b>\$79,226</b>

## **USE OF PROCEEDS**

Unless otherwise specified in an applicable prospectus supplement, the net proceeds to the Bank from the sale of securities will be added to the general funds of the Bank and utilized for general banking purposes.

## DESCRIPTION OF COMMON SHARES AND PREFERRED SHARES

*Set forth below is a summary of the material terms of the Bank's share capital and certain provisions of the Bank Act and the Bank's amended and restated by-laws as they relate to the Bank's share capital. The following summary is not complete and is qualified in its entirety by the Bank Act, the Bank's amended and restated by-laws and the actual terms and conditions of such shares.*

### Capital Stock

The authorized capital of the Bank consists of an unlimited number of common shares, without nominal or par value, and an unlimited number of preferred shares, without nominal or par value, issuable in series, in each case the aggregate consideration for which is also unlimited.

### Common Shares

*Voting.* Holders of the Bank's common shares are entitled to vote at all meetings of the Shareholders of the Bank, except meetings at which only the holders of preferred shares of the Bank are entitled to vote. Holders of common shares are entitled to one vote per share on all matters to be voted on by holders of common shares. Unless otherwise required by the Bank Act, any matter to be voted on by holders of common shares shall be decided by a majority of the votes cast on the matter.

*Liquidation Rights.* Upon the liquidation, dissolution or winding up of the Bank, whether voluntary or involuntary, the holders of common shares are entitled to receive the remaining property of the Bank available after the payment of all debts and other liabilities and subject to the prior rights of holders of any outstanding preferred shares.

*Preemptive, Subscription, Redemption and Conversion Rights.* Holders of common shares, as such, have no preemptive, subscription, redemption or conversion rights.

*Dividends.* Holders of common shares are entitled to receive dividends as and when declared by the board of directors of the Bank, subject to the preference of the holders of the preferred shares of the Bank. The Bank's dividends have historically been declared on a quarterly basis in Canadian dollars. As a matter of practice, at the request of a shareholder to the transfer agent or broker, the Bank will pay dividends to a U.S. holder of common shares, if and when a dividend is declared, in U.S. dollars. The declaration and payment of dividends and the amount of the dividends is subject to the discretion of the board of directors, and will be dependent upon the results of operations, financial condition, cash requirements and future regulatory restrictions on the payment of dividends by the Bank and other factors deemed relevant by the board of directors.

### Preferred Shares

This section describes the general terms and provisions of our preferred shares. The applicable prospectus supplement will describe the specific terms of the preferred shares offered through that prospectus supplement, as well as any general terms described in this section that will not apply to those preferred shares.

*General.* The board of directors is authorized, subject to the provisions of the Bank Act, without shareholder approval, to divide any unissued preferred shares into series and fix the number of shares in each series and the rights, privileges, restrictions and conditions of each such series, and to change the rights, privileges, restrictions and conditions attached to unissued preferred shares of any series.

*NVCC Provisions.* Effective January 1, 2013, in accordance with capital adequacy requirements adopted by the Office of the Superintendent of Financial Institutions (*Canada*) ("OSFI"), non-common capital instruments issued after January 1, 2013, including preferred shares, must include terms providing for the full and permanent

conversion of such securities into common shares upon the occurrence of certain trigger events relating to financial viability (see “Description of The Debt Securities We May Offer—Non-Viability Contingent Capital Provisions”) in order to qualify as regulatory capital. As of January 1, 2013, all outstanding capital instruments that do not meet the NVCC requirement will be considered non-qualifying capital instruments and will be phased out beginning January 1, 2013.

*Priority.* The preferred shares, as a class, are entitled to preference over common shares and over any other shares ranking junior to the preferred shares with respect to the payment of dividends and distribution of assets in the event of the liquidation, dissolution or winding-up of the Bank, or any other distribution of the assets among shareholders for the purpose of winding-up the affairs of the Bank, provided that a trigger event has not occurred as contemplated under the specific NVCC Provisions (as described above) applicable to such preferred shares. The preferred shares of each series rank on a parity with the preferred shares of every other series with respect to priority in payment of dividends and in the distribution of assets in the event of liquidation, dissolution or winding-up of the Bank, or any other distribution of the assets among shareholders for the purpose of winding-up the affairs of the Bank. However, in the event of the occurrence of a trigger event under the NVCC Provisions, the priority of the preferred shares will not be relevant since all preferred shares will be converted into our common shares which will rank on a parity with all other common shares issued by us.

*Restriction.* Under the terms of the Bank Act, the approval of the holders of the preferred shares is required for the creation of any class of shares ranking prior to or on a parity with the preferred shares.

*Voting.* Except as required under the Bank Act or in the rights, privileges, restrictions or conditions attached to any series before the issue thereof, the holders of preferred shares are not entitled to receive notice, to attend or to vote at any meeting of the shareholders of the Bank. Any approval to be given by the holders of preferred shares may be given by a resolution carried by the affirmative vote of not less than  $66\frac{2}{3}\%$  of the votes cast at a meeting of holders of preferred shares at which a majority of the outstanding preferred shares is represented or, if no quorum is present at such meeting, at any adjourned meeting at which no quorum requirements would apply.

## **Limitations Affecting Holders of Common and Preferred Shares**

### ***Restraints on Bank Shares Under the Bank Act***

In accordance with the Bank Act, no person or group of associated persons may own more than 10% of any class of shares of the Bank without the approval of the Minister of Finance (*Canada*) (the “Minister”). No person may be a major shareholder of a bank if the bank has equity of \$12 billion or more (which would include the Bank). A person is a major shareholder of a bank if: (a) the aggregate number of shares of any class of voting shares beneficially owned by that person and that are beneficially owned by any entities controlled by that person is more than 20% of that class of voting shares; or (b) the aggregate number of shares of any class of non-voting shares beneficially owned by that person and that are beneficially owned by any entities controlled by that person is more than 30% of that class of non-voting shares. Ownership of the Bank’s shares by Canadian or foreign governments is prohibited under the Bank Act. However, in 2009 certain amendments were made to the Bank Act that would permit the Canadian federal government to acquire shares of a bank, including the Bank, if the Minister and Governor in Council were to conclude that to do so was necessary to promote stability of the financial system in Canada. While the government holds any shares of a bank, including the Bank, the Minister may impose certain terms and conditions, including conditions on the payment by the Bank of dividends on any of its shares.

The Minister may only approve the acquisition of up to 30% of the shares of any class of non-voting shares and up to 20% of the shares of a class of voting shares of the Bank, provided, in each case, that the person acquiring those shares does not have direct or indirect influence over the Bank that, if exercised, would result in that person having control in fact of the Bank. No person may have a “significant interest” in any class of shares of a bank, including the Bank, unless the person first receives the approval of the Minister. In addition, the Bank is not permitted to record any transfer or issue of any shares of the Bank if the transfer or issue would cause the

person to have a significant interest in a class of shares, unless the prior approval of the Minister is obtained. No person who has a significant interest in the Bank may exercise any voting rights attached to the shares held by that person, unless the prior approval of the Minister for the acquisition of the significant interest is obtained. For purposes of the Bank Act, a person has a significant interest in a class of shares of a bank where the aggregate of any shares of the class beneficially owned by that person, by entities controlled by that person and by any person associated or acting jointly or in concert with that person exceeds 10% of all of the outstanding shares of that class of shares of such bank. If a person contravenes any of these restrictions, the Minister may, by order, direct that person to dispose of all or any portion of those shares. Holders of securities of the Bank may be required to furnish declarations relating to ownership in a form prescribed by the Bank.

### ***Bank Act and Government Restrictions and Approvals***

Under the Bank Act, the Bank cannot redeem or purchase any of its shares, including its common shares, unless the consent of OSFI has been obtained. In addition, the Bank Act prohibits a payment to purchase or redeem any shares or the declaration and payment of a dividend if there are reasonable grounds for believing that the Bank is, or the payment would cause the Bank to be, in contravention of the capital adequacy and liquidity regulations of the Bank Act or any capital or liquidity directions of OSFI. The Bank is prohibited from declaring dividends on its preferred or common shares when it would be, as a result of paying such a dividend, in contravention of the capital adequacy and liquidity regulations of the Bank Act or any capital or liquidity directions of OSFI.

The government of Canada placed a moratorium on mergers among Canada's largest financial institutions in 2003, including the Bank and its peers, pending a further review of Canada's bank merger policy. A review of the government's bank merger policy is not currently a priority and as a result, it is unlikely that the Minister would grant an approval for a merger between any large Canadian financial institutions at this time.

The restrictions contained in the Bank Act and the Canadian government's policies may deter, delay or prevent a future amalgamation involving the Bank and will prevent the acquisition of control of the Bank, including transactions that could be perceived as advantageous to the Bank's shareholders.

### **Amendments to the Rights, Privileges, Restrictions and Conditions of the Bank's Share Capital**

Under the Bank Act, the rights of holders of the Bank's shares can be changed by the board of directors of the Bank by making, amending or repealing the by-laws of the Bank. The board of directors of the Bank must submit such a by-law, or amendment to or repeal of a by-law, to the shareholders of the Bank in accordance with the procedures of the Bank Act and the Bank's by-laws, and the shareholders must approve the by-law, amendment to or repeal of the by-law by special resolution to be effective. Under the Bank Act, a special resolution is a resolution passed by not less than two-thirds of the votes cast by or on behalf of the shareholders who voted in respect of that resolution or signed by all the shareholders entitled to vote on that resolution. In some circumstances, the Bank Act mandates that holders of shares of a class or a series are entitled to vote separately as a class or series on a proposal to amend the by-laws of the Bank.

### **Meetings of the Shareholders**

#### ***Quorum***

The Bank Act permits a bank to establish by by-law the quorum requirement for meetings of shareholders. The Bank's by-laws provide that a quorum at any meeting of shareholders will be any shareholders present in person or represented by proxy of at least 25% of the outstanding shares of the Bank entitled to vote at the meeting.

#### ***Annual Meetings; Shareholder Proposals***

The Bank is required to hold an annual meeting of shareholders not later than six months after the end of each financial year on such day and at such time as its directors shall determine.

Proposals by shareholders of a bank may be made by certain registered or beneficial holders of shares that are entitled to vote at an annual meeting of shareholders. To be eligible to submit any shareholder proposal, a shareholder must satisfy certain eligibility criteria set forth in the Bank Act. Under the Bank Act, shareholder proposals may only be submitted at annual meetings of shareholders. A shareholder eligible to submit a proposal and entitled to vote at an annual meeting of shareholders may submit to the Bank notice of any matter that the shareholder proposes to raise at the meeting provided that, among other things, the proposal is submitted to the Bank at least 90 days before the anniversary date of the notice of meeting that was sent to shareholders in respect of the Bank's previous annual meeting of shareholders.

If the Bank solicits proxies for such annual meeting, it is required to set out in the management proxy a proposal submitted by a shareholder for consideration at such meeting. If so requested by a shareholder who submits a proposal to the Bank, the Bank is required to include in the management proxy circular, or attach thereto, a statement by the shareholder in support of the proposal and the name and address of the shareholder. The proposal and the statement together are not to exceed 500 words. Under the Bank Act, a proposal may include nominations for the election of directors if it is signed by one or more holders of shares representing in the aggregate not less than 5% of the issued and outstanding shares of the Bank or 5% of the issued and outstanding shares of a class of shares of the Bank entitled to vote at the meeting at which the proposal is to be presented.

The Bank is not required to comply with the obligations to include the proposal, or a statement of the shareholder submitting a proposal, in its management proxy circular, if

- the proposal is not submitted to the Bank at least 90 days before the anniversary date of the notice of meeting that was sent to shareholders in respect of the previous annual meeting of shareholders;
- it clearly appears that the primary purpose of the proposal is to enforce a personal claim or redress a personal grievance against the Bank or its directors, officers or security holders;
- it clearly appears that the proposal does not relate in a significant way to the business or affairs of the Bank;
- the person submitting the proposal failed within the prescribed period before the Bank receives their proposal to present, in person or by proxy, at a meeting of shareholders a proposal that at their request had been set out in or attached to a management proxy circular;
- substantially the same proposal was set out in or attached to a management proxy circular or dissident's proxy circular relating to, and presented to shareholders at, a meeting of shareholders of the Bank held within the prescribed period before the receipt of the proposal and did not receive the prescribed minimum amount of support at the meeting; or
- the rights to submit a proposal as described above are being abused to secure publicity.

If the Bank refuses to include a proposal in a management proxy circular, it is obligated to notify the shareholder in writing of such refusal and its reasons for such refusal. The shareholder may apply to a court if such shareholder claims it has been aggrieved by such refusal, and the court may restrain the holding of the meeting at which the proposal is sought to be presented and may make such further order it thinks fit. In addition, if the Bank claims to be aggrieved by the proposal, it may apply to a court for an order permitting the Bank to omit the proposal from the management proxy circular.

### ***Special Meetings***

Under the Bank Act, special meetings of shareholders may be called at any time by the board of directors. In addition, subject to certain provisions of the Bank Act, the holders of not less than 5% of the issued and outstanding shares of the Bank that carry the right to vote at a meeting may requisition that the directors call a meeting of shareholders for the purpose stated in the requisition and may call the special meeting if the directors do not do so within 21 days after receiving the request.

## **Size of Board of Directors**

The Bank Act requires that the number of directors on the Bank's board of directors be at least seven. All directors of the Bank are elected annually. The Bank Act also requires that at least a majority of the directors must be, at the time of each director's election or appointment, resident Canadians.

## **Anti-Takeover Provisions and Ownership Provisions**

Rules and policies of certain Canadian securities regulatory authorities, including Multilateral Instrument 61-101—Protection of Minority Security Holders in Special Transactions, contain requirements in connection with "related party transactions." A related party transaction means, among other things, any transaction in which an issuer directly or indirectly engages in the following with a related party: acquires, sells, leases or transfers an asset, acquires the related party, acquires or issues securities, amends the terms of a security if the security is owned by the related party or assumes or becomes subject to a liability or takes certain other actions with respect to debt.

"Related party" includes directors, senior officers and holders of more than 10% of the voting rights attached to all outstanding voting securities of the issuer or holders of a sufficient number of any securities of the issuer to materially affect control of the issuer.

If a transaction is determined to be a related party transaction, Multilateral Instrument 61-101 requires, subject to certain exceptions, the preparation of a formal valuation relating to certain aspects of the transaction and more detailed disclosure in the proxy material sent to security holders in connection with the related party transaction, including disclosure related to the valuation.

Multilateral Instrument 61-101 also requires, subject to certain exceptions, that an issuer not engage in a related party transaction unless the shareholders of the issuer, other than the related parties, approve the transaction by a simple majority of the votes cast.

In addition, under the Bank Act, a sale of all or substantially all of the Bank's assets to another financial institution or an amalgamation must also be approved by the shareholders by a vote of not less than two-thirds of the votes cast by shareholders who voted in respect of the special resolution, with each share carrying the right to vote whether or not it otherwise carries the right to vote. The holders of each class or series of shares which is affected differently by the sale from the shares of any other class or series are entitled to vote separately as a class or series. The Minister must also approve any such sale or amalgamation involving the Bank.

These restrictions, in addition to those imposed by the Bank Act relating to the purchase or other acquisition, issue, transfer and voting of shares of the Bank's common shares may deter, delay or prevent a future amalgamation involving the Bank and will prevent the acquisition of control of the Bank, including transactions that could be perceived as advantageous to the Bank's shareholders. See "—Limitations Affecting Holders of Common and Preferred Shares."

## **Rights of Inspection**

Any person is entitled to a basic list of the Bank's shareholders and may request the Bank to furnish such list within 10 days after receipt by the Bank of an affidavit, swearing that the list will not be used except in accordance with a permitted purpose, and payment of a reasonable fee. Further, shareholders and creditors of the Bank and their personal representatives may examine certain limited records of the Bank during its usual business hours and may take extracts therefrom, free of charge, or have copies made thereof on payment of a reasonable fee.

**Transfer Agent and Registrar**

The registrar and transfer agent for the Bank's common and preferred shares is Computershare Trust Company of Canada at the following addresses: Computershare Trust Company of Canada, 100 University Ave., 8th Floor, Toronto, Ontario, M5J 2Y1 and Computershare Trust Company, National Association, 250 Royall Street, Canton, Massachusetts, 02021.



## DESCRIPTION OF THE DEBT SECURITIES WE MAY OFFER

References to “the Bank,” “us,” “we” or “our” in this section mean The Bank of Nova Scotia, and do not include the subsidiaries of The Bank of Nova Scotia. Also, in this section, references to “holders” mean those who own debt securities registered in their own names, on the books that we or the applicable trustees maintain for this purpose, and not those who own beneficial interests in debt securities registered in street name or in debt securities issued in book-entry form through one or more depositaries. When we refer to “you” in this prospectus, we mean all purchasers of the debt securities being offered by this prospectus, whether they are the holders or only indirect owners of those debt securities. Owners of beneficial interests in the debt securities should read the section below entitled “Legal Ownership and Book-Entry Issuance.”

The following description sets forth certain general terms and provisions of the debt securities. We will provide particular terms and provisions of a series of debt securities and a description of how the general terms and provisions described below may apply to that series in a prospectus supplement. Prospective investors should rely on information in the applicable prospectus supplement if it is different from the following information.

### **Debt Securities May Be Senior or Subordinated**

We may issue debt securities which may be senior or subordinated in right of payment. Neither the senior debt securities nor the subordinated debt securities will be secured by any of our property or assets or the property or assets of our subsidiaries. Thus, by owning a debt security, you are one of our unsecured creditors.

The senior debt securities will be issued under our senior debt securities indenture described below and will be unsubordinated obligations that rank equally with all of our other unsecured and unsubordinated debt, including deposit liabilities, other than certain governmental claims in accordance with applicable law.

The subordinated debt securities will be issued under one of our subordinated debt securities indentures described below and will be subordinate in right of payment to all of our senior indebtedness, as set forth in the applicable subordinated debt securities indenture. None of the indentures limit our ability to incur additional indebtedness.

The Bank’s debt securities issued on or after September 23, 2018 may, depending on their terms, be subject to the bail-in regime (as defined below under “—Canadian Bank Resolution Powers”) and bail-in conversion (as defined below under “—Special Provisions Related to Bail-inable Debt Securities”).

In the event we become insolvent, our governing legislation provides that priorities among payments of our deposit liabilities (including payments in respect of the senior debt securities) and payments of all of our other liabilities (including payments in respect of the subordinated debt securities) are to be determined in accordance with the laws governing priorities and, where applicable, by the terms of the indebtedness and liabilities. In addition, our right to participate in any distribution of the assets of our banking or non-banking subsidiaries, upon a subsidiary’s dissolution, winding-up, liquidation or reorganization or otherwise, and thus your ability to benefit indirectly from such distribution, is subject to the prior claims of creditors of that subsidiary, except to the extent that we may be a creditor of that subsidiary and our claims are recognized. There are legal limitations on the extent to which some of our subsidiaries may extend credit, pay dividends or otherwise supply funds to, or engage in transactions with, us or some of our other subsidiaries. Accordingly, the debt securities will be structurally subordinated to all existing and future liabilities of our subsidiaries, and holders of debt securities should look only to our assets for payments on the debt securities.

**Neither the senior debt securities nor the subordinated debt securities will constitute deposits insured under the *Canada Deposit Insurance Corporation Act* (Canada) or by the United States Federal Deposit Insurance Corporation or any other Canadian or United States governmental agency or instrumentality.**

When we refer to “debt securities” or “debt security” in this section, we mean both the senior debt securities and the subordinated debt securities.

## The Senior and Subordinated Debt Securities Indentures

The senior debt securities and the subordinated debt securities are each governed by indentures—the senior debt securities indenture, as amended and supplemented by the first supplemental indenture thereto, in the case of the senior debt securities, and either the subordinated debt securities indenture or the subordinated debt securities indenture (Non-Viability Contingent Capital)(NVCC) (the “NVCC subordinated debt securities indenture”), in the case of the subordinated debt securities. When we refer to the “indentures,” we mean the senior debt securities indenture, the subordinated debt securities indenture and the NVCC subordinated debt securities indenture, collectively, when we refer to the “indenture,” we mean the senior debt securities indenture, the subordinated debt securities indenture or the NVCC subordinated debt securities indenture, as applicable, and when we refer to the “subordinated debt securities indentures,” we mean the subordinated debt securities indenture and the NVCC subordinated debt securities indenture. Each indenture is a contract between us, Computershare Trust Company, National Association, as U.S. trustee, and Computershare Trust Company of Canada, as Canadian trustee, which act as trustees. When we refer to the “trustees,” we mean both the U.S. trustee and the Canadian trustee, and when we refer to the “trustee,” we mean either the U.S. trustee or the Canadian trustee, as applicable. The indentures are subject to and governed by the U.S. Trust Indenture Act of 1939, as amended (the “Trust Indenture Act”), and applicable Canadian trust indenture legislation. The indentures are substantially identical, except for:

- the events of default, which are more limited in the subordinated debt securities indentures;
- the subordination provisions, which are included only in the subordinated debt securities indentures;
- the bail-inable debt securities provisions, which are included only in the senior debt securities indenture; and
- the non-viability contingent capital provisions, which are included only in the NVCC subordinated debt securities indenture, unless otherwise included in the subordinated debt securities indenture by way of supplemental indenture.

Reference to the indenture or the trustees, with respect to any debt securities, means the indenture under which those debt securities are issued and the trustees under that indenture.

The trustees have two main roles:

- The trustees can enforce the rights of holders against us if we default on our obligations under the terms of the indenture or the debt securities. There are some limitations on the extent to which the trustees act on behalf of holders, described below under “—Events of Default—Remedies If an Event of Default Occurs.”
- The trustees perform administrative duties for us, such as sending interest payments and notices to holders and transferring a holder’s debt securities to a new buyer if a holder sells.

The indentures and their associated documents contain the full legal text of the matters described in this section. The indentures and the debt securities will be governed by New York law, except for the provisions relating to the bail-in acknowledgment of holders and beneficial owners of bail-inable debt securities in the senior debt securities indenture, the subordination provisions in the subordinated debt securities indentures, the non-viability contingent capital provisions in the NVCC subordinated debt securities indenture (or in the subordinated debt securities indenture pursuant to any amendment or supplement thereto) and certain provisions relating to the status of the senior debt securities, which will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein. A copy of each of the senior debt securities indenture and the first supplemental indenture thereto, the subordinated debt securities indenture and the NVCC subordinated debt securities indenture is an exhibit to the registration statement of which this prospectus forms a part. See “Where You Can Find More Information” above for information on how to obtain a copy.

## General

We may issue as many distinct series of debt securities as we wish under each indenture. The provisions of the senior debt securities indenture and the subordinated debt securities indentures allow us not only to issue debt securities with terms different from those previously issued under the applicable indenture, but also to “re-open” a previous issue of a series of debt securities and issue additional debt securities of that series. The Bank does not intend to re-open a previous issue of a series of debt securities where such re-opening would have the effect of making the debt securities of such series subject to bail-in conversion. We may issue debt securities in amounts that exceed the total amount specified on the cover of your applicable prospectus supplement at any time without your consent and without notifying you. In addition, we may issue additional debt securities of any series at any time without your consent and without notifying you. We may also issue other securities at any time without your consent and without notifying you. The indentures do not limit our ability to incur other indebtedness or to issue other securities, and we are not subject to financial or similar restrictions under the indentures.

This section summarizes the material terms of the debt securities that are common to all series, subject to any modifications contained in an applicable prospectus supplement. Most of the specific terms of your series will be described in the applicable prospectus supplements accompanying this prospectus. As you read this section, please remember that the specific terms of your debt security as described in the applicable prospectus supplements will supplement and, if applicable, may modify or replace the general terms described in this section. If there are any differences between the information in the applicable prospectus supplements and this prospectus, the information in the most recent applicable prospectus supplement will control. Accordingly, the statements we make in this section may not apply to your debt securities. Because this section is a summary, it does not describe every aspect of the debt securities. This summary is subject to and qualified in its entirety by reference to all the provisions of the indentures and the applicable series of debt securities, including definitions of certain terms used in the indentures and the applicable series of debt securities. In this summary, we describe the meaning of only some of the more important terms. You must look to the indentures or the applicable series of debt securities for the most complete description of what we describe in summary form in this prospectus.

We may issue the debt securities as original issue discount securities, which will be offered and sold at a substantial discount below their stated principal amount. An applicable prospectus supplement relating to the original issue discount securities will describe U.S. federal income tax consequences and other special considerations applicable to them. The debt securities may also be issued as indexed debt securities or debt securities denominated in foreign currencies or currency units, as described in more detail in an applicable prospectus supplement relating to any of the particular debt securities. An applicable prospectus supplement relating to specific debt securities will also describe any special considerations and any additional material tax considerations applicable to such debt securities.

When we refer to a series of debt securities, we mean a series issued under the indenture pursuant to which the debt securities will be issued. Each series is a single distinct series under the indenture pursuant to which they will be issued and we may issue debt securities of each series in such amounts, at such times and on such terms as we wish. The debt securities of each series will differ from one another, and from any other series, in their terms, but all debt securities of a series together will constitute a single series for all purposes under the indenture pursuant to which they will be issued.

We may issue debt securities up to an aggregate principal amount as we may authorize from time to time. The applicable prospectus supplements will describe the terms of any debt securities being offered, including:

- the title of the series of debt securities;
- whether it is a series of senior debt securities or a series of subordinated debt securities;
- whether the debt securities are bail-inable debt securities (as defined below under “—Special Provisions Related to Bail-inable Debt Securities”) and, if so, the specific terms of any bail-inable debt securities;

- the specific terms of any NVCC Provisions (as defined below under “—Special Provisions Related to the Subordinated Debt Securities—Non-Viability Contingent Capital Provisions”);
- the specific terms of any limited recourse provisions;
- any limit on the aggregate principal amount of the series of debt securities;
- the person to whom interest, if any, on a debt security is payable, if other than the holder on the regular record date;
- the date or dates, if any, on which the series of debt securities will mature;
- the rate or rates (which may be fixed or variable) per annum, at which the series of debt securities will bear interest, if any, how to calculate the interest rate or rates and the date or dates from which that interest, if any, will accrue;
- the dates on which such interest, if any, will be payable and the regular record dates for such interest payment dates;
- provisions, if any, for the cancellation of any interest payment at our discretion or under other circumstances;
- the place or places where the principal of, premium, if any, and interest on the debt securities is payable;
- any mandatory or optional sinking funds or similar provisions or provisions for redemption at our option or the option of the holder;
- if applicable, the date after which, the price at which, the periods within which and the terms and conditions upon which the debt securities may, pursuant to any optional or mandatory redemption provisions, be redeemed and other detailed terms and provisions of those optional or mandatory redemption provisions, if any;
- if applicable, the terms and conditions upon which the debt securities may be repayable prior to final maturity at the option of the holder thereof (which option may be conditional);
- the portion of the principal amount of the debt securities, if other than the entire principal amount thereof, payable upon acceleration of maturity thereof;
- if the debt securities may be converted into or exercised or exchanged for other of our securities, the terms on which conversion, exercise or exchange may occur, including whether conversion, exercise or exchange is mandatory, at the option of the holder or at our option, the period during which conversion, exercise or exchange may occur, the initial conversion, exercise or exchange price or rate and the circumstances or manner in which the amount of our securities issuable upon conversion, exercise or exchange may be adjusted;
- if other than denominations of US\$2,000 and integral multiples of US\$1,000 in excess thereof, the denominations in which the series of debt securities will be issuable;
- the currency of payment of principal, premium, if any, and interest on the series of debt securities;
- if the currency of payment for principal, premium, if any, and interest on the series of debt securities is subject to our election or that of a holder, the currency or currencies in which payment can be made and the period within which, and the terms and conditions upon which, the election can be made;
- any index, formula or other method used to determine the amount of payment of principal or premium, if any, and/or interest on the series of debt securities;
- the applicability of the provisions described under “—Defeasance” below;
- any event of default under the series of debt securities if different from those described under “—Events of Default” below;

- if the series of debt securities will be issuable only in the form of a global debt security, the depository or its nominee with respect to the series of debt securities and the circumstances under which the global debt security may be registered for transfer or exchange in the name of a person other than the depository or the nominee; and
- any other special feature of the series of debt securities.

### **Market-Making Transactions**

One or more of our subsidiaries may purchase and resell debt securities in market-making transactions after their initial issuance. If you purchase debt securities issued before September 23, 2018 in a market making transaction, those debt securities will not be bail-inable debt securities, even though the applicable prospectus supplement may not specify that your debt security is not a bail-inable debt security.

We may also, subject to applicable law and any required regulatory approval, purchase debt securities in the open market or in private transactions to be held by us or cancelled.

### **Covenants**

Except as described in this sub-section or as otherwise provided in an applicable prospectus supplement with respect to any series of debt securities, we are not restricted by the indentures from incurring, assuming or becoming liable for any type of debt or other obligations, from paying dividends or making distributions on our capital stock or purchasing or redeeming our capital stock. The indentures do not require the maintenance of any financial ratios or specified levels of net worth or liquidity, nor do they contain any covenants or other provisions that would limit our or our subsidiaries' right to incur additional indebtedness, enter into any sale and leaseback transaction or grant liens on our or our subsidiaries' assets. The indentures do not contain any provisions that would require us to repurchase or redeem or otherwise modify the terms of any of the debt securities upon a change in control or other events that may adversely affect the creditworthiness of the debt securities, for example, a highly leveraged transaction, except as otherwise specified in this prospectus or any applicable prospectus supplement.

### **Mergers and Similar Events**

Each of the indentures provide that we are permitted to merge, amalgamate, consolidate or otherwise combine with another entity, or to sell or lease substantially all of our assets to another entity, as long as the following conditions are met:

- When we merge, amalgamate, consolidate or otherwise are combined with another entity, or sell or lease substantially all of our assets, the surviving, resulting or acquiring entity is a duly organized entity and is legally responsible for and assumes, either by agreement, operation of law or otherwise, our obligations under such indenture and the debt securities issued thereunder.
- The merger, amalgamation, consolidation, other combination, or sale or lease of assets, must not result in an event of default under such indenture. A default for this purpose would include any event that would be an event of default if the requirements for giving us default notice or our default having to exist for a specified period of time were disregarded.

If the conditions described above are satisfied, we will not need to obtain the consent of the holders of the debt securities in order to merge, amalgamate, consolidate or otherwise combine with another entity or to sell or lease substantially all of our assets.

We will not need to satisfy the conditions described above if we enter into other types of transactions, including:

- any transaction in which we acquire the stock or assets of another entity but in which we do not merge, amalgamate, consolidate or otherwise combine;
- any transaction that involves a change of control but in which we do not merge, amalgamate, consolidate or otherwise combine; or
- any transaction in which we sell less than substantially all of our assets.

It is possible that this type of transaction may result in a reduction in our credit rating, may reduce our operating results or may impair our financial condition. Holders of debt securities, however, will have no approval right with respect to any transaction of this type.

### **Modification and Waiver of the Debt Securities**

There are four types of changes we can make to the indenture and the debt securities issued under that indenture.

*Changes Requiring Consent of All Holders.* First, there are changes that cannot be made to the indenture or the debt securities without the consent of each holder of a series of debt securities affected in any material respect by the change under a particular indenture. The following is a list of those types of changes:

- change the stated maturity, if any, of the principal of a debt security;
- reduce the interest on a debt security, except as may be permitted by the indenture;
- reduce any amounts due on a debt security;
- reduce the amount of principal payable upon acceleration of the maturity of a debt security (including the amount payable on an original issue discount security) following a default;
- change the currency of payment on a debt security;
- change the place of payment for a debt security;
- impair a holder's right to sue for payment;
- impair a holder's right to require repurchase on the original terms of those debt securities that provide a right of repurchase;
- reduce the percentage of holders of debt securities whose consent is needed to modify or amend the indenture;
- reduce the percentage of holders of debt securities whose consent is needed to waive compliance with certain provisions of the indenture or to waive certain defaults; or
- modify any other aspect of the provisions dealing with modification and waiver of the indenture.

*Changes Requiring a Majority Consent.* The second type of change to the indenture and the debt securities is the kind that requires the consent of holders of debt securities owning not less than a majority of the principal amount of the particular series affected. Most changes fall into this category, except for clarifying changes and certain other changes that would not adversely affect in any material respect holders of the debt securities. We may also obtain a waiver of a past default from the holders of debt securities owning a majority of the principal amount of the particular series affected. However, we cannot obtain a waiver of a payment default or any other aspect of the indenture or the debt securities listed in the first category described above under “—Changes Requiring Consent of All Holders” unless we obtain the individual consent of each holder to the waiver.

*Changes Not Requiring Consent.* The third type of change to the indenture and the debt securities does not require the consent by holders of debt securities. This type is limited to the issuance of new series of debt securities under the indenture, clarifications and certain other changes that would not adversely affect in any material respect the interests of the holders of the debt securities of any series.

We may also make changes or obtain waivers that do not adversely affect in any material respect a particular debt security, even if they affect other debt securities. In those cases, we do not need to obtain the consent of the holder of the unaffected debt security; we need only obtain any required approvals from the holders of the affected debt securities.

*Modification of Subordination Provisions.* The fourth type of change to the indenture and the debt securities is the kind that requires the consent of the holders of a majority of the principal amount of all affected series of subordinated debt securities, voting together as one class. We may not modify the subordination provisions of the subordinated debt securities indentures in a manner that would adversely affect in any material respect the outstanding subordinated debt securities of any one or more series without the consent of the holders of a majority of the principal amount of all affected series of subordinated debt securities, voting together as one class. Additionally, any modification to the terms and conditions of the subordinated debt securities which might affect the classification afforded the subordinated debt securities under the capital adequacy requirements pursuant to the Bank Act and the regulations and guidelines thereunder will require the prior written approval of the Superintendent.

*Modification of Bail-inable Debt Securities.* Where an amendment, modification or other variance that can be made to the senior debt securities indenture or the bail-inable debt securities would affect the recognition of those bail-inable debt securities by the Superintendent as TLAC (as defined below under “—Canadian Bank Resolution Powers”), that amendment, modification or variance will require the prior approval of the Superintendent.

*Further Details Concerning Voting.* When seeking consent, we will use the following rules to decide how much principal amount to attribute to a debt security:

- For original issue discount securities, we will use the principal amount that would be due and payable on the voting date if the maturity of the debt securities were accelerated to that date because of a default.
- For debt securities whose principal amount is not known, we will use a special rule for that debt security described in the applicable prospectus supplement.
- For debt securities denominated in one or more non-U.S. currencies or currency units, we will use the U.S. dollar equivalent.

Debt securities will not be considered outstanding, and therefore not eligible to vote or take other action under the applicable indenture, if we have given a notice of redemption and deposited or set aside in trust for the holders money for the payment or redemption of those debt securities. Debt securities will also not be considered outstanding, and therefore not eligible to vote or take other action under the applicable indenture, if they have been fully defeased as described below under “—Defeasance—Full Defeasance” or if we or one of our affiliates is the beneficial owner of the debt securities.

We will generally be entitled to set any day as a record date for the purpose of determining the holders of outstanding debt securities that are entitled to vote or take other action under the applicable indenture. In certain limited circumstances, the trustees will be entitled to set a record date for action by holders. If the trustees or we set a record date for a vote or other action to be taken by holders of a particular series, that vote or action may be taken only by persons who are holders of outstanding debt securities of that series on the record date. We or the trustees, as applicable, may shorten or lengthen this period from time to time. This period, however, may not extend beyond the 180th day after the record date for the action.

Book-entry and other indirect holders should consult their banks, brokers or other financial institutions for information on how approval may be granted or denied if we seek to change the indenture or the debt securities or request a waiver.

### **Special Provisions Related to Bail-inable Debt Securities**

The senior debt securities indenture provides for certain provisions applicable to bail-inable debt securities. The prospectus supplement will describe the specific terms of bail-inable debt securities we may issue and specify whether or not your debt security is a bail-inable debt security.

Subject to certain exceptions discussed under “—Canadian Bank Resolution Powers,” including for certain structured notes, senior debt securities issued on or after September 23, 2018, with an initial or amended term to maturity (including explicit or embedded options) greater than 400 days, that are unsecured or partially secured and that have been assigned a CUSIP or ISIN or similar identification number, are subject to conversion in whole or in part—by means of a transaction or series of transactions and in one or more steps—into common shares of the Bank or any of its affiliates under the bail-in regime, which we refer to as a “bail-in conversion.” Shares, other than common shares, and subordinated debt securities of the Bank are also subject to a bail-in conversion, unless they are non-viability contingent capital. We refer to senior debt securities that are subject to bail-in conversion as “bail-inable debt securities.”

#### *Agreement with Respect to the Exercise of Canadian Bail-in Powers*

By its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of that debt security is deemed to (i) agree to be bound, in respect of the bail-inable debt securities, by the CDIC Act, including the conversion of the bail-inable debt securities, in whole or in part—by means of a transaction or series of transactions and in one or more steps—into common shares of the Bank or any of its affiliates under subsection 39.2(2.3) of the CDIC Act and the variation or extinguishment of the bail-inable debt securities in consequence, and by the application of the laws of the Province of Ontario and the federal laws of Canada applicable therein in respect of the operation of the CDIC Act with respect to the bail-inable debt securities; (ii) attorn and submit to the jurisdiction of the courts in the Province of Ontario with respect to the CDIC Act and those laws; and (iii) acknowledge and agree that the terms referred to in clauses (i) and (ii) above, are binding on that holder or beneficial owner despite any provisions in the senior debt securities indenture or the bail-inable debt securities, any other law that governs the bail-inable debt securities and any other agreement, arrangement or understanding between that holder or beneficial owner and the Bank with respect to the bail-inable debt securities.

Holders and beneficial owners of bail-inable debt securities will have no further rights in respect of their bail-inable debt securities to the extent those bail-inable debt securities are converted in a bail-in conversion, other than those provided under the bail-in regime, and by its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of that bail-inable debt security is deemed to irrevocably consent to the converted portion of the principal amount of that bail-inable debt security and any accrued and unpaid interest thereon being deemed paid in full by the Bank by the issuance of common shares of the Bank (or, if applicable, any of its affiliates) upon the occurrence of a bail-in conversion, which bail-in conversion will occur without any further action on the part of that holder or beneficial owner or the trustees; provided that, for the avoidance of doubt, this consent will not limit or otherwise affect any rights that holders or beneficial owners may have under the bail-in regime.

#### *TLAC Disqualification Event Redemption*

If a TLAC Disqualification Event (as defined herein) is specified in the applicable prospectus supplement, we may, at our option, with the prior approval of the Superintendent, redeem all but not less than all of the particular bail-inable debt securities prior to their stated maturity date after the occurrence of the TLAC



Disqualification Event, at the time or times and at the redemption price or prices specified in that prospectus supplement, together with unpaid interest accrued thereon to, but excluding, the date fixed for redemption.

A “*TLAC Disqualification Event*” means OSFI has advised the Bank in writing that the bail-inable debt securities issued under the applicable prospectus supplement will no longer be recognized in full as TLAC under the TLAC Guideline as interpreted by the Superintendent, provided that a TLAC Disqualification Event will not occur where the exclusion of those bail-inable debt securities from the Bank’s TLAC requirements is due to the remaining maturity of those bail-inable debt securities being less than any period prescribed by any relevant eligibility criteria applicable as of the issue date of those bail-inable debt securities.

#### *No Set-Off or Netting Rights*

Holders and beneficial owners of bail-inable debt securities will not be entitled to exercise, or direct the exercise of, any set-off or netting rights with respect to their bail-inable debt securities.

#### *Approval of Redemption, Repurchases and Defeasance*

Where the redemption, repurchase or any full defeasance or covenant defeasance with respect to bail-inable debt securities would result in the Bank not meeting the TLAC requirements applicable to it pursuant to the TLAC Guideline, that redemption, repurchase, defeasance or covenant defeasance will be subject to the prior approval of the Superintendent.

#### *Trustee and Trustee’s Duties*

The trustees will undertake certain procedures and seek certain remedies in the event of an event of default or a default. See “—*Events of Default*.” However, by its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of that debt security is deemed to acknowledge and agree that the bail-in conversion will not give rise to a default or event of default for purposes of Section 315(b) (Notice of Defaults) and Section 315(c) (Duties of the Trustee in Case of Default) of the Trust Indenture Act.

By its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of that debt security, to the extent permitted by the Trust Indenture Act, is deemed to waive any and all claims, in law and/or in equity, against the trustees, for, agrees not to initiate a suit against the trustees in respect of, and agrees that the trustees will not be liable for, any action that the trustees take, or abstain from taking, in either case in accordance with the bail-in regime.

Additionally, by its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of that debt security is deemed to acknowledge and agree that, upon a bail-in conversion or other action pursuant to the bail-in regime with respect to bail-inable debt securities,

- the trustees will not be required to take any further directions from holders of those bail-inable debt securities under Section 512 of the senior debt securities indenture, which section authorizes holders of a majority in aggregate outstanding principal amount of the debt securities to direct certain actions relating to the debt securities; and
- the senior debt securities indenture will not impose any duties upon the trustees whatsoever with respect to a bail-in conversion or such other action pursuant to the bail-in regime.

Notwithstanding the foregoing, if, following the completion of a bail-in conversion, the relevant bail-inable debt securities remain outstanding (for example, if not all bail-inable debt securities are converted), then the trustees’ duties under the senior debt securities indenture will remain applicable with respect to those bail-inable debt securities following such completion to the extent that the Bank and the trustees will agree pursuant to a supplemental indenture or an amendment to the senior debt securities indenture; *provided, however*, that

notwithstanding the bail-in conversion, there will at all times be a trustee for the bail-inable debt securities in accordance with the senior debt securities indenture, and the resignation and/or removal of either of the trustees, the appointment of a successor trustee and the rights of the trustees or any successor trustee will continue to be governed by the senior debt securities indenture, including to the extent no additional supplemental indenture or amendment to the senior debt securities indenture is agreed upon in the event the relevant bail-inable debt securities remain outstanding following the completion of the bail-in conversion.

#### *DTC—Bail-in Conversion*

Upon a bail-in conversion, we will provide a written notice to The Depository Trust Company (“DTC”) and the holders of bail-inable debt securities through DTC as soon as practicable regarding such bail-in conversion. We will also deliver a copy of such notice to the trustees for information purposes.

By its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of that debt security is deemed to have authorized, directed and requested DTC and any direct participant in DTC or other intermediary through which it holds such bail-inable debt security to take any and all necessary action, if required, to implement the bail-in conversion or other action pursuant to the bail-in regime with respect to the bail-inable debt security, as it may be imposed on it, without any further action or direction on the part of that holder or beneficial owner, the trustees or the paying agent.

#### *Clearing Systems*

By its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of an interest in that bail-inable debt security is deemed to have authorized, directed and requested any clearing system and any direct participant in such clearing system or other intermediary through which it holds such bail-inable debt security to take any and all necessary action, if required, to implement the bail-in conversion or any other action pursuant to the bail-in regime with respect to such bail-inable debt security, as may be imposed on it, without any further action or direction on the part of that holder or beneficial owner, the trustees or the paying agent.

#### *Subsequent Holders’ Agreement*

Each holder or beneficial owner of a bail-inable debt security that acquires an interest in the bail-inable debt security in the secondary market and any successors, assigns, heirs, executors, administrators, trustees in bankruptcy and legal representatives of any holder or beneficial owner is deemed to acknowledge, accept, agree to be bound by and consent to the same provisions specified herein to the same extent as the holders or beneficial owners that acquired an interest in the bail-inable debt securities upon their initial issuance, including, without limitation, with respect to the acknowledgement and agreement to be bound by and consent to the terms of the bail-inable debt securities related to the bail-in regime.

#### *Submission to Jurisdiction*

By its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of that bail-inable debt security is deemed to attorn and submit to the jurisdiction of the courts in the Province of Ontario with respect to actions, suits and proceedings arising out of or relating to the operation of the CDIC Act and the laws of the Province of Ontario and the federal laws of Canada applicable therein in respect of the senior debt securities indenture and the bail-inable debt securities.

### **Special Provisions Related to the Subordinated Debt Securities**

The subordinated debt securities issued under the subordinated debt securities indentures will be our direct unsecured obligations constituting subordinated indebtedness for the purpose of the Bank Act and will therefore

rank subordinate to our deposits. Holders of subordinated debt securities should recognize that contractual provisions in the subordinated debt securities indentures may prohibit us from making payments on these debt securities.

If we become insolvent or are wound-up, the subordinated debt securities will rank subordinate in right of payment to the prior payment in full of all indebtedness of the Bank then outstanding, other than liabilities which, by their terms, rank in right of payment equally with or subordinate to the subordinated indebtedness, and in accordance with the terms of such liabilities or such other indebtedness under certain circumstances and, except as otherwise provided in an applicable prospectus supplement with respect to any series of subordinated debt securities, will rank equally with, but not prior to, all other Subordinated indebtedness.

For these purposes, “indebtedness” at any time means:

- (1) all deposit liabilities of the Bank; and
- (2) all other liabilities and obligations of the Bank which in accordance with the accounting rules established for Canadian chartered banks issued under the authority of the Superintendent appointed pursuant to OSFI pursuant to the Bank Act or with IFRS, as the case may be, would be included in determining the total liabilities of the Bank at such time, other than liabilities for paid-up capital, contributed surplus, retained earnings and general reserves of the Bank.

“Subordinated indebtedness” at any time means:

- (1) the liability of the Bank in respect of the principal of and premium, if any, and interest on its outstanding subordinated indebtedness;
- (2) any indebtedness which ranks equally with and not prior to the outstanding subordinated indebtedness, in right of payment in the event of the insolvency or winding up of the Bank and which, pursuant to the terms of the instrument evidencing or creating the same, is expressed to be subordinate in right of payment to all indebtedness to which the outstanding subordinated indebtedness is subordinate in right of payment to at least the same extent as the outstanding subordinated indebtedness is subordinated thereto pursuant to the terms of the instrument evidencing or creating the same; and
- (3) any indebtedness which ranks subordinate to and not equally with or prior to the outstanding subordinated indebtedness, in right of payment in the event of the insolvency or winding-up of the Bank and which, pursuant to the terms of the instrument evidencing or creating the same, is expressed to be subordinate in right of payment to all indebtedness to which the outstanding subordinated indebtedness is subordinate in right of payment to at least the same extent as the outstanding subordinated indebtedness is subordinate pursuant to the terms of the instrument evidencing or creating the same.

The subordination provisions of the subordinated debt securities indentures are governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

#### *Non-Viability Contingent Capital Provisions*

In accordance with capital adequacy requirements adopted by the OSFI, in order to qualify as regulatory capital, non-common capital instruments issued after January 1, 2013, including subordinated debt securities, must include terms providing for the full and permanent conversion of such securities into common shares of the Bank upon the occurrence of a Trigger Event (the “NVCC Provisions”).

“Trigger Event” has the meaning set out in the OSFI Guideline for Capital Adequacy Requirements (CAR), Chapter 2—Definition of Capital, dated November 2018, as such term may be amended or superseded by OSFI from time to time, which term currently provides that each of the following constitutes a Trigger Event:

- the Superintendent publicly announces that the Bank has been advised, in writing, that the Superintendent is of the opinion that the Bank has ceased, or is about to cease, to be viable and that,

after the conversion or write-off, as applicable, of all contingent instruments and taking into account any other factors or circumstances that are considered relevant or appropriate, it is reasonably likely that the viability of the Bank will be restored or maintained; or

- a federal or provincial government in Canada publicly announces that the Bank has accepted or agreed to accept a capital injection, or equivalent support, from the federal government or any provincial government or political subdivision or agent or agency thereof without which the Bank would have been determined by the Superintendent to be non-viable.

The specific terms of any NVCC Provisions for any subordinated debt securities that we issue under this prospectus will be described in one or more prospectus supplements relating to such subordinated debt securities.

If subordinated debt securities issued under the subordinated debt securities indentures are converted into common shares in accordance with NVCC Provisions, the rights, terms and conditions of such securities, including with respect to priority and rights on liquidation, will no longer be relevant (except under limited circumstances) as all such securities will have been converted on a full and permanent basis into common shares ranking on parity with all other outstanding common shares of the Bank.

The NVCC Provisions of the NVCC subordinated debt securities indenture (or in the subordinated debt securities indenture pursuant to any amendment or supplement thereto) will be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.

The NVCC Provisions do not apply to senior debt securities offered under this prospectus.

### **Conversion or Exchange of Debt Securities**

If and to the extent mentioned in the applicable prospectus supplements, any debt securities may be optionally or mandatorily convertible or exchangeable for other securities of the Bank, into the cash value therefor or into any combination of the above. The specific terms on which any debt securities may be so converted or exchanged will be described in the applicable prospectus supplements. These terms may include provisions for conversion or exchange, either mandatory, at the holder's option or at our option, in which case the amount or number of securities the holders of the debt securities would receive would be calculated at the time and manner described in the applicable prospectus supplements.

### **Defeasance**

The following discussion of full defeasance and covenant defeasance will be applicable to each series of debt securities that is denominated in U.S. dollars and has a fixed rate of interest and will apply to other series of debt securities if we so specify in the applicable prospectus supplements. The following discussion of full defeasance and covenant defeasance will not be applicable to subordinated debt securities that are subject to the NVCC Provisions. Any full defeasance or covenant defeasance with respect to bail-inable debt securities that would result in the Bank not meeting the TLAC requirements applicable to it pursuant to the TLAC Guideline will be subject to the prior approval of the Superintendent.

*Full Defeasance.* If there is a change in U.S. federal income tax law, as described below, we can legally release ourselves from any payment or other obligations on the debt securities of a series, called full defeasance, if we put in place the following other arrangements for holders to be repaid:

- We must deposit in trust for the benefit of all holders of the debt securities of that series a combination of money and notes or bonds of (i) the U.S. government or (ii) a U.S. government agency or U.S. government-sponsored entity, the obligations of which, in each case, are backed by the full faith and credit of the U.S. government, that will generate enough cash to make interest, principal and any other payments on the debt securities of that series on their various due dates.

- There must be a change in current U.S. federal income tax law or a ruling by the U.S. Internal Revenue Service that lets us make the above deposit without causing the holders to be taxed on the debt securities of that series any differently than if we did not make the deposit and just repaid the debt securities of that series ourselves. (Under current U.S. federal income tax law, the deposit and our legal release from the obligations pursuant to the debt securities would be treated as though we took back your debt securities and gave you your share of the cash and notes or bonds deposited in trust. In that event, you could recognize gain or loss on the debt securities you give back to us.)
- We must deliver to the trustees a legal opinion of our counsel confirming the tax-law change described above and that the holders of the debt securities of that series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such deposit, defeasance and discharge and will be subject to U.S. federal income tax on the same amounts and in the same manner and at the same times as would be the case if such deposit, defeasance and discharge had not occurred.

If we ever did accomplish full defeasance, as described above, you would have to rely solely on the trust deposit for repayment on the debt securities. You could not look to us for repayment in the event of any shortfall.

*Covenant Defeasance.* Even without a change in current U.S. federal income tax law, we can make the same type of deposit as described above, and we will be released from the restrictive covenants under the debt securities of a series that may be described in the applicable prospectus supplements. This is called covenant defeasance. In that event, you would lose the protection of these covenants but would gain the protection of having money and U.S. government, U.S. government agency or U.S. government-sponsored entity notes or bonds set aside in trust to repay the debt securities. In order to achieve covenant defeasance, we must do the following:

- Deposit in trust for the benefit of all holders of the debt securities of that series a combination of money and notes or bonds of (i) the U.S. government or (ii) a U.S. government agency or U.S. government-sponsored entity, the obligations of which, in each case, are backed by the full faith and credit of the U.S. government, that will generate enough cash to make interest, principal and any other payments on the debt securities of that series on their various due dates
- Deliver to the trustees a legal opinion of our counsel confirming that the holders of the debt securities of that series will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such deposit and covenant defeasance and will be subject to U.S. federal income tax on the same amounts and in the same manner and at the same times as would be the case if such deposit and covenant defeasance had not occurred.

If we accomplish covenant defeasance, certain provisions of the indentures and the debt securities would no longer apply:

- Covenants applicable to the series of debt securities and described in the applicable prospectus supplements.
- Any events of default relating to breach of those covenants.

If we accomplish covenant defeasance, you can still look to us for repayment of the debt securities if there were a shortfall in the trust deposit. In fact, if one of the remaining events of default occurs (such as a bankruptcy) and the debt securities become immediately due and payable, there may be such a shortfall.

## **Events of Default**

You will have special rights if an “event of default” occurs and is not cured, as described later in this subsection.

*What is an Event of Default?*

Under the senior debt securities indenture, for bail-inable debt securities of a series issued on or after September 23, 2018, “event of default” means any of the following:

- We default in the payment of the principal of, or interest on, any debt security of that series and, in each case, the default continues for a period of 30 business days.
- We file for bankruptcy or certain other events of bankruptcy, insolvency or reorganization occur.
- Any other event of default described in an applicable prospectus supplement occurs.

Notwithstanding the foregoing, if you purchase senior debt securities that are part of a series created before September 23, 2018 or if your senior debt security is not otherwise a bail-inable debt security, “event of default” means any of the following:

- We do not pay the principal of or any premium on a debt security of that series within five days of its due date.
- We do not pay interest on a debt security of that series for more than 30 days after its due date.
- We file for bankruptcy or certain other events of bankruptcy, insolvency or reorganization occur.
- Any other event of default described in an applicable prospectus supplement occurs.

Neither a bail-in conversion nor a conversion of subordinated debt securities into common shares in accordance with NVCC Provisions will constitute a default or an event of default under the senior debt securities indenture. An event of default regarding one series of debt securities will not cause an event of default regarding any other series of debt securities.

Under the subordinated debt securities indenture, the term “event of default” in respect of any series of debt securities means any of the following:

- We file for bankruptcy or certain other events of bankruptcy, insolvency or reorganization occur.
- Any other event of default described in an applicable prospectus supplement occurs.

Under the NVCC subordinated debt securities indenture, the term “event of default” in respect of any series of debt securities means we file for bankruptcy or certain other events of bankruptcy, insolvency or reorganization occur. Neither the conversion of subordinated debt securities into common shares in accordance with NVCC Provisions, nor a default in the performance in any covenant of the Bank under such indenture, nor a bail-in conversion will constitute an event of default under the NVCC subordinated debt securities indenture or under the subordinated debt securities indenture (if the NVCC Provisions are included in the subordinated debt securities indenture pursuant to any amendment or supplement thereto).

*Remedies if an Event of Default Occurs.* If an event of default occurs, the trustees will have special duties. In that situation, the trustees will be obligated to use those of their rights and powers under the applicable indenture, and to use the same degree of care and skill in doing so, that a prudent person would use in that situation in conducting his or her own affairs.

Holders or beneficial owners of bail-inable debt securities may only exercise, or direct the exercise of, the rights described in this section if the Governor in Council (*Canada*) has not made an order under Canadian bank resolution powers pursuant to subsection 39.13(1) of the CDIC Act in respect of the Bank. Notwithstanding the exercise of those rights, bail-inable debt securities will continue to be subject to bail-in conversion until repaid in full.

With respect to the senior debt securities indenture and the subordinated debt securities indenture, if an event of default has occurred and has not been cured, the trustees or the holders of at least 25% in principal

amount of the debt securities of the affected series may declare the entire principal amount of (or, in the case of original issue discount securities, the portion of the principal amount that is specified in the terms of the affected debt security) and accrued and unpaid interest on all of the debt securities of that series to be due and immediately payable. This is called a declaration of acceleration of maturity. The declaration of acceleration of maturity is not, however, an automatic right upon the occurrence of an event of default, and for such acceleration to be effective, the trustees must take the aforementioned action or the holders must direct the trustees to act as described in this section below. Furthermore, a declaration of acceleration of maturity may be cancelled, but only before a judgment or decree based on the acceleration has been obtained, by the holders of at least a majority in principal amount of the debt securities of the affected series.

With respect to the NVCC subordinated debt securities indenture, if an event of default has occurred, and a Trigger Event has not occurred, the entire principal amount of and accrued and unpaid interest on all of the subordinated debt securities will become immediately due and payable without any declaration or other act on the part of the trustees or any holders of the subordinated debt securities.

If you are the holder of a subordinated debt security, the principal amount of the subordinated debt security will not be paid and may not be required to be paid at any time prior to the relevant maturity date, except in the event of our insolvency or winding-up.

If any provisions of the Bank Act or any rules, regulations, orders or guidelines passed pursuant thereto or in connection therewith or guidelines issued by the Superintendent in relation thereto limit the payment of such unpaid principal and interest under the debt securities before a specified time, our obligation to make such payment will be subject to such limitation.

You should read carefully the applicable prospectus supplements relating to any series of debt securities which are original issue discount securities for the particular provisions relating to acceleration of the maturity of a portion of the principal amount of original issue discount securities upon the occurrence of an event of default and its continuation.

Except in cases of default in which the trustees have the special duties described above, the trustees are not required to take any action under the indenture at the request of any holders unless the holders offer the trustees reasonable protection from expenses and liability, called an indemnity, reasonably satisfactory to the trustees. If such an indemnity is provided, the holders of a majority in principal amount of the outstanding debt securities of the relevant series may direct the time, method and place of conducting any lawsuit or other formal legal action seeking any remedy available to the trustees. These majority holders may also direct the trustees in performing any other action under the applicable indenture with respect to the debt securities of that series.

Before you bypass the trustees and bring your own lawsuit or other formal legal action or take other steps to enforce your rights or protect your interests relating to the debt securities the following must occur:

- the holder of the debt security must give the trustees written notice that an event of default has occurred and remains uncured;
- the holders of not less than 25% in principal amount of all outstanding debt securities of the relevant series, treated as one class, must make a written request that the trustees take action because of such event of default;
- such holder or holders must offer reasonable indemnity to the trustees against the cost and other liabilities of taking that action;
- the trustees must have not taken action for 90 days after receipt of the above notice and offer of indemnity; and
- the trustees have not received any direction from a majority in principal amount of all outstanding debt securities that is inconsistent with such written request during such 90-day period.

However, you are entitled at any time to bring a lawsuit for the payment of money due on your debt security on or after its due date.

**BOOK-ENTRY AND OTHER INDIRECT HOLDERS SHOULD CONSULT THEIR BANKS, BROKERS OR OTHER FINANCIAL INSTITUTIONS FOR INFORMATION ON HOW TO GIVE NOTICE OR DIRECTION TO OR MAKE A REQUEST OF THE TRUSTEES AND TO MAKE OR CANCEL A DECLARATION OF ACCELERATION**

We will give to the trustees every year a written statement of certain of our officers certifying that to their knowledge we are in compliance with the applicable indenture and the debt securities issued under it, or else specifying any default.

**Canadian Bank Resolution Powers**

*General*

Under Canadian bank resolution powers, the CDIC may, in circumstances where the Bank has ceased, or is about to cease, to be viable, assume temporary control or ownership of the Bank and may be granted broad powers by one or more Orders, including the power to sell or dispose of all or a part of the assets of the Bank, and the power to carry out or cause the Bank to carry out a transaction or a series of transactions the purpose of which is to restructure the business of the Bank. As part of the Canadian bank resolution powers, certain provisions of, and regulations under, the Bank Act, the CDIC Act and certain other Canadian federal statutes pertaining to banks, which we refer to collectively as the “bail-in regime,” provide for a bank recapitalization regime for banks designated by the Superintendent as D-SIBs, which include the Bank.

The expressed objectives of the bail-in regime include reducing government and taxpayer exposure in the unlikely event of a failure of a D-SIB, reducing the likelihood of such a failure by increasing market discipline by reinforcing that bank shareholders and creditors are responsible for the D-SIBs’ risks and not taxpayers, and preserving financial stability by empowering the CDIC to quickly restore a failed D-SIB to viability and allow it to remain open and operating, even where the D-SIB has experienced severe losses.

Under the CDIC Act, in circumstances where the Superintendent is of the opinion that the Bank has ceased, or is about to cease, to be viable and viability cannot be restored or preserved by exercise of the Superintendent’s powers under the Bank Act, the Superintendent, after providing the Bank with a reasonable opportunity to make representations, is required to provide a report to CDIC. Following receipt of the Superintendent’s report, CDIC may request the Minister to recommend that the Governor in Council (*Canada*) make an Order and, if the Minister is of the opinion that it is in the public interest to do so, the Minister may recommend that the Governor in Council (*Canada*) make, and on that recommendation, the Governor in Council (*Canada*) may make, one or more of the following Orders:

- vesting in CDIC, the shares and subordinated debt of the Bank specified in the Order, which we refer to as a “vesting order”;
- appointing CDIC as receiver in respect of the Bank, which we refer to as a “receivership order”;
- if a receivership order has been made, directing the Minister to incorporate a federal institution designated in the Order as a bridge institution wholly-owned by CDIC and specifying the date and time as of which the Bank’s deposit liabilities are assumed, which we refer to as a “bridge bank order”;
- if a vesting order or receivership order has been made, directing CDIC to carry out a conversion, by converting or causing the Bank to convert, in whole or in part – by means of a transaction or series of transactions and in one or more steps – the shares and liabilities of the Bank that are subject to the bail-in regime into common shares of the Bank or any of its affiliates, which we refer to as a “conversion order”.



Following a vesting order or a receivership order, CDIC will assume temporary control or ownership of the Bank and will be granted broad powers under that Order, including the power to sell or dispose of all or a part of the assets of the Bank, and the power to carry out or cause the Bank to carry out a transaction or a series of transactions the purpose of which is to restructure the business of the Bank.

Under a bridge bank order, CDIC has the power to transfer the Bank's insured deposit liabilities and certain assets and other liabilities of the Bank to a bridge institution. Upon the exercise of that power, any assets and liabilities of the Bank that are not transferred to the bridge institution would remain with the Bank, which would then be wound up. In such a scenario, any liabilities of the Bank, including any outstanding debt securities (whether or not such debt securities are bail-inable debt securities), that are not assumed by the bridge institution could receive only partial or no repayment in the ensuing wind-up of the Bank.

Upon the making of a conversion order, prescribed shares and liabilities under the bail-in regime that are subject to that conversion order will, to the extent converted, be converted into common shares of the Bank or any of its affiliates, as determined by CDIC. Subject to certain exceptions discussed below, senior debt securities issued on or after September 23, 2018, with an initial or amended term to maturity (including explicit or embedded options) greater than 400 days, that are unsecured or partially secured and that have been assigned a CUSIP or ISIN or similar identification number are subject to a bail-in conversion. Shares, other than common shares, and subordinated debt securities of the Bank are also subject to a bail-in conversion, unless they are non-viability contingent capital.

Shares and liabilities which would otherwise be bail-inable but were issued before September 23, 2018 are not subject to a bail-in conversion unless, in the case of any such liability, including any debt securities, the terms of that liability are amended to increase the principal amount or to extend the term to maturity on or after September 23, 2018, and that liability, as amended, meets the requirements to be subject to a bail-in conversion. Covered bonds, certain derivatives and certain structured notes (as such term is used under the bail-in regime) are expressly excluded from a bail-in conversion. To the extent that any debt securities constitute structured notes (as such term is used under the bail-in regime) they will not be bail-inable debt securities. As a result, claims of some creditors whose claims would otherwise rank equally with those of the holders holding bail-inable debt securities would be excluded from a bail-in conversion and thus the holders and beneficial owners of bail-inable debt securities will have to absorb losses ahead of these other creditors as a result of the bail-in conversion. The terms and conditions of the bail-in conversion will be determined by CDIC in accordance with and subject to certain requirements discussed below.

### ***Bail-in Conversion***

Under the bail-in regime there is no fixed and pre-determined contractual conversion ratio for the conversion of the bail-inable debt securities, or other shares or liabilities of the Bank that are subject to a bail-in conversion, into common shares of the Bank or any of its affiliates nor are there specific requirements regarding whether liabilities subject to a bail-in conversion are converted into common shares of the Bank or any of its affiliates. CDIC determines the timing of the bail-in conversion, the portion of bail-inable shares and liabilities to be converted and the terms and conditions of the conversion, subject to parameters set out in the bail-in regime. Those parameters include that:

- in carrying out a bail-in conversion, CDIC must take into consideration the requirement under the Bank Act for banks to maintain adequate capital;
- CDIC must use its best efforts to ensure that shares and liabilities subject to a bail-in conversion are only converted after all subordinate ranking shares and liabilities that are subject to a bail-in conversion and any subordinate non-viability contingent capital instruments have been previously converted or are converted at the same time;
- CDIC must use its best efforts to ensure that the converted part of the liquidation entitlement of a share subject to a bail-in conversion, or the converted part of the principal amount and accrued and unpaid

interest of a liability subject to a bail-in conversion, is converted on a pro rata basis for all shares or liabilities subject to a bail-in conversion of equal rank that are converted during the same restructuring period;

- holders of shares and liabilities that are subject to a bail-in conversion must receive a greater number of common shares per dollar of the converted part of the liquidation entitlement of their shares, or the converted part of the principal amount and accrued and unpaid interest of their liabilities, than holders of any subordinate shares or liabilities subject to a bail-in conversion that are converted during the same restructuring period or of any subordinate non-viability contingent capital that is converted during the same restructuring period;
- holders of shares or liabilities subject to a bail-in conversion of equal rank that are converted during the same restructuring period must receive the same number of common shares per dollar of the converted part of the liquidation entitlement of their shares or the converted part of the principal amount and accrued and unpaid interest of their liabilities; and
- holders of shares or liabilities subject to a bail-in conversion must receive, if any non-viability contingent capital of equal rank to the shares or liabilities is converted during the same restructuring period, a number of common shares per dollar of the converted part of the liquidation entitlement of their shares, or the converted part of the principal amount and accrued and unpaid interest of their liabilities, that is equal to the largest number of common shares received by any holder of the non-viability contingent capital per dollar of that capital.

### ***Compensation Regime***

The CDIC Act provides for a compensation process for holders of bail-inable debt securities who immediately prior to the making of an Order, directly or through an intermediary, own bail-inable debt securities that are converted in a bail-in conversion. While this process applies to successors of those holders it does not apply to assignees or transferees of the holder following the making of the Order and does not apply if the amounts owing under the relevant bail-inable debt securities are paid in full.

Under the compensation process, the compensation to which such holders are entitled is the difference, to the extent it is positive, between the estimated liquidation value and the estimated resolution value of the relevant bail-inable debt securities. The liquidation value is the estimated value the holders of bail-inable debt securities would have received if an order under the *Winding-up and Restructuring Act* (Canada) had been made in respect of the Bank, as if no Order had been made and without taking into consideration any assistance, financial or otherwise, that is or may be provided to the Bank, directly or indirectly, by CDIC, the Bank of Canada, the Government of Canada or a province of Canada, after any order to wind up the Bank has been made.

The resolution value in respect of relevant bail-inable debt securities is the aggregate estimated value of the following: (a) the relevant bail-inable debt securities, if they are not held by CDIC and they are not converted, after the making of an Order, into common shares under a bail-in conversion; (b) common shares that are the result of a bail-in conversion after the making of an Order; (c) any dividend or interest payments made, after the making of the Order, with respect to the relevant bail-inable debt securities to any person other than CDIC; and (d) any other cash, securities or other rights or interests that are received or to be received with respect to the relevant bail-inable debt securities as a direct or indirect result of the making of the Order and any actions taken in furtherance of the Order, including from CDIC, the Bank, the liquidator of the Bank, if the Bank is wound up, the liquidator of a CDIC subsidiary incorporated or acquired by order of the Governor in Council for the purposes of facilitating the acquisition, management or disposal of real property or other assets of the Bank that CDIC may acquire as the result of its operations that is liquidated or the liquidator of a bridge institution if the bridge institution is wound up.

In connection with the compensation process, CDIC is required to estimate the liquidation value and the resolution value in respect of the portion of converted bail-inable debt securities and is required to consider the

difference between the estimated day on which the liquidation value would be received and the estimated day on which the resolution value is, or would be, received.

CDIC must, within a reasonable period following a bail-in conversion, make an offer of compensation by notice to the relevant holders that held bail-inable debt securities equal to, or in value estimated to be equal to, the amount of compensation to which such holders are entitled or provide a notice stating that such holders are not entitled to any compensation. In either case such offer or notice is required to include certain prescribed information, including important information regarding the rights of such holders to seek to object and have the compensation to which they are entitled determined by an assessor (a Canadian Federal Court judge) where holders of liabilities representing at least 10% of the principal amount and accrued and unpaid interest of the liabilities of the same class object to the offer or absence of compensation. The period for objecting is limited (45 days following the day on which a summary of the notice is published in the *Canada Gazette*) and failure by holders holding a sufficient principal amount plus accrued and unpaid interest of affected bail-inable debt securities to object within the prescribed period will result in the loss of any ability to object to the offered compensation or absence of compensation, as applicable. CDIC will pay the relevant holders the offered compensation within 135 days after the date on which a summary of the notice is published in the *Canada Gazette* if the offer of compensation is accepted, the holder does not notify CDIC of acceptance or objection to the offer or if the holder objects to the offer but the 10% threshold described above is not met within the aforementioned 45-day period.

Where an assessor is appointed, the assessor could determine a different amount of compensation payable, which could either be higher or lower than the original amount. The assessor is required to provide holders, whose compensation it determines, notice of its determination. The assessor's determination is final and there are no further opportunities for review or appeal. CDIC will pay the relevant holders the compensation amount determined by the assessor within 90 days of the assessor's notice.

By its acquisition of an interest in any bail-inable debt security, each holder or beneficial owner of that debt security is deemed to be bound by a bail-in conversion and so will have no further rights in respect of its bail-inable debt securities to the extent that those bail-inable debt securities are converted in a bail-in conversion, other than those provided under the bail-in regime.

### ***TLAC Guideline***

In connection with the bail-in regime, the TLAC Guideline applies to and establishes standards for D-SIBs, including the Bank. Under the TLAC Guideline, beginning November 1, 2021, the Bank is required to maintain a minimum capacity to absorb losses composed of unsecured external long-term debt that meets the prescribed criteria or regulatory capital instruments to support recapitalization in the event of a failure. Bail-inable debt securities and regulatory capital instruments that meet the prescribed criteria will constitute TLAC of the Bank.

In order to comply with the TLAC Guideline, our senior debt securities indenture provides for terms and conditions for the bail-inable debt securities necessary to meet the prescribed criteria and qualify at their issuance as TLAC instruments of the Bank under the TLAC Guideline. Those criteria include the following:

- the Bank cannot directly or indirectly have provided financing to any person for the express purpose of investing in the bail-inable debt securities;
- the bail-inable debt security is not subject to set-off or netting rights;
- the bail-inable debt security must not provide rights to accelerate repayment of principal or interest payments outside of bankruptcy, insolvency, wind-up or liquidation, except that events of default relating to the non-payment of scheduled principal and/or interest payments will be permitted where

they are subject to a cure period of no less than 30 business days and clearly disclose to investors that:

- (i) acceleration is only permitted where an Order has not been made in respect of the Bank; and
- (ii) notwithstanding any acceleration, the instrument continues to be subject to a bail-in conversion prior to its repayment;

- the bail-inable debt security may be redeemed or purchased for cancellation only at the initiative of the Bank and, where the redemption or purchase would lead to a breach of the Bank's minimum TLAC requirements, that redemption or purchase would be subject to the prior approval of the Superintendent;
- the bail-inable debt security does not have credit-sensitive dividend or coupon features that are reset periodically based in whole or in part on the Bank's credit standing; and
- where an amendment or variance of the bail-inable debt security's terms and conditions would affect its recognition as TLAC, that amendment or variance will only be permitted with the prior approval of the Superintendent.

## **DESCRIPTION OF CERTAIN PROVISIONS RELATING TO THE DEBT SECURITIES WE MAY OFFER**

### **Form, Exchange and Transfer**

Unless we specify otherwise in an applicable prospectus supplement, the debt securities will be issued:

- only in fully-registered form;
- without interest coupons; and
- in denominations of US\$2,000 and integral multiples of US\$1,000 in excess thereof.

If a debt security is issued as a registered global debt security, as the case may be, only the depository—such as DTC, Euroclear and Clearstream, each as defined below under “Legal Ownership and Book-Entry Issuance”—will be entitled to transfer and exchange the debt security, as described in this subsection because the depository will be the sole registered holder of such debt security and is referred to below as the “holder.” Those who own beneficial interests in a global debt security do so through participants in the depository’s securities clearance system, and the rights of these indirect owners will be governed by the applicable procedures of the depository and its participants. We describe book-entry procedures below under “Legal Ownership and Book-Entry Issuance.”

Holders of debt securities issued in fully-registered form may have their debt securities broken into more debt securities of smaller authorized denominations or combined into fewer debt securities of larger authorized denominations, as long as the total principal amount is not changed. This is called an exchange.

Holders may exchange or register the transfer of debt securities at the office of the applicable trustee. Debt securities may be transferred by endorsement. Holders may also replace lost, stolen or mutilated debt securities at that office. The trustees act as our agents for registering debt securities in the names of holders and registering the transfer of debt securities. We may change this appointment to another entity or perform it ourselves. The entity performing the role of maintaining the list of registered holders is called the security registrar. It will also record transfers. The applicable trustee may require an indemnity before replacing any debt securities.

Holders will not be required to pay a service charge to register the transfer or exchange of debt securities, but holders may be required to pay for any tax or other governmental charge associated with the exchange or transfer. The registration of a transfer or exchange will only be made if the security registrar is satisfied with your proof of ownership.

If we designate additional agents, they will be named in the applicable prospectus supplements. We may cancel the designation of any particular agent. We may also approve a change in the office through which any agent acts.

If the debt securities are redeemable and we redeem less than all of the debt securities of a particular series, we may block the registration of transfer or exchange of debt securities during the period beginning 15 days before the day we mail the notice of redemption and ending on the day of that mailing, in order to freeze the list of holders entitled to receive the mailing. We may also refuse to register transfers or exchanges of debt securities selected for redemption, except that we will continue to permit registration of transfers and exchanges of the unredeemed portion of any debt security being partially redeemed.

### **The Trustees**

Computershare Trust Company, National Association and Computershare Trust Company of Canada serve as the trustees for our senior debt securities.

Computershare Trust Company, National Association and Computershare Trust Company of Canada also serve as the trustees for the subordinated debt securities.

The trustees make no representation or warranty, whether express or implied, with respect to the Bank, the debt securities and other matters described in this prospectus. The trustees have not prepared or reviewed any of the information included in this prospectus, except the trustees have consented to the use of their names. Such approval does not constitute a representation or approval by the trustees of the accuracy or sufficiency of any information contained in this prospectus.

### **Payment and Paying Agents**

In accordance with and subject to the specific terms of any debt securities, we will pay interest to the person listed in the trustees' records at the close of business on a particular day in advance of each due date for interest, even if that person no longer owns the debt security on the interest due date. That particular day, usually about two weeks in advance of the interest due date, is called the regular record date and will be stated in an applicable prospectus supplement. Holders buying and selling debt securities must work out between them how to compensate for the fact that we will pay all the interest for an interest period to the one who is the registered holder on the regular record date. The most common manner is to adjust the sale price of the debt securities to prorate interest fairly between buyer and seller. This prorated interest amount is called accrued interest.

We will pay interest, principal and any other money due on the debt securities at the corporate trust office of Computershare Trust Company, National Association or such other office as may be agreed upon. Holders must make arrangements to have their payments picked up at or wired from that office or such other office as may be agreed upon. We may also choose to pay interest by mailing checks.

### **BOOK-ENTRY AND OTHER INDIRECT HOLDERS SHOULD CONSULT THEIR BANKS, BROKERS OR OTHER FINANCIAL INSTITUTIONS FOR INFORMATION ON HOW THEY WILL RECEIVE PAYMENTS.**

We may also arrange for additional payment offices and may cancel or change these offices, including our use of the trustees' corporate trust offices. These offices are called paying agents. We may also choose to act as our own paying agent or choose one of our subsidiaries to do so. We must notify holders of changes in the paying agents for any particular series of debt securities.

### **Notices**

We and the trustees will send notices regarding the debt securities only to registered holders, using their addresses as listed in the trustees' records. With respect to who is a registered "holder" for this purpose, see "Legal Ownership and Book-Entry Issuance."

Regardless of who acts as paying agent, all money paid by us to a paying agent that remains unclaimed at the end of two years after the amount is due to holders will be repaid to us. After that two-year period, holders may look to us for payment and not to the trustees or any other paying agent.

## **LEGAL OWNERSHIP AND BOOK-ENTRY ISSUANCE**

In this section, we describe special considerations that will apply to registered debt securities issued in global i.e., book-entry, form. First we describe the difference between registered ownership and indirect ownership of registered debt securities. Then we describe special provisions that apply to global debt securities.

## **Who is the Legal Owner of a Registered Security?**

Each debt security will be represented either by a certificate issued in definitive form to a particular investor or by one or more global debt securities representing debt securities. We refer to those who have debt securities registered in their own names, on the books that we or the trustees maintain for this purpose, as the “registered holders” of those debt securities. Subject to limited exceptions, we and the trustees are entitled to treat the registered holder of a debt security as the person exclusively entitled to vote, to receive notices, to receive any interest or other payment in respect of the debt security and to exercise all the rights and power as an owner of the debt security. We refer to those who own beneficial interests in debt securities that are not registered in their own names as indirect owners of those debt securities. As we discuss below, indirect owners are not registered holders, and investors in debt securities issued in book-entry form or in street name will be indirect owners.

*Book-Entry Owners.* Unless otherwise noted in an applicable prospectus supplement, we will issue each debt security in book-entry form only. This means debt securities will be represented by one or more global debt securities registered in the name of a financial institution that holds them as depositary on behalf of other financial institutions that participate in the depositary’s book-entry system. These participating institutions, in turn, hold beneficial interests in the debt securities on behalf of themselves or their customers.

Under each indenture (and the Bank Act in the case of subordinated indebtedness), subject to limited exceptions and applicable law, only the person in whose name a debt security is registered is recognized as the holder of that debt security. Consequently, for debt securities issued in global form, we will recognize only the depositary as the holder of the debt securities and we will make all payments on the debt securities, including deliveries of any property other than cash, to the depositary. The depositary passes along the payments it receives to its participants, which in turn pass the payments along to their customers who are the beneficial owners. The depositary and its participants do so under agreements they have made with one another or with their customers; they are not obligated to do so under the terms of the debt securities.

As a result, investors will not own debt securities directly. Instead, they will own beneficial interests in a global debt security, through a bank, broker or other financial institution that participates in the depositary’s book-entry system or holds an interest through a participant. As long as the debt securities are issued in global form, investors will be indirect owners, and not registered holders, of the debt securities.

*Street Name Owners.* We may issue debt securities initially in non-global form or we may terminate an existing global debt security, as described below under “—What is a Global Debt Security?—Holder’s Option to Obtain a Non-Global Debt Security; Special Situations When a Global Debt Security Will Be Terminated.” In these cases, investors may choose to hold their debt securities in their own names or in street name. Debt securities held by an investor in street name would be registered in the name of a bank, broker or other financial institution that the investor chooses, and the investor would hold only a beneficial interest in those debt securities through an account he or she maintains at that institution.

For debt securities held in street name, we will, subject to limited exceptions and applicable law, recognize only the intermediary banks, brokers and other financial institutions in whose names the debt securities are registered as the holders of those debt securities, and we will make all payments on those debt securities, including deliveries of any property other than cash, to them. These institutions pass along the payments they receive to their customers who are the beneficial owners, but only because they agree to do so in their customer agreements or because they are legally required to do so. Investors who hold debt securities in street name will be indirect owners, not registered holders, of those debt securities.

*Registered Holders.* Subject to limited exceptions, our obligations, as well as the obligations of the trustees under any indenture and the obligations, if any, of any other third parties employed by us, run only to the registered holders of the debt securities. We do not have obligations to investors who hold beneficial interests in global debt securities, in street name or by any other indirect means. This will be the case whether an investor chooses to be an indirect owner of a debt security or has no choice because we are issuing the debt securities only in global form.

For example, once we make a payment or give a notice to the registered holder, we have no further responsibility for that payment or notice even if that holder is required, under agreements with depository participants or customers or by law, to pass it along to the indirect owners but does not do so. Similarly, if we want to obtain the approval of the holders for any purpose—for example, to amend the indenture for a series of debt securities or to relieve us of the consequences of a default or of our obligation to comply with a particular provision of an indenture—we would seek the approval only from the registered holders, and not the indirect owners, of the relevant debt securities. Whether and how the registered holders contact the indirect owners is up to the registered holders.

When we refer to “you” in this prospectus, we mean all purchasers of the debt securities being offered by this prospectus and the applicable prospectus supplements, whether they are the registered holders or only indirect owners of those debt securities. When we refer to “your debt securities” in this prospectus, we mean the debt securities in which you will hold a direct or indirect interest.

*Special Considerations for Indirect Owners.* If you hold debt securities through a bank, broker or other financial institution, either in book-entry form or in street name, you should check with your own institution to find out:

- how it handles securities payments and notices;
- whether it imposes fees or charges;
- how it would handle a request for the holders’ consent, if ever required;
- how it would exercise rights under the debt securities if there were a default or other event triggering the need for holders to act to protect their interests; and
- if the debt securities are in book-entry form, how the depository’s rules and procedures will affect these matters.

### **What is a Global Debt Security?**

Unless otherwise noted in the applicable prospectus supplement, we will issue each debt security in book-entry form only. Each debt security issued in book-entry form will be represented by a global debt security that we deposit with and register in the name of one or more financial institutions or clearing systems, or their nominees, which we select. A financial institution or clearing system that we select for any debt security for this purpose is called the “depository” for that debt security. A debt security will usually have only one depository but it may have more. Each series of debt securities will have one or more of the following as the depositories:

- The Depository Trust Company, New York, New York, which is known as “DTC”;
- Euroclear Bank S.A./N.V., as operator of the Euroclear System, which is known as “Euroclear”;
- Clearstream Banking, *société anonyme*, which is known as “Clearstream”;
- any other clearing system or financial institution named in the applicable prospectus supplements.

The depositories named above may also be participants in one another’s systems. Thus, for example, if DTC is the depository for a global debt security, investors may hold beneficial interests in that debt security through Euroclear or Clearstream, as DTC participants. The depository or depositories for your debt securities will be named in the applicable prospectus supplements; if none is named, the depository will be DTC.

A global debt security may represent one or any other number of individual debt securities. Generally, all debt securities represented by the same global debt security will have the same terms. We may, however, issue a global debt security that represents multiple debt securities of the same kind, such as debt securities that have different terms and are issued at different times. We call this kind of global debt security a master global debt security. The applicable prospectus supplements will not indicate whether your debt securities are represented by a master global debt security.



A global debt security may not be transferred to or registered in the name of anyone other than the depository or its nominee, unless special termination situations arise. We describe those situations below under “—Holder’s Option to Obtain a Non-Global Debt Security; Special Situations When a Global Debt Security Will Be Terminated.” As a result of these arrangements, the depository, or its nominee, will be the sole registered owner and holder of all debt securities represented by a global debt security, and investors will be permitted to own only indirect interests in a global debt security. Indirect interests must be held by means of an account with a broker, bank or other financial institution that in turn has an account with the depository or with another institution that does. Thus, an investor whose debt security is represented by a global debt security will not be a holder of the debt security, but only an indirect owner of an interest in the global debt security.

If an applicable prospectus supplement for a particular debt security indicates that the debt security will be issued in global form only, then the debt security will be represented by a global debt security at all times unless and until the global debt security is terminated. We describe the situations in which this can occur below under “—Holder’s Option to Obtain a Non-Global Debt Security; Special Situations When a Global Debt Security Will Be Terminated.” If termination occurs, we may issue the debt securities through another book-entry clearing system or decide that the debt securities may no longer be held through any book-entry clearing system.

*Special Considerations for Global Debt Securities.* As an indirect owner, an investor’s rights relating to a global debt security will be governed by the account rules of the depository and those of the investor’s bank, broker, financial institution or other intermediary through which it holds its interest (such as Euroclear or Clearstream, if DTC is the depository), as well as general laws relating to securities transfers. We do not recognize this type of investor or any intermediary as a holder of debt securities and instead deal only with the depository that holds the global debt security.

If debt securities are issued only in the form of a global debt security, an investor should be aware of the following:

- an investor cannot cause the debt securities to be registered in his or her own name, and cannot obtain non-global certificates for his or her interest in the debt securities, except in the special situations we describe below;
- an investor will be an indirect holder and must look to his or her own bank, broker or other financial institution for payments on the debt securities and protection of his or her legal rights relating to the debt securities, as we describe above under “—Who is the Legal Owner of a Registered Security?”;
- an investor may not be able to sell interests in the debt securities to some insurance companies and other institutions that are required by law to own their debt securities in non-book-entry form;
- an investor may not be able to pledge his or her interest in a global debt security in circumstances in which certificates representing the debt securities must be delivered to the lender or other beneficiary of the pledge in order for the pledge to be effective;
- the depository’s policies will govern payments, deliveries, transfers, exchanges, notices and other matters relating to an investor’s interest in a global debt security, and those policies may change from time to time. We and the trustees will have no responsibility for any aspect of the depository’s policies, actions or records of ownership interests in a global debt security. We and the trustees also do not supervise the depository in any way;
- the depository may require that those who purchase and sell interests in a global debt security within its book-entry system use immediately available funds and your bank, broker or other financial institution may require you to do so as well; and
- financial institutions that participate in the depository’s book-entry system and through which an investor holds its interest in the global debt securities, directly or indirectly, may also have their own policies affecting payments, deliveries, transfers, exchanges, notices and other matters relating to the

debt securities, and those policies may change from time to time. For example, if you hold an interest in a global debt security through Euroclear or Clearstream, when DTC is the depository, Euroclear or Clearstream, as applicable, may require those who purchase and sell interests in that debt security through them to use immediately available funds and comply with other policies and procedures, including deadlines for giving instructions as to transactions that are to be effected on a particular day. There may be more than one financial intermediary in the chain of ownership for an investor. We and the trustees do not monitor and are not responsible for the policies or actions or records of ownership interests of any of those intermediaries.

*Holder's Option to Obtain a Non-Global Debt Security; Special Situations When a Global Debt Security Will Be Terminated.* If we issue any series of debt securities in book-entry form but we choose to give the beneficial owners of that series the right to obtain non-global debt securities, any beneficial owner entitled to obtain non-global debt securities may do so by following the applicable procedures of the depository, any transfer agent or registrar for that series and that owner's bank, broker or other financial institution through which that owner holds its beneficial interest in the debt securities. If you are entitled to request a non-global certificate and wish to do so, you will need to allow sufficient lead time to enable us or our agent to prepare the requested certificate.

In addition, in a few special situations described below, a global debt security will be terminated and interests in it will be exchanged for certificates in non-global form representing the debt securities it represented. After that exchange, the choice of whether to hold the debt securities directly or in street name will be up to the investor. Investors must consult their own banks, brokers or other financial institutions, to find out how to have their interests in a global debt security transferred on termination to their own names, so that they will be holders. We have described the rights of holders and street name investors above under “—Who is the Legal Owner of a Registered Security?”

The special situations for termination of a global debt security are as follows:

- if the depository notifies us that it is unwilling, unable or no longer qualified to continue as depository for that global debt security and we do not appoint another institution to act as depository within 60 days;
- if we notify the trustees that we wish to terminate that global debt security; or
- if an event of default has occurred with regard to these debt securities and has not been cured or waived.

If a global debt security is terminated, only the depository, and neither we nor the trustees for any debt securities, is responsible for deciding the names of the institutions in whose names the debt securities represented by the global debt security will be registered and, therefore, who will be the registered holders of those debt securities.

### **Considerations Relating to DTC**

DTC has informed us that it is a limited-purpose trust company organized under the New York Banking Law, a “banking organization” within the meaning of the New York Banking Law, a member of the Federal Reserve System, a “clearing corporation” within the meaning of the New York Uniform Commercial Code, and a “clearing agency” registered pursuant to the provisions of Section 17A of the Exchange Act. DTC holds securities that DTC participants deposit with DTC. DTC also facilitates the settlement among DTC participants of securities transactions, such as transfers and pledges, in deposited securities through electronic computerized book-entry changes in DTC participants' accounts, thereby eliminating the need for physical movement of certificates. DTC participants include securities brokers and dealers, banks, trust companies and clearing corporations, and may include other organizations. DTC is owned by a number of its direct participants and by

the New York Stock Exchange, Inc. and the Financial Industry Regulatory Authority, Inc. Indirect access to the DTC system also is available to others such as banks, brokers, dealers and trust companies that clear through or maintain a custodial relationship with a participant, either directly or indirectly. The rules applicable to DTC and DTC participants are on file with the SEC.

Purchases of debt securities within the DTC system must be made by or through DTC participants, who will receive a credit for the debt securities on DTC's records. Transfers of ownership interests in the debt securities are accomplished by entries made on the books of participants acting on behalf of beneficial owners.

Redemption notices will be sent to DTC's nominee, Cede & Co., as the registered holder of the debt securities. If less than all of the debt securities are being redeemed, DTC will determine the amount of the interest of each direct participant to be redeemed in accordance with its then-current procedures.

In instances in which a vote is required, neither DTC nor Cede & Co. will itself consent or vote with respect to the debt securities. Under its usual procedures, DTC would mail an omnibus proxy to the relevant trustee as soon as possible after the record date. The omnibus proxy assigns Cede & Co.'s consenting or voting rights to those direct participants to whose accounts such debt securities are credited on the record date (identified in a listing attached to the omnibus proxy).

Distribution payments on the debt securities will be made by the relevant trustee to DTC. DTC's usual practice is to credit direct participants' accounts on the relevant payment date in accordance with their respective holdings shown on DTC's records unless DTC has reason to believe that it will not receive payments on such payment date. Payments by participants to beneficial owners will be governed by standing instructions and customary practices and will be the responsibility of such participants and not of DTC, the relevant trustee or us, subject to any statutory or regulatory requirements as may be in effect from time to time. Payment of distributions to DTC is the responsibility of the relevant trustee, and disbursements of such payments to the beneficial owners are the responsibility of direct and indirect participants.

The information in this section concerning DTC and DTC's book-entry system has been obtained from sources that we believe to be accurate, but we assume no responsibility for the accuracy thereof. We do not have any responsibility for the performance by DTC or its participants of their respective obligations as described herein or under the rules and procedures governing their respective operations.

### **Considerations Relating to Clearstream and Euroclear**

Clearstream and Euroclear are securities clearance systems in Europe. Clearstream and Euroclear have respectively informed us that Clearstream and Euroclear each hold securities for their customers and facilitate the clearance and settlement of securities transactions by electronic book-entry transfer between their respective account holders. Clearstream and Euroclear provide various services including safekeeping, administration, clearance and settlement of internationally traded securities and securities lending and borrowing. Clearstream and Euroclear also deal with domestic securities markets in several countries through established depository and custodial relationships. Clearstream and Euroclear have established an electronic bridge between their two systems across which their respective participants may settle trades with each other. Clearstream and Euroclear customers are world-wide financial institutions including underwriters, securities brokers and dealers, banks, trust companies and clearing corporations. Indirect access to Clearstream and Euroclear is available to other institutions that clear through or maintain a custodial relationship with an account holder of either system.

Euroclear and Clearstream may be depositories for a global debt security. In addition, if DTC is the depository for a global debt security, Euroclear and Clearstream may hold interests in the global debt security as participants in DTC.

As long as any global debt security is held by Euroclear or Clearstream, as depository, you may hold an interest in the global debt security only through an organization that participates, directly or indirectly, in

Euroclear or Clearstream. If Euroclear or Clearstream is the depository for a global debt security and there is no depository in the United States, you will not be able to hold interests in that global debt security through any securities clearance system in the United States.

Payments, deliveries, transfers, exchanges, notices and other matters relating to the debt securities made through Euroclear or Clearstream must comply with the rules and procedures of those systems. Those systems could change their rules and procedures at any time. We have no control over those systems or their participants and we take no responsibility for their activities. Transactions between participants in Euroclear or Clearstream, on one hand, and participants in DTC, on the other hand, when DTC is the depository, would also be subject to DTC's rules and procedures.

*Special Timing Considerations Relating to Transactions in Euroclear and Clearstream.* Investors will be able to make and receive through Euroclear and Clearstream payments, deliveries, transfers, exchanges, notices and other transactions involving any debt securities held through those systems only on days when those systems are open for business. Those systems may not be open for business on days when banks, brokers and other financial institutions are open for business in the United States.

In addition, because of time-zone differences, U.S. investors who hold their interests in the debt securities through these systems and wish to transfer their interests, or to receive or make a payment or delivery or exercise any other right with respect to their interests, on a particular day may find that the transaction will not be effected until the next business day in Luxembourg or Brussels, as applicable. Thus, investors who wish to exercise rights that expire on a particular day may need to act before the expiration date. In addition, investors who hold their interests through both DTC and Euroclear or Clearstream may need to make special arrangements to finance any purchases or sales of their interests between the U.S. and European clearing systems, and those transactions may settle later than would be the case for transactions within one clearing system.

## UNITED STATES TAXATION

This section describes the material U.S. federal income tax consequences to a U.S. holder (as defined below) of owning the securities we are offering. It is the opinion of Shearman & Sterling LLP, counsel to the Bank. It applies to you only if you acquire your securities at their original issuance, and you hold your securities as capital assets for U.S. federal income tax purposes. This section does not apply to you if you are a member of a class of holders subject to special rules, such as:

- a dealer in securities or currencies,
- a trader in securities that elects to use a mark-to-market method of accounting for your securities holdings,
- a bank or other financial institution,
- an insurance company,
- a tax-exempt organization,
- an individual retirement account or other tax-deferred account,
- real estate investment trusts,
- a person that actually or constructively owns 10% or more of our stock (by vote or value),
- a person that holds securities as part of a straddle or a hedging or conversion transaction,
- a former citizen or long-term resident of the United States subject to U.S. federal income tax as an expatriate, or
- a person whose functional currency for tax purposes is not the U.S. dollar.

This section is based on the Internal Revenue Code of 1986, as amended (the “Code”), its legislative history, existing and proposed Treasury regulations promulgated under the Code, published rulings and court decisions, as well as the income tax treaty between the United States and Canada (the “Treaty”), all as currently in effect. These laws are subject to change, possibly on a retroactive basis.

If a partnership or an entity or arrangement treated as a partnership for U.S. federal income tax purposes holds the securities, the U.S. federal income tax treatment of a partner will generally depend on the status of the partner and the tax treatment of the partnership. A partner in a partnership holding the securities should consult its tax advisor with regard to the U.S. federal income tax treatment of an investment in the securities.

This summary is for general information only and does not address all aspects of U.S. federal income taxation that may be relevant to a particular investor in light of the investor’s circumstances, nor does it address the effects of any state, local or non-U.S. tax laws or any U.S. federal estate, gift, generation-skipping transfer or alternative minimum tax considerations.

*Please consult your own tax advisor concerning the consequences of owning these securities in your particular circumstances under the Code and the laws of any other taxing jurisdiction.*

You are a U.S. holder if you are a beneficial owner of a security and you are:

- a citizen or individual resident of the United States,
- a corporation (or any other entity treated as a corporation for U.S. federal income tax purposes) created or organized in or under the laws of the United States, any state thereof or the District of Columbia,
- an estate whose income is subject to U.S. federal income tax regardless of its source, or

- a trust if (1) a U.S. court can exercise primary supervision over the trust's administration and one or more U.S. persons are authorized to control all substantial decisions of the trust or (2) the trust has a valid election in effect under applicable Treasury regulations to be treated as a U.S. person.

### **Tax consequences to holders of our shares**

This subsection discusses the U.S. federal income tax consequences relevant to the purchase, ownership and disposition of our shares. Additional U.S. federal income tax consequences relevant to certain preferred shares are not described in this prospectus and will be discussed in an applicable prospectus supplement.

#### ***Taxation of Dividends***

The gross amount of any dividend we pay out of our current or accumulated earnings and profits (as determined for U.S. federal income tax purposes) is subject to U.S. federal income taxation. If you are a noncorporate U.S. holder, dividends paid to you that constitute "qualified dividend income" will be taxable to you at preferential rates applicable to long-term capital gains provided that (i) the Bank is a "qualified foreign corporation" and (ii) you hold the shares for more than 60 days during the 121 day period beginning 60 days before the ex-dividend date (or, in the case of preferred stock, if the dividend is attributable to a period or periods aggregating over 366 days, provided that you hold the shares for more than 90 days during the 181 day period beginning 90 days before the ex-dividend date) and meet other holding period requirements. The Bank generally will be a "qualified foreign corporation" if (1) it is either (a) eligible for the benefits of the Treaty, or (b) if the stock with respect to which such dividend is paid is readily tradable on an established securities market in the United States (as determined for U.S. federal income tax purposes), and (2) it is not a PFIC (as defined below) in the taxable year of the distribution or the immediately preceding taxable year. The Bank expects to be eligible for the benefits of the Treaty. In addition, as discussed below under "—PFIC Rules," the Bank does not believe it should be treated as a PFIC for the current year or any future years.

The dividend is taxable to you when you receive the dividend, actually or constructively. The dividend will not be eligible for the dividends-received deduction generally allowed to U.S. corporations in respect of dividends received from other U.S. corporations. The amount of the dividend distribution that you must include in your income as a U.S. holder will be the U.S. dollar value of the Canadian payments made, determined at the spot Canadian dollar/U.S. dollar rate on the date the dividend distribution is includible in your income, regardless of whether the payment is in fact converted into U.S. dollars. Generally, any gain or loss resulting from currency exchange fluctuations during the period from the date you include the dividend payment in income to the date you convert the payment into U.S. dollars will be treated as ordinary income or loss and will not be eligible for the special tax rate applicable to qualified dividend income. Such currency gain or loss generally will be income or loss from sources within the United States for U.S. foreign tax credit limitation purposes. Distributions in excess of current and accumulated earnings and profits (as determined for U.S. federal income tax purposes) will be treated as a non-taxable return of capital to the extent of your tax basis in the shares and thereafter as capital gain. We do not expect to maintain calculations of earnings and profits for U.S. federal income tax purposes. Therefore, a U.S. holder should expect that such distribution will generally be treated as a dividend.

For U.S. foreign tax credit limitation purposes, dividends will be treated as income from sources outside the United States and will, depending on your circumstances, be treated as either "passive" or "general" income for U.S. foreign tax credit limitation purposes. The rules relating to the determination of the U.S. foreign tax credit, or deduction in lieu of the U.S. foreign tax credit, are complex and you should consult your tax advisors with respect to these rules.

#### ***Sale or Exchange of Shares***

If you are a U.S. holder and you sell or otherwise dispose of your shares, you will recognize capital gain or loss for U.S. federal income tax purposes equal to the difference between the U.S. dollar value of the amount that

you realize and your tax basis, determined in U.S. dollars, in your shares. Capital gain of a noncorporate U.S. holder is generally taxed at preferential rates where the property is held for more than one year. The deductibility of capital losses is subject to limitations. The gain or loss will generally be income or loss from sources within the United States for U.S. foreign tax credit limitation purposes.

### ***PFIC Rules***

We believe that our shares should not be treated as stock of a passive foreign investment company (a “PFIC”) for U.S. federal income tax purposes and we do not anticipate becoming a PFIC in the future, but this conclusion is a factual determination that is made annually and thus may be subject to change. However, if we subsequently determine that we are a PFIC our PFIC status will be discussed in an applicable prospectus supplement.

In general, if you are a U.S. holder, we will be a PFIC with respect to you if for any taxable year in which you held our shares:

- at least 75% of our gross income for the taxable year is passive income, or
- at least 50% of the value, determined on the basis of a quarterly average, of our assets is attributable to assets that produce or are held for the production of passive income.

Passive income generally includes dividends, interest, royalties, rents (other than certain rents and royalties derived in the active conduct of a trade or business), annuities and gains from the sale or exchange of assets that produce passive income. If a foreign corporation owns at least 25% by value of the stock of another corporation, the foreign corporation is treated for purposes of the PFIC tests described above as owning its proportionate share of the of the assets of the other corporation, and as receiving directly its proportionate share of the other corporation’s income. In addition, for purposes of the PFIC tests described above, income derived in the active conduct of our banking business should not be treated as passive income.

### **Tax consequences to holders of our debt securities**

This subsection deals only with debt securities that are due to mature 30 years or less from the date on which they are issued and whose terms are described in this prospectus. This subsection does not deal with debt securities that, upon the occurrence of an applicable “trigger event,” will automatically be converted into common shares. The U.S. federal income tax consequences of owning such debt securities and debt securities whose terms are not described in this prospectus will be discussed in an applicable prospectus supplement. Unless otherwise indicated in the applicable prospectus supplement, we intend to treat the debt securities as indebtedness for U.S. federal income tax purposes, and the balance of this summary assumes the debt securities are treated as indebtedness for U.S. federal income tax purposes. However, the treatment of a debt security as indebtedness for U.S. federal income tax purposes depends on a number of factors, and if the debt securities are not properly treated as indebtedness for U.S. federal income tax purposes, the U.S. federal income tax treatment of investors in debt securities may be different than that described below.

### **Bail-inable Debt Securities**

There is no authority that specifically addresses the U.S. federal income tax treatment of an instrument such as the bail-inable debt securities. While the bail-inable debt securities more likely than not should be treated as debt for U.S. federal income tax purposes, the Internal Revenue Service (“IRS”) could assert an alternative tax treatment of the bail-inable debt securities for U.S. federal income tax purposes, for example, that the bail-inable debt securities should be considered as equity for U.S. federal income tax purposes. There can be no assurance that any alternative tax treatment, if successfully asserted by the IRS would not have adverse U.S. federal income tax consequences to a U.S. holder of the bail-inable debt securities. However, treatment of the bail-inable debt securities as equity for U.S. federal income tax purposes may not result in inclusions of income with respect to the bail-inable debt securities that are materially different than the U.S. federal income tax consequences if the bail-inable debt securities are treated as debt for U.S. federal income tax purposes.

Assuming the bail-inable debt securities are characterized as debt for U.S. federal income tax purposes, the U.S. federal income tax consequences to a U.S. holder of the bail-inable debt securities would be as described below in this section “—Tax consequences to holders of our debt securities”. However, if the bail-inable debt securities were characterized as equity for U.S. federal income tax purposes, the U.S. federal income tax consequences to a U.S. holder of the bail-inable debt securities would be as described above in “—Tax consequences to holders of our shares”. However, it is unclear whether interest payments on the bail-inable debt securities that are treated as dividends for U.S. federal income tax purposes would be treated as “qualified dividend income” for U.S. federal income tax purposes as described above in “—Tax consequences to holders of our shares—Taxation of Dividends”.

U.S. holders are urged to consult their tax advisors regarding the characterization of the bail-inable debt securities as debt or equity for U.S. federal income tax purposes.

### **Payments of Interest**

Except as described below in the case of interest on a discount debt security that is not qualified stated interest, each as defined below under “—Original Issue Discount—General,” you will be taxed on any interest on your debt security, whether payable in U.S. dollars or a foreign currency, including a composite currency or basket of currencies other than U.S. dollars, as ordinary income at the time you receive the interest or when it accrues, depending on your method of accounting for tax purposes.

Interest that we pay on the debt securities and original issue discount, if any, accrued with respect to the debt securities (as described below under “—Original Issue Discount”) is treated as income from sources outside the United States subject to the rules regarding the U.S. foreign tax credit allowable to a U.S. holder. Under the U.S. foreign tax credit rules, interest and original issue discount and additional amounts will, depending on your circumstances, be treated as either “passive” or “general” income for purposes of computing the U.S. foreign tax credit.

*Cash Basis Taxpayers.* If you are a taxpayer that uses the cash receipts and disbursements method of accounting for tax purposes and you receive an interest payment that is denominated in, or determined by reference to, a foreign currency, you must recognize income equal to the U.S. dollar value of the interest payment, based on the exchange rate in effect on the date of receipt, regardless of whether you actually convert the payment into U.S. dollars.

*Accrual Basis Taxpayers.* If you are a taxpayer that uses an accrual method of accounting for tax purposes, you may determine the amount of income that you recognize with respect to an interest payment denominated in, or determined by reference to, a foreign currency by using one of two methods. Under the first method, you will determine the amount of income accrued based on the average exchange rate in effect during the interest accrual period or, with respect to an accrual period that spans two taxable years, that part of the period within the taxable year.

If you elect the second method, you would determine the amount of income accrued on the basis of the exchange rate in effect on the last day of the accrual period, or, in the case of an accrual period that spans two taxable years, the exchange rate in effect on the last day of the part of the period within the taxable year. Additionally, under this second method, if you receive a payment of interest within five business days of the last day of your accrual period or taxable year, you may instead translate the interest accrued into U.S. dollars at the exchange rate in effect on the day that you actually receive the interest payment. If you elect the second method it will apply to all debt instruments that you hold at the beginning of the first taxable year to which the election applies and to all debt instruments that you subsequently acquire. You may not revoke this election without the consent of the IRS.

When you actually receive an interest payment, including a payment attributable to accrued but unpaid interest upon the sale or retirement of your debt security, denominated in, or determined by reference to, a



foreign currency for which you accrued an amount of income, you will recognize ordinary income or loss measured by the difference, if any, between the exchange rate that you used to accrue interest income and the exchange rate in effect on the date of receipt, regardless of whether you actually convert the payment into U.S. dollars.

### **Original Issue Discount**

*General.* If you own a debt security, other than a short-term debt security with a term of one year or less, it will be treated as a discount debt security issued at an original issue discount (“OID”) if the amount by which the debt security’s stated redemption price at maturity exceeds its issue price is more than a de minimis amount. Generally, a debt security’s issue price will be the first price at which a substantial amount of debt securities included in the issue of which the debt security is a part is sold to persons other than bond houses, brokers, or similar persons or organizations acting in the capacity of underwriters, placement agents, or wholesalers. A debt security’s stated redemption price at maturity is the total of all payments provided by the debt security that are not payments of qualified stated interest. Generally, an interest payment on a debt security is qualified stated interest if it is one of a series of stated interest payments on a debt security that are unconditionally payable at least annually at a single fixed rate, with certain exceptions for lower rates paid during some periods, applied to the outstanding principal amount of the debt security. There are special rules for variable rate debt securities that are discussed under “—Variable Rate Debt Securities.”

In general, your debt security is not a discount debt security if the amount by which its stated redemption price at maturity exceeds its issue price is less than the de minimis amount of 1/4 of 1% of its stated redemption price at maturity multiplied by the number of complete years to its maturity. Your debt security will have de minimis OID if the amount of the excess is less than the de minimis amount. If your debt security has de minimis OID, you must include the de minimis amount in income as stated principal payments are made on the debt security, unless you make the election described below under “—Election to Treat All Interest as Original Issue Discount.” You can determine the includible amount with respect to each such payment by multiplying the total amount of your debt security’s de minimis original issue discount by a fraction equal to:

- the amount of the principal payment made

divided by:

- the stated principal amount of the debt security.

Generally, if your discount debt security matures more than one year from its date of issue, you must include OID in income before you receive cash attributable to that income. The amount of OID that you must include in income is calculated using a constant-yield method, and generally you will include increasingly greater amounts of OID in income over the life of your debt security. More specifically, you can calculate the amount of OID that you must include in income by adding the daily portions of OID with respect to your discount debt security for each day during the taxable year or portion of the taxable year that you hold your discount debt security. You can determine the daily portion by allocating to each day in any accrual period a pro rata portion of the OID allocable to that accrual period. You may select an accrual period of any length with respect to your discount debt security and you may vary the length of each accrual period over the term of your discount debt security. However, no accrual period may be longer than one year and each scheduled payment of interest or principal on the discount debt security must occur on either the first or final day of an accrual period.

You can determine the amount of OID allocable to an accrual period by:

- multiplying your discount debt security’s adjusted issue price at the beginning of the accrual period by your debt security’s yield to maturity, and then
- subtracting from this figure the sum of the payments of qualified stated interest on your debt security allocable to the accrual period.

You must determine the discount debt security's yield to maturity on the basis of compounding at the close of each accrual period and adjusting for the length of each accrual period. Further, you determine your discount debt security's adjusted issue price at the beginning of any accrual period by:

- adding your discount debt security's issue price and any accrued OID for each prior accrual period, and then
- subtracting any payments previously made on your discount debt security that were not qualified stated interest payments.

If an interval between payments of qualified stated interest on your discount debt security contains more than one accrual period, then, when you determine the amount of OID allocable to an accrual period, you must allocate the amount of qualified stated interest payable at the end of the interval, including any qualified stated interest that is payable on the first day of the accrual period immediately following the interval, pro rata to each accrual period in the interval based on their relative lengths. In addition, you must increase the adjusted issue price at the beginning of each accrual period in the interval by the amount of any qualified stated interest that has accrued prior to the first day of the accrual period but that is not payable until the end of the interval. You may compute the amount of OID allocable to an initial short accrual period by using any reasonable method if all other accrual periods, other than a final short accrual period, are of equal length.

The amount of OID allocable to the final accrual period is equal to the difference between:

- the amount payable at the maturity of your debt security, other than any payment of qualified stated interest, and
- your debt security's adjusted issue price as of the beginning of the final accrual period.

*Acquisition Premium.* If you purchase your debt security for an amount that is less than or equal to the sum of all amounts, other than qualified stated interest, payable on your debt security after the purchase date but is greater than the amount of your debt security's adjusted issue price, as determined above under “—General,” the excess is acquisition premium. If you do not make the election described below under “—Election to Treat All Interest as Original Issue Discount,” then you must reduce the daily portions of OID by a fraction equal to:

- the excess of your adjusted tax basis in the debt security immediately after purchase over the adjusted issue price of the debt security

divided by:

- the excess of the sum of all amounts payable, other than qualified stated interest, on the debt security after the purchase date over the debt security's adjusted issue price.

*Pre-Issuance Accrued Interest.* An election may be made to decrease the issue price of your debt security by the amount of pre-issuance accrued interest if:

- a portion of the initial purchase price of your debt security is attributable to pre-issuance accrued interest,
- the first stated interest payment on your debt security is to be made within one year of your debt security's issue date, and
- the payment will equal or exceed the amount of pre-issuance accrued interest.

If this election is made, a portion of the first stated interest payment will be treated as a return of the excluded pre-issuance accrued interest and not as an amount payable on your debt security.

*Debt Securities Subject to Contingencies Including Optional Redemption.* Your debt security is subject to a contingency if it provides for an alternative payment schedule or schedules applicable upon the occurrence of a

contingency or contingencies, other than a remote or incidental contingency, whether such contingency relates to payments of interest or of principal. In such a case, you must determine the yield and maturity of your debt security by assuming that the payments will be made according to the payment schedule most likely to occur if:

- the timing and amounts of the payments that comprise each payment schedule are known as of the issue date, and
- one of such schedules is significantly more likely than not to occur.

If there is no single payment schedule that is significantly more likely than not to occur, other than because of a mandatory sinking fund, you must include income on your debt security in accordance with the general rules that govern contingent payment obligations. These rules will be discussed in an applicable prospectus supplement.

Notwithstanding the general rules for determining yield and maturity, if your debt security is subject to contingencies, and either you or we have an unconditional option or options that, if exercised, would require payments to be made on the debt security under an alternative payment schedule or schedules, then:

- in the case of an option or options that we may exercise, we will be deemed to exercise or not exercise an option or combination of options in the manner that minimizes the yield on your debt security, and
- in the case of an option or options that you may exercise, you will be deemed to exercise or not exercise an option or combination of options in the manner that maximizes the yield on your debt security.

If both you and we hold options described in the preceding sentence, those rules will apply to each option in the order in which they may be exercised. You may determine the yield on your debt security for the purposes of those calculations by using any date on which your debt security may be redeemed or repurchased as the maturity date and the amount payable on the date that you chose in accordance with the terms of your debt security as the principal amount payable at maturity.

If a contingency, including the exercise of an option, actually occurs or does not occur contrary to an assumption made according to the above rules then, except to the extent that a portion of your debt security is repaid as a result of this change in circumstances and solely to determine the amount and accrual of OID, you must redetermine the yield and maturity of your debt security by treating your debt security as having been retired and reissued on the date of the change in circumstances for an amount equal to your debt security's adjusted issue price on that date.

*Election to Treat All Interest as Original Issue Discount.* You may elect to include in gross income all interest that accrues on your debt security using the constant-yield method described above under “—General,” with the modifications described below. For purposes of this election, interest will include stated interest, OID, de minimis original issue discount, market discount, de minimis market discount and unstated interest, as adjusted by any amortizable bond premium, described below under “—Debt Securities Purchased at a Premium,” or acquisition premium.

If you make this election for your debt security, then, when you apply the constant-yield method:

- the issue price of your debt security will equal your cost,
- the issue date of your debt security will be the date you acquired it, and
- no payments on your debt security will be treated as payments of qualified stated interest.

Generally, this election will apply only to the debt security for which you make it; however, if the debt security has amortizable bond premium, you will be deemed to have made an election to apply amortizable bond

premium against interest for all debt instruments with amortizable bond premium, other than debt instruments the interest on which is excludible from gross income, that you hold as of the beginning of the taxable year to which the election applies or any taxable year thereafter. Additionally, if you make this election for a market discount debt security, you will be treated as having made the election discussed below under “—Debt Securities Purchased with Market Discount” to include market discount in income currently over the life of all debt instruments having market discount that you acquire on or after the first day of the first taxable year to which the election applies. You may not revoke any election to apply the constant–yield method to all interest on a debt security or the deemed elections with respect to amortizable bond premium or market discount debt securities without the consent of the IRS.

*Variable Rate Debt Securities.* Your debt security will be a variable rate debt security if:

- your debt security’s issue price does not exceed the total noncontingent principal payments by more than the lesser of:
  1. 0.015 multiplied by the product of the total noncontingent principal payments and the number of complete years to maturity from the issue date, or
  2. 15% of the total noncontingent principal payments; and
- your debt security provides for stated interest, compounded or paid at least annually, only at:
  1. one or more qualified floating rates,
  2. a single fixed rate and one or more qualified floating rates,
  3. a single objective rate, or
  4. a single fixed rate and a single objective rate that is a qualified inverse floating rate; and
- your debt security satisfies certain other conditions.

Your debt security will have a variable rate that is a qualified floating rate if:

- variations in the value of the rate can reasonably be expected to measure contemporaneous variations in the cost of newly borrowed funds in the currency in which your debt security is denominated; or
- the rate is equal to such a rate multiplied by either:
  1. a fixed multiple that is greater than 0.65 but not more than 1.35, or
  2. a fixed multiple greater than 0.65 but not more than 1.35, increased or decreased by a fixed rate; and
- the value of the rate on any date during the term of your debt security is set no earlier than three months prior to the first day on which that value is in effect and no later than one year following that first day.

If your debt security provides for two or more qualified floating rates that are within 0.25 percentage points of each other on the issue date or can reasonably be expected to have approximately the same values throughout the term of the debt security, the qualified floating rates together constitute a single qualified floating rate.

Your debt security will not have a qualified floating rate, however, if the rate is subject to certain restrictions (including caps, floors, governors, or other similar restrictions) unless such restrictions are fixed throughout the term of the debt security or are not reasonably expected to significantly affect the yield on the debt security.

Your debt security will have a variable rate that is a single objective rate if:

- the rate is not a qualified floating rate,

- the rate is determined using a single, fixed formula that is based on objective financial or economic information that is not within the control of or unique to the circumstances of the issuer or a related party, and
- the value of the rate on any date during the term of your debt security is set no earlier than three months prior to the first day on which that value is in effect and no later than one year following that first day.

Your debt security will not have a variable rate that is an objective rate, however, if it is reasonably expected that the average value of the rate during the first half of your debt security's term will be either significantly less than or significantly greater than the average value of the rate during the final half of your debt security's term.

An objective rate as described above is a qualified inverse floating rate if:

- the rate is equal to a fixed rate minus a qualified floating rate, and
- the variations in the rate can reasonably be expected to inversely reflect contemporaneous variations in the cost of newly borrowed funds.

Your debt security will also have a single qualified floating rate or an objective rate if interest on your debt security is stated at a fixed rate for an initial period of one year or less followed by either a qualified floating rate or an objective rate for a subsequent period, and either:

- the fixed rate and the qualified floating rate or objective rate have values on the issue date of the debt security that do not differ by more than 0.25 percentage points, or
- the value of the qualified floating rate or objective rate is intended to approximate the fixed rate.

In general, if your variable rate debt security provides for stated interest at a single qualified floating rate or objective rate that is unconditionally payable at least annually, all stated interest on your debt security is qualified stated interest. In this case, the amount of OID, if any, is determined by using, in the case of a qualified floating rate or qualified inverse floating rate, the value as of the issue date of the qualified floating rate or qualified inverse floating rate, or, for any other objective rate, a fixed rate that reflects the yield reasonably expected for your debt security.

If your variable rate debt security does not provide for stated interest at a single qualified floating rate or a single objective rate, and also does not provide for interest payable at a fixed rate other than a single fixed rate for an initial period, you generally must determine the interest and OID accruals on your debt security by:

- determining a fixed rate substitute for each variable rate provided under your variable rate debt security,
- constructing the equivalent fixed rate debt instrument, using the fixed rate substitute described above,
- determining the amount of qualified stated interest and OID with respect to the equivalent fixed rate debt instrument, and
- adjusting for actual variable rates during the applicable accrual period.

When you determine the fixed rate substitute for each variable rate provided under the variable rate debt security, you generally will use the value of each variable rate as of the issue date or, for an objective rate that is not a qualified inverse floating rate, a rate that reflects the reasonably expected yield on your debt security.

If your variable rate debt security provides for stated interest either at one or more qualified floating rates or at a qualified inverse floating rate, and also provides for stated interest at a single fixed rate other than at a single

fixed rate for an initial period, you generally must determine interest and OID accruals by using the method described in the previous paragraph. However, your variable rate debt security will be treated, for purposes of the first three steps of the determination, as if your debt security had provided for a qualified floating rate, or a qualified inverse floating rate, rather than the fixed rate. The qualified floating rate, or qualified inverse floating rate, that replaces the fixed rate must be such that the fair market value of your variable rate debt security as of the issue date approximates the fair market value of an otherwise identical debt instrument that provides for the qualified floating rate, or qualified inverse floating rate, rather than the fixed rate.

*Short-Term Debt Securities.* In general, if you are an individual or other cash basis U.S. holder of a short-term debt security, you are not required to accrue OID, as specially defined below for the purposes of this paragraph, for U.S. federal income tax purposes unless you elect to do so (although it is possible that you may be required to include any stated interest in income as you receive it). If you are an accrual basis taxpayer, a taxpayer in a special class, including, but not limited to, a regulated investment company, common trust fund, or a certain type of pass-through entity, or a cash basis taxpayer who so elects, you will be required to accrue OID on short-term debt securities on either a straight-line basis or under the constant-yield method, based on daily compounding. If you are not required and do not elect to include OID in income currently, any gain you realize on the sale or retirement of your short-term debt security will be ordinary income to the extent of the accrued OID, which will be determined on a straight-line basis unless you make an election to accrue the OID under the constant-yield method, through the date of sale or retirement. However, if you are not required and do not elect to accrue OID on your short-term debt securities, you will be required to defer deductions for interest on borrowings allocable to your short-term debt securities in an amount not exceeding the deferred income until the deferred income is realized.

When you determine the amount of OID subject to these rules, you must include all interest payments on your short-term debt security, including stated interest, in your short-term debt security's stated redemption price at maturity.

*Foreign Currency Discount Debt Securities.* If your discount debt security is denominated in, or determined by reference to, a foreign currency, you must determine OID for any accrual period on your discount debt security in the foreign currency and then translate the amount of OID into U.S. dollars in the same manner as stated interest accrued by an accrual basis U.S. holder, as described under “—Tax consequences to holders of our debt securities—Payments of Interest.” You may recognize ordinary income or loss when you receive an amount attributable to OID in connection with a payment of interest or the sale or retirement of your debt security.

### **Debt Securities Purchased at a Premium**

If you purchase your debt security for an amount in excess of its principal amount, you may elect to treat the excess as amortizable bond premium. If you make this election, you will reduce the amount required to be included in your income each year with respect to interest on your debt security by the amount of amortizable bond premium allocable to that year, based on your debt security's yield to maturity. If your debt security is denominated in, or determined by reference to, a foreign currency, you will compute your amortizable bond premium in units of the foreign currency and your amortizable bond premium will reduce your interest income in units of the foreign currency. Gain or loss recognized that is attributable to changes in exchange rates between the time your amortized bond premium offsets interest income and the time of the acquisition of your debt security is generally taxable as ordinary income or loss. If you make an election to amortize bond premium, it will apply to all debt instruments, other than debt instruments the interest on which is excludible from gross income, that you hold at the beginning of the first taxable year to which the election applies or that you thereafter acquire, and you may not revoke it without the consent of the IRS. See also “—Original Issue Discount—Election to Treat All Interest as Original Issue Discount.”

## **Debt Securities Purchased with Market Discount**

You will be treated as if you purchased your debt security, other than a short-term debt security, at a market discount, and your debt security will be a market discount debt security if:

- In the case of an initial purchaser, you purchase your debt security for less than its issue price as determined above under “—Original Issue Discount—General,” and
- the difference between the debt security’s stated redemption price at maturity or, in the case of a discount debt security, the debt security’s revised issue price, and the price you paid for your debt security is equal to or greater than 1/4 of 1% of your debt security’s stated redemption price at maturity or revised issue price, respectively, multiplied by the number of complete years to the debt security’s maturity. To determine the revised issue price of a discount debt security for these purposes, you generally add any OID that has accrued on the debt security prior to your acquisition of the debt security to its issue price.

If your debt security’s stated redemption price at maturity or, in the case of a discount debt security, its revised issue price, exceeds the price you paid for the debt security by less than 1/4 of 1% multiplied by the number of complete years to the debt security’s maturity, the excess constitutes de minimis market discount, and the rules discussed below are not applicable to you.

You must treat any gain you recognize on the maturity or disposition of your market discount debt security as ordinary income to the extent of the accrued market discount on your debt security. Alternatively, you may elect to include market discount in income currently over the life of your debt security. If you make this election, it will apply to all debt instruments with market discount that you acquire on or after the first day of the first taxable year to which the election applies. You may not revoke this election without the consent of the IRS. If you own a market discount debt security and do not make this election, you will generally be required to defer deductions for interest on borrowings allocable to your debt security in an amount not exceeding the accrued market discount on your debt security until the maturity or disposition of your debt security.

You will accrue market discount on your market discount debt security on a straight-line basis unless you elect to accrue market discount using a constant-yield method. If you make this election, it will apply only to the debt security with respect to which it is made and you may not revoke it.

## **Purchase, Sale and Retirement of the Debt Securities**

Your tax basis in your debt security will generally be the U.S. dollar cost, as defined below, of your debt security, adjusted by:

- adding any OID or market discount previously included in income with respect to your debt security, and then
- subtracting any payments on your debt security that are not qualified stated interest payments and any amortizable bond premium applied to reduce interest on your debt security.

If you purchase your debt security with foreign currency, the U.S. dollar cost of your debt security will generally be the U.S. dollar value of the purchase price on the date of purchase. However, if you are a cash basis taxpayer, or an accrual basis taxpayer if you so elect, and your debt security is traded on an established securities market, as defined in the applicable Treasury regulations, the U.S. dollar cost of your debt security will be the U.S. dollar value of the purchase price on the settlement date of your purchase.

You will generally recognize gain or loss on the sale or retirement of your debt security equal to the difference between the amount you realize on the sale or retirement and your tax basis in your debt security. If your debt security is sold or retired for an amount in foreign currency, the amount you realize will be the U.S.

dollar value of such amount on the date the debt security is disposed of or retired, except that in the case of a debt security that is traded on an established securities market, as defined in the applicable Treasury regulations, a cash basis taxpayer, or an accrual basis taxpayer that so elects, will determine the amount realized based on the U.S. dollar value of the foreign currency on the settlement date of the sale.

You will recognize capital gain or loss when you sell or retire your debt security, except to the extent:

- described above under “—Original Issue Discount—Short-Term Debt Securities” or “—Debt Securities Purchased with Market Discount,”
- attributable to accrued but unpaid interest,
- the rules governing contingent payment obligations apply, or
- attributable to changes in exchange rates as described below.

Capital gain of a noncorporate U.S. holder is generally taxed at preferential rates where the property is held for more than one year.

You must treat any portion of the gain or loss that you recognize on the sale or retirement of a debt security as U.S. source ordinary income or loss to the extent attributable to changes in exchange rates. However, you take exchange gain or loss into account only to the extent of the total gain or loss you realize on the transaction.

### **Exchange of Amounts in Other Than U.S. Dollars**

If you receive foreign currency as interest on your debt security or on the sale or retirement of your debt security, your tax basis in the foreign currency will equal its U.S. dollar value when the interest is received or at the time of the sale or retirement. If you purchase foreign currency, you generally will have a tax basis equal to the U.S. dollar value of the foreign currency on the date of your purchase. If you sell or dispose of a foreign currency, including if you use it to purchase debt securities or exchange it for U.S. dollars, any gain or loss recognized generally will be ordinary income or loss.

### **Indexed Debt Securities, Exchangeable Debt Securities, Contingent Payment Debt Securities, Convertible Debt Securities**

An applicable prospectus supplement will discuss any special U.S. federal income tax rules with respect to debt securities the payments on which are determined by reference to any index, a financial or economic measure or pursuant to a formula, debt securities that are exchangeable at our option or the option of the holder into debt securities of an issuer other than the Bank or into other property, debt securities that are subject to the rules governing contingent payment obligations which are not subject to the rules governing variable rate debt securities and debt securities that, upon the occurrence of an applicable “trigger event,” will automatically be converted into common shares.

### **Treasury Regulations Requiring Disclosure of Reportable Transactions**

Treasury regulations require U.S. taxpayers to report certain transactions that give rise to a loss in excess of certain thresholds (a “Reportable Transaction”). Under these Treasury regulations, if the debt securities are denominated in a foreign currency, a U.S. holder that recognizes a loss with respect to the debt securities that is characterized as an ordinary loss due to changes in currency exchange rates (under any of the rules discussed above) would be required to report the loss on IRS Form 8886 (Reportable Transaction Statement) if the loss exceeds the thresholds set forth in the Treasury regulations. For individuals and trusts, this loss threshold is US\$50,000 in any single taxable year. For other types of taxpayers and other types of losses, the thresholds are higher. You should consult with your tax advisor regarding any tax filing and reporting obligations that may apply in connection with acquiring, owning and disposing of debt securities.



## **Other Considerations**

### **Information with Respect to Foreign Financial Assets**

Certain holders that own “specified foreign financial assets” with an aggregate value in excess of US\$50,000 on the last day of the taxable year (or an aggregate value in excess of US\$75,000 at any time during the taxable year) will generally be required to file an information report with respect to such assets with their tax returns. “Specified foreign financial assets” include any financial accounts maintained by foreign financial institutions, as well as any of the following, but only if they are not held in accounts maintained by financial institutions: (i) stock or securities issued by non-U.S. persons, (ii) financial instruments and contracts held for investment that have non-U.S. issuers or counterparties, and (iii) interests in foreign entities. The securities may be subject to these rules. U.S. holders that are individuals are urged to consult their tax advisors regarding the application of this legislation to their ownership of the securities.

### **Medicare Tax**

U.S. holders that are individuals or estates and certain trusts are subject to a 3.8% tax on all or a portion of their “net investment income,” or “undistributed net investment income” in the case of an estate or trust, which may include any income or gain with respect to debt securities, to the extent of their net investment income or undistributed net investment income (as the case may be) that, when added to their other modified adjusted gross income, exceeds US\$200,000 for an unmarried individual, US\$250,000 for a married taxpayer filing a joint return (or a surviving spouse), US\$125,000 for a married individual filing a separate return, or the dollar amount at which the highest tax bracket begins for an estate or trust. The 3.8% Medicare tax is determined in a different manner than the regular income tax. U.S. holders should consult their advisors with respect to the 3.8% Medicare tax.

### **Backup Withholding and Information Reporting**

If you are a noncorporate U.S. holder, information reporting requirements, on IRS Form 1099, generally will apply to:

- dividend payments or payments of principal and interest on a security or other taxable distributions made to you within the United States, including payments made by wire transfer from outside the United States to an account you maintain in the United States, and
- the payment of the proceeds from the sale of a security effected at a U.S. office of a broker

Additionally, backup withholding will apply to such payments if you are a noncorporate U.S. holder that:

- fails to provide an accurate taxpayer identification number,
- is notified by the IRS that you have failed to report all interest and dividends required to be shown on your federal income tax returns, or
- in certain circumstances, fails to comply with applicable certification requirements.

Payment of the proceeds from the sale of a security effected at a foreign office of a broker generally will not be subject to information reporting or backup withholding. However, a sale of a security that is effected at a foreign office of a broker will generally be subject to information reporting and backup withholding if:

- the proceeds are transferred to an account maintained by you in the United States,
- the payment of proceeds or the confirmation of the sale is mailed to you at a U.S. address, or
- the sale has some other specified connection with the United States as provided in U.S. Treasury regulations.

In addition, a sale of a security effected at a foreign office of a broker will generally be subject to information reporting if the broker is:

- a U.S. person,
- a controlled foreign corporation for U.S. federal income tax purposes,
- a foreign person 50% or more of whose gross income is effectively connected with the conduct of a U.S. trade or business for a specified three-year period, or
- a foreign partnership, if at any time during its tax year:
  - one or more of its partners are “U.S. persons,” as defined in Treasury regulations, who in the aggregate hold more than 50% of the income or capital interest in the partnership, or
  - such foreign partnership is engaged in the conduct of a U.S. trade or business.

Backup withholding will apply if the sale is subject to information reporting and the broker has actual knowledge that you are a U.S. person.

You generally may obtain a refund of any amounts withheld under the backup withholding rules that exceed your income tax liability by filing a refund claim with the IRS.

#### **Foreign Account Tax Compliance Act Withholding**

Sections 1471 through 1474 of the Code (which are commonly referred to as “FATCA”) generally impose a 30% withholding tax on certain payments, including “passthru” payments to certain persons if the payments are attributable to assets that give rise to U.S.-source income or gain. Pursuant to Treasury regulations, this withholding tax would not be imposed on payments made pursuant to obligations that are executed on or before the date that is six months after the date on which final Treasury regulations defining “foreign passthru payments” (a term not yet defined) are published and are not materially modified thereafter. FATCA withholding generally is not expected to be required on the securities, and pursuant to proposed regulations, any FATCA withholding on “foreign passthru payments” would begin no earlier than the date that is two years after the date on which final Treasury regulations defining “foreign passthru payments” are published. FATCA is complex and significant aspects of the application of FATCA are not currently clear. You should consult your own tax advisors about the application of FATCA, in particular if you may be classified as a financial institution under the FATCA rules.

## CANADIAN TAXATION

In the opinion of Osler, Hoskin & Harcourt LLP, our Canadian federal income tax counsel, the following summary describes the principal Canadian federal income tax considerations generally applicable to a purchaser who acquires, as beneficial owner, securities pursuant to this prospectus, or shares of the Bank or an affiliate of the Bank on a bail-in conversion (“Bail-in Shares”), and who, at all relevant times, for purposes of the application of the *Income Tax Act* (Canada) (the “Tax Act”), (i) is not, and is not deemed to be, resident in Canada; (ii) deals at arm’s-length with us, any issuer of Bail-in Shares, and with any transferee resident or deemed to be resident in Canada to whom the purchaser disposes of debt securities; (iii) is not affiliated with us; (iv) does not receive any payment of interest on the debt securities in respect of a debt or other obligation to pay an amount to a person with whom we do not deal at arm’s-length; (v) is entitled to receive all payments on securities as beneficial owner (vi) does not use or hold the securities in a business carried on in Canada; and (vii) where the relevant securities are debt securities, is not a “specified shareholder” of the Bank and is not a person who does not deal at arm’s-length with a specified shareholder of the Bank for purposes of subsection 18(5) of the Tax Act (a “Holder”). Special rules, which are not discussed in this summary, may apply to a non-Canadian holder that is an insurer that carries on an insurance business in Canada and elsewhere.

This summary is based on the current provisions of the Tax Act and the regulations thereunder and on counsel’s understanding of the current administrative policies and assessing practices of the Canada Revenue Agency published in writing prior to the date hereof. This summary takes into account all specific proposals to amend the Tax Act and the regulations thereunder publicly announced by or on behalf of the Minister prior to the date hereof (the “Proposed Amendments”) and assumes that all Proposed Amendments will be enacted in the form proposed. However, no assurances can be given that the Proposed Amendments will be enacted as proposed, or at all. This summary does not otherwise take into account or anticipate any changes in law or administrative policy or assessing practice whether by legislative, administrative or judicial action nor does it take into account tax legislation or considerations of any province, territory or foreign jurisdiction, which may differ from those discussed herein.

**This summary is of a general nature only and is not exhaustive of all Canadian federal income tax considerations. It is not intended to be legal or tax advice to any particular purchaser, or in respect of any particular issuance of securities, the terms and conditions of which will be material to the Canadian federal income tax considerations with respect thereto. The Canadian federal income tax considerations may be supplemented, amended and/or replaced in a supplement to this prospectus, based on the terms and conditions of the securities issued pursuant to such supplement. Accordingly, prospective purchasers of securities should consult their own tax advisors having regard to their own particular circumstances, and in any event where securities are otherwise issued without disclosure of Canadian federal income tax considerations.**

### Currency Conversion

Generally, for purposes of the Tax Act, all amounts relating to the acquisition, holding or disposition of the securities not denominated in Canadian dollars must be converted into Canadian dollars based on the exchange rates as determined in accordance with the Tax Act. The amounts subject to withholding tax and any capital gains or capital losses realized by a Holder may be affected by fluctuations in the relevant exchange rate.

### Shares

#### *Dividends on the Shares*

Dividends paid or credited on the shares or deemed to be paid or credited on the shares to a Holder will be subject to Canadian non-resident withholding tax at the rate of 25%, subject to any reduction in the rate of withholding to which the Holder is entitled under any applicable income tax convention between Canada and the

country in which the Holder is resident. For example, under the Canada-U.S. Income Tax Convention (1980) (the “Convention”), where dividends on the shares are considered to be paid to or derived by a Holder that is the beneficial owner of the dividends and a U.S. resident for the purposes of, and is entitled to benefits in accordance with, the provisions of the Convention, the applicable rate of Canadian non-resident withholding tax is generally reduced to 15%.

### ***Disposition of the Shares***

A Holder will not be subject to tax under the Tax Act on any gain realized on a disposition or deemed disposition of shares, unless the shares are “taxable Canadian property” to the Holder for purposes of the Tax Act and the Holder is not entitled to relief under an applicable income tax convention between Canada and the country in which the Holder is resident.

Generally, the shares will not constitute taxable Canadian property to a Holder at a particular time provided that the shares are listed at that time on a designated stock exchange (which includes the Toronto Stock Exchange), unless at any particular time during the 60-month period that ends at that time (i) the Holder, persons with whom the Holder does not deal with at arm’s-length, or the Holder together with all such persons, has owned 25% or more of the issued shares of any class or series of our capital stock and (ii) more than 50% of the fair market value of the shares was derived directly or indirectly from one or any combination of: (a) real or immovable properties situated in Canada, (b) “Canadian resource properties” (as defined in the Tax Act), (c) “timber resource properties” (as defined in the Tax Act), and (d) options in respect of, or interests in, or for civil law rights in, property in any of the foregoing whether or not the property exists. Notwithstanding the foregoing, in certain circumstances set out in the Tax Act, shares could be deemed to be taxable Canadian property. Holders whose shares may constitute taxable Canadian property should consult their own tax advisors.

### **Debt Securities**

Interest paid or credited or deemed for purposes of the Tax Act to be paid or credited on a debt security (including any amount paid at maturity in excess of the principal amount and interest deemed to be paid on the debt security in certain cases involving the assignment, deemed assignment or other transfer of a debt security to the Bank or any other resident or deemed resident of Canada) to a Holder will not be subject to Canadian non-resident withholding tax unless any portion of such interest (other than on a “prescribed obligation” described below) is contingent or dependent on the use of or production from property in Canada or is computed by reference to revenue, profit, cash flow commodity price or any other similar criterion or by reference to dividends paid or payable to shareholders of any class of shares of the capital stock of a corporation (“Participating Debt Interest”). A “prescribed obligation” is a debt obligation the terms or conditions of which provide for an adjustment to any amount payable in respect of the obligation for a period during which the obligation was outstanding which adjustment is determined by reference to a change in the purchasing power of money where no amount payable in respect of such obligation, other than an amount determined by reference to a change in the purchasing power of money, is contingent or dependent upon any of the criteria described in the definition of Participating Debt Interest. If any interest paid or credited or deemed to be paid or credited on a debt security is to be Participating Debt Interest, the Canadian non-resident withholding tax implications of the issuance of such debt securities will be described particularly in the relevant prospectus supplement or pricing supplement for such debt securities. No Canadian non-resident withholding tax will apply to the proceeds received by a Holder on the disposition of a debt security, including on a redemption, payment on maturity, repurchase or purchase of cancellation.

No other Canadian federal taxes on income or gains will be payable by a Holder on interest or principal, or on proceeds received by a Holder on the disposition of a debt security, including on a redemption, payment on maturity, repurchase or purchase of cancellation.

## CERTAIN CONSIDERATIONS FOR ERISA AND OTHER EMPLOYEE BENEFIT PLANS

A fiduciary of a pension, profit-sharing or other employee benefit plan subject to Title I of the United States Employee Retirement Income Security Act of 1974, as amended (“ERISA”) or a plan or account subject to Section 4975 of the Code (such as individual retirement accounts and Keogh plans) or any entity deemed to hold “plan assets” of the foregoing (collectively, “Benefit Plans”) should consider the fiduciary standards of ERISA and the prohibited transaction provisions of ERISA or the Code, as applicable, in the context of the Benefit Plan’s particular circumstances before authorizing an investment in the securities. Accordingly, among other factors, the fiduciary of a Benefit Plan subject to ERISA should consider whether the investment would satisfy the prudence and diversification requirements of ERISA and would be consistent with the documents and instruments governing the Benefit Plan.

Section 406 of ERISA and Section 4975 of the Code prohibit Benefit Plans from engaging in certain transactions involving “plan assets” with persons who are “parties in interest” under ERISA or “disqualified persons” under the Code (“parties in interest”) with respect to the Benefit Plan. A party in interest who engages in a prohibited transaction may be subject to excise taxes and other penalties and liabilities under ERISA and the Code, unless exemptive relief is available under an applicable statutory, regulatory or administrative exemption. Certain employee benefit plans and arrangements including those that are governmental plans (as defined in section 3(32) of ERISA), certain church plans (as defined in Section 3(33) of ERISA) and foreign plans (as described in Section 4(b)(4) of ERISA) (“non-ERISA arrangements”) are not subject to the requirements of Title I of ERISA or Section 4975 of the Code but may be subject to similar provisions under applicable federal, state, local, foreign or other regulations, rules or laws (“similar laws”).

The acquisition of the securities by a Benefit Plan with respect to which the Bank or certain of our affiliates is or becomes a party in interest may constitute or result in a prohibited transaction under ERISA or Section 4975 of the Code, unless those securities are acquired pursuant to and in accordance with an applicable exemption. Section 408(b)(17) of ERISA and Section 4975(d)(20) of the Code (the “service provider exemption”) provides an exemption for certain transactions between a Benefit Plan and persons who are parties in interest solely by reason of providing services to the Benefit Plan or being affiliated with such service providers. Moreover, the United States Department of Labor has issued prohibited transaction class exemptions, or “PTCEs,” that may provide exemptive relief from prohibited transactions that may arise from the purchase or holding of the securities. Included among these exemptions are:

- PTCE 84–14, an exemption for certain transactions determined or effected by independent qualified professional asset managers;
- PTCE 90–1, an exemption for certain transactions involving insurance company pooled separate accounts;
- PTCE 91–38, an exemption for transactions involving bank collective investment funds;
- PTCE 95–60, an exemption for transactions involving certain insurance company general accounts; and
- PTCE 96–23, an exemption for plan asset transactions managed by in-house asset managers.

However, the applicability of each exemption depends on satisfaction of certain conditions, which may include the identity of the plan fiduciary making the decision to acquire or hold the securities on behalf of a Benefit Plan, and there can be no assurance that any of these exemptions or any other exemption will be available with respect to any particular transaction involving the securities.

The securities may not be purchased or held by any Benefit Plan or anyone acting on behalf of a Benefit Plan, unless in each case the purchaser or holder is eligible for the exemptive relief under one or more of the PTCEs listed above, the service provider exemption or another applicable similar exemption. Any purchaser or holder of the securities or any interest in the securities will be deemed to have represented by its acquisition and holding of the securities that either (i) it is not a Benefit Plan nor is it acquiring or holding such securities, or

interest therein, with the assets of a Benefit Plan or (ii) the acquisition, holding or disposition of the securities does not constitute a non-exempt prohibited transaction under ERISA or Section 4975 of the Code, because the conditions for relief under an applicable statutory, class or individual prohibited transaction exemption are satisfied. In addition, any purchaser or holder of the securities or any interest in the securities which is a non-ERISA arrangement will be deemed to have represented by its acquisition and holding of the securities that its acquisition, holding and disposition will not violate the provisions of any similar law.

Due to the complexity of these rules and the penalties that may be imposed upon persons involved in non-exempt prohibited transactions, it is important that fiduciaries or other persons considering purchasing the securities on behalf of or with assets of any plan, plan asset entity or non-ERISA arrangement consult with their counsel regarding the availability of exemptive relief and the potential consequences of purchasing or holding the securities under ERISA, the Code, or any similar laws, as applicable.

If you are a Benefit Plan or plan subject to similar laws, and propose to invest in the securities, you should consult your legal counsel.

## PLAN OF DISTRIBUTION (CONFLICTS OF INTEREST)

We may sell any of the securities at any time after effectiveness of the registration statement of which this prospectus forms a part in one or more of the following ways from time to time:

- through underwriters or dealers;
- through agents; or
- directly to one or more purchasers.

The offered securities may be distributed periodically in one or more transactions at:

- a fixed price or prices, which may be changed;
- market prices prevailing at the time of sale;
- prices related to the prevailing market prices; or
- negotiated prices.

The applicable prospectus supplements will include:

- the initial public offering price;
- the names of any underwriters, dealers or agents;
- the purchase price of the securities;
- our proceeds from the sale of the securities;
- any underwriting discounts or commissions or agency fees and other underwriters' or agents' compensation;
- any discounts or concessions allowed or reallowed or paid to dealers;
- the place and time of delivery of the securities; and
- any securities exchange on which the securities may be listed.

If underwriters are used in the sale, they will buy the securities for their own account. The underwriters may then resell the securities in one or more transactions, at any time or times at a fixed public offering price or at varying prices. The underwriters may change from time to time any fixed public offering price and any discounts or commissions allowed or re-allowed or paid to dealers. If dealers are utilized in the sale of the securities, we will sell the securities to the dealers as principals. The dealers may then resell the securities to the public at varying prices to be determined by such dealers.

In connection with the offering of securities, we may grant to the underwriters an option to purchase additional securities to cover over-allotments, if any, at the initial public offering price (with an additional underwriting commission), as may be set forth in the applicable prospectus supplements for such securities. If we grant any over-allotment option, the terms of the option will be set forth in the applicable prospectus supplements for the securities.

This prospectus may be delivered by underwriters and dealers in connection with short sales undertaken to hedge exposures under commitments to acquire our securities to be issued on a delayed or contingent basis.

Underwriters, dealers and agents that participate in the distribution of the securities may be underwriters as defined in the Securities Act. Any discounts or commissions that we pay them and any profit they receive when they resell the securities may be treated as underwriting discounts and commissions under the Securities Act. We may have agreements with underwriters, dealers and agents to indemnify them against certain civil liabilities,

including liabilities under the Securities Act, to contribute with respect to payments which they may be required to make in respect of such liabilities and to reimburse them for certain expenses.

Underwriters, dealers and agents and their affiliates or associates, may engage in transactions with us or perform services for us in the ordinary course of business and receive compensation from us.

Each series of offered debt securities and preferred shares will be a new issue of securities and will have no established trading market. Securities may or may not be listed on a national or foreign securities exchange or automated quotation system. Our common shares are currently listed on the NYSE and the TSX under the trading symbol "BNS". Any underwriters or agents to whom securities are sold for public offering or sale may make, but are not required to make, a market in the securities, and the underwriters or agents may discontinue making a market in the securities at any time without notice. No assurance can be given as to the liquidity or the existence of trading markets for any securities.

Any underwriters utilized may engage in stabilizing transactions and syndicate covering transactions in accordance with Rule 104 of Regulation M under the Exchange Act. Stabilizing transactions permit bids to purchase the offered securities or any underlying security so long as the stabilizing bids do not exceed a specified maximum. Syndicate covering transactions involve purchases of securities in the open market after the distribution has been completed in order to cover syndicate short positions. Such stabilizing transactions and syndicate covering transactions may cause the price of the offered securities to be higher than would be the case in the absence of such transactions.

Under Rule 15c6-1 of the Exchange Act, trades in the secondary market generally are required to settle in two business days, unless the parties to any such trade expressly agree otherwise. The prospectus supplement may provide that the original issue date for a series of securities may be more than two scheduled business days after the trade date for the securities. Accordingly, in such a case, parties who wish to trade the securities on any date prior to the second business day before the original issue date for the securities, will be required, by virtue of the fact that the securities initially are expected to settle in more than two scheduled business days after the trade date for the securities, to make alternative settlement arrangements to prevent a failed settlement.

### **Selling Restrictions Outside the United States**

Except as described in an applicable prospectus supplement, the Bank has taken no action that would permit a public offering of the securities or possession or distribution of this prospectus or any other offering material in any jurisdiction outside the United States where action for that purpose is required. Accordingly, each underwriter and agent will be required to represent, warrant and agree, that it will comply with all applicable laws and regulations in force in any jurisdiction in which it purchases, offers or sells securities or possesses or distributes this prospectus or any other offering material and will obtain any consent, approval or permission required by it for the purchase, offer or sale by it of securities under the laws and regulations in force in any jurisdiction to which it is subject or in which it makes such purchases, offers or sales and the Bank shall have no responsibility in relation to this.

With regard to each security, the relevant purchaser will be required to comply with those restrictions that the Bank and the relevant purchaser shall agree and as shall be set out in an applicable prospectus supplement.

### **Conflicts of Interest**

Our affiliates, Scotia Capital Inc. (for distributions in Canada) and Scotia Capital (USA) Inc. (for distributions in the United States), may participate in the distribution of the securities as an underwriter, dealer or agent. Scotia Capital (USA) Inc., a wholly owned subsidiary of Scotia Capital Inc., is a securities broker-dealer registered with the SEC under the Exchange Act and is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA"). Scotia Capital Inc. is a Canadian investment dealer (not registered in the United States). Any



offering of securities in which Scotia Capital (USA) Inc. participates will be conducted in compliance with the applicable requirements of FINRA Rule 5121. Scotia Capital (USA) Inc. will not participate in the distribution of an offering of securities that do not have a bona fide public market within the meaning of Rule 5121 or are not investment grade rated within the meaning of Rule 5121 or securities issued pursuant to this prospectus in the same series that have equal rights and obligations as investment grade rated securities unless either (1) each FINRA member firm primarily responsible for managing the public offering does not have a conflict of interest within the meaning of Rule 5121, is not an affiliate of any member that does have a conflict of interest, and meets the requirements of Rule 5121 with respect to disciplinary history or (2) a qualified independent underwriter has participated in the preparation of the prospectus supplement or other offering document for the offering of securities and has exercised the usual standards of due diligence with respect thereto. Neither Scotia Capital (USA) Inc. nor any other FINRA member participating in an offering of these securities issued pursuant to this prospectus that has a conflict of interest will confirm initial sales to any discretionary accounts over which it has authority without the prior specific written approval of the customer.

In compliance with the guidelines of FINRA, the maximum commission or discount to be received by the participating FINRA members may not exceed 8% of the aggregate principal amount of securities offered pursuant to this prospectus. We anticipate, however, that the maximum commission or discount to be received in any particular offering of securities will be significantly less than this amount.

#### **Market-Making Resale by Affiliates**

This prospectus may be used by Scotia Capital Inc. (for market-making in Canada), Scotia Capital (USA) Inc. (for market-making in the United States) or one or more of our affiliates in connection with offers and sales of the securities in market-making transactions. In a market-making transaction, Scotia Capital Inc., Scotia Capital (USA) Inc. or one of our affiliates may resell a security it acquires from other holders, after the original offering and sale of such security. Resales of this kind may occur in the open market or may be privately negotiated, at prevailing market prices at the time of resale or at related or negotiated prices. In these transactions, Scotia Capital Inc., Scotia Capital (USA) Inc. or one of our affiliates may act as principal or agent, including as agent for the counterparty in a transaction in which Scotia Capital Inc., Scotia Capital (USA) Inc. or one of our affiliates, as applicable, acts as principal, or as agent for both counterparties in a transaction in which Scotia Capital Inc., Scotia Capital (USA) Inc. or such affiliate, as applicable, does not act as principal. Scotia Capital Inc., Scotia Capital (USA) Inc. or one of our affiliates may receive compensation in the form of discounts and commissions, including from both counterparties in some cases.

The securities to be sold in market-making transactions include securities to be issued after the date of this prospectus, as well as securities previously issued. We do not expect to receive any proceeds from market-making transactions. We do not expect that Scotia Capital Inc., Scotia Capital (USA) Inc. or any other affiliate that engages in these transactions will pay any proceeds from its market-making resales to us.

Information about the trade and settlements dates, as well as the purchase price, for a market-making transaction will be provided to the purchaser in a separate confirmation of sale.

***Unless we or an agent informs you in your confirmation of sale that your security is being purchased in its original offering and sale, you may assume that you are purchasing your security in a market-making transaction.***

## **LIMITATIONS ON ENFORCEMENT OF U.S. LAWS AGAINST THE BANK, OUR MANAGEMENT AND OTHERS**

The Bank is incorporated under the laws of Canada pursuant to the Bank Act. Substantially all of our directors and executive officers, including many of the persons who signed the registration statement on Form F-3, of which this prospectus forms a part, and some or all of the experts named in this document, reside outside the United States, and all or a substantial portion of our assets and the assets of such persons are located outside the United States. As a result, it may be difficult for you to affect service of process within the United States upon such persons, or to realize upon judgments rendered against the Bank or such persons by the courts of the United States predicated upon, among other things, the civil liability provisions of the federal securities laws of the United States. In addition, it may be difficult for you to enforce, in original actions brought in courts in jurisdictions located outside the United States, among other things, civil liabilities predicated upon such securities laws.

We have been advised by our Canadian counsel, Osler, Hoskin & Harcourt LLP, that a judgment of a United States court predicated solely upon civil liability under such laws and that would not be contrary to public policy would probably be enforceable in Canada if the United States court in which the judgment was obtained has a basis for jurisdiction in the matter that was recognized by a Canadian court for such purposes. We have also been advised by such counsel, however, that there is substantial doubt whether an original action could be brought successfully in Canada predicated solely upon such civil liabilities.

## **LEGAL MATTERS**

The validity of the debt securities will be passed upon by Osler, Hoskin & Harcourt LLP, Toronto, Ontario, as to matters of Canadian law and applicable matters of Ontario law, and by Shearman & Sterling LLP, Toronto, Ontario, as to matters of New York law. The validity of certain of the senior debt securities will be passed upon by Cadwalader, Wickersham & Taft LLP, New York, New York, special products counsel to the Bank, as to matters of New York law. Certain Canadian federal income tax matters will be passed upon for us by Osler, Hoskin & Harcourt LLP, Toronto, Ontario. Certain U.S. federal income tax matters will be passed upon for us by Shearman & Sterling LLP, Toronto, Ontario. Certain U.S. federal income tax matters regarding certain of the senior debt securities will be passed upon for us by Cadwalader, Wickersham & Taft LLP, New York, New York.

## **EXPERTS**

KPMG LLP, Chartered Professional Accountants, Licensed Public Accountants, Toronto, Ontario, is the external auditor who prepared the Report of Independent Registered Public Accounting Firm with respect to the consolidated statements of financial position of the Bank as at October 31, 2021 and 2020, the related consolidated statements of income, comprehensive income, changes in equity and cash flows for each of the years in the three-year period ended October 31, 2021 and the related notes, and who prepared the Report of Independent Registered Public Accounting Firm on the Bank's internal control over financial reporting as of October 31, 2021. These financial statements and management's assessment of the effectiveness of the internal control over financial reporting as of October 31, 2021 have been so incorporated by reference herein in reliance on their reports given on their authority as experts in auditing and accounting. KPMG LLP is independent with respect to the Bank within the meaning of the relevant rules and related interpretations prescribed by the relevant professional bodies in Canada and any applicable legislation or regulation. Further, KPMG LLP is an independent accountant with respect to the Bank under all relevant U.S. professional and regulatory standards.

## OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The following is a statement of the expenses (all of which are estimated), other than underwriting discounts and commissions, to be incurred in connection with the issuance and distribution of the securities registered under the registration statement of which this prospectus forms a part. Additional information about the estimated or actual expenses in connection with a particular offering of securities under the shelf will be provided in the applicable prospectus supplements.

Registration statement filing fee .....	US\$4,091,079
Trustees' fees and expenses .....	US\$ 10,000
Legal fees and expenses .....	US\$ 400,000
Accounting fees and expenses .....	US\$ 40,000
Printing costs .....	US\$ 12,000
Miscellaneous .....	US\$ 35,000
Total .....	<u>US\$4,588,079</u>



**The Bank of Nova Scotia**

**US\$750,000,000**

**8.625% Fixed Rate Resetting**

**Limited Recourse Capital Notes, Series 4  
(Non-Viability Contingent Capital (NVCC))  
(subordinated indebtedness)**

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PROSPECTUS SUPPLEMENT

October 17, 2022

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*Joint Bookrunner, Structuring Agent & Global Coordinator*

**Scotiabank**

*Joint Bookrunners*

**Citigroup  
Morgan Stanley  
SOCIETE GENERALE**