

MEMORANDUM OF UNDERSTANDING

BETWEEN

THE MINISTER OF FINANCE

AND

ALBERTA TREASURY BRANCHES (ATB)

Background

In 2001, the Government Reorganization Secretariat issued a Report entitled *Review of Agencies, Boards and Commissions and Delegated Administrative Organizations* (hereinafter referred to as “ABCs”). The Report included a recommendation that Ministers should enter into a Memorandum of Understanding (MOU) with each ABC in their Ministry to clarify the government’s expectations about roles, responsibilities, duties, functions, standards of care, policy direction and performance expectations to be achieved by ABCs.

The purpose of this MOU is for the Minister and ATB to work together to:

- a. Clarify the government’s expectations about roles, responsibilities, duties, functions, standards of care, policy direction, and performance expectations of ATB,
- b. Identify, consolidate and replace all existing ministerial letters to ATB from the Minister, and
- c. Enhance communication through the exchange of information and clarification of public policy objectives.

SECTION 1 – TERM AND AMENDMENTS

1. This MOU takes effect on the date of execution, and shall remain in force as amended.
2. This MOU can be amended at any time at the request of the Minister or the Chair of the Board of Directors.
3. Any amendment of this MOU shall be made in writing and signed by the Minister and the Chair of ATB’s Board of Directors or their authorized designates.

SECTION 2 –LEGISLATIVE AUTHORITIES

1. ATB is a provincial corporation, as defined under the *Financial Administration Act*.
2. ATB’s legislative mandate and powers are set out in the *Alberta Treasury Branches Act* and regulation.
3. In addition to the *Alberta Treasury Branches Act*, the related regulation and the approved Guidelines, ATB functions within the legal framework established by such statutes of general application as the *Financial Administration Act*, *Government Accountability Act*, and *Freedom of Information and Protection of Privacy Act*.
4. All documents and reports provided to the Minister become the property of the Minister and are subject to the protection and disclosure provisions of the *Freedom of Information and Protection of Privacy Act*. Under the Act, the Minister is required to protect certain third party business and personal information and will consult with ATB, as necessary, to determine if those provisions apply.
5. The meaning of the terms used in this MOU will be interpreted as being defined in accordance with the *Alberta Treasury Branches Act* and the regulation.

SECTION 3 - MANDATE AND GOVERNMENT’S EXPECTATIONS

The legislative mandate of ATB, as established in the *Alberta Treasury Branches Act* and regulation, is to engage in or to carry on any business appertaining to the business of providing financial services within Alberta.

In fulfilling this legislative mandate, the government’s expectations of ATB are listed as follows.

- 1. ATB must be operationally independent from government.** ATB must
 - Make day to day operations and management decisions including branch management, credit granting and enforcement, and investment decisions.
 - Make business decisions in a sound commercial fashion within the prudential framework set by the applicable legislation, regulation and Guidelines and the strategic framework set by the business plan.
 - Ensure that business transactions with the government are on market terms and conditions are no more favourable or onerous than those offered to private sector customers in comparable circumstances.
 - Not provide personal information about ATB customers, including all credit granting and enforcement decisions, to the government except as required by law.

2. ATB must operate on sound financial institution and business principles with the objective of earning a fair return. Nevertheless, ATB shall

- Continue to focus on providing financial services in all areas of the province.
- Offer low-fee retail deposit accounts to their customers that are generally consistent with the requirements under federal legislation for deposit-taking institutions. A low-fee account shall have certain features such as:
 - In opening an account, the level of identification required should be consistent with industry practice
 - A low monthly fee
 - Availability of some in-branch transactions
 - No charge for deposits
 - Availability of a debit card
 - A free monthly statement or passbook.

3. ATB's customers must be predominantly Alberta residents and corporations incorporated and headquartered in Alberta. ATB must not provide services outside Alberta, except under the following circumstances:

- Where specifically permitted under the *Alberta Treasury Branches Act* and regulation or generally ancillary to providing financial services to persons residing or operating in Alberta.
- Persons previously resident in Alberta that have left the province may continue to maintain accounts with ATB.
- ATB may offer those administrative and back office processing services included in the Approved List of Back Office Services (Appendix i) to any persons resident in Canada. The provision of these services to others must be ancillary to the business of ATB and at a level necessary to sustain ATB's operations.
- ATB may not intentionally solicit business from outside of Alberta. If marketing through mediums accessible from outside Alberta, such as national TV or the Internet, it must be made clear that the target audience is Alberta residents. ATB shall not advertise in mediums not generally distributed in Alberta.

4. ATB is to conduct itself in accordance with legal and statutory provisions applying to all Alberta Crown agents or ATB in particular. ATB is also to conduct itself in accordance with those policies of general application to agencies, boards and commissions specified by the Minister, and with management principles adopted by the government. The principles deal with:

- Ethical behaviour,
- Public accountability,
- Prudent financial management,
- Quality service to the public and
- Fairness to consumers in the marketplace for financial services in Alberta.

SECTION 4 – LEGAL MATTERS

As an Agent of the Crown, ATB must promptly inform the government of any legal issues in respect of:

- a. constitutional and Charter of Rights arguments that arise in cases before the courts;
- b. cases relating to
 - claims of Crown immunity, ATB's ownership, and constitutionality before the courts or major or sensitive issues; and
 - actual or contingent liabilities of a material nature (i.e., materiality is measured as at least 1% of ATB's total assets).

SECTION 5 - REPORTING RELATIONSHIP

ATB reports to the Minister through the Chair.

SECTION 6 - ROLES AND RESPONSIBILITIES

1. Minister

- a. Account to the Legislature with respect to ATB's fulfillment of its mandate, compliance with government policies and performance;
- b. Recommend appointments and re-appointments of directors or the Chief Executive Officer to Cabinet for approval, after consultation with the Chair of the Board, as appropriate;
- c. Recommend to Cabinet, as appropriate, the establishment of ATB subsidiaries;
- d. Approve Guidelines that are developed to manage the risks to which ATB is exposed;

- e. Monitor the activities of ATB in respect of its mandate and compliance with all relevant government policies, *Alberta Treasury Branches Act* and regulation, *Financial Administration Act* and the *Government Accountability Act* and take appropriate action, if necessary;
- f. Review business plans in the context of public policy objectives and consistency with ATB's mandate and government expectations;
- g. Consult with the Chair of ATB, as appropriate, when significant new strategic directions directly impact the mandate of ATB or when initiatives are taken to amend any legislation, regulation, or Guidelines which may affect the operations of ATB;
- h. Evaluate the corporate governance practices of the ATB Board of Directors including assessing the effectiveness of the Board;
- i. Act as agent for ATB borrowings in compliance with section 81(1) of the *Financial Administration Act*; and
- j. Undertake a sunset review of ATB and discuss any proposed recommendations with ATB's Board.

2. Alberta Finance (i.e., Department)

The Department will help the Minister discharge the Minister's duties in relation to ATB.

3. ATB Board of Directors

It is the responsibility of the Board of Directors including committees of the board, acting individually and collectively, to supervise the management of the business and affairs of ATB.

1. General

- a. Understand its responsibilities and evaluate objectively, on a regular basis, the board's effectiveness in fulfilling those responsibilities;
- b. Exercise independent judgment in directing and overseeing the operations of ATB within the mandate determined by the *Alberta Treasury Branches Act*, the regulation and Guidelines, this MOU and the three-year business plan;
- c. Understand the significant risks to which ATB is exposed and obtain assurance, on a regular basis, that ATB has an ongoing, appropriate and effective risk management process and policies;
- d. Monitor the activities of ATB to ensure its mandate is being fulfilled and that it is in compliance with all relevant government policies, and all legal and regulatory requirements;

- e. Establish the responsibilities and authority of board committees and ATB's senior management as well as being accountable for their performance;
- f. Adopt corporate governance practices in keeping with the nature, scope, complexity and risk profile of ATB that are substantially similar to those of regulated financial institutions;
- g. Keep the Minister apprised of ATB issues or events that concern or can reasonably be expected to concern the Minister;
- h. Ensure that the Minister is provided with timely, relevant, accurate and complete reports that will enable the Minister to assess whether ATB is fulfilling its mandate;
- i. Attend or make presentations to government representatives or committees of Cabinet or the Legislature on matters concerning the operations of ATB when requested to do so by the Minister;
- j. Appoint officers who are suitably qualified and capable of managing the operations of ATB effectively and prudently, and plan for their succession and
- k. Evaluate, on a regular basis, the effectiveness and prudence of senior management in managing the operations of ATB and the risks to which ATB is exposed.

2. *Specifics*

- a. Recommend a *Board Succession Plan* to the Minister;
- b. Recommend suitable board candidates to the Minister typically three months before vacancies occur;
- c. Ensure new directors have adequate orientation and training to understand their role. In developing the *Orientation Program for the Board*, ATB must seek input from the Department;
- d. Establish standards of conduct and ethical behaviour for ATB's directors, senior management and other personnel, and obtain, on a regular basis, reasonable assurance that ATB has an ongoing, appropriate and effective process for ensuring adherence to those standards. The Board of Directors will observe the *Code of Conduct and Ethics* policy;
- e. Recommend to the Minister the establishment of ATB subsidiaries, consistent with developing ATB's business plan;
- f. Develop for the Minister's consideration a framework for closing branches or agencies;

- g. Approve the entering into of any significant strategic alliances or partnerships with any person;
- h. Make, repeal, or amend the by-laws of ATB as part of a proper governance framework;
- i. Approve any agreement or commitment to which ATB is a party under which ATB will incur a significant liability or assume a significant commitment;
- j. Review and approve ATB's detailed and summary business plans, which should include components referred to in section 7.1 of this MOU, and update the plan annually;
- k. Review and approve the annual report of ATB, which should include components referred to in section 7.2 of this MOU;
- l. Review and approve ATB quarterly reports, which should include components referred to in section 7.3 of this MOU;
- m. Approve employment and personnel policies;
- n. Notify the Minister of vacancies for the position of Chief Executive Officer, typically three months before vacancies occur, and make recommendations on the appointment of a new Chief Executive Officer;
- o. Evaluate, at least annually, the performance of the Chief Executive Officer. Provide copies of the evaluation reports and any related information to the Minister to support changes in remuneration or if there are issues or events that concern or can reasonably be expected to concern the Minister;
- p. Approve the appointment and annual remuneration of any officers of ATB, except the Chief Executive Officer and
- q. Establish policies respecting privacy, including confidentiality of consumer information, and the handling of customer complaints and provide oversight on the implementation of these policies.

4. ATB Staff

The staff of ATB, including the President and Chief Executive Officer, will assist the Board of Directors to discharge their duties.

SECTION 7 - ACCOUNTABILITY DOCUMENTS

The following accountability documents are to allow the Minister and other stakeholders to make an assessment about how efficient and effective ATB is in exercising its mandate.

1. Business Plan

The detailed and summary business plans should include the following components:

- a. Vision;
- b. Mission;
- c. Strategic priorities including a list of eligible corporations that ATB wishes to establish or acquire during the business plan period;
- d. Goals;
- e. Key strategies;
- f. Link to Alberta Finance business plan;
- g. Financial information/projection: fiscal year and two subsequent years;
- h. Performance measures; and
- i. Risk analysis.

2. Annual Report

The annual report of ATB should include the following components:

- a. Audited financial statements;
- b. A statement on the extent to which ATB has met the objectives of its business plan for the fiscal year;
- c. Management discussion and analysis substantially similar to that required by securities commissions for reporting issuers in Alberta; and
- d. Such other information as is required by the Minister, Cabinet or Treasury Board.

3. Quarterly Reports

The quarterly reports of ATB should include the following components:

- a. Financial results for the quarter including an analysis of any significant variance from the budget for ATB, on a consolidated basis; and
- b. Management discussion and analysis substantially similar to that required by securities commissions for reporting issuers in Alberta.

4. Other Reports

Annually

- a. Statistics on:
 - Total low fee accounts opened during the year and as a percent of total new accounts,
 - The types and amounts of financial services provided to persons exempted under section 3.3, bullet # 2,

- Information regarding ATB's market share in key areas of the Alberta financial services sector,
 - Branch or agency openings and closures, and conversions from branches to agencies; and
 - Complaints received and handled, by type and number.
- b. Copies of all corporate governance reviews performed by or on behalf of the board. This review is to include a commentary on ATB's performance relative to the *TSX Corporate Governance Disclosure Guidelines*, as appropriate.

Quarterly

- a. Financial results for the quarter including an analysis of any significant variance from the budget for all entities consolidated with ATB.

SECTION 8 - SUNSET REVIEW

Section 35 of the *Alberta Treasury Branches Act* requires a sunset review of ATB in every 5-year period. The next review date is set for October 2007. The purpose of the review is to assure the government that ATB's structure remains appropriate to perform its mandate and that ATB's mandate itself is still something that should be done by the government.

The sunset review will cover such topics as:

- Rationale for ATB
- Structure and operations
- Requirements for change
- Implementation plan

SECTION 9 - ADMINISTRATION OF MOU

The lead contacts for administering this MOU are:

- The Deputy Minister as the designate of the Minister of Finance, and
- The President and Chief Executive Officer of ATB as the designate of the Chair of ATB.

Notices under this MOU shall be in writing and shall be addressed as follows:

- **To the Minister**
The Deputy Minister
Alberta Finance
402 Terrace Building
9515 – 107 Street
Edmonton, Alberta T5K 2C3

- **To the Chair of ATB**
The President & Chief Executive Officer
ATB Financial
16th Floor, ATB Place
9888 Jasper Avenue
Edmonton, Alberta T5J 1P1

SECTION 10 - APPENDICES

The following documents will be appended to the MOU:

- i. Approved List of Back Office Services;
- ii. Wholesale Borrowing Agreement;
- iii. Board Succession Plan;
- iv. Orientation Program for the Board;
- v. Code of Conduct & Ethics;
- vi. Framework for Closing Branches or Agencies; and
- vii. List of documents superceded by this MOU.

SECTION 11 - OTHER

For greater certainty this MOU, together with its Appendices, constitutes the entire MOU between the Minister and the Chair of the Board of Directors of ATB.

We, the undersigned, agree to the terms and conditions described in this MOU and commit to seeing that the intent of this MOU is carried out.

Honourable Patricia L. Nelson
Minister of Finance

Ron P. Triffo
Chair, ATB Board of Directors

Dated this 24th day of November, 2003