

CLOSET INDEXING CLASS ACTION

Turpin v. TD Asset Management Inc.

NOTICE OF CERTIFICATION THIS NOTICE IS IMPORTANT TO YOU.

This notice is directed to:

All persons, wherever they reside, who hold or held at any time from January 1, 2010 to July 31, 2020, one or more units of the TD Canadian Equity Fund or a Portfolio Fund (the “**Class Members**” or the “**Class**”).

A “**Portfolio Fund**” refers to a TD mutual fund which holds or held the TD Canadian Equity Fund at any time from January 1, 2010 to July 31, 2020. The following is a list of the Portfolio Funds:

- TD Advantage Balanced Growth (previously TD Advantage Balanced Portfolio)
- TD Advantage Balanced Income (previously TD Advantage Conservative Portfolio)
- TD Advantage Aggressive Growth (previously TD Advantage Equity Portfolio)
- TD Advantage Growth Portfolio
- TD Advantage Balanced Portfolio (previously TD Advantage Moderate Portfolio)
- TD Managed Aggressive Growth Portfolio
- TD Managed Balanced Growth Portfolio
- TD Managed Income & Moderate Growth Portfolio
- TD Managed Income Portfolio
- TD Managed Maximum Equity Growth Portfolio
- TD Canadian Equity Pool
- TD Comfort Aggressive Growth Portfolio
- TD Comfort Balanced Growth Portfolio
- TD Comfort Balanced Income Portfolio
- TD Comfort Balanced Portfolio

- TD Comfort Conservative Income Portfolio
- TD Comfort Growth Portfolio

THE CERTIFICATION ORDER

On July 31, 2020, the Supreme Court of British Columbia (the “**Court**”) certified the action *Turpin v. TD Asset Management Inc.*, Court File No. VLC-S-S-19422 (the “**Class Action**”) as a class proceeding and appointed Dean Turpin as representative plaintiff (the “**Representative Plaintiff**”) for the Class. The defendant in the Class Action is TD Asset Management Inc. (“**TDAM**”), which is the trustee and manager of the TD Canadian Equity Fund and the Portfolio Funds.

The Representative Plaintiff alleges that throughout the Class Period the defendant did not actively manage the TD Canadian Equity Fund, instead employing a passive investment strategy, the Closet Indexing Strategy, the purpose of which was to closely track or replicate, and not exceed, the Canadian Equity Fund’s benchmark, the S&P/TSX Composite Index.

The Representative Plaintiff pleads claims including breach of trust, prospectus misrepresentation, and unjust enrichment. He seeks compensation on behalf of all persons who hold or have held units of the TD Canadian Equity Fund or a Portfolio Fund from January 1, 2010 to July 31, 2020. He also seeks disallowance of expenses and disgorgement of fees allegedly received by TDAM.

TDAM denies the allegations made by the Representative Plaintiff. In its response, TDAM

pleads that it managed the TD Canadian Equity Fund in a diligent and prudent manner, in line with the objectives set out in the offering documents. TDAM also pleads that, as manager of the TD Canadian Equity Fund, TDAM makes investment decisions based on quantitative and qualitative research and has never engaged in 'closet indexing'.

The certification order means that the Class Action may proceed to trial on certain issues on a common basis. Certification is a preliminary procedural matter. The merits of the claims in the Class Action, and the allegations of fact on which the claims are based, have not yet been considered by the Court.

DO NOTHING IF YOU WANT TO PARTICIPATE IN THE CLASS ACTION

Class Members who *want to participate* in the Class Action are *automatically included* and need not do anything at this time.

YOU MUST OPT OUT IF YOU DO NOT WANT TO PARTICIPATE IN THE CLASS ACTION

Class Members who do not want to participate in the Class Action must opt out. If you want to exclude yourself from the Class Action, you must send written notice to Class Counsel expressing your desire to opt out of the TD Closet Indexing Class Action. Your written notice must include your name, address, telephone number, and signature. If you are submitting an opt-out request on behalf of a corporation or other entity, you must state your position with and authority to bind the corporation or entity.

Your opt-out request must be sent by email, fax or mail to:

Investigation Counsel P.C.
Re: Closet Indexing Class Action
350 Bay Street, Suite 300
Toronto ON M5H 2S6
Email: tdclosetindexing@investigationcounsel.com

Fax: 416-637-3445

In order for your opt out request to be valid, it must be postmarked or received no later than January 18, 2021 and it must contain all of the required information.

Each Class Member who does not opt out of the Class Action will be bound by the terms of any judgment or settlement, whether favourable or not, and will not be allowed to prosecute an independent action against TDAM for any of the factual matters raised in the Class Action. If the Class Action is successful, you may be entitled to share in the amount of any award or settlement recovered. A Class Member who opts out will not be entitled to participate in the Class Action and will not be entitled to share in the amount of any award or settlement.

A minor or a mentally incapable Class Member cannot be opted out of the Class without permission of the Court. The Children's Lawyer or the Public Guardian and Trustee, as applicable, must receive notice of such an opt-out request.

NO DIRECT COST TO YOU

The Representative Plaintiff has entered into a contingency fee retainer agreement with law firm Investigation Counsel P.C. which provides that counsel will be paid only if the Class Action is successful or costs are recovered from the defendant. If the action is successful, either through judgment on the common issues or by way of an approved settlement, the legal fees will be set by the Court, and the Court may order that these fees be paid out of the settlement proceeds or by the defendant.

If the class action is not successful, you will NOT be responsible for any legal costs of the Class Action and will NOT have any other financial obligations because of the Class Action.

ADDITIONAL INFORMATION

For further information, Class Members can contact
Class Counsel as follows:

Investigation Counsel P.C.

Attn: John Archibald

350 Bay Street, Suite 300

Toronto ON M5H 2S6

(416) 637-3152

tdclosetindexing@investigationcounsel.com

**Publication of this notice has been authorized by
the Supreme Court of British Columbia.**