

Note 29: Contingent Liabilities

(a) Legal Proceedings

In the bankruptcy of Adelphia Communications Corporation (“Adelphia”), the Official Committees of Unsecured Creditors and Equity Security Holders or their successor filed Complaints against Bank of Montreal and its indirect subsidiaries BMO Capital Markets Corp. (previously Harris Nesbitt Corp.) and BMO Capital Markets Financing, Inc. (the “BMO Defendants”), and approximately 380 other financial institutions. The Complaints allege various federal statutory and common law claims and seek an unspecified amount of compensatory and punitive damages, along with equitable relief. The actions are pending before the United States District Court for the Southern District of New York. As a result of the confirmation of various Adelphia plans of reorganization, a special purpose entity, the Adelphia Recovery Trust (“ART”), has succeeded the committees as the plaintiff in these actions (the “ART Litigation”).

In addition, Bank of Montreal and BMO Capital Markets Corp. are two of many financial institutions named in civil actions brought by investors in Adelphia securities. The settlement of the most significant of these actions, a consolidated class action, was approved on March 27, 2008 by a federal appeals court and bars all future actions by Adelphia investors against Bank of Montreal and BMO Capital Markets Corp. The actions brought by two groups of plaintiffs that opted out of the class action settlement remain pending.

In the ART Litigation, the District Court recently dismissed all of the ART’s bankruptcy-related and equitable claims against all defendants, and dismissed from the ART Litigation those institutions named as defendants in only those claims. The ART is expected to appeal that decision. The ART’s remaining statutory and common law claims

name 48 financial institutions as defendants, including the BMO Defendants. Those claims are the subject of pending motions to dismiss.

As these matters remain in various intermediate procedural stages, we are unable to determine the eventual outcome of these matters, but management believes that Bank of Montreal, BMO Capital Markets Corp. and BMO Capital Markets Financing, Inc. have strong defences to these claims and will vigorously defend against all such actions.

BMO Nesbitt Burns Inc., an indirect subsidiary of Bank of Montreal, has been named as a defendant in several individual actions and proposed class actions in Canada brought on behalf of shareholders of Bre-X Minerals Ltd. (“Bre-X”). Two of the proposed class actions in Canada have been dismissed as to BMO Nesbitt Burns Inc. A proposed U.S. class action was dismissed as against BMO Nesbitt Burns Inc. in October 2005. BMO Nesbitt Burns Inc., Bank of Montreal and BMO Capital Markets Corp. (previously Harris Nesbitt Corp.) are also defendants in an individual action in the United States.

Other defendants named in one or more of the actions referred to above include Bre-X, officers and directors of Bre-X, a mining consulting firm retained by Bre-X, Bre-X’s financial advisor and brokerage firms which sold Bre-X common stock. These actions are largely based on allegations of negligence and negligent and/or fraudulent misrepresentation in connection with the sale of Bre-X securities.

As these matters are all in the early stages, we are unable to determine the eventual outcome of these matters, but management believes that BMO Nesbitt Burns Inc., Bank of Montreal and BMO Capital Markets Corp. have strong defences to these claims and will vigorously defend against all such actions.

Following our disclosures of mark-to-market losses in our commodities trading businesses on April 27, 2007 and May 17, 2007 aggregating \$680 million (pre-tax) as of April 30, 2007, we have received inquiries, requests for documents or subpoenas pertaining to those trading losses from securities, commodities, banking and law enforcement authorities. On November 18, 2008, a number of proceedings were commenced by these authorities against certain parties that were involved in the commodities trading losses. We are not a party to these proceedings. We are cooperating with all of these authorities.

Bank of Montreal and its subsidiaries are party to other legal proceedings, including regulatory investigations, in the ordinary course of their businesses. While there is inherent difficulty in predicting the outcome of these proceedings, management does not expect the outcome of any of these other proceedings, individually or in the aggregate, to have a material adverse effect on the consolidated financial position or the results of operations of Bank of Montreal.

(b) Collateral

When entering into trading activities such as reverse repurchase agreements, securities borrowing and lending activities or financing and derivative transactions, we require our counterparty to provide us with collateral that will protect us from losses in the event of the counterparty's default. The fair value of collateral that we are permitted to sell or repledge (in the absence of default by the owner of the collateral) was \$27,411 million as at October 31, 2008 (\$42,832 million in 2007). The fair value of financial assets accepted as collateral that we have sold or repledged was \$23,196 million as at October 31, 2008 (\$34,216 million in 2007).

Collateral transactions are conducted under terms that are usual and customary in standard trading activities. If there is no default, the securities or their equivalent must be returned to the counterparty at the end of the contract.

(c) Pledged Assets

In the normal course of our business, we pledge assets as security for various liabilities that we incur. The following tables summarize our pledged assets, to whom they are pledged and in relation to what activity:

(Canadian \$ in millions)	2008	2007
Cash resources	\$ 684	\$ 65
Securities		
Issued or guaranteed by Canada	11,248	8,758
Issued or guaranteed by a Canadian province, municipality or school corporation	4,263	3,648
Other securities	21,467	17,441
Mortgages, securities borrowed or purchased under resale agreements and other	33,053	25,475
Total assets pledged	\$ 70,715	\$ 55,387

Excludes restricted cash resources disclosed in Note 2.

(Canadian \$ in millions)	2008	2007
Assets pledged to: (1)		
Clearing systems, payment systems and depositories	\$ 1,898	\$ 1,371
Bank of Canada	1,411	1,768
Foreign governments and central banks	1,624	1,381
Assets pledged in relation to:		
Obligations related to securities lent or sold under repurchase agreements	26,052	24,837
Securities borrowing and lending	16,960	19,435
Derivative transactions	8,588	3,959
Mortgages	5,338	–
Other	8,844	2,636
Total	\$ 70,715	\$ 55,387

Excludes cash pledged with central banks disclosed as restricted cash in Note 2.

(1) Includes assets pledged in order to participate in clearing and payment systems and depositories or to have access to the facilities of central banks in foreign jurisdictions.