FAIR TRADING COMMISSION

SUMMARY REPORT

TITLE:	**PROPOSED ASSET TRANSFER AGREEMENT: SAGICOR ASSET MANAGEMENT INC. AND SAGICOR LIFE INC./FIRSTCARIBBEAN INTERNATIONAL BANK (BARBADOS) LIMITED**
DATE:	**July 27, 2021**

DETERMINATION OF MERGER APPLICATION

Sagicor Asset Management Inc. and Sagicor Life Inc./FirstCaribbean International Bank (Barbados) Limited

Section 20 of the Fair Competition Act, CAP.326C of the Laws of Barbados

An asset transfer agreement to transfer the assets managed by FirstCaribbean International Bank (Barbados) Limited to Sagicor Asset Management Inc. and Sagicor Life Inc.

Dated July 27, 2021

Introduction

1. The Fair Trading Commission (hereafter, the 'Commission'), pursuant to Section 20 (1) of the Fair Competition Act CAP. 326C (the "Act" or "FCA"), considered the application filed on April 30, 2021 by FirstCaribbean International Bank (Barbados) Limited ("FCIB"); and the applications filed separately on April 19, 2021 by Sagicor Asset Management Inc. ("SAMI") and Sagicor Life Inc. (SLI). SAMI and SLI are collectively referred to as "Sagicor". Sagicor and FCIB are collectively referred to as the "Applicants".

2. This document presents a summary of the review of the proposed transaction and the Commission's decision regarding same.

The Transaction

3. The transaction features two Asset Transfer Agreements (ATAs): An agreement between SAMI and FCIB (referred to as the "SAMI/FCIB Agreement") and an agreement between SLI and FCIB (referred to as the "SLI/FCIB Agreement"). The two agreements involve the following:

- The SAMI/FCIB Agreement relates to the transfer to SAMI of all books and records related to clients' investment accounts managed by FCIB. The accounts are corporate and personal funds invested primarily in mutual funds and government securities.
- The SLI/FCIB Agreement relates to the transfer to SLI of all books and records related to clients' registered retirement savings plans (RRSPs) that are wholly managed by FCIB.

4. In short, the transfer from FCIB to Sagicor would result in the accumulation of assets under management (AUM) totaling $1.4 billion[1].

The Undertakings Involved

5. The proposed transactions involve three primary enterprises. Namely, SAMI, SLI and FCIB.

Purchasers: Sagicor Asset Management Inc. and Sagicor Life Inc.

6. **SAMI** is a company incorporated and registered under the provisions of the Companies Act CAP. 308. SAMI provides investment management services with a focus on mutual funds and securities brokerage.

7. **SLI** is a company amalgamated under the provisions of the Companies Act CAP. 308. SLI provides life insurance, health insurance, annuities, pension administrative services and RRSPs. The RRSP service is provided as part of the individual life insurance business.

[1] All references to currency are in Barbados dollars.

Target: FirstCaribbean International Bank (Barbados) Limited

8. **FCIB** is a company amalgamated under the provisions of the Companies Act CAP. 308 of the laws of Barbados and licensed as a bank under the Financial Institutions Act CAP 324A. In addition to commercial banking, FCIB provides asset management and securities trading services under its Asset Management and Securities Trading (AMST) division. The services provided by the AMST division are: wills & trusts, securities trading & brokerage, custodial trustee services, and investment management.

Ultimate Parent Entity of Purchasers: Sagicor Financial Company Ltd

9. SAMI is a subsidiary of SLI, which in turn is a subsidiary of Sagicor Financial Company Ltd (SFC), a publicly traded company that was re-headquartered in Bermuda. Through SLI, SFC provides life insurance, health insurance and general insurance. SLI's subsidiaries are also in the business of real estate and commercial farming.

Ultimate Parent Entity of Target: CIBC

10. FCIB is an indirect subsidiary of CIBC, a Canadian bank which provides commercial banking, wealth management and capital markets services.

Determining the Relevant Product and Geographic Market

11. The Commission has determined that the relevant markets in this instant are as follows:
    a. **The market for investment income managed by an investment management institution in Barbados; and**
    b. **The market for retirement savings managed by an investment management institution in Barbados.**
12. The rationale for this assertion rests with the fact that since the matter at subject refers to the provision of asset management services for investment accounts and

RRSPs, a distinction can be made between investment income that is managed by an investment management institution and retirement savings managed by an investment management institution. It follows that the demand for investment income management and retirement savings management are driven by different factors. This is implied from the rationale for the formulation of the RRSP in its original design insofar that the tax-allowance for RRSP holders provided an incentive for persons to save for retirement rather than risk the loss of their savings in mutual funds and purchase of securities.

13. With respect to the relevant geographic market the Commission generally identifies the area over which the merged firm and its rivals currently supply or could supply the product. The Commission also will consider the area to which buyers can or would practically turn to find alternative sources of supply.

14. Prior to the 2008/2009 financial crisis and the attendant foreign exchange crisis, investment management institutions were able to invest funds outside of Barbados more readily. Though there are some investments currently outside of Barbados, foreign exchange controls and the structural adjustment programs since 2018 have made it increasingly difficult for institutions to facilitate overseas investments. In this regard, the Commission defined the geographic market as Barbados.

Competitive Analysis

15. The Commission considered the potential impacts of the proposed transaction on the relevant product markets in Barbados. Since Section 20(7)(d) and (e) of the FCA does not require the Commission to prove future conduct, the analyses are *ex ante* in nature and enable the Commission to contemplate potential impacts of the proposed transaction.

16. That said, the Commission in its assessment of the probable effects of the proposed transaction determined whether the transaction itself creates

competitive concerns with respect to any significant market power that the resulting structure might confer on Sagicor; as well as the subsequent likelihood of foreclosure in any of the markets identified above.

17. In examining the structure of the markets affected by the proposed merger, consideration was given to the number and relative size of the firms in the market, and to the size of the barriers facing new firms seeking to enter each market.

18. One of the tools used to conduct a competitive assessment is the Herfindahl-Hirschman Index (HHI). The HHI is reliant on the use of the market shares of the competitors within the market to measure market concentration, and is derived by calculating the squared market shares of all firms in the market. HHI can lie between zero (which represents a large number of firms in the market each with zero market share[2]) and 10,000 (representative of a monopolist structure where only one firm occupies the market[3]).

19. An HHI measure below 1,000 is indicative of a market with a low concentration of players (i.e. there are many players). HHI measures between 1,000 and 2,500 indicate moderately concentrated markets, while measures above 2,500 suggest a highly concentrated market (i.e. a market with relatively few players). In addition, if the HHI increases by more than 200 points in a highly concentrated market, there are concerns that the merger may produce anticompetitive effects. Intuitively, highly concentrated markets are more conducive to anticompetitive conduct and are therefore subject to greater scrutiny by competition authorities.

20. The HHI calculations show that both markets are highly concentrated and that the post-merger increases in the HHI are above 200.

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[2] Such is synonymous with a market that is under perfect competition.

[3] The HHI under a monopolistic structure (i.e., only one firm is in the market, and therefore has 100% market share) is $100^2 = 10{,}000$.

21. On the face of it, the HHI figures may raise competition concerns from two dimensions. Firstly, they depict highly concentrated pre-merger and post-merger markets. Secondly, the delta scores exceed the 200-value benchmark and therefore suggest, also, that the post-merger market may create competitive concerns.

22. The Commission also took into account other competitive metrics to further investigate the level of competition in the markets. The analysis point to the conclusion that any impacts are primarily structural in nature. Notably, with regard to the pricing of the services, management fees for mutual funds correspond well, and the monthly charges for RRSPs, were generally similar. It appears therefore, that in the absence of variable cost components, all market players are faced with similar fixed costs which are mainly associated with regulatory compliance[4].

23. In this instance therefore, the Lerner index[5] (L) is informative. Analysis showed that the Lerner index does suggest that each firm could be regarded as a monopolist in and of itself. The phenomenon could be attributed to the very low switching activity among customers. RRSPs tend to remain with the original provider; there is no incentive or inclination to switch since these are long term products; and there is a penalty to redeem before maturity. Similarly for investment products, there is no robust investment climate—this would tend to dampen any related activity. The combination results in stagnation in market activity.

24. The Commission also considered the effects of potential competition. Since competitors expressed concerns over structural issues affecting the economy, it

[4] See Financial Services Commission Act, Mutual Funds Act, Insurance Act, Securities Act and Financial Institutions Act.

[5] The Lerner index (L) is derived from the equation $L = \frac{P-MC}{P}$. L is given by the ratio of the difference between price (P) and marginal cost (MC) to price, or by one over the absolute value of the price elasticity of demand. The value of L can range from zero (for a perfectly competitive firm) to one (for a monopolist).

is important to note that accordingly, potential competition might not be a major issue in the foreseeable future. Although this is intuitive, the Commission sought to verify the claims by players that performance of the economy affects the financial markets. In the conduct of this verification, the Commission used simple non-parametric tests to examine the relationship between economic growth and growth in financial assets.

25. Notably, mutual funds and GDP appear to move together across time, and there is a strong positive relationship between total mutual funds values and economic growth. One would therefore infer from the above that as the economy contracts, investment activity will follow a similar trend. The inertia can be attributed to little diversity in investment categories; few investment opportunities; and a generally risk-averse client.

Post-Merger Effects

26. The question remains: What is the likely impact on competition in relevant markets? A starting point in addressing the question is to contemplate the counterfactual that there is no merger to consider. As FCIB is no longer interested in operating in the AMST business, the Commission has to give consideration to what happens to FCIB's clients in the event that there is not a merger. In light of Government's economic restructuring and the observation that companies have delisted from the stock exchange, FCIB's clients have few investment options. In that regard, there is a potential opportunity cost borne by FCIB's clients. Put another away, absent investment opportunities, the funds of FCIB's clients acquire little to no returns if they are not invested.

27. Yet, another consideration is the impact on the economy. Sagicor has stated that it has the ability to make foreign investments. Overseas investment, providing the returns are positive, can increase foreign exchange earnings in the long-run. In addition, the above allows potential clients of Sagicor to diversify their

investments and mitigate local investment risks. Again, these considerations also apply to RRSPs because RRSPs are also invested in investment accounts.

28. Recall also, there is no obligation on the part of FCIB's clients to switch to Sagicor. Should FCIB close its AMST, the possibility remains that clients may switch to any other entity that provides the service. The fact remains that investment opportunities are few, and for that reason, the proposed transaction would not result in significantly different outcomes for consumers or the economy.

Conclusion

48. The following findings regarding the proposed transaction were made:

a. The pre-merger markets are highly concentrated which presents *a priori* competitive concerns because it is suggestive of a climate that is conducive for collusive activity. Similarly, the post-merger market is likely to be more concentrated. The same concerns apply.

b. Despite the high concentration in both markets, there is little concern by the Commission of a manifestation of effects because the markets are constrained by the nature and extent of economic activity; and the products themselves do not lend to significant competitive discipline after subscription. That is to say, competition among suppliers is likely to be at its peak during the prospecting of customers, and would wane thereafter.

c. The market is anaemic due to an unsophisticated investor culture. Additionally, and/or consequentially, it is unlikely for the investment climate to expand appreciably in the short term given the macroeconomic stability programmes that are in place. This creates a feedback loop that has the potential to dampen further investment opportunities; create a further disincentive for suppliers to offer the product; and further reduce possibilities for competition in the subject markets.

d. The nature of the markets is such that the products (RRSPs in the main) tend to be inherently long term given their extended maturity dates. Providers of RRSP products (and their derivatives such as retirement annuities) tend to be buoyed by subscription levels. The removal of the assigned tax benefits has lessened their appeal. Competition among providers in this regard is also lessened.
e. Absent a merger, FCIB's decision to exit the AMST business has the potential to displace its customers.
f. Displaced customers have the option of choosing to stay with Sagicor or switch to another competitor in the investment market.
g. The structural issues affecting the economy, which in turn affects competition in the relevant markets cannot be remedied by the Commission.

49. In light of the foregoing, the Commission has determined that the proposed transaction does not create competitive concerns, and that the merger as currently structured and presented qualifies to be permitted under Section 20 of the FCA.

Determination

50. The Commission is of the view that the proposed transaction is unlikely to cause anticompetitive effects because economic outcomes determine what happens in the relevant markets.

51. The Commission also finds that anticompetitive effects are unlikely to result from the proposed transaction.

Decision

52. Having considered the application made by Sagicor Asset Management Inc. and Sagicor Life Inc., and FirstCaribbean International Bank (Barbados) Limited for approval to transfer the assets managed by FirstCaribbean International Bank (Barbados) Limited to Sagicor Asset Management Inc. and Sagicor Life Inc., the Commission, pursuant to Section 20 of the Fair Competition Act, CAP.326C of the Laws of Barbados determines that the transaction is permitted without conditions attached.