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BMO faces lawsuit over savings plan fees

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Bank of Montreal is at the centre of a multi-million-dollar class-action lawsuit alleging the bank charged unfair and undisclosed fees to customers with retirement savings plan accounts, it was revealed yesterday.

In a statement of claim filed with the Ontario Superior Court of Justice, it is alleged that BMO charges the fees for transactions that are not approved, and earned profits inappropriately at the expense of customers, depleting the funds in the customers' retirement or education funds.

It is not yet known how many BMO customers might be affected, and it is possible other Canadian banks could face similar legal challenges if they have not amended their systems since the tax act changes five years ago.

"It is our understanding that this issue may well go beyond BMO," said Odette Soriano, a lawyer with Paliare Roland Rosenberg Rothstein LLP, the firm that filed the claim on behalf of James MacDonald, a BMO customer.

The issue has arisen since revisions to the Income Tax Act which came into effect on June 14, 2001.

The changes permitted Canadians to hold foreign currency investments in their registered retirement savings plans, registered retirement income funds and registered education savings plans.

Ms. Soriano said the claim alleges BMO did not change its systems to allow for the fact customers could hold foreign currency investments in those savings plans. As a result, everything bought or sold in the account always goes through a foreign exchange conversion, making it very difficult for customers to make a profit while trading foreign securities in their savings plans. Customers are likely aware that they pay a fee for the initial conversion of their savings into foreign currency to invest in foreign securities, said Ms. Soriano. "But, if they are like Mr. McDonald, they aren't aware of the additional charges," she said.

The claim seeks damages of up to \$100-million for "all the fees charged on unauthorized conversion of foreign currency to Canadian funds since the change to the Income Tax Act became effective."

Meanwhile, a spokesman for BMO said the bank does not comment on matters before the courts and has not yet filed documents in response to the claim. However, he said the bank does intend to file a statement of defence.

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