

BANK OF NOVA SCOTIA
Form 40-F
November 29, 2016

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

Form 40-F

[Check one]

REGISTRATION STATEMENT PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934

or

ANNUAL REPORT PURSUANT TO SECTION 13(a) OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended October 31, 2016

Commission File Number 002-09048

THE BANK OF NOVA SCOTIA

(Exact name of Registrant as specified in its charter)

CANADA

(Province or other jurisdiction of incorporation or organization)

6029

(Primary Standard Industrial Classification Code Number (if applicable))

Not Applicable

(I.R.S. Employer Identification Number (if applicable))

44 King St. West, Scotia Plaza, 8th floor,

Toronto, Ontario, Canada M5H 1H1

(416) 866-3672

(Address and telephone number of Registrant's principal executive offices)

The Bank of Nova Scotia, 250 Vesey Street,

New York, N.Y., U.S.A. 10281

Attention: Richard Agata

(212) 225-5000

(Name, address (including zip code) and telephone number (including area code)

of agent for service in the United States)

Securities registered or to be registered pursuant to Section 12(b) of the Act.

Title of each class

Common

Name of each exchange on which registered

New York Stock Exchange

Securities registered or to be registered pursuant to Section 12(g) of the Act.

Not applicable

(Title of Class)

Securities for which there is a reporting obligation pursuant to Section 15(d) of the Act.

Not applicable

(Title of Class)

For annual reports, indicate by check mark the information filed with this Form:

Annual information form Audited annual financial statements

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Indicate the number of outstanding shares of each of the issuer's classes of capital or common stock as of the close of the period covered by the annual report.

| | |
|--|---------------|
| Common Shares | 1,207,893,604 |
| Preferred Shares, Series 16 | 13,800,000 |
| Preferred Shares, Series 17 | 9,200,000 |
| Preferred Shares, Series 18 | 7,497,663 |
| Preferred Shares, Series 19 | 6,302,337 |
| Preferred Shares, Series 20 | 8,039,268 |
| Preferred Shares, Series 21 | 5,960,732 |
| Preferred Shares, Series 22 | 9,376,944 |
| Preferred Shares, Series 23 | 2,623,056 |
| Preferred Shares, Series 30 | 6,142,738 |
| Preferred Shares, Series 31 | 4,457,262 |
| Preferred Shares, Series 32 | 11,161,422 |
| Preferred Shares, Series 33 | 5,184,345 |
| Preferred Shares, Series 34 (Non-Viability Contingent Capital) | 14,000,000 |
| Preferred Shares, Series 36 (Non-Viability Contingent Capital) | 20,000,000 |
| Preferred Shares, Series 38 (Non-Viability Contingent Capital) | 20,000,000 |

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports) and (2) has been subject to such filing requirements for the past 90 days.

Yes No

Indicate by check mark whether the Registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the Registrant was required to submit and post such files).

Yes No

DISCLOSURE CONTROLS AND PROCEDURES

Management's responsibility for financial information contained in the Annual Report is described on page 130 of Exhibit 99.3, 2016 Consolidated Financial Statements. In addition, the Bank's Audit and Conduct Review Committee of the Board of Directors has reviewed, and the Board of Directors has reviewed and approved, the 2016 Consolidated Financial Statements and Management's Discussion and Analysis prior to release. Scotiabank is committed to providing timely, accurate and balanced disclosure of all material information and to providing fair and equal access to such information. The Bank's disclosure policies and practices are published on its website.

Disclosure Controls and Procedures

The Bank's disclosure controls and procedures are designed to provide reasonable assurance that information is accumulated and communicated to the Bank's management, including the Chief Executive Officer (CEO) and Chief Financial Officer (CFO), as appropriate, to allow timely decisions regarding required disclosure.

As of October 31, 2016, the Bank's management, with the participation of the CEO and CFO, evaluated the effectiveness of its disclosure controls and procedures, as defined under the rules adopted by the United States Securities and Exchange Commission (SEC) and the Canadian securities regulatory authorities, and have concluded that the Bank's disclosure controls and procedures are effective.

Internal control over financial reporting

Management of the Bank is responsible for establishing and maintaining adequate internal control over financial reporting. These controls include policies and procedures that: (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the Bank; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board, and that receipts and expenditures are being made only in accordance with authorizations of management and directors of the Bank; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Bank's assets that could have a material effect on the financial statements.

All control systems contain inherent limitations, no matter how well designed. As a result, the Bank's management acknowledges that its internal control over financial reporting will not prevent or detect all misstatements due to error or fraud. In addition, management's evaluation of controls can provide only reasonable, not absolute, assurance that all control issues that may result in material misstatements, if any, have been detected.

Management assessed the effectiveness of internal control over financial reporting, using the Committee of Sponsoring Organizations of the Treadway Commission (COSO) 2013 framework, and based on that assessment concluded that internal control over financial reporting was effective as of October 31, 2016.

Changes in internal control over financial reporting

There have been no changes in the Bank's internal control over financial reporting that have materially affected, or are reasonably likely to materially affect, the Bank's internal control over financial reporting during the year ended October 31, 2016.

MANAGEMENT'S INTERNAL CONTROL OVER FINANCIAL REPORTING

Management's Report on Internal Control over Financial Reporting and the Report of Independent Registered Public Accounting Firm are provided in Exhibit 99.4.

AUDIT COMMITTEE FINANCIAL EXPERT

All of the members of the Bank's Audit and Conduct Review Committee of the Board of Directors (audit committee) are financially literate and independent, and one or more members of the audit committee meet the definition of a financial expert. The Bank's Board of Directors has determined that Paul D. Sobey, Guillermo E. Babatz, William R. Fatt, Thomas C. O'Neill, Una M. Power and L. Scott Thomson are audit committee financial experts and are independent, as that term is defined by the New York Stock Exchange's corporate governance standards applicable to the Bank.

The SEC has indicated that the designation of a person as an audit committee financial expert does not impose on such person any duties, obligations or liability that are greater than the duties, obligations and liability imposed on such person as a member of the audit committee and board of directors in the absence of such designation.

CODE OF ETHICS

The Bank has adopted a code of ethics, entitled *Scotiabank Code of Conduct* (the *Code of Conduct*). The Code of Conduct was formerly named the *Scotiabank Guidelines for Business Conduct* (the *Guidelines*). The Code of Conduct has been in place for many years and applies to all directors, officers and employees of the Bank. A copy of the Code of Conduct was most recently filed as an exhibit to Form 6-K filed with the SEC (EDGAR Company Filings) on November 29, 2016. The Code of Conduct is also available on the Bank's website at www.scotiabank.com, in the Corporate Governance section, and is available in print to any person, without charge, upon written request to the Secretary of the Bank at the Toronto executive office address shown above. A supplement to the Code of Conduct, the Whistleblower Policy and Procedures, is also posted on the Bank's website. Amendments to the Code of Conduct and waivers, if any, for directors and executive officers will be disclosed on the Bank's website. There were no such waivers under the Guidelines granted in fiscal 2016.

PRINCIPAL ACCOUNTANT FEES AND SERVICES

The disclosure provided in Table 81 Fees paid to the shareholders' auditors on page 118 of Exhibit 99.2, Management's Discussion and Analysis, is incorporated by reference herein. The nature of these services is as follows:

Audit services generally relate to the statutory audits and review of financial statements, regulatory required attestation reports, as well as services associated with registration statements, prospectuses, periodic reports and other documents filed with securities regulatory bodies or other documents issued in connection with securities offerings.

Audit-related services include special attest services not directly linked to the financial statements, review of controls and procedures related to regulatory reporting, audits of employee benefit plans and consultation and training on accounting and financial reporting.

Tax services outside of the audit scope relate primarily to specified review procedures required by local tax authorities, attestation on tax returns of certain subsidiaries as required by local tax authorities, and review to determine compliance with an agreement with the tax authorities.

Other non-audit services are primarily for the review and translation of English language financial statements into other languages and other services.

None of the above services were approved pursuant to an exemption under paragraph (c)(7)(i)(C) of Rule 2-01 of Regulation S-X from the requirement that the audit committee pre-approve the services. The majority of the hours expended on the audits of the 2016 and 2015 consolidated financial statements were attributable to work performed by the full-time permanent employees of the Bank's independent auditors, KPMG LLP or its affiliates. The audit committee's pre-approval policies and procedures, as revised effective March 5, 2007, were attached as Exhibit 7 to the Form 40-F filed on December 19, 2007 for the fiscal year ended October 31, 2007. The pre-approval policies and procedures have been subsequently approved without any major changes at each annual review.

OFF-BALANCE SHEET ARRANGEMENTS

The disclosure provided under Off-balance Sheet Arrangements on pages 42 to 44 and Structured entities on pages 42 to 44 of Exhibit 99.2, Management's Discussion and Analysis, is incorporated by reference herein. Additional information from note 3 on pages 139 to 151, note 6 on pages 153 to 158, note 9 on pages 161 to 165, note 13 on page 173, note 14 on pages 174 to 176, note 22 on page 181, note 23 on pages 182 to 185, note 34 on pages 200 to 202 and note 35 on pages 202 to 210 of Exhibit 99.3, 2016 Consolidated Financial Statements, is incorporated by reference into Off-balance Sheet Arrangements in Management's Discussion and Analysis.

CONTRACTUAL OBLIGATIONS

The disclosure provided under Contractual maturities and obligations on pages 93 to 95 of Exhibit 99.2, Management's Discussion and Analysis, is incorporated by reference herein. Additional information from note 6 on pages 153 to 158, note 19 on page 180, note 27 on pages 190 to 194, note 34 on pages 200 to 202 and note 35 on pages 202 to 210 of Exhibit 99.3, 2016 Consolidated Financial Statements, is incorporated by reference into Contractual Obligations in Management's Discussion and Analysis.

IDENTIFICATION OF THE AUDIT COMMITTEE

The Bank's audit committee is composed of the following directors: Paul D. Sobey (Chair and financial expert), Guillermo E. Babatz (financial expert), Scott B. Bonham, Charles H. Dallara, William R. Fatt (financial expert), Tiff Macklem, Thomas C. O'Neill (financial expert), Una M. Power (financial expert) and L. Scott Thomson (financial expert).

SUMMARY OF SIGNIFICANT CORPORATE GOVERNANCE DIFFERENCES

A summary of significant ways corporate governance practices followed by the Bank differ from corporate governance practices required to be followed by U.S. domestic companies under the New York Stock Exchange's listing standards (disclosure required by Section 303A.11 of the NYSE Listed Company Manual) is available on the Bank's website at www.scotiabank.com/corporategovernance.

DISCLOSURE PURSUANT TO SECTION 13(r) OF THE EXCHANGE ACT

Pursuant to section 13(r) of the Exchange Act, the Bank is required to disclose certain activities, transactions or dealings related to both the Islamic Republic of Iran (Iran) and certain persons listed on the Specially Designated National and Blocked Persons list maintained by the United States Department of Treasury Office of Foreign Assets Control, during the year ended October 31, 2016. Disclosure of these certain activities, transactions or dealings is generally required even if conducted in compliance with applicable law and regulations.

The Bank has established a robust enterprise-wide global sanctions compliance program to ensure compliance with applicable sanctions laws. In February 2016, the Bank processed an incoming Canadian dollar wire transfer for one of its customers in Canada that originated from a bank in Kuwait. The Bank has learned that the wire transfer represented payment from a private company based in Iran that is not named on the OFAC sanctions lists, for oil and gas exploration and extraction equipment that the customer supplied to that entity. After review of the underlying transaction, the Bank has no reason to believe that the wire transfer or the transaction violated any applicable sanctions. Although the Bank believes that its activity in processing the incoming payment is not required to be disclosed under Section 13(r), the underlying transaction, which involved the supply of oil and gas exploration and extraction equipment, potentially could be required to be disclosed under Section 13(r); accordingly, the Bank is including disclosure of this activity in this report. This customer's banking accounts were closed in August 2016. It is not possible to accurately determine the precise net profit attributable to such wire transfer, and even if revenues and profits from these were calculated, they would be negligible.

Undertaking

Registrant undertakes to make available, in person or by telephone, representatives to respond to inquiries made by the Commission staff, and to furnish promptly, when requested to do so by the Commission staff, information relating to: the securities registered pursuant to Form 40-F; the securities in relation to which the obligation to file an annual report on Form 40-F arises; or transactions in said securities.

Signatures

Pursuant to the requirements of the Exchange Act, the Registrant certifies that it meets all of the requirements for filing on Form 40-F and has duly caused this annual report to be signed on its behalf by the undersigned, thereto duly authorized.

Registrant:

THE BANK OF NOVA SCOTIA

By: /s/ Sean D. McGuckin

Name: Sean D. McGuckin

Title: Group Head and Chief Financial Officer

Date: November 29, 2016

EXHIBIT INDEX

| Exhibit No. | Description |
|--------------------|---|
| 99.1 | Annual Information Form dated November 29, 2016 |
| 99.2 | Management's Discussion and Analysis (pages 11 through 127 of the 2016 Annual Report) |
| 99.3 | 2016 Consolidated Financial Statements (pages 129 through 210 of the 2016 Annual Report) |
| 99.4 | Management's Report on Internal Control over Financial Reporting and Report of Independent Registered Public Accounting Firm (page 128 of the 2016 Annual Report) |
| 99.5 | Corporate Governance |
| 99.6 | Consent of Independent Registered Public Accounting Firm |
| 99.7 | Certifications required by Rule 13a-14(a) or Rule 15d-14(a), pursuant to Section 302 of the U.S. Sarbanes-Oxley Act of 2002 |
| 99.8 | Certifications required by Rule 13a-14(b) or Rule 15d-14(b) and 18 U.S.C. Section 1350, as enacted pursuant to Section 906 of the U.S. Sarbanes-Oxley Act of 2002 |