House of Commons
CANADA

Standing Committee on Finance

FINA • NUMBER 035 • 2nd SESSION • 39th PARLIAMENT

EVIDENCE

Thursday, April 10, 2008

Chair

Mr. Rob Merrifield

Also available on the Parliament of Canada Web Site at the following address:

http://www.parl.gc.ca

Standing Committee on Finance

Thursday, April 10, 2008

● (0905)

[*English*]

The Chair (Mr. Rob Merrifield (Yellowhead, CPC)): Seeing we have enough members here, I'd like to call this meeting to order.

I want to thank the witnesses for coming forward.

I want to remind the committee that pursuant to Standing Order 108(2), a motion adopted by the committee Wednesday, April 2, 2008, a briefing on asset-backed commercial paper in Canada is the reason for our meeting this morning. We're here to listen to the retail investors to understand the situation. I will remind the committee we're not here to try to interfere with private sector or provincially regulated issues.

With that, I want to proceed with the meeting. We will listen to you in order. I'll introduce you at the time we give you the floor. Afterwards, we'll proceed with a question and answer period.

We'll start with Murray Candlish.

Murray, the floor is yours. You may proceed.

Mr. Murray Candlish (As an Individual): Thank you, Mr. Chairman and members of the finance committee hearing.

My name is Murray Candlish. I am a semi-retired farmer in Daysland, Alberta. My wife, Cindy, and I had $350,000 in ABCP when it froze last August. That money is what we have saved over 28 years. It consisted of funds we received from selling our farmyard, the sale of our farm machinery, my mother's inheritance to me, a gift from Cindy's dad, and small amounts we had put away for many years.

Farmers don't have a pension plan to rely on in their later years, and we were trying to build savings that we could help our children with and ensure a decent retirement with. Our savings did not come easily to us. We went without and worked very hard to obtain them.

June 2006 was when we became involved with an investment adviser who was referred to us by our credit union manager, whom we trusted very much. We placed our savings in a mutual fund that he thought was appropriate for us. Over the next five months we were down $30,000. We felt very uncomfortable about losing this much and were afraid of losing more. We asked our investment adviser to get us out of that mutual fund and into a savings account that was very safe. He recommended a 90-day SIT trust that was triple-A rated.

I asked him what assets were involved with it. After our recent experience with the mutual funds, I was a little shy. He replied that he didn't know what the assets were, but his quote was, “If this fails, the entire banking system in Canada will fail.” It was that statement that convinced me to place our savings in what we now know is asset-backed commercial paper.

From 2006 until August 2007, everything was fine. Our investment adviser told us that our funds were frozen, but not to worry, everything would be fine. Now we are here in April 2008, and we know that everything is not fine. In fact, everything has turned horribly wrong. Our life's savings may only be worth half of their original value, at best.

The last eight months have been something that I will never forget. All of our dreams are slowly disappearing as the value of our savings erodes. We've always promised our children that we would get them a decent start in their early years, like helping with college and perhaps a small down payment on their first house.

My wife has worked hard all her life raising three children and working by my side on the farm. She is now working at a nursing home. She doesn't deserve to have her dreams evaporate like this.

At first we were in shock. How could this be, when we were in a savings account that was as good as a GIC?

We watched the days go by, waiting for the next deadline to arrive, only to be disappointed that another deadline was being set, and in early March rumours began circulating that this paper we owned might have a very reduced value. That is when I decided to take a more proactive approach and do what I could to help recover our savings.

In the last month I can honestly say I have received at least 300 e-mails and a couple of hundred phone calls, many of them from folks like me. The stories they have told me are slightly different in content, but they all have the same ending. Many of the stories made my stomach churn.

Members of the finance committee, please help the individual investors in our fight to get back what is rightfully ours. If the individual investors are guilty of anything, they are guilty of trusting the integrity of the Canadian banking industry.

Thank you.

● (0910)

The Chair: Thank you very much.

We'll now move on to Larry Elford.

Mr. Larry Elford (As an Individual): Thank you.

My name is Larry Elford. I worked in the financial industry for 20 years. I'm from Lethbridge, Alberta. While I was working, I earned the designations of chartered financial planner, certified investment manager, and fellow of the Canadian Securities Institute, as well as associate portfolio manager.

I'd like to thank this committee for bringing to light some of the underlying issues that allow financial abuses of Canadians. Financial abuse of Canadians by the investment industry has occurred over and over, often without the knowledge of those outside the industry. This most recent crisis is just the flavour of the month, and unless we address the underlying issues that allow these abuses, others will occur.

I believe I can speak to this committee about matters that appear to be criminal violations of Canada's laws. I refer to the manner in which these investments were marketed and sold to consumers. It worries me that the manufacturers and/or distributors of these investments were asking for immunity from criminal prosecution, as this serves to support allegations that criminal laws may have been violated.

Canadian clients like these investors tend to give trust, vulnerability, and a great deal of faith to investment providers who hold themselves out as professional advisers. These people were duped, in my opinion.

Based on my 20 years of experience inside the industry, I have come to the conclusion that consumers are granting this trust and vulnerability improperly, based on false and misleading information given to them by the industry. The industry not only does not have a proper definition of the duty of care owed to clients, it appears that it does not want such clarity, as this allows the industry to adjust these rules to suit its particular needs.

The advertising promises say, “Trust us.” The code of ethics says, “We must be trusted.” Yet when push comes to shove, I have seen far too many elderly and vulnerable clients beaten down by the same industry and by hordes of lawyers who tell these clients, “We owe you no duty of care. We were never acting in a fiduciary capacity with your account.” This, to me, sounds too much like, “You never should have trusted us.”

Dozens of committees, studies, reports, and papers that suggest clarity and transparency on the duty owed to the client are stopped by an industry that prefers to obscure.

Further to the point about misleading sales practices, here is the complete list of employees of one prominent firm that sold this particular product. There are several hundred names, 24 pages, in fine print. Ninety-nine percent of the people on this list are registered and licensed as salespersons with the provincial securities commissions; 100% of them represent themselves to clients as financial advisers. “Advisers” is a legal registration category with the securities commissions, and it is illegal to misrepresent that title.

Canadian consumers do not know this. I didn't know this when I was in the business for 20 years. Consumers are kept in the dark. They're duped by a misrepresentation that's illegal under Canada's Competition Act, a misrepresentation that meets the definition of fraud in Canada's Criminal Code. Every investment firm in Canada knows this, and they support the misrepresentation. All 13 securities commissions have laws against this misrepresentation, yet either they look the other way or, in some cases, they grant an exemption to the law and thus support the misrepresentation to consumers. The consumer is never informed, even when there are exemptions granted to the law that directly affect them.

The self-regulatory agencies, such as the IDA, the Investment Dealers Association, in this case, also have rules and regulations against misrepresenting industry titles and qualifications. Yet this self-regulatory body also appears to look the other way and supports the misrepresentation to consumers. Self-regulation in financial services is the greatest example of allowing foxes to guard the henhouse that I can think of.

The Competition Bureau is informed of this misrepresentative practice, and rather than investigate, it pays respect and homage to the three agents mentioned previously. And using this logic as a reason not to be involved, it also looks away from what appear to be clear violations, of a criminal nature, of the Competition Act. They not only refuse to get involved; they refuse to put anything in writing whatsoever about complaints made to the Competition Bureau.

● (0915)

I cannot even imagine what could make a Canadian government body so reluctant to investigate crimes against Canadians that may have contributed to the largest debt failure in our history.

The various police agencies in Canada are either not invited to investigate criminal frauds, forgeries, breaches of trust, or other violations of the public trust, or if they are invited, it's done with the help of the very self-regulatory agencies that I've referred to previously, and they are representing the industry. Thus, those who may represent the guilty parties are allowed to participate in the investigation. The obvious conflicts of interest cannot be overcome with this process.

These things I mention are side issues to the debt failure, and small issues at that, but when you add up the dozen or more small failures that our current self-policing system allows, it puts us on a very slippery slope. The interest of protecting one's job, one's loyalty to related agencies, or one's position at these agencies is apparently stronger than an interest in rocking the boat or in doing the job in handling difficult matters. That's why we're here today—these are difficult matters.

These clients and the public were helpless within the law and they were without hope of even having any access to the law in this country when it comes to matters of finance. They are here because each and every level of regulatory and self-regulatory power has failed them, has failed all Canadians. Whether or not an 11th hour solution has been worked out is irrelevant, in my opinion. I came here today to shed a small amount of light into how these failures are actually designed into our current system, so hopefully they can be designed out.

I now bring forth a list of over 100 agencies, departments, offices, associations, or ombudsmen, which when the full effort of their strength is applied—these are self-regulatory or professional trade bodies, etc.—have had zero benefit to these clients and have provided zero protection for Canadians. A 50-year industry veteran, Stephen Jarislowski, is quoted as saying of some of our regulators that they do the square root of nothing. I say it is worse than that. I say that not only do they fail to protect consumers, but they give Canadians a false sense of security, a false feeling that we are in good hands. Financially, we are sitting ducks.

Because of these and other systemic failures, financial laws in Canada have no protective effect. They are knowingly and constantly broken. They are easily broken, sidestepped, or avoided. If one finds a law being broken, there is simply no police agency in the country to call that does not have a built-in conflict of interest, a conflict that allows self-dealing to take precedence over consumer protection.

Further, if a law needs to be bent severely or clearly broken, financial firms in Canada can make application to have an exemption to the laws, which are designed to protect consumers. I bring to your attention the public record from the Ontario Securities Commission showing thousands of examples of rulings, orders, and decisions on the OSC website over the past half-dozen years. In this list—this is just the table of contents; this isn't all the material—are thousands of exemptions to the law. The list of financial firms that have benefited from the granting of legal exemption in Canada runs into the thousands. My documents here are again the table of contents.

Each and every person in this room is affected by breaking, bending, or exempting these laws. The reason you're not upset is that you're simply not aware of how this affects your life savings. You are unaware, uninformed, and you cannot be faulted. In no case that I am aware of in Canada was any public notice ever given to consumers when a financial firm wished to skirt our financial laws. You were simply not allowed to know, unless you went looking yourself.

If immunity from prosecution were granted to those who sought it in this restructuring, it would serve two or three purposes, in my eyes: one, it would allow us to place a softer, gentler name on what may turn out to be the largest manufacture and sale of knowingly tainted products in history; two, it would allow the guilty to avoid prosecution; and finally, it would push us down a very slippery slope, which may end up supporting the claim that financial crime does indeed pay in Canada.

We do not want that reputation, nor do we want our financial firms to prey upon Canadians without being held accountable. Here we sit with real human beings who have real human costs. I'm not one of those suffering; I am, however, sympathetic to their plight, and it is my experience that the entire financial police and regulatory system that is in place has no tangible ability to protect or serve them. Some of them might agree with that, if they were asked. The agencies that purport to do this job have been captured regulatorily—if that's even a word—by the industry, and converted into a support system to serve the industry's own financial interests.

● (0920)

I have already presented the list of some 100 financial departments and agencies, none of which have done anything to protect or help these citizens. These people were victims of crimes, for which there are no police to call in Canada.

Can anyone recall the cigarette and tobacco industry of the 1950s, many years ago, when lies, misinformation, and experts were bought and paid for by a billion-dollar industry to dupe consumers and legislators? I feel we are in a very similar position today with the financial services industry. We are being duped—every one of us, and not just the victims here today.

I would like to thank this committee for taking the time and giving the attention that this matter deserves. I will gladly answer any questions, if I am able to.

The Chair: We thank you very much for presenting to the committee.

We'll now move on to Ms. Wynne Miles. The floor is yours.

Mrs. Wynne Miles (As an Individual): Thank you.

Hello, *bonjour*. My name is Wynne Miles. My husband, Mike, and I are self-employed, and so we do not have a pension to look forward to. We have one son and one daughter in university, and both have plans for graduate studies. We are 58 and 55 years old, respectively.

We were sold this faulty savings product by Canaccord, which purchased it from Scotia Capital.

Mr. Menzies, you have indicated in the past few days that you wanted to know if we, the retail clients, understood what we were buying. The short answer is no. And in actual fact, we did not personally ask for this product. The ABCPs were sold to us without our knowledge and consent.

On July 26, 2008, we had a significant portion of our retirement savings plans and Government of Canada T-bills in a money market account. The next day, on July 27, these savings were in a product identified as “structured investment CPs”. We subsequently found out that money from our RRSP accounts had also been placed in ABCPs before July 26. However, on July 27, 80% of our now-frozen savings were put into ABCPs without our knowledge or consent.

We're not sophisticated investors; rather, we're very conservative with our savings. Ironically, we kept these savings in a money market fund due to concerns about market volatility. We did not know what a synthetic collateralized debt obligation—or CDO—or an ABCP was until August, when we found our savings were frozen.

We paid our financial adviser to invest these savings in secure products such as T-bills and we believe our investment adviser thought she was doing just that. However, at no time were CDOs or ABCPs discussed. And if we had been asked if we wanted to buy synthetic CDOs or ABCPs, we would have said no.

Our first priority over the past few months was to have our savings returned with interest. Yesterday's press releases by Canaccord are very welcome, but we need clarification with regard to the terms of the offer, and as well, I understand, there may well be an appeal by Canaccord clients excluded from that offer.

We need an immediate resolution to this crisis. We, and approximately 1,800 retail clients, have waited over seven months and have suffered financially and emotionally. I will need our savings returned with accrued interest before I vote yes for the proposed restructuring agreement. I will also need to be assured that all the retail clients of Canaccord, Credential Securities, or the National Bank have also been made whole.

We have many concerns about the product we were sold, the restructuring process, and the upcoming vote. I will briefly discuss eight of these concerns.

Number one, the non-bank ABCPs were sold without a prospectus, which is contrary to the provincial securities act. As well, they had a flawed liquidity agreement.

Number two, we need to know more about the timing—what happened when. According to the media and court documents, institutions such as Scotia Capital were aware by July 24, 2007, that the non-bank ABCP contained some American subprime mortgages. However, it is alleged that they continued to sell these papers to retail customers like us through investment firms such as Canaccord and Credential Securities, up to the day that those funds were frozen, by which time Scotia Capital had reduced their holdings of ABCP by $140 million. So if fraud has occurred, we do not think that the CCAA, or the Companies' Creditors Arrangement Act, should be used to protect any guilty parties.

Number three, the Pan-Canadian Investors Committee has worked very hard to come up with a solution. However, we as retail clients did not have input into that restructuring agreement. The proposed solution of issuing long-term notes, rated only by the DBRS, is not acceptable to retail clients. We cannot wait. We need our savings back now. We had our savings in short-term T-bills because we needed access to them.

Many other retail clients are retired and completely dependent on their retirement savings. I received a phone call a few days ago from an 86-year-old veteran, who has his savings frozen in both Canaccord and Credential accounts. He's afraid to speak out as he lives alone and he has concerns about his own personal safety. Sadly, when he does discuss the issue of ABCPs, his blood pressure goes up above 200, thereby endangering his health.

There are a lot of really sad stories out there. I don't think that's the way we should treat our veterans.

● (0925)

The new long-term notes will again be rated only by the DBRS. The ABCP trusts, which are currently frozen, were rated by the DBRS as R-1 high, or triple-A. I'd like to quote from the August 22, 2007, Canaccord information newsletter with regard to the DBRS rating scale for commercial paper and short-term debt, which says:

> The DBRS short-term debt rating scale is meant to give an indication of the risk that a borrower will not fulfill its near-term debt obligations in a timely manner. Every DBRS rating is based on quantitative and qualitative considerations relevant to the borrowing entity.

So for an R-1 high, which is how those trusts were rated, it says:

> Short-term debt rated R-1 (high) is of the highest credit quality, and indicates an entity possessing unquestioned ability to repay current liabilities as they fall due. Entities rated in this category normally maintain strong liquidity positions, conservative debt levels, and profitability that is both stable and above average. Companies achieving an R-1 (high) rating are normally leaders in structurally sound industry segments with proven track records, sustainable positive future results, and no substantial qualifying negative factors. Given the extremely tough definition DBRS has established for an R-1 (high), few entities are strong enough to achieve this rating.

Obviously this was not an appropriate rating for the ABCPs that are now frozen. However, we are being asked to accept the new long-term notes, which, again, are rated only by the DBRS.

A pan-Pacific committee has advised the retail groups to support the yes vote, and therefore support the restructuring agreement. We would thereby accept long-term notes in place of our old short-term notes and not receive any of our savings for five years, and the rest, if anything is left, after nine years. As well, a yes vote requires that we accept a broad legal release. We'd give up our right to sue anyone involved in this financial fiasco. We have been told that if we vote no, we will be left with little or nothing. As I've said before, I feel as if I am being offered an ultimatum, and that makes me very angry. It also makes me wonder if my rights, under the Charter of Rights and Freedoms, are being infringed on.

The proposed restructuring package—that is this 400-page document here—is too complicated for most retail clients. Some people have yet to even receive their packages. Ours arrived on Monday. We downloaded one a while ago, though.

Similarly, the presentation given at the information sessions by Purdy Crawford's pan-Pacific committee were too technical for most retail investors, and in actual fact, they were misleading. The analysis that was presented pooled all of the conduits together, while the relevant information on specific conduits—for example, our savings are frozen in SIT III—was not available.

My husband took three days off work to read this restructuring agreement before the pan-Pacific investors committee information session in Vancouver last week. I'd like to point out that we are professionals, and he didn't get paid for those three days. We have worked very hard for months now and have lost a lot of professional time in the effort to get our savings back.

He was able to point out at the meeting that they had omitted to mention a significant fact, that the funds that make up the SIT III conduit—our savings—for the most part mature in 2013, but we would receive only 10% of our savings at that time, and the rest, if there is anything left, would not be available until 2016.

We have no idea what the new notes will sell for either in the immediate future, if we wanted to sell them after the restructuring, or eight years down the road. No one will give us a value; no one will project a value on these notes.

The requirement that we waive our rights to sue is completely unacceptable. We have been wronged. The proposed legal release would protect everyone except members of the retail group, such as us. In fact, we have only recently received a commitment that we may be funded for legal representation.

● (0930)

My last point is that we do not know if all 1,800 retail investors have been contacted and, therefore, if they will be able to vote. We do not have access to the confidential client lists.

I know of one Canaccord client who only found out that he owns ABCP on April 4, and then only because he took the initiative to contact his financial adviser, not the other way around.

So where do we go from here?

We want to know why the provincial and federal governments did not prevent the sale of these faulty savings products. Do we need changes to the provincial securities act as well as changes to the federal Bank Act, which regulates the banking sector in Canada? Certainly the rating system for savings products needs to be reviewed.

It's not acceptable to treat people like this. It cannot be allowed to happen again, so that is your job, as I see it.

In closing, I'd like to thank you for the opportunity to present my story and my thoughts to you, as representatives of the Government of Canada.

I look forward to a speedy resolution in this financial disaster and to getting a good night's sleep.

Thank you very much.

The Chair: Thank you very much for coming forward in this panel.

We'll now move on to Diane Urquhart, an independent consulting analyst. The floor is yours.

Mrs. Diane Urquhart (Independent Consulting Analyst, As an Individual): Thank you.

I am an independent financial analyst speaking today on behalf of the retail customer group. It's 1,800 families, it's approximately $350 million.

Yesterday an offer was made; the offer is incomplete. The banks and other brokerages need to come to the table and complete the offer.

Only some families are being paid. Numerous families have been left out, particularly the Credential Securities customers who still have asset-backed commercial paper, who still have sleepless nights, who still have their wives working in nursing homes to make ends meet.

Therefore, this problem was not resolved yesterday, despite the positive press coverage. There are also families in Quebec who have missed the arbitrary cut-off that the National Bank Financial has provided. Anyone who has $2,000,001 gets nothing, and anyone who has $1,999,999 gets it all. Similarly in the Canaccord settlement yesterday, anyone up to $1,999,999 gets it, and anyone with $2,000,001 gets nothing.

So we still have a tremendous amount of work to do to negotiate a remedy for all the individuals who were placed in this paper on the basis of it being safe and triple-A, getting their money back, getting their accrued interest, and having their legal costs paid.

Art Field, president of the National Pensioners and Senior Citizens Federation, is dismayed at how brokers put elderly people into asset-backed commercial paper as a triple-A savings product. It was said to be as safe as treasury bills and GICs. I have the support of the National Pensioners and Senior Citizens Federation, representing one million seniors throughout all the provinces of Canada, in saying that Canada has failed to protect the savings of seniors in this case.

This time a broad swath of Canadians were hit by a scheme they had no idea they were exposed to. No one in the Canadian financial industry and no government regulators spoke out about the obvious cracks in this cash product. Bridges with cracks eventually collapse. Financial products with design cracks break down too. This is what has happened.

The failure of non-bank ABCP is a systemic problem in the financial industry and among our regulators. This problem, once resolved—and it will be resolved, because it is too egregious not to be resolved for the Canadian families who have been impacted—will require that we engage in dialogue here at the finance committee to develop system reform at the federal government level, which will prevent this from ever happening again.

In my presentation I'm going to deal with the flaws in the product and the repairs that are needed in the regulatory system.

First, international banks should not be permitted to operate schemes in Canada that expose Canadians to billions of dollars of losses. Deutsche Bank, HSBC, and Merrill Lynch are names that need to be associated with this crisis. Deutsche Bank is the counterparty for over 50% of the credit derivatives inside the trust that are currently under bankruptcy protection.

International banks. Julie Dickson, Superintendent of Financial Institutions—the Office of the Superintendent of Financial Institutions is known as OSFI in Ottawa—has indicated she is not responsible for regulating international banks. She needs to have a new job description. We cannot let international banks engage in these contracts that have that impact and the authority to make margin calls, call defaults, and seize the collateral assets of trusts, which are the savings of ordinary Canadians.

● (0935)

These collateral assets, such as the life savings of Murray and Cindy Candlish, the maintenance capital budget of the Beaver Creek Housing Co-op, the retirements savings plans of Wynne and Mike Miles, who are in their own businesses—their money went into the trusts. That money went into collateral assets, collateral being assets that people have access to in order to have their debts repaid. They won't lend you money if they think you don't have collateral to pay it back. So that's how the scheme operated.

International banks now want to collect the debts that are associated with their derivative contracts. And collect them they certainly have the power to do. It is because they have the authority now to seize the collateral, Canadian savings, that the pan-Canadian committee had no choice on March 17 but to enter the CCA bankruptcy protection process. Had that not occurred, Deutsche Bank, Merrill Lynch, and HSBC Bank had the power to pull the plug, had the power to say, "We're entering default, and your collateral assets are now our collateral assets; your savings are now our profits. We're going to be in a position to take $8 billion, in the case of Deutsche Bank, out of the country upon default." The losses of these people who had their savings in these trusts are to the direct gain of the international banks that are the counterparties to the credit default swaps inside these trusts.

Why can't Julie Dickson regulate the affairs of the international banks who got access to our Canadian savings in order to make collateral calls to seize these savings to be taken out of the country?

Retail customers owning ABCP had no idea that they had insured the bad loans of international banks. Canadians were unknowingly insuring the credit losses of Deutsche Bank, HSBC, Bank of America, Wachovia Bank, and others—hardly a Canadian bank on the list—on a leveraged basis. For every $100 that these people put into the trusts, there was $1,300 of international credit portfolios that got insurance from these Canadians. So you just have to have a small amount of loss on that international credit portfolio. If you had a 5% loss on the international portfolio, with 13 times leverage, you get a 65% loss of Canadian savings. That's how leverage works. Leverage is good when everything is going well, but I think everybody knows that when you borrow money and the value of the asset goes down, you get wiped out. That is what occurred here.

Once the investment banks, in the summer of 2007, saw the dramatic rise in interest rates, and once they got the memorandum from Coventry, which is one of the major sponsors, that indicated that net asset value impairments were ahead, the experts in the investment industry knew that there was leverage, knew that there would be margin calls, knew that if new money didn't get put into the trust there would be defaults. Notwithstanding that knowledge, the risk managers of the major banks of Canada, Scotia Capital in particular, made a decision that it would be better for the customers to own this impaired paper than for the banks to do so. So Scotia Capital is alleged to have made a decision to shift out $150 million of the asset-backed commercial paper, post the July 24 memo, sold to Canaccord. Canaccord then sold it to Credential, and then both the retail subagents got it into the retail customer base. This was after there was knowledge that the product was already tainted.

Can you imagine if a food distributor was distributing tuna, and the tuna was tainted, and the distributor made the decision, "We're going to continue to sell the tuna because we don't want to own the tuna; we've already bought it, so we're going to take the loss. Let's not take the loss. Let's get it out to the customer base, because the way our system works in our country, they'll never be able to sue us, because they don't have means." Worse than that, for this set of distributors and banks, one of the side benefits they got in going into the bankruptcy protection proceedings—they got it because they asked for it; it wasn't enabled within the bankruptcy laws—was what *The Globe and Mail* refers to as the mother of all immunity deals.

● (0940)

What that means is that these individuals who were sold the tainted product now have losses of at least 50¢ on the dollar in order to realize cash, and they fell into what will be an extremely depressed secondary market after this yes vote. They are being asked to take the notes and give up their rights to sue. The basic wording is, give up your right to take any action for the remedy of any type of damage through any type of process in front of any type of forum, and you're not to receive remedy from any administrative or enforcement procedure. So that pretty much says it all. "We sold it to you. You should have figured out how not to take possession of it. You own it now. It's your problem. Don't sue me. In fact, you won't be allowed to, because the institutions are going to vote yes, and your group, unfortunately, is going to be carried along."

What should the federal government also be doing? I would suggest that the House of Commons engage a legislative process to rescind immediately the Bank Act regulation B-5. This is the act that governs asset securitization procedures. OFSI specifically has a regulation that describes what a liquidity agreement looks like. A liquidity agreement is a bank guarantee. These international banks would not have had access to Canadian savings through vehicles such as Rocket Trust, Planet Trust—through very bizarre names—if it was not for the fact that there was a liquidity agreement.

The brokers probably sincerely thought that because there was a triple-A rating and a bank guarantee, the bank guarantee would kick in. The federal government had a liquidity agreement definition that was full of holes in the Bank Act regulations themselves.

These international banks came to Canada in the size that they did because the Canadian liquidity agreement was the weakest of the world. It became known as the Canadian-style liquidity agreement. What I wanted you to note, however, was that the banks that signed the liquidity agreement were the same international banks that were the counterparties that took your money in the form of paying for their credit losses because these trusts agreed to ensure those losses.

Just think of the situation that you were put in. You were faced with the collection agent at the front door who said, “Okay, I'm here to collect my debt. You owe me $1 billion, to use a nice round number.” You ran to your rich uncle at the back door to get the money so you could pay the $1 billion debt to the man who was at the front door. When you got to the back door, to your horror, you found that your rich uncle was the same guy as the collection agent at the front door, and the rich guy was saying, “Sorry, I'm not going to bail you out of your problem. I have this document here that says I don't have to, and by the way, the Government of Canada told me I should write this document this way.”

The Government of Canada did so because they said, “We're going to protect the balance sheets of the banks. We don't want you to have a real liquidity agreement that you're going to get paid for, Mr. Bank—Deutsche Bank or the Royal Bank of Canada—because if you do, you may lose money. So why don't you write a liquidity agreement that allows you to walk? And if you write it this way—this is this general market disruption clause idea—every dollar in the commercial paper market could not roll over before it is going to be the case that the bank is obliged to pay for the paper that Murray and Cindy's family was placed in.”

When they couldn't find a customer, they were supposed to be able to go to the Deutsche Bank, as an example, and say, “Deutsche Bank, you pay us back. The Canadians at the moment don't want to buy it.” Deutsche Bank said, “What a fool. Did you not know that the liquidity agreement that I signed doesn't oblige me to pay you off, because there seems to be bank commercial paper still trading?”

In the time that's here, obviously I can't get into the details of that whole thing. People will ask me questions.

● (0945)

I would like to express the view that it's my belief that the asset-backed commercial paper was sold in the Canadian market unlawfully. It should have been sold with a prospectus. At the time, Standard & Poor's, in 2002, wrote a major research report called *Leap of Faith*, in which they concluded that the entire Canadian non-bank asset-backed commercial paper market, all 20 of the trusts in the market at the time, were below investment grade.

You heard earlier from other speakers that DBRS found it to be high-grade, their top grade. Standard & Poor's, on the other hand, said it was so low that they refused to rate it. So that violates provincial securities acts, and as Larry indicated, the provincial securities commissions have done nothing. They stood by blindly while this continued to be sold into the market unlawfully.

The Chair: Thank you very much. We'll now move on.

I'll just remind everyone, for the interest of the committee, in asking questions, please keep it at 10 minutes. I allowed you to go over that a little bit further than I should have. Nonetheless, I know you're passionate about this issue, and so are all Canadians.

Now from the Beaver Creek Housing Co-operative, we have Steven Furino, treasurer. The floor is yours.

● (0950)

Mr. Steven Furino (Treasurer, Beaver Creek Housing Co-operative): Thank you.

My name is Steve Furino and I am the treasurer of Beaver Creek Housing Co-operative in Waterloo, Ontario. I would like to tell our story in two parts. First is how the situation came to pass for us and consequently our need to be made whole for our ABCP investments. With Canaccord's announcement yesterday, it seems that this will be accomplished for us, though large losses will still be borne by others. Second, and more importantly, I want to emphasize how the credibility of both the financial sector and the government has been damaged.

Beaver Creek is a mixed-income community of 50 families. As with other cooperatives, Beaver Creek is owned by its members. The members contribute to the operation of the complex. Specifically, members democratically decide the policies, budgets, and values that influence the community in which we live. We administer a rent-geared-to-income subsidy provided by the federal government to low-income families under section 95 of the National Housing Act. Roughly one-third of the co-op's families are subsidized.

We have managed ourselves very well. Our housing charges are below market and hence we provide access to affordable housing beyond the subsidy program. We have very low arrears, minimal vacancy loss, no deferred maintenance, and a long-term plan for capital expenditures that is, or rather was, fully funded. Our replacement reserve is a fund to pay for capital expenses, such as new roofs or floors. We have made annual contributions to the reserves since our first occupancy in 1984, and the balance is currently about $180,000.

In 2008 we had budgeted to begin the replacement of 25-year-old furnaces at an estimated cost of $88,000. The fund is held at Canaccord Capital. The agreement with our investment adviser requires explicit instructions from us for the purchase of bonds and equities, but allows his discretion for cash and cash equivalents. This agreement has been in place for more than 10 years. The money market portion of our account needs to be safe and liquid because it is intended for near-term activity, like the replacement of furnaces. Our adviser is certainly aware of this.

In the summer of 2007, $93,000 in this fund was frozen as part of the ABCP crisis. The paper was purchased as part of our money market funds. We were not informed of its purchase specifically nor of the risks of this type of entity. Our investment adviser and I have engaged in repeated conversations about the risks in the American housing market and in the derivatives market. Under no circumstances would I have allowed the purchase of such an instrument had I known it contained American mortgages or any derivatives. Our investment adviser has confirmed over the phone that he was unaware of the contents of the paper and relied on its AAA rating and implicitly the good judgment of his firm.

Clearly the freezing of 50% of our financial assets and the loss of a large fraction of that 50% is a serious impediment. To our members, many of whom earn less than $30,000 a year, it's a colossal loss.

Let me emphasize what the situation looks like to a typical family. Mom and Dad, with two kids, earn $40,000 a year. They have lived in the co-op 10 years. They always pay their housing charge on time, volunteer on the landscape committee, and attend general meetings. Through no fault of their own or the co-op's, $93,000 is frozen and a large fraction of that may be lost. They do not get a new furnace as planned. Why? Essentially because a much wealthier and more powerful group—choose from the list: banks, rating agencies, conduits, brokerage houses—claiming to act in their best interests, perpetrated what the family can only interpret as fraud. AAA-rated paper, bank guaranteed, which was declared to be safe and liquid, was neither safe nor liquid.

The Crawford committee is seen by the family as belonging to that same class of financial agents who now completely lack credibility. Without being made whole, why would such a family vote in favour of a proposal that would legitimize the loss of capital, the loss of liquidity, and deny recourse under the law? The obvious answer is to get some of the money back rather than none. However, prior to yesterday, the co-op did not know how much money it would get back or when it would get the money back.

Moreover, beyond a certain point, the issue is no longer one of financial loss. To our families it's an issue of justice.

That brings me to the second part of the story. In meetings at Beaver Creek where this situation was discussed, members made repeated references to failures in the corporate and financial sector over the last 10 years and to the Canadian government's apparent lack of desire to provide a regulatory and compliance framework that protected Canadians from predatory behaviour. I've taken the following examples straight from discussions within the co-op.

● (0955)

When the tech bubble was crashing, popular analysts like Henry Blodget were saying to buy in public and sell in private. Off-book accounting and fraud at Enron and other corporations caused the collapse of large firms and the loss of employment and pensions to many tens of thousands. In the American mortgage business, predatory lending practices, biased real estate assessments, and opaque securitization have plunged the American credit market into crisis. Unfortunately it seems that similar practices may have occurred in Spain and the U.K. as well. CEO salaries, Bay and Wall Street bonuses, and hedge fund managers' pay have all hit records, despite dismal performance in many cases.

No one in the co-op has any recollection of the Ontario Securities Commission or the RCMP successfully prosecuting a Canadian for a criminal act in the financial sector, though everyone was aware that Conrad Black and the CEO of Enron were convicted. This may be because Canada had no high-profile cases or because Canadians are more honest or, more cynically, because Canada's enforcement in these areas is at best pathetic and at worst acts to protect law-breakers.

If the problems in the financial sector had made very, very rich people only rich people, that would be one thing. If those problems had spread to Main Street and harmed ordinary citizens who had no part in the decision-making, risk assessment, or profits, I think that's another thing.

With respect to the ABCP crisis, that such a product has been sold as a cash equivalent clearly demonstrates a failure in disclosure or regulation. My hope is that this committee would ensure that appropriate regulation is brought into force to prevent future mishap. I have also concerns about the integrity of the agencies and individuals involved. It has already been asserted that Coventry informed the Bank of Nova Scotia in early July 2007 that there were imminent problems. Neither Coventry nor the bank made those concerns public. Instead, it has been asserted that the bank sold hundreds of millions of dollars of the suspect paper, some to Canaccord, which in turn used it as routine money market tools for its clients. Even when sufficient regulation exists, there is a need for compliance enforcement.

The public continues to perceive that leaders in both politics and business lack credibility and integrity. The ABCP debacle adds more evidence to an already burgeoning file. Younger citizens do not vote much anymore. In the most recent election in Ontario, I reminded my students, every class, of the date of the election and of the importance of their participation. Roughly 10% voted. When I asked why, the typical answers were “All politicians are corrupt” or “It makes no difference”.

As someone who has personally lived under a dictatorship, I find the prospect of a disengaged citizenry frightening. Unfortunately, behaviour exhibited by the corporate and political leaders in the last 10 years provides abundant evidence to the cynical. It is imperative that elected members act to ensure the integrity of the financial system and the credibility of its participants. In the end, our society runs on institutional trust, and that trust is being eroded.

Thank you.

The Chair: Thank you very much.

We have a last presenter. From the Coalition pour la protection des investisseurs, we have Robert Pouliot and Andrée De Serres.

Andrée, I believe the floor is yours, and you're sharing your time. Andrée, take it away.

[*Translation*]

Mrs. Andrée De Serres (Professor, University of Quebec in Montreal, School of Science management, Coalition pour la protection des investisseurs): Thank you, Mr. Chair.

Good morning, and thank you, on behalf of the Coalition pour la protection des investisseurs, for giving us this opportunity. My name is Andrée De Serres; I am a professor in the School of Management at the Université du Québec à Montréal. I represent the Coalition pour la protection des investisseurs.

The Coalition pour la protection des investisseurs was formed as the result of a spontaneous movement in reaction to the financial scandal known as the Norbourg Fund affair and because thousands of people were swindled out of some $130 million as a result of the scandal.

The coalition maintains, as it maintained in a brief presented to the Public Finance Committee of the Quebec government, that provincial governments, and the federal government, as a matter of urgency, must consider a national savings and investment policy that we base on five key points: first, discussions on policy; an overhaul of the system governing fund management and fund managers: the establishment of a "savings and investment observatory": the evaluation and / or registration of investment management firms; and, finally, the establishment of an indemnity fund that we will discuss with you at greater length.

The coalition brings together, and is supported by, a group whose distinction stands on its own merits and, at the same time, serves to point out the scale of the problem we face. You have a list of those "supporters". We have a group of former presidents of major financial institutions in Quebec and in Canada: Mr. Claude Béland, Mr. Claude Castonguay, Mr. Holger Kluge, Mr. Rosaire Couturier, Mr. Reynald Harpin, Mr. Jean-Luc Landry, all associated with the world of financial institutions, Mr. Robert Pouliot, my colleague, a number of professors, including Mr. Pierre Fortin, Mr. René Delsanne and myself, as well as a former premier and a former minister of finance, Mr. Bernard Landry and Mr. Yves Séguin.

We also have the support of organizations representing some 1.8 million people, another indication of the extent of the interest and concern.

Though the great majority of the investors cheated in the Norbourg affair have still not been compensated and nothing indicates that they will be any time soon, we must point out that the Norbourg affair was not the first. It was one in a long line of scandals, including RT Capital, Transamerica Life Canada, Strategic Value, Portus, Norshield and, some time ago, Triglobal. Now we have the Asset-Backed Commercial Paper crisis that we are facing today. I venture to repeat the words that a well-known Radio-Canada host uses to describe ABCP: upset-backed commercial paper.

The coalition proposes the idea of an indemnity fund equipped with measures to protect investors in the same way as those who put their savings into financial institutions are protected. My colleague Robert Pouliot will expand on this idea.

● (1000)

Mr. Robert Pouliot (Chairman and Chief Executive Officer, Coalition pour la protection des investisseurs): Mr. Chair, ladies and gentlemen of the committee, 20 years ago, this Parliament opened up the banking industry by letting banks become involved in the securities market: the greatest financial reform in the country's history.

The goal was to increase competition in the capital market by completely overturning the rules of the game of finance. Up to that point, Canadians were used to dealing with two very different kinds of institutions. The first was the credit industry, made up of commercial banks, finance companies and credit cards. The reciprocity rules were clear. Both clients and institutions were subject to an obligation of result: repay loans or deposits or go bankrupt.

There were various safety nets, such as deposit insurance, and there was only one regulator making sure that the market operated in a disciplined way: the Office of the Superintendent of Financial Institutions and the Bank of Canada.

The second industry, the trust industry, made up of the whole other world of securities, brokers, portfolio managers, mutual funds, retirement funds and stock traders. The reciprocity rules were confusing as there was no obligation of result, just an obligation of diligence. Consumers were in no doubt that risks were higher and more complex, but they had no way of recognizing if the diligence—that famous due diligence—that is, the resources and the practices, reflected situations that were generally recognized and accepted. There was not one regulator, there were thirteen. There was no indemnity insurance against fraud and abuse, no super-cops to make sure that the market operated in a disciplined way. Literally, it was another world.

Ladies and gentlemen, the opening of the market blurred the distinction between credit risk and trust risk that investors, both small and large, both with experience and without it, are still struggling to navigate through 20 years later. This is what the ABCP crisis shows us. Many investors did not distinguish between a certificate of deposit and commercial paper, given the promises they received that their deposits were secure and liquid. Even worse, some people believed that these products, rated triple A by DBRS and often sold at bank branches and cooperatives, were protected by deposit insurance. Was this an obligation of result or of diligence?

Eighteen hundred investors holding 1% of non-bank ABCP are now threatening the Montreal accord and seven months of difficult work intended to safeguard some $32 billion in assets issued by specialized funds set up by non-bank institutions. For the first time in a long while, small investors seem to be in a position of strength in the capital market. It seems that there is no other choice but to buy back their participation if a major catastrophe is to be averted. The question is, by whom?

Those who sold the paper should assume their share of the responsibility because the evidence shows that the notes were sold with the promise of a degree of security even greater than for deposit certificates. Canaccord, with equity of $390 million and assets of $422 million at the end of 2007 and Credential, with eight institutional shareholders, all cooperatives, should be able to absorb this transaction. In fact, it is what Canaccord proposed yesterday. Financière Banque Nationale could do the same, as could Scotia Capital, which ended up with $220 million in ABCP. But, look, nothing requires them to do so. Even more ironically, those brokers should go into bankruptcy so that their investors can be compensated by the Canadian Investor Protection Fund, as its rules stipulate.

It seems that the weight of the decision will have to be borne by the signatories to last August's Montreal Accord which was designed to ensure that 100% of the proposed ruling passes. As if by chance, eyes are turning to the Caisse de dépôt et de placement du Québec and its $150 billion.

Public opinion, for the most part, sees the Caisse de dépôt as Quebeckers' nest egg, even though the public controls less than 30% of it through its contributions to the Régime des rentes du Québec or its premiums to the Société d’assurance automobile du Québec. The Caisse's 20 other depositors are private pension funds or dedicated insurance funds.

But the Caisse is not a crown corporation like Hydro-Québec. It makes no profit for itself, it has no funds of its own like an independent manager and only serves its depositors. Unless the public servants, the construction workers, the emergency medical technicians and the farmers were to agree, and unless it could be shown that it is their interests to agree, the Caisse could not come to the aid of the other holders of ABCP. The Caisse is not a regulator, nor an indemnity fund, any more than Ontario funds like Teachers or Omers.

● (1005)

Ladies and gentlemen, what Canada most needs is just that, an indemnity fund for investors in cases of fraud or breach of trust. We cannot keep asking ourselves, every time there is a scandal or every time major market errors come to light, who should compensate the investors. Nor can we depend on discretionary or arbitrary decisions of one institution or another. It makes no difference if it is the Mouvement Desjardins, the two other savings cooperatives in Ontario and the West that are offering compensation, the Financière Banque Nationale, which is offering partial compensation, or Canaccord and Credential Securities, which did not offer compensation until very recently.

The responsibility lies in the financial sector and it can be assumed only by some institutions, or a segment of the market, as was the case in Quebec with the savings advisors, the only group to fund the Fonds d'indemnisation des services financiers du Québec, which does nothing.

Such a fund would increase competition in the marketplace by allowing a greater number of management companies to offer equivalent protection to investors. According to Jean-Luc Landry, the outgoing president of the Association des conseillers financiers du Québec, there is an urgent need to treat mutual funds in the same way as any other common consumer product or other savings products.

[*English*]

The Chair: Very quickly.

[*Translation*]

Mr. Robert Pouliot: With no warranty, no right to return the product, as can be done with every other defective product or service, it is important to remove fraud from the risks facing investors.

To sum up, ladies and gentlemen, an indemnity fund should fulfill three functions: to re-establish a balance between a limited number of institutions and an anonymous mass of retail investors, to deal with investors in an equitable fashion...

[*English*]

The Chair: I'm sorry. I'm going to have to cut you off. I would like to let you go a little further, but our time is very limited, and it's only fair to the committee.

You will get a chance as we get into the question and answer period, so thank you very much.

We'll now move to Mr. John McCallum. The floor is yours. You have seven minutes.

● (1010)

Hon. John McCallum (Markham—Unionville, Lib.): Thank you, Mr. Chair.

Before asking any questions, I'd like to make two points to provide a little bit of context.

First, I thank you all for being here, and in particular, I thank those who have lost money in this episode. I found your accounts moving, and particularly, as a former defence minister and veterans affairs minister, the story of the 86-year-old veteran. It's our hope that by providing a forum today we will help you in your efforts to find a just solution and we will thereby help to obtain a positive vote for this accord, because I think that is in the national interest. I'm hoping this session might provide you with a forum that will be helpful in your endeavours.

The second point I'd like to make, Mr. Chair, is that this is, as I see it, the first step in a two-step process. I think it's very important to hear first from the retail investors, from ordinary people if you wish, and the second step is that we will want to use OSFI and we will want to call other government agencies in coming weeks to try to find out what went wrong and what should be done in the future, as Mr. Furino said, to preserve the integrity of our financial system. I think that's a fundamental question that we will address in coming weeks, but not in particular today.

My first question would be to Mr. Elford. I was very interested to hear your comments about various major problems, but can you give us, as legislators, some idea of what in general terms you think the solution might be?

Mr. Larry Elford: Yes, I can. Thank you very much. Number one, end self-regulation. Most societies have discovered that allowing foxes to guard the henhouses is inappropriate.

I read in the newspaper yesterday that consumer protection laws being enacted in Quebec will provide great consumer protection against faulty products and those responsible for them. Those laws must apply to structured investments that are being manufactured today out of smoke and mirrors, just as crystal meth is cooked up in labs in some bad neighbourhoods.

End the dual mandate illusion, the smoke-and-mirrors game of letting citizens think they're being protected by agencies that'll look after both sides of the fence. I've written down a—

Hon. John McCallum: So what concrete legislative or regulatory changes would have to be made, either provincially or federally?

Mr. Larry Elford: What is needed is a single regulator that has a mandate to protect consumers, without the dual mandate of trying to deal with both sides of the issue. There is no consumer protection agency in Canada of any kind that I'm aware of that has a single mandate to protect consumers. They're all conflicted.

Hon. John McCallum: Ms. Urquhart, do you agree with that?

Mrs. Diane Urquhart: I had said in my remarks that I believe the House of Commons should rescind Bank Act regulation B-5, which allows this kind of unacceptable Canadian no-use liquidity agreement. We need to have an act that requires that if the banks sign a liquidity agreement with their name on it, it's going to work. It is a bank guarantee.

As well, I believe the market disruption clause should be removed from the Bank Act regulations, and removed immediately, so that no international bank or Canadian bank can say they were allowed to do it.

Hon. John McCallum: Okay, that's a different issue. But in terms of—

Mrs. Diane Urquhart: On his issue? Okay, I'm sorry. I wanted to get to some specific changes.

Hon. John McCallum: I know you want to get that in, but I want to talk about his issue.

Mrs. Diane Urquhart: There are two things that must happen to deal with the fraud aspects of what has happened.

I believe the top priority is to create—not to fix, because it is non-existent today—a Royal Canadian Mounted Police integrated market enforcement team that works with the white-collar fraud squads of all the regional and municipal police forces across Canada. I believe that is a higher priority than a single securities commission.

I believe we also need to have a collaborative commission between the province of Quebec and the rest of Canada, because the current provincial securities commission system is broken, is not functioning, and offers no protection to Canadian investors.

● (1015)

Hon. John McCallum: Thank you,

And thank you, Mr. Chair.

The Chair: Thank you very much.

We'll now move on to Monsieur Crête.

[*Translation*]

Mr. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): Thank you and congratulations for your persistence. I would like it so much if no one had to live through what you have lived through. But the fact remains that the 1% whom you represent wield an unprecedented amount of power of a kind that would not be found elsewhere. As Mr. McCallum said, it is important for the Standing Committee on Finance to keep working in two directions.

My question goes mostly to Ms. Miles. You talked about the conditions necessary for the agreement with Canaccord to really apply, but I would like you to go back to that. You all talked about the need to find solutions, to make changes to the legislation. Some made other proposals, like the indemnity fund.

Mr. Pouliot or Ms. De Serres could give us more details about that later, but first I would like Ms. Miles to tell us what it is going to take for the agreement with Canaccord to be acceptable to the people who have gone through what you have.

[*English*]

Mrs. Wynne Miles: Well, as I've said, I would not vote yes and give away my right to sue. I think that's very inappropriate.

But I think most of the retail investors just want their money back. So if someone buys back our notes, then the big boys can have their say. That's a very crude way of putting it.

Mrs. Diane Urquhart: I would add that the offer is a good start, because it is proposing to give par, plus accrued interest, and pay legal costs for 1,400 families. However, there are 1,800 families. So we need to get back to the negotiating table and complete the offer. The other 400 families need to get par, plus accrued interest, and have their legal costs taken care of.

In addition, there is a significant discrimination going on both by Canaccord and the National Bank Financial of Canada. In the National Bank Financial case, they have offered to settle cash only up to $2 million. On anything above $2 million, you get nothing. We have several Quebec families, well-known, contributing, hard-working families, who have accumulated above the $2 million level, who do not deserve to be discriminated against. They are still small investors. They are not pension funds, they are not governments, they are not corporations. These people should be paid.

At Canaccord, people are not being paid if they're over $1 million. Who made up that arbitrary rule? Hasn't anybody ever figured out, with low interest rates, how much money you need to produce your own pension? It's an absurdity to have that arbitrary distinction in the cash settlements.

Retail customers are retail customers, no matter what faith, no matter what colour, no matter how much money those retail customers were able to assemble. They were sold a tainted bill of goods. They want their money back, and I think basically the Canaccord offer is deficient in that regard. The National Bank offer has been deficient from the beginning.

Everyone needs to get back to the table so that we can get the retail customer group settled once and for all, everybody, and then the institutions can proceed with the restructuring that they have negotiated over the last seven months.

[*Translation*]

Mr. Paul Crête: Thank you for your comments, Madam, but we have to give Mr. Pouliot time to reply.

Mr. Robert Pouliot: Mr. Crête, I believe that an indemnity fund would have saved thousands of investors all these difficulties and complications. A fund of that kind would be an important advance for all Canadian investors and the entire Canadian trust industry. It could even become a symbol internationally.

We have to recognize that the market is structured so differently from what it was barely a generation ago. Mr. Crête, ladies and gentlemen of the committee, you should know that the pan-Canadian committee of investors has never had sufficient information on the people who held this famous paper. I know, because I organized the first forum on the ABCP crisis last October for the pension funds. That was when we were flabbergasted to find out that more than a hundred pension funds in Quebec alone were directed affected.

An indemnity fund, therefore, is a legislative instrument that really could help all investors and spare us these nickel-and-dime, fly-by-night, a-deal-here-and-a-deal-there negotiations and the unfair treatment of the investors.

● (1020)

Mr. Paul Crête: Ms. Urquhart, who are the three or four main players—let us not say perpetrators—who are at the bottom of the present situation and whom the committee should summon to find out how the scheme basically worked? Your testimony is very important, but going beyond it, who is responsible for this and whom should we call here?

[*English*]

Mrs. Diane Urquhart: You would call the president of Dominion Bond Rating Service. You would be calling the senior officers of Deutsche Bank, HSBC Bank, and Merrill Lynch. You would be calling the senior executives, particularly the head of risk management, for Scotia Capital, and also for the National Bank Securities. You would be calling Henri Rousseau, president of the Caisse de dépôt. In my mind, you'd be calling Julie Dickson in the government and asking her why she continued to say that it was not her problem. It is her problem.

That would be the first set, and I could think of many others.

In addition, I would call the son-in-law of Purdy Crawford, the vice-chairman of the Ontario Securities Commission, and ask him why there wasn't an Ontario Securities Commission examination of the failure of the 20 sponsors for distributing product into the market, when Standard & Poor's had already indicated that all the product was below investment grade.

I might add that with all of this evidence that I possess, which has gone to our legal counsel—documentary, testimonial evidence, including documents from the brokers on how this product was sold—has Lawrence Ritchie from the Ontario Securities Commission called me to look at this evidence? Absolutely not, not to my knowledge. I think for the first time Murray has had a call from an IDA investigator, or someone in Manitoba has. There is not a functioning police force in the country.

The Chair: Monsieur Crête.

[*Translation*]

Mr. Paul Crête: Can you provide a copy of those documents?

[*English*]

Mrs. Diane Urquhart: Yes, I can, subject to my speaking to legal counsel. This is an affidavit that will be filed in the court next week, so I may ask for the allowance of our counsel, Juroviesky and Ricci LLP, and Shibley Righton LLP, who is preparing the affidavit as we speak.

The Chair: Do you want that even if it's not in French?

Mr. Menzies.

Mr. Ted Menzies (Macleod, CPC): Thank you, Mr. Chair.

A heartfelt thank you to all of you involved today, and certainly the investors. Thank you for your rational presentation and for keeping your emotions in check. I realize this is a very troubling time for you and difficult for you to discuss, so thank you.

You need to know that when this motion came forward at committee, it had all-party support to listen to the investors. I think that everybody is absolutely behind hearing your message. I think last August we were all under the premise, when this first came to light, that everyone who was involved in this—both the buyers and the sellers—were quite convinced it was both secure and liquid.

I find it very troubling to hear your comment, Ms. Miles, that you didn't even know you were invested in asset-backed paper. That will be my first question, but I do want to comment about some of what we're hearing today, about the lack of a common securities regulator. Our finance minister has been pushing for that, and I think this is a strong argument.

We hear from Mr. Elford and Ms. Urquhart that the provincial regulators—and at this point in time we're dealing with these regulations, and that's what we have, provincial regulators—are not being effective, were not effective in this role. We as a government have been monitoring it and the Bank of Canada has been monitoring it, but unfortunately that's all both the government and the Bank of Canada can do, because we have 13 regulators across the country. So I'd be interested in some more comments about that.

Also very troubling is the involvement of the foreign banks.

Ms. Miles, perhaps you could elaborate a bit more on what it was you were told. Did you understand what you were buying? As you said, you didn't even know you were buying it.

● (1025)

Mrs. Wynne Miles: No, we weren't asked. As I mentioned, because of the concerns of market volatility, we had a large proportion of our savings in a money market fund, and it was in T-bills. We expected, we had an understanding, that it would be in money or the equivalent of money. When Canaccord sent out the notice—I think I have it somewhere—saying that these ABCPs had been frozen, my husband called just to make sure we didn't have any. That was the first time we'd heard of them. I have to say Canaccord has not been forthcoming with more information on it.

Does that answer your question?

Mr. Ted Menzies: It does. It just affirms your original comment.

Mr. Furino, on your comment—and I wrote it down—"unaware of the contents of the paper" is the way you termed it, so I assume you would have the same comment.

Mr. Steven Furino: Yes. And our broker was also unaware of the contents of the paper. My understanding is that about one-third of all of the money market funds in Canada last summer were held in some form of asset-backed commercial paper. So my expectation is that the vast majority of Canadians who held a money market fund also held some form of asset-backed commercial paper, and they were also uninformed and they were also unaware of the contents of that paper.

Mr. Ted Menzies: Mr. Candlish, through you, Mr. Chair.

Mr. Murray Candlish: I just wanted to add to Ms. Miles' comments about the things that were said to sell this to us, when they had no idea what was in it. The statement, "If this fails, the entire banking system in Canada will fail"—that's why I bought it. When someone makes a statement that strong....

The Chair: Go ahead, Ms. Urquhart.

Mrs. Diane Urquhart: Subject to the clearance from our lawyer, we do have documentary evidence that indicates that Canaccord brokers were sending e-mails and other written documentation to the customers indicating that this asset-backed commercial paper was triple-A rated, that it had better liquidity than GICs—after all, GICs could not be sold in the secondary market like this paper could—and to top it, there was a statement made that it had better preservation of capital than guaranteed investment certificates. The reason given was that guaranteed investment certificates were subject to the $100,000 limit for the Canada deposit insurance.

For those not familiar with that, that's when you put your money in a bank deposit or a savings account or a term deposit or a GIC. For every bank you have money in, $100,000 of it is insured.

So the Canaccord customers were told in writing. We don't necessarily know it all, but we have a document and other common testimony that indicates this is the basis upon which it was sold to them.

Mr. Ted Menzies: Mr. Elford, do you have a comment on that? You're the one who raised the common securities regulator more specifically than anyone else. Perhaps you might comment on that.

Mr. Larry Elford: I truly hope for a single securities regulator. I've dealt with the securities commissions across the country for 20 years. They are dysfunctional at best, and at worst, they are complicit in the granting of legal exemptions to industry agencies.

If this gentleman makes a complaint to any securities commission in Canada, the doors are closed to him. He is referred to a self-regulatory agency that has no statutory authority. He's referred to an investment dealers association or a mutual fund dealers association. He's told at the front door of a crown corporation in every province of this country that he's not welcome and that he's to go to membership associations to deal with this problem. Typically his problem is not solved, yet any corporation in Canada can walk in and apply for an exemption and freely skirt the laws of our country. The doors are wide open.

It's a very badly structured two-tier system that serves the industry and does no service to the public, in my opinion.

● (1030)

The Chair: Thank you very much.

Mr. Julian, you have seven minutes.

Mr. Peter Julian (Burnaby—New Westminster, NDP): Thank you, Mr. Chair.

Your testimony is incredibly compelling. It refers to fraud, illegal practices, misrepresentation, misleading sales practices, financial abuses, and immunity from prosecution. Essentially you paint a portrait in this particular case of a financial services sector that's the wild west. There doesn't seem to be any oversight or any protection for the Canadian public.

I have a series of questions, and I'd like to start with Ms. Urquhart.

You referred to the margin calls around the ABCPs. Essentially, new money was needed to be put in to keep the situation afloat. It sounds very similar to a pyramid scheme. Would that be an accurate assessment of how this situation developed?

Second, this offer from Canaccord came about the day before they knew you were all coming here to testify before the finance committee. Do you think there was a very clear connection?

Mrs. Diane Urquhart: It's my belief that had Brian Hunter not set up Facebook, had my husband and I not become aware of the group, and had we not engaged in a fundraising process to seek legal counsel, it was the intent of the pan-Canadian committee and Mr. Crawford to enter a vote without their having legal representation and with the hope that the vast majority of the 1,800 families would not be organized or have the sufficient wherewithal to vote no. Most importantly, the parties who were in a position to inform them and advise them were Canaccord, Credential Securities, and National Bank Financial.

Credential Securities is owned by the Credit Union Central, and there were five Credit Union Centrals on the pan-Canadian committee. Canaccord was on the pan-Canadian committee. The pan-Canadian committee in whose interest it was to vote yes, and those sets of brokerages in whose interest it was for the customers not to know and to join them in saying yes, were in a position to control the list. They were in a position to advise the customers to vote yes, contrary to their own financial interests.

This was a very significant situation that we were able to uncover in the last four weeks through sheer hard work, 24/7. I think every one of the members on this panel and another 30 behind them have been organizing, informing, seeking legal counsel, and gathering evidence, all for the purpose of ensuring that they would not be run over by the bus in the vote.

Canaccord only came to the table, in my opinion, because of the adverse publicity and because of this hearing today.

Mr. Peter Julian: If you hadn't done your work, there was not going to be any protection or any response from financial services.

Mrs. Diane Urquhart: Yes, and I'd like to add that we are not paid to be government regulators. OSFI has paid staff; provincial securities commissions have paid staff; and even you yourselves, as members of this committee, are paid. All the people who have been scrambling to provide investor protection through the name and shame process are unpaid volunteers. These people, who have day jobs, who have had their money stripped from them, had to work 24/7, around the clock, just to get some kind of stabilization and recovery in their own affairs.

Thank God for people like Robert Pouliot, Andrée De Serres, Robert Kyle, Larry Elford, my husband, and I'll thank myself too, for making a contribution to try to get the money back for this group, to start, but more importantly, to begin the program of reform so that we do have government regulators who do the job. Canadians cannot rely on volunteers to provide very basic regulation to protect the savings of Canadians.

Mr. Peter Julian: We thank you for coming here today, because the Canadian public needs to know what has happened to you and what is happening to other Canadians.

I'd like to go to Mr. Elford. Essentially you said the banks and financial institutions seem to be above the law. So I want to ask you, why is that? We've had governments, both the current government and the previous governments, who seemed to be very soft on corporate crime. Should there be consequences when CEOs and corporate directors make decisions that have such a profound impact on the lives of ordinary Canadians?

● (1035)

Mr. Larry Elford: Absolutely. There should be proceeds of crime legislation that causes people to be responsible for their actions, fraudulent or otherwise. Robert is asking for compensation funds and those kinds of things, and I somewhat agree, but I don't think the government should simply bail out the fraudulent actions of white-collar criminals and allow those people to skate free in a Canadian justice system that does not prosecute white-collar criminals.

Further to the first part of your question, where you pointed out my comments concerning the "above the law" type of thinking, the Alberta Securities Commission, in my province, spent between $1 million and $2 million to legally fight the Auditor General of Alberta to audit that crown corporation. So that is how they're standing their belief of themselves to be completely above the law. I found that same attitude at numerous securities commissions, at the Investment Dealers Association, and the list goes on.

Mr. Peter Julian: Mr. Candlish, Mr. Furino, and Ms. Miles, what is your level of confidence now in the Canadian financial system, following all of this?

Mr. Murray Candlish: I'll share a comment from a fellow back home when he found out what was going on. He said, "You know, I think I'm going to go down to my bank and put my money in a tobacco can and take it home with me."

Mr. Steven Furino: The comment in the co-op that has most commonly been made, particularly with this issue in the news out of the United States, is whether it's time to get a bigger mattress to stuff savings in.

Mr. Peter Julian: They're saying that's more secure.

Mr. Steven Furino: Yes.

Mrs. Wynne Miles: I recently bought some Canada Savings Bonds.

This has been a real education process. I was very naive before, and I certainly hope, now that I'm aware of it, I will see some changes being made.

The Chair: Thank you very much.

Our time has gone. Now we'll move to our second round, in which you will have five minutes.

Mr. McKay will lead that round off.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you, Chair, and thank you, witnesses.

It looks as though we're going to see a spike in mattress sales.

My first question is to Ms. Miles. Generally when you have a relationship between a broker and an investor, you have a disclosure document that has a know-your-client section. Did you enter into a know-your-client type of document with your broker?

Mrs. Wynne Miles: I believe we did. There are little boxes that you check at the bottom of the form.

Hon. John McKay: Yes. So that was signed.

I find it quite astounding that your broker would move from one asset to another without your knowledge or consent. That does strike me as quite astounding.

Mrs. Wynne Miles: You see, we've had those funds in a money market fund, and over the years they've gone from T-bills to equally secure things, such as very secure bank notes. She doesn't ask us when she does that. I know she assumed they were very safe, because she herself has her retirement savings in ABCPs.

We also have other funds. They are in very conservative bonds. Whenever they mature, she will phone us up and we will converse either by e-mail or by phone.

Hon. John McKay: So she thought she was moving from one safe investment to another.

Mrs. Wynne Miles: That's right, yes.

Hon. John McKay: In your restructuring deal you said you wouldn't see any money—I wasn't quite clear what you were saying, so I'm just asking for clarification—until 2013, and then the balance of your money until 2016?

Mrs. Wynne Miles: Yes, and my husband would be the one to speak to that, because I haven't read the agreement. But that's the way it's set up, and it's strange because most of the trusts in SIT III, which is what we own, come due by 2013. Yet we have to wait.

Perhaps Diane can answer that better.

Mrs. Diane Urquhart: I believe that was one of the conditions the international banks and the banks sought to protect their loans. They didn't want the Mileses to take their cash out when the various mortgages matured, because they would want the cash to make sure the cushion remained within these three large pools, so they would be assured that what they were owed...the money would be there to owe it at the maturity date.

● (1040)

Hon. John McKay: So is this a matter of the banks, if you will...? There's a pool of bank clients and a pool of retail clients. What I don't understand is whether the banks are, in effect, insisting on a deal that's equivalent to the retail investors in terms of timing. Is that somewhat of a problem?

Mrs. Diane Urquhart: It would have been logical for the pan-Canadian committee and the major banks of Canada to know they had a business problem, and that there was $350 million worth of paper for which there was a strong legal case to be made that they had been sold on the basis of misrepresentation and broker negligence. They didn't do that. They have entered the court with the view that all are equal. So any stranded retailer that hasn't yet had a cash payment is treated the same as PSP Investments, the City of Hamilton, the Government of Yukon. They're all treated the same.

Hon. John McKay: What I don't understand about the proposition that's on the table is who's funding the proposition for the retailers.

Mrs. Diane Urquhart: First of all, every major bank has already determined that errors and omissions were made in the offer. They don't say so quite so clearly, but they have made cash settlements with their own retail direct customers. National Bank put a cap of $2 million. We don't know what the caps are in the rest of the banking system. So what has happened is that the wholesalers who sold the tainted product to the independents are saying they are not responsible. Canaccord and Prudential are investment banks themselves—

Hon. John McKay: So wholesalers in this place would be Scotiabank.

Mrs. Diane Urquhart: Scotiabank.

Hon. John McKay: Okay, so Scotiabank sells to Canaccord, Canaccord sells to the retailer. So Canaccord, presumably, doesn't have enough money to cover this.

Mrs. Diane Urquhart: That's what they say the problem was.

Hon. John McKay: So where is Canaccord's money coming from?

Mrs. Diane Urquhart: In the offer that took place yesterday, the amount of notes the Canaccord customers get in the restructuring has been bought by an unnamed buyer. We surmise that the unnamed buyer either is a member of the pan-Canadian committee or is Scotiabank or another bank and has decided to participate with Canaccord in having the Canaccord retail customers' problem go away. Canaccord topped up that base purchase to the full par amount, and yesterday Canaccord took a $54 million writeoff. So it was very painful, and probably for the first time in Canadian history, a financial institution was brought to heel and to account for selling flawed product that caused damage to their customers.

The Chair: Thank you very much.

Monsieur Crête.

[*Translation*]

Mr. Paul Crête: Thank you, Mr. Chair. Would it be appropriate for the committee to schedule another appearance for you before April 25? Would that be useful for you in getting justice?

[*English*]

Mrs. Wynne Miles: I'm sorry. Could you repeat the question?

[*Translation*]

Mr. Paul Crête: Would it be appropriate for the committee to schedule another appearance for you before April 25, in view of the time pressure? Ms. Urquhart said just now that the committee was responsible, among others, for the Cannacord proposal. Is it important for us to have another meeting with you to update ourselves before April 25?

[*English*]

Mrs. Wynne Miles: Yes, thank you.

I'm sorry, but I'm hard of hearing. That's why I didn't hear you.

Absolutely. There are so many more questions, there's so much more to be covered, and there are so many more victims who haven't been heard.

[*Translation*]

Mr. Paul Crête: Does anyone want to add anything to that? Do you all share the same view?

Mr. Robert Pouliot: Mr. Crête, I think that there are still investors who do not know that they have ABCP in their portfolios. The more we raise the profile of the matter, the more people will check for themselves.

Mr. Paul Crête: Do you think that the government should take any short-term measures? Do you have enough of a handle on the April 25 decision? Are you looking to the Minister of Finance or the Government of Canada to take a position that would give you a fair chance to accept a reasonable offer?

● (1045)

[*English*]

Mrs. Diane Urquhart: I would like to make the point that it's my understanding that Juroviesky and Ricci, with their sublegal counsel, intends to enter the court next week. They're going to raise the issue that there are retail owners who are being asked to vote yes, and to waive their legal rights. So they will bring it to the court.

I'm not a lawyer and I haven't seen their documentation. I have prepared my own affidavit with respect to what happened. But I would surmise that they're going to make a case that this vote cannot proceed, as it's a miscarriage of justice for the retail customer group, on the basis of the evidence and the reasonable causes of action they have to seek remedy.

Obviously we have a judge who is managing the CCAA process, but it would be my objective that all eyes be on the CCAA judicial process, because there is nothing in the law, in the CCAA act in and of itself, in my opinion, that has obliged the pan-Canadian group to go into a proceeding that requires everyone to waive their legal rights.

If institutions are prepared to do so, and have negotiated such with the international banks who have the right to call default, then so be it; let them proceed to vote and to waive their rights. But in the interest of the country, the economy, and in not having a miscarriage of justice and this stumbling into a public policy issue about justice, we would like to see the assistance of the Government of Canada with whatever mechanism they have to persuade reasonable thought to be brought to bear on this so that these families are not squashed. If they are squashed, we will have a public opinion crisis on our hands, because Canadians will have had their life savings stripped and their rights to sue removed.

So we have a very, very significant adverse situation.

The Chair: Before all of his time is gone, I'm going to allow Mr. Elford to answer.

Mr. Larry Elford: Thank you.

I think he had two questions, one being whether we should meet again before the 25th. Personally, I have a full-time job to go to, so I wouldn't be able to do so, but thank you for the invitation. I would love to come back, however, if this committee or this government considers convening a royal commission or a judicial inquiry into financial abuse and white collar crimes.

My fear is that this issue may get blanketed and smoothed over, putting us on a shaky road to having the same episode again. I would like to bring information to a judicial inquiry showing that Canadians are being abused by $30 billion per year, every year—and amounts slightly above that.

The Chair: Thank you.

Just to remind the committee, we're not here to influence the private sector in any way on a decision that is upcoming; we're here to investigate how it happened and perhaps to put in place protective measures in the future, so that it won't happen again.

We'll now move on to Mr. Del Mastro.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you, Mr. Chair.

Mr. Elford, just for the benefit of the committee, can you tell us what your qualifications are or what your work experience has been, and so forth?

Mr. Larry Elford: I worked for 20 years in the financial business as a retail adviser. I left and retired in 2004, after deciding that the ethics and the codes of conduct of my industry did not meet the promises made. I now fly a helicopter over the Columbia Icefield. So I probably have a dream job, but I've devoted by life to the financial industry and I feel somewhat sorry that I had to walk away from it.

Mr. Dean Del Mastro: Thank you. I appreciate that, because you've made a number of fairly significant contentions here today and I just wanted some background so that we could back those up a little bit.

You've correctly pointed out that this is a provincial regulatory matter, because the provincial securities regulators were on the job here—or, as you've indicated, not quite on the job. But it is their responsibility.

● (1050)

Mr. Larry Elford: Correct.

Mr. Dean Del Mastro: Now, our government and our finance minister have been quite adamant about the need for a common securities regulator in Canada. Ms. Urquhart, who appeared here last year supporting the government's decision on trusts, also spoke at that time of the need for a common securities regulator, and yet we still have pushback from the provinces.

What would you say to the provinces that are pushing back and preventing us from getting a common securities regulator in place? What would you say to them about the need for a common securities regulator?

Mr. Larry Elford: I would cite Richard Nixon and say that the same people who created this problem cannot be relied to solve it.

Mr. Dean Del Mastro: What would you add to that, Ms. Urquhart, about the need for a common securities regulator?

Mrs. Diane Urquhart: Well, I guess I would say to the provincial securities commissions that they've lost their right to govern and regulate. The cracks in asset-backed commercial paper were so clear to Standard & Poor's that there is absolutely no basis on which they can justify what took place. Consequently, it's in the interest of national economic prosperity for the federal government to proceed, as necessary, according to the demands of Canadian people, to use its constitutional powers to enter into securities regulation jointly, including in collaboration with Quebec.

Quebec is doing an excellent job and is seen to be one of the leaders in the country, and still it's deficient. Recently a fraudster was put in jail for 12 years, I believe, in the Norbourg case. It was the Quebec authority who was the first in history to get someone in jail that long for fraud. So I think we can work with the Province of Quebec.

We shouldn't let this be a stumbling block for us to move forward. We must do so. I think the federal government is going to have to show leadership, and do so in collaboration with the Province of Ontario. I think they're ready to move.

It would be my opinion, in light of the lack of confidence in Canada by international investors—because we've become a laughingstock—that any province who chooses not to join this initiative is a province that's going to get a lot less money to develop their economies. I believe the majority of the provinces would fold very quickly.

Mr. Robert Pouliot: May I add a point here?

The Chair: Yes, go ahead.

Mr. Robert Pouliot: There are now pensions funds that have reached a level of complete disbursement in Quebec and have no liquidity whatsoever.

The federal Parliament has power over OSFI and the Bank of Canada, and a special action should be prepared or made or taken in order to allow the pension funds that have reached maturity to be able to recover funds, and not leave it to the institutions, with one institution or other setting differing types of facilities. This would help those pension funds get credit in order to pay their retirees.

Mr. Dean Del Mastro: Sir, can you give me the relevance of that to a common securities regulator?

Mr. Robert Pouliot: Well, a common securities commission in Canada may not happen, Mr. Del Mastro, for a year, two years, or perhaps even longer, but here, within the next few weeks or few months, OSFI and the Bank of Canada could provide a special type of facility that would allow pension funds that have reached the stage of disbursement to be able to disburse and pay the pensions of their retirees. That's a very short-term action that could be taken now, and you don't need a law for that.

The Chair: Thank you very much.

Now, we'll move onto Mr. Pacetti.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chairman.

Thank you again to all the witnesses for appearing. This is an issue that's been boiling, and we still haven't uncovered all the things that are out there, but we'll leave that for another day.

Mr. Furino, I guess you're the closest to someone representing a corporation here. How does this happen? You said that whatever amount of money you have, whether it's $50,000 or $5 million, you talk to your investment adviser. So how does this happen? You've told the adviser that you need the money to replace furnaces, or for minor repairs, or for working capital, and then all of a sudden you're stuck with this product. There are enough people involved.

You're a treasurer of an organization, and you're dealing with an investment broker or banker. How does this happen?

Mr. Steven Furino: I think the short answer is that the investment adviser believed that the product was safe and liquid. It wasn't.

Mr. Massimo Pacetti: So who takes responsibility? The same thing could happen to me. I have an investment adviser, who is actually with the National Bank, and I have some money market funds, and it just happens to be that he didn't put them into National Bank products. It was just a fluke.

This question is related to what Ms. Miles was saying. I specifically tell my investment adviser that these amounts of money are going to go towards safe investments, and these are not. So who is going to be the responsible person?

Even if the people around the table, or the group that is here testifying, decide to take Prudential or Canaccord to court, by the time there is an additional settlement, who is going to pay this money?

● (1055)

Mr. Steven Furino: I think there's no shortage of blame to go around. Many of the comments suggest that it's systemic, and not my broker, not Canaccord only, or a rating agency, or regulatory authorities, or banks playing both sides of the fence, or liquidity guarantees that aren't guarantees.

Mr. Massimo Pacetti: So we're talking about a revamp of a system that really has to be looked at.

I know, Diane, that you are itching to add something.

Mr. Steven Furino: I think it is a systemic problem and not just—

Mr. Massimo Pacetti: I'm going to give you an even tougher question, but it's probably easy for you to answer.

I have $100 dollars and I want to put $10 in safe investments, and for sure I'm going to put another $10 or $20 in bank or financial institution stocks. So here I am, and $10 of my "safe" money is no longer safe; and my $20 that is supposed to be in blue-chip stocks is no longer safe, because my bank or financial institution stocks are going down. So what is the safety in my investment?

Meanwhile, I have another 20% in really risk investments—

Mrs. Diane Urquhart: They're probably the safe ones.

Mr. Massimo Pacetti: They've now become my safe investments. So what do I do? How do we control this?

I can't believe that members of Parliament are supposed to be investment advisers. I understand that we are going to put some legislation forward one day, but we can't even get the provincial governments to decide. As Mr. Pouliot was saying, it may take years before there's any type of compromise on this situation.

What do you see, Diane?

Mrs. Diane Urquhart: One of the big problems with the vote under the CCAA process is that there are courts whose function is to resolve disputes. There are other dispute resolution mechanisms, and some don't work that well, but we also haven't mentioned today the ombudsman for banking services and investments.

What has to happen is that this retail group needs to be given free access to the dispute mechanisms that are available. If their legal rights are squashed this time, they're going to be squashed every time, because what bank wouldn't want to be able to squash the rights of customers who are angry with them for selling them products that blew up or were tainted?

So this is a fundamental problem that we are facing. This is why these people want to speak here, because they need access to the dispute mechanisms. They don't want to be run over by the bus or told by the banking industry who sold them the tainted product—

Mr. Massimo Pacetti: Who is the dispute mechanism? The Financial Consumer Agency came before us to testify, and we were asking them about complaints in the financial and banking sector, and that's not their responsibility. Their responsibility is just to inform people that the banks exist.

Mrs. Diane Urquhart: Well, there is a mechanism that works today; the problem is that these people are being denied access to it. We can come back on this, subject to another hearing on how we can fix the current dispute mechanisms, which are not working as well as they should. For the most part, all of the dispute mechanisms are controlled by the industry, and the courts are too expensive.

So we do have work to do, but we have to start by severing the control of the industry of the dispute mechanisms, and we have to have a place where people who have lost their life savings can go with impartiality and feel that, with the provision of evidence, some reasonable arbitrator or judge or dispute resolution mediator is going to be able to come to a judgment that's fair, on the basis of the evidence, and not be controlled by the industry.

The Chair: That takes us to our time.

I want to thank you for coming forward, and I want to thank the committee for their questions. You were passionate in your concern for this issue, and we're very concerned about trying to do something with it.

I believe there is a motion coming from Mr. Crête. I'll entertain it at this time.

[*Translation*]

Mr. Paul Crête: Thank you, Mr. Chair.

I move that the committee make non-bank asset-backed commercial paper its priority in the coming months, while of course respecting our obligations to study Bill C-50 that deals with implementing certain provisions of the budget. I so move. Since this is on the agenda, I do not have to give 48 hours notice. I hope that I can get unanimous consent from the committee on this.

● (1100)

[*English*]

The Chair: I don't sense there are any objections. I wouldn't want to enter into a lot of discussion on this at this time, if that's fine.

We will have a vote on it, unless you have something that you want to—

[*Translation*]

Mr. Peter Julian: I support the motion, Mr. Chair. I think it is very important for the committee to look into this matter.

[*English*]

The Chair: Fair enough.

I see consensus to entertain the motion.

Mr. Del Mastro.

Mr. Dean Del Mastro: On a point of clarification, Mr. Crête, Bill C-50 would be the priority and then this would immediately follow that? Is that correct?

[*Translation*]

Mr. Paul Crête: We should give priority to Bill C-50 which was referred to us by the House of Commons. The rules require us to study it. Apart from that, our priority would be the ABCP.

[*English*]

The Chair: A clarification from the chair is that on Monday we have an already scheduled meeting. After that, it will likely be Bill C-50, and then the priority will be this motion.

[*Translation*]

Mr. Paul Crête: I think that the steering committee should decide the way we go about it. That said, by request and as things unfold, we would make this matter a priority.

[*English*]

The Chair: Mr. Pacetti.

Mr. Massimo Pacetti: Mr. Chairman, I have no problem with this motion, but we keep bringing up these up and then we never seem to finish any subject that we commence. As Mr. Crête has suggested, we should have a steering committee so that we can plan our work schedule between now and the end of June, because once the fall starts, we have the PBCs to consider.

So I have no problem with the motion.

The Chair: We'll entertain a vote on the motion.

(Motion agreed to [See *Minutes of Proceedings*])

The Chair: The meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

Publié en conformité de l'autorité du Président de la Chambre des communes

Also available on the Parliament of Canada Web Site at the following address:
Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante :
http://www.parl.gc.ca

The Speaker of the House hereby grants permission to reproduce this document, in whole or in part, for use in schools and for other purposes such as private study, research, criticism, review or newspaper summary. Any commercial or other use or reproduction of this publication requires the express prior written authorization of the Speaker of the House of Commons.

Le Président de la Chambre des communes accorde, par la présente, l'autorisation de reproduire la totalité ou une partie de ce document à des fins éducatives et à des fins d'étude privée, de recherche, de critique, de compte rendu ou en vue d'en préparer un résumé de journal. Toute reproduction de ce document à des fins commerciales ou autres nécessite l'obtention au préalable d'une autorisation écrite du Président.