



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
CANADA

## **Standing Committee on Finance**

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FINA • NUMBER 047 • 1st SESSION • 41st PARLIAMENT

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**EVIDENCE**

**Thursday, March 8, 2012**

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**Chair**

**Mr. James Rajotte**



## Standing Committee on Finance

Thursday, March 8, 2012

• (1530)  
[English]

**The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)):** I call this meeting to order, the 47th meeting of the Standing Committee on Finance.

Pursuant to the order of reference of Tuesday, February 14, 2012, we are considering Bill S-5, an act to amend the law governing financial institutions and to provide for related and consequential matters.

We have two panels with us here today, colleagues. In our first panel we're again very pleased to welcome back the Honourable Ted Menzies, the Minister of State for Finance.

**Some hon. members:** Hear, hear!

**The Chair:** A unanimous welcome back from the committee, Minister Menzies. Thank you so much for being with us here to present the position on Bill S-5.

I understand you have some officials at the table, who you will be introducing in your remarks. We'll have questions from all committee members after your remarks, so please begin at any time.

**Hon. Ted Menzies (Minister of State (Finance)):** Thank you, Chair.

This is, as I say, becoming a habit, but I am glad to be back among the financial champions in the House of Commons. Thank you for allowing me the opportunity to appear once again before this committee.

Today we are talking about Bill S-5, the Financial System Review Act.

I have with me Jeremy Rudin, Jane Pearse, Eleanor Ryan, Leah Anderson, and Joe de Pencier from the Department of Finance. If you ask me any technical questions I will probably defer to them, because this is a rather technical bill, but it is nonetheless very important.

From the start I want to underline for the committee that while this legislation is important, it is mandatory, routine, and as I say, primarily technical. But it is important, in that it will ensure that we keep Canada's financial system safe and secure, a system all of our constituents depend on almost every day, be it making a bank deposit or applying for a loan to start a business.

Our financial sector plays an important role in financial stability, safeguarding savings and fuelling the growth that is essential to the success of our Canadian economy. It also represents about 7% of

Canada's GDP, employing over 750,000 Canadians in good, well-paying jobs.

Before I start talking about some of the highlights of today's bill, I want to explain the background of why and how it came to be. The committee should know that every five years the government reviews all legislation governing federally regulated financial institutions. This is a long-established practice in Canada, with the last review being completed in 2007 in the 39th Parliament. Such mandatory five-year reviews are a big part of why Canada has a well-regulated financial system that is safe and secure. Indeed, earlier this year the independent Financial Stability Board praised this aspect of our system:

...review of all legislation to ensure that it is current, contributes to stability and growth of the financial sector and, by extension, allows Canada to remain a global leader in financial services.

I'll note that the present five-year review process formally began in September of 2010, when our government launched a broad public consultation process. During that consultation we heard from a wide range of Canadians on ways to help further strengthen Canada's financial system.

What's more, as we know, Bill S-5 has already been reviewed in the Senate and received extensive study by the Senate Standing Committee on Banking, Trade, and Commerce. As we know, the senators know a lot about money, so they would have scrutinized this very closely.

The committee engaged in a timely review of the bill, hearing from groups ranging from Credit Union Central of Canada, the Canadian Life and Health Insurance Association Inc., the Financial Consumer Agency of Canada, the Office of the Superintendent of Financial Institutions, as well as others. While noting Bill S-5's technical nature, the witnesses were very supportive of the bill overall. For instance, the Canadian Life and Health Insurance Association Inc. noted that "Bill S-5 represents a welcome fine tuning of the various financial institution statutes".

Before highlighting some of the items in today's bill, let me mention that due to the legislated sunset date, it is essential that it be renewed by April 20, 2012 to allow Canada's financial institutions to continue to function. No pressure, Chair, but keep that in mind.

I will now take this opportunity to outline some of the measures contained in Bill S-5. Once more, while the majority of the bill is purely technical, its passage is nevertheless essential to guarantee that Canada's financial system remains stable and secure. That's why broadly, the bill will make changes to, first of all, update existing legislation to promote financial stability and to ensure that Canada's financial institutions continue to operate in a competitive, efficient, and stable environment; fine-tune the consumer protection framework to better protect Canadian consumers; and improve efficiency by reducing red tape and regulatory burden on those financial institutions.

● (1535)

More specifically, key measures contained in this act include reinstating the required approval of the Minister of Finance for select, extremely large foreign acquisitions by Canadian financial institutions; reducing the administrative red-tape burden for federally regulated insurance companies offering adjustable policies in foreign jurisdictions by removing duplicative disclosure requirements; promoting competition and innovation by enabling cooperative credit associations to provide technology services to a broader market; more than doubling the maximum fine that the Financial Consumer Agency of Canada can impose on financial institutions that violate consumer provisions, increasing that from \$200,000 to \$500,000; and also guaranteeing that all Canadians, especially those who are most vulnerable, have the right to cash any government cheque under \$1,500 free of charge at any bank in Canada.

When we saw the failure of some of the world's most well-known banks, the recent global economic turbulence has made clear the importance of keeping Canada's financial systems safe and secure through the passage of the Financial System Review Act. Canadians recognize how much we have benefited from our prudent regulations and sound financial oversight in recent years. In fact, for the fourth year in a row Canada has been ranked number one by the World Economic Forum for having the soundest banks in the world.

Without a doubt, Canada's safe and secure financial system has served as a model for countries and is envied around the world. In fact, U.K. Prime Minister David Cameron recently praised our system when he said:

In the last few years, Canada has got every major decision right. Look at the facts. Not a single Canadian bank fell or faltered during the global banking crisis... Your economic leadership has helped the Canadian economy to weather the global storms far better than many of your international competitors.

As well, the prominent *Economist* magazine made this proclamation:

Canada has had an easier time than most during the recent global recession, in part because of a conservative and well-regulated banking system.

Likewise, a recent report from the United States Congressional Research Service underlined how well our financial system is regarded and examined as a model for others to build on. I'm quoting directly from that report:

...Canada's supervisory system and regulatory structure have proven less susceptible to the bank failures that have loomed in the United States and Europe and may offer insight for U.S. policymakers.

In conclusion, let me say that our government believes that modern and effective regulation is critical for an innovative and prosperous economy. What's more, we recognize that we must keep

Canada's financial system secure so that it continues to be a fundamental source of strength for our economy. The measures contained in the Financial System Review Act will provide a framework that will benefit all members of the financial services sector, and also all Canadians.

The well-established practice of regular five-year reviews of the regulatory framework for financial institutions is a unique practice that sets Canada apart. It is a positive practice that has proven vital to the stability of this sector.

All Canadians know the importance of continually examining how we can better ensure the safety and soundness of our financial system for the benefit of all Canadians, and today's legislation does just that.

I encourage all members to support this important legislation.

On that note, I'll wrap up and would welcome any questions.

Thank you.

● (1540)

**The Chair:** Thank you very much, Minister Menzies, for your opening statement.

We'll have questions from our members. We'll start with Mr. Julian for a five-minute round, please.

**Mr. Peter Julian (Burnaby—New Westminster, NDP):** Thanks very much Mr. Chair.

Thank you for coming, Mr. Menzies. It's always good to see you here.

As you know, the NDP has been a strong supporter of our robust regulatory framework for the banking sector. We've been certainly supportive at all times, often in opposition to the governments in power, to make sure we keep that regulatory framework in place.

What I'd like you to do to start off, if you could today, is just lead us through what the actual process of consultation was on the Financial System Review Act. When the period of consultation opened, how many submissions did you actually receive? To what extent was the review actually publicized or advertised? And to what extent did that go into forming the bill that is before us now? Of course, there some areas that are missing that we'll be identifying. I'd really like you to take us through to what extent there was a full consultation on this review.

**Hon. Ted Menzies:** Thank you, Mr. Julian.

The review was initiated on September 20, 2010. As for the actual details, I'm not exactly sure what all the details were, but I may turn to Mr. Rudin to give you the details of how that process was carried out, if I could.

**Mr. Jeremy Rudin (Assistant Deputy Minister, Financial Sector Policy Branch, Department of Finance):** Sure, I'd be glad to.

The Minister of Finance, Minister Flaherty, launched the review by putting a press release on the Department of Finance website inviting all interested Canadians to make a submission, noting that this was part of the regular process of updating the financial institution statutes. He also took the opportunity to point out that a number of important changes had been made in the legislation governing the financial system as a consequence of the turbulence in financial markets and the lessons we had learned domestically, and more importantly, I think, from observing what was going on in other countries. He anticipated therefore that the review would be principally focused on technical issues, that the government wasn't contemplating major policy changes but was certainly prepared to contemplate a fine-tuning exercise.

Everyone was invited to make their submissions electronically, and a number of submissions came in, on the order of 30. Then we looked at all of those within the Department of Finance. In some cases we went back to the people who had submitted the suggestion to get more information, to get more background, to understand better where they were coming from. We also consulted not only within the Department of Finance but also with the relevant federal agencies, whether it be the Office of the Superintendent of Financial Institutions, the Financial Consumer Agency, or the Canada Deposit Insurance Corporation. Then subsequent to that, the bill was tabled.

**Mr. Peter Julian:** Thank you for that, Mr. Rudin and Mr. Menzies.

What I think would be useful for this committee to have is a comparison—and I know that you won't be able to give us testimony today on that—of how this compares with previous reviews: so the process, the number of submissions, and the number of public as opposed to anonymous submissions, compared to the previous review. I think that would be helpful for us.

I'll move on, because time is short. I'd like to know, in terms of the Canadian Payments Association, the degree of consultation that was undertaken with them, and the extent to which the government was defining a technical issue around payments. My understanding is they do not believe that the changes that are foreseen in this review act are technical in nature.

• (1545)

**Hon. Ted Menzies:** To begin with, I just want to clarify your previous comment. I don't think any of the submissions were anonymous. I don't think we'd put a lot of relevance on an anonymous submission on something this important. I'm sure everyone signed their submission to suggest what they'd like to see in the Bank Act.

**Mr. Peter Julian:** Not anonymous.

**Hon. Ted Menzies:** In answer to your question, there certainly were some questions from the payments association. Fortunately, those concerns were allayed throughout the Senate process. In fact, they wrote a letter to Mr. Rudin, and I will quote from that letter:

While CPA welcomed the comments from the committee, we have no issue with the substance of the provision and are comfortable with moving forward with the amendment as it was originally proposed.

So their concerns were addressed and they're comfortable with that now, but thank you for raising it.

**Mr. Peter Julian:** Would you be able to table that with the committee?

**Hon. Ted Menzies:** I don't know if I have it in both official languages.

**The Chair:** If you provide it, we can certainly translate it.

**Hon. Ted Menzies:** Yes, we can certainly provide it. Sorry, I just have it in English. My apologies. I should have known better, Peter.

**The Chair:** Thank you, Mr. Julian.

We'll go to Ms. Glover, please.

**Mrs. Shelly Glover (Saint Boniface, CPC):** Thank you, Mr. Chair.

I want to take a moment—forgive me, Minister Menzies, but I have to take a moment—to wish all of the women in the room a happy International Women's Day.

I must note how impressed I am to see, Minister Menzies, the balance of women versus men in high-ranking public service sitting with you at the table. I want to congratulate them. There are three to two here, and I'm so pleased to see our women doing so well in public service life.

In any event, Minister Menzies, I'm glad to see you here, because this is, as you said, a very important piece of legislation. It is a review that's mandatory, and there is a very important date coming for sunset. You mentioned as you provided your opening statement that the bill includes technical and administrative amendments that you classified as housekeeping, but you also acknowledge that some of them are very substantive measures that address current global and domestic trends.

Now, the financial crisis highlighted the importance of evaluating the overall size of financial institutions, their global linkages, and the impact these factors have on financial stability and the best interests of Canada's banking system.

As a partial response to lessons learned, today's legislation, as we know, proposes to reinstate an existing ministerial approval for select foreign acquisitions of financial institutions. I happen to have with me a quote from the Canadian Bankers Association with regard to that section. Here's what they said:

We fully support that decision. That power should be back with the finance minister to, in our view, give him a full suite of tools as part of the oversight of the financial system in Canada.

I would ask you, Minister Menzies, to tell us your thoughts with regard to the importance of this provision.

**Hon. Ted Menzies:** Thank you, Ms. Glover.

My apologies to all the women in the room; I should have noticed that myself and highlighted it, and of course that we have two parliamentary secretaries, both women, who sit on this committee, and that on a regular basis we depend highly on the women in the finance department. Our associate deputy minister is a woman, and many of our high-ranking officials in the Department of Finance are smarter than some of our guys, but we won't tell our guys that. Anyway, thank you.

We want to highlight some of the technical things. Prior to 1992 all banks were prohibited from owning any foreign subsidiary. In 1992 ministerial approval was granted to have oversight over that matter, but in 2001 the ministerial approval was removed and it was simply the Office of the Superintendent of Financial Institutions.

What we're doing is to make sure that we're bringing strong oversight back by providing oversight by the Minister of Finance. OSFI still looks at it to make sure that the transaction qualifies, but the Minister of Finance has the final say, and I would agree with Terry Campbell and the CBA that this is the proper oversight to have in this situation.

•(1550)

**Mrs. Shelly Glover:** I thank you for that explanation.

I want to thank Mr. Julian for admitting that the NDP take this very seriously and want to see our banking system and our oversight systems remain as strong as they are, because we are seen, frankly, across the world as having one of the strongest systems. I'm sure that Mr. Julian will help us to get through this bill quickly in order to get to that sunset date without having any problems.

I would ask what prompted the discussion about going back to what was changed by the Liberal government.

**The Chair:** Just give us a brief response, Minister, of about 30 seconds.

**Hon. Ted Menzies:** There were certainly concerns. If you want the broad picture, it is concerns over how we make sure that our financial institutions remain in the top class, retaining basically a triple-A rating. Canada is triple-A, but so are our banks. It's very important that we keep that strength.

The most important thing to us is making sure that we protect ordinary Canadians, that their savings are protected, that there's credit available to them, that we have strong and stable banks. When Canadians need to borrow money, we have to have strong institutions for them. It is overall oversight, the final oversight, that is in the right place in the hands of the finance minister.

**Mrs. Shelly Glover:** Thank you.

**The Chair:** Thank you, Ms. Glover.

We'll go to Mr. Brison, please.

**Hon. Scott Brison (Kings—Hants, Lib.):** Thank you, Chair.

And thank you, Minister and the public servants, for joining us today.

Minister, you cited the international recognition that Canada's banking regulatory framework has received, from Prime Minister Cameron among others who have cited it. What regulatory decisions would you suggest resulted in this strong regulatory framework?

**Hon. Ted Menzies:** I think it's just a pattern of regulatory decisions that were set up. Scott, I know exactly where you're fishing.

**Hon. Scott Brison:** No, Minister, I think it's important for context. When would these regulatory decisions have been made?

**Hon. Ted Menzies:** They were made through successive governments' recognizing that a strong banking system is very important.

**Hon. Scott Brison:** I would agree with that.

**Hon. Ted Menzies:** And I'm happy to admit that the Liberals support what the Conservatives have continued to maintain.

**Some hon. members:** Oh, oh!

**Hon. Scott Brison:** I think, Minister, it is fair to say that in the 1990s, when the global trend was to deregulate, in the U.K., throughout Europe, in the U.S.—I would agree with you—it was the right decision at that time for the Liberal government not to.

**Hon. Ted Menzies:** And it's still the right decision today.

**Hon. Scott Brison:** Minister, we appreciate your belated recognition.

Now, Minister, in the last 24 hours we've heard another warning from Governor Carney about the level of household debt in Canada. We've seen now two Canadian banks—both BMO and now TD—pushing 2.99% four-year mortgages.

Do you have some concern, given the unprecedented level of personal debt, about cheaper money and cheaper debt being promoted to Canadians at this time? Would you agree with Governor Carney that we have a personal debt and potentially housing bubble in Canada?

**Hon. Ted Menzies:** Certainly, Mr. Brison—I'm sorry, I shouldn't call you Scott—

**Hon. Scott Brison:** That's all right—no problem, Ted.

**Hon. Ted Menzies:** —I share what I feel is your concern about personal or household debt. We have tightened up mortgage rules to make sure that people take a very serious approach to encumbrances that they take on, the debts they take on; that they understand that.... That's why we've put in place funding for a financial literacy leader: to make sure that people can become more educated, to make sure they understand what responsibilities come along with taking on debt.

I'm not the first one to make this statement and I won't be the last: interest rates have only one way to go, and that's up. Canadians need to recognize that whatever debt you take on now, please plan on the cost of carrying that debt increasing at some point. It may stay low for a long time; we don't know that. But the downside is much less than the upside possibilities.

•(1555)

**Hon. Scott Brison:** Minister, you referred to your tightening of mortgage rules recently. Was that not simply reversing the same rules that your government loosened in the 2006 budget, when you introduced 40-year mortgages with no downpayment for the first time in Canada?

**Hon. Ted Menzies:** We tightened up mortgage periods to make sure that people were capable of covering their debts. They had to qualify for a five-year mortgage, even if they were only applying for a one-year mortgage.

We think that's only prudent. Certainly there are concerns with the condo market. We're concerned with it too and encourage people to be very cautious and make sure.

We're certainly not wanting to slow down the housing sector. The housing sector is a huge job creator in this country. So we want to be cautious; we don't want to disincite people from buying a new home or from buying a condo. We just want to caution them to make sure that they can handle their payments when they take them on.

**Hon. Scott Brison:** Let me put my final question, Minister.

Is there some concern about the politicization of foreign acquisitions by Canadian banks, with ministerial involvement in the approval? Previously—this was referred to by Ms. Glover earlier—that was not the case, in the last period. With Canadian banks being so acquisitive globally, is there some concern about the potential politicization of some of these potential takeovers by means of which we have an opportunity to grow our banking sector globally?

**The Chair:** Give just a brief response, Minister.

**Hon. Ted Menzies:** I guess that calls for my own personal opinion, and I would say no, I don't think there is a threat of politicization, simply because the Office of the Superintendent of Financial Institutions still looks at these before the final signoff from the Minister of Finance. He or she—it could be a she—has a 30-day window to make that decision.

**The Chair:** Thank you, Mr. Brison.

I want to thank you both for being so gracious to the former Liberal government of the 1990s, especially since neither of you was a member of the party that time.

**Some hon. members:** Oh, oh!

**The Chair:** I want to recognize Ms. McLeod, please.

**Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC):** Thank you, Mr. Chair.

First of all, I would like to start by noting that frequently we get bills that have come from the House and that go on to the Senate. This one started in the Senate. On the Standing Senate Committee on Banking, Trade and Commerce there are many members for whom I have great respect. I certainly intend to read the minutes of their process, which I haven't done yet.

Can I have an indication from the officials, who I'm sure would have followed it in detail—and of course the minister as well—of any issues they brought forward that were of real concern? Could you talk a little about anything that happened in that process?

**Hon. Ted Menzies:** Let me first of all comment on the Canadian Payments Association. That question was raised and the concern allayed, if you will, through the process in the Senate.

I'm sure there were other questions that happily may answer some questions here. Mr. Rudin, do you have any that come to mind?

**Mr. Jeremy Rudin:** Yes, I'd be glad to respond.

Senators asked us to explain some of the substantive portions of the bill that Minister Menzies mentioned. The ministerial approval of foreign acquisitions was an issue they wanted to talk more about.

They asked Minister Flaherty, who appeared before that committee, to explain that, and we had a number of technical questions about it.

We dealt with the CPA issue.

We dealt with the consultation issue, which was raised here as well.

We had an explanation about the change in the size-based ownership regime. We're moving a numerical threshold, so we were to asked what the purpose of that was and how we went about coming up with the new numerical value.

We had a question about the change we're making to the Bank Act's special security regime—we were to called upon to explain it—which some stakeholders had raised.

I think those are the principal ones. Perhaps Ms. Pearse will remind me, if there is something else. Those would be the main issues that we discussed in the other committee.

• (1600)

**Mrs. Cathy McLeod:** Thank you.

This is a very unusual opportunity wherein I think all parties are indicating a pride in our financial system and the strength of our banking system. We're making comparisons, of course. Unlike the U. S. or Europe, we didn't have to nationalize or bail out the banks. It's good to see that there are areas we agree on and are very proud of together as Canadians.

In terms of today's legislation, the piece behind which I would really like to understand the rationale is that we're increasing the “large bank” owner threshold. Can you explain why it's being increased and what impact this increase in the ownership threshold will have on the broader oversight of financial institutions?

**Hon. Ted Menzies:** Thank you, Ms. McLeod.

When looking at increasing the threshold, I'm sure some people will ask why we need to do it. It's the same reason: to allow growth. These banks are larger than they ever used to be.

Our Canadian banks, because of their strength and the way they came through the recession—they actually came through the recession while some other banks didn't—have grown. They have acquired banks in other countries as part of their portfolio. Their overall threshold needs to reflect that.

It's only for the five big banks that you'll see the \$12-billion number, only for the five big banks that we're raising to the \$12 billion. The mid-sized banks are moving from \$5 billion to \$8 billion, and the threshold for the majority of the rest of the banks is being moved to \$5 billion. This reflects how much these banks have grown, especially our five large banks. They've taken advantage of the strength that they came through this recession with and have acquired some very profitable operations.

**The Chair:** You have about 30 seconds.

**Mrs. Cathy McLeod:** In the last five-year review, did we have to increase it at that time? Is it typical that we have to increase it each time?

**Mr. Jeremy Rudin:** Yes, indeed. So this threshold, which is going from \$8 billion to \$12 billion, was in the previous review raised from \$5 billion to \$8 billion.

**Mrs. Cathy McLeod:** Thank you.

**The Chair:** Thank you, Mrs. McLeod.

Let's go over to Mr. Chisholm, please.

**Mr. Robert Chisholm (Dartmouth—Cole Harbour, NDP):** Thank you.

Minister, it's good to see you here before the committee again.

I have a couple of questions. I raised this in debate in the House, this business that we didn't have to bail out or assist our banks. In fact—and I'm not saying this to be critical, I'm just saying it to clarify—did the Canadian government not buy \$60 billion to \$70 billion worth of assets of the Canadian banks? That's a fair bit of support.

**Hon. Ted Menzies:** You're right, we did, but they were good mortgages, they were solid mortgages, and they actually have been profitable. What we needed to do at the time—and I'm sure you recognize this, you'd have heard that in Nova Scotia—was the access to credit was what was the big challenge. The banks needed to free up some cash so they could help Canadians in the recovery.

So we took on some of those mortgages, good mortgages, and they've turned out to be profitable. It was a win-win. It provided extra credit to Canadians who were struggling to try to get credit at the time.

**Mr. Robert Chisholm:** My only point in raising that is just to be clear that we've done well because of the regulation and the history and tradition of the way our banking system is regulated. But we weren't completely isolated from what was happening around the world. That's my only point.

**Hon. Ted Menzies:** Nor do we now own a bank as the Government of Canada.

**Mr. Robert Chisholm:** That's right.

I have a couple of things. One, I wanted to pursue a little further the foreign ownership question Mr. Brison asked about. It was a question I had as well. There are the concerns about it now going for ministerial approval and the concerns about why that's happening and the concerns about politicization.

I'm going to follow that up with a couple of short snappers.

Would you explain the removal of the restrictions on individuals cashing federal cheques under \$1,500? We support that. I'm just curious as to what the rationale was behind it.

The last question I have is around the banking industry ombudsman and the concern that TD and RBC had pulled out of that system last year. What does that mean for the banking industry ombudsman system, and why wasn't it addressed in this bill?

• (1605)

**Hon. Ted Menzies:** Thank you, Mr. Chisholm.

The issue on the foreign ownership was that our banks are looking at acquiring other institutions as well as other banks having subsidiaries in this country. And we need to make sure that we keep it Canadian, to put it very bluntly, that we don't end up with a wholly owned bank within this country.

I have no concerns with having political oversight, because the Office of the Superintendent of Financial Institutions still makes a recommendation that it go to the finance minister for final approval.

On the cheque cashing, I might ask Mr. Rudin to explain that one. I've never run into the situation where no one would cash my cheque, but I think it has happened.

The banking ombudsman is a good question. Frankly, we're concerned about this as well. Consumers need protection and they need, in this case, an ombudsperson who will hear their complaints and take that to negotiations with the bank, or at least explain it to the bank and hopefully receive an outcome that is agreeable to both parties.

**The Chair:** You have 30 seconds.

**Hon. Ted Menzies:** We need to continue that and we're working towards making sure that whatever process is there, we are forcing banks to belong to a government-approved oversight ombudsperson.

I'll ask Mr. Rudin to just quickly answer your other question.

**Mr. Robert Chisholm:** I think Mr. Rudin also had something to say about ministerial approval.

**The Chair:** Speak very briefly, because the member is over his time, unfortunately.

**Mr. Jeremy Rudin:** That's fine. I don't have anything to add to what Minister Menzies said.

But I can explain on cheque-cashing that it's really just to clarify the existing provision. We've long had a provision that required banks to cash government-issued cheques up to a certain size. The way it had been written, one interpretation was that they had to do this for people who were not their own customers but didn't have the obligation to cash cheques for their own depositors. That's not the intent, so we clarify that any bank in Canada needs to cash a government-issued cheque for anyone who presents it, as long as it's for no more than \$1,500.

**The Chair:** Thank you.

We'll go to Mr. Adler, please.

**Mr. Mark Adler (York Centre, CPC):** Thank you, Mr. Chair.

Minister, thank you so much for being here today. We really appreciate your presence.

You mentioned earlier that Prime Minister Cameron, right here in our own Parliament, spoke about how the Canadian financial system is a model for others around the world. I just want to cite a few others who have mentioned the same thing.

President Obama a couple of years ago said that in the midst of the enormous economic crisis Canada has shown itself to be a very good manager of the financial system and the economy in ways that the U. S. hasn't always been.

Ireland's *Independent* newspaper said recently that Ireland's financial regulatory system is due for a radical overhaul, with the Canadian system being held up as a role model.

Last week I was in Washington and had a number of meetings with various congressmen on both the House side and the Senate side. I guess *The Washington Times* must have known I was there, because I caught an article whose headline was, "America, home of the free. Canada, home of the future". The first paragraph is, and I'll quote it: "Canada has strong banks, a stable real estate market and rock-bottom corporate tax rates, and it's about time Americans paid attention...." That was from *The Washington Times* last week.

I want to also say that throughout my meetings with members of the House and members of the Senate, the Canadian story is well known down in Washington, as you probably know. We are being looked at as a role model of how to craft a secure and stable financial regulatory system. It makes you feel proud, when you're down there and speaking to senior legislative officials of the United States government and they have that to say about our country's financial system.

Being from Toronto and from Ontario, I just want to ask you this. There are 400,000 jobs that are directly linked to the financial system; the job rate has grown 42% over the last ten years in the financial system; and 280,000 additional jobs are ancillary to the financial system. So clearly the financial system plays a key role in the economy of the province of Ontario, particularly in the city of Toronto.

Notwithstanding what we have here in Bill S-5, the government has taken a number of other steps along the way in the last number of years to further secure our financial system, in addition to what we see here in Bill S-5. Could you please talk about those?

•(1610)

**Hon. Ted Menzies:** Thank you.

I share the comments that you make. It is not only in the United States; when I was in Europe before Christmas I heard the same thing from European bankers, saying that they would like to find a way to invest in Canada. I said, "Well, come on down. We'd be happy to have you." It's a good model that we have put forward and a model that many other countries perhaps should emulate. I certainly appreciate that the Irish are having a struggle, but we'll support our motherland.

We've done a number of things to modernize our banking system: strengthening the authorities within the Canada Deposit Insurance Corporation—that is the fundamental protection for people's investments in the banking system—and there are a number of tools within Bill S-5.

Perhaps I could defer to one of my colleagues here or one of the people who know all of the background of some of the other pieces in the bill that are important to protecting the banking system.

Mr. Rudin.

**Mr. Jeremy Rudin:** I'd be glad to respond.

Just to pick up on the other part of your question, the government has made a number of changes in recent years, which were referred to when Minister Flaherty put out the press release about all the activity. There were new business powers for the Bank of Canada to allow it to engage in a wider range of transactions. That turned out to be a useful change as the financial crisis deepened, as Minister Menzies was saying. There are additional authorities for the deposit insurer in two areas: one is to be better prepared to make good on deposit insurance in the unlikely event that it needs to be done; but also, the deposit insurer has wide-ranging responsibilities to manage a troubled deposit-taking institution, and all of that has been strengthened. Also, the Minister of Finance has additional authorities to conduct transactions to support financial stability, if those are needed, and indeed he took advantage of that during the financial crisis as well.

Specifically in the CDIC Act, in—

**The Chair:** Answer very briefly, sir.

**Mr. Jeremy Rudin:** The changes to the CDIC Act really continue to improve that and deal with some technical issues that were raised in some of the earlier amendments.

**The Chair:** Thank you, Mr. Adler.

[*Translation*]

Mr. Mai, it is your turn.

**Mr. Hoang Mai (Brossard—La Prairie, NDP):** Thank you, Mr. Chairman.

I would like to congratulate you on having your motion for financial literacy adopted by the House, among other things. We know that you are doing very good work.

**The Chair:** Thank you.

**Mr. Hoang Mai:** I'd like to get back to you, Mr. Minister of State.

We know that in 2008, the United States had a financial crisis that triggered a global crisis. Fundamentally, derivative products were at its root cause. These products also exist in Canada, but they are not regulated. Through CMHC, Canada was forced to accept toxic products. You mentioned that there were some good loans, in fact, but CMHC was forced to take back, unless I am mistaken, up to \$1.5 billion worth of toxic products.

At the time this bill was being drafted, five years had gone by since the last time we studied financial institutions. Would that not have been a good opportunity to regulate these derivative products?

•(1615)

[English]

**Hon. Ted Menzies:** I don't think we're looking at regulating derivatives any more than we have been.

CMHC was not part of this review. I would argue that derivatives were certainly a part of it, but I would suggest that subprime mortgage was probably at the heart of what happened. Fortunately, we had very minimal exposure—any Canadian bank had very minimal exposure—to subprime mortgages.

Derivatives are an effective tool. I used to use derivatives to hedge my production. It's a very effective tool, when you're looking at forward pricing, to put in puts and calls to make sure that you protect your downside and you protect your upside risks. They can be a very effective tool. They do get abused; I understand that. But CMHC was not part of this review.

[Translation]

**Mr. Hoang Mai:** Thank you.

With respect to departmental approval, you say it is very important that banks remain Canadian. During the process, unless I am mistaken, this goes through the Office of the Superintendent of Financial Institutions, and following that, is subject to ministerial approval or consent. However, it would seem that if the minister has not granted approval within the 30-day period, it is automatically approved. Could you please explain to us why there is an automatic approval process, even though the Minister of Finance has not studied this aspect? Could this not lead to excesses?

[English]

**Hon. Ted Menzies:** I'm not sure I have a technical answer for that. The 30-day rule is put in so that a transaction can't be stopped for indecision. Businesses need certainty. I'm sure that's why the 30% rule is in there.

I'm not sure, Mr. Rudin, whether you can give an answer to that question.

[Translation]

**Mr. Jeremy Rudin:** There are other aspects in the Bank Act that govern the superintendent's recommendation. The minister then makes his or her own decision and then grants approval or not within a 30-day period, otherwise the superintendent's recommendation is implemented. As the minister was saying, this provides the private sector with some assurance that the process will not go on forever.

That being said, should the minister require an extension, the minister may request one.

**Mr. Hoang Mai:** I would like to make sure of something. Let's take a case in which the Office of the Superintendent of Financial Institutions rejects the transaction, or rather suggests that this is not a good situation. In fact, the decision is not up to him; only the minister's authorization is necessary. Under the provisions, if the 30-day period is up, the request will automatically be granted. Is that correct?

**Mr. Jeremy Rudin:** Do you mean cases in which the superintendent is opposed to the transaction?

**Mr. Hoang Mai:** Perhaps I simply need a clarification.

Before, all that was required was the authorization of the Office of the Superintendent of Financial Institutions. Now with the change that you are proposing, only a ministerial authorization will be required. So, in cases where the transaction is not necessarily favourable, but in which the minister has not replied, the transaction will automatically be authorized. Is that correct?

•(1620)

**The Chair:** Please provide a very brief response.

**Mr. Jeremy Rudin:** Yes, that is correct.

That being said, we do not expect to be inundated by these requests. The 30-day period provides us with enough time to make our recommendation to the minister.

As to the fear that it escapes the minister's attention, we have not had such an experience with respect to the approval process.

**The Chair:** Thank you, Mr. Mai.

[English]

We'll go to Mr. Jean, please.

**Mr. Brian Jean (Fort McMurray—Athabasca, CPC):** Thank you, Mr. Chair.

Thank you to all of our witnesses today.

I was reading this bill the other night. I needed to get some sleep, so I thought I'd pull it out. Indeed, I thought what a great bill it is and that it should be renamed the Consumer Protection Banking Act, because it certainly speaks for Canadians. And it reminded me why we're here.

Some of the more appropriate amendments it makes to other legislation are moving the maximum fines to more than double, to \$500,000; government cheque-cashing, of course, is going to be popular in my riding, where 23% of my constituents are aboriginal and have difficulty finding cheque-cashing for free, as of course do the unemployed and seniors as well; improving confidential information and operational efficiency, which will of course speak to consumers and customer service; new credit card rules, which I was very happy to see, as a small-business person; even consent for limit increases, which I think a lot of people have been asking for; full disclosure to customers; and a code of conduct for credit and debit cards. It goes on and on.

In fact, I was looking through all of the amendments—those involving proposed sections 446, 447, 450, 452.... It goes on and on, and even talks about foreign banking disclosures under proposed subsection 568(1).

I know the NDP are laughing, because they will probably want to nationalize banks, if they ever come into power.

I want to know, first of all, what—

**Mr. Robert Chisholm:** Excuse me, Mr. Chairman. I don't know whether anybody is laughing at Mr. Jean—

**The Chair:** Is this a point of order, Mr. Chisholm?

**Mr. Robert Chisholm:** It's a point of order. There is no need to say that.

**The Chair:** Okay, well this is a point of debate.

**Mr. Robert Chisholm:** He's throwing that stuff out there.

**The Chair:** It's a point of—

**Mr. Robert Chisholm:** We're just listening to him, and this is us.

**The Chair:** Mr. Chisholm, this is a point of debate.

We'll go back to Mr. Jean.

**Mr. Brian Jean:** Thank you.

We won't debate the issue of nationalization, because the agenda is clearly there.

I'm interested in what consumer groups have been saying about this—and that's my first question—and in how the Financial System Review Act builds on consumer protection, other than through what I've outlined.

**Hon. Ted Menzies:** Thank you.

I would prescribe some sleeping pills to you, rather than reading this lengthy document.

**Mr. Brian Jean:** It's pretty exciting.

**Hon. Ted Menzies:** It is pretty exciting.

But you're right. All joking aside, it is important. The protection of consumers has to be our ultimate goal in any of this legislation, and I would suggest that this is what we have in a lot of places. There's the fact that the Financial Consumer Agency of Canada actually expands the powers to make sure that they are protecting consumers; we think that's very important.

In fact, I made an announcement just this last weekend at FCAC on credit card cheques, which many people don't realize are issued to people unsolicited. Many of those people who are not terribly financially literate may think there is no cost to them. In fact, there is an immediate cost. They are charged from day one. And so—

**Mr. Brian Jean:** That's why the disclosure is so important.

**Hon. Ted Menzies:** Disclosure is so important; people need to know this. It's part of the larger picture of financial literacy as well. Those unsolicited credit card cheques are something that many people don't understand.

There is moving to protect consumers on pre-paid cards as well. I mentioned earlier that we're putting in place a financial literacy leader to try to explain some of these issues that people can be caught by. There's now a requirement that banks have a calculator on their website so that you can calculate what your prepayment charge would be on a mortgage. It's simple information that people don't know. That was part of the announcement this weekend, making sure that pre-payment penalties were made clear to people before they took on a mortgage, and the fact that a toll-free number is now required, which mortgage holders can call.

• (1625)

**Mr. Brian Jean:** I think this is part and parcel of what was passed the other day with our own chairman's motion in the House of Commons, which is that financial literacy among Canadians and promoting it has been one of our government's main mandates.

Now, is there anything else? Maybe your officials could answer this, but are there any other transient consumer protection provisions that I missed in this? I know that some are more enlightening than others, but are there some that we missed?

**The Chair:** Give just a very brief response, please.

**Mr. Jeremy Rudin:** No, I've think you've done a very good job of identifying the most important ones.

**The Chair:** Thank you, Mr. Jean.

[*Translation*]

Mr. Giguère, you have four minutes.

**Mr. Alain Giguère (Marc-Aurèle-Fortin, NDP):** Thank you, Mr. Chair.

The problem with this bill is not so much what is in it as what is not. In the past, we have seen new financial products appear, called commercial paper, which destabilized the financial sector at an incredible rate. This was less true in Canada than in the U.S., but many Canadian pension plans lost a great deal because of it. Canadian pension plans lost a great deal of money, money that we now need.

We cannot have much power of regulation with respect to what we do not know. Many financial products have arrived that we know little about, and the Superintendent of Financial Institutions does not have a right of veto over such new products. They appear, if one may say so, to be completely unregulated because they are too new, because they are unknown.

Could you please tell us which measures could be added to this bill in this respect?

[*English*]

**Hon. Ted Menzies:** Well, I guess I would frankly be very concerned about building regulations for something we don't know about, and I mean that in all seriousness. One of the major complaints I get from my constituents is about the plethora of regulations in whatever field one is dealing with.

If something comes up, that's why we have an Office of the Superintendent of Financial Institutions; it's to provide the oversight. When consumers have an issue, we have OSFI in place or some other ombudsperson in place for customers of financial institutions, if they have a concern. But the oversight of the financial institutions themselves—and it's very good oversight, recognized around the world for its strength....

Mr. Mai, you referred to the superintendent as a he. To my lady friends over here I'll say that it happens to be a she, and she's a very qualified young lady, the head of the Office of the Superintendent of Financial Institutions.

They provide oversight for what you may say are the unknown or the untried. To try to regulate something that hasn't been invented yet... I don't think I want to be the author of that.

[Translation]

**Mr. Alain Giguère:** However, one of the comments made in France by the European Central Bank was that these new financial products should still require prior approval. Clearly, we did not follow that international example.

The second problem is tax evasion. Over the last few years, despite vigorous interventions by the Minister of Finance and Canada Revenue Agency, we have noticed the unfortunate existence of foreign accounts in tax havens. Through Canadian banks, foreign accounts were opened, which can open the door to tax evasion.

In that respect, we do not really see any mandatory tightening of practices by financial institutions. Recently, we did see a few unfortunate examples of abusive fiscal planning.

**The Chair:** Please ask your question.

**Mr. Alain Giguère:** Could you please tell us what you plan to do to correct this problem?

[English]

**The Chair:** Minister, could we have just a brief response, please?

**Hon. Ted Menzies:** Yes. Thank you.

I share your concern about tax evasion. I might remind you that we have put forward in the last two budgets a number of policies that cut down on tax evasion and on tax havens. What we're regulating here are the banks that we have here in Canada. In regard to I think what you're suggesting, I would suggest that what you're talking about doesn't happen in Canadian banks. It would be foreign banks where the tax havens....

We're protecting consumers of Canadian financial products and we're making sure that the regulations in Canadian banks are in place. We've put forward many policies that actually protect us and that make sure we're protecting against tax havens. I would encourage the NDP to vote with us next time when we put the next ones forward.

•(1630)

[Translation]

**The Chair:** Thank you.

[English]

I want to thank you, Minister....

Do you have a point of order, Mr. Mai?

[Translation]

**Mr. Hoang Mai:** On this International Woman's Day, clearly, I was not referring to the individual, but rather the position. It is simply a question of the language used: in the text, one reads "the superintendent".

However, I greatly appreciate your clarification with respect to the importance of women in this profession.

[English]

**Hon. Ted Menzies:** Yes, I certainly wasn't trying to be critical. I was just trying to cover up for my error in not recognizing women in leadership roles at the beginning of this.

**Voices:** Oh, oh!

**The Chair:** That technically is not a point of order, but it's a helpful point of clarification that is not in the Standing Orders.

Minister, I want to thank you for being with us here today. I want to thank your officials. I understand that your officials will be back for the clause-by-clause on March 15.

We will see you then.

At this time, colleagues, I will suspend for a couple of minutes and we'll bring our guests forward for the next panel.

•(1630)

\_\_\_\_\_ (Pause) \_\_\_\_\_

•(1630)

**The Chair:** I call the meeting back to order.

Colleagues, we have an hour with four organizations, so it will be very tight: the Canadian Bankers Association, the Canadian Life and Health Insurance Association, the Financial Consumer Agency of Canada, and the Office of the Superintendent of Financial Institutions.

I want to welcome all of you to the committee on this topic, Bill S-5. You have up to five minutes for an opening statement. I would strongly recommend, though, that you shorten it if at all possible to allow members time to ask questions, because I know they are very interested in this bill.

We'll start with Mr. Campbell, please, from the CBA.

•(1635)

[Translation]

**Mr. Terry Campbell (President and Chief Executive Officer, Canadian Bankers Association):** Thank you, Mr. Chair.

We are pleased to provide the banking industry's comments on the Financial System Review Act.

We believe strongly in the importance of insuring that the legislative and regulatory framework is reviewed regularly, and for that reason, we were pleased to see that the bill proposed retaining the sunset clause for financial services legislation at five years.

[English]

I'd like to begin with a few points about the banking sector in Canada, particularly in light of what is still an uncertain global economy. As we all learned during the global financial crisis of three years ago, Canada is not immune to the fallout from the problems that originate elsewhere. However, as we know and as was talked about at the previous panel, Canada's banks did not require taxpayer-funded bailouts, nor do we have any bank failures. In fact, during that period our banks continued to lend to individuals and to businesses, while many other financial providers either pulled out or pulled back from the market.

As was the case then, our banks today remain well-managed and well-capitalized institutions that continue to participate in Canada's economic recovery and growth. For example, Canada's banks provided \$10.3 billion in dividend income to millions of Canadians, including through pension and retirement funds, and in many cases directly to retirees.

Banks also employ 267,000 Canadians in communities across Canada, and they take a leading role in support for those communities in arts, sports, health, education, philanthropy, and so on. The banking sector also helps the broader economy grow, contributing some 3.4% to Canada's gross domestic product. They're able to do this because Canada's banks have remained profitable.

Turning to Bill S-5 itself, as I think Minister Menzies said, it was against the backdrop of the global financial crisis that the finance minister introduced the review of the Bank Act in 2010. The finance minister indicated that given the very large volume of new international regulation arising from the crisis, the focus of the 2012 review should be on fine-tuning the domestic legislative framework. We agree with that approach, especially since the extensive array of global regulation is still being implemented.

There's one item in the bill I would like to specifically comment on, and that's the Bank Act special security regime. This type of security interest has long been a significant aspect of the bank regulatory regime and has played an important role in our ability to support the economy, particularly in lending to agriculture and forestry. Unfortunately, some recent court cases introduced some uncertainty into the Bank Act security regime, some uncertainty that needed to be fixed.

In Bill S-5, the government has stepped up to the plate and is proposing what we think are very needed clarifications. While we still need to make sure that what is proposed is fully workable, we're very pleased to see that the government is open to clarifying this important measure.

Let me conclude by just stepping back from the specifics of Bill S-5 for a moment to take into account the broader context and the implications of the international regulatory agenda. As you may know, and I've been on record on this for quite some time, we fully agree on the merits of a strong supervisory system as part of Canada's excellent standing in the world. At the same time, however, policy-makers and regulators must also be continually mindful that the new global rules arising from the crisis represent the biggest regulatory implementation exercise that our banks have ever gone through. This exercise is stretching systems and resources to the

limit and beyond, and it's a real challenge, particularly for smaller institutions.

We must all, the whole community involved, take care to ensure that the sheer volume and complexity of the new rules does not become a regulatory risk in itself.

Let me conclude there. I would be very pleased, Mr. Chairman, to take any questions later on.

**The Chair:** Thank you very much for your presentation.

We'll now hear from the Canadian Life and Health Insurance Association.

**Mr. Frank Swedlove (President, Canadian Life and Health Insurance Association Inc.):** Thank you, Mr. Chairman.

I'm Frank Swedlove, the president of the Canadian Life and Health Insurance Association. I have with me today Frank Zinatelli, who is the CLHIA's general counsel.

● (1640)

[Translation]

The Canadian Life and Health Insurance Association accounts for 99% of the life and health insurance in force in Canada.

The Canadian life and health insurance industry provides products such as individual and group life insurance, disability insurance, supplementary health insurance, and individual and group annuities including RRSPs, RRIFs, TFSAs, and pension plans.

[English]

Overall, the industry protects more than 26 million Canadians and over 45 million people internationally.

Mr. Chairman, we welcome the opportunity to appear before the committee today as you review this important bill. The industry is very supportive of the bill and urges that it be passed in a timely manner.

Following up on the Minister of Finance's September 2010 request for input on the scheduled review of legislation governing federally regulated financial institutions, for us—and I've already been quoted on this by the minister today—Bill S-5 represents a welcome fine-tuning of the various financial institutions' statutes. The bill contains provisions to promote financial stability, to fine-tune a consumer protection framework, to reduce administrative burden, and add regulatory flexibility.

With respect to the first of these objectives, we are pleased to see the amendment to the Winding-up and Restructuring Act, which changes the priority status of segregated fund policies in insolvency situations and will facilitate timely transfers of policies.

[Translation]

As for consumer protection, the bill improves the Financial Consumer Agency of Canada Act and gives the government increased regulatory powers in this area.

As for the third objective, which is improving the efficiency of the legislative and regulatory framework, the life and health insurance industry particularly supports certain technical but useful proposals.

[English]

For example, amendments would be made to the Insurance Companies Act as follows: to reduce administrative burden from fairly regulated insurance companies offering adjustable policies in foreign jurisdictions by removing duplicative disclosure requirements; to allow a segregated fund to invest in an insurance company through a mutual fund that the insurance company controls, provided the shares of the company are part of a recognized market index; to provide federal financial institutions with enhanced flexibility to issue shares to foreign institutions owned by foreign governments; and future adjustments on the limits on transfers to shareholders from participating policy accounts will be facilitated by adding regulatory flexibility.

In conclusion, Mr. Chairman, the industry strongly supports the provisions of Bill S-5 that are relevant to the life and health insurance industry, and it is willing to assist in whatever way it can in ensuring the bill's timely passage.

Thank you very much.

**The Chair:** Thank you very much for your presentation.

We'll hear now from the Financial Consumer Agency of Canada.

**Ms. Ursula Menke (Commissioner, Financial Consumer Agency of Canada):** Good afternoon. Thank you very much for inviting me here.

My opening remarks will be short and will focus on the impact of Bill S-5 on FCAC.

FCAC welcomes the changes the government is proposing to make to the Financial Consumer Agency of Canada Act. The changes are largely technical amendments or clarifications to existing provisions.

[Translation]

Among the changes which would have an impact on our activities are the cashing of cheques. The proposed change would allow us to streamline the service we offer consumers with respect to cashing government cheques, whether or not they are clients of a bank. This would confirm that Canadians, including a banks' clients, could cash government cheques of under \$1,500 without paying fees, in any bank in Canada.

[English]

Among the changes that will be impacting our agency's activities, there is also increasing the maximum penalty for a violation of a consumer provision. The amendment will increase to \$500,000 the FCAC's maximum administrative monetary penalty, bringing it in line with other federal regulators such as the Office of the Superintendent of Financial Institutions and the Financial Transactions Reports Analysis Centre of Canada. The bill also provides that the commissioner, officers, and employees acting under their direction are not compellable witnesses in any civil proceedings on matters relating to their duties or functions.

The other amendments included in the bill are minor technical elements. They will have no significant impact on the work we do.

This ends my brief comments, and I look forward to any questions you may have for me.

• (1645)

**The Chair:** Thank you very much for your presentation.

We'll now hear from the Office of the Superintendent of Financial Institutions.

**Mr. Philippe Sarrazin (Managing Director, Legislation and Policy Initiatives, Office of the Superintendent of Financial Institutions):** Thank you, Mr. Chair.

Good afternoon, members.

[Translation]

My name is Philippe Sarrazin, I am Director General of the Legislation and Strategic Initiatives Division at OSFI, the Office of the Superintendent of Financial Institutions. Among other things, my team is responsible for helping develop statutes, regulations and guidelines with respect to financial institutions. I therefore hope to be able to answer from OSFI's perspective any questions you may have about the bill your committee is presently studying.

The five-year review of financial statutes is an opportunity to evaluate the goal and efficiencies of federal statutes that govern financial institutions in Canada. Furthermore, it allows all the stakeholders, including political, financial and regulatory authorities, to re-examine previous legislative changes and continue to clarify its laws. The legislative review process is one of the elements that explain why Canada survived the global financial crisis relatively well.

[English]

Perhaps I should explain briefly OSFI's existing legislative mandate. A key element is to advance and administer a regulatory framework that promotes the adoption of policies and procedures designed to control and manage risk. This provides us the authority to refine our own guidance for federally regulated financial institutions, guidance that is sensitive to developing risks and promotes industry best practices.

The superintendent, the Minister of Finance, and others frequently speak about the importance of clear and focused mandates. OSFI's mandate is clear and focused, and we do have the flexibility to respond to developing risks. The elements contained in this bill are consistent with OSFI's mandate, role, or powers. In general, the bill provides more clarity and consistency across financial legislation and does not contain fundamental changes to the federal financial legislative framework.

In summary, from OSFI's perspective the federal financial system legislation in Canada is clear, effective, and enforceable. The bill before the committee today contains further technical refinements to an already strong legislative framework.

[Translation]

I am pleased to have participated in the review of this bill. I will be pleased to answer your questions.

**The Chair:** Thank you very much for your presentation.

[English]

I want to thank all of you for your brief presentations. As the chair, I appreciate that very much.

We'll go to Mr. Chisholm for a five-minute round, please.

**Mr. Robert Chisholm:** Thank you, Mr. Chairman.

Thank you to the witnesses for attending.

I'll probably be sharing my time with Mr. Mai.

I have a couple of quick questions for the Financial Consumer Agency of Canada.

Could you tell me how much input there has been from consumer advocates and how much opportunity you've had to hear from consumer advocate organizations in the country?

**Ms. Ursula Menke:** Unfortunately, I can't answer your question directly, because that consultation would have been done by the Department of Finance and not by us. We don't get involved in the consultations around legislative reform.

**Mr. Robert Chisholm:** Yes.... And you haven't heard from them...?

**Ms. Ursula Menke:** I haven't heard anything specific, no.

**Mr. Robert Chisholm:** I'm curious to hear if the CBA could help inform me a bit about the banking industry ombudsman system and why it seems to be falling down or not working, or why two big banks withdrew from it.

**Mr. Terry Campbell:** Well, it's important that the first thing to bear in mind here is that there has been basically a change of providers rather than a pulling out; there has been no pulling out of a consumer redress system. In fact, for consumers, all banks in Canada are dedicated and committed to providing a very robust consumer redress system, both internally and externally. All banking customers in Canada have access to that. That is true across the board. There are just different providers.

As the minister said—and I was listening carefully to his testimony here—the government has already announced that there are going to be regulations on codifying and putting standards in place both for internal dispute resolution and for external. We're looking forward to those regulations and participating in those kinds of consultations, because that will establish standards all can point to.

But the point is very clear that all banks are committed to providing robust and high-quality consumer redress to all the consumers they have.

**Mr. Robert Chisholm:** Thank you.

Hoang.

•(1650)

**The Chair:** You have two and a half minutes.

[Translation]

**Mr. Hoang Mai:** Thank you.

My question is addressed to Mr. Sarrazin.

Earlier, we asked the minister some questions about ministerial approval for the acquisition of foreign entities. Can you tell us how that worked before at Office of the Superintendent of Financial Institutions?

**Mr. Philippe Sarrazin:** Thank you for the question.

As you surmised, this amendment will change the method. Currently, the decision comes from the superintendent. The review of the file begins when the financial institution submits an application, and then the review continues. Applying is a long and complex process that requires exchanging a lot of information as well as the gathering of information by the office. In short, the review of the file begins as soon as an application is submitted.

The superintendent's review is very exhaustive. It is an economic and legal review. A transaction is reviewed based on the contracts included in the file. The transaction is reviewed from an economic perspective, by considering the strength of the entity that is making the application and verifying if it has the financial strength to participate in the transaction in question. Ultimately, the people responsible for approvals at our agency make a recommendation to the superintendent, who then makes his decision.

With the proposed amendment—I don't remember your exact question anymore, but I suppose you want to know what will change if this amendment is passed—the final decision will be in the hands of the minister. However, that does not change anything about the process I have just described. In fact, the first step will be submitting the application to the Office of the Superintendent of Financial Institutions. The office will then diligently conduct the same exhaustive study, from an economic and legal perspective. This will culminate in the recommendation submitted to the minister, who will then make the final decision.

**The Chair:** You have 30 seconds left.

**Mr. Hoang Mai:** Can you imagine a situation in which your suggestion would not necessarily be recognized, in which the minister makes a decision other than what you propose?

**Mr. Philippe Sarrazin:** I imagine that would always be possible. However, I will not get into hypotheticals, especially since I don't work on approvals at the Office of the Superintendent of Financial Institutions, but rather on legislation.

However, we have to look at the criteria the minister must assess. According to the proposed amendment, he can use any criteria, but he must absolutely use two, one of which is the interest of the overall financial system.

If the superintendent believes that a transaction should not go forward because the financial institution is not strong enough to enter into that transaction, for example, how could the minister find that that same transaction is in the system's interest? It is therefore unlikely that the minister would find grounds to decide otherwise.

However, this is speculation, and I will not go any further.

**The Chair:** Okay, thank you.

Thank you, Mr. Mai.

[English]

We'll go to Mr. Van Kesteren, please.

**Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC):** Thank you, everybody, for appearing before us. This is a great thing that we get to do in committee. When I read some of the quotes that come out.... You've heard them, I'm sure you've heard them.

The Fitch credit rating agency said that “Canada's banks proved more resilient than many peers thanks to a conservative regulation and supervision environment”. It's the old Scottish bankers' system, I think.

*The Economist* says, “Canada has had an easier time than most during the recent global recession, in part because of a conservative and well-regulated banking system.”

*The Irish Times* says, “Canada's policy of fiscal discipline and strict banking supervision was a reason why it was one of the world's strongest performers during the recession.”

My dear mother would have told me that when there was too much praise being heaped upon me to be careful, that I was being set up for a fall. I suppose this regulatory system we are talking about today provides us with some safeguards.

I'm going to direct most of my questions to you, Mr. Campbell, at this point anyway.

When we look at improving our financial system, the global economic turmoil highlighted one area where Canada needs more coordinated oversight, and that is in the area of improved securities regulations. Your organization has been clear that the current patchwork in Canada is very inefficient. It's costly, and there's a disincentive for foreign investors, I think you said. Can you elaborate on why you believe Canada needs a single regulator and how that would improve overall stability in Canada's financial system?

• (1655)

**Mr. Terry Campbell:** Thank you very much.

First of all, I would say there's an old Spanish proverb that says that the biggest enemy of the bullfighter is not the bull, it's the applause. That's related to your comment earlier.

We all know that there was a decision of the Supreme Court in December. It was on a very specific statute that had been put forward, and that particular statute did not pass muster, but some very important principles were outlined there. One is that there is federal jurisdiction over key aspects of the securities system. That is now established, and I think that's a very positive base on which to build.

On your point, all the reasons why we would need a single regulator are still there. We have an inefficient enforcement system for individual investors. It's scattered. It's diverse. It's fragmented. A bad actor in one province can just go to the next province and carry on business. That is entirely inappropriate. We find that the process of raising capital is unnecessarily complicated. We think that businesses would be able to raise capital in a much more efficient kind of way.

One of the lessons we've learned from the financial crisis is the importance of being able to have a coherent, unified policy system that can take policy decisions quickly. We have that. We have a

single unitary system on the prudential side, we have a single unitary system on the consumer side with the FCAC, but we do not have that with the securities side, and that slows down decision-making. It slows down responsiveness. One of the advantages of the system that we have now, in the areas other than securities, is that you can get the players around the table to talk about the decisions that need to be taken quickly. You cannot do that with a fragmented 13-party system.

So all the reasons why we felt a single regulator was needed are still there. We hope that taking some of the lessons coming out of that decision in December, there is a basis for continued discussions and we hope that does proceed.

**Mr. Dave Van Kesteren:** I'm going to switch gears very quickly.

We know that what really got the ball rolling was the explosion of the housing bubble in the United States. There has been talk that we have the same situation here in Canada.

**Mr. Terry Campbell:** Very briefly, I think the situation in the United States and the situation in Canada are dramatically different. We have dramatically different mortgage markets. We have a dramatically different approach to lending.

You know, the approach of Canada's banks is they lend money to people who will pay it back. In the United States we didn't often see that. In Europe we didn't often see that.

We had a different approach to lending. We did not have a subprime crisis here. We do not have the artificial incentive of mortgage deductibility on your income tax. If you look at the single key statistic that separates the two countries, which is mortgages in arrears, more than 90 days not paid, in Canada those are less than half of one percent. That's now, over the height of the crisis, and before the crisis. We're careful lenders. Canadians are very careful borrowers.

**Mr. Dave Van Kesteren:** Keep up the good work.

**Mr. Terry Campbell:** Thank you very much.

**The Chair:** Thank you, Mr. Van Kesteren.

Mr. Brison, go ahead, please.

**Hon. Scott Brison:** Thank you very much.

I hope you're right, Mr. Campbell, in your assertion that Canadians are careful borrowers. I have concern. There is a growing concern about the personal debt bubble in Canada at \$1.50 for every dollar value of income. It's unprecedented for Canada. It's higher than that of our previously thought to be spendthrift cousins to the south.

*The Economist* magazine stated, in the February 4 edition, “When the United States saw a vast housing bubble inflate and burst during the 2000s, many Canadians felt smug...”, and “During the crash, Canadian house prices fell by just 8%, compared with more than 30% in America”. But the Canadian housing prices hit new record highs by 2010. It quotes Prime Minister Harper saying, “Canada was not a part of the problem”.

*The Economist* goes further, stating, “Today the consensus is growing on Bay Street...that Mr. Harper may have to eat his words”. It goes further—the slowdown in emerging markets, the fact that housing prices have doubled, or have grown significantly, particularly in places like Vancouver and Toronto.

Don't you share this concern, that we have a housing bubble, which is closely related to a personal debt bubble, in many Canadian centres today?

• (1700)

**Mr. Terry Campbell:** There are two things I will say in response to that.

The emphasis of your point is absolutely right in the sense that none of us—and that's certainly not the case with Canadian banks—can be complacent about the levels of Canadian debt. We agree. We monitor this very carefully. We agree with the warnings from Minister Flaherty and from Governor Mark Carney. This is not something that should be taken lightly.

At the same time, it is important to put it into perspective. All the points, all the differences with the housing market, which I was just referring to in response to Mr. Van Kesteren, are very true.

When we look at the housing market in Canada... I am not an economist. I cannot give you an economic forecast. But the preponderance of opinion I see, on Bay Street and elsewhere, is that there is some froth in the market but that it is slowly coming down. We are not talking about a bubble. We are not talking about a dramatic collapse. There is some softness that will happen. We are seeing consumer borrowing levels having risen.

And remember, today is the day the Bank of Canada released its policy decision on interest rates. It's kept them very low, historically low, almost to the point of free money. The point of doing that was to encourage people to borrow, to continue the economy going forward. The balancing act is that you have to encourage those expenditures but you have to be careful that it does not get inflated.

I would say we are seeing a slowing down of that consumer lending. There will be a softening of prices. I'm quoting here, Mr. Brison, the preponderance of opinion that I read.

**Hon. Scott Brison:** Has your organization expressed an opinion on the Volcker rule?

**Mr. Terry Campbell:** Oh, yes.

**Hon. Scott Brison:** I should go further in terms of... Are you confident that in fact the opinions being expressed by Bank of Canada Governor Carney on the Volcker rule are going to have the desired effect, in that the FCAC and others will pull back from this?

**Mr. Terry Campbell:** I hope so.

Governor Carney is in very good company. It isn't just Governor Carney, of course. It's the minister, Mr. Flaherty. It's Superintendent Dickson.

Their counterparts around the world—in the United Kingdom it's the Chancellor of the Exchequer, it's Commissioner Barnier in Europe, and authorities in Japan—have all said the same thing.

I used the phrase “preponderance of opinion”. Our hope is that the preponderance of opinion will weigh upon the authorities in the

United States. Quite frankly, when we read Chairman Bernanke's comments last week, we saw that he said, in effect, “Look, we get it already”.

We're going to have to go back, I hope, to the drawing board. But at least we're going to have to go back and take seriously those comments.

They're not going to meet their July deadline. That's good news, because they're going to have to rethink those....

Thank you for that question. It's a very important one.

**The Chair:** You have ten seconds.

**Hon. Scott Brison:** That's fine, Mr. Chair. Thank you.

**The Chair:** Thank you, Mr. Brison.

We'll go to Mr. Hoback, please.

**Mr. Randy Hoback (Prince Albert, CPC):** Well, Chair, I'll take that ten seconds if he wants to give it up.

Ladies and gentlemen, it's great to have you here this afternoon, and it's great to listen to you. As we look at Bill S-5, it's a technical bill by nature, so it's something that I don't think the government could move forward on or see progress on without your cooperation and involvement.

I know that Mr. Julian's first question to the minister was on the process, so perhaps I'll cross all the bases and ask you, first, were you consulted? What was that system like? What was the process like?

Mr. Campbell, I'll start with you and then go across the group. How did you find the process we used to consult with you to get the changes you're asking for?

**Mr. Terry Campbell:** I'll be very quick and say yes, we were consulted; yes, we had a very full opportunity to make our thoughts known; yes, we put our commentary in writing; and where we had questions or follow-up, we pursued those questions with the Department of Finance.

We feel we've had a good opportunity for input.

**Mr. Frank Swedlove:** From our perspective, we thought it was an excellent process. There was plenty of opportunity for dialogue.

Because it is technical in nature, often there needs to be a fair amount of back and forth to get a full understanding of what the issues are or where there are difficulties. In my notes, I referred a number of times to the fact there were some efficiency gains that could be made, but you have to explain what the issues are before the officials can understand what are the difficulties. We had the opportunity to express that.

Obviously you don't get all you want in these discussions, but we feel that the majority of our issues were dealt with. We were very pleased at the process.

• (1705)

**Ms. Ursula Menke:** As an agency affected by the legislation rather directly, we were consulted.

**Mr. Randy Hoback:** That's an easy answer, right?

**Mr. Philippe Sarrazin:** I can echo Madam Menke's comment. We were consulted. We have a privileged relationship with the Department of Finance. Obviously we work closely with them on an ongoing basis. They are aware of our opinions on legislative matters. We have shared them.

So we found the process to be effective.

**Mr. Randy Hoback:** That's great.

So that confirms that there was a process in place. I think that's what Canadians want to hear, that it wasn't just something government was doing heavy-handedly; it had the cooperation of a variety of partners, in this case, to see this type of legislation come forward. That should give comfort to the opposition members, that there was a good process followed in terms of recommendations.

As you said, Frank, it might not be everything you want, but at least you were consulted and talked to.

Terry, one of the things we're seeing in this bill—and I'll read it in terms of today's legislation—is that the government is increasing the “large bank” ownership threshold.

Can you explain why this is occurring, and what impact the increased ownership thresholds will have on oversight of financial institutions?

**Mr. Terry Campbell:** This was a government initiative. This did not originate with the industry. As we looked at it, though, it struck us that the rationale was fairly clear. In the ownership structure of Canadian banks, you have three tiers. You have the very, very large banks that have to be widely held, you have the middle tier of banks that can be more closely held, and then you have smaller banks.

Over time, two things have happened. There has been the normal growth in the marketplace. The second thing is that the regulatory community has required considerably... We were already pretty well capitalized, but it's required considerably more capital to be injected in the banks, and those just naturally raise the limits.

My understanding, although this originated with the government and not with us, is that it's just an effort to keep the limits in sync with the normal growth in the marketplace.

**Mr. Randy Hoback:** Okay.

Frank, one of the things our government has been working very hard on, of course, is to try to get back to a balanced budget, and we're looking at places where we can reduce red tape. I understand your association has been fairly supportive of changes because of that, looking at ways we can reduce that administrative burden, and offering adjustable policies for foreign jurisdictions.

Can you explain how we're eliminating some of the red tape in this legislation and how it impacts you?

**Mr. Frank Swedlove:** You gave the example of adjustable policies. These are policies where some of the conditions can change over time. That's how the nature of the policy is structured.

In foreign jurisdictions, there are already disclosure requirements with respect to that. In the former approach of the government, there were disclosure requirements that were “Canadian-based”, if I can use that expression, that applied to those foreign customers, so they

were getting two kinds of disclosure. Those were confusing for our foreign customers, who make up almost half of our customer base. With this new legislation, that will be changed.

**The Chair:** Thank you.

Thank you, Mr. Hoback.

We'll go to Monsieur Mai.

[*Translation*]

**Mr. Hoang Mai:** Thank you, Mr. Chair. I will ask a few questions, and then I will give the rest of my time to Mr. Harris.

To conclude, Mr. Sarrazin, tell us how long it generally takes for a normal review process for an acquisition file.

**Mr. Philippe Sarrazin:** I have no idea. I am sorry.

**Mr. Hoang Mai:** You have no idea?

**Mr. Philippe Sarrazin:** I don't participate in that process, but I can find that information.

**Mr. Hoang Mai:** You really have no idea? In that case, I will not go any further.

Ms. Menke, in 2010, I believe, you started to examine what happens with credit cards. Have you received complaints from consumers?

**Ms. Ursula Menke:** Yes, we receive complaints.

**Mr. Hoang Mai:** Have you received complaints about credit card fees and bank fees, especially recently, following the increase in bank fees?

**Ms. Ursula Menke:** We started looking at credit cards well before 2010. We began looking into the matter when the agency was established in 2001.

You are asking me whether or not consumers are complaining. Recently, there have not been as many complaints. There were quite a few in 2008 and 2009, when interest rates had dropped significantly but the credit card rates had remained at the same level. We received many complaints then. Right now we are not receiving any more complaints than usual.

However, more recently, in 2010, there was the issue of the credit card and the debit card which was being promoted, if you like. This was essentially an issue between the suppliers of credit cards and the merchants. We did receive some complaints about these—

• (1710)

**Mr. Hoang Mai:** Did you receive complaints about banking charges following the recent increase in banking charges for certain financial institutions?

**Ms. Ursula Menke:** I do know that we did get some complaints; however, I do not believe that we received any recently.

**Mr. Hoang Mai:** I am going to give the floor to my colleague.

[*English*]

**The Chair:** You have about two and a half minutes.

**Mr. Dan Harris (Scarborough Southwest, NDP):** Merci.

Mr. Sarrazin, to continue with Mr. Mai's earlier points in regard to the approvals, if the legislation goes forward now, of course the final say will go back to the minister with that 30-day period. In the event that something comes forward and the Office of the Superintendent puts forward a negative recommendation, do you not think it would be very troubling if 30 days passed and then the accreditation was made?

Furthermore, if there were serious concerns, might it not be prudent if we were to not have that 30-day period in light of a negative recommendation? Because it might take more than 30 days for a minister and the ministry to ascertain what problems there are and to correct them.

**Mr. Philippe Sarrazin:** I will refer you to the answer that Minister Menzies gave to that question. I think he answered quite adequately. There is a 30-day period; however, the minister can extend it. I think that's the answer that Minister Menzies gave you.

To assume that a period could go on for 30 days and that a file could be forgotten I think is probably not understanding how the process works. The superintendent and the minister talk; I believe they talk weekly. So they have a chance to engage and discuss the files they have in common. I could not imagine a case where a file would be forgotten for 30 days and a deemed approval would be granted.

**Mr. Dan Harris:** Oh, I wouldn't think that it would be forgotten, but it might take more time, and it would be unfortunate if something were to slide under the radar. I think we would be more comfortable with a little more oversight in light of a negative recommendation. Stability is great, and if the Office of the Superintendent sees no problems, that's one thing, but when problems come to light, we should certainly be more prudent.

I've heard the other side speak of Canada's conservative financial banking system. That's what we mean: it's responsible and strong. It's ironic that in the past the Conservative Party has had perhaps more of a liberal approach to regulation. We're certainly happy that they seem to have come on board with protecting our banks in a stronger way.

**The Chair:** You have ten seconds.

**Mr. Dan Harris:** Very quickly, Mr. Campbell, what financial sense do you think it makes for consumers to have to keep thousands of dollars in a non-interest-bearing account to prevent getting hit with bank fees?

**Mr. Terry Campbell:** On the question of bank fees, if you go to the FCAC's website, you'll get a tremendous resource tool. There's basically a range of accounts for all types of people. You have low-fee accounts and you have no-fee accounts for youth and seniors and so on. There's a range of accounts people can pick and choose from. I encourage people to find the one that works best for them.

**The Chair:** Thank you.

I'm going to take the next round as the chair.

I did want to address the issue of foreign acquisitions. I wanted to follow up with Mr. Sarrazin.

I just wanted to get a sense of this. Obviously, the provisions are the bank having equity of \$2 billion or more and then the value of

the foreign entity's consolidated assets exceeding 10% of the value of the financial institution's consolidated assets. The change was made in 2001. Since 2001, how many transactions have actually met these criteria?

• (1715)

**Mr. Philippe Sarrazin:** There was a study conducted for the benefit of the Department of Finance to arrive at the numbers that are before you in the amendment. I don't have the data with me, but it's not a lot. If I recall correctly, it's ten transactions or fewer.

**The Chair:** Of the two associations, do you have a sense, Mr. Campbell, for instance, in...?

**Mr. Terry Campbell:** Unfortunately, sir, I don't have a sense of that, but on the 10%, I would say that's a very large transaction. Ten percent of an acquiring bank's assets...that's very large.

**The Chair:** Just for an example for me, would BMO's acquisition of Harris Bank in Chicago meet these criteria?

**Mr. Terry Campbell:** Well, that was back in the 1980s. I would hesitate to give you an answer, but it would be on that scale.

**The Chair:** It would be beyond that scale...?

**Mr. Terry Campbell:** It would be on that scale.

**The Chair:** On that scale? Okay.

Mr. Swedlove, please.

**Mr. Frank Swedlove:** The only one that would come to mind would be Manulife's acquisition of John Hancock in the United States—

**The Chair:** Which was very sizable.

**Mr. Frank Swedlove:** Yes.

**The Chair:** Okay.

Also, I do want to perhaps get a reaction from the two associations, because my point in asking that question is that we are dealing with a very limited number of transactions under these clauses of the legislation. Perhaps the two of you could give the reaction of your associations to these changes.

Mr. Campbell first.

**Mr. Terry Campbell:** Well, when we first read it, I would say.... It strikes us that this is a reversion to the status quo ante: the minister had the authority back in the 1990s. It was delegated to OSFI. OSFI was always involved, and the process under OSFI worked very well, but the world has changed.

The world has changed in the last three or four years. The minister has articulated his interest here, which is that ultimately he has the stewardship role of the stability of the sector and the oversight of the financial framework. I think he sees this as another tool in the tool chest that's there.

I go back to the point that this would be a very large transaction. I would be surprised—even setting this aside—if the bank in question would not consult the minister anyway with regard to a transaction of that sort.

**The Chair:** Okay.

Mr. Swedlove, briefly.

**Mr. Frank Swedlove:** Yes, I would agree with Mr. Campbell. While this is essentially an added layer, I think there's a recognition that the world has changed since 2008 and that the minister needs at his disposal what is required to ensure the safety and soundness of the system. We have no objection to the change.

**The Chair:** Okay. I appreciate that.

Just as a comment, I think one of the things is that when people see this clause, I don't think there's a lot of knowledge, perhaps, by Canadians of the number of acquisitions that have gone on. For instance, you mentioned the John Hancock acquisition. I'm not sure how many Canadians are aware that Manulife owns John Hancock, or that TD actually now has more branches in the U.S. than in Canada.

**Mr. Terry Campbell:** Yes, exactly.

**The Chair:** A lot of Americans think TD is an American bank, which is quite interesting.

I have about a minute left. I wanted to ask Mr. Campbell a question that's often raised here in public policy in terms of the banking sector and the regulation of the sector.

There are those like my good friend John McCallum who will say that the reason we have a very solid financial sector, especially with respect to banking, is that we prevented mergers—his government prevented mergers—and that is why it's solid. There are those who argue differently—including me—and who say no, it's actually the capital ratios, the leverage ratios, that are in fact responsible for the soundness of our institutions and therefore the overall soundness of our system. I certainly credit OSFI with a lot of their prudential regulation.

But I did want to get you on the record, Mr. Campbell, on that policy question.

**Mr. Terry Campbell:** I would say the core thing.... I think Mr. Van Kesteren pointed out the good old-fashioned conservative Scottish banking. My last name is Campbell, so I took heart at that.

I would say that fundamentally it's the behaviour of our banks, it's the behaviour of our regulators in terms of the quality of supervision, and it's the content of the rules. Those are the three things that have stood Canada in good stead.

I'm not going to pronounce on the merger decision of two decades ago, but it's hard for me to see how those fundamental qualities would change. So I think—whether or not it's just the way we do things in Canada—it's that tripartite, the three legs of the stool that seem to work together very well in this country.

**The Chair:** I appreciate that very much.

I do have to put in a small plug for FCAC, especially with the motion passing yesterday, and thank them very much for all their work on financial literacy.

• (1720)

[Translation]

Mr. Giguère, you have five minutes.

**Mr. Alain Giguère:** Thank you, Mr. Chair.

Internationally, a great many financial institutions are currently in a fragile state, but that is not the case for Canadian institutions. In such a situation, do we not run the risk of seeing a series of takeovers, given that our institutions now have the means, expertise and reputation required to purchase foreign institutions much more so than they did in the past?

Could you provide us with an order of magnitude on this issue?

**Mr. Terry Campbell:** Thank you for the question. I apologize, but I am going to answer you in English.

[English]

I would say our banks have been.... If you look at the track record over the last 10 years, 15 years, 20 years, I think it's very clear that our banks—while they have been interested in expanding and have done so—have done it in a very cautious way. You read comment after comment from CEOs to say they're not going to rush into this; they're not going to buy it just because it's out there and it's a cheap deal. They do their due diligence. Remember, they're very mindful of the oversight of OSFI, and they're very mindful that we have to maintain a very strong risk management culture.

So there may be opportunities as a result of the fragility you talk about, Mr. Giguère, but I would say—and I think the track record proves me out—the banks will approach acquisitions.... They do not want to buy a bunch of problems. They do not want to buy a bunch of new risk simply for the sake of getting bigger. We saw that in the United States, but we don't really see it here.

The caution is well placed, but I think the track record speaks for itself.

[Translation]

**Mr. Alain Giguère:** Thank you.

My next question pertains to demutualization, which is threatening some cooperatives, in that the accumulated assets of past investors and participants may be shared amongst the current members. As far as this matter is concerned, the amendments proposed by Bill S-5 do not necessarily afford all the protection that was desired.

Would you please provide me with your comments, please?

**Mr. Terry Campbell:** Is your question for Mr. Swedlove?

[English]

**Mr. Alain Giguère:** Yes.

**Mr. Frank Swedlove:** There is a separate demutualization legislation for life insurance companies. Most of the industry was demutualized in the late 1990s or early 2000s. I would say by all accounts that went extremely well, and I think those who benefited from it felt they were.... I should say all the people involved in that process felt they were fairly treated.

What is now being discussed by the finance ministry is the whole issue of demutualization in the property and casualty insurance business, on which I really am not in a position to comment.

This Bill S-5 doesn't deal with the demutualization issue. That's a separate piece of legislation, which has been on the books for some time.

[*Translation*]

**Mr. Alain Giguère:** Thank you.

My last question is for Mr. Sarrazin.

At the federal level, cooperatives are considered to be somewhat like banks. Am I mistaken?

**Mr. Philippe Sarrazin:** The Bank Act was amended in 2010 to, indeed, allow for the creation of known entities such as quasi-banking cooperatives, if you will.

**Mr. Alain Giguère:** What would happen should a cooperative be demutualized? In other words, the cooperative would be converted into a financial institution or regular bank? What would happen to the accumulated assets of past generations of investors?

**Mr. Philippe Sarrazin:** The regime exists to enable provincial cooperatives to continue or to be incorporated under federal regulations. However, there are none right now. I would therefore find it difficult to answer you and explain what would happen if a cooperative decided that it wanted to demutualize. I do not know how to answer you.

**Mr. Alain Giguère:** This probably explains why there are not any: the threat is too restrictive.

• (1725)

**Mr. Philippe Sarrazin:** This is also because this is relatively recent: the regime was established in 2010. And before a provincial cooperative can move to the federal round, if you can call it that, a long process must be followed.

**The Chair:** Thank you, Mr. Giguère.

[*English*]

We'll finish with Ms. Glover today, please.

[*Translation*]

**Mrs. Shelly Glover:** Thank you, Mr. Chair.

For my turn, I would like to celebrate International Women's Day by asking Ms. Menke a question. I would like to congratulate her on her appointment to the position she holds in her organization.

I would like to ask a question about the pro-consumer changes and the federal financial institutions. Now consumers can cash, at no charge and throughout Canada, cheques of less than \$1,500 that are issued by the government. I would like you to tell me how Canadian consumers are really benefiting from these changes, and which Canadians will be the most affected.

**Ms. Ursula Menke:** It is a bit difficult to answer your question because this was really a technical amendment. We had this rule in the past. Anybody could go to a bank branch in order to cash a cheque, even if this were not the individual's own branch. At one point, some people interpreted this rule to mean that the banks did not have to cash cheques free of charge in the client's branch.

The legislation was amended to counter this argument. The intention has always been that Canadians should be able to cash these cheques free of charge.

**Mrs. Shelly Glover:** Had some financial institutions been charging for this service?

**Ms. Ursula Menke:** This did happen from time to time, but generally speaking this was done by mistake. We did receive complaints in the past from people who had been charged. We acted on these complaints, because this was in fact against the law.

**Mrs. Shelly Glover:** So the act was amended to prevent these mistakes from being made again.

We have just announced, in addition to the changes regarding cheque cashing, measures that will enable Canadians to have access to their money immediately. Here I am referring to the first \$100. Who stands to benefit the most from this measure?

**Ms. Ursula Menke:** We are hoping that this measure will help people who really need their money. This could be a cheque from an employer. There are people who do not have much money and need it immediately because they are hungry or something along that line. Generally speaking, this will help those people who need their money and who otherwise would turn to other money suppliers charging much higher rates.

**Mrs. Shelly Glover:** Like the payday loan companies.

I would say that this measure will no doubt help the most vulnerable people who cannot, for one reason or another, open up a bank account because they do not have, for instance, any identification cards. As a police officer, I have seen many homeless people who did not have access to the services because they did not have an account with the financial institutions.

Would you agree with me that this measure will help the most vulnerable?

**Ms. Ursula Menke:** This will help the most vulnerable, but it will not help those people who do not have a bank account. In fact, you must have a bank account to be entitled to this service.

**Mrs. Shelly Glover:** Yes, but knowing that this measure will help people get their money immediately, these individuals will be more motivated to open up a bank account.

**Ms. Ursula Menke:** That is true, but fortunately, according to the most recent survey that we conducted in 2009, the percentage of adult Canadians who do not have a bank account is less than half a per cent.

**Mrs. Shelly Glover:** That is still quite a lot—

**Ms. Ursula Menke:** That still represents too many people, but it is a problem that is on the decline.

**Mrs. Shelly Glover:** I would like to ask you a brief question about the OSFI.

I see that Bill S-5 contains a change. Your organization is often invited to testify in civil trials. How will Bill S-5 help you, since you will be compelled to testify in such cases? Why would that be important for your organization?

• (1730)

**Mr. Philippe Sarrazin:** First of all, we need to provide a context for this change. It should be said that we will have immunity to testify only in civil trials that do not involve the Office of the Superintendent of Financial Institutions. It would involve litigation between third parties when these third parties may be tempted to call on us to testify because we have expertise or knowledge of the transaction we saw in the course of approval.

In no way does this change take anything away from our accountability obligations. Of course, we will continue to report on legislative procedures involving us and to which we are a party. We will also continue to be accountable to Parliament, the minister, etc. Consequently, this immunity does not take anything away from our obligation to be accountable. It is limited, as I stated, to civil litigation between third parties and goes hand-in-hand with our duty of confidentiality. In fact, we would be granted nothing more than

what is already being granted to other organizations like FINTRAC and the CRA under their respective legislation.

**Mrs. Shelly Glover:** Thank you.

**The Chair:** Thank you, Ms. Glover.

Thank you to all of our witnesses.

[*English*]

I want to thank you all for being with us here today, and for your presentations. If there's anything further you wish the committee to consider in this piece of legislation—I believe Mr. Sarrazin has something—please provide it to the clerk. We will ensure all members get it.

Thank you so much for being with us today.

The meeting is adjourned.

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