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Mr. Chris Warkentin

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● (1530)

[*English*]

The Chair (Mr. Chris Warkentin (Peace River, CPC)): Colleagues, I call this meeting to order. This is the 27th meeting of the Standing Committee on Aboriginal Affairs and Northern Development. Today we are continuing our study on access to capital for first nations communities.

We have the privilege of three separate presentations. We are tight for time, so I'm going to keep the introductions short.

We're going to turn immediately to representatives from Caisse Populaire. Mandie Montour, thank you so much for joining us today on the beginning of this study. We're thankful you've taken time out of your busy day to be here.

I'll turn it over to you for your opening statement.

Ms. Mandie Montour (General Manager, Caisse Populaire Kahnawake): Thank you very much.

My name is Mandie Montour. I'm the general manager of the Caisse Populaire in Kahnawake.

For today's topic, which was very broad for me, I decided to talk about the history of the Caisse Populaire Kahnawake, and what we're doing in terms of accessing housing loans in our territory.

In 1984 a mandate from the Mohawk Council of Kahnawake was given to find a suitable financial institution for our community. At that time banking was done mainly in the outside communities. Access to financing was quite challenging for both commercial and personal purposes.

After four years of planning, the Caisse Populaire Kahnawake was founded by 12 Mohawks of Kahnawake. The founding took place on June 25, 1987, with the official opening on October 8, 1987. Michael L. Rice was one of the 12 founders as well as the principal researcher on the project. He also became the first general manager of the branch. I began working at the Caisse Populaire in November 1988 and I've been the general manager since April 1, 2000.

I will now give you some background on the founding of the Caisse Populaire of Kahnawake. Kahnawake is a Mohawk territory situated on the south shore of Montreal. I'm going to use the term we use for our people. The Kanien'kehá:ka territory is approximately 20 square miles. The on-reserve population is approximately 7,814, with an average household income of $50,304.

Up to 1987 the community operated without its own financial institution. There were certainly demands for savings and loan services from consumer, institutional, and commercial users. To some extent those needs were being met by banks in surrounding municipalities.

However, it was estimated that less than 10% of the cashflow coming to Kahnawake was being intermediated in the community. Many banks, ignorant of the laws and culture of our people, were either reluctant or not equipped to deal with our own people. We needed a source of financing and we were tired of depending on government programs and ill-equipped outside financial institutions to meet our needs.

It was decided by the economic development program of the Mohawk Council of Kahnawake in 1984 to investigate the possibility of starting up a form of financial institution in Kahnawake. It was also decided to find a solution to the problem of taking security of immovables because, as stated in section 89 of the Indian Act:

> personal property of an Indian or a band situated on a reserve is not subject to charge, pledge, mortgage, attachment, levy, seizure, distress...other than an Indian or a band.

We wanted our financial institution to operate as closely as possible to those on the outside, even though the federal legislation governing our lands placed severe restrictions on this goal. Our project was established in late 1984, and amongst other things, a market study was conducted. We looked at existing forms of financial institutions, investigated the unique legal problems that could affect the operation of a financial institution, and finally arrived at the recommendation to become part of the Fédération des caisses Desjardins.

We opened for business on October 8, 1987. We are a credit union providing savings and loan related services. During the first year of operation, the caisse had net surplus earnings of negative $69,000 and assets totalling $5,231,000. After 26 years of operation, the caisse, at our year-end, December 31, 2013, had net surplus earnings of $2,065,000 and assets totally $241,651,000.

The caisse offers the same services as any other financial institution, with the exception of residential mortgages and commercial financing. This is where the caisse had to be innovative in order to fulfill the needs of the community and its members.

The Caisse Populaire Kahnawake currently serves 5,377 members. The personnel of the caisse consists of 27 employees, two managers, and 10 directors of two boards. The caisse has proven to be very successful and was a much-needed institution in our community. Over the years, just in member dividends alone, we have given back to our people over $10,865,000. We also have community development projects to which we have contributed a total of $550,000, and our donations to date are $1,113,351.

● (1535)

With the start-up and establishment of the caisse populaire, we had an immediate impact in terms of creating a source of funds to intermediate in the community for commercial and consumer purposes. That in itself can be viewed as a major accomplishment in improving the economic development situation in Kahnawake. An equally important step has been the establishment and implementation of the trust deed arrangement, which is our loan security system. Our goal was to allow our people to use their immoveables, such as land and buildings, as security on loans for commercial and eventually housing purposes, and under this system it is possible.

To give perspective to the need for this system, it is necessary to refer to the legislation governing lands and landholding systems on Indian reserves, which is the Indian Act. The act is very clear as to the limitations to take security. There were exceptions to these regulations whereby the minister could guarantee both commercial and residential loans. Our community does not presently use that type of security, which is the ministerial guarantee.

How does the trust agreement work?

A borrower cannot give the building and the land on which it sits directly to the Caisse Populaire Kahnawake. The borrower enters into a trust agreement with trustees who are chosen members of our community, and transfers his or her immoveable property in trust to them. The trust agreement would specify that should the borrower default to the Caisse Populaire Kahnawake, the trustees would be authorized and bound to satisfy the borrower's debt by using the latter's property. The caisse populaire also enters into a trust contract with the trustees who agree to participate in the system, to facilitate the lending of moneys for the purpose of the social and economic development of Kahnawake. The Caisse Populaire Kahnawake is the beneficiary of this trust contract.

In terms of procedures, the Minister of Indian Affairs, and specifically the Registrar of Indian Lands, requires the registration of the loan contract, trust agreement, and section 24 transfer, which is a DIAND-supplied document, from the borrower to three trustees in trust for each transaction, and a one-time registration of the trust contract.

In terms of the system, the major one is the nature of the third-party guarantor or trustee. The principle of a third-party guarantor certainly is not new. What is new with the Kahnawake model is that the third party is not a government body of any kind. When it was decided to use the trust agreement in Kahnawake for securing residential or commercial loans, it was important to put the onus on the individual borrower to make them feel they had something to lose.

The market study done in our community in 1984 had proven that our people were ready to accept the trust deed arrangement. The trustees themselves are individuals from Kahnawake who have volunteered in the interest of the economic development of Kahnawake to serve as trustees. They are not drawn from officers or staff of the caisse populaire, and truly maintain a sense of objectivity. According to the trustee contract, they are required to verify if there is, indeed, a default on the loan, if requested by the Caisse Populaire Kahnawake, to act on a file.

A second important feature of the trust agreement is the speed between loan approval and disbursement, compared to the issuance of a ministerial guarantee. The Minister of Indian Affairs' implication in the transaction is to register the land transfer in trust. Another feature of the system is that the land can be resold only to another Indian from within the reserve. Finally, an individual Indian must have lawful possession of the land allotment to effectively use the trust agreement.

In terms of weaknesses and potential problem areas, there is a number that exist. First, there may be some question on the legality of the registration of the required transfer and trust documents. The arrangement still has not been tested in the courts. We had previously been challenged on the matter beginning in 1997, but we settled the case out of court in December of 2010.

The second potential weakness would be if the trustees were not selected carefully and refused to act objectively.

The third weakness is the difficulty to assess the fair value of an immoveable property on a reserve. There are certain practices on reserve that make it virtually impossible to establish real estate values on the reserve. Our restricted market makes it difficult to use the comparison model used in non-Indian land outside of our territory as a basis for real estate evaluation.

● (1540)

The Caisse Populaire Kahnawake has been using the trust agreement model successfully since 1988. The department has accepted the Kahnawake model in principle and believe that it represented an effective solution to the problem of providing tangible security for commercial loans to band members.

To date, the use of the trust agreement has proven to be very successful. We currently have $21,300,000 in trust agreements, with a total housing portfolio of $32 million. We have about 67% in trust agreements. Although it's not possible to have the actual amount of the trust agreement loans that we have given out for the past 26 years, this is the balance that we have today. The $21 million is the balance, and we've only had six defaults during that time in the last 24 years that we've been using it, with very minimal loss on these loans. This proves that it is very successful and our people are ready for this type of product.

That's all I have to say.

The Chair: Well, thank you very much.

We'll turn to Ms. Pelletier next with the National Aboriginal Capital Corporations Association.

Thank you so much for being here as well, and we'll turn it over to you for your opening statement as well.

Ms. Lucy Pelletier (Chief Executive Officer, National Aboriginal Capital Corporations Association): Thank you, Mr. Chair.

Good afternoon. My name is Lucy Pelletier and I'm the outgoing CEO for NACCA. We have a new CEO who is going to be taking over the reins and her name is Francine Whiteduck. She is accompanying me but she's not doing a presentation today.

I was here prior to this making a presentation two years ago and I'm honoured to be here. For our presentation, basically the background is the aboriginal financial institutions, which is a collective term inclusive of aboriginal capital corporations or ACCs; aboriginal community futures development corporations or centres, which are the ACFDCs; business development centres, the BDCs; private, provincial or territorial capitalized aboriginal developmental lenders, which we call alternative developmental lenders; and the aboriginal business development centres.

Most AFIs were created in the 1980s and early 1990s by the federal government, with the exception of the ADLs, which were formed without federal government assistance and usually by private or provincial resources in consultation with the aboriginal leaders. The AFIs were formed to overcome challenges encountered by the Indian equity development fund, which was the IEDF, a federal government program delivered by Indian and Northern Affairs Canada and conventional lending institutions. These challenges included Indian Act restrictions, limited business management skills, collection difficulties, remoteness from mainstream financial institutions, and risk tolerance levels inherent in regulated conventional lending institutions.

AFIs other than the aboriginal business development centres were created specifically to provide developmental lending loans and related business and community support services to developing aboriginal entrepreneurs and communities. AFIs have contributed an unparalleled understanding of regional and community challenges and opportunities for the past 25 years. AFIs deliver a vast array of culturally attuned aboriginal business and community development products and support services inclusive of small business loans to aboriginal businesses engaged in all sectors of the Canadian economy. There are 59 identified AFIs in Canada. Twenty-four of them are ACCs; 23 of them are ACFs; seven of them are ADLs; and five are duals, meaning they deliver both the federal and the provincial programs.

As of March 31, 2013, there were 55 AFIs known to be actively providing developmental loans across the country. Historical AFI loan writeoffs are 5.57% of the 37,000 loans totalling $1.9 billion that AFIs have provided since AFIs' inception. AFIs have disbursed in the range of $100 million in loans in each of the last five years. As of March 31, 2013, an estimated 3,500 aboriginal businesses in all provinces and territories were supported by 4,346 active AFI loans, aggregating $323 million. Repayment of AFI loans for the 55 active AFIs is now near the $1.5 billion mark. The average AFI repayment efficiency rate for the 55 active AFIs is 94%.

As for job creation and maintenance, AFIs play a vital role in supporting the creation and maintenance of jobs by aboriginal entrepreneurs. In 2013, 44 AFIs reported job creation and job maintenance statistics. Part-time and seasonal jobs are considered equal to 0.4 full-time equivalent jobs. A total of 1,016 full-time jobs were created through the provision of 368 new start-up loans. In addition, new loans to existing aboriginal small businesses created and maintained a further 2,769 full-time jobs.

● (1545)

So basically, by extension it is estimated that the consolidated AFI gross loan portfolio of 4,346 loans supports approximately 13,000 full-time jobs on a continuing basis. The consolidated AFI gross loan portfolio surpassed the $324 million level in 2013. Our gross loan portfolio growth trend has been growing exceptionally well over the last five years. Simultaneously, consolidated AFI contractual delinquency reported has been reduced by 15% over the course of the last five years. In 2009, 26.1% of AFI loans were reported as in arrears. In 2013, 11.1% of loans were reported as in arrears.

As to our capital adequacy, the aboriginal business development program determined some years ago that in order to meet loan demand, AFIs require a minimum loan capital liquidity of 15% of the gross loan portfolio. Taking into consideration annual new loan volumes and repayment efficiency rates, as well as the average loan portfolio turnover rate of approximately 3.5 years, liquidity at the 15% level would appear to cover six months loan demand, which is considered to be standard for developmental lending institutions.

The level of gross loan portfolio growth experienced by some AFIs is beginning to outstrip the amount of capital available for loans to entrepreneurs including private and repayable loan capital. As of March 31, 2013, 15 of 55 or 27% of the AFIs had loan capital liquidity levels of less than six months available to meet loan demand. Concurrent with the federal government need to constrain budget expenditures, AFI new loan advances are escalating, which will undoubtedly intensify the issue of loan capital sufficiency for some of the most active AFI lenders.

Four strategic pillars have been identified as integral to the AFI networks future.

First is broadening access to sustainable lending. The first pillar or the cornerstone of the AFI network's future addressed the financial sustainability of AFIs engaged in developmental lending to a geographically widely dispersed clientele. Aboriginal developmental lending allocation programming was introduced in April 2014 following extensive development by AANDC and NACCA.

Second is increasing individual AFI and AFI network capacity by further improving professionalism. The second pillar will continue to build on sound operating standards and create a “credit union central” type of capacity at NACCA. The second pillar will build on the successful AANDC support and training program, which is the S and T program within the access to capital program.

Third....

● (1550)

The Chair: Ms. Pelletier, I do apologize. I just have to jump in.

Colleagues, the bells are starting to ring.

I would suggest that we continue to hear the completion of this submission, as well there's one more submission that's 10 minutes. If that would be—

Ms. Jean Crowder (Nanaimo—Cowichan, NDP): That's fine. Could I suggest that the witnesses cut to the recommendations?

The Chair: We can do that if that works for the witnesses.

Unfortunately, these things do happen in this place and we play along as the script gets delivered to us. So we'll turn to you, Ms. Pelletier, and if there's a way that we can just hear as much as we can from you in an abbreviated form and then we'll turn to Mr. Daniels.

Ms. Lucy Pelletier: Well, basically to end off our presentation, we are looking for the satisfactory resolution of broadening access to sustainable lending, increasing AFI network capacity, and expanding client services that will better position AFIs to put forth the fourth pillar, the need to diversify and expand the AFI capital base.

In light of prevailing government fiscal restraints, some AFIs will need to tap into potential private and aboriginal sector investment capital on an ongoing basis. Right now we're working on a pilot program that will serve as proof of concept for the pilot, with emphasis being placed on securing capital from aboriginal sources including AFIs with high liquidity, aboriginal financial institutions, and aboriginal trusts.

The financial instrumentation and treasury structure will be developed with consultative support during calendar 2014, and reviewed and modified as required by the targeted investors during calendar 2015.

So basically our recommendation is to continue with the access to capital program until there is a program that has been fully designed and created to replace the existing program. Otherwise based on the presentation, we have more growth coming than we have capital available, which is our challenge, and the population will continue to grow and not die.

The Chair: Absolutely, thank you so much.

We do have the complete submission and we'll distribute that in both official languages to our colleagues.

Mr. Daniels, we'll turn to you for the final submission. We hate to put people under pressure as the time comes in on us, but we'll turn it over to you, because we certainly want to hear from you.

Mr. Ernie Daniels (President and Chief Executive Officer, First Nations Finance Authority): Okay, thank you. I don't mind being under pressure.

I'm going to skim through my presentation because I want to get to the recommendations as well. I think it's important.

We're pretty new on the block. We actually originated from the First Nations Fiscal Management Act, so I think it's important for people to understand where we came from and a bit of our structure.

I'm going to call us the FNFA; that's what everybody does. If I say “First Nations Finance Authority”, I'll be taking up all the time. We're governed by our first nations members. It's the first cooperative borrowing authority in the world for first nations people. Nothing like this exists anywhere else. It means that first nations can access capital at rates available to other levels of government, and from the very same place as other levels of government get capital, the capital markets. So we have a direct access to the capital markets. This gives each chief and council the ability to focus on economic and capital planning with the confidence that we're there to raise the financing and the capital market.

So our mandate under the act—I'll call it the FMA—is to go out and get financing at the lowest possible rates for our members. There is a bit of process that our members have to go through to become a borrowing member. Membership is voluntary. They have to get permission from the Minister of AANDC to access the act and to work with us. Today there are 124 first nations that have requested to work under the act, so essentially, they want to work through the process to get access to the capital markets.

We have two other institutions that are also incorporated under the act. One is the First Nations Financial Management Board, the FMB. Their purpose is really to shore up the financial capacity of the first nations. So they develop the financial administration law that has standards recognized around the world. They also look at the financial performance of the first nations over the past five years. So once first nations are able to establish a financial administration law and pass certain economic tests, they can actually become a member with us. That's the only way they can borrow money through us. There's a tax commission, the First Nations Tax Commission, which was set up to create a regulatory framework to exercise real property taxation and to generate property tax revenues.

So the FMA, the act, has two arms to it. The first arm deals with property taxation and the second arm deals with other revenues, so it's really own-source revenues that the first nations have that they can use to establish a borrowing capacity. The borrowing capacity is based on their revenue streams and how much we can lever in the capital markets. So those leverage rates were done in collaboration with the capital markets. They are acceptable to the capital markets.

The other thing is that when first nations are able to come and borrow from us, they can choose the term of the loan. The loan and the accompanying rate can be fixed for up to 30 years. So it's really for long-term planning for capital projects.

Eligible projects that the first nations focus on under the act are infrastructure, community housing, equipment, equity participation in resource projects, as well as economic and social development. Today, we actually have $55 million in loans out, and this is through our interim financing program as a part of our long-term rate. We have actually issued $55 million to about 10 first nations in interim financing, at a rate of 2.6%. This is the interim rate that we're able to get. These interim loans will be rolled into long-term fixed rates this month.

This month we're actually making history. We're issuing our first debenture, for close to $100 million. We do that on the strength of credit ratings.

● (1555)

We've received two independent credit ratings, from Moody's and from DBRS, Dominion Bond Rating Service. They've given us two investment grade ratings, which means that we have a lot of investors who want to buy. As a matter of fact, our $100 million debenture is pretty well sold. It's pre-sold already. There's a German investor, an insurance company from Germany investing into this debenture. So there are really exciting things happening.

The debenture that we're going to be re-lending at the rates that we're going to be re-lending it, is going to be around 3.75% to 3.85% for a 10-year fixed loan. Those first nations that want a longer-term loan can refinance at that point in time.

I should say that we're working on a second debenture, which will be issued probably by March of next year, and we have about $65 million towards that second debenture already. So we want to issue in about $100-million increments—

● (1600)

The Chair: Mr. Daniels, I do apologize. We're seriously tight for time now. Is there a way that we could get some of your presentation sent to us? We do apologize. I'm going to have to adjourn the meeting. I do apologize.

Thank you so much, each one of you, for coming and taking time here.

Mr. Ernie Daniels: You have our presentation; we've sent it. There's two recommendations in there. I don't know if you want to hear them before you run over.

The Chair: We'll have to read them at this point, only because we are that tight for time.

Colleagues, if you choose to take the bus, there is one waiting downstairs for us.

Thank you so much, and we do apologize for the tight time.

Our meeting is adjourned.