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Chair

The Honourable Wayne Easter

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● (1535)

[*English*]

The Chair (Hon. Wayne Easter (Malpeque, Lib.)): The committee will come to order.

Pursuant to Standing Order 108(2), the committee is studying the subject matter of Bill C-44, an act to implement certain provisions of the budget tabled in Parliament on March 22, 2017, and other measures.

Yesterday we heard from representatives of Finance Canada. This afternoon we'll start on part 4, division 3, entitled “Financial Sector Stability”, and hear from Lisa Pezzack, director, financial systems division, financial sector policy branch; Liane Orsi, senior adviser, financial institutions division, financial sector policy branch; and Justin Brown, chief, financial systems division, financial sector policy branch.

Welcome. After your opening statement, we'll go to questions.

The floor is yours.

Ms. Lisa Pezzack (Director, Financial Systems Division, Financial Sector Policy Branch, Department of Finance): Thank you, Mr. Chair.

This proposal seeks to strengthen Canada's bank resolution regime by formally designating the Canada Deposit Insurance Corporation as the resolution authority for its members and by requiring Canada's biggest banks to develop and submit resolution plans. The proposal would also clarify that the Superintendent of Financial Institutions may set criteria for how domestic systemically important banks must meet the requirement to maintain a minimum capacity to absorb losses.

The Canada Deposit Insurance Corporation has been responsible for providing deposit insurance for Canadian banks since it was established by the Canada Deposit Insurance Corporation Act in 1967. Following the financial crisis, and in line with the development of international standards, CDIC's powers and tools have been expanded to facilitate the orderly resolution of its member institutions in the event of a failure. The proposed changes would formally designate CDIC as the resolution authority for its member institutions.

In this capacity, CDIC has undertaken a number of initiatives to ensure its readiness to deal with any banking failures. One of them pertains to the development of resolution plans, which describe how a systemically important bank could be resolved in an orderly manner while ensuring the continuity of critical financial services and protecting financial stability.

In 2015 Canada's systemically important banks were asked to work with CDIC to prepare plans demonstrating how they could be resolved in a manner that ensures financial stability in the unlikely event of their failure. The proposed changes would put the requirement for Canada's largest banks to develop resolution plans in legislation and provide CDIC with the authority to set out the framework for these plans in a bylaw. Together, the proposed changes would provide additional transparency regarding CDIC's activities as the resolution authority for its members, which should facilitate CDIC's role in supporting the stability of the financial system.

This proposal would also clarify that the Superintendent of Financial Institutions may set criteria for how domestic systemically important banks must meet the requirement to maintain a minimum capacity to absorb losses. The requirement for systemically important banks to maintain a minimum capital to absorb losses is set by the superintendent and met through additional regulatory capital and debt, subject to conversion into common shares in a failure through the exercise of CDIC's bail-in power.

Thank you, Mr. Chairman.

The Chair: Thank you, Ms. Pezzack.

Do we have any questions?

Go ahead, Mr. Sorbara, and then Mr. Ouellette.

Mr. Francesco Sorbara (Vaughan—Woodbridge, Lib.): Thank you, Mr. Chair.

Good afternoon, everyone. Welcome to the committee today.

It's nice to see you, Liane. We interacted before, in a prior career.

First, on the change in role with regard to CDIC, can you guys comment in terms of how this fits in with the changes that have occurred over the last several years and since the financial crisis?

My second question is with regard to bail-in. I left a financial institution about two years ago now. We were having initial discussions and going along the way in terms of having bail-in securities put in place by the bank so that in the event there were some disruption to the financial sector they could be converted and bondholders would share some of the risk. Can we get an update on that?

Thank you.

Ms. Lisa Pezzack: In answer to the first question, over the past several years since the financial crisis, CDIC has been given a variety of tools and powers, but it's never been formally designated as a resolution authority. But many of the powers and tools they have would allow them to resolve a bank in the case of a failure. In that sense this is mostly a formality to say they have this power and that they can require banks to provide the resolution plans.

As you know, in budget 2016 we implemented the process for bail-in. It's a relatively new process internationally in which you issue debt and securities that would then be converted into common shares in the case of the failure of a domestic systemically important bank, and that process has been under way. This is a clarification of the roles and powers of the superintendent within that process. The legislation is in place, and we'll be working toward putting regulations in place.

● (1540)

The Chair: Mr. Ouellette, you're next.

[*Translation*]

Mr. Robert-Falcon Ouellette (Winnipeg Centre, Lib.): Thank you very much.

I would like to know how the superintendent of financial institutions will be able to establish the exact amount. What criteria are needed for the bank's minimum capacity to mitigate losses?

[*English*]

Ms. Liane Orsi (Senior Advisor, Financial Institutions Division, Financial Sector Policy Branch, Department of Finance): Thank you very much for your question.

The purpose of this amendment is not to determine how the amount is calibrated but more how it's satisfied, the criteria for what instruments may be eligible. However, I'm happy to respond to both.

On the question of how it would be calibrated, we would be looking at what losses a domestic systemically important bank could plausibly experience, based on historical experience and stress testing, and also what level of capital is necessary to restore the bank to adequate levels of capitalization, with a buffer beyond that to establish confidence in the bank. This is a bank that has failed, so the intent is to recapitalize it such that it can continue to remain operating.

In addition to the calibration of the amount, this amendment that we are seeking views on will allow us to establish criteria as to what instruments, regulatory capital, or long-term debt are available to meet this requirement. We are seeking flexibility here not only in calibrating the amount but also in how to satisfy this amount, given that this is a new standard and market practices are evolving as well as international standards.

Mr. Robert-Falcon Ouellette: I was also wondering who constitutes the committee.

[*Translation*]

Who will be on the committee referred to in subsection 18(1) of the Office of the Superintendent of Financial Institutions Act?

[*English*]

Ms. Lisa Pezzack: It's the financial sector regulatory community, so it's the Office of the Superintendent of Financial Institutions, the Department of Finance, the Bank of Canada, the Financial Consumer Agency of Canada, and the Canada Deposit Insurance Corporation.

[*Translation*]

Mr. Robert-Falcon Ouellette: I would like to ask one last question.

Do all businesses and banks have to maintain a resolution plan or a draft plan at all times? Is it done at the last minute?

Ms. Lisa Pezzack: It applies only to Canada's six major banks.

[*English*]

These six have been designated as systemically important financial institutions, and they're in the process of developing these plans now. It's a bit of an iterative process. You try it once, you see if you think that's good enough, and you go through the process. They're working with—

Mr. Robert-Falcon Ouellette: They don't have a plan on file, and then if something does occur they can....

Ms. Lisa Pezzack: Supervision is ongoing, and if something comes up that they think would warrant a change in the plan, the plan would be updated.

Mr. Robert-Falcon Ouellette: Thank you.

The Chair: Thank you, both.

Mr. Deltell, you're next.

[*Translation*]

Mr. Gérard Deltell (Louis-Saint-Laurent, CPC): Thank you, Mr. Chair.

Ladies and gentlemen, welcome to your House of Commons.

In a way, you are the guardians of the economic stability of Canadian banks, which of course requires adjustment based on the new reality.

The bill covers the whole work. Are the proposed changes an updating function, or will they lead to more profound changes in the management of the security of the Canadian banking system?

Ms. Lisa Pezzack: I would say that, rather, they are an updating function because they really reflect the decisions already made for the Canada Deposit Insurance Corporation, or CDIC. In the case of amendments to make to the powers of the Office of the Superintendent of Financial Institutions, I would say that this is instead a clarification of its powers.

Mr. Gérard Deltell: I don't want to go into too much detail, but we know that there was a jolt in the mortgage lending world a few days ago or about two weeks ago, when a mortgage lender saw its shares melt like snow in the sun. Is it your responsibility to protect the banking system or the loan system, or does the real estate sector come under another register?

● (1545)

[*English*]

Ms. Lisa Pezzack: The supervision of that particular institution falls in the purview of the Superintendent of Financial Institutions as well, and the superintendent also has powers in relation to setting expectations for how mortgages are written, for example, underwriting standards, and those sorts of things. To the extent that a company is involved in mortgage underwriting, they're subject to supervision by the Superintendent of Financial Institutions at the federal level if it's a federally regulated institution. The provinces of course do their own thing.

Mr. Gérard Deltell: So it belongs in your hands? Does that responsibility belong to you?

Ms. Lisa Pezzack: No, the Superintendent of Financial Institutions.

The Chair: Just on that point, the mortgage company—I can't think of the name—that is affected at the moment, has come out—

Mr. Ron Liepert (Calgary Signal Hill, CPC): Home Capital Group.

The Chair: Yes, Home. They've come out with a plan.

Did they have to run that plan by the Superintendent of Financial Institutions before they come out with, or is that...?

Ms. Lisa Pezzack: On the day-to-day supervision of financial institutions, the questions are really better targeted to the superintendent, but of course he has ongoing.... As I think he has said publicly, he is monitoring the situation very closely.

The Chair: We're not really on that question anyway in Bill C-44, so I could have ruled it out of order.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault (Sherbrooke, NDP): Thank you, Mr. Chair.

I would also like to thank the witnesses for being here today.

I'm going to focus a little more on clauses 109 and 110 of the bill, which amend section 11 of the Canada Deposit Insurance Corporation Act.

Someone said that the board will need to develop and maintain resolution plans for systematically important banks. Clause 109 (2.01) states that resolution plans must be approved by the minister. In fact, that part states:

[*English*]

"specifying that a by-law made under paragraph (2)(e) is not effective unless it has been approved in writing by the Minister."

[*Translation*]

Could you explain why you decided to add that provisions, which requires ministerial approval for resolution plans?

[*English*]

Ms. Lisa Pezzack: I guess, first and foremost, the Minister of Finance is responsible for financial sector stability, so his overall responsibility for that would include making sure that, should one of the domestic systemically important banks, or D-SIBs, as we say, gets in trouble, they have a plan to fix themselves.

Do you want to talk about the process?

The Chair: Mr. Brown.

[*Translation*]

Mr. Justin Brown (Chief, Financial Sector Policy Branch, Department of Finance): I would also say that the provision is consistent with other practices for creating CDIC regulations.

The process begins with the CDIC board, usually with the exception of regulations or internal procedures. Generally speaking, when the practices apply to Canadian industry, financial institutions or a governance issue, the standard is to get the approval of the Minister of Finance. It's about imposing demands, a burden, on the Canadian industry. It is therefore appropriate to refer the matter to the minister.

Mr. Pierre-Luc Dusseault: Could it slow down the process? I assume that it is sometimes necessary to react quickly in these situations. If a systemically important bank facing significant financial problems is also involved, shouldn't the processes also be swift and efficient so that the plan can be put in place quickly and implemented by the bank?

Mr. Justin Brown: It is a question of approving the requirements, plus the process of presenting the plans. This is done in advance. It's not a question of implementing the plans themselves. I don't think there would be a significant delay in a situation or a financial crisis. We are planning rather than making decisions on the spot.

● (1550)

Mr. Pierre-Luc Dusseault: If I understand the process well, if a systemically important bank is in a situation defined by the superintendent of financial institutions, that's when the board of directors will request resolution plans. Is that it?

[*English*]

Ms. Lisa Pezzack: No, the board has already, in fact, started working with the institutions on an informal basis without the legislative push to get them there. They are already, in fact, working on developing plans to put in place, to make sure they would be in a position to resolve themselves should it ever be necessary to do so.

[*Translation*]

Mr. Pierre-Luc Dusseault: That's all for me.

[*English*]

The Chair: Thank you.

Mr. Liepert.

Mr. Ron Liepert: I have a brief question, and I don't know if you're in a position to answer it, but I see that the Bank Act is mentioned in here. Can you give us any status update on your review of the Bank Act that's under way?

If that's not in order, Mr. Chair, I leave it up to you.

Ms. Lisa Pezzack: The Bank Act review is ongoing. We've had a first round of consultations, and we've got some input. They're in the process of considering that input and developing the next steps at this point.

Mr. Ron Liepert: Is there a timeline?

Ms. Lisa Pezzack: The budget last year amended the deadline date for the Bank Act renewal to be March 2019, so clearly there's a deadline.

Mr. Ron Liepert: Thank you.

The Chair: Thank you very much. I thank members for their questions.

I'm wondering, Ms. Pezzack, if it's okay with the committee, if we jump to division 19. Ms. Pezzack is on division 19 as well, the proceeds of crime. If we can jump there, she doesn't have to stay and wander all afternoon.

Maxime Beaupré is here as well. Maxime is the chief, financial systems division, financial sector policy branch, and we are dealing with part 4, division 19, the Proceeds of Crime (Money Laundering) and Terrorist Financing Act.

The floor is yours, whoever is starting.

Ms. Lisa Pezzack: First of all, thank you very much, Mr. Chair, and members of the committee for adjusting your schedule.

The Proceeds of Crime (Money Laundering) and Terrorist Financing Act would be amended by division 19 to do the following:

> ...expand the list of disclosure recipients to include the Department of National Defence and the Canadian Armed Forces, and to include beneficial ownership information as "designated information" that can be disclosed by the Financial Transactions and Reports Analysis Centre of Canada.

Furthermore, it makes several technical amendments to ensure that the legislation functions as intended and to clarify certain provisions, including the definition of "client" and the application of the trust of the act to all trust companies.

The Government of Canada is committed to combatting money laundering and terrorist financing, and while we maintain a robust and comprehensive anti-money laundering, anti-terrorist financing framework, it must evolve to ensure the integrity of the financial system and the security of Canada and Canadians.

Including the Department of National Defence and the Canadian Armed Forces on the list of disclosure recipients would allow FINTRAC to relay information as it relates to the threats to the security of Canada. We would define threats to the security of Canada as defined in the CSIS Act, so it's quite a clear definition there.

It would allow for FINTRAC to disclose information that it has on beneficial ownership. Sometimes reporting entities provide this information to FINTRAC. They are not currently allowed to provide that information to competent authorities, and this would allow them to do it.

There are a variety of technical changes that would strengthen the framework, support compliance, and improve the ability of reporting entities to operationalize the act and ensure that it functions as intended. Some would relate to clarifying and streamlining regulatory authority, clarifying that all trusts are covered.

It would ensure that MSBs that are subject to the United Nations and Special Economic Measures Act sanctions cannot re-register as an MSB with FINTRAC.

There are some technical changes to correct English and French and to clarify some of the concordance.

Thank you.

● (1555)

The Chair: We're open for questions if anybody wants to start.

Ms. O'Connell.

Ms. Jennifer O'Connell (Pickering—Uxbridge, Lib.): Thank you, Mr. Chair.

Thank you for being here.

I'm curious, and perhaps this is really technical on the process of how it would actually work. How would FINTRAC determine any irregular occurrence, and then how often are they sharing that information? Or is the case that as soon as something irregular pops up it is shared immediately? What is that communication between FINTRAC and National Defence or the Canadian Armed Forces?

Ms. Lisa Pezzack: Usually when they come to the conclusion that there is an issue related to the security of Canada, it would be as a result of doing some analysis. It would probably not necessarily be from a single source of information coming to them, but maybe from their ability to put together various sources of information and say there would be an issue here. Then they would have to look at whether or not it meets two tests.

In the first instance, they have to say that there are reasonable grounds to suspect the information would be relevant to threats of Canada as defined under the CSIS Act.

Secondly, they would also have to have reasonable grounds to suspect that the information would relate to threats to the Department of National Defence or the Canadian Armed Forces.

Ms. Jennifer O'Connell: Thank you.

Following up on that, how would FINTRAC determine an unregulated trust if it were set up in a province or territory? Or do you have agreements with provinces and territories to also report anything irregular, or what might be a concern?

Ms. Lisa Pezzack: Most trusts right now are registering as reporting entities. The legislation stipulates that regulated trusts must register. This would allow for trusts that are not currently regulated, most of which I think we've identified, to be able to be told, no, you're included now. It's not just regulated trusts; it's all trusts.

Ms. Jennifer O'Connell: Is that how you would capture it, by essentially establishing that all of these trusts would now have to go through that federal process?

Ms. Lisa Pezzack: Yes.

Ms. Jennifer O'Connell: Thank you, Mr. Chair.

The Chair: Thank you, Ms. O'Connell.

Monsieur Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you once again for your presentation.

I'm mainly interested in the issue of ultimate recipients or, as you put it, "beneficial owners". It mainly concerns the Canada Revenue Agency, which has an agreement with the Financial Transactions and Reports Analysis Centre of Canada, or FINTRAC, to provide information. I noticed the following problem. The agency collects a great deal of information from FINTRAC, particularly on transactions of $10,000 or more. The agency recently informed us that it did not follow up after receiving FINTRAC documents to determine whether the information received had been effective.

In the case that concerns us today, we realize that if, for example, you have information about the ultimate beneficiary or beneficial owner of an entity, of a corporation, you can't disclose it to the Canada Revenue Agency. That's the current problem, is it not?

● (1600)

Ms. Lisa Pezzack: In the current situation, if FINTRAC people have information, they can't disclose it to FINTRAC, the RCMP or anyone else who collects information.

[*English*]

What do we call disclosure?

[*Translation*]

Mr. Maxime Beaupré (Chief, Financial Systems Division, Financial Sector Policy Branch, Department of Finance): It's the disclosure of information obtained from those subject to interrogation.

Ms. Lisa Pezzack: They can't communicate information that they already have in their database.

Mr. Pierre-Luc Dusseault: The amendment will allow FINTRAC to say that it has detected large suspicious transactions and even that, according to that information, the ultimate beneficiary is one in that country. Is that it?

Ms. Lisa Pezzack: Yes.

[*English*]

The Chair: Thank you, both.

Mr. Ouellette.

Mr. Robert-Falcon Ouellette: Thank you very much, Mr. Chair.

I want to delve a little bit more into the Department of National Defence and Canadian Forces. Under subclause 430(1), subsection 55.1 of the act, it states:

> (e) the Department of National Defence and the Canadian Forces, if the Centre also has reasonable grounds to suspect that the information is relevant to such a threat as it relates to that Department or the Canadian Forces.

Who's actually going to determine if that's relevant? There's always this idea of mission creep. I'd be interested to know, at some point from the Department of National Defence or the Canadian Forces, who in that department is qualified in financial matters? How would they determine that it's a relevant threat to them, and what would they do with that information in the long term?

I'm a bit concerned that there's perhaps a bit of mission creep in that, because even in the RCMP, for instance, it sometimes has difficulties understanding all these things and working with all the other agencies.

Ms. Lisa Pezzack: It would be up to FINTRAC. It would have the information on hand, and it would then do its two tests: is there a threat, and do we believe from what we know that this would pose a threat to the security of Canada, and therefore that we should disclose the information? It's not going to be up to anybody at the Department of National Defence to be making any financial analysis.

Mr. Robert-Falcon Ouellette: They could conceivably say to FINTRAC, "We would like this information, could you share it with us?"

Ms. Lisa Pezzack: No.

Mr. Robert-Falcon Ouellette: Because I don't see anything preventing that. I see this as allowing that, but I don't see anything laying out the framework or criteria to ensure that information is protected.

Mr. Maxime Beaupré: There are many provisions in the Proceeds of Crime (Money Laundering) and Terrorist Financing Act that protect information that's in the custody of FINTRAC. One of those provisions that reinforces the separation between FINTRAC as an arm's-length agency and law enforcement as disclosure recipients, for example, is the fact that FINTRAC controls the information. We have legislated thresholds in the act that allow FINTRAC to disclose. As Lisa was indicating, FINTRAC is the one that applies those legislative tests to determine whether information under its custody can be disclosed to a recipient. It is not up to the recipients to make that test.

Furthermore, under the act, it is not possible to request information from FINTRAC, but it is possible for disclosure recipients to submit voluntary information records. This is how FINTRAC can help investigations when law enforcement agencies are, for example, interested in a case, and they have grounds to suspect that the target is involved in money laundering or terrorist financing. They can submit records to FINTRAC, but then FINTRAC makes its own analysis, and if it meets threshold that are legislated, there will be a disclosure.

Mr. Robert-Falcon Ouellette: We'll look at it from the opposite side, then.

If you're in National Defence and you have to wait for some other agency to tell you there might be a threat to your national security, and you can't ask for that information because you don't really know anything about that, and FINTRAC's not really aware if it perhaps might be a national security threat, how do you then ensure there's a coordination between these two entities? Have we set up a way for National Defence to interact in some way with FINTRAC?

Mr. Maxime Beaupré: There are mechanisms in place, from an administrative point of view, to govern the exchange of information, but, as I say, it's mostly one way.

If FINTRAC wanted to meet its threshold, it's going to be able to disclose to the recipients. At the same time, FINTRAC maintains ongoing discussions in a calibrated manner with disclosure recipients to better understand the environment they're operating in and understand the priorities. Therefore, when it comes across information that is relevant to them as part of its analytical work, it is able to make that judgment call.

● (1605)

Mr. Robert-Falcon Ouellette: I'm just going to another thing in the act here. I'm sorry to waste everyone's time. I hope I'm not boring anyone.

I've noticed there are quite a number of mentions of the "issue", or the sale of "money orders", or "redeem them from the public". This is to ensure, for instance, that monies aren't transferred illegally or to finance terrorist operations.

Let's say we have the Canadian Forces in operations in some country, perhaps Africa, and someone has an unregulated corporation under a provincial jurisdiction and they're doing money transfers. How does FINTRAC ensure that National Defence is aware that monies might be flowing into the zone of operations where they're operating, so they're aware that maybe arms are being purchased that could be used against Canadians?

Ms. Lisa Pezzack: Well—

Mr. Robert-Falcon Ouellette: I know it's outside of the finance thing, but the reason I'm asking is that because we're about to pass this legislation, I'd like to see how these moving parts are going to work together.

Ms. Lisa Pezzack: As a general rule, any financial transaction, any electronic fund transfer out of the country, that is over $10,000 would have to be reported to FINTRAC.

Mr. Robert-Falcon Ouellette: We always do $9,000.

Ms. Lisa Pezzack: You could do that.

Now if you have a series of transactions, any sort of money remittance, business doesn't have to wait until the $10,000 threshold is met. They could say, wow, there are a lot of transactions going to that little town and I know that's a bit of a war zone, so that doesn't look right. They can then say, to me, that is a suspicious transaction and I need to report that. Just because we have the $10,000 threshold doesn't mean that they're not reporting you.

They would put that information together, send it to FINTRAC, and say, "There are some of these little things going to this little town and you might want to look into that." FINTRAC has that ability, and it also has the ability to disclose information to its national security partners as well.

If it felt that there were an issue—it knew the Canadian Armed Forces were there and that the money was going into this region and that it would look suspicious—in the eyes of the money transmittal business, or whoever would be sending the money, they would be then in a position to share that information, if it met the two tests.

Mr. Robert-Falcon Ouellette: Now I'd like to take one final—

The Chair: Good, if it's one final—

Mr. Robert-Falcon Ouellette: I have one final thing.

I'm interested in the additional costs to small corporations under provincial jurisdiction. Let's say you're from the Philippines and you're working hard, and all of a sudden you have to have....

I believe there are additional reporting requirements with FINTRAC, correct?

Ms. Lisa Pezzack: The reporting requirements already exist.

Mr. Robert-Falcon Ouellette: Oh, they already exist. So there's no additional requirements for these unregulated—

Ms. Lisa Pezzack: The unregulated trusts would be a new one, but in any type of new legislation or regulation in this area, we have to balance the national security and trust against the—

Mr. Robert-Falcon Ouellette: What would be the additional costs for some of these corporations? Some of them are probably very small because they're not under federal jurisdiction, they're under provincial jurisdiction. With regard to these trusts, what would be the final costs on the ground for someone, and what would be the impact?

Mr. Maxime Beaupré: I think what you are referring to your allusion to the Philippines are the money services businesses. People in Canada may remit money abroad and use these services for that. We are not increasing reporting requirements on these types of businesses under this legislation. The change we are making for trusts is only.... The vast majority of trust companies in Canada are already regulated under the act. We only expanded it to clarify that we're also covering a certain type of trust that operates in a different way.

Mr. Robert-Falcon Ouellette: Could you give a final example of that type of trust and what they do?

Mr. Maxime Beaupré: As is indicated under the act in the current wording, in the case of trusts that are regulated in Canada, they are covered by the obligations of the act. Through exchanges with the industry and international assessments, questions were raised as to whether trusts that are incorporated in Canada but not regulated in Canada were covered by the legislation. Here, we are clarifying that they are indeed covered by the legislation.

● (1610)

The Chair: Thanks to all of you.

If you're still not clear on it, we can come back to you in a moment, but we need to stay on the budget implementation act if we can.

Mr. Sorbara, and then Mr. Fergus.

Mr. Francesco Sorbara: I'll pass for now. Thank you, sir.

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus (Hull—Aylmer, Lib.): Thank you very much, and welcome to the House of Commons.

My question follows on the ones my colleague Mr. Ouellette asked about the frequency of communication between FINTRAC and the Department of National Defence and the Canadian Armed Forces.

How often does FINTRAC communicate information to these federal institutions or groups?

[*English*]

Ms. Lisa Pezzack: Well, with the new provision, it's pretty hard to tell how often they would have information that would meet the two tests. I would think that as a sort of context-setting piece, they would probably have an initial discussion to set out what your concerns are and what kind of information would be useful to you. It's very hard to tell at this point without—

[*Translation*]

Mr. Greg Fergus: What is the current frequency? Is there one?

Ms. Lisa Pezzack: No, there isn't one.

Mr. Greg Fergus: Okay.

[*English*]

Ms. Lisa Pezzack: No.

[*Translation*]

Mr. Maxime Beaupré: To the extent that it involves two federal institutions, there may be contact. However, the Department of National Defence and the Canadian Armed Forces are not groups that collect information under the act at this time, and there is no formal communication of information that is protected by law.

Mr. Greg Fergus: If you obtain information that you deem important, will you communicate it to those groups within a certain period of time?

Ms. Lisa Pezzack: I don't think so. Normally, important information is communicated as soon as possible.

Mr. Greg Fergus: Thank you.

[*English*]

The Chair: Thank you.

I do expect that we may get one question on this, and that would be along the lines from the public.... There are privacy issues involved here. What's the protective oversight on privacy issues?

Ms. Lisa Pezzack: The legislation is a very careful balance. The Proceeds of Crime (Money Laundering) and Terrorist Financing Act was designed as a very careful balance between national security and charter rights and privacy. The agency has as one of its primary objectives the protection of personal information. They are subject to regular audits by the Privacy Commissioner to make sure they are keeping those commitments.

The Chair: Are there no further questions on division 19? Okay.

Thanks to both of you for your presentation and for answering questions.

We'll turn to—

Mr. Robert-Falcon Ouellette: Sorry, Mr. Chair—

The Chair: Oh, hold on one second.

Mr. Robert-Falcon Ouellette: —I have one final question.

The Chair: I thought we got you out of here before Mr. Ouellette got started again.

Mr. Robert-Falcon Ouellette: On the provisions with regard to the Canadian Forces, will they be subject to the council or oversight committee for...?

The Chair: You mean the new parliamentary oversight committee?

Mr. Robert-Falcon Ouellette: Yes, for national security.

[*Translation*]

Ms. Lisa Pezzack: Yes, that would be part of it.

[*English*]

Mr. Robert-Falcon Ouellette: Okay, thank you.

I'm sorry, I couldn't remember the term.

The Chair: Thank you again. You'd better get out fast before Robert starts again.

Part 4, division 5, deals with a payment to the Canadian Institute for Advanced Research.

Ms. McDermott is director general of the program coordination branch at Innovation, Science and Economic Development Canada.

● (1615)

Mr. Ron Liepert: Mr. Chair.

The Chair: Yes?

Mr. Ron Liepert: You passed over Shared Services. Is that because it's gone to another committee?

The Chair: Yes, this division 4 has been farmed out to another committee and we have not heard back.

Mr. Ron Liepert: Okay.

The Chair: There are five that have been farmed out. Division 4 is one of them. We'll know tomorrow whether they're going to send it back to us.

Mr. Ron Liepert: You have heard from a couple of them, have you not?

The Chair: We've heard from one.

Mr. Ron Liepert: Okay, so we'll do that one?

The Chair: We'll do that one. In respect of the other four committees now, one was reluctant, but they may take it on and then come back to us. On the infrastructure bank, I think we're going to deal with too, as well as the other committee.

Ms. McDermott, the floor is yours. Thank you.

Ms. Alison McDermott (Director General, Program Coordination Branch, Innovation, Science and Economic Development Canada): Thank you very much.

This next clause is fairly straightforward. It provides authority for the Minister of Industry to make a payment of up to $125 million out of the consolidated revenue fund to the Canadian Institute for Advanced Research, commonly known as CIFAR, for the purpose of establishing a pan-Canadian artificial intelligence strategy. The measures are designed to strengthen Canada's position as a world leader in artificial intelligence research and lay the scientific foundation upon which to build national leadership in artificial intelligence innovation.

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you for being here.

As you surely know, the provision is copied and pasted from Bill C-43, An Act respecting a payment to be made out of the Consolidated Revenue Fund to support a pan-Canadian artificial intelligence strategy. My question isn't necessarily to determine why you decided to include it in Bill C-44, An Act to implement certain provisions of the budget tabled in Parliament on March 22, 2017 and other measures, but rather why you have chosen the legislative approach rather than a budgetary one, which is the regular and fastest way.

If the government believed that it was a priority to adopt this $125 million allocation, and if it had been included in the main estimates, the allocation would have already been adopted.

You're asking this committee to adopt this part of the bill, even though it could have been done in some other way. What motivated your decision to use the legislative process?

Ms. Alison McDermott: Yes, you're right—

[*English*]

The Chair: Ms. McDermott, I am sure you're aware that you don't have to get into some of the political decisions that were made. They would be better asked of the minister on Monday, but you're certainly welcome to answer that question if you think you can.

[*Translation*]

Ms. Alison McDermott: Thank you for that clarification.

I will just mention that this is clearly a priority for the government. A government can sometimes use legislation to outline some of the measures it wants to focus on. There are also implications for the process, which can be faster if the measure is included in a bill. This allows us to reach an agreement with the recipient, which is the Canadian Institute for Advanced Research. There are a number of reasons for using tools like this to put forward a measure.

Mr. Pierre-Luc Dusseault: So the main objective would be to increase the measure's profile.

Ms. Alison McDermott: It could be, yes.

Mr. Pierre-Luc Dusseault: In any case, I will reserve my comments for the minister. However, it seems to me that if we wanted to increase the profile of a measure and ensure that the recipients receive the money, it would be done more quickly if the measure were included in the main estimates.

[*English*]

The Chair: Thank you, Mr. Dusseault.

Ms. O'Connell.

Ms. Jennifer O'Connell: Thank you.

How will this strategy retain and attract the top academic talent, and how does it differ from other initiatives to attract top talent, especially in AI? Could you elaborate a little more on that?

● (1620)

Ms. Alison McDermott: There are a number of measures the federal government has taken in the past. There are programs, for example, run by granting councils that support talent, including the Canada research chairs.

What's a bit special about this type of funding is that it is specifically for the purpose of promoting talent development in AI. A fairly large portion of the funding will go to support research chairs. Funding is to support the recruitment of research chairs from outside Canada and for use in retaining top-quality researchers in Canada so they remain here and continue to have the ability to do their research.

Ms. Jennifer O'Connell: I have a follow-up question. Will the research or the attraction of the talent also deal with policy on AI and not just the technologies? The Council of Europe has a specific AI conversation, and it was astonishing to see the policy fears of some members and some states.

As technology changes, we're going to need policy expertise and experts looking at policies around the world. Will that be a feature of this, or is this strictly on the development of technologies and research?

Ms. Alison McDermott: Certainly, this has sometimes been thought to be a very disruptive technology, with potentially disruptive effects on society and implications for policy. Indeed, some of the funding being provided to CIFAR will be used to support research into the ethical, legal, and public policy considerations associated with artificial intelligence.

Ms. Jennifer O'Connell: Thank you.

The Chair: Thank you.

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you very much for being here.

I am very pleased that the government has invested that amount. Given that it's a one-time amount, do you plan to seek more funding after 2018 so that you can continue the work associated with this initiative?

Ms. Alison McDermott: We anticipate that this investment—which is high, it's true—will allow us to continue our work for five years. As I mentioned earlier, there are other funding tools to support research. The future will tell us to what extent we should seek additional funding and if it is necessary.

Mr. Greg Fergus: Do you think your situation will be similar to that of the Canada Foundation for Innovation, for example?

The foundation was established 20 years ago and received a one-time investment, but it soon became clear that, in order to maintain the value of this investment, periodic and continuous investments would be needed. I imagine it is the same with this initiative on artificial intelligence. Is that right?

Ms. Alison McDermott: It's difficult to predict the future, but I think the current investment will probably prove to be adequate.

[*English*]

The Chair: Does that satisfy everybody's questions?

Mr. Ouellette.

Mr. Robert-Falcon Ouellette: Thank you.

I'm interested in CIFAR. They have 404 researchers in 16 countries. Do you know what some of the requirements will be for CIFAR, the Canadian Institute for Advanced Research, for that funding? At the end of the day, if I look at some of their things, they could fund people outside of the country.

The Chair: Ms. McDermott.

Ms. Alison McDermott: CIFAR receives funds from the federal government to support research networks. Generally they fund Canadian researchers to participate in international networks, so some of the funding is received by researchers outside of Canada. It's very excellence focused. That's their normal program of research.

The investment in artificial intelligence is a separate agreement with CIFAR. We have put in place a number of quite specific requirements in terms of how that funding is spent.

I just want to make sure that I'm accurate, but I believe that all of the funds will be spent in Canada by Canadian institutions, to my knowledge.

● (1625)

Mr. Robert-Falcon Ouellette: What's the difference between CIFAR and the tri-councils? Could you give us a bit of rationale for the difference between the two and why one is perhaps more flexible or less flexible than the other?

Ms. Alison McDermott: They would say they have complementary purposes. The tri-councils have large budgets, or relatively large budgets. The three councils together fund about $3 billion a year of research, of talent development, scholarships, and transitional support, whereas CIFAR's budget—the federal government provides it—is about $5 million a year. In the last budget, it was proposed that it be increased to $7 million a year. That would represent about a third to a quarter of its total support. It has funding from other levels of government as well as the private sector.

CIFAR's work is very elite focused. The councils tend to focus on a range of researchers—all excellence based, but emerging researchers and a different tool kit. CIFAR's research tends to be in support of highly elite research. It's about getting Canadians to participate in international research networks at a very high level. It's about raising the game for top Canadian researchers, but also contributing to knowledge that will benefit Canadians and, in fact, the world.

It's just a slightly different set of activities.

Mr. Robert-Falcon Ouellette: I have one short final question. We provide $125 million to CIFAR. Who owns the property rights to the knowledge that is produced? Is it public or is it private?

Ms. Alison McDermott: It's actually a complicated question. We have given CIFAR the requirement to develop an intellectual property policy in consultation with the nodes and institutions that will be recipients of this federal funding.

As you may be aware, institutions across the country have their own individual IP policies. There's actually evidence to support many different types of strategies. It's also notable that, in terms of what the research tells us about intellectual property policies, often they would differ by sector or industry, and that, depending on the stage of the research, whether it's very early stage or late stage, different types of intellectual property protection makes sense.

It's actually a fairly complicated task that we've given to CIFAR to work out an intellectual property policy that will be optimal for managing this large sum of money.

Mr. Robert-Falcon Ouellette: Potentially Canada could have property rights over some of the knowledge produced, the Canadian government or the Queen.

Ms. Alison McDermott: In many cases it would be individual universities that house the researchers who are doing some of this work. That is, many universities have those kinds of policies. Most of those policies are designed to ultimately facilitate some form of commercialization. Usually there are mechanisms for that property to be transferred or licensed out and used.

Obviously, the government is very concerned about making sure that the benefits of this technology support Canadians. At the same time, I think there's interest in making sure that the research is advanced and not hampered by those kinds of policies.

The Chair: Thank you, all.

Thank you, Ms. McDermott, for your in-depth answers.

We will now turn to part 4, division 6, dealing with financial assistance for students. For that, we have representatives from Employment and Social Development Canada.

Mr. Rahman is the acting director general, Canada student loans program. Mr. Côté is director of policy and research, Canada student loans program. Mr. Moore is director, program design, Canada education savings program, and Ms. Nagy is senior strategic planning adviser, Canada education savings program.

Welcome. I'm not sure who is making the presentation.

Mr. Rahman? Go ahead.

● (1630)

Mr. Atiq Rahman (Acting Director General, Canada Student Loans Program, Department of Employment and Social Development): Thank you, Chair. Yes, I will.

I'm from the Canada student loans program. I will cover clause 116 that is related to the Canada Student Financial Assistance Act, and then my colleagues from the Canada education savings program will cover clauses 117 and 121. Those are related to the Canada Education Savings Act.

With respect to clause 116, as I said, this is a proposed amendment to the Canada Student Financial Assistance Act that currently limits who can be a qualifying student to Canadian citizens, permanent residents as defined in subsection 2(1) of the Immigration and Refugee Protection Act, and protected persons within the meaning of subsection 95(2) of that same act.

As a result, persons who are registered as Indians under the Indian Act but who are not Canadian citizens are not eligible for student financial assistance under the Canada Student Financial Assistance Act. Amendments to this act will be introduced to provide that persons registered as Indians under the Indian Act will be eligible for student financial assistance, regardless of their citizenship.

That's clause 116. I will now pass to my colleagues from the education savings program.

The Chair: All right. Mr. Moore, the floor is yours.

Mr. David Moore (Director, Program Design, Canada Education Savings Program, Department of Employment and Social Development): Thank you very much.

I'll start and discuss clauses 117 to 121 of part 4, division 6.

By way of context, I'd like to note the following. Canadians use registered education savings plans, RESPs, to save for a child's post-secondary education. RESPs grow tax-free until they're withdrawn to pay for full-time or part-time education at a community college, university, CEGEP, trade school, or apprenticeship program. The Government of Canada offers two different education savings incentives. The Canada education savings grant is available to all Canadians and is based on contributions. In addition, low- and middle-income Canadians get an additional 10% or 20% based on contributions. For the Canada learning bond, which is available for low-income Canadians, no personal contributions are required.

Under the current legislation, requests for the Canada learning bond and the additional amount of the Canada education savings grant, submitted by anyone other than the primary caregiver—the person principally responsible for the care of the child—are declined. So the Canada Education Savings Act, which governs the administration of these education savings incentives, is being amended to permit the primary caregiver's co-habiting spouse or common law partner to apply for the Canada learning bond and the additional amount of the grant on the child's behalf.

It is anticipated that by allowing the spouse or the common law partner of the primary caregiver to also apply for these education savings incentives on behalf of the beneficiary, fewer education savings incentives requests will be declined, and there will be a resulting increase in the take-up of the Canada learning bond. It should be noted that the eligibility requirements for the Canada learning bond and the additional amount of the Canada education savings grants are not being changed.

The Chair: Thank you both.

We'll start with Mr. Sorbara.

Mr. Francesco Sorbara: With regard to the RESP, the Canada learning bond, and the Canada education savings grant, could you comment on their uptake by Canadian families? I have an RESP for my two daughters. How will any of these changes here expand the participation?

Mr. David Moore: The take-up rate for the Canada education savings grant is 50.1%, based on 2015 numbers, and for the Canada learning bond, it's 33.1%. By amending the legislation, we anticipate that we could increase the take-up by approximately 54,000 new RESPs, or roughly 9,000 Canada learning bonds and 46,000 additional Canada education savings grants.

● (1635)

Mr. Francesco Sorbara: Thank you.

The Chair: Are there any more questions over here?

It's noted in subclause 121(1) that the provision will come into force on August 1, 2018. Why the delay? If it will improve the ability to gain an education, why not bring it in this year?

Mr. Atiq Rahman: The way the student loans program works is that it is delivered through our provincial and territorial partners. The student loan applications will have to be modified slightly, and that can't be done until the next fiscal year.

The Chair: Yes. So it's a matter of consultation.

Are there any more questions on this section, members? Is there anything else you want to add?

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: I'm trying to understand. You are extending the registered education savings plan so that a common-law partner can also open an account on behalf of the child. If two people apply, would there be two accounts for the same child then?

[*English*]

Mr. David Moore: For RESPs for the Canada education savings grant, there can be multiple accounts open—by a grandparent, let's say, or an aunt or uncle, or a spouse—but the amount of the grant doesn't multiply. There's only a certain amount for each child. We monitor that through the systems we have. For the Canada learning bond, either the primary caregiver or the common-law partner will have to indicate one RESP that the Canada learning bond can go into.

The rules are a little bit different for both, but we make sure that we do not overpay the amounts of the grant or the bond.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

[*English*]

The Chair: Are you satisfied? Okay.

Thank you, folks, for your presentations and for answering questions.

We'll now turn to part 4, division 8, which deals with the Investment Canada Act.

From Innovation, Science and Economic Development Canada we have with us Patricia Brady, director general, investment review branch; and Jonathan DeWolfe, director, policy and outreach, investment review branch.

Welcome, Patricia and Jonathan. Who will start?

Ms. Patricia Brady (Director General, Investment Review Branch, Innovation, Science and Economic Development Canada): I'll start. Thank you.

Good afternoon. We're here to speak to part 4, division 8. It proposes two changes to the Investment Canada Act.

The first change, in clause 192, is to raise the dollar value threshold that triggers the requirement for a net benefit review of a foreign acquisition of control of a Canadian business to $1 billion. Currently an acquisition by a non-Canadian of a Canadian business that's valued at or above $800 million must be reviewed under the Investment Canada Act for its net benefit to Canada and approved by the Minister of Innovation, Science and Economic Development before it's allowed to go ahead.

There is a schedule in the act currently for this threshold to rise to $1 billion on April 24, 2019, roughly two years from now. The amendment in clause 192 would accelerate that increase so that the threshold would move to $1 billion upon the coming into force of the budget implementation act. That would be two years ahead of the already planned schedule.

The higher $1-billion threshold will apply to investments by private sector investors. There is a lower threshold in the act for investments by state-owned enterprises. That threshold right now is $379 million, and this amendment will not change that threshold. In addition, the amendment won't change the government's ability to review investments for national security concerns. Any investment by a non-Canadian now can be reviewed under the act for national security concerns. There's no dollar value threshold for that review, and this amendment will not change that.

The second proposed change to the Investment Canada Act is in clause 193. That's to require annual reporting on the administration of the national security review provisions in the ICA. Currently the Minister of Innovation, Science and Economic Development is required to report annually on the administration of the net benefit review provisions, but the national security review provisions are explicitly exempt from that reporting requirement. This amendment would remove that exemption to require annual reporting on how national security review provisions have been used.

That's an overview of the changes in clauses 192 and 193. We're happy to answer any questions.

● (1640)

The Chair: We'll start with Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

As you know, the monetary threshold in the current version of the Investment Canada Act goes from $600 million to $800 million and then to $1 billion. Now you are proposing to set it immediately at $1 billion. I haven't studied the details, but will you keep the same rate of increase? Will it continue to increase or will the $1 billion threshold remain the same until further notice?

Ms. Patricia Brady: The threshold will remain at $1 billion for the moment, but a provision in the bill sets out that the trigger threshold be increased based on the—

[*English*]

growth in GDP, annual inflation. There is an increase every year based on inflation, but it's a smaller increase. For example, last year the state-owned enterprise threshold was $375 million. This year, according to the formula for the increase in GDP, it went up to $379 million.

[*Translation*]

Mr. Pierre-Luc Dusseault: For investors in the World Trade Organization, or WTO, countries, the threshold will remain at $1 billion. Will it increase according to inflation?

Ms. Patricia Brady: Yes, the threshold will increase with inflation, but the increase isn't yet planned.

Mr. Pierre-Luc Dusseault: I would also like to know whether any transitional measures have been taken. If, for example, an investor wants to buy a business in Quebec, and it is valued at $600 million or $700 million, could he be advised to wait for the bill to pass, for the threshold to increase to $1 billion? I guess so, if the investor has good lawyers. Is a transitional measure in place for proceedings already under way, negotiations already under way, to acquire a Canadian company?

[*English*]

Ms. Patricia Brady: Yes, there are transitional measures in the act. Right now the threshold is $800 million.

[*Translation*]

I heard that it was $600 million, but it's actually $800 million.

[*English*]

For applications that have already been filed, so where there's an application for review filed and it's based on the current enterprise value of the Canadian business that is to be acquired, if the enterprise value is below $1 billion and a decision has not yet been made when these amendments come into force, then the application would be deemed not to have been filed. Essentially, it will require a recalculation of what the enterprise value is at the time these amendments come into force, which for public companies is based on market capitalization. They'll do that recalculation. If at that time the Canadian business is valued at more than $1 billion, then of course it would be subject to review; if it's less than $1 billion, it would not be subject to review.

[*Translation*]

Mr. Pierre-Luc Dusseault: My last question will allow you to respond to criticism of this measure from some people who are concerned about the departure of Canadian headquarters. I have heard more about it in Quebec, being from that province, but I am sure that the same concerns exist elsewhere.

What do you tell Canadians who are worried that head offices will disappear in favour of foreign countries? Given the increase in the threshold from $800 million to $1 billion, they believe that this could accelerate this loss of headquarters.

[*English*]

Ms. Patricia Brady: We're certainly aware of those concerns. What I would say is that Canada's policy for the last number of years has been to welcome foreign investment because of the benefits in general that it brings in terms of higher-paying jobs, innovation, technology, and management expertise spillover, etc. There have been a number of initiatives over the past many years to increase foreign investment to Canada because of those investments, and this is following on that policy position.

● (1645)

The Chair: Thank you, Mr. Dusseault.

Mr. Deltell.

Mr. Gérard Deltell: Thank you, Mr. Chair.

[*Translation*]

Ladies and gentlemen, welcome to your House of Commons.

[*English*]

I would like to talk about national security. In this omnibus bill we made some changes on this issue. I would like to hear from you about those changes.

Ms. Patricia Brady: The change related to the national security review provisions is just to require annual reporting on the administration of those provisions by the Minister of Innovation, Science and Economic Development. Right now there's very little public information about national security reviews other than what's in the law. This change would require annual reporting on how the provisions have been used each year.

We also issued guidelines in December 2016. That was not part of a legislative amendment, but those guidelines provided more practical guidance to investors and Canadians on the national security review process, and this is part of that transparency-related initiative.

[*Translation*]

Mr. Gérard Deltell: No one is against transparency, but when it comes to national security, that's another matter. What studies have your department or the division of the Department of Finance done to make that decision?

[*English*]

Ms. Patricia Brady: To be clear on what would actually be reported in the annual report, it would be high-level information on the number of reviews that have been conducted. It would not give information on the particular investments involved, to protect both national security and confidentiality. Numbers of reviews would be provided without specific information on the investor or the national security concern. The outcomes of those reviews would be provided at a high level.

This was actually done. There's authority for this under the act to be done voluntarily, but it's not required. Last summer in the annual report, the government issued that information on past reviews. It became public in the summer that eight formal national security reviews have been conducted under the Investment Canada Act, and the outcomes of those reviews at a high level were also provided. In five instances, the investments were either blocked or divestiture was ordered, and in two instances the investments were allowed with conditions.

It would be that type of reporting that would be envisioned going forward, always mindful of the need to obviously not disclose information that would compromise national security or confidentiality.

Mr. Gérard Deltell: As we all recognize, when we talk about national security we are walking on thin ice.

Do you have a clear definition in your department about what is national security?

Ms. Patricia Brady: The Investment Canada Act does not define national security. Cabinet is the decision-maker on the national security review portion of the act. It's left fairly open-ended to recognize the fact that threats to national security can evolve over time, and so to provide the flexibility to cabinet to recognize that national security threats may evolve. It's hard to fix them in time.

Mr. Gérard Deltell: Do I understand correctly that the last call will be made by the cabinet?

Ms. Patricia Brady: That's right. The cabinet has the authority to make the decision on whether or not to order a formal review, and the language in the act is that it has the authority to take any measures that it considers advisable following a review to protect national security.

Mr. Gérard Deltell: Does it register somewhere instead of the cabinet?

[*Translation*]

There is a summary of the cabinet meetings.

[*English*]

Can we find it somewhere when the cabinet tables a decision that this is national security and this is not? Can we find it, not daily, but not have to wait 40 years? I think it's 40 years before we can know what has been said in the cabinet.

Ms. Patricia Brady: We would never be able to disclose what was said in cabinet because it's a cabinet confidence. The reporting would be done annually on the numbers of reviews, but certainly not the details of cabinet's decisions.

Mr. Gérard Deltell: Thank you.

The Chair: That report is tabled with who, the minister?

Ms. Patricia Brady: It's the Minister of Innovation who has the requirement under the act to make it public. The way we do that is to put it on our website.

The Chair: Okay, thank you.

I didn't catch the number. How many reviews were there last year?

Ms. Patricia Brady: Not last year, sorry, I wasn't clear about that. From 2009 when the national security review provisions actually came into force until 2015, there had been eight over that total period. Going forward, we would report on a yearly basis.

● (1650)

The Chair: Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: First of all, I would like to make a comment. I believe the provisions in this amendment to the bill are good. This reflects the scale of commercial transactions in a $2-trillion economy. It is only natural that we can review transactions valued at $1 billion.

Ms. Brady, we had the opportunity to work together. I have a brief question for the sake of transparency and for the benefit of my colleagues here. Can you specify how many reviews were undertaken or completed in 2015 and 2016, not just since 2009, but more recently?

Ms. Patricia Brady: Are you talking about net benefit or national security reviews?

Mr. Greg Fergus: I'm talking about net benefit reviews.

Ms. Patricia Brady: I think 15 reviews were done in 2015. It's in our annual report.

[*English*]

If we're looking at the numbers in the last two years, there have been 28 acquisitions of control that were over $800 million, which is the current threshold. We looked at the number of those that were over $1 billion and there were 20 that were over $1 billion.

Based on historical numbers you would see that if the threshold had been $1 billion, then there would be about one-third fewer reviews, but of course we can't predict the number and values of future investments. By way of example, that would be the impact.

[*Translation*]

Mr. Greg Fergus: Thank you very much.

[*English*]

The Chair: Mr. Ouellette.

Mr. Robert-Falcon Ouellette: I'd just like to get a better idea or a handle of the evolution of the threshold. I just wonder how long the threshold has existed in legislation, and if you have any statistics you could provide the committee in the future—perhaps tomorrow or the next day—where I could actually see the evolution of the amount required. I'd find that really very interesting, and it would give a good consideration of where we're going.

Ms. Patricia Brady: On the evolution of the threshold, the Investment Canada Act, in its current incarnation, has been around since 1985.

Jonathan is more of an historian on this than I am. I can go as far back as 2008, when the scheduled increase was first implemented. In 2008, the threshold was $295 million. The Competition Policy Review Panel is an expert panel charged with reviewing all of Canada's competition laws and frameworks with a view to making recommendations to make Canada more globally competitive. At that time, the Competition Policy Review Panel did work and recommended that the threshold in the Investment Canada Act be increased from around $295 million to $1 billion.

Its recommendation was that it happen immediately. That was based on its consultations across the country and on economic studies, etc., that assessed that Canada might have been putting itself at a disadvantage in competing for foreign direct investment because we had a net benefit review, and because the threshold was relatively low compared to the value of our businesses at the time.

The recommendation was made then, and legislation was passed in 2010 to introduce this scheduled increase to $1 billion. The policy then was to, again, remove a regulatory barrier for smaller transactions and focus net benefit reviews on those transactions that would be the most significant to Canada's modern economy. That was put in for those reasons. The initiative today is just to accelerate that final step in the increase to $1 billion as part of broader initiatives, some of which are in this budget implementation bill, to increase foreign investment and attract more foreign investment to Canada.

● (1655)

Mr. Robert-Falcon Ouellette: It's been a decade and we're there.

Thanks.

The Chair: Thank you both for your presentation.

Thank you, again, Mr. DeWolfe and Ms. Brady.

Turning, then, to part 4, division 9, “Funding for Homecare Services and Mental Health Services”, from Health Canada, we have Ms. Voisin; and from Finance Canada we have Mr. Rajabali.

Whoever wants to begin, the floor is yours.

Ms. Jocelyne Voisin (Executive Director, Health Accord Secretariat, Strategic Policy Branch, Department of Health): Thank you, Mr. Chair.

Part 4, division 9, relates to the government's commitment in budget 2017 to work with provinces and territories to strengthen the health care system to adapt and innovate and address new challenges. It confirms the offer that was tabled by the federal government on December 19, 2016 to provide $11.5 billion over 10 years to the provinces to support key priorities under a new health accord including $11 billion to be provided directly to the provinces and territories to support improvements for mental health and home care services.

Clause 195 outlines the authorities and the conditions to flow funds for the first year of this $11-billion commitment, in 2017-18 to provinces and territories, as an immediate down payment on investments in home care and mental health. That is $200 million for home care services and $100 million for mental health services. Those would be allocated on an equal per capita basis.

As set out in the proposed amendment, a province or territory will receive its share of this funding in 2017-18 if the federal Minister of Health notifies the Minister of Finance before December 15, 2017 that, in her opinion, that province or territory has accepted the federal proposal to strengthen health care that was tabled at the finance and health ministers' meeting on December 19, 2016.

This December proposal envisaged a pan-Canadian approach and that provinces and territories would work with the federal government to determine how to measure and report on results and performance to improve these services to Canadians. The Minister of Health is now engaging with her provincial and territorial colleagues on the details of how this future funding would flow. She is also working with them to develop a multilateral framework for the 10 years of funding, which would include commitments to develop metrics and report to citizens, as well as outline their key priorities for action.

This multilateral framework would then be used as the basis for individual bilateral agreements with each of the provinces and territories for funding for the next nine years.

I'd be happy to take your questions.

The Chair: Go ahead, Mr. Sorbara.

Mr. Francesco Sorbara: Thank you, Mr. Chair.

Good afternoon. Earlier today, I had the the privilege of speaking on Bill C-44 in the House. I spoke about the agreement that was reached by the Minister of Health to deliver health care dollars and also funds for mental health to the Province of Ontario over a 10-year commitment. I'm quite proud to say that was signed and I was quite pleased to see that occur.

In terms of accountability mechanisms, such as reporting requirements that have been built into bilateral health care agreements, can you comment on any such agreements with the provinces?

Ms. Jocelyne Voisin: The minister has just started discussions now, so we're engaging with the provinces and territories on what the multilateral framework would look like. First, we're looking at a pan-Canadian approach that would have common priorities and a commitment from all the provinces and territories that they would work with us to develop indicators. From there then would flow bilateral funding agreements that would include the specific indicators on which they would report.

The provinces are at different stages, in terms of progress in delivering mental health and home care services, and in some cases, we don't have pan-Canadian data yet, so those indicators need to be developed in collaboration.

Mr. Francesco Sorbara: Thank you, Mr. Chair. I'll leave my questioning there.

The Chair: Is there any further questioning?

Yes, Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you for your testimony.

There is a provision in section 9 to determine the amount allocated to each province, I assume. It includes three criteria, A, B and C, with respect to home care and mental health services. Can you determine now the total amount that will be allocated in the coming year because of this provision?

● (1700)

[*English*]

Mr. Omar Rajabali (Chief, CHT/CST and Northern Policy, Federal-Provincial Relations and Social Policy Branch, Department of Finance): The amounts are actually the formula that's provided and the legislation indicates how it would be calculated for each province and territory. I don't have the numbers in front of me, but the legislation illustrates how that is to be calculated.

[*Translation*]

Mr. Pierre-Luc Dusseault: Okay. Are these amounts somewhere in the bill? I don't see them in section 9.

[*English*]

Mr. Omar Rajabali: It's not in the act per se. The formula is in the act for each province and territory, so it's just a pro-rated share of the population per province, as published by Statistics Canada on its website relative to the amount for home care and mental health funding.

[*Translation*]

Mr. Pierre-Luc Dusseault: It applies only to next year, not this year. Is that right?

[*English*]

Mr. Omar Rajabali: That is correct, yes. That is because the legislation is only for the 2017-18 fiscal year and not the balance within the remaining nine.

[*Translation*]

Mr. Pierre-Luc Dusseault: So, for the next nine years, are negotiations under way to reach a long-term agreement, not just for one year at a time?

[*English*]

Mr. Omar Rajabali: I think that's fair, yes.

That's what Jo was talking about. She was indicating that a bilateral agreement will be established.

That being said, the press releases that have been issued for each of the 12 jurisdictions that have accepted the federal offer and the global amount that is provided to each province or territory—or is expected to be provided to each province of territory—are, I think, actually spelled out on the Health Canada website.

[*Translation*]

Mr. Pierre-Luc Dusseault: If Parliament approved these expenditures, which are supposed to be spent on home care and mental health services, could we, parliamentarians, ensure that this really is the case for the money allocated to each province? For example, if you do the calculation using your formula "A × (B / C)", is there a way for parliamentarians to know the exact amount for 2017-18 for Quebec? Can we also know whether the money spent actually went to home care and mental health services?

Ms. Jocelyne Voisin: Are you talking about provisions in the bilateral agreements?

Mr. Pierre-Luc Dusseault: Actually, are there accountability mechanisms?

If, for example, $500 million is sent to the Province of Quebec, will there be mechanisms to ensure that all this money has been spent to cover the costs of home and mental health care services?

Ms. Jocelyne Voisin: While bilateral agreements still need to be negotiated with the provinces and territories, our goal is to have mechanisms in place to account for expenditures to citizens. We can, for example, ask the provinces to publish the bilateral agreements on their website. The bilateral agreements will also contain the amounts that the provinces will receive each year. Canadians will be able to see the exact amounts.

Mr. Pierre-Luc Dusseault: Have you—

[*English*]

The Chair: This would eventually show up in the public account documents, would it not? The figures would be available in the public accounts documents after the fact.

Mr. Omar Rajabali: In the context of transfers, because this is a legislative transfer, I would to have to verify, but yes, that would be my expectation.

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Have you done a constitutional analysis of this aspect of federal health spending when it is directly allocated to specific targets? We will be called upon to pass this legislation, and we want to ensure that it is constitutional.

If we say that the federal government is going to spend a certain amount—of course, I don't have the figure—on home health care, it has to be constitutional, meaning that the federal government has the right to do that. As parliamentarians, we have the right to say that it will spend that amount on that part of your health care system.

Can we be reassured in this regard? The provinces raise this issue, of course. As you know, there was some reluctance in the health negotiations. In fact, the federal government wanted to decide where the money would be spent, which could be seen as an encroachment on the powers of the provinces to decide where they were going to spend their money on health care. Can you reassure the committee in that regard?

● (1705)

[*English*]

Mr. Omar Rajabali: In the context of the budget process, we did of course involve the constitutional law office of the Department of Justice.

That being said, 12 of the provinces and territories did accept, including Quebec. Of course, in the context of the Quebec press release—I don't have it in front of me, so I apologize—I believe it actually did talk about respecting the principles of the asymmetrical agreement that was in place in 2004.

[*Translation*]

Mr. Pierre-Luc Dusseault: So you're convinced that there will be no constitutional problem if we pass this bill.

[*English*]

Mr. Omar Rajabali: That's my understanding, yes, based on the advice we got.

[*Translation*]

Mr. Pierre-Luc Dusseault: I'm finished, Mr. Chair.

[*English*]

The Chair: Thank you.

In Bill C-44 in this area, the formula *a* times *b* divided by *c*, there is a foundation amount for each province in both home care and mental health so that some of the smaller provinces that are less populated don't get injured by just going to per capita. Is that correct?

Mr. Omar Rajabali: What do you mean by foundation amount? Do you mean a base amount?

The Chair: The base amount, $200 million in the case of home care and $100 million in the case of mental health. I assume that's over the time frame.

Mr. Omar Rajabali: The $200 million is over one year. Maybe I wasn't clear before. To be clear, the $200 million would be divided on an equal per capita basis. For example, if a smaller province had a smaller population, they would receive a smaller share of that $200 million.

The Chair: Then there isn't a foundation amount like there is on some of the infrastructure programming and overall health care in the formula.

Mr. Omar Rajabali: The explanation you gave relative to infrastructure doesn't exist.

The Chair: That's fine. I think that's it for questions. Thank you both for your presentations.

We will turn to division 10, which is the Judges Act.

We calculated that at the rate we're going, to get through all of the part 4 divisions to 21, it will take us about another seven hours to get there. We have an hour and twenty minutes, plus another hour on Monday. We have two hours and twenty minutes. I'll remind members to keep questions on topic and as brief as possible so that we can hopefully get through all part 4 divisions. This is something we always run into. It is a good way for members to gain information beyond the act itself, but just keep time frames in mind.

Turning to part 4, division 10, the Judges Act, we have from the Department of Justice, Ms. Adair Crosby and Ms. Anna Dekker.

Ms. Crosby is senior counsel and deputy director, judicial affairs, courts and tribunal policy; and Ms. Dekker is counsel, judicial affairs, courts and tribunal policy.

The floor is yours.

Ms. Anna Dekker (Counsel, Judicial Affairs, Courts and Tribunal Policy, Public Law Sector, Department of Justice): Thank you very much.

I'm here today to talk about the proposed division 10 amendments. They touch on two aspects of the federal responsibility under section 100 of the Constitution Act, 1867, that Parliament must fix and provide the salaries and benefits of superior court judges.

The first aspect is that many of these amendments represent the final step in the constitutional process required for setting judicial compensation, which includes review and non-binding recommendations by an independent, objective, and effective commission. Those recommendations were delivered to the Minister of Justice in June 2016. The government publicly responded in October 2016. The proposed amendments would implement that public response through Judges Act amendments. This is required in order to safeguard the principle of judicial independence, which includes financial security.

The second part of the amendments, which my colleague Adair will speak to, are Judges Act amendments that propose to increase the complement of superior court judges.

Some of the highlights from the judicial salaries amendments are clauses 196 to 210, which would simply update the judicial salaries in the Judges Act as of April 1, 2016, which is in keeping with the time frame of the commission's recommendations. Clause 198 would increase the salary of the chief justice of the Court Martial Appeal Court of Canada to be equal to the salary of other chief justices of superior courts, and it would also propose to increase the salary payable to the prothonotaries of the Federal Court from 76% to 80% of the salary of a Federal Court judge.

Clause 213 proposes to amend the start date of the next quadrennial commission and subsequent quadrennial commissions from October 1 to June 1.

Clauses 215 and 216 propose an annual allowance of $3,000 for the prothonotaries, and also propose reimbursement of 95% of a prothonotary's representational expenses before the quadrennial commission.

Clauses 218 and 221 propose changes for certain chief justices and senior judges in recognition of their years of service for carrying out their managerial responsibilities.

Clause 220 would extend existing removal allowances to the judge of the Supreme Court of Newfoundland and Labrador, who is resident in Labrador in certain circumstances.

Clauses 224 to 226 are technical amendments: for example, to correct discrepancies between French and English language of the provisions that govern the division of annuities on conjugal breakdown. Also, they would ensure that financial support orders can be enforced on all applicable Judges Act payments.

I'll turn it over to my colleague.

● (1710)

Ms. Adair Crosby (Senior Counsel and Deputy Director, Judicial Affairs, Courts and Tribunal Policy, Public Law Sector, Department of Justice): Thank you, Anna.

I will give you my abbreviated version, since time is of the essence today.

As Anna mentioned, this is the second element of division 10, which essentially provides for the establishment of 27 new judicial positions in the superior, trial, and appellate courts across the country. These increases in the judicial complement are intended to address workload pressures facing many of the courts, including those arising as a result of the Supreme Court of Canada's decision in Jordan.

If you refer to clause 208, you'll see the breakdown: there will be an increase of 11 judges to the Court of Queen's Bench of Alberta, and one judge to the Yukon Supreme Court. These amendments are to respond to needs that have to date been demonstrated.

The balance of the amendments found in clause 211 authorize the creation of a pool of judges, which would comprise 12 new judges that can be appointed to the provincial superior courts, and three new judges to the provincial appellate superior courts. These 15 positions will basically be allocated across Canada to help ensure that needs in those jurisdictions are met.

We are working right now with our colleagues in the various jurisdictions to develop the sort of objective data that will be necessary to demonstrate that there is a need there. At that point, the appointments would be made.

That's my short version. I'm happy to take questions.

The Chair: Thanks to both of you.

We're starting with Mr. Ouellette.

Mr. Robert-Falcon Ouellette: I don't know how many lawyers are here, but I really find it obscene, this amount that a judge makes. It's $314,000 a year. It's a king's ransom.

I am actually disgusted to see it. I hope Ms. McLachlin hears me, because I don't think it's fair in our Canadian society. The judges aren't even in the 1%—they're in the top 0.1% of people in Canada.... I don't think that in our just society it's something that we should have happening. I see that judges are getting a raise. I notice that military personnel haven't received a raise in over five years, yet for judges we continue to see a raise.

That's my comment. That's all I have to say.

Anyway, may they continue to be independent.

● (1715)

The Chair: I know that the folks here can't respond to that question.

Mr. Robert-Falcon Ouellette: I know.

The Chair: You've made your point, Mr. Ouellette.

Is there anybody else on this?

Mr. Fergus.

[*Translation*]

Mr. Greg Fergus: Thank you, Mr. Chair.

I have a quick question.

Among the new judicial positions in the superior courts, is there an estimate of the number of Quebec judges that will be appointed, meaning the number of positions available for Quebec?

Ms. Adair Crosby: I'm sorry; I fully understood the question, but I will respond in English.

[*English*]

Basically, no positions have been formally allocated in the legislation. If you open up the Judges Act, you will see a certain number of positions for every court. The 15 pool positions are those that would be allocated to Quebec—some or all of them, depending on the need that Quebec is able to demonstrate.

One thing I would like to point out is that there has been a lot of press about the number of vacancies in Quebec. In fact, as of last week, there are only two vacancies. We hear upwards of 14 or 16 vacancies. Those positions don't exist until this legislation has been passed. So there are two vacancies.

Then there would be, of course, a maximum of six additional appointments that the minister could make, based on the additional positions that have been authorized in the provincial legislation.

Mr. Greg Fergus: Just for precision, then, there are two positions vacant in Quebec, and we've just recently filled a number as well, but there's also the potential for an additional six?

Ms. Adair Crosby: Is it six or eight....? It's eight.

Ms. Anna Dekker: I believe it's eight.

The administration of justice is divided between the provinces and the federal government, so Quebec has created those positions in their provincial legislation where they constitute their courts, but the salaries have to be authorized through the Judges Act amendments. That was what my colleague was talking about, that there will be an objective analysis of the need and they will demonstrate that. Then the pool positions could be allocated.

Mr. Greg Fergus: Thank you.

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you, Mr. Chair.

I would like to thank the witnesses for being here.

I would like to speak quickly about salary adjustments based on the average weekly earnings index for all economic activities. Can you tell us what the percentage of that index has been in the last few years? What does that mean? Is it 0.1% or 2.3%? How many does this index revolve around?

[*English*]

Ms. Anna Dekker: The most recent indexation was on April 1, 2017, and that was 0.4%. The salaries would have increased by 0.4%.

I do have the numbers for recent years. For example, in 2016 it was 1.8%. Going back, it was 2.6%, 1.8%, 2.5%, 2.5%, and 3.6%. It has ranged in the last several years, from a high of 3.9% to a low of 0.4%, which was the most recent.

[*Translation*]

Mr. Pierre-Luc Dusseault: I know it's in the Judges Act and that it may not be in Bill C-44. But do you use this index and not another?

[*English*]

Ms. Anna Dekker: The IAI, the industrial aggregate index, has been in place since 1981. The issue was that in order to ensure independence and financial security, there had to be some kind of way to guard against erosion of salaries on the basis of inflation. The IAI was chosen because at the time it was the same one that MPs' salaries were indexed against.

[*Translation*]

Mr. Pierre-Luc Dusseault: So you're saying that the decision to use this index instead of the consumer price index, which is more common, was made to protect independence.

[*English*]

Ms. Anna Dekker: I can't speak to what was debated at the time, but they're protecting against erosion. That would have been one option, I'm sure.

Maybe Adair has greater historical memory of this.

Ms. Adair Crosby: Unfortunately, I do.

The IAI was picked at the time because it actually reflected wages. It was an attempt to provide an indicator that roughly approximated increases in wage levels. As this index is based on salary, it was simple as that.

At the most recent commission, the government did attempt to assert that CPI would be a more appropriate guard against inflation than the IAI. The commission recommended against that, and recommended that IAI be preserved. There has been a rough relationship over a number of years between the IAI and the CPI. Some years it's higher, some years it's lower, but if you look at the graph over time, it's roughly approximate. This year it was a loss, for sure. The CPI exceeded the IAI.

● (1720)

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you. That answers my question.

[*English*]

The Chair: Okay.

Thank you very much for your presentation, Ms. Dekker and Ms. Crosby. You're released.

We'll turn to part 4, division 11, “Support for Families: Benefits and Leaves”.

From Economic and Social Development Canada, we have Ms. Astravas, who's the director, special benefits, employment insurance policy; Mr. Brown, who's the executive director, employment insurance policy; and Ms. Hill, who's senior director, strategic policy and legislative reform, labour program.

Mr. Brown, the floor is yours.

Mr. Andrew Brown (Executive Director, Employment Insurance Policy, Skills and Employment Branch, Department of Employment and Social Development): Thank you, Chair, for the introduction.

I'll get right into my opening remarks.

[*Translation*]

I will address the proposed amendments to the Employment Insurance Act to provide more flexibility for parents and more inclusive benefits for caregivers.

[*English*]

Employment insurance is Canada's largest labour market program. The program provides temporary income support when workers lose their job through no fault of their own, known as regular benefits, and in specific situations that may occur over the course of one's working career, known as EI special benefits.

EI special benefits play an important role when helping individuals balance work-life responsibilities. They include maternity, parental, and caregiving benefits as well as sickness benefits. First introduced in 1971, the special benefits have evolved and expanded over time. In 2015-16, over 379,000 Canadians received maternity, parental, and caregiving benefits representing a total of $3.8 billion.

Budget 2017 introduces a number of changes to provide additional flexibility and support for families, which I'll briefly outline.

First, the bill introduces a new 15-week EI caregiving benefit. Eligible caregivers would be family members who are away from work to provide care for a critically ill adult, such as someone recovering from a serious accident or illness. In the unfortunate event that a family member's condition gets worse and deteriorates to an end-of-life situation, caregivers would be able to combine this new benefit with the existing compassionate care benefit.

Second, the bill provides more flexibility for families by allowing any family member who is eligible for EI—as opposed to only parents—to access the existing 35 weeks of EI support to provide care for a critically ill child.

Third, in order to enhance access to all EI caregiving benefits, medical doctors and nurse practitioners would be allowed to issue the required medical certificates. This measure would enhance access for Canadians, especially those living in rural or remote regions. These measures related to caregiving are expected to benefit up to 24,000 families annually.

The bill also introduces changes to EI parental and maternity benefits in order to offer both biological and adoptive parents more choice and flexibility according to their family needs.

Fourth, the bill proposes new flexibility for parents welcoming a newborn or a newly adopted child. Parents will have a choice to receive standard-duration parental benefits as are currently provided, up to 35 weeks paid at 55% of average weekly insurable income over a 12-month period, or to choose the extended-duration parental benefits over 18 months. Those would be paid for up to 61 weeks at a lower benefit rate of 33%.

Fifth, women would also have more flexibility to access EI maternity benefits as early as 12 weeks before the expected week of birth, as opposed to the current eight weeks prior to the expected week of birth. Providing earlier access to maternity benefits would allow pregnant workers to better take into account their particular health and workplace circumstances.

Taken together, these changes will have a positive impact on women in particular and offer them more choices. Indeed, in 2015, among recent mothers with insurable employment, 87% received maternity or parental benefits across Canada.

The bill ensures that the same changes that apply to insured workers would also apply to self-employed workers who voluntarily participate in the EI program by paying premiums.

The bill also adapts existing EI rules to clarify when and how EI special benefits can be combined together and over what period of time.

● (1725)

[*Translation*]

The proposed changes will have no direct impact on Quebec residents because the province currently offers maternity and adoption benefits and parental benefits through the Quebec parental insurance plan.

[*English*]

The proposed amendments for more flexible EI parental and more inclusive EI caregiving benefits represent an incremental cost of $886 million over five years and $205 million per year thereafter.

As per the Employment Insurance Act, these costs will be charged to the EI operating account and recovered through EI premiums. All of these amendments would come into effect on the same day, later in the 2017-18 fiscal year. The exact timing is to be confirmed and the date would be fixed by an order of the Governor in Council.

[*Translation*]

I will now give the floor to my colleague, Margaret Hill, who will speak to you about the changes to the Canada Labour Code.

[*English*]

Ms. Margaret Hill (Senior Director, Strategic Policy and Legislative Reform, Department of Employment and Social Development): Thanks, Andrew.

I'll speak briefly to the amendments proposed in the bill, to part III of the Canada Labour Code. Part III of the code, as you may know, establishes minimum working conditions in federally regulated sectors such as hours of work, annual vacations, and statutory leaves. Federally regulated sectors include about 6% of all Canadian employees in industries such as banking, transportation, federal crown corporations, and certain activities on first nations reserves. Part III does not apply to the federal public service.

In general, when amendments are made to the EI special benefits, corresponding amendments are made to leaves under the Canada Labour Code. This is done to ensure that federally regulated employees have the right to take unpaid leave while they access the EI special benefits, without fear of losing their jobs.

Amendments are therefore being proposed in the bill to ensure that existing leave provisions under part III, specifically those related to maternity leave, parental leave, compassionate care leave, and leave related to critical illness are fully aligned with the proposed changes to the EI special benefits.

The overall cost to the labour program to implement the proposed changes to the code is expected to be modest, about $400,000. This would cover things such as training, labour program inspectors, the production of educational materials for employers and employees, the development of supporting regulations, and the monitoring of the impacts of the changes.

Costs to employees are expected to be minimal and will depend on the duration of the leaves that are taken and whether employees need to pay overtime or hire replacement workers. Stakeholder reaction is expected to be very minimal to the changes to the code.

I'd be pleased to address any questions that you have.

The Vice-Chair (Mr. Ron Liepert): Ms. O'Connell.

Ms. Jennifer O'Connell: Thank you, Mr. Chair.

I wanted to first ask about the definition of the term “family member” in regard to compassionate care benefits. How will that be determined? How is “family member” defined in these changes?

● (1730)

Ms. Rutha Astravas (Director, Special Benefits, Employment Insurance Policy, Department of Employment and Social Development): When we talk about a family member in the EI Act, it's currently limited to the immediate family as well as extended family members. It is a long list including grandparents, aunts, and uncles.

Ms. Jennifer O'Connell: Could it include a niece or nephew, if we're talking about a younger person perhaps taking care of an elderly member of their family?

Ms. Rutha Astravas: If the person is an EI-eligible person and meets the definition, yes, they could be taking care of an older family member.

Ms. Jennifer O'Connell: How would somebody know, though? Would there be an application process to determine whether or not they're eligible?

Ms. Rutha Astravas: In terms of EI eligibility, to qualify for all these special benefits—maternity, parental, compassionate care, sickness—you need to have a minimum of 600 hours in the past year, or you could be a self-employed person who has voluntarily opted into the EI program with minimum income. If you did not have these hours and you were to apply, your claim would be rejected. If you had the hours, and you were to apply for the particular benefit and meet other requirements, then yes, you would be eligible.

Ms. Jennifer O'Connell: In relation to the maternity leave component, two issues have recently come up—at least in my riding, and I suspect I'm not alone—regarding the change through this legislation of allowing up to 12 weeks for maternity leave prior to giving birth. However, some of the concerns we hear about are around the eligibility. I'm assuming that those other conditions have not changed, or have not loosened. I'll give my two specific examples.

A resident who is pregnant goes on maternity leave. When she is set to return to work, she's laid off, but because she's been off on maternity leave, she hasn't had her 52 weeks prior to being laid off. Therefore, she's ineligible for EI, yet her male colleagues who were also laid off are eligible.

The other situation is where a person was pregnant, took her maternity leave, returned to work, quickly got pregnant again, and was shy by a few hours of being able to qualify once again. No accommodation could be made with her employer to make up those hours in order to be eligible.

Does anything in this act start to address these flexibility issues around benefits when someone is either on or off maternity leave and these types of situations need to kick in, for example someone being laid off or needing to access maternity leave benefits once again?

Mr. Andrew Brown: As you may know, the Employment Insurance Act is a very complex piece of legislation.

Now, in terms of the changes that are being proposed in budget 2017, there is specifically the new caregiving benefit, as well as flexibility with respect to the maternity and parental benefit. There are no changes specifically aimed at increasing eligibility for EI in these provisions, or to address the situation you have identified there, of a person who has completed one EI claim and who subsequently experiences another insurable event—whether it is job loss, maternity, or a compassionate care situation—and is unable to requalify. If they are short hours, this doesn't do anything for them.

Similarly, if it is a woman who has been off on maternity and parental, and she returns to work only to lose her job, this doesn't address that situation.

There are some adaptations we've made to the rules for combining EI benefits, which provide flexibility so that if somebody has recently lost their job and would still like to take maternity and parental, they are able to access the longer duration option. It does not increase the total number of benefits they would have access to.

● (1735)

Ms. Jennifer O'Connell: Thank you.

Knowing, Mr. Chair, that we are sticking to this bill, I understand that there is another committee—I think the human resources committee is looking at this overall approach—so I will leave follow-up questions should that ever come forward.

Thank you.

The Vice-Chair (Mr. Ron Liepert): Good. Thank you very much.

Before we move to Mr. Dusseault, technically our meeting was to adjourn at 5:30. I think we have general agreement that we will go until about five or 10 minutes before the bells, so to approximately 6:15.

Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

I think an important issue has been raised here. We say that currently six out of 10 Canadian workers are not eligible for EI. This is currently one of the fundamental problems of the program. The subject of today's discussion, however, concerns changes to certain programs under the Employment Insurance Act. It's not necessarily about eligibility, as you said earlier.

My question is about some changes to parental leave. You said that people could now choose between two types of leave, regular leave or extended leave.

I would like to know, for the benefit of the Canadians listening to us, when parents must make their choices and if the choice is reversible.

For example, if while on leave, the parent finds out that he or she is in good health and wants to return to work, can he or she be unable to do so because the choice is irreversible?

Ms. Rutha Astravas: Thank you for your question.

Concerning the choice of parental leave, particularly parental benefits, it is done at the beginning when applying for benefits. Parents must choose one or the other option. Both must choose the same option to qualify for the same total number of weeks. The choice is irreversible once the first dollar of parental benefits is paid. However, if parental benefits have not started, parents can call Service Canada to change their choice.

Mr. Pierre-Luc Dusseault: Once a dollar is paid, they can no longer change their minds. Is that it?

Ms. Rutha Astravas: Yes, that's it.

Parents always have the right to return to work earlier, but as soon as they have chosen an option, it is this maximum number of weeks and that replacement rate that is granted, and that does not change. It is 55% or 33%.

Mr. Pierre-Luc Dusseault: If parents decide to return to work earlier, they will receive 33% rather than 55%. In the end, they lose out.

Ms. Rutha Astravas: If they made this choice at the start of the benefits, yes.

I need to mention two things about the return to work. Depending on the particular circumstances of the family, the parent may be able to defer the benefits until later, but during the benefit period. If a parent returns to work not on a full-time basis, but on a temporary one, the parent can work during a benefit period.

We have a pilot project. Unfortunately, I am going to switch to English.

[*English*]

While working while on claim, they are able to retain some portion of their EI benefits, depending on how much they make in that period. Then if they stop working, they may continue to receive their EI parental benefits.

[*Translation*]

Mr. Pierre-Luc Dusseault: If this committee were to amend the bill before it so that people could change their decision, would it be more difficult and complex to administer? On the administrative side, would it be much more complex or, instead, relatively simple?

[*English*]

Mr. Andrew Brown: I would say in response that it would be complex. That would certainly be thinking about it from, perhaps, a service delivery perspective. However, I think there's another really important stakeholder here beyond the parents, and that's the employer.

In terms of the consultations that were undertaken before moving forward with this, one of the things that we really heard from stakeholders was some concern by one particular group about a longer duration of parental leave and benefits, but also particularly the importance to them of some degree of certainty about when the employee would be returning. Certainly, if that employee were making changes to their period of leave, it could create difficulties for the employer staffing positions behind that person on parental leave. Given the sort of feedback we heard, I believe that is not necessarily something that would be well received by some groups.

● (1740)

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you for your answer.

The way I see things, it comes back to trading four quarters for a dollar. Parents have the choice of more weeks at 33% or regular weeks at 55%. Ultimately, they receive the same amount, but it was spread over a longer period.

Do you really see this as an important benefit for parents, or is it rather a modest adjustment or, as the saying goes, trading four quarters for a dollar?

[*English*]

Mr. Andrew Brown: I think I would leave it to others to judge the significance of the change. I know we have heard from parents who welcome the ability to take leave and benefits over a longer period of time, so they might be able to reach a period of having access to affordable child care.

If you think more broadly about stakeholder reaction to the budget announcement, they've been very positive with respect to caregiving but it has been more mixed with respect to the parental changes. Some stakeholders have said that living on a 33% replacement rate is expected to be difficult and they don't necessarily see that as a good choice for many families.

I should add, though, that one element of the EI program, which is the EI family supplement, will continue to apply over that extended period of 18 months. In the case of a low-income family, they would receive a top-up not only over the 12 months but over the full 18 months, if they choose that option.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

That's all for me.

[*English*]

The Vice-Chair (Mr. Ron Liepert): All right. I don't have any other questioners, so thank you very much.

We will move to division 15, dealing with agreements under the Minister of Transport.

Welcome to Marie-Hélène Lévesque, who's the executive director of cost recovery, and Mary O'Connor, who is legal counsel.

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

Ms. Marie-Hélène Lévesque (Executive Director, Cost Recovery, Department of Transport): Thank you, Mr. Chair.

Division 15 pertains to the amendments to four acts under the purview of the Minister of Transport: the Aeronautics Act, the Navigation Protection Act, the Railway Safety Act, and the Canada Shipping Act, 2001. Collectively these amendments will allow the Minister of Transport to enter into service level agreements, or contracts, with industry organizations for activities in the aviation, navigation infrastructure, and rail and marine transportation sectors.

The amendments proposed here do not create new fees. They do not raise existing fees either. These amendments give the Minister of Transport the ability to sign contracts for services with organizations and users of Transport Canada's services. These amendments will also allow the Minister of Transport to spend the funds received from such an agreement in one fiscal year or in the next one. This is in recognition of the fact that service level agreements will be signed in respect of work that is likely complex and time-consuming and done in the span of more than one fiscal year.

That, Mr. Chair, concludes my opening remarks.

The Chair: Thank you.

Does anybody have any questions on part 4, division 15, on agreements under the Minister of Transport?

As I'm hearing none, you're really going to get off easy, Ms. Lévesque and Ms. O'Connor. It was a good job you waited for this moment.

Voices: Oh, oh!

The Chair: Thank you both.

We're turning to division 16, the Food and Drugs Act, with witnesses from Health Canada.

From health products and food branch of Health Canada, we have David Lee, executive adviser to the assistant deputy minister, assistant deputy minister's office; Ms. Minto-Saaed, director, strategic planning and accountability division, resource management and operations; Mr. Morgan, director general, policy planning and international affairs directorate; and Mr. Trehearne, director general, resource management and operations directorate.

Welcome to you all.

Part 4, division 16 is yours to behold.

● (1745)

Mr. Deryck Trehearne (Director General, Resource Management and Operations Directorate, Health Products and Food Branch, Department of Health): Thank you very much. We're happy to be here today.

As with our counterparts from Transport Canada, our proposal touches on user fees primarily, and the minister's authorities under which to set them.

As you know, Health Canada regulates the safety, efficacy, and quality of drugs and medical devices in Canada in both pre-market and post-market regulatory space and has been doing so for quite a long time. Since about the mid-1990s we've been charging user fees for those functions to subsidize the cost to taxpayers of the regulatory costs.

Today our proposal is requesting a revised authority for the Minister of Health to move the fees out from under the FAA, where they refer to the food and drugs regulations, and move them directly under the Food and Drugs Act, and to modify certain parts of the Food and Drugs Act to make that a better instrument to do so.

Essentially, this is not going to raise fees. It requires that we consult with all our stakeholders and continue to apply all the Statutory Instruments Act requirements as well, but it will set a comprehensive policy frame under the Food and Drugs Act under which we can charge user fees, and it will do it in a streamlined fashion.

Currently, under the GIC full regulatory process, it can take anywhere from two to four years to update a fee, so we're envisioning a more agile and globally comparable user fee regime wherein we can do those updates probably within 12 to 15 months.

That's part 4 of division 16 of the budget implementation act.

It also allows for an exemption from the renamed User Fees Act, which is the Service Fees Act, which our colleagues from the Treasury Board Secretariat are going to speak to and which we support wholeheartedly. Under the proposed framework, the Minister of Health will keep, as I said, all the accountability and transparency principles, including the requirement to consult stakeholders, performance penalties, and small- and medium-enterprise mitigation, and we believe there's no impact on the provinces and territories or on Canadians directly because the fees apply largely to industry, and the pass-through is minimal to non-existent.

I'll stop right there, and take your questions.

The Chair: We'll be starting with Mr. Liepert.

Mr. Ron Liepert: If I heard you correctly, there's no change to fees in any of this?

Mr. Deryck Trehearne: When we go to reset the fees, pursuant to consultation and everything else, it allows us to do it under the Food and Drugs Act.

Mr. Ron Liepert: Why is it in this budget bill, if there's no—

Mr. Deryck Trehearne: It's to modify the Food and Drugs Act itself, the instrument under which we're doing the changes.

Mr. Ron Liepert: Wouldn't you modify the legislation that you're modifying without bringing it here? I'm just having trouble understanding why it's part of a budget bill.

Mr. Deryck Trehearne: The Food and Drugs Act has elements in it that allow you to charge fees, but it's not a comprehensive instrument to do that. What we're doing is modifying it slightly to allow us to have a more robust fee-setting instrument and then to go and charge fees.

Mr. Ron Liepert: That's all I had.

The Chair: Go ahead, Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

I just want to confirm one point. As I understand from the foregoing, the minister may change or adjust costs without consulting industry stakeholders. Is that correct? Under the proposed amendments, could the minister really change the fees without consulting anyone?

Mr. Deryck Trehearne: If I understand correctly, as I said before, we're just adjusting the instrument. Before changing or adjusting fees, whatever they may be—

● (1750)

[*English*]

we would consult all our stakeholders. There's a requirement to do that and it's in the legislation. The FDA says, thou shalt consult your stakeholders on this before updating any fee.

We currently have fees, as you know, and we've had them for about 22 years. They've only been updated once in those 22 years. The last consultation was in 2011, pursuant to a full consultation. It was also presented here as well.

[*Translation*]

Mr. Pierre-Luc Dusseault: The duty to consult is already prescribed in the legislation, and that will be maintained. Do I have that right?

Mr. Deryck Trehearne: Absolutely.

Mr. Pierre-Luc Dusseault: With respect to the new act, the Service Fees Act, which is the subject of the bill we'll be discussing at a later date, I'm trying to understand why these fees at the Department of Health, would not fall under the Service Fees Act?

[*English*]

Mr. Deryck Trehearne: Absolutely.

[*Translation*]

That's what we're basically proposing.

[*English*]

We're asking for an exemption from what was the User Fees Act and what is to be renamed as the Service Fees Act. We essentially meet all the requirements and the criteria that are in it.

In addition, pursuant to budget 2017 and some of the transformations that are going on in the pharmaceutical, medical access, and affordability world, we are already building new regulatory processes by which we can transform how we do our work.

It is a minimum 15-month process, and probably more like 18 months, to lift and shift our current set of fees under the Food and Drugs Act. Given the ambiguity of the timing of the implementation of the TBS changes and the coming into force therein, we thought that it would be better to get out ahead of that. In addition, we're talking about a comprehensive approach under the Food and Drugs Act that aligns to the policy, to the instrument the minister has. The minister will set fees through ministerial order.

However, ministerial order is not a blank cheque. It is essentially a regulatory process lite, with all of the elements of the regulatory process. It just minimizes a few of them, so that we will able to do this more than once every 22 years.

[*Translation*]

Mr. Pierre-Luc Dusseault: If I understand correctly, you will continue to benefit from an exemption under the Service Fees Act, but your standards will remain the same or they may be higher. Is that correct?

Mr. Deryck Trehearne: Absolutely.

[*English*]

Health Canada has a strong record here. We are a globally competitive regulator. Our performance is comparable to any of the major regulators in the world, like the FDA, the EMA, the Australians, and the New Zealanders as well. We charge industry a fraction of the regulatory cost to do those same reviews at a competitive pace, while protecting the safety and efficacy of the drugs.

We feel that this is very comprehensive. It's robust. We have a great deal of experience here. We're a long way from the implementation of the User Fees Act in 2002 or 2003. We think we're in a different situation now.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

[*English*]

The Chair: Thank you, Mr. Dusseault.

Before I go to Mr. Deltell, on these user fees, there are other agencies beyond food and drugs.... Under Health Canada, there's the Canadian Food Inspection Agency. Part of that now is the big pest management review agency.

No, that's not under you guys.

Does this relate to any of those fees?

Mr. Deryck Trehearne: It does not, actually. Those are other organizations within the health portfolio that, as is the case with CFIA, already have this exemption.

What Health Canada is asking for here is not unusual. There are several examples in the BIA as well, and there are other departments that currently have these authorities and these exemptions.

The Chair: This is not in any way tying fees to the consumer price index, like we're seeing in some other areas?

Mr. Deryck Trehearne: The fees currently have an inflationary factor in them. In fact, under the new Service Fees Act, that will be a mandatory requirement for all departments. That is one of the few positive aspects of the user fee regime that we have, given that it is now six or seven years out of date. The escalator has prevented the attrition of resources, which would impact on the safety and performance of the regulator.

We're in a world now where it's been six or seven years, and we need to get out of the gate, refresh those fees, and ensure that industry pays it fair share and taxpayers are also paying their fair share. That's why we'd like to move along on this.

The Chair: When you do increase these fees, in your consultation with industry—I guess my view is that Ottawa often works in silos—was any consideration given to the impact these fees could have on the economic viability, the business and commercial operations, of the areas these fees apply to?

● (1755)

Mr. Deryck Trehearne: Absolutely. That is a requirement of our approach, and it's a requirement of the Statutory Instruments Act, as well as a cabinet directive on the setting of regulations. The regulatory impact analysis studies are a mandatory piece of this. That will continue.

As I said, we have a list of about 12 things that our current regime has under the FAA, and all 12 of them will basically exist under the FDA as well. So the requirements to study the impact on industry is mandatory, and we will continue to do that.

The pharmaceutical industry in Canada is actually quite robust, and I think that Industry Canada or ISED could comment further on that kind of stuff if you had questions about that. It's not our expertise to understand the market as a whole and all of its dynamics, but we do assess the impact.

Globally, what we're talking about here is that all the major regulators in the world charge somewhere between 80% to 100% of the costs to the industry to regulate those products. Health Canada is in a world right now where we're subsidizing the cost, and fees amount to about 40% to 45% of our cost. So we charge much less than the global reality, and the fees are a fraction of what.... For instance, the FDA in the United States would charge $2 million for a major new active substance drug review, whereas we're charging about $250,000 to $300,000.

The Chair: Finally, is there any kind of an appeal process set up so that when the fees are announced they can make their point?

Mr. Deryck Trehearne: Absolutely. First, they're subject to consultation and negotiation and then an understanding of the sectors of the industry. Second, there is a dispute resolution framework that we'll put in place as part of this. That has never been a major issue with this industry that we face. It's usually subject to the consultation piece.

The Chair: Sorry, Mr. Deltell, the floor is yours.

Mr. Gérard Deltell: Thank you, Mr. Chair.

[*Translation*]

Ladies and gentlemen, welcome to your House of Commons.

[*English*]

Can you give us a simple example of where there is a problem today in your department that would be fixed by this bill?

Mr. Deryck Trehearne: I can give you several. As I said, the fees have not been updated in six or seven years. Those fees were based on costing from 2008. What we're talking about is moving resources from other parts of our branch, for instance in Health Canada, to subsidize the cost of doing these regulatory reviews.

You can only rob Peter to pay Paul for so long, and that's the state we're in. We continue to meet our performance standards, but every year there is a situation in which we have challenges with that and have to reallocate resources to do that. We report publicly on this data every year as well.

Do you have another example you want to talk about?

Mr. David Lee (Executive Advisor to the Assistant Deputy Minister, Assistant Deputy Minister's Office, Health Products and Food Branch, Department of Health): Certainly. In the past we have had incidents when we were changing our regulations. For example, a few years ago, we put in new regulations to govern active pharmaceutical ingredients, specifying that this is how you make them to make sure they're safe. Under the current regulations, changing and introducing new fees, took two to three years in our experience. It wasn't rapid enough to bring in new costing for that framework, so we had inspectors going out and resources deployed by the department, and yet we couldn't catch up with the regime.

This new mechanism would allow us, by ministerial order, with consultation with all of the resolution mechanisms, to move a lot more quickly and to harmonize the many new regulations coming in that we are looking at departmentally.

Mr. Gérard Deltell: What kinds of fees need to be fixed under the Aeronautics Act , navigation, railway safety, and shipping? You talk about medication. What is the link with transport?

Mr. David Lee: There's no link here with transport. Transport needs its own regime under its own instrument. Here, under the Food and Drugs Act, we have tailored the mechanisms to really serve our regulatory environment, which is very complex. If you look at the Food and Drugs Act, there are a lot of regulations and oversight for medical devices and drugs. We've written a set of rules that will apply especially to this environment.

● (1800)

Mr. Deryck Trehearne: I can elaborate.

Basically, all the departments that charge user fees do so individually under their regulations generally. What the Transport Canada folks who were just presenting were talking about were non-regulatory areas where the administrator would enter into an agreement to charge fees on a voluntary basis. They're quite complex and subject to each department's stakeholders, industries, and consultations.

All that is governed by the principles of the service fees that Treasury Board is bringing forward, but some departments have been in this business quite a long time and have very robust frameworks already.

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

We're talking about pharmaceutical companies. Let's say that these companies aren't the biggest complainers in our society.

You say they have to pay their fair share of the costs of reviewing their products, which is done by Health Canada. What would happen in a hypothetical situation where they would be asked to pay a much larger share of the costs associated with approving their medications?

The drug approval process costs taxpayers and the public purse millions of dollars. What would happen if pharmaceutical companies were asked to foot the entire bill?

Mr. Deryck Trehearne: What would that do?

Mr. Pierre-Luc Dusseault: Yes.

[*English*]

Mr. Deryck Trehearne: If you say a health product costs $10, the fee to the industry currently represents 1¢ of that $10. What would happen? As I said, globally, we know others are charging 100% cost recovery and much larger fees, and there has been no negative impact on industry that we know of externally.

In fact, the fees were set quite low in Canada in the 1990s to be sympathetic to the challenges of the industry and to make sure that these didn't cause deleterious economic impacts. We don't know what the impact would be of raising the fees substantially. That would be subject to analysis and discussion with the stakeholders to talk about what the regulatory impact analysis would show.

[*Translation*]

Mr. Pierre-Luc Dusseault: It's done elsewhere, so it's possible.

[*English*]

Mr. Deryck Trehearne: It is possible, I think.

The Chair: I think we're in agreement to stay until 6:15. The vote will be in a little over 22 minutes, so we're okay. We're only up the hall.

Mr. Fergus.

Mr. Greg Fergus: Just in follow-up to Mr. Dusseault's question, I have a couple of questions for you, Mr. Trehearne.

In regard to the U.S. case, would it be accurate to say that the drug companies pay a full fee or a greater percentage of the costs incurred by the FDA?

Mr. Deryck Trehearne: That's absolutely right.

Mr. Greg Fergus: It's a full cost recovery in the United States?

Mr. Deryck Trehearne: It's above cost, actually, in some cases, but it is 80% to 100%.

Mr. Greg Fergus: Among the OECD countries, I imagine that the price for original drugs, brand-name drugs, is higher in the United States, is it not?

Mr. Deryck Trehearne: For brand-name, yes, but for generics, no.

Mr. Greg Fergus: Right, Canada has the highest in generics, and the U.S. has the highest for brand-name.

Mr. Deryck Trehearne: Yes, exactly.

Mr. Greg Fergus: Which OECD or G-7 country has the lowest brand-name drug prices?

Mr. Deryck Trehearne: The pricing model is not really my field of expertise. If you look at the comparative metrics that Health Canada looks at, a lot of the Scandinavian countries—

Mr. Greg Fergus: The basket countries—

Mr. Deryck Trehearne: Yes, many of the European countries pay far less. I know a little bit about Australia, for instance, but you're talking about there being one door into that country. It is the front-end regulator, and it sets fees based on negotiations to access the market in Australia as a whole. Here in Canada, we regulate the health and safety of a drug, but there are multiple buyers, as you know.

Mr. Greg Fergus: Let's assume that the Scandinavian countries or the U.K. would have lower brand-name drug prices.

Mr. Deryck Trehearne: That's correct, yes.

Mr. Greg Fergus: What about their equivalents to the FDA or Health Canada? What are their charges to the industry?

● (1805)

Mr. Deryck Trehearne: The EMA charges, I believe, 100%. I couldn't quote you their absolute cost for a new active substance review, but we could get that information for you, if you would like.

Mr. Greg Fergus: So there is no correlation between the fees charged by the health authority and the brand name.

Mr. Deryck Trehearne: Your point is well taken. Essentially, they're charging more for the cost recovery of the drug review, but the fee, the cost of drugs in the country, is lower generally.

Mr. Greg Fergus: You wouldn't accept any argument by the brand-name drug companies that this would increase the cost to the consumer?

Mr. Deryck Trehearne: In a consultation, I would have to listen to those arguments. As to their merit, however, and the evidence-base around them, I would have to look at that specifically. It's hard for me to say.

Mr. Greg Fergus: Is it hard for you to say, or could it be there just doesn't seem to be a correlation?

Mr. Deryck Trehearne: I've never done a comprehensive study, but globally, it does not seem to be correlated.

Mr. Greg Fergus: Thank you.

The Chair: I have one further question as well. Could you tell me what process a stakeholder would have to use to challenge these user fees under the proposed amendments? What's the process? I pay user fees in my other life, and we're never happy in the farming sector about user fees, I can tell you. What process would there be for a stakeholder to challenge these fees under this proposed amendment?

Mr. Deryck Trehearne: We have several. One is the consultation proper, together with discussions and negotiations about what the fee should be, in view of the impact on those sectors. I'm very glad that I'm not in the farming sector when I'm trying to set fees.

Second, we have a policy of fee mitigation for small or medium enterprises. Any small or medium enterprise can benefit from a reduction in fees, and we have excellent take-up of that process. We've done audits of it, and it's in very good shape. The people taking up the reductions in fees have a right to do so and there's good evidence to suggest that the right people are getting it. We've done audits on this.

Third, we're going to create a dispute resolution system so that stakeholders can come and discuss their situations with Health Canada. This of course will be something that we have to work on over the coming months as we develop this new regime with our stakeholders. We'll have to look at where and how that's going to work. Dispute resolution, though, is something that we're planning to do.

Fourth, we rarely have the kind of impact with stakeholders that we have with Health Canada.

The Chair: Mr. Dusseault.

[*Translation*]

Mr. Pierre-Luc Dusseault: What is the cost associated with the Health Canada approval process? For example, if a pharmaceutical company presents a new drug for approval, how much will it cost?

Mr. Deryck Trehearne: Are you talking about the total cost to our branch?

Mr. Pierre-Luc Dusseault: I would like to know what it would cost in total to approve a drug.

[*English*]

Mr. Deryck Trehearne: We currently are charging about 40% of the total cost for a drug review, and that's based on 100% time-tracking. So we know the costs are quite activity based—they're not just a guess. We charge about 40% of the true cost of a drug review right now.

As to the total revenues for the department, between us and one of our counterparts that does the post-market compliance and enforcement, I believe we raise about—is it $90 million?

Ms. Naira Minto-Saaed (Director, Strategic Planning and Accountability Division, Resource Management and Operations Directorate, Health Products and Food Branch, Department of Health): It's $97 million.

Mr. Deryck Trehearne: Ninety-seven million dollars a year, which represents just under 50% of the budget of our entire branch.

[*Translation*]

Mr. Pierre-Luc Dusseault: Thank you.

[*English*]

The Chair: Mr. Fergus.

Mr. Greg Fergus: We now effectively authorize Health Canada to administratively determine what the user fees should be, and these fees are reflected in the full cost of the services provided. If a pharmaceutical manufacturer contests the fees being charged—they might consider them out of line, out of whack, or not reflective—that company's recourse would not be to the minister, I take it, or would the minister have the ability to overrule the department?

● (1810)

Mr. Deryck Trehearne: The minister would receive a proposal from us on the proposed fees to be changed. The minister would have the final authority here in that sense, setting them through a ministerial mandate.

Mr. Greg Fergus: Would the minister have to give her or his approval every time the fee changes?

Mr. Deryck Trehearne: That's correct. That is the proposal.

David wants to make a point.

Mr. David Lee: It may be important to note that when we establish fees now, it's under the Financial Administration Act, so it's a regulation-making process. This would be the same. It's just a different form of regulation. You're going from the Financial Administration Act over to the Food and Drugs Act, and you'd do it by order, which is still a form of regulation. It would enjoy the same gazetting process in terms of guaranteeing representations as the normal regulation-making.

Mr. Greg Fergus: I'm just trying to think back to the FAA. When decisions are made, usually ministers would say, "Thank you very much. The decision has been made by the FAA. It's been handled, and there is no more appeal to me." That's what usually happens.

Are you saying that this would continue to happen?

Mr. David Lee: It would continue to happen, but it would shift from the FAA into the purview of the Minister of Health. It still has the rigour of the Statutory Instruments Act, so it behaves like a normal regulation-making process in that sense, but it doesn't go to cabinet. It's stay with—

Mr. Greg Fergus: It's out of the minister's hands.

Mr. David Lee: That's correct.

Mr. Greg Fergus: So there is no political recourse, then.

Mr. David Lee: It's the same recourse as any other regulation-making they would have.

Mr. Greg Fergus: Thank you.

I just wanted to make that clear.

The Chair: One of the advantages of its going to cabinet—I know you're saying it's not, and I understand that—is that other ministers can argue the point, based on a memorandum to cabinet, that it would affect their industry.

When something is gazetted, and it's increasing costs to industries, how often is it rolled back? I don't know if it ever is. I think you're hearing from members that there is a bit of concern about user fees and whether the efficiencies are there, in the departments and on the government side, to make savings in other areas rather than just impose additional fees. What you are hearing is some concern.

In any event, I think that's it for questions. We appreciate your fairly direct responses to those questions.

I apologize to those who came for divisions 17, 20, and 21. We won't be able to get to you. We'll have to schedule you in at another time. We have divisions that have been farmed out as well.

In any event, the clerk will be back to those groups that didn't get up to appear. I appreciate your having sat through the hearings and being available.

The meeting is adjourned.