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Chair

Mr. Brian Pallister

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• (1540)

[English]

The Chair (Mr. Brian Pallister (Portage—Lisgar, CPC)): Welcome to members of the committee and to our guest, Monsieur Le Pan.

Members, pursuant to Standing Order 81(4), we are here to deal with vote 35 of main estimates 2006-07, under the Office of the Superintendent of Financial Institutions, referred to the committee on Tuesday, April 25, 2006.

Before I invite Monsieur Le Pan to proceed with his presentation, I will mention to the committee that we will be dealing with Madam Wasylycia-Leis' motion after discussion and questions with Monsieur Le Pan. After that, I would ask members of the steering committee to remain so that we may have a further discussion in lieu of another separate meeting.

Yes, Mr. Pacetti.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): I have a point of order, Mr. Chair. Mrs. Wasylycia-Leis' motion is not on the orders of the day, and I don't have a copy of the motion. I don't know if we were supposed to discuss it, and I don't know if we need to discuss it, but I'd like to have a copy of it.

The Chair: In a previous discussion, Mr. Pacetti, Madam Wasylycia-Leis expressed to me that she has met the requirements of notice. The motion will be distributed. She's expressed a desire to bring it forward today. I'm anticipating that she'll be doing this following discussion rather than prior to Mr. Le Pan's presentation.

I hope that meets with the approval of committee.

I'll ask Mr. Le Pan to proceed with his remarks.

Thank you, sir.

Mr. Nicholas Le Pan (Superintendent of Financial Institutions, Office of the Superintendent of Financial Institutions Canada): Thank you, Mr. Chair.

After my short opening statement, I'd be prepared to answer questions on anything you'd like to ask about the office and the operations of the office.

Fundamentally, we are very fortunate, I think, to possess in Canada one of the strongest financial systems in the world. It contributes to the strength and innovation of the economy and protects the savings of individual Canadians. The environment in which OSFI operates, both domestically and internationally, is fluid and at times unpredictable. Maintaining a high level of confidence in

the safety of money entrusted to financial institutions and remaining a world-class regulator is very important in our plans and priorities.

We are a prudential regulator, and I want to emphasize the word "prudential". We focus on safety and soundness, not on so-called market conduct issues of how financial institutions deal with customers.

We've had a legislated mandate from Parliament since 1996. Under the legislation, our mandate has four main elements. These are laid out in the material.

The first part is to supervise federally regulated financial institutions and private pension plans to determine whether they are in sound financial condition, meeting minimum funding requirements, and complying with their governing law and supervisory requirements.

The second part is that if there are material deficiencies, we are to advise institutions and take, ourselves, or require management to take, necessary corrective actions. This includes management, boards of directors, or plan administrators. That's the so-called early intervention part of our mandate, common to many prudential regulators in Canada and around the world.

The third part of our mandate is to advance and administer a regulatory framework that promotes the adoption of policies and procedures by regulated institutions designed to control and manage risk. We do that directly ourselves, through guidelines and so on. We also work with our partners in the Department of Finance and other agencies with respect to the federal legislative framework, and we work with other partners—for example, in the auditing, accounting, and actuarial professions, or internationally—who are developing rules and frameworks applying to these organizations.

Last, we are charged with the monitoring of system-wide or sectoral issues that may impact financial institutions negatively, in pursuit of our overall mandate to protect depositors and policyholders. We contribute to public confidence—that's what our statute says we're supposed to be doing—by pursuing our mandate. Our legislative mandate also explicitly acknowledges the need to allow financial institutions to compete effectively and take reasonable risks. That means for a variety of our activities we're in the business of balancing.

Our mandate recognizes that management and boards of directors and pension plan administrators are ultimately responsible for the operation of their entities, and that financial institutions and pension plans can fail. A well-run system in which Canadians and people outside Canada can have a high degree of confidence is very important, of course, for economic performance, so our priorities are generally pretty broadly aligned with broader government priorities.

We have a variety of partner organizations within government and the private sector. We are involved, of course, pursuant to our mandate, in risk assessment and intervention, in setting rules and guidelines, and in approvals under the various pieces of legislation.

In terms of our budget, our spending in the main estimates is \$85 million for fiscal year 2006-07. Virtually all of our operating costs—except for \$768,000, which is in relation to the Office of the Chief Actuary—are recovered and paid by the financial institutions and pension plans that we regulate and supervise. That's why you see the net number of \$768,000 that's in the votes.

Most of the costs of the Office of the Chief Actuary, which deals with the Canada Pension Plan, with pension plans for members of the public service, pension plans for members of Parliament, judges, and so on, are also recovered from the pension plans or departments for which the Chief Actuary provides valuations or other services. The rest of about \$768,000 is recovered out of general revenues.

Our financial statements, which we publish annually, are prepared according to generally accepted accounting principles and are audited annually by the Auditor General.

• (1545)

The following gives a little perspective on our costs. About \$73 million of the \$85 million relates to financial institutions, \$5 million relates to private pension plans, and about \$4.7 million to the Office of the Chief Actuary.

As I said, we charge back virtually all of our costs to the financial institutions and pension plans or to other government departments. For financial institutions, for a large bank or an insurer, our charges would amount to about \$4 million to \$5 million a year, depending on the size of the institution. For a smaller or middle-sized depositing institution, we would charge back about \$100,000 a year.

Our costs on a main estimates basis rose approximately 1% between 2005-06 and 2006-07. That's largely because of a variety of re-engineering initiatives we put in place to look at how we were doing our basic supervisory activities and other activities, and to keep our costs under control.

It is planned that our costs on a main estimates basis will rise in future at around 4% a year, though the increase will be faster in the pension area where we're adding resources because of the deteriorating condition in that area. They will be less than that in the other areas. That increase is basically reflective of normal inflationary growth for human resource costs and some ongoing investments in enabling technology.

Some of the increase is also due to additional resources we've put into anti-money laundering and anti-terrorism financing. Our planned staff complement is about 460 employees, and this is

relatively static, though we cut it back between 2005-06 and 2006-07 as part of our re-engineering exercise.

Our priorities in the coming year include contributing to ongoing international and domestic efforts to strengthen capital rules, continuing to monitor and take action vis-à-vis the state of federally regulated pension plans, and increasing attention, as I've said, to anti-money laundering and counterterrorism financing issues. That's really in support of efforts being led by other departments—FINTRAC, the RCMP, and so on.

We report publicly on our website, and provide extensive information on aspects of our performance measures, including confidential surveys we undertake of the people we deal with, regulate, and supervise.

[Translation]

While we operate largely behind the scenes, I feel the high-quality work we do is acknowledged every time Canadians put their trust in a federally regulated institution or pension plan.

I look forward to your questions.

• (1550)

The Chair: Thank you for your presentation, Mr. Le Pan.

[English]

To start us off, you have seven minutes, Mr. McKay.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you, Chair. Thank you, Mr. Le Pan.

An issue that has been in the news and that I know was of great concern to the previous government was that of the deficits in some of the private pension...or public pension plans, I suppose. I noticed there was a proposal in the budget with respect to certain funding measures. I wonder if you might expand on that as to how you would take moneys out of the federal government's budget and distribute them into plans that are federally regulated but essentially private.

Mr. Nicholas Le Pan: I'm not sure which initiative you're referring to. The budget has two initiatives related to pension plans.

One initiative, which relates to private pension plans and which I believe is very important given the deteriorating condition, is further flexibility in the funding requirements for private pension plans. The budget announces the government's intention to put in place regulations to provide for the possibility of private pension plans funding their deficits over ten years rather than five, with appropriate safeguards related to information being provided to plan members and safeguards for what I've called, on various occasions, "downside protection", because there is potentially some more risk in a longer funding period.

I have been on record for a while now indicating that the funding situation of private plans was deteriorating. The number of plans operating at a deficit has increased. I believe the situation is manageable, but it requires, as I have said, active management. Part of that active management—and I think it is a very important contribution, which I have been on record as supporting for a while—is further flexibility on a temporary basis for funding of plans' deficits. Often, further flexibility will make a difference in allowing private sector sponsors to maintain defined benefit pension plans, and I think that's to the benefit of plan members, provided there are important safeguards, which I've talked about.

This does not involve anything to do with public moneys; it is a change in the funding regulation. My understanding is that the details of that regulation are likely to be pre-published for consultation very shortly. A number of groups over the past year or two have spoken in favour of more funding flexibility.

The second initiative, which you may be referring to, is the budget initiative around the Canada Pension Plan. Really, I'm not in a very good position to speak about that in any degree of detail. The government has announced its intention to put additional moneys into the Canada Pension Plan. The office of the chief actuary, who is independent from me in his actuarial evaluations, will be involved in determining what the impact of that is on the contribution rate, for example. But this is a policy decision the federal government has made, and it's an issue officials from the Department of Finance—the Chief Actuary, if you want, at some point—can come to talk about: what the impacts may be, and the rationale.

But neither of those is putting public money into private sector plans.

Hon. John McKay: I appreciate that clarification, because I think there was some confusion around this.

With respect to private plans, effectively you are proposing, subject to what your paper might say, some regulatory changes in terms of letters of credit, ten years versus five years, and that sort of thing, in order to be able to move deficits into some level of stability, then.

There is a question here, though, as to how the deficits get to that point. We've had a pretty vigorous market, and a lot of the pension plans are invested heavily in the equities market. But simultaneously we've had low interest rates, so it's kind of a catch-22 situation. Are you proposing a difference in the mix of equities and debt?

Mr. Nicholas Le Pan: There are really several questions there. How did the situation arise? What other actions are then appropriate in order to deal with it?

First of all, as key background, the legislation federally, as in many other jurisdictions in Canada and abroad, deliberately permits defined benefit pension plans to operate at a deficit. It does that because it's highly unlikely that sponsors would otherwise be willing to put in place defined benefit arrangements, given the fluctuations in asset markets, and so on. The regulations currently provide, and this is similar to most other jurisdictions, that so-called solvency gaps, once identified, need to be funded over a five-year time period.

The increase in the deficit position of defined benefit plans arose from several factors, as you said, and a couple of others that you didn't mention.

One, there initially was a pullback in equity markets, if we go back a couple of years. This did not come about over the last six months. It's something that's been developing over the past couple of years, and it's something that we at OSFI have been talking about enacting for the last couple of years. Equity markets pulled back a bit; there's been some move back, of course, which has helped.

Secondly, long-term interest rates significantly declined, and long-term interest rates are what go into the actuarial valuation of the liabilities. The lowered long-term interest rates have significantly increased the value of the liabilities, when you do the evaluation of the plan.

There have also been some changes in actuarial rules on how you value these kinds of liabilities. The rules are not set by the government or by OSFI. They're set by the Canadian Institute of Actuaries. In particular, the Canadian Institute of Actuaries changed the rules about how fast you recognize declines in interest rates. Over the last nine months, that has contributed to quite a significant change in the deficit position of a number of plans.

There were also certain plans that took contribution holidays, and there were certain plans that had benefit improvements. They cut into surpluses and perhaps left less room. That's permitted under the rules and regulations, but it may have left less of a cushion to deal with the downturn.

Fundamentally, we have a variety of tools at OSFI, and those were enhanced in the mid-1990s, to allow us to intervene when we think the situation is likely to be too detrimental to pension plan members. We've been very actively using those tools for the past couple of years, certainly since the decline in solvency positions started.

● (1555)

The Chair: I'm sorry to intervene, but as you know, we have a certain amount of time available for each questioner. Mr. McKay's question will have to be answered by way of another question.

Thank you.

Mr. Loubier, a follow-up, please.

[*Translation*]

Mr. Yvan Loubier (Saint-Hyacinthe—Bagot, BQ): Thank you, Mr. Chairman.

Welcome, Mr. Le Pan. It is always a pleasure to see you here and also to listen to you.

I have a few questions to ask you regarding the bill, which—at least in part—is intended to allow for an opening up of the mortgage loan insurance sector.

My colleague attended a briefing with officials. He asked certain questions to which he was not given satisfactory responses. Amongst other things, he asked why Genworth is the only private insurer in this sector. How is it that this situation has come about? We put the question to officials from the Department of Finance, but were unable to get an answer. Perhaps you are more aware of the privilege that Genworth enjoys.

[English]

Mr. Nicholas Le Pan: As far as I know, that company is the only company that has applied to OSFI over the course of several years, until quite recently, to offer this kind of business. At OSFI we regulate mortgage insurers, and we would certainly have been open to receiving applications from other mortgage insurers if there'd been interest. I can't comment on why we haven't got applications. It may have been a business decision on the applicants' parts, but our system and our framework were open to receiving applications for doing this business by other insurers.

We now have before us an application from somebody else who wants to get into the business, and that's public knowledge. We're processing that application as we would any other application, giving it the consideration it needs, and we'll make a recommendation to the minister in due course.

• (1600)

[Translation]

Mr. Yvan Loubier: Mr. Le Pan, given that more and more private businesses are interested in this sector, do you believe that the cost of mortgage loan insurance will have a tendency to go down, as has happened in the other sectors of the economy?

Moreover, given that the mortgage loan insurance sector is becoming lucrative—perhaps more so than in previous years—do you think that the private sector will take the best clients and leave the others to the Canada Mortgage and Housing Corporation? If that is the case, taxpayers will assume more of the cost of bad debt in the private sector.

[English]

Mr. Nicholas Le Pan: As I understand it, government policy for a while has been designed to have a degree of competition in this marketplace. We're responsible for administering at OSFI our part of the system, which is applications from anyone who would want to enter the market to do this business. As I said in my introduction, our mandate requires us to take account of the need for allowing institutions to compete effectively. So if a financial institution comes to us to set up in the mortgage insurance business, we'll assess, on a broad basis, the viability of their business plan, assuming it's reasonably viable, and their capitalization and so on, but we're then going to, in all likelihood, recommend that entity be licensed to offer the business to consumers.

There are lots of aspects of the marketplace that will affect the availability of mortgage insurance and all those kinds of things that you asked about, one of which is how many competitors there are. But there are lots of other aspects that will affect this, including capital rules, and the nature of the guarantee that's provided to private insurers, which was provided in the first place in order to provide a reasonably level playing field so private insurers could compete with public insurers, with CMHC. Without that system,

banks and other financial institutions would get a break on their capital if they dealt with a government guaranteed institution, CMHC, but would not get a break if they dealt with a private insurer, and this is what the guarantee that was put in place was designed to, in part, correct.

So I think there are a lot of aspects that would affect availability of insurance, and so on, and I understand the committee wants to have perhaps a broader discussion of that. I'm certainly happy to contribute, from our perspective, as to what our role is, but our role is fairly minimal in this. We'll make an assessment of the viability and solvency of any new applicant. We'll take account of the fact that we are supposed to allow institutions to compete effectively. So we're not going to impose our business judgment on institutions' judgment. If somebody thinks they can do the business profitably and contribute, in competitive terms, we're not going to say no to that. If their plan is clearly crazy or something, which is highly unlikely, but occasionally we see applications for new institutions that are very ill-developed plans...but assuming that's not likely the case, we have a set of capital rules that will apply to protect safety, soundness, and solvency, and we'll proceed.

Again, please don't take that as any comment on an application specifically in front of us; that's our framework, and I think that framework has served the system in a lot of kinds of markets pretty well over the last couple of years.

The Chair: Monsieur St-Cyr, to continue for just a minute, sir.

[Translation]

Mr. Thierry St-Cyr (Jeanne-Le Ber, BQ): If I understand correctly, the criteria you use to draft your recommendation for a given application deal mainly with the issue of viability; you ask yourself if there is sufficient capitalization. Do you also take repercussions on consumers and on the market into account? There is a great deal of concern that new players could concentrate on low-risk borrowers and leave the higher-risk ones to a public company like Canada Mortgage and Housing.

Do you take these concerns into account in your analysis or do you limit yourselves to analyzing the viability of the business?

• (1605)

[English]

The Chair: Could you give just a brief answer, Mr. Le Pan? Mr. St-Cyr will have another opportunity to question you.

Mr. Nicholas Le Pan: The criteria we use are set out in our governing legislation. They do not explicitly include impact on consumers. They do include the viability of the overall business, which obviously has to take some of those factors into account. In addition, the minister has a role in these approvals, assessing the impact on the overall financial system. That might be something that would be applied elsewhere.

Against the policy framework that's now in place, we look at the criteria in the legislation.

The Chair: Thank you, Mr. Le Pan.

To continue, we have Madam Ablonczy.

Ms. Diane Ablonczy (Calgary—Nose Hill, CPC): Thank you, Mr. Le Pan.

As someone new to the file, and having met with a number of the players in the finance field, I can tell you that you have a lot of fans out there, sir. That must be scary.

Mr. Nicholas Le Pan: Not always. When we walk into these institutions, we're not always there to bring good news.

Ms. Diane Ablonczy: We know that.

Speaking of news, we've just had a budget introduced into the House. Would you tell the committee a little bit about your view of the budget, in terms of improving concerns that have arisen in OSFI?

Mr. Nicholas Le Pan: I'm not really sure what you're talking about.

A couple of things in the budget are, I think, very important. The one most directly important in terms of OSFI's business is the issue of the funding relief for private pension plans. That's the biggest immediate impact on the most important and most problematic part of our business. As I said, I think that's very positive.

Beyond that, obviously a number of other things in the budget affect the overall financial and economic conditions. One of the things we—and safety and soundness—have benefited from over the past few years has been very sound economic performance. Our economic environment has been very supportive of success in the financial institutions sphere; success is very important for safety and soundness, so things that keep those economic conditions in good shape are pretty welcome from my side.

Ms. Diane Ablonczy: I was particularly interested in the suggestion in the budget that any surpluses could be applied to the CPP and the QPP. I wonder if you could give us your opinion as to the advisability of that, should the opportunity arise.

Mr. Nicholas Le Pan: Unfortunately, Ms. Ablonczy, I don't really think I could give you my opinion on that.

Part of my office has an important role in the CPP system. The Office of the Chief Actuary, which accounts for part of my office, has a very explicit role in the evaluation of the Canada Pension Plan. As you know, it produces a report triennially—every three years—on the long-term health of the CPP and on the required funding rate to meet the target and so forth. I really do not want to get into actuarial evaluations, and indeed it would be inappropriate for me to do so.

Ms. Diane Ablonczy: I understand, Mr. Le Pan. Maybe I should just rephrase it. In your opinion, what would be the impact of such a measure on those plans?

Mr. Nicholas Le Pan: Well, as I said, I think if you would like to hear from the Chief Actuary about the impact and what his estimate is, he's in the process of doing that. Others have been asking. The impact is going to depend on the amount and it's going to depend on the frequency with which it happens, because it takes a lot of money to move the contribution rate. That, again, is going to get into the issue of assumptions he will need to make to provide that kind of evaluation to federal and provincial stakeholders.

I'm really reluctant to express an opinion on that, but I would be happy to have him come here as soon as the committee would like, Mr. Chair.

I'm saying this in part because I and my office have been criticized in the past that we ought to make sure—and I think we do make sure—that we do not in any way get into the actuarial evaluation issues that are dealt with independently by the Chief Actuary and are then subject to peer review and so forth. So I'm really reluctant, unfortunately, Ms. Ablonczy, to get into that.

My office does not have a policy view on this. I want to emphasize that.

• (1610)

Ms. Diane Ablonczy: I appreciate that. I, of all people, should appreciate your caution in that.

Let me ask you, then, about the regulatory burden on financial institutions. I hear a lot of that. I think we all do as we meet with financial institutions. I'm sure you hear even more about it. What are you doing? What efforts are being made to reduce this?

Mr. Nicholas Le Pan: I look at regulatory burden from two perspectives: what are our direct costs, and what are the compliance costs we impose on institutions? Broadly speaking, I think we continue to look for and take action on both sides.

Our direct costs, which we charge back to institutions, are \$4 million or \$5 million per large institution, which is not a large amount, quite frankly, but we continue to look for ways to keep those under control. It's one of the reasons they rose only 1% from 2005-06 to 2006-07 in the main estimates, because we cut out a bunch of heads, re-engineered some processes, and kept the costs down.

Going forward this coming year, we will not impose any additional costs on the property and casualty industry—and we've told them that—because we've again cut back on our efforts there because the situation has dramatically improved.

With respect to compliance costs, we maintain a very open dialogue with the regulated institutions, and we're looking for initiatives on a regular basis to try to keep compliance costs under control. Over the past couple of years, the biggest initiative has been rationalizing our data requests. As far as data is concerned, I like to say it's like a bush in the garden: if you never prune it, it just does this, because the natural inclination of a regulator is to ask for more.

Starting three years ago, we progressively went through our data requests as we were arranging our processes, and we cut the data requests to the insurance industry by roughly 30%. We are in the process of doing that now for the banking industry. They asked that we defer it by about 18 months because they had other IT initiatives going on. We'll come back to it in about another six or eight months, and I anticipate we'll have a similar kind of cutback. We'll also look at rationalizing how we get data in a more efficient kind of way. So that cuts down compliance costs. There are a range of those kinds of things we can keep doing.

Ms. Diane Ablonczy: Just quickly along the same line, what's your view of the progress of Basel II on this whole issue of regulatory costs and burden?

Mr. Nicholas Le Pan: Basel II is a big initiative, and it has a major impact on the biggest financial institutions. Its impact on the small and medium-sized financial institutions is pretty tiny, because Basel II deliberately allows simpler versions for smaller and mid-size institutions, which are essentially very similar to what they're doing today. In our discussion with smaller and mid-size institutions, there has really been no compliance issue in moving from Basel I to Basel II.

For major institutions, there are big investments being made—appropriately for complex institutions, because they are complex. In many cases, those investments are enhancing their risk measurement and risk management capabilities a lot, and I think that's a good thing for financial stability.

The Chair: Thank you, Madam Ablonczy.

Over to you, Madam Wasylycia-Leis.

Ms. Judy Wasylycia-Leis (Winnipeg North, NDP): Thank you, Mr. Chairperson.

Thank you, Mr. Le Pan, for being here. I think we need to get you back. I don't think we should have you once a year for estimates.

Mr. Nicholas Le Pan: I told the chair that I'm willing to come on whatever basis the committee would like.

Ms. Judy Wasylycia-Leis: There are lots of questions. I'm going to start with a couple of specific ones.

I noticed in the news recently a lot of focus on payday lenders. I'm wondering whether, in your role as Canada's chief financial institutions regulator, you would have a view on the need to regulate or have regulations in this area, and whether you have any comments on some of the developments around this—for example, the desire on the part of the Manitoba government to open up the Criminal Code in order to be able to have rates set through the Public Utilities Board.

Mr. Nicholas Le Pan: There's certainly, as you said, a lot of interest in this territory. It's something that has interested a wide range of people.

OSFI, for better or worse, has no mandate in this area. We have no competence and no mandate because we're a prudential regulator and not a market conduct regulator. So we have had really no involvement in looking at the desirability of particular solutions or anything like that.

I'm well aware that there are ongoing discussions between the federal government and provinces about issues such as the ones you mentioned: opening up the Criminal Code, and are there other things that could be done? Are there more adequate forms of self-regulation with oversight by a consumer-type regulator, such as the FCAC has done federally or other groups do provincially, to look at voluntary codes and see how they're being adhered to? There is a range of issues out there. My office has no involvement in that. If we were asked to, obviously we would, but I'm not really competent to...

I'm well aware that those discussions are ongoing.

•(1615)

Ms. Judy Wasylycia-Leis: Fair enough.

There's another area that has been in the news a lot in the last year, and that is income trusts.

I'm wondering if in fact you have any concerns about damage to banks' reputations and the possibility of civil liability coming out of what many would consider to be unsuitable marketing of income trusts to pensioners.

Mr. Nicholas Le Pan: Again, our focus is on safety and soundness. The issues around appropriate disclosure of products to customers are either matters for other market conduct regulators federally, like the FCAC, or the securities commissions. We have focused on income trusts, though, from a slightly different perspective, because one of the issues that's out there is whether it would be possible for a financial institution to turn part of their business into an income-trust type of structure. We have focused on thinking through—in concept, at least—in advance of receiving any specific application. We're not talking about a whole bank becoming an income trust, but there are smaller organizations or parts thereof. We've concluded that we would need to look at such an application for approval under the statute case by case. We would use the criteria that are already in the statute. We'd look at the ability of the organization to continue to raise capital if it was an income trust structure, and those types of things. There might be some cases where that would be appropriate, so we haven't ruled that out a priori.

That's really the role we need to play in the income trust area.

Ms. Judy Wasylycia-Leis: On that, there has been a lot of speculation about major banks converting at least part of their operations into income trusts.

What I'd like you to address is the impact or ramifications in the context of some of the evidence being put forth, such as the Standard & Poor's study, showing that there are some really questionable practices happening, and whether you look at it from that point of view because it has an impact both on the health of a prudential institution and on pensioners income as well.

Mr. Nicholas Le Pan: We will focus as per our mandate on the financial institution from a prudential or safety and soundness point of view, because our mandate requires us to look at the possibility of institutions being able to compete. If an institution came to us and said, we can compete better from a cost and capital point of view because we're going to have to restructure as a holding company, for example, or restructure part of the operations and income trust structure, we'll look at that. We'll look at it from the perspective of what it would do to the risks in the institution and what it would do to their capability to raise capital to deal with those risks, because we're in the business of protecting the safety of moneys placed in these organizations.

The moment an institution puts part of its operations into an income trust structure or some other structure, just like if it sells other kinds of instruments, it's going to be subject to a variety of market conduct rules—disclosure rules, all those lawyer-customer kinds of rules, and so on. In our country most of those are administered by the securities commissions, not by an organization like mine.

That would be something those institutions would have to factor into account. We would broadly be interested in their compliance with those rules on an ongoing basis, no matter what those rules are, whether it's an income trust structure or something else.

But we're not in the business of enforcing compliance with specific market conduct rules. I don't have any rules to enforce; they're not set by me.

The Chair: Ms. Wasylycia-Leis, quickly.

Ms. Judy Wasylycia-Leis: Okay, this is a really quick question on the defined benefit pension plan that you already discussed with John McKay.

This is becoming a serious issue—poorly financed pension plan benefit packages. I'm wondering if you have enough staffing and resources to monitor it, to make the recommendations to prevent this trend, and to do something in terms of whatever mechanisms you use to stop sponsors from taking contribution holidays and to encourage them to increase the funding.

Mr. Nicholas Le Pan: We have increased our staff in this area. One of the reasons we've set up OSFI the way we have is to ensure that we can take action when we need to, have the kinds of people we need, and pay them what we need to pay them in order to do our job. That's part of my job—to make sure that happens.

We've been pretty successful over the past couple of years. Very few plans have terminated with losses. In many cases, we have dealt with contribution holidays, gotten money put into plans. We've gotten sponsors, even when they were terminating plans, to fund the deficit in the plan to that point in time, even though the legislation does not now require that—or the regulations do not now require that. We're dealing very actively with this situation. It's not for nothing that we've been called in public places the most activist pension regulator around. That's what we want to be.

We're still balancing things, because the plans have to exist, right? If we set the system so tight that everybody just terminated the plans.... They're volunteer arrangements, as you and I both know, so they have to be voluntarily continued by all the parties. A lot of what

we do here is force the parties to recognize the problem and deal with it themselves. We can't always impose our judgment on that.

I'm pretty comfy with what we have. We'll keep adjusting it. We've had some success. We're going to continue to have some success. But this is an ongoing issue, and the responsibility is also on management, boards of directors, boards of trustees, union members, and so on in trying to resolve these situations.

• (1620)

The Chair: Thank you, sir.

Over to you, Mr. Savage, for five minutes.

Mr. Michael Savage (Dartmouth—Cole Harbour, Lib.): Thank you, Mr. Chair.

Welcome, Mr. Le Pan.

On the issue of the pension plans, how many federally regulated pension plans do you have responsibility for?

Mr. Nicholas Le Pan: About 1,200, of which the vast majority are defined contribution plans. So we're dealing with 300 to 400 defined benefit plans.

Mr. Michael Savage: Last May, about a year ago, there was a news release that said the Department of Finance launched its consultation on private defined benefit pension plans. Were you involved in that?

Mr. Nicholas Le Pan: We assisted the department in analyzing and working through those issues. Yes, we work with the department on legislative issues or proposals or areas such as that.

Mr. Michael Savage: Can you give me a sense of what you discovered, what you learned, what helped, what didn't?

Mr. Nicholas Le Pan: For defined benefit plans I think there are two kinds of issues. There's a short-term funding issue, which we talked quite a lot about. One of the other issues out there is that many sponsors believe that the current system is stacked against defined benefit pension plans and in favour of defined contribution plans. A lot of people commented about the shift away from defined benefit plans, and that's partly funding rules, but it's also uncertainties about how to deal with a surplus in these plans—there are a variety of issues that are longer-term structural issues.

I'm not saying I support the position of one side in this. I don't carry a brief for one side or the other, because there are a lot of divergent views out there on the longer-term issues. I think it's really been commendable that the Department of Finance has started to put on the table some of the longer-term issues, which are in that paper. They're not easy issues to deal with. I think it's important to look at them.

I think it's really great that the short-term issues have been looked at in the budget, because I think that flexibility is going to be helpful. The longer-term issues matter for...and I've spoken about this, the Governor of the Bank of Canada has spoken about this, and so on. I think the minister has said he wants to come back.... It's a longer-term kind of issue; it's not immediate. I think it's beneficial that those things are out on the table.

At this point, there is not a lot of consensus out there among a variety of groups about what the right solutions are. I think that's going to be important too, and I've spoken on that.

Mr. Michael Savage: There are 1,200 federally regulated private pension plans.

Mr. Nicholas Le Pan: Right.

Mr. Michael Savage: There are umpteen thousands of other plans that are not regulated at all?

Mr. Nicholas Le Pan: No. OSFI administers the Pension Benefits Standards Act, the PBSA, which applies to federal employers. So that's certain groups in certain sectors, interprovincial transport, virtually all the employers in the territories, that sort of thing. We have about 10% of the action nationally, so the other 90% of private pension plans would be regulated by the provinces, the biggest provinces being Quebec, Ontario, Alberta, and B.C.

Mr. Michael Savage: Do you work in concert with them, passing advice back and forth on certain issues?

Mr. Nicholas Le Pan: Yes. There are a variety of mechanisms. There are some employers that have multiple plans, where one of the plans is a provincial plan and one of the plans is regulated federally, because the employer is in different businesses. Then there's more cooperation in those kinds of cases if there are problems. But, yes, there are different arrangements.

Mr. Michael Savage: If you determine there is a problem with a federally regulated pension plan, how do you go about getting involved in that? Who becomes aware of that? When does it become a more public issue so that people are protected and know that there's an issue with their pension plan?

Mr. Nicholas Le Pan: The legislation's regulations require regular disclosure to members in their annual disclosure statements about the solvency position of plans.

We would become involved and aware through several possible channels. We do our own estimates of what we think the solvency of plans is based on the information provided previously to us. We update that. Occasionally we will then say, oh, we think this plan is slipping into problems, and we'll go back and verify before we reach a conclusion.

In some cases, the information will come to us from the plan, from its regular filings. In some cases, the information will come to us separately. Then our involvement depends on the case. For example, if it was contribution holidays, where plans have slipped into deficit but they're still taking contribution holidays, that's permitted by the rules, but sometimes we don't think that's safe and sound. If we estimated the plan had shifted into deficit and was still taking contribution holidays, we went back to the plan and said, look, either you stop, or, if you don't stop, you have to inform all the members

and there has to be a formal board resolution. Many of them stop. It depends on the case.

• (1625)

Mr. Michael Savage: Thank you, Mr. Chairman.

[Translation]

The Chair: Mr. Harvey, you have five minutes.

Mr. Luc Harvey (Louis-Hébert, CPC): Your core business is the regulation and supervision of financial institutions. Do you have the same jurisdiction over aboriginal territories?

[English]

Mr. Nicholas Le Pan: We regulate and supervise institutions that are set up under the Bank Act, the Insurance Companies Act.

[Translation]

If an aboriginal financial institution were set up under the Bank Act, it could come under our jurisdiction. It is not a question of territory, but rather of institutions, under aboriginal authority or—

Mr. Luc Harvey: That was not my question.

If one were to open a credit union on an Indian reserve, in terms of transactions, would you—

Mr. Nicholas Le Pan: Federal legislation governs banks, life insurance companies, etc. Caisses populaires and credit unions, etc., are governed by the provinces.

Mr. Yvan Loubier: You deal with all of the institutions having a federal charter.

Mr. Nicholas Le Pan: Yes, all institutions chartered by the federal government, that is to say banks, insurance companies, etc.

Mr. Luc Harvey: Therefore, you have nothing to do with credit unions.

Mr. Nicholas Le Pan: Precisely. We deal with anything involving the solvency of federally chartered institutions.

Mr. Luc Harvey: Nor do you supervise foreign exchange offices that are not connected to anything.

Mr. Nicholas Le Pan: Exactly.

Mr. Luc Harvey: Could it be in your interest to oversee them?

Mr. Nicholas Le Pan: I respect my mandate and I want to do a good job in that respect.

Mr. Yvan Loubier: And you are doing a good job.

Mr. Nicholas Le Pan: I know. And I have no desire to increase my powers here and there. I am not an empire builder. If the government needs us to increase...

Mr. Luc Harvey: That was not my question.

Do you believe it would be justified for you to be called upon to intervene in these areas, given that we are after all discussing banking services, as Ms. Wasylycia-Leis was saying when she talked about businesses that cash cheques at very high interest rates?

Mr. Nicholas Le Pan: Personally, I would not wish to do so. For us, the current situation is satisfactory. On the other hand, if someone else were to decide that there should be more regulation...

Mr. Luc Harvey: We now have new services like the Internet whereby many transactions can be carried out directly. Do you have the means to supervise these services? Should you intervene in this area under the regulations?

[English]

Mr. Nicholas Le Pan: No, we are a prudential regulator; we do not regulate transactions. Some of the institutions we regulate have Internet banking operations. We will oversee the quality of the bank's management of those operations, but we are not regulating or looking at individual transactions. When there are issues of privacy, customer confidentiality, or adequate disclosure—that kind of stuff—it's all market conduct; it's somebody else. Broadly speaking, the Internet banking operations run by banks we regulate and supervise in Canada are I think pretty well run, but we're not in the transaction business.

• (1630)

The Chair: You have time for a short additional question.

[Translation]

Mr. Luc Harvey: Does your office receive complaints concerning the fees applicable to bank transactions?

[English]

Mr. Nicholas Le Pan: Yes, we receive complaints about that. An integrated system has been set up, which we are not part of, to deal with complaints about fees and relations between banks and their customers. Again, we are focused on solvency, safety, and soundness. We think that's pretty important for consumers.

When we get requests about our operations, we deal with them, but requests about things such as fees, Internet banking, etc., we will pass on to the appropriate other organization, including the Financial Consumer Agency of Canada, the FCAC, which is also part of the Finance portfolio—I don't know whether you're having them before you. We don't deal with those complaints directly because we don't regulate those areas.

The Chair: Perhaps at a future meeting. Sorry, but time for questions has elapsed.

Over to you, Mr. Pacetti, please.

[Translation]

Mr. Massimo Pacetti: Thank you, Mr. Chairman.

Have some financial institutions asked your permission to become income trusts?

[English]

Mr. Nicholas Le Pan: I think one or two smaller, middle-sized institutions have asked us about it. No major institution has approached us with an application, or even the early stage of an application.

Mr. Massimo Pacetti: Okay. Thank you.

Getting back to your annual report, I'd like to tie in some of these numbers. I was looking at the income statement...or if I look at your detailed notes, shouldn't I be able to see the \$755 million from the Office of the Chief Actuary or the net expenses somewhere?

Mr. Nicholas Le Pan: First, Mr. Chair, it's \$755,000 or \$768,000, not million, the amount for the Chief Actuary.

We prepare two sets of financial statements. One set is on the main estimates basis, which is prepared on the government's basis of accounting. Second, we prepare and have audited, as the Auditor General has recommended, financial statements on the basis of generally accepted accounting principles, and those are the statements we bill on. So in the case of our main estimates financial statements, we are asking for an appropriation from Parliament for 2006-07, \$768,000, which is everything we don't recover from financial institutions. That number is disclosed separately in the main estimates because we're asking Parliament to appropriate that money to us.

Our income statement on generally accepted accounting principles...that number is part of the expenses of the Chief Actuary's office, but it would not be shown separately—

Mr. Massimo Pacetti: No, but I think I answered my question, because in it you have a line called "Government Funding" for 2005, and it's for \$724,000, but I realize last year's number is for 2005-06.

Mr. Nicholas Le Pan: Exactly. So we will focus on government funding as a source of revenue. Okay?

Mr. Massimo Pacetti: Okay. I see again there's a deficit in the annual report of \$359,000 and \$679,000 for 2005 and then 2004. I'm not going to say net profit, but shouldn't you come out to zero?

Mr. Nicholas Le Pan: Yes, aside from minor timing differences, we'll come out to zero.

Mr. Massimo Pacetti: But why are we getting government funding? You're still asking for the \$724,000...or you're still asking for the \$890,000. I'm looking at 2004. There was \$890,000 asked for in 2004.

• (1635)

Mr. Nicholas Le Pan: Most of the operations of the Chief Actuary's office are about \$4.5 million. We can't recover those costs from financial institutions because they relate to the Canada Pension Plan, Treasury Board programs, or public service pensions. Most of those costs are billed directly to government departments, and they will show up in those department's estimates. The only part that's left is the \$724,000.

Mr. Massimo Pacetti: Okay. Another question. Our time is limited and the chair is very stringent; he's not very lenient.

Last year we spoke about certain costs duplicated between the Office of the Superintendent and the Canada Deposit Insurance Corporation. Now I see one of the achievements in your annual report is that you have some arrangements with FINTRAC. FINTRAC was created a couple of years ago, they're nice and proud that FINTRAC has been created, but with all these organizations that we're creating, is there a duplication? Has there been any effort to try to streamline them? I know it was mentioned in last year's budget, but we haven't heard anything.

Mr. Nicholas Le Pan: With respect to CDIC, I'll keep it simple. Some further streamlining of back-office operations may be possible. We looked at that a bit. A new chair will be appointed to the board of CDIC. It's been proposed. One of the things the new chair and I will sit down to look at very quickly, assuming he is appointed, is how we can move that forward. I don't think it's \$20 million or \$30 million or \$40 million, but it may be mature old economies we should be trying to get at, things like IT and—

Mr. Massimo Pacetti: Who will save? Your customers? Or will it save the taxpayer any money?

Mr. Nicholas Le Pan: CDIC is all related to financial institutions, so any savings there will reduce the assessments of our costs to financial institutions, because none of that will relate to the Office of the Chief Actuary. The only part of our business that's flowing through to taxpayers is the part related to the Chief Actuary's office, so that won't save taxpayers directly.

Mr. Massimo Pacetti: If I'm not mistaken, you've been conducting this exercise for more than a year now, maybe even closer to two years. You must be close to something. Are we looking at a merger? When you say "back-office", what are you looking at?

Mr. Nicholas Le Pan: We already took step one, Mr. Pacetti, under about a year and a bit ago, to rationalize the operations. Previously both of us were in the approvals business. We've eliminated that. Previously both of us were setting rules and guidelines. We've eliminated that. So a whole bunch was done a year ago under the former government and was reported on to Parliament in that budget. There is now a back-office part that is a second step. I don't know how big that is.

The Chair: Over to you, Mr. Turner, for five minutes.

Hon. Garth Turner (Halton, CPC): Thank you. I'd like to return for a moment to the issue of mortgage insurance, if you don't mind.

You mentioned that your chief responsibility is really in reviewing the viability of business plans of new entrants into the marketplace. To do that you really need to know whether they're going to succeed or fail in the marketplace, and that takes a knowledge of the marketplace obviously. I'm wondering if you could remind members of the committee right now of the relative importance of mortgage insurance, because the marketplace has changed in the last few years, hasn't it?

Mr. Nicholas Le Pan: Yes, it has, and it's going to continue to evolve. I'm not sure exactly what you're getting at. I will say, however, Mr. Turner, that one of the things we try to do is.... It's normally pretty well known if we're looking at applications for new bank entrants, so quite often we'll find that parties who may have views about that, about the impact, will provide us with information, submissions, and so on, and I expect that's already been happening in this case.

Hon. Garth Turner: But I was thinking in terms of consumers and homebuyers. How has the marketplace changed there, the relative importance of mortgage insurance in that marketplace? Obviously for you to do an analysis of a business plan you have to know what the premium payments are now, the scope of the market, and the importance of mortgage insurance in the marketplace now.

This leads me to my second question. You said the door has been opened to other applications from other players, but you haven't had any. Why would you surmise that has been the case, and why has it changed now? There must be some change in the marketplace, in your estimation, that has resulted in this application.

Mr. Nicholas Le Pan: No, I don't accept that. There are a variety of reasons why. We've had parts of the financial services market that have been very stable for a period of a number of years, and then somebody else will come in and say they think they have a better model, they can lever off systems, or approaches, or whatever elsewhere, or the market has changed.

So there can be a variety of reasons. Our view of the business plans is not really, as you said, to sort out.... We're going to do a fairly high-level review of the adequacy of those. We're not going to assure that those plans are successful. We want to try to weed out the plans that are inappropriate, done in an irresponsible kind of way, but we're not going to try to substitute our business judgments—

• (1640)

Hon. Garth Turner: I understand that, but it goes back to the nature of my first question. Could you tell the members of the committee how the situation has changed in terms of mortgage insurance, in terms of consumers? What has been the evolution over the last few years? It used to be mortgage insurance was somewhat rare. What is the situation now?

Mr. Nicholas Le Pan: No, I wouldn't say that. Somewhat rare?

Hon. Garth Turner: A high ratio, an extremely high ratio.

Mr. Nicholas Le Pan: But that's really what we're talking about, right? We're really talking about the fact that there's been a requirement for a number of years in the various statutes that high-ratio mortgages be insured. The government has then changed the approach to CMHC. That's changed the marketplace. MICC, which was then taken over by—

Hon. Garth Turner: Okay. I'm running out of time here.

Mr. Nicholas Le Pan: I'm not sure what you're after here. Sorry.

Hon. Garth Turner: What I'm trying to get you to give us is the relative importance of mortgage insurance in the marketplace today when we have the highest real estate values in the history of the country. Do we have, yes or no, 50% of the people buying homes in this country now requiring mortgage insurance? That's a big change, right? That's all I'm trying to get to.

Mr. Nicholas Le Pan: I'm sorry, I—

Hon. Garth Turner: Which sets the scene then for having other people who naturally want to get into a marketplace that is now big and fat. What are they going to be offering in there? You're reviewing a business plan from an applicant. Without naming the applicant or telling us what's in the business plan, what's in it for consumers?

Mr. Nicholas Le Pan: I think the key thing that private sector providers of mortgage insurance have brought has been competition for CMHC. Some of that competition has been on service. Some of that competition has been on rates. I'm not going to comment much more because I will then start to stray into an individual business plan and half the people around this room will know who we're talking about. I think there has been benefit over the past...my experience with the existing competition that was promoted through the offering of the guarantee originally has been really beneficial in terms of service and rates of service.

Hon. Garth Turner: Okay.

Here's my other question. Have you looked at the American experience? And without casting any aspersions on whether the competition is good or bad—and generally it's excellent—I think we all agree that having competition in the marketplace is a good thing we should probably encourage wherever we can.

Some people who are against competition, however, hold up the example of the American marketplace where a lot of people go into the insurance business and all of a sudden they're giving what some people would call kickbacks to the financial institutions when they're paying back parts of their fees in order to get the business, which they then insure. Is there any concern about that? Because after all, these are consumers'—taxpayers'—dollars that are ending up in the pockets of other financial institutions.

Mr. Nicholas Le Pan: I think the key point from my perspective, Mr. Chairman, is that certainly we have not received a groundswell of complaints about inappropriate market conduct.

Hon. Garth Turner: But I'm talking about the future, going forward, how we can open it up more, not about what exists today.

Mr. Nicholas Le Pan: I understand that, though we've had competition and new private players in the market over the past few years.

I think that policy makers—not regulators—would have to make the judgment here. Is there an existing problem, or the likelihood of a problem arising for which we need a new set of market conduct rules? Because there are none. We don't administer them, and they are not fundamental. At this point we haven't seen a huge amount of evidence that there is a systemic market conduct problem.

Focusing on going forward, there are a number of aspects in the U.S. market that are different from ours, and so on. We haven't studied that, and we won't when we look at individual applicants. We'll look at the marketplace as it is, and we'll look at the likelihood of an applicant being reasonably successful and being safe and sound. Our market analysis won't look at whether there is a need for policy changes for market conduct rules. That's a broader question. You already started that discussion, I gather, a few days ago with officials from the Department of Finance. From what we know, we have not seen a groundswell of that kind of issue coming to us.

The Chair: Thank you, Mr. Turner.

Seeing no other questions, I will thank you on behalf of the committee for your responses today and your presentation earlier. I very much appreciate your being here.

• (1645)

Mr. Nicholas Le Pan: Thank you.

The Chair: The committee will remain for a moment; I have notice of a motion.

• (1645)

_____ (Pause) _____

• (1645)

The Chair: Okay, ladies and gentlemen, we'll continue.

We have one item of business to deal with, and then we'll let all of you who aren't on the steering committee go.

Yes, Mr. Pacetti?

Mr. Massimo Pacetti: A point of order, Mr. Chairman.

I have a problem here because it's not on the....

[*Translation*]

agenda. When a motion does not appear on the agenda, I have a problem with that.

[*English*]

I think we should follow procedure. That's my opinion. If you could take it into consideration, maybe you'd want to speak to the other members.

The Chair: It's not on the agenda, that's true. But notice was received, I assure you, and I'm giving the member the opportunity she deserves to present her motion.

Proceed.

Mr. Massimo Pacetti: Again, Mr. Chair, I don't hear the member. I think it's an issue put on by the chair. If the chair is going to bring up the motion, then he should at least put it on the agenda.

The Chair: I'm simply telling you that I received affirmation prior to the meeting from the member of our committee that she wished to make the motion. So I'm allowing her to do so because she did give appropriate notice.

Over to you, Madame Wasylycia-Leis.

Ms. Judy Wasylycia-Leis: Thank you.

The Chair: I'm sorry, Monsieur Loubier has a point of order, I believe.

[*Translation*]

Mr. Yvan Loubier: This motion was tabled more than 48 hours ago. Ms. Wasylycia-Leis has the right to present it when she pleases after 48 hours.

[*English*]

The Chair: Thank you.

Mr. McCallum, do you have a point of order?

Mr. John McCallum (Markham—Unionville, Lib.): On this same issue, I think maybe the point is not to stop Judy from presenting, but to request that in future meetings it be on the printed agenda. Is that the point?

Mr. Yvan Loubier: We don't need it, John. We don't need it for a private motion.

Hon. John McCallum: It would just be clearer for information purposes.

The Chair: Thank you for that point. However, we will, and we currently have other notices of motion. It will not be my practice to list every possible motion that could be brought at every meeting, because it will be up to the member to decide when they present it to the committee. Otherwise your agendas are going to be foldout sections comprising several pages, I expect, as we get more and more notices of motion from all members of the committee who wish to bring motions forward.

So it's up to the members when they wish to bring the motions forward. Madame Wasylycia-Leis had indicated to me earlier she wished to. I'm not directing her to do that, but I don't propose to include in every one of my agendas the possibility of motions being brought forward when they may in fact not be brought forward at those meetings.

Mr. Pacetti, you have a point on the same point of order?

Mr. Massimo Pacetti: Absolutely.

It's part of your job to put them on the agenda. In this case we were lucky that we finished with Mr. Le Pan. What are we going to do? Are we going to invite a witness and then suddenly decide to address some motions? If we have too many motions, we'll have a separate meeting to address those motions. That's what the motions are for. If they've been given 48 hours and they're in proper form, we should address them with a set order of the day. It is up to you to decide when we're going to do them, and they should be put on the order paper. If we have 20, we're going to put 20 on the order paper.

But we can't expect to have witnesses appear and then all of a sudden turn this committee into a zoo because we decide that we're going to present 20 motions that are outstanding. If somebody is serious about putting forward a motion, they have to get to it, and if they're not, they'll pull it. That's it.

The Chair: Mr. Savage, you wanted to speak to the same point.

Mr. Michael Savage: Yes, thank you, Chair.

I would like to see all motions be on the agenda, for the purposes of preparing for our meetings and knowing what we're going to be discussing as we get ready for the meetings. I have no problem with Ms. Wasylycia-Leis presenting hers today, and frankly I have no problem with the chair making exceptions when he thinks it's appropriate. I don't have a problem with that. But I do hope that notices of motions that are going to be discussed at a meeting would be put on the agenda.

The Chair: I don't know if we require a motion to that effect. It's not been a practice in any committee I've been part of. I'm sure there are other members who may have found it a practice in committees in the past to put notices of motion on every agenda, but it's up to members when they want to present them.

I've heard your advice. If anyone wants to speak further to this, please so indicate.

Yes, Mr. Dykstra.

• (1650)

Mr. Rick Dykstra (St. Catharines, CPC): The only point I would make is for a little clarification here. Notices of motions are not required to be put on the agenda, but motions are required to be put on the agenda. The notice of motion can be put forward at any time, at any place. As for the motion itself, from my understanding, once we've had the 48-hour notice, we would have received it and we would see it come up.

The Chair: Just for clarification, no, once the notice of motion has been given and the requirements for time have elapsed, there is no requirement to put that motion on your agenda each time.

Mr. Rick Dykstra: Is that then up to you or to the mover?

The Chair: Just to clarify, for example, Mr. Loubier has given ample notice of motion on an issue pertaining to Barbados. If the committee so instructs me, I can have every agenda carry that and each other subsequent motion that is made—if that is the wish of the committee. I just see it as a waste of paper, frankly, but it's up to the members of the committee. I will act on your instructions.

[*Translation*]

Mr. Yvan Loubier: Mr. Chairman, in order to assist the proper working of the committee, we could table a motion with the clerk's office.

I should have tabled my motion today. However, I can say to the members of the committee that I would like my motion to be dealt with at the next meeting of the Standing Committee on Finance, when we come back from the break week. Perhaps by giving several days' notice, we might be successful in managing these motions, especially since everyone will receive a copy of the motion. We must also look at our emails. The clerk's office sends all of the motions to members.

It is therefore up to us to prepare accordingly. However, it would make things easier if we were to announce that we hope that the following week, or two weeks later, there would be a vote on a motion that was tabled concerning this subject or another. I think that might be a good way to proceed.

As far as Judy's motion is concerned, we are in the hands of the chair, but we can very well deal with it today.

[*English*]

Ms. Judy Wasylycia-Leis: I'll just jump in on this point of order.

I'm not sure what the big deal is. The practice that's being followed is no different from what we had in the past when you were chair, Mr. Pacetti. In fact, one would follow the rules to give proper notice, and then to try to get it addressed at the committee was often a difficulty.

The fact of the matter is that we follow the rules of giving 48 hours' notice. It's been circulated twice to every member, so it's not as if you didn't have a chance to read it. We've had lots of time to consider it. Obviously you would assume that if you got something 48 hours beforehand, the member is likely going to raise that at the next appropriate meeting. It's as simple as that. That's how all committees operate. That's how you operated. If you want to change the rules now, then let's do it at the steering committee and not waste time.

The Chair: I'll suspend discussion at this point and I will ask if there is a desire to put a motion forward that we include in the agenda each notice of motion that has received 48 hours' notice. I would entertain that motion now.

Hon. John McCallum: I so move.

The Chair: Mr. McCallum so moves. I don't believe we need a seconder for that.

I will invite speakers to speak to that motion.

Mr. Loubier.

[*Translation*]

Mr. Yvan Loubier: Things cannot work in that way. I tabled a motion over 48 hours ago. I did not ask if it could be dealt with today, because I knew that Mr. Le Pan was appearing and that we were going to deal with Judy's motion.

I can tell you today that I would like it to be dealt with at the first meeting after we come back from the adjournment week. If you put all of the motions on the agenda, would the movers of those motions want them to be dealt with specifically at that meeting? No. I would prefer that notice be given once a motion is tabled and after 48 hours, I would indicate that I would like the motion to be dealt with the following day or the day after that. If you are putting all of them on the agenda...

Mr. Chairman, I would just like to say one thing. Mr. Pacetti was a good chair. However, he had one major shortcoming: he was always trying to lecture the others, and after 48 hours or even after 94 hours, we sometimes had to fight with him in order to deal with a motion. We can do without the lessons.

• (1655)

[*English*]

The Chair: I can't comment pro or con on your observations.

Mr. Savage, it's your opportunity to speak to this motion.

I would encourage comments to be brief so we can move forward.

Mr. Michael Savage: For me, it's simply a matter of planning our work and knowing what we're going to discuss. I have no problem with somebody showing up with a motion that was filed and isn't on the agenda and asking for it to be discussed. That's okay with me.

I just think it's helpful, especially when we get into multiple motions, to have an idea on our agenda of what we are going to be discussing so we can better prepare for it.

As I said, I have no problem with Madam Wasylycia-Leis making her proposal today.

The Chair: If I could just observe, though, the clerk's office has copies of such motions at any point in time. If you wish to review what motions may be brought forward by members, you're certainly able to do that in that way.

That isn't to say that I'm speaking in favour of or against the motion.

Mr. Dykstra.

Mr. Rick Dykstra: A notion of motion can be registered at any time. All I need is a copy of the piece of paper—

The Chair: We're not speaking to notices of motion now.

Mr. Rick Dykstra: We're speaking to whether a notice of motion is actually going to be debated on the agenda.

The Chair: We're speaking to this motion that Mr. McCallum brought forward that would require all motions that satisfied the notice of motion requirement to be listed on the agenda.

Mr. Dykstra.

An hon. member: If I could just make a friendly amendment...

The Chair: We'll just let Mr. Dykstra finish his comments.

Mr. Dykstra, to finish your point.

Mr. Rick Dykstra: All I want is a clarification. When a motion is going to be discussed, would it be placed on the order paper? I don't even need the whole motion, just the motions noted with their title, to say this is going to be on the agenda today.

Hon. John McCallum: That's the intent of my motion.

The Chair: I will respond to the point of clarification request. If we begin to list the motions that are here, we will not necessarily deal with them at those meetings; they will simply remain as potentially being raised. However, if members decide they wish to give us notice to raise them at that meeting, we can give notice on the agenda. I believe that is a practice the clerk's office has adopted in the past.

Any further comments then?

Mr. Pacetti.

Mr. Massimo Pacetti: I have to defend myself. Every time there was a motion before this committee, it was on *l'ordre du jour*. There were times where we said we would allow a witness to come, and then somebody would decide to present the motion they had when we said we would put aside some time. The only time motions were forced upon—

[*Translation*]

Mr. Yvan Loubier: [*Inaudible*]

Mr. Massimo Pacetti: No, no. I accepted all motions.

[*English*]

The Chair: Allow Mr. Pacetti to make his point, please.

Mr. Massimo Pacetti: Every single motion was put on the order paper, and we even used to put times.

I could pull them out. I have them all, Judy, and I can speak to you about this one. I asked how much time you needed—maybe half an hour—and we put it on the order paper: Judy Wasylycia-Leis' motion from 9 to 9.30 a.m.

Ms. Judy Wasylycia-Leis: If you liked it.

Mr. Massimo Pacetti: No. I passed them all. The only two motions I didn't put on the order paper, and I can tell you which ones, were the GST/QST that the Conservatives presented, because we said we were going to have pre-budget consultations, and one from—

The Chair: Speak to the motion, sir, please.

Mr. Massimo Pacetti: Yes.

All I think Mr. McCallum is requesting is that it be put on the orders of the day, so that it says, "Mr. So-and-So's motion from 9 to 9:30 a.m."—that's it, that's all.

The Chair: That's not the motion I believe we—

Mr. Massimo Pacetti: We need to have it on the order of the day so we can plan our day. Out of respect for the witnesses who are going to come here, I think we owe them that.

Ms. Judy Wasylycia-Leis: On a point of order.

The Chair: No, just for clarification first, I'll read Mr. McCallum's motion, which does not accurately reflect Mr. Pacetti's comments just now. It says:

That all notices of motion that have been circulated and have received the 48 hour notice period be put on the agenda of all meetings until such time as the motion has been disposed of.

That is the motion before us. I would urge members to continue in their discussion only on this motion.

Madam Wasylycia-Leis, please, proceed.

Ms. Judy Wasylycia-Leis: I think we're ready to vote on this. I would speak against it, because I think the clarification from the clerk about how this committee can operate makes sense. That would be to say—something I fail to do, which I would be happy to do—that I intend to raise this today, and therefore it would appear on the order paper. It's as simple as that. The onus is on the individual.

If I fail to do this, I apologize. I'd be happy to do it in the future.

That's the reasonable way to go. This other motion makes no sense.

● (1700)

The Chair: I'm sorry, Madam, there's another issue, though. This is an issue that would, by your comments, require all members to not only give 48 hours' notice but also then to notify the clerk's office prior to the introduction. If this is what members wish, another motion is in order; however, right now we're dealing with this motion.

Madam Ablonczy.

Ms. Diane Ablonczy: I was just going to suggest a friendly amendment: that the clerk place on the agenda those motions that have been properly given that the clerk has reasonable belief will be dealt with at a particular meeting.

I don't know, John, whether that's acceptable to you, but then we would just have the motions on that we think we're going to deal with, and not a whole bunch that won't be.

The Chair: Mr. McCallum, you can speak to that amendment.

Hon. John McCallum: I almost wish I hadn't presented this motion. I'll accept it, though.

The Chair: Yes, at this point....

Mr. Harvey has a comment.

[*Translation*]

Mr. Luc Harvey: Mr. Loubier, you have motions, but they will not be tabled today. Is that correct?

Mr. Yvan Loubier: No, that is not correct. I tabled a motion more than 48 hours ago with the clerk's office. I could have informed the clerk yesterday, for example, that I wanted my motion to be debated today. She would then have put the title of my motion on the agenda, and we would have debated it.

In the 13 years that I have been a member of this committee, we have never operated as Mr. McCallum is suggesting, by putting on the agenda all motions tabled with the clerk's office, even if they are not examined the same day that the finance committee meets. We will be completely lost with a procedure like that.

[*English*]

The Chair: Monsieur Loubier, I appreciate your comments and all members' comments. Now I will call the vote on the motion.

Excuse me, Mr. Harvey. I'm sorry, the discussion is complete. I will call for the vote on this motion now.

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

The Chair: So in future we will endeavour to list all such motions, as I've been instructed today.

Now, moving on, I have already indicated that I would allow Madam Wasylycia-Leis to deal with her motion. This motion not having been passed until after I made that indication, I would invite her to make her motion now.

Ms. Judy Wasylycia-Leis: Thank you, Mr. Chairperson. I appreciate this.

This motion is almost identical to the one passed by our committee on February 17, 2005. I want to express gratitude to the clerk for ensuring that the motion was improved and is much more consistent with the proper conduct of a committee.

It is simply intended to put in place procedures that will allow us to handle the change of the rules surrounding committees being able to vet appointments, something that happened in the last Parliament and that requires some process for carrying out the review of those appointments. This is simply an attempt to put in place some guidelines and a procedure by which we can conduct business with respect to those appointments.

It seemed to work well the last time. There are a few changes to make it more specific, but it's still there in substance as we've used it in the past.

The Chair: Thank you, Madam.

I'll discourage members of the committee from interrupting one another as we proceed with our discussion. I think it'll be in all our best interests in terms of time and mutual respect. If there are any comments on this, and you would like to get the attention of the chair, I'd be happy to acknowledge your participation in the debate in due course.

Do you have any comments, Mr. Turner?

Hon. Garth Turner: I understand and respect the motivation behind the motion. I'm only concerned about the process, and I'm concerned about the added workload, apart from whether it's the right or wrong thing to do. I understand the motivation. I think it's certainly in the spirit of Gomery too. There are a lot of things I understand about that.

I'm not sure we're the right body right now to be taking on a whole bunch of appointment reviews, which is a lengthy process, and the criterion that Judy has recommended is certainly an exhaustive one if done properly. I don't see in the process how we can do it. We're doubling or tripling our workload.

• (1705)

The Chair: Thank you, Mr. Turner.

I'd encourage you, Judy, if I may, to note concerns as they're raised. I'll then give you the opportunity to respond after other members have had a chance to raise them, if that would be acceptable.

Ms. Judy Wasylcia-Leis: I have a point of order.

Unless I'm mistaken, I understand that committees have been given the power to review appointments. This motion is not about whether or not we do it; it's simply a process.

The Chair: That's not a point of order. I'll encourage you to save your responses to points as they're made, until other members have the chance to make them.

Thank you.

Mr. Turner, would you like to finish your comments?

Hon. Garth Turner: That's fine.

The Chair: Mr. Harvey.

[*Translation*]

Mr. Luc Harvey: Judy, I would like to know how many appointees would appear before the committee in order to estimate the time required to examine their appointments. Is that all we are going to do, or will we be in a position to do our work and to hear witnesses? Appointments should not take up all of the committee's time. If there are just a few, there is no problem, but if there are hundreds, it seems to me that that is not part of our mandate.

[*English*]

The Chair: For clarification, you raised the issue of numbers, and I have just learned that we're potentially talking about 30 appointments.

Mr. McCallum.

Hon. John McCallum: I can see the logic of it, but I'm not in favour of this.

I had a brief conversation with my colleagues. I think they are in agreement with me, for similar reasons to those mentioned by Mr. Turner. This would impose a fairly heavy level of bureaucracy and process on top of us when there are other issues to discuss.

Perhaps I'm guilty of sounding as if we're still the government. I'm aware that we're not, but I am concerned as a matter of public policy that we want to get the very best people we can to serve on boards, whether we're government or opposition. These positions pay very little money, so we're really asking people to do this as a public service. To impose additional burdens on such people, who are willing to come forward, I don't think is in the interests of getting able people to do these important jobs.

My feeling is that the amount of bureaucracy and process in the system is sufficient today, without going this extra step.

The Chair: Thank you, Mr. McCallum.

Mr. Pacetti, you had a comment.

Mr. Massimo Pacetti: Thank you, Mr. Chair.

If we recall, we tried this last session, and we did it for one particular appointment. It was an exercise in futility and everybody said they were not going to do it again.

I have no problem with this. We get the orders in council, at least I get them in my office, and I look at them. I don't think we need to be saddled with number 5, where we're obliged to have at least one full meeting, because I think that's where the problem is. But I have no problem with number 4, where if we feel there's a certain nomination we would like to have more information on, we could perhaps ask for his or her c.v.

Beyond that, I think we're saddling ourselves with a lot of paperwork here. If the motion stays as is, I'll be voting against it.

The Chair: Seeing no other indications, I'll give....

I'm sorry.

Ms. Diane Ablonczy: Maybe I'll just ask my friend a question.

Are there no criteria now? I don't know the answer to that, but surely there are some criteria. You just can't pick people out of the blue.

Ms. Judy Wasylcia-Leis: That's the point.

The Chair: I'll give Mr. McCallum the first opportunity to offer clarification of that, and then we'll move to Madam Wasylcia-Leis.

● (1710)

Hon. John McCallum: There are very elaborate criteria for the more senior positions, like the CEO of a crown corporation. There are very elaborate Treasury Board-mandated criteria for search processes, head hunters. There is a very long set of arduous criteria. There are somewhat less arduous criteria for board members, but those rules and regulations are there, and I'm sure the committee could look at those in detail if it wanted. I can assure you they exist, unless they've changed since the government changed, but at least in our time there was a very definite and I would say fairly arduous set of criteria and processes for making such appointments and for the time when those individuals would come before committee or not come before committee. Those processes were all set up.

The Chair: Madam Wasylycia-Leis, to conclude.

Ms. Judy Wasylycia-Leis: Thank you. The first point I tried to raise as a point of order is that Parliament has agreed in fact to the right of committees to have a say in appointments. So we're not here debating whether or not we should spend time on it or whether or not it's in our purview to do so. That was a change in the last Parliament, for which all parties, I believe, expressed support.

This was seen as a move towards greater accountability, transparency. I think in fact members of the Conservative Party led the charge in getting this change in our entire parliamentary procedure. So for the very first time, in 2005, committees were granted the right to do that. In other words, we're now trying to find the way to actually execute our responsibilities in a proper, responsible way.

I have one suggestion, and it has been tried briefly by our committee. I don't think we had long enough to actually see how it would work.

There aren't many in the area of finance. The chair mentioned 30. Go back to the statistics that were given to us when we studied this last year, and of course with the new government there would be an increase, but between 2003 and 2008, the number of appointments was: 7 in 2003, 9 in 2004, 18 in 2005, 12 in 2006, 9 in 2007, and 11 in 2008. So we're not talking big numbers, and I hope we're not talking about not doing this job of reviewing appointments. We have to figure out a way to do it.

What this motion does is say let's get some criteria from the finance committee so that when appointments come along, we can look at them fairly, not based on our criteria that we make up, but something from the department to show us what kind of position they've got and why the person they're recommending should be considered for that. It actually takes it out of that realm, hopefully, of politics and partisanship and gives us a mechanism by which we can do our job.

When we discussed this in the past, there was clear support for it. In fact, I want to refer to John McKay, who I hope is going to support me this time, when he actually said:

If I understand the process, what's happening is that the government recommends criteria, they bring them to us for comment, and they then either accept or reject the criteria. But there's transparency. It's there, rather than our wondering how this person is appointed.

He goes on to suggest that as long as we don't have a veto power, which we don't, and we're not suggesting that in this, therefore he could support it.

There were Conservative members at that committee who gave it their absolute 100% support and blessing. I know, of course, that Yvon Loubier and the Bloc have always been supportive because it was consistent with their approach, except for their vote on the budget—whoops, I shouldn't have said that.

But I think it makes sense to have a process. If people don't like this process, then come up with something else, but we can't not do the work that Parliament has said we now have the right to do.

● (1715)

The Chair: Mr. Dykstra is next, with a short comment.

Mr. Rick Dykstra: This is through you, Mr. Chair, to the clerk.

With reference to the procedure set in place in 2005, was that motion then overturned and thrown out, or do we already have a process in place?

Ms. Judy Wasylycia-Leis: Do we believe Parliament has to start over again?

We have the process, but we have to do the motion again.

The Chair: Each committee is its own master.

Okay, thank you for the comments, colleagues.

Madam Ablonczy.

Ms. Diane Ablonczy: I want to ask my friend a question.

I regret I didn't know this motion was coming up; I've seen it for the first time. Mr. McCallum's been quite helpful, but I don't know the degree to which the criteria are public. Can someone answer that?

I'd just like a little bit of time to look into this, and that's not my friend's fault; it's mine, because I didn't realize this was coming up, but I hate to vote for something when I don't really know what the present process is. Maybe Mr. McCallum can help us here.

Hon. John McCallum: I can't remember in detail, but I do know that Reg Alcock, when he was at Treasury Board, put out what the criteria and processes were in general terms, and which kinds of appointments would come to the committee and which kinds would not. I would assume, in the absence of actions to change them, that those processes would still be in place, so that automatically, if there were a CEO or a chair of the board of a major crown corporation in the finance area, those people would come before the committee, but in the case of more minor appointments, they would not.

I can't remember exactly where the cut-off is, but it was a well-established process. I would assume it's still written down somewhere.

The Chair: Just to offer further clarification, Mr. McCallum, the clerk informs me we're notified of each finance-related appointment. In fact, one of the issues we'll discuss at the steering committee here, momentarily, I hope, is the issue of how we deal with one of those nominees and whether we choose to recommend to the committee of the whole that we wish to interview or not. It's in our committee's purview to make those decisions as they come up. I hope that helps.

Yes, Madam Ablonczy.

Ms. Diane Ablonczy: Again, I apologize. I didn't know this was happening. I could have known this, but...this requirement about publishing in the *Canada Gazette* is not done right now, is it?

The Chair: Yes, it is.

Ms. Diane Ablonczy: So this motion simply validates the current process—is that what you're saying, Ms. Wasylycia-Leis?

Ms. Judy Wasylycia-Leis: In part, but at present, although we have the right to review appointments, we don't have a process. This motion tries to find an objective...this recommendation is to put in place an objective set of criteria from the finance department, criteria by which we can then carry out the work we now are entitled to conduct.

The Chair: Just for clarification, the *Canada Gazette* requirement in the Standing Orders relates to the publication of the name, not the criteria. This motion speaks to the need to publish the criteria.

Ms. Diane Ablonczy: So it's not the criteria.

The Chair: Currently, that is not in the Standing Orders.

Next is Mr. Pacetti.

Mr. Massimo Pacetti: Thank you, Mr. Chair.

By defeating this motion, we're not giving up our right to have these people come before us. My only problem is with point 5 in the motion; we're going to be saddled with having to do more work than is necessary.

If you'd like, I can propose a friendly amendment. Your wordsmithing is probably better than mine, Ms. Wasylycia-Leis, but maybe I would be for the motion if we can do something with point 5. With point number 5 I think we're saddling the committee with extra work for no reason.

The Chair: You've made that point before. Would you like to propose an amendment to facilitate the deletion of number 5?

Mr. Massimo Pacetti: Yes, I would.

Ms. Judy Wasylycia-Leis: I accept the amendment.

The Chair: Now we need to vote on it. All in favour of the deletion of article 5 in the motion, please raise your hands.

(Motion agreed to)

The Chair: Seeing no other urgent desire for participation in the debate, I will ask for the vote on the motion—

Ms. Diane Ablonczy: I have one concern about number 3, which is publishing the committee-approved criteria for each appointment. I think that's problematic. I certainly wouldn't want to have that go forward without some investigation as to its practicality. What I hear from Mr. McCallum is there's some concern about putting that extra burden on the whole process.

If there are criteria, then surely we'll have them, but to have them published in the *Gazette* and to require the committee to approve them...I'm not sure that's going to work very well.

• (1720)

The Chair: I'll just make it clear that the motion reads: "That the standing committee request that the Government of Canada then publicly release it". Arguments would then ensue back to our committee, if that wasn't practical from the government standpoint.

Madam Ablonczy, I suggest you either propose an amendment or propose the cessation of debate so that you're comfortable with voting on the motion. I suppose the only other option would be to vote against the motion as it reads. Other than that, I'm at the mercy of the committee.

I think we've had lots of discussion on this. I'd like us to move to a vote.

(Motion as amended negatived [See Minutes of Proceedings])

The Chair: Steering committee members, I'd invite you to stay for what I hope will be a worthwhile and short discussion. For those who are leaving, I wish you the best in the break week and look forward to seeing you back here for a very busy first week back.

This meeting is adjourned.

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