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Chair

Mr. James Rajotte

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•(1635)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call this meeting to order. This is the 48th meeting of the Standing Committee on Finance. I want to apologize to all our witnesses, both here in Ottawa and in Montreal. We were detained in the House of Commons by a vote. I very much appreciate your patience in staying here with us.

We have the orders of the day, today, pursuant to the order of reference of Tuesday, February 14, Bill S-5, An Act to amend the law governing financial institutions and to provide for related and consequential matters.

We have four witnesses here to present on the bill. First, we have the Canadian Community Reinvestment Coalition. Second, we have the Credit Union Central of Canada. Third, we have the Ombudsman for Banking Services and Investments.

[Translation]

Lastly, from Montreal, we welcome Option consommateurs.

[English]

You will each have up to five minutes for an opening statement, and then we will have questions from members.

We'll begin with Mr. Sommers, please, with your opening presentation.

Mr. Tyler Sommers (Coordinator, Canadian Community Reinvestment Coalition): Thank you, Mr. Chair, for inviting me, and to members for having me speak here today.

I'm representing the Canadian Community Reinvestment Coalition, which was established in 1997 and is made up of over 100 citizens' organizations across Canada. Our membership is approximately three million Canadian citizens.

Recently, we called on the federal finance minister, Jim Flaherty, to work with opposition parties to create effective banking and financial institutions by requiring banks to prove, through an independent audit, that their credit card and other consumer and small to medium-sized business loan interest rates do not amount to gouging; and, through empowering the Competition Bureau, to evaluate and publicly report on the number of business loans applied for, approved, and rejected. We also called for specific categories of business borrowers, and an investigation into the level of competition throughout the country.

Canada's big six banks have reported new record first-quarter profits totalling over \$7 billion, which is up 5.3% compared to 2011, and have done this while raising bank fees and cutting jobs in the sector, from approximately 305,000 in June 2010 to approximately 296,000 in September 2011. Canada's wage gap is also growing to the highest it has been in 30 years.

Canada's big banks also reported a total of more than \$16 billion in losses and writedowns in 2008, primarily because of risky investments. Changes are needed now more than ever to ensure that banks don't increase their rates and fees to recoup their self-inflicted losses. We're also asking for increased accountability in return for the almost \$200 billion in support the federal government provided to them from 2008 to 2009.

We're of the opinion that no corporation has the right to gouge or unjustifiably cut services, especially when providing an essential service, which banking is. To help Canadians overall and to ensure that big banks serve everyone fairly, at fair prices, we're asking the government to facilitate the creation of a national financial consumer watchdog group, and to require independent audits to determine if banks are reaping excessive profits through gouging interest rates, fees, and arbitrarily cutting credit services and services for some customers and communities.

To ensure effective ongoing industry accountability, the government can require banks to prove their loan investment interest rates are fair, which I have previously elaborated on, by auditing the lending and competition levels, which was recommended by the 1998 MacKay task force and the House and Senate committees as well; and by requiring financial investment companies to distribute a pamphlet in their mailings, which invites customers and investors to join a citizen watchdog group to watch over the financial industry and the federal government.

The recommendations the CCRC has with regard to regulating Canada's banks and investment companies are: to require banks to refund customers if the FCAC shows, through their investigation into gouging, that there has been gouging in the past decade; to either require banks to open branches or subsidize the opening of credit unions, if the Competition Bureau shows a lack of competition in any area; and to require banks to provide detailed information on loans and investments to customers, and to require corrective action and deny any mergers if the takeovers are not meeting the customers' needs, which is what currently occurs in the U.S.

We also recommend that the government award money-handling and credit card business to the banks that best serve the people, as every government in Canada contracts to banks; facilitate the creation of a financial consumer organization and individual investor organization through, as I mentioned, a pamphlet in their mailings; and require banks to give customers access to their money as soon as the cheque clears—in Canada, we have about a 98% clear rate in a day.

In addition, we recommend the government increase the maximum penalty for violating the Bank Act to about \$50 million. Currently, the maximum penalty is \$200,000, and we believe that the government proposal to increase it to \$500,000 is still much too low to serve as a deterrent. We also recommend that they require the FCAC to disclose the name of violators in every case. Currently it's only if they prosecute, and that doesn't happen very often.

Finally, we recommend they ensure that all federally regulated banks are required to use the Ombudsman for Banking Services and Investments to ensure consistency and independence in the resolution of customer complaints.

That's all I have. Thanks very much.

• (1640)

The Chair: Thank you very much for your presentation.

We'll hear from Mr. Phillips now, please.

Mr. David Phillips (President and Chief Executive Officer, Credit Union Central of Canada): Mr. Chair, members of Parliament, thank you for inviting us to share with you some comments on Bill S-5, the Financial System Review Act.

My name is David Phillips, and I'm president and CEO of Credit Union Central of Canada, also known as Canadian Central. Canadian Central is the national trade association for its member organizations, and through them, 368 Canadian credit unions. Credit unions are full-service cooperative financial institutions that are owned by their member customers.

Canada's credit unions operate a branch network with more than 1,700 locations. These branches serve more than five million members and employ almost 26,000 people across Canada. Almost one-quarter of credit union locations serve small communities where they are the only financial services supplier in terms of bricks-and-mortar presence in that community.

Credit unions in Canada are provincially regulated financial institutions. However, Canadian Central is incorporated as an association under the Cooperative Credit Associations Act. As such, Canadian Central is itself a federal financial institution with a

corporate charter that is extended by this legislation. Further, all of our provincial central members have opted to be regulated under the Cooperative Credit Associations Act.

In 2010 the credit union system welcomed provisions in the Jobs and Economic Growth Act that made amendments to the Bank Act to allow for the establishment of federal credit unions. We are currently providing input to the Department of Finance in connection with regulations that would allow credit unions the opportunity to operate a federal charter under the Bank Act.

From the perspective of credit union centrals and potential federal credit unions, we have an interest in Bill S-5. There are three matters we wish to address in connection with the bill.

First, we want to indicate our support for the proposed amendments to the Canadian Payments Act that will allow a federal credit union to participate in the governance of the Canadian Payments Association as part of a cooperatives class of CPA member financial institutions.

The amendments will allow federal credit unions to vote for CPA directors who represent cooperative financial institutions. Without this amendment, federal credit unions would not have a real voice in the governance of the Canadian Payments Association, because they would be nominally represented by directors who are elected from the commercial banks.

Placing the federal credit union in the cooperatives class will preserve and strengthen the credit union system's representation at the Canadian Payments Association. It ensures that a federal credit union will be represented by a director who can bring the perspective of cooperative financial institutions to CPA matters.

Secondly, we wish to indicate our support for the proposed amendment to paragraph 376(1)(g) of the Cooperative Credit Associations Act. This amendment increases the powers of associations incorporated under the act to market and to sell their technology services. It will allow a credit union central to provide payment technology services to any member of the Canadian Payments Association, thereby introducing more competition into this market.

Finally, we are not so pleased about the proposed amendments to sections 425 and 428 of the Bank Act in Bill S-5. These proposed Bank Act amendments have the effect of reversing two recent Supreme Court of Canada decisions in which the court determined that an unperfected personal property security interest held by a credit union had priority over a subsequent Bank Act security interest held by the bank.

While we understand the federal government's wish to clarify the situation resulting from the court's decision, we seriously question why a special security mechanism that is only available to the banks should continue to be retained in the Bank Act.

● (1645)

The Chair: You have one minute left.

Mr. David Phillips: One of the goals of modern provincial Personal Property Security Act legislation is to bring greater certainty and predictability to the resolution of priority competitions between secured lenders, and this legislation is largely successful in achieving this objective.

The continued existence of Bank Act security undermines this purpose, since Bank Act security cannot easily be harmonized with the priority rules of the provincial secured transactions regimes. PPSA legislation is used by lenders for the registration of the vast majority of secured interest in Canada, with the banks being the most frequent users. The banks are in a special position, however, in that they have section 427 Bank Act security available as backup should a problem arise with their PPSA security registration.

Section 427 Bank Act security is unfair because it provides banks with an extra form of security for their loans that is not available to any other lenders. In 2004, the Law Commission of Canada recommended that the Bank Act security provisions in the Bank Act should be repealed, and we agree with this recommendation. We were therefore pleased when the Senate banking committee suggested, and officials from the Department of Finance agreed during Senate committee hearings on this bill, to undertake discussions regarding the need to retain Bank Act security provisions in the Bank Act. We would urge this committee to give support to the need for such a study.

To conclude, Canadian Central thanks the committee for the opportunity to speak to you today about Bill S-5. We support the enactment of this legislation, but we also feel it should be followed up with a review that should lead to the eventual repeal of the Bank Act security provisions of the Bank Act.

We would be pleased to provide you with any additional information that you may require.

The Chair: Thank you very much, Mr. Phillips.

We'll hear from Mr. Melville now, please.

Mr. Douglas Melville (Ombudsman, Chief Executive Officer, Ombudsman for Banking Services and Investments): Thank you, Mr. Chair and finance committee members, for the kind invitation to appear before you today. We greatly appreciate the opportunity to speak with you about some of the issues facing Canadians at a critical time for the financial consumer protection framework of the country.

The discussions around Bill S-5 offer an opportunity to address an existing problem.

Before getting to that, I'd first like to offer my congratulations to you, Mr. Chair, for the personal emphasis that you've placed on financial literacy. The financial literacy of Canadians is something that's very near and dear to my heart and I'm sure to all members here as well, so congratulations to you on that.

● (1650)

[*Translation*]

For 16 years now, the Ombudsman for Banking Services and Investments has been offering consumers of financial services and products a national independent service for conflict resolution in the interest of finding fair and impartial solutions to their complaints. We are an important actor within the protection framework offered to Canadian consumers in the area of finance.

In fact, outside of the courts, OBSI is the only organization which provides financial compensation to consumers who have been wronged by their bank. We also play a role in the area of prevention, by allowing financial services firms to fix problems at a lesser cost, since we detect these before they head to court.

Further, OBSI can provide regulatory bodies with relevant information in their decision-making process. But now all of this is being put into doubt.

[*English*]

To give you a sense of the constituency we serve, 75% of OBSI complainants are 50 years of age or older, meaning they're at or approaching the end of their earning years. An outright majority, or 53%, of these people are seniors. For many of these individuals, the financial harm they suffer when a bank or investment firm makes a mistake is magnified by having fewer years to make up the losses and fewer income or job opportunities. Based on medical research, we also know that financial shocks late in life can actually shorten seniors' life spans, some estimates say by five years on average.

So 16 years ago, the banking sector first proposed an independent ombudsman as an alternative to the imminent imposition of a federal statutory agency to settle bank disputes. This was set up as a voluntary system, with appropriate safeguards for independence, which was permitted by government on the condition that all banks participate. In 2002, the aftermath of the collapse of technology stocks saw our mandate expanded to include the investment sector, where participation is currently mostly mandatory through self-regulatory agency rules. This is a point I'll come back to.

OBSI was not created as a simple private supplier contracted by each participating bank; we were created to have a much broader public interest and public policy function, balancing the needs of all stakeholders. It's a role we take very seriously.

It now seems that a vocal minority of banks have forgotten the genesis of this industry-created solution. Three years ago, the Royal Bank of Canada left OBSI for banking complaints at the height of the worldwide economic and market meltdown, when government and Parliament were rather busy dealing with bigger matters. TD followed this past October. Both banks now want the government or Parliament to lock in their own chosen private providers of dispute resolution to resolve complaints with their customers. It's difficult to see how this is anything but a giant step backward for consumer protection in Canada.

The immediate turmoil caused by TD's sudden recent departure is now behind us, but it has raised a fundamental question for parliamentarians and regulators to answer. Should banks be permitted to choose their own provider of dispute resolution, in essence to hire and pay for the organization that will judge and rule on their market conduct? I ask you this. If the banks were given the choice of being regulated by the Department of Finance, or some private for-profit body of their own choosing, whom do you think they would choose?

The independent investigation of consumer complaints cannot be credibly handled by a private for-profit supplier chosen and paid for by the bank. A service hired by the bank and that consequently has the bank as a client creates the perception, if not the reality, of a loss of that critical independence on which we function. The service will know whom it is they need to please in order to keep the business, and it's not the individual making the complaint. It's a clear conflict of interest.

We are firmly of the view that the dispute resolution process that consumers access needs to be credible, independent, impartial, and not beholden to any one stakeholder group. Allowing banks to choose a dispute resolution provider gives all the power to the financial institution and none to the consumer. Canadian consumer groups are unanimous in opposition to this, as are leading international organizations such as the World Bank.

To conclude, it is clear that the only system that can function in the public and consumer interest is one where OBSI is the sole approved dispute resolution service for banking consumers, and we would ask for your support in this regard.

Thank you very much. I would be very happy to answer any questions you may have.

Thank you, Mr. Chairman.

The Chair: Thank you very much, Mr. Melville.

We'll now go to Monsieur Vinet.

[Translation]

Mr. Vinet is from Montreal and he represents Option consommateurs.

You have five minutes to make your presentation.

Mr. Jean-François Vinet (Financial Service Analyst, Representation and Research Department, Option consommateurs): Thank you.

• (1655)

[English]

Do you hear me well?

[Translation]

The Chair: Yes, it is fine.

Mr. Jean-François Vinet: Perfect. I also hear you well.

[English]

Option consommateurs has a mandate to protect and promote Canadian consumer protection in Canada. Our association has been

open for 25 years, and we are specialized in, among others, financial services, energy, and business practices.

Option consommateurs is highly preoccupied with what Mr. Douglas Melville mentioned earlier—that the banks not only choose but pay for the dispute resolution business that tries to resolve the complaints that consumers send against them. The lack of independence of such a structure, and the conflict of interest between banks and the business hired to resolve disputes against them by consumers, doesn't guarantee consumer protection in Canada and access to a neutral party.

We're asking the government to enforce that the OBSI become as it was three years ago, before TD quit. After that the Royal Bank quit the OBSI. We're asking the government that all financial institutions that are federally regulated be obligated to offer OBSI for complaint resolution by consumers.

That's our key message. We hope government will understand this, and that it is common sense.

Thank you.

The Chair: Thank you very much for your presentation.

We will begin members' questions with Mr. Julian.

[Translation]

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

I will share my time with Mr. Thibeault. I have the following question for all four witnesses.

Did you know that a review of the Financial Services Act had been planned? Were you able to make recommendations last fall, when the review was announced, at least on a website?

Mr. Phillips clearly explained what, in his view, should be added or changed with regard to Bill S-5, but I would like to ask the three other panellists to tell us what they see as being the shortcomings of the bill.

[English]

The Chair: Mr. Melville.

Mr. Douglas Melville: Thank you for the question, Mr. Julian.

From our perspective the legislation touches only peripherally on the mandate we currently perform for the system. With this hearing and the discussions around us five, we saw the opportunity to have the committee consider one of two options.

One was to look at modifying the Bank Act section 455, which talks about the requirement for participation in dispute resolution services for consumers. Right now what's proposed contemplates the possibility of multiple providers in that space. Our concern is that would lock in the possibility of RBC, TD, and potentially other banks being able to choose their own providers and undermining the fundamental independence that we see as being so critical in dispute resolution in the sector.

[Translation]

Mr. Peter Julian: Thank you. I will have to interrupt you because we only have two minutes.

Mr. Vinet, please go ahead.

[English]

Mr. Jean-François Vinet: We are here to focus on one objective. Our main preoccupation is the complaint resolution process and maintaining the independence of this system. We're here on this bill. We are here to say that the banks should not be allowed to pick and choose which business they hire to supposedly resolve complaints that consumers send to them.

[Translation]

Mr. Peter Julian: Thank you.

Mr. Sommers, did you know that the financial services legislation would be reviewed? Did you submit any recommendations?

• (1700)

[English]

Mr. Tyler Sommers: We typically participate and try to keep an eye on these sorts of things. We try to participate in it often. I only learned last week or the week before that this was ongoing.

As per your other question, I'll keep it very short. We agree that a federal ombudsman for banking services and investments should be used for conflict resolution. One of the other more important solutions we believe is using the pamphlet method to create oversight bodies that people can be invited to through banking mailings.

Mr. Glenn Thibeault (Sudbury, NDP): Thank you, Mr. Julian.

Mr. Melville, you talked a little bit about letting banks hire their own dispute resolution agency. Not that I want to put words into your mouth, but it sounds like we're asking the foxes to guard the chicken coop. Maybe you can explain the benefits of having an independent organization like yours arbitrate over consumer and small-business banking complaints.

Mr. Douglas Melville: Fundamentally, if one looks at the court system in Canada, the average consumer complaint against a bank or financial service firm is very small. In banking, they're under \$10,000. It's not economically viable to use the courts for the resolution of these complaints. It's for that reason that 16 years ago there was a sense that an alternative to the courts was needed.

With an independent body like ours, the value proposition is really four things. First, it helps the consumer to articulate a complaint, because often he doesn't know what's gone wrong. Second, it assists the consumer in investigating the problem, providing not just a review of the paper file but also an actual person who digs in and tries to understand what's gone wrong. Third, it provides for economic analysis of the losses incurred by the client. Fourth, it gives the consumer a power of enforcement, allowing him to work with the firm to see that compensation is paid without having to resort to the courts.

Mr. Glenn Thibeault: We have two banks leaving very quickly. What will happen if one more bank disappears, and how would that affect consumers and small businesses?

Mr. Douglas Melville: I don't think we'll be viable if another bank goes, or if we end up with a multiple-provider environment. I think it's that simple.

Mr. Glenn Thibeault: Thank you.

The Chair: Thank you, Mr. Thibeault.

Mr. Jean.

Mr. Brian Jean (Fort McMurray—Athabasca, CPC): Thank you, Mr. Chair, and my thanks to the witness for attending today. I apologize for the lateness because of the vote.

We heard a bit about the dispute resolution services. Some new consumer protection is being brought into this act. For instance, the maximum fine of \$200,000 is being brought up to \$500,000. I know some people say this is not enough, but it is increasing the fine by two and a half times. There is the government cheque-cashing policy, which is important for the unemployed, aboriginals, and seniors. There are improved confidentiality information services. There are new operational efficiencies, which we hope will bring in some customer service. We also have some new credit card rules, including consent for limit increases, which I know is a common complaint, with full disclosure to consumers who hold those cards. And there is a code of conduct for the credit and debit card industry, which hits on fairness, service, and competition.

If I'm not wrong, these changes were brought about because some of your groups brought forward complaints from consumers. Would that be fair to say?

Mr. Douglas Melville: It would.

Mr. Brian Jean: So it appears that the government is moving in the right direction for improving consumer confidence and consumer protection.

Mr. Douglas Melville: I think that's a fair characterization. The difference, though, between regulations and fair dispute resolution is significant. The regulations provide the rules by which everyone must play. An independent body, though, applies those rules in a way that finds fairness in individual complaint situations. They're different roles.

Mr. Brian Jean: I don't disagree with you at all on that, and I understand what you're saying.

I also understand what you're saying in relation to the unprotected security for banks. I don't know who brought that up. As a lawyer who used to do financing deals, that's one more box to check off and one more day looking at deals. That's going to create quite a few advisory rules for a number of professions, including lawyers and accountants.

I understand that they had to make a decision one way or the other. Reversing the Supreme Court of Canada decision and putting it into legislation is something important. Do you see any fallout from this as long as the practitioner guides go out and everybody keeps everything in order? I know that there could be a suggestion of a registration, a PPP or some personal property registry, that would be complementary to this.

•(1705)

Mr. David Phillips: Personal property security registration is working very well right now. We were informed that this was a technical bill. We respect that, and we understand that this is a technical fix. What I'm trying to draw attention to is that the Bank Act security provisions, which go back to 1890, are the worst form of red tape.

If we're really talking about red tape reduction, we're talking about something that had a purpose in 1890. It doesn't have a purpose in 2012. The PPSA systems in the provinces are very effective.

Mr. Brian Jean: They work very well, and I agree—

Mr. David Phillips: What's happening is that—

Mr. Brian Jean: I only have a limited amount of time, so...

Mr. David Phillips: —this produces uncertainty. It produces costs. It's duplicative, because there's a second registration system. It's also unfair, because it gives banks a form of security that other lenders can't have.

Mr. Brian Jean: I agree, and I don't want that either, but what would you suggest in the circumstances? Would you suggest a fix by having them required to register a PPSA—

Mr. David Phillips: Which they do already.

Mr. Brian Jean: Which they do already.

Mr. David Phillips: Sure; I mean, they're using the PPSA systems as the main source of registration.

Mr. Brian Jean: For everything.

Mr. David Phillips: The 427 is just used as a backup if they have a problem with their PPSA. They don't, normally, but if they did, they could fall back on it.

Again, it's duplicative and costly. The lenders, the credit unions, have to search the Bank Act registry, and it's \$50 at least. Their fees are over \$1 million a year. That's just the registration fees, and—

Mr. Brian Jean: Banks charge so much money.

Oh, that wasn't banks; that was governments.

Mr. David Phillips: No, that's the lawyers, I think.

Mr. Brian Jean: I was making a joke.

Voices: Oh, oh!

The Chair: You have one minute.

Mr. Brian Jean: I do agree that banks charge too much—speaking as a guy who uses banks a lot—and so do lawyers. Of course, I'm not a lawyer anymore, so I can say that.

How specifically does this act help credit unions? You mentioned a couple of ways, but do you see it on a day-to-day basis helping credit unions, relating beyond just consumer protection?

Mr. David Phillips: Well, it's a technical bill, right? So there's not a whole lot in there that...

I mean, we have the sorting out of the classes of the CPA. We have some additional powers under the act. We have the extension of our

charter, which is important to us. But it's a technical bill, so I can't point to a lot of things in there that help. There are tweaks here and there.

As I say, the one piece that we don't like is reversing the Supreme Court of Canada decisions that breathe some life back into 427 that we would prefer not be there, but we sort of understand why they're doing that.

Mr. Brian Jean: Do you think some of the tweaking for foreign bank disclosure requirements and foreign banks generally was helpful at all to the credit unions across the country?

Mr. David Phillips: Disclosure can always be helpful. I'm not thoroughly familiar with those provisions, but...

Mr. Brian Jean: 568.

Mr. David Phillips: Okay. Thank you. We'll look at it.

Mr. Brian Jean: Thank you very much, sir.

The Chair: Thank you very much, Mr. Jean.

We'll go to Mr. Brison, please.

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

Mr. Melville, you levy fees on banks based on the volume of their capital size and volume of business. Is there a difference in the fees that you charge and what ADR Chambers would charge?

Mr. Douglas Melville: Our charges are based upon a formula that was developed that allocates it amongst all the players based on their volume market share in the marketplace.

With ADR Chambers, there's not the same degree of transparency as to how they do that. I suspect it was probably a combination of a retainer on their part plus probably something on a per-complaint basis. That would be my guess, but I'm not sure of the answer to that.

Hon. Scott Brison: Okay.

In the U.S. and the U.K., I understand there's a statutory requirement in each case for an independent bank ombudsman.

Mr. Douglas Melville: Yes.

Hon. Scott Brison: What other countries take that approach?

Mr. Douglas Melville: Pretty much all of the countries that you would see as comparable to Canada have a statutorily underpinned ombudsman. We're really one of the last of our kind, where we were an industry-created body in the form of a non-governmental organization. Most, over time, evolved to become statutory. Some would say that after a 16-year run, we've done very well here, getting this far, given the inherent tensions in the role.

Australia, New Zealand, South Africa, the U.K., and Ireland are the older standing ones, but you're now seeing the movement around the world of looking at consumer protection through an ombudsman structure as being quite popular. Hong Kong and Taiwan actually just launched offices in the past three or four months. It's really catching on. Eastern Europe is now moving to it.

The goal is the flexibility to be able to have a non-judicial type of process to get at the fairness of complaints.

Hon. Scott Brison: So your quarrel is not with your costs, or rather the costs of an ombudsman being covered by the banking sector, it's the ability of banks to choose one over another. That's your quarrel, is it?

•(1710)

Mr. Douglas Melville: Absolutely. I think it's about the independence of the function, to not have to be beholden to a firm that hires you on an annual or contractual basis.

I think the fact that the funding comes from the industry is no different from what you'd see at CDIC, OSFI, or other regulatory-type bodies. It's really how you function that is the test of independence.

Hon. Scott Brison: How would the governance that you provide, as the Ombudsman for Banking Services and Investments, differ in application from a statutory or effectively government regulatory approach funded by government as opposed to by industry, as it is provided in some other countries?

Secondly, are there differences in approach between OBSI and ADR Chambers that...? Are there differences in approaches, or any cases you can cite?

Mr. Douglas Melville: I think the difference between our structure and the statutory one is primarily around flexibility. If you're a regulator, your job is to apply statute in regulation. We are asked to take on a mandate of finding fairness in the circumstances, which as you can appreciate is very specific to individual fact situations. We're designed with the flexibility to find the right outcome.

Regulators require clarity of regulation to be able to apply their regulation to the many situations they encounter. What you end up with is a very rule-based approach to market conduct regulation and to the resolution of consumer complaints. It's hard, if you don't anticipate what the problems may be and encapsulate that sense in regulations. It takes away some of the flexibility.

As to the differences between our office and ADR Chambers, again the lack of transparency makes observations difficult, but I would speculate that they fall into three big categories. One is the approach to systemic investigations. Those are investigations in which a single complainant may indicate that there are other customers affected by the same type of complaint. We have in our mandate the ability to look at those, investigate them, and recommend that the firm compensate the clients who may have been affected. If they refuse to do so, then we bring it to the attention of the regulators. It's still a private, confidential investigation—

The Chair: You have 30 seconds.

Mr. Douglas Melville: —but that's not something that ADR Chambers is currently empowered to do.

Hon. Scott Brison: Finally, concerning the brokerage arms of the banks, this function is largely provided through the provincial securities commission—

Mr. Douglas Melville: That's correct.

Hon. Scott Brison: —which is a statutory agency, in this case provincial. So the clients of the brokerage arms of the banks are really the consumer side of it. The regulatory framework is provided by the provincial securities commission.

Mr. Douglas Melville: Under securities rules, the firms must participate in our service, yes.

The Chair: Thank you.

Thank you, Mr. Brison.

Ms. Glover, please.

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

I want to ask a quick question of Mr. Sommers. You said you only became aware of this a week ago. How did you become aware of it?

Mr. Tyler Sommers: I personally became aware of it via an email.

Mrs. Shelly Glover: Who was the email from?

Mr. Tyler Sommers: It was from the finance committee. I only took this on recently. Duff Conacher, who typically handles these things, may have been aware of it before I was, but it was brought to my attention at least a couple of weeks ago.

Mrs. Shelly Glover: Have you read Bill S-5?

Mr. Tyler Sommers: I have—not as thoroughly as I would have liked, but yes, I have.

Mrs. Shelly Glover: I didn't hear anything that was really relevant to Bill S-5 in what you had to say, so it begged the question, unfortunately—you know, why are you here?

Mr. Tyler Sommers: No, I understand, and we understand the limitations of the bill, but our argument is essentially that we believe there are a lot of different things that can be done that aren't quite done.

One thing that's directly related—

Mrs. Shelly Glover: I think I'm going to stop you there, because I just wanted to answer that.... It's just shocking, for an organization that claims they're on top of it all the time, to say “we only became aware of it a week ago”. And that you haven't completely read the bill to the full extent is a bit shocking.

But I have a question for Mr. Melville.

Mr. Melville, I'm wondering why the two banks left. What did they tell you?

Mr. Douglas Melville: When RBC left three and a half years ago, they raised a number of issues—about eight, in fact.

I think what you were seeing at that time was a frustration with a non-governmental organization performing the mandate and growing in both its stature as well as its ability to function.

Mrs. Shelly Glover: Is that what they told you?

•(1715)

Mr. Douglas Melville: The eight issues were many.

Mrs. Shelly Glover: I'm asking what they told you.

Mr. Douglas Melville: Oh, it ranged from getting into statutory investigations to timeliness of complaint handling, the increase in the budget, the non-responsiveness to their specific concerns regardless of whether they were shared by the rest of the industry, and things of that nature.

Mrs. Shelly Glover: Okay. So how long does it take you on average to investigate one of these—

Mr. Douglas Melville: The target set by our board is 80% within 180 days. The vast majority of the straightforward complaints are actually done in less than 60 days.

The area in which we're having some challenges is actually not in the banking sector at all; it's on the investment side. On the banking side, about 87% of our investigations are concluded within the 180-day target, and many within less than 60 days.

Mrs. Shelly Glover: The reason I'm asking this question is that you've obviously come here for this specific reason, which you've admitted is really not about Bill S-5.

We're here to talk about Bill S-5, and it seems that Mr. Sommers, Mr. Phillips, Mr. Melville, and Monsieur Vinet all want to talk about something else, which is unfortunate, because it's a very important bill, which has some significant—

Hon. Scott Brison: I have a point of order.

The Chair: On a point of order, I'll hear Mr. Brison.

Hon. Scott Brison: Bill S-5 deals with bank regulation and the regulatory framework under which Canadian banks operate. As such—

The Chair: Is this a point of order or a point of debate?

Hon. Scott Brison: As such, these are all pertinent to the regulatory framework—

The Chair: Thank you.

Hon. Scott Brison: —of Canadian banks.

The Chair: That may be a point of debate, but it's not a point of order.

We'll go back to Ms. Glover.

Mrs. Shelly Glover: Thank you.

It's just because that with Bill S-5, as we're making these determinations, it's so valuable for us to get your feedback about some of the things that are being changed. I'm going to ask you if there's anything within Bill S-5 that is particularly bothersome, but after I address what Mr. Melville just said.

As you know, our government is planning to shortly release what was promised in budget 2010, which is that any and all dispute resolution bodies will have to be approved by government and that they will comply with uniform regulatory standards and be monitored by FCAC. My question to you would be, does OBSI doubt that other dispute resolution bodies are capable of meeting those same standards as your organization?

Mr. Douglas Melville: I think the challenge is that standards are only part of it. If there are multiple players, how do you avoid a race to the bottom if the choice of who the provider will be is actually the firms? In the current environment, what you have is one body playing that public policy role, with good, strong relationships with government at both the federal and provincial levels.

Our concern—and it has been played out in Australia and New Zealand recently—is that if you have multiple players, they're competing for the banks' business, and they're not focused on the

public policy mandate. I'm not sure that you could draft regulations specific enough to avoid that fundamental conflict of interest that arises if you're playing for the banks' business in this very important public policy realm.

Mrs. Shelly Glover: Yes, but the government—

I'm sorry...?

The Chair: Mr. Phillips did want to address your point on what he has concerns about in Bill S-5.

Mrs. Shelly Glover: Yes, and I have a question about Bill S-5 for Monsieur Vinet as well, Chair.

Mr. David Phillips: But I am here to talk about Bill S-5 and I made three points—

Mrs. Shelly Glover: Which clause would you like to address, Mr. Phillips?

Mr. David Phillips: I discussed the CPA membership class. I discussed the technology powers. We have qualms about the section 427.... I discussed—

Mrs. Shelly Glover: Forgive me. I agree. You have.

Mr. David Phillips: —the extension of the charter, so I spoke directly to Bill S-5.

Mrs. Shelly Glover: Forgive me. I agree. You have, absolutely.

Monsieur Vinet, I'd like you to speak directly to Bill S-5.

[*Translation*]

Draft section 219 is aimed at consumers and calls for consumer protection regulations. The fine would increase from \$200,000 to \$500,000.

Do you think this will help to protect consumers? In what way does this help protect them? Will the increase have a beneficial effect?

Mr. Jean-François Vinet: That is a very good observation.

In fact, we are not here to attack every aspect of Bill S-5. We are not here to review the entire bill. We have five minutes, and then we have one-minute discussion periods.

We have focused on that one aspect which, in our opinion, is the most important one. It regards—

Mrs. Shelly Glover: I heard you, but I wanted to know—

Mr. Jean-François Vinet: It may not be important to you, or not a priority, but that is not the case for our organization which, for 25 years, has been working on behalf of consumers. This is a huge priority. In our opinion, this should have been—

Mrs. Shelly Glover: We heard you, Mr. Vinet.

The Chair: Unfortunately—

Mrs. Shelly Glover: We have run out of time and you did not answer.

[*English*]

The Chair: Unfortunately, we are out of time on that.

[*Translation*]

Mr. Jean-François Vinet: Can somebody ask me a question?

[English]

The Chair: I'm sorry. We are out of time, but I'm sure—

• (1720)

Mrs. Shelly Glover: I just did. You didn't answer it—

Voices: Oh, oh!

The Chair: Mr. Thibeault may come back to that.

We'll go to Mr. Thibeault, please.

Sorry, Mr. Mai. Go ahead.

[Translation]

Mr. Hoang Mai (Brossard—La Prairie, NDP): First, I would like to thank our witnesses for being here today.

We believe that, with Bill S-5, the government has imposed too many limits. This is a five-year review. The government has not engaged in a review which would protect consumers against fees, or protect the superintendent and cooperatives. We do not think that the government has done its job.

The government sent the bill to the Senate. If I remember correctly, the Senate received 30 briefs. It then proposed a technical review only, when in fact that would have been a time to find solutions. I think that what you are saying today is very important. It is important to study every aspect of the bill. Mr. Phillips actually said a few words about that, and Mr. Giguère will also ask you some questions on that matter.

I personally would like to focus on issues which affect consumers, who have been forgotten in the bill. Section 219 offers some protection, but it is not enough.

My question is about banking fees. Can you talk a little more about banking fees and credit card interest rates? What are the problems? Were they addressed in the bill? By the way, I don't think so. What problems are associated with credit cards and banking fees?

Mr. Sommers, you can answer all of these questions.

[English]

Mr. Tyler Sommers: Essentially what we're looking at is a 5.3% increase in profit over the last year while they have been increasing interest rates and cutting loans and services.

What we need and what we're asking for is to ensure that this is fair. It's nothing out of the ordinary. We're just asking for audits and competition investigations to ensure that the cutting of services, the cutting of staff, and the increased profits are not done at a cost to consumers.

[Translation]

Mr. Hoang Mai: Mr. Vinet, do you wish to say anything further about, for example, the Office of Superintendent, or banking fees? Have consumers filed any complaints or expressed any concerns about the way the banks are acting?

Mr. Jean-François Vinet: If you want to talk about credit, you are opening the door very wide to one of the main concerns that our organization has been focusing on for 25 years. I am going to focus on two main issues. First of all, credit card interest rates are clearly too high, particularly when you consider that the prime lending rate

has never been so low. Financial institutions are loaning to the most vulnerable in society, who probably only have access to credit cards, and not to lines of credit at low rates. They are given loans with interest rates of 20%, even 30% in the case of large stores. If this were about lowering the government's criminal interest rate, which is currently standing at 60%, there certainly would be work to do. Moreover, unfortunately these are the people—

Mr. Hoang Mai: Mr. Vinet, before I give the floor to someone else, I would like to know whether or not you were informed and whether you participated in the Senate consultations.

Mr. Jean-François Vinet: Not on this matter. We are very active in Quebec because the Consumer Protection Act is currently being reviewed. We have been very involved in Quebec on this issue, but less so at the federal level.

Mr. Hoang Mai: Thank you, Mr. Vinet.

I would now like to give the floor to Mr. Thibeault.

[English]

The Chair: You have one minute, Mr. Thibeault.

Mr. Glenn Thibeault: Thank you very much, Mr. Chair.

Following up on what my colleague Ms. Glover talked about, maybe Mr. Melville can talk to the committee about which banks had the most complaints in 2008, when RBC left, and in 2011, when TD left. Be very brief, please.

Mr. Douglas Melville: In 2008, when RBC left, they were the largest source of our banking complaints. In 2011, when TD left, they were, in turn, the largest source of our banking complaints.

Mr. Glenn Thibeault: Thank you for that clarification.

Can you also please explain some of the broader public policy benefits that come from having a single mandatory dispute resolution system? What are some of those public benefits?

Mr. Douglas Melville: I'll be as quick as I can be.

It's the articulation of the complaint, which is not something a firm-focused provider will be interested in doing. It's the ability to do the investigation, not simply accept the paper file submitted by the firm to the dispute resolver. It's the ability to have someone who is actually motivated to do what is fair and independent and impartial between both parties, without being potentially conflicted by where the rent cheque and the payroll are going to come from next.

Finally, I think it's to be a source of that information and intelligence for the government itself, for regulators, to guide good public policy for the future. It's better to prevent problems than fix them.

• (1725)

The Chair: Thank you, Mr. Thibeault.

I'm going to go to Mr. Van Kesteren. Before I do, colleagues, I'm going to recommend that we actually continue past 5:30 with the colleagues and witnesses who are able to stay. We only need three full members, including the chair, to sit. We need one member of the opposition. Opposition members, I understand, may have to leave, but I want to give every member of the committee an opportunity.

We don't have any motions before the committee, and if witnesses are able to stay, I'm recommending that they stay. It's 5:30.

Ms. McLeod.

Mrs. Cathy McLeod (Kamloops—Thompson—Cariboo, CPC): There is no opportunity for anything to come to the table for—

The Chair: There are no motions coming before the committee today.

Mrs. Cathy McLeod: Even related to current—

The Chair: I just need one government member and one opposition member to continue. Is that okay? Is there one member of government who can stay?

Ms. Shelly Glover: Yes.

The Chair: Thank you. I'll go to Mr. Van Kesteren, please.

Mr. Dave Van Kesteren (Chatham-Kent—Essex, CPC): Thank you, Mr. Chair.

Thank you all for appearing here this afternoon.

Mr. Melville, just for the record, on the last question, the two banks you mentioned, TD and the Royal Bank, are the largest banks, so that stands to reason, in the case of the numbers. That's just for the record.

Would you agree with that statement?

Mr. Douglas Melville: I would agree that when they left each was, in turn, the largest participating firm in our service, yes.

Mr. Dave Van Kesteren: I'm not making excuses for that, but I think it's just important we have that for the record. Thank you.

Mr. Phillips, I'm going to ask you a few questions. I understand that your organization is very supportive of the changes contained in this legislation that would, in fact, impact the federal credit unions. When your organization appeared before the Senate banking, trade and commerce committee, you were especially positive about the changes that will permit federal credit unions to vote with the cooperatives class on the governance of the Canadian Payments Association.

For the benefit of the House, for this committee, I'd like to quote what your representative said: First, we

want to note our support for the proposed amendments to sections 9(3)(a) and (b) of the Canadian Payments Act. Placing the federal credit union in the cooperatives class will preserve and strengthen the credit union system representation at the CPA. It will ensure that a federal credit union will be represented by a director, who speaks for the interests of cooperative financial institutions in CPA matters. A strong advocate at the CPA is important for the credit union system's ability to advocate on behalf of credit unions and to continue to operate payments facility efficiently and cost effectively, which has a direct impact on overall credit union system competitiveness.

Would you elaborate further on how this measure will benefit credit unions?

Mr. David Phillips: Well, the legislation when it was initially passed would have thrown the federal credit union into the same voting class as the commercial banks in voting for their directors on the CPA.

It's a somewhat technical point, but it meant that, because of the way the voting was conducted, it was not really possible for a federal credit union to ever be elected as a director of the Canadian Payments Association because they would have been outvoted in this class, which would have been dominated by the commercial banks, and they would have been represented on the CPA, in effect, by a commercial bank.

There is a cooperatives class already in the CPA structure, and so what we said to the government was that we think it makes more sense to put this federal credit union into the cooperatives class because it has more in common with a cooperative than it does with a commercial bank. The federal government agreed with us on that point, and so it agreed to make the change, which it is making in this legislation. We are supportive of that change. We think it makes more sense to put the federal credit union in with the other cooperatives, so that it's grouped with like interests. That will work more effectively for federal credit unions when they are formed.

Mr. Dave Van Kesteren: You and I have met. We've talked about the importance of credit unions. You certainly do fill a void that has been abandoned, I think, by banks. I want to understand, and I think the committee needs to know, too, that this legislation is moving in the right direction, and will help to make sure that we still have credit unions in the future.

Do you feel that is the case? Is there something you feel is lacking in this legislation? Is there something you want to specifically zero in on as to what's really important?

• (1730)

Mr. David Phillips: We think the reclassification under the Canadian Payments Act is a good thing. The extra powers that credit union centrals might have to market some of their technology services to other, smaller financial institutions is a good thing, and that's in this bill.

We think it's a missed opportunity on Bank Act security. We think what really should be done there is to do to away with Bank Act security, but that's a discussion that finance has undertaken to have.

We're not troubled by this being a technical bill. The government has proven it's prepared to come back within a five-year horizon to make important changes that are necessary. The legislation we do like was passed in 2010, when 117 pages were added to the Bank Act to provide for federal credit union legislation. That will provide another option for credit unions to be able to adapt, to grow, and to develop in the future.

The issue with that legislation is that it has not yet been proclaimed in force. There are regulations that are still required. It was passed in July 2010, so we're looking forward to that day when the legislation is actually proclaimed in force. That provided a whole different model, a whole different option for credit union growth and development, so that was a good change.

This really is more of a technical change to a number of statutes.

The Chair: Thank you.

Mr. David Phillips: It's important to us because it extends our charter. That's very important. That's why we're supportive of this legislation.

The Chair: Thank you.

Mr. David Phillips: We just want more discussion about Bank Act security.

The Chair: Thank you very much.

Thank you, Mr. Van Kesteren.

We'll go to Monsieur Giguère.

[*Translation*]

Mr. Giguère, the floor is yours.

Mr. Alain Giguère (Marc-Aurèle-Fortin, NDP): Mr. Phillips, I have a slight problem. In your statement, you said that you are pleased to see the term “CPA director” mentioned.

The problem is that, once this bill was adopted by the Senate, somebody from this association sent a letter to the assistant deputy minister requesting that this term be clarified and that we revert to the former term, namely “participant”. Clause 213 of the bill does not contain the word “director” and uses the former term, “participant”.

You are supporting a bill that is not the one you were hoping for, if I understand your brief and your request.

Mr. Guy Legault, the CEO of the CPA, sent a letter to Mr. Jeremy Rudin, who is the assistant deputy minister at the Department of Finance. He requested that this ambiguity be clarified, an ambiguity that he did not really appreciate. Nevertheless, he did indicate that he was satisfied with the bill. Clearly, this ambiguity was corrected. The word “director” was withdrawn and replaced with the former word, “participant”.

[*English*]

Mr. David Phillips: I'm not familiar with the issue Mr. Legault has raised. I know Mr. Legault well and he hasn't raised it with me, so I'm simply going to have to take this off-line and take a look at that. It looks like a question of statutory interpretation. I hope it's not an issue.

I'm not aware that it is an issue, but it's obviously something. I appreciate you raising it, and we'll take a look at it.

[*Translation*]

Mr. Alain Giguère: Very well. I simply wanted to obtain some clarification.

The Chair: You have three minutes remaining.

Mr. Alain Giguère: Mr. Phillips, as far as cooperatives are concerned, theoretically this bill regulates the demutualization of insurance companies and potentially any cooperative at the federal level.

I did not notice any protection provided for the assets accumulated by former members in cooperatives. Could you explain what provisions you would like to see in order to protect these assets, which represent the wealth of all past cooperative members?

•(1735)

[*English*]

Mr. David Phillips: This legislation doesn't deal with demutualization. The demutualization issue is somewhat touched upon in the

2010 legislation that was passed. That legislation has not been proclaimed in force, and we expect to see some regulations dealing with this subject. It would only apply to federal credit unions, and we actually haven't any federal credit unions in place. So at this point it's pretty hypothetical.

I think the legislation that was passed in 2010 provides for safeguards around the whole demutualization process, to make sure everybody is fully informed and fully aware. The minister is only allowed to authorize the demutualization if the minister is convinced that it's in the best interests of the cooperative system, which is an important safeguard in the process.

The legislation that's in place is pretty well balanced on this. Again, we haven't had any experience with demutualizations of federal credit unions. I think it will be quite some time before that occurs, because the legislation hasn't been proclaimed and there are no federal credit unions in place. We understand it's an issue, but we'll have to wait a little longer before we actually see how one might transpire.

[*Translation*]

The Chair: You have 30 seconds remaining, Mr. Giguère.

Mr. Alain Giguère: I would like to ask Mr. Melville a question.

Should Canadian banks become international organizations, what authority will the ombudsman have with respect to the regulation of the assets of a Canadian consumer who, on the advice of his or her Canadian bank, invested in a Panama branch?

[*English*]

Mr. Douglas Melville: First of all, to clarify, an ombudsman is not a regulator, but if a complaint were to arise with a Canadian consumer's problem with a bank in Panama, it would be outside of our jurisdiction and I would have to look to a counterpart, if one existed, in Panama to resolve that specific complaint.

[*Translation*]

The Chair: Thank you, Mr. Giguère.

[*English*]

I'm going to take the next round as the chair. I just wanted to clarify something, Mr. Melville, because you've raised issues that have been raised at the committee before. Can I clarify the time period that was actually used, in terms of concluding cases? You said 87% within 180 days. Is that a current record?

Mr. Douglas Melville: That is current for 2011. That's the most recent statistic for 2011—87% of the cases in 2011.

The Chair: That's for 2011.

Could you provide us, as parliamentarians, with as much information on that as possible?

Obviously, when this happened, one of the things I did was approach the banks in question and ask why they left. One of the issues they raised was they obviously have an interest in addressing complaints from their customers and they felt that their complaints were not addressed in a timely manner, and that's one reason why they made this decision. So if we could get as much information as possible from you and your organization, I'd appreciate that.

Mr. Douglas Melville: I will have it sent to your office right away.

The Chair: Now are you suggesting, though, that we amend Bill S-5 in any way?

Mr. Douglas Melville: Not necessarily.... I think a statement from this committee as to the preferable structure of dispute resolution in the sector would go a long way to sending the appropriate signal, not just to what government policy should be, but also conduct within the marketplace right now. We have four major banks that have stuck it out with us because they think this is the right structure, notwithstanding the other actions.

The Chair: I appreciate that, and Mr. Phillips, I appreciate your brief and your presentation.

You support Bill S-5 going forward, but you'd obviously like to see the review. You're heartened by the comments from the finance department and from the Senate committee. Now in your responses to some of the members' questions, my understanding is this could be the start of the review and the next five-year Bank Act review, or would you like it addressed before that?

Mr. David Phillips: Mr. Chair, I think the government has indicated that it's prepared to move sooner than five years where needed, and we would hope that this could be done sooner than five years, but as I say, we respect that this is a technical bill. But we think this really needs to be looked at, especially with a government that's interested in removing red tape and unnecessary duplication in cost.

We think this is an area where there is unnecessary duplication in cost—the cost to the federal government—and we think it needs to be looked at closely. There are issues of transition if these provisions are to be repealed, but yes, we support the enactment of this bill, but a message from this committee suggesting that 427 should be looked at would be very constructive and helpful.

• (1740)

The Chair: I appreciate that.

I wanted to finish up with our two other guests.

I've heard some concerns in terms of what you feel is perhaps not adequate in your view in the current system. I would like to perhaps put you on the spot. I think Mr. Jean did as well, in the sense that a lot of the measures have been enacted—the minimum 21-day grace period, the code of conduct that resulted from the committee hearings we held at Finance and Industry, banning negative option billing for financial products, unsolicited credit card cheques. The fact that I can actually now read information from my credit card company, that was a change brought in by this government, as were the measures announced by the parliamentary secretary and the Minister of State for Finance on March 4 with respect to the cheques that people get in the mail from credit cards. A number of substantive changes have been made, in my view, to protect consumers, and I appreciate them as a consumer, frankly.

I think Options consommateurs has spoken in favour of a lot of these measures, so I just wanted to get Mr. Sommers and Monsieur Vinet on the record. Do you support these measures that have been put in place?

Monsieur Vinet.

Mr. Jean-François Vinet: We wrote memos on many measures that were introduced. You touched on the credit card cheques, and the reduced period of access to your money. That's a very good step forward for Canadian consumers, of course. The amount of money that Canadian consumers can access is also a good step forward. I'll say that what was put forward by government in terms of protection could have been better in many ways, but it was, in many ways, a good step forward.

At the same time, there's a major part, which is the complaint resolution process. You have people who have problems with their mortgages. It's not about \$100, that they want to have access to \$100. We are talking with people who have major payments to make. They encounter problems with these payments, and because there are millions of consumers who have mortgages with TD and the Royal Bank, many of these consumers don't have access to a neutral—

The Chair: Mr. Vinet.

Mr. Jean-François Vinet: That's the main thing.

I can use my time for five minutes to say what was good, but I'm here to say this big part unfortunately is not there.

The Chair: Unfortunately, Mr. Sommers, Mr. Vinet took your time. I'm out of time and I cut other members off, so I'll cut myself off.

We'll go to Mr. Mai, *s'il vous plaît*.

Mr. Hoang Mai: I'll let Mr. Sommers respond to your question.

Mr. Tyler Sommers: I'll do so as quickly as I can.

These are small steps forward, yes. Our issue is that none of the proposals do anything to prevent gouging. They don't decrease the already excessive credit card interest rates, and as has been mentioned, interest rates are at an all-time low and yet credit card rates are extremely high. Nor do they deal with the extra interest rates and the fee hikes that banks and other companies have unilaterally imposed in the last few years, or the overcharging for various credit card and other banking services. So these are small steps forward but much more can be done.

Directly in relation to this bill, we're of the opinion that the \$500,000 is not nearly enough to serve as a deterrence for banks who posted a \$7 billion, 5.3%, increase in this fiscal year.

Mr. Hoang Mai: To follow up, you talked about interest rates and also the bank fees, and what would you recommend? What is your recommendation or suggestion?

Mr. Tyler Sommers: What we're recommending and suggesting is for oversight primarily through the pamphlet method, which has been recommended by the MacKay task force, and Senate and House committees. Essentially this would just involve the creation of a watchdog group to watch over the financial institutions and the federal government.

[*Translation*]

Mr. Hoang Mai: Mr. Vinet, do you have any specific suggestions concerning credit cards and loans?

• (1745)

Mr. Jean-François Vinet: As concerns banking fees, Canadian financial institutions made a commitment to the Department of Finance to offer accounts with moderate fees.

As you know, Canadians generally have access to accounts that allow for between 7 and 10 transactions at a monthly fee of \$3. However, we know very well that Canadian consumers perform much more than 7 to 10 transactions per month. In fact, they use their debit card to perform an array of banking transactions.

Therefore, we should perhaps ask financial institutions to increase the number of transactions that are allowed in low-cost accounts. That is an idea for example that could be studied by the government and on which an agreement could be reached.

In fact, it is not a law. It is an agreement that was reached with some financial institutions, that is respected and that has a domino effect on other financial institutions. Given that some of them have the obligation—and I am referring especially to the largest Canadian financial institutions—to offer low-cost accounts, the other institutions are encouraged to offer the same thing, given the competition.

Think of the credit cooperatives. In Quebec, we have a major one, Desjardins, which must also offer accounts at competitive prices. So this type of approach has a beneficial effect on the market. It could be an idea.

As concerns credit card fees, we first have to tackle criminal interest rates, and reduce them by at least half if not more.

Mr. Hoang Mai: Do you receive a lot of complaints from consumers on this topic?

Mr. Jean-François Vinet: Yes, but I would say that consumers have lost hope that governments will take real action to reduce the fees that financial institutions levy. Perhaps that is why we receive fewer complaints from consumers on this topic.

[*English*]

Mr. Hoang Mai: Mr. Sommers, did you get comments regarding the latest increase in fees? Were there any complaints or what was the reaction?

Mr. Tyler Sommers: Whenever we see increases in fees, typically, people are not happy. That's a continuing trend.

Mr. Hoang Mai: Again, your suggestion is that it's really important that there be a bit of oversight on the issue right now, especially right now.

Mr. Phillips, can you clarify in terms of you not being concerned, because we had some comments from

[*Translation*]

the credit union movement

[*English*]

regarding the fact that the approach the government is using regarding cooperatives is a concern for the movement. It's not for their credit union?

Mr. David Phillips: I'm not sure I understand the issue. We don't have a particular concern in this bill other than, as I say, I think it misses an opportunity to deal with this issue of the Bank Act security.

The Chair: Thank you.

We'll go to Ms. Glover, please.

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

Once again, I want to make sure that Mr. Phillips knows that I didn't mean to say he wasn't interested in the measures.

But I do find your statement interesting about our not going far enough, which, of course, I'm going to take under consideration and I intend to look at following this meeting.

I want to complete what the chair was trying to get from the witnesses.

I'll ask Mr. Sommers, and if I ask it in a systematic way, perhaps that might help. It seems Mr. Vinet does not want to answer the questions. But if you would allow me, I'm going to ask you if you think the measures we're taking with regard to new credit cards, where we now have in place a requirement for banks to get consent for credit limit increases, are good.

Mr. Tyler Sommers: As I mentioned in response to the question, there have been several small steps forward.

Mrs. Shelly Glover: No, on that measure itself, is it good or not?

Mr. Tyler Sommers: It is a small step forward.

Mrs. Shelly Glover: Is it a good measure?

Mr. Tyler Sommers: As I mentioned, they are small steps forward.

Mrs. Shelly Glover: Okay.

On the 21-day grace period on new purchases, then, is that a good measure or a bad measure?

Mr. Tyler Sommers: I can go through and say these are all small steps forward.

Mrs. Shelly Glover: No, no. If you'd allow me to do my job as a parliamentarian, I would like you to tell me specifically whether it's a good measure or a bad measure. If you think it's bad, the government ought to know.

Mr. Tyler Sommers: It will protect a few customers and it will protect them from a few charges.

• (1750)

Mrs. Shelly Glover: Okay. The fact is there's now full disclosure for consumers and a limit on other anti-consumer business practices. Is that a good measure taken by the finance minister or not?

Mr. Tyler Sommers: It's a small step forward, yes.

Mrs. Shelly Glover: Okay.

Bringing in the code of conduct for the credit and debit card industry to help small businesses, is that a good measure or not?

Mr. Tyler Sommers: A small step forward.

Mrs. Shelly Glover: Banning negative option billing for financial products, is that a good measure or not?

Mr. Tyler Sommers: A small step forward.

Mrs. Shelly Glover: A small step forward.

Banning unsolicited credit card cheques to protect consumers from hidden fees and interest rates, is that a good measure or not?

Mr. Tyler Sommers: A small step forward.

Mrs. Shelly Glover: Okay.

As I see, we continue to go forward. I was looking at your website. I'm quite disappointed, in fact. The top line of your website says, and I quote: For the past 20 years, Canada's finance ministers have done nothing effective to ensure banks serve Canadians fairly and well at fair prices, and act responsibly.

We've just been through only a fraction of the things that have been done under this government since 2006, and I can assure you there were measures taken even by the previous Liberal government that in fact protected consumers.

So it's quite disappointing to see that on your website, and yet you admit here in committee that every time there's a measure, it's a small step forward, a small step forward. I would suggest that you and your organization may want to rethink at least giving credit where credit is due. Because, to be very frank, the government is here to protect Canadians and these measures are important measures in our opinion. And I think that's a non-partisan statement on behalf of all committee members.

I must admit, I did read further in your website and you do actually acknowledge one of the measures that's taken. So your website is a bit contradictory in and of itself, where it says we've done nothing in 20 years, and on the other hand, you do actually acknowledge a small measure on your website.

Having said that, I'm going to move to Mr. Melville. Can you tell us whether the banks are able to cope with and deal with these measures fairly effectively without complaint?

Mr. Douglas Melville: Any clarity that prevents complaints is a good thing.

Mrs. Shelly Glover: Are these helpful in that endeavour?

Mr. Douglas Melville: I think all of these create clarity for both the firm, in terms of their expectations in the marketplace, and what consumers can expect in the marketplace.

As a non-advocate, it would be inappropriate for me to provide opinions on each of them. But I will say that the clarity provided by these is, in the long term, going to be helpful to our work. Because if

the expectations are clear, then what's fair and reasonable under the circumstances is largely guided by law and regulation in the market.

Mrs. Shelly Glover: Very good. I appreciate that.

Monsieur Vinet, three times is a charm. Would you like to comment on them? You don't have to if you don't want to, Monsieur Vinet.

Mr. Jean-François Vinet: Of course, I want to work with you, and of course, I would like to help you. When I came here I didn't know we would have so much time, and I appreciate that from you, because this is probably the most valuable thing we have in life. Thank you for your time.

If you go down your list, I will tell you what is good and where it could be improved. Perhaps you could do that again slowly.

Mrs. Shelly Glover: I have 10 seconds. So, are the credit card rules that require consent for credit limit increases good or bad?

Mr. Jean-François Vinet: Of course they're good. People were buying things. The thing is, in Quebec, it has been there for a while. It's good. It is fine, but we need to make sure it's respected. But let's go down your list.

The Chair: You can have another round, if you want to.

Mrs. Shelly Glover: We'll wait until the next round, Monsieur Vinet, but I promise to come back to you.

The Chair: It's right now.

Mrs. Shelly Glover: I get to continue.

The 21-day grace period on new purchases, do you have any suggested improvements? Do you think that was a good measure to help consumers?

Mr. Jean-François Vinet: It's a good measure. It's good because of the way it's calculated. The problem was you didn't know what you were paying, and if the interest started when you paid or the last time you had a statement. Now it's more *encadré*, more regulated, and it's a step forward.

[Translation]

Mrs. Shelly Glover: For the same reason, we have just announced that unsolicited credit card cheques are now prohibited. Would you say that this measure will help consumers?

Mr. Jean-François Vinet: Indeed, consumers would receive cheques but did not know when they would have to begin paying interest. This is also an incentive to use credit. But as we know, Canadian consumers carry heavy debt loads. So should we encourage them to go deeper into debt by sending preauthorized cheques to their home? I do not think so. If we want to help Canadians to have more money, it is better to encourage them to work and to help them when they lose their jobs. It is a good idea to offer them assistance, but not credit. That goes without saying.

• (1755)

[English]

Mrs. Shelly Glover: Negative option billing,

[Translation]

was that a problem in Quebec?

Mr. Jean-François Vinet: Yes it was. It affected several types of services, but in the area of telecommunications, for example, if consumers forgot to call their cable distributors a month before the end of the agreement, the agreement was automatically renewed. Obviously, many consumers forgot the expiry date of the agreement, which is normal, given that agendas rarely cover more than two consecutive years. They would forget to phone the company and were therefore stuck with a new contract that they had not really signed, and in addition, they did not have the opportunity to check what was actually offered. That did not encourage competition, it did not help consumers improve the quality of their choices, and it put them in a situation that did not benefit them.

So this is indeed a step forward.

Mrs. Shelly Glover: So prohibiting this type of practice will help your consumers.

Mr. Jean-François Vinet: Yes, certainly. It is a minimum. Why was it authorized in the first place? That is the question. How could companies have been allowed to withdraw money from peoples' bank accounts without their authorization? It was completely illogical. At least now, we are back to a minimally acceptable situation.

Mrs. Shelly Glover: The matter of access to money interests me greatly. On the website of Mr. Sommers' organization, it says that they favour immediate access to cash. We have just announced that consumers who use financial institutions will now have immediate access to an amount of at least \$100. All banks will have to cash cheques.

Is this measure positive or does it indicate, on the contrary, that we have missed the boat, in a sense? Should changes be made?

Mr. Jean-François Vinet: If we compare the situation in Canada to that of the United States, we can see that the American system is very different, but that there are also some similarities. The difference should favour Canadians. Our banking system is relatively well spread out from coast to coast. Financial institutions have branches all across the country. There are few financial institutions in Canada, six essentially. In the United States, there are 12,000. There, when a cheque is drawn on a financial institution in the same municipality, the consumer generally has access to all of his money within two business days. Here, we will also have access to an initial \$100 amount within two business days.

Yes, this is progress, but given the structure of Canada's financial market, consumers should have access to all of their funds, or at the very least, to an initial amount of \$1,500.

Mrs. Shelly Glover: In fact, access will be immediate. Furthermore, we reduced the wait time from seven to four days.

Mr. Jean-François Vinet: Yes, it is better.

The Chair: Thank you, Mr. Vinet. Thank you, Ms. Glover.

[English]

I want to thank all of you. I especially want to thank our witnesses for their patience in waiting for us during the voting period, and thank colleagues for extending the time to 6 p.m. These will be issues we discuss obviously in Bill S-5 and beyond. If you have anything further for our committee to study, please forward it to the clerk and I will ensure all members get it.

Thank you so much.

Meeting adjourned.

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