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CANADA

## **Standing Committee on Finance**

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**EVIDENCE**

**Thursday, November 1, 2012**

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**Chair**

**Mr. James Rajotte**



## Standing Committee on Finance

Thursday, November 1, 2012

• (1530)

[English]

**The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)):** I call this meeting to order. This is the 87th meeting of the Standing Committee on Finance. The orders of the day are pursuant to the order of reference of Tuesday, October 30, 2012, our study of Bill C-45, A second Act to implement certain provisions of the budget tabled in Parliament on March 29, 2012 and other measures.

We're pleased to welcome back officials from the Department of Finance to be with us today on the second look at this budget implementation bill.

Colleagues, at our last meeting we finished discussions on the corporate mineral exploration and development tax credit. The next area is the Atlantic investment tax credit, oil and gas and mining.

I've had some discussions with you. I'm going to identify the section. I'm going to ask if there are questions, and if there are, we can move right to questions and then have the officials respond. There's a fair amount to get through in the next two days, and we hope to finish with officials in this meeting and the next meeting, so that's how I will proceed.

Are there any questions dealing with part 1(g), which is the Atlantic investment tax credit, oil and gas and mining?

Mr. Cuzner, please.

**Mr. Rodger Cuzner (Cape Breton—Canso, Lib.):** Thanks very much, Mr. Chairman. It's great to be back with you today.

**The Chair:** We'll have five-minute rounds.

**Mr. Rodger Cuzner:** I appreciate the officials being here today to respond to some of the concerns or questions we might have and to provide some clarification.

Could you provide us with some examples of what areas are going to be impacted by the immediate phase-out of this credit? What kind of jobs are we talking about? Are we putting any job development opportunities at risk with the phasing out of this particular tax credit?

**The Chair:** Mr. Trueman.

**Mr. Geoff Trueman (Director, Business Income Tax Division, Tax Policy Branch, Department of Finance):** It's fair to say that the phase-out will affect oil and gas and mining operations in the Atlantic provinces. What we've seen over recent years is that activity levels are very strong, very robust across Canada in these industries, including in the Atlantic region. You can look at a number of methods, but certainly capital expenditures, employment levels, and value of production, exploration, all these in the Atlantic region are

at or near historic highs. The phase-out of the credit is being undertaken at a time when activity levels are very strong and significant transitional rules include grandfathering, which will help to mitigate the impact of the phase-out of the credit over time.

**Mr. Rodger Cuzner:** No sunset was placed on the credit when it was initially developed, was there?

**Mr. Geoff Trueman:** The legislative history of the AITC is fairly long. I'm not sure of the conditions when it was originally put in place.

**Mr. Rodger Cuzner:** How many tax filers is this going to impact?

**Mr. Geoff Trueman:** The measure will apply to those active in the Atlantic region. We generally don't provide the exact number of taxpayers affected by a particular measure.

**Mr. Rodger Cuzner:** Could you give us some indication? Will it have an impact on those who are doing exploration?

**Mr. Geoff Trueman:** It would only affect the equipment that might be purchased to be used in exploration, so there would be some tangential impact on that. At the same time, other measures in place to support exploration would include the extension of the mineral exploration tax credit, for example.

**Mr. Rodger Cuzner:** Okay, that's great.

**The Chair:** Thank you.

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

[Translation]

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

I would like to know why the Atlantic Provinces are being directly affected here. Is this linked to the fact that the corporate tax credit for mining exploration and development is itself reduced? Can you explain the context to me a little?

• (1535)

[English]

**Mr. Geoff Trueman:** Sure. The Atlantic investment tax credit is available for activities in the Atlantic provinces. This particular measure, the phase-out as it applies to oil and gas and mining, represents further action by the government with respect to the G-20 commitment to phase out inefficient fossil fuel subsidies. The action is being taken to level the playing field for those industries and to remove inefficient fossil fuel subsidies, rather than focusing particularly on the Atlantic provinces.

**Mr. Hoang Mai:** Will the other provinces still have the investment tax break?

**Mr. Geoff Trueman:** The AITC has only been available in those Atlantic provinces, and it is being removed in those provinces.

**Mr. Hoang Mai:** It was a temporary measure.

**Mr. Geoff Trueman:** It was a measure introduced for the benefit of the Atlantic provinces, yes.

**Mr. Hoang Mai:** Okay.

**The Chair:** The next item deals with the investment tax credit. Are there any questions on this section?

Okay, I will move to part 1(i), which is the scientific research and experimental development tax credit. Are there questions from members on this section?

Monsieur Caron.

**Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP):** Would you mind if we actually have a presentation on this section?

**The Chair:** Okay, can we have a brief presentation on the scientific research and experimental development tax credit?

Mr. Cook, please.

**Mr. Ted Cook (Senior Legislative Chief, Tax Legislation Division, Tax Policy Branch, Department of Finance):** Certainly. To give a brief overview of the four elements of the changes to the scientific research and experimental development credit, it's an investment tax credit available in respect of scientific research and experimental development. It's currently available at a general rate of 25% and an enhanced rate of 35% for Canadian-controlled private corporations on expenditures up to \$3 million. That general rate of 25% is being reduced to 15%. At the same time, that enhanced rate of 35% is being maintained at a rate of 35%.

The second element of the measure deals with the proxy amount. Taxpayers, if they wish and can itemize their overhead expenditures with respect to scientific research and experimental development, can actually itemize their expenditures and include them in the expenditure pool. Alternatively, the taxpayer can use a proxy amount, which is currently 65% of salaries and wages spent in engaging in scientific research and experimental development, and use that as a proxy for overhead. That proxy amount is being reduced, in a staged fashion, from 65% to 60% to 55%. That'll be the sort of the mature go-forward proxy amount with respect to overhead.

The third element is to remove, again by way of proxy, the profit element in third party contracts. Taxpayers can undertake SR and ED themselves, or they can have someone else undertake it on their behalf. Where a taxpayer has a non-arm's-length party, such as a parent corporation or a subsidiary corporation, undertake the SR and ED, there's a transfer system that allows either of the two companies to recognize the SR and ED expenditures, but the expenditures that are recognized are just the actual SR and ED expenditures undertaken. There's no profit element in the contract, if there is one.

To line up the treatment of non-arm's-length contracts with arm's-length contracts by way of a proxy amount, we're attempting to take out the profit element of arm's-length contracts. When a taxpayer

pays an arm's-length party to undertake SR and ED on their behalf, the eligible expenditure will not be 100% of the contract payment, but rather 80% of the contract payment.

The final aspect of the measure is to remove capital from the expenditure base for SR and ED. I guess the one thing in particular to note is what we're talking about is purchased capital. If a taxpayer undertakes SR and ED in developing their own capital property, that will continue to be eligible for the credit.

**The Chair:** Thank you for the presentation.

Ms. Nash.

**Ms. Peggy Nash (Parkdale—High Park, NDP):** You mentioned the Jenkins report. They recommended that there be a study to determine the appropriate rate for the proxy method of calculating credits. Has that been done? Their recommendation was that there be a calculation of a percentage of labour rates.

• (1540)

**Mr. Geoff Trueman:** No specific study per se was undertaken.

What I would note is that companies have the ability to either use the proxy amount or claim their actual overhead expenditures. While the proxy amount is being gradually reduced, companies retain the option of tracking actual expenses and claiming whichever amount is more advantageous to them.

It's also unlikely that one proxy amount would cover or reflect all industries. To establish one that is unique may not have been a profitable undertaking. A proxy, again, is a simplified method. Canada is actually the only country that offers SR and ED claimants the ability to use a proxy amount.

**Ms. Peggy Nash:** In making this decision, was there any kind of study undertaken? What was the evidence base on which the decision was made?

**Mr. Geoff Trueman:** Certainly we've seen the preponderance of R and D claimants using the proxy method to an extent that might suggest it is overly generous.

**Ms. Peggy Nash:** Is there any of that data or information you can share with the committee, or that can be tabled with the committee, even at an aggregate basis?

**Mr. Geoff Trueman:** There is no specific data that I can share on that, no.

**Ms. Peggy Nash:** Is there any work that's being done in terms of the impact of this change? Do we know whether it's likely to have any impact on investment or any impact on jobs?

**Mr. Geoff Trueman:** It's important to realize that with the changes that are being proposed regarding the SR and ED tax incentive overall, there's a spending side as well. Budget 2012 sets out \$1.1 billion in new spending for R and D and also makes available \$500 million for venture capital.

It's important to recognize that the Jenkins panel suggested that Canada's balance between direct and indirect spending was skewed too far to the side of indirect support through the tax system. The plan that's laid out in budget 2012 rebalances it by removing some of that tax support in favour of putting the direct spending in place.

**Ms. Peggy Nash:** I don't believe the direct spending has been set up or earmarked. Can companies tap into that yet?

**Mr. Geoff Trueman:** The program spending is set out in budget 2012. I'm not as familiar with the process or how it works through its implementation.

**Ms. Peggy Nash:** All right. Thank you.

**The Chair:** Is there anyone who can address the issue of program spending?

I assume we're talking about IRAP and other measures.

**Mr. Geoff Trueman:** I can certainly give you a rundown of some of the programs that will be—

**The Chair:** Could you list them very quickly for us?

**Mr. Geoff Trueman:** Absolutely. Let me go through some of them.

We have—

**The Chair:** You mentioned the \$500 million for venture capital.

**Mr. Geoff Trueman:** It sets aside \$500 million for venture capital. Those funds have not been allocated yet, but work is being done on the implementation of those funds. There's \$400 million to increase private sector investment in early stage risk capital, and \$100 million for the Business Development Bank of Canada to support venture capital.

In terms of increasing and improving support for business innovation, there is \$110 million annually to the industrial research assistance program, known as IRAP. There is \$143 million, over two years, for business-driven research collaboration. That would include items such as business-led networks, centres of excellence, industrial research and development internship program, for example. With respect to refocusing the National Research Council as itemized in budget 2012, there's \$67 million, in 2012-13, to help it refocus on business-driven industry applied research.

**The Chair:** Okay. Thank you.

Mr. Cuzner, do you have questions on this?

**Mr. Rodger Cuzner:** I do, as a matter of fact, Mr. Chair.

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

**Mr. Rodger Cuzner:** On page 380 of the budget, you identified the savings that will be had from the reduction in the percentages. With regard to the amounts projected, obviously you have to have some idea of how many tax filers there are.

Could you share with the committee as to how many tax filers there are who would access and utilize this?

•(1545)

**Mr. Geoff Trueman:** At the aggregate level, there's in the range of 25,000 tax filers per year who make use of the R and D, the SR and ED tax incentive.

**Mr. Rodger Cuzner:** Do you have some type of a geographical breakdown as to where the bulk of those filers are from? Would you have that kind of information?

**Mr. Geoff Trueman:** The tax filing data is not ideally suited to that, in that many companies are multi-jurisdictional, so it doesn't necessarily give a good indication of which province the activities occur in.

The Jenkins panel may have a regional breakdown. We can check for that.

**Mr. Rodger Cuzner:** Okay, if you could....

Do you have it broken down by industry?

**Mr. Geoff Trueman:** There's a sectoral representation that's put out in the Jenkins report. They took some of the R and D data and program spending data and looked at the distribution by industrial sector.

**Mr. Rodger Cuzner:** Okay.

**The Chair:** Thank you.

Mr. Harris, please.

**Mr. Dan Harris (Scarborough Southwest, NDP):** Thank you very much.

Following up on that, of course money is going to be saved with the reduction in the rates. Is the new spending that's being allocated going to be equal to what's being taken out of the other side?

**Mr. Geoff Trueman:** Certainly working from the fiscal framework that's set out in the budget, there's \$1.1 billion on the spending side and \$500 million has been made available for venture capital. The total of the R and D changes is about \$1.3 billion, I believe, over the five-year period.

**Mr. Dan Harris:** Is that more or less than what was available overall before?

**Mr. Geoff Trueman:** Overall there's \$1.1 billion on spending and \$500 million in venture capital, so that's new money. On the other side there's a \$1.3 billion reduction in the SR and ED tax incentive.

**Mr. Dan Harris:** Okay. I'm sorry to hear studies didn't seem to be done on the changes for the proxy.

This morning I heard some troubling testimony in the industry committee from the Canadian Manufacturers and Exporters. They expect to face a serious hit with SR and ED. They're expecting to see a reduction in research and development funding of between 25% and 30% in their sector. These changes are going to cost their sector several hundred million dollars.

Is anything planned to help offset that big hit the manufacturing sector's going to have from these changes to SR and ED?

**Mr. Geoff Trueman:** I'd certainly draw attention to the new spending that will be available. On the program side, certainly members of the CME, as would other businesses across Canada, would have the ability to access those funds. Where that comes out in the final analysis is uncertain, but it's certainly important to remember that those funds are available to industry.

**Mr. Dan Harris:** Some concerns were also raised about streamlining the application and monitoring process for SR and ED. Are there plans to do that?

**Mr. Geoff Trueman:** In terms of the administration of SR and ED, one of the things that has been raised over time, certainly, is the complexity associated with the SR and ED program and the uncertainty of whether or not an SR and ED application will be favourably reviewed by the CRA.

Budget 2012 announces a couple of actions in that regard, one of which is that the Canada Revenue Agency will undertake a pilot project to look at the feasibility of a pre-approval system for the SR and ED program. They're enhancing some of their web-based tools that businesses can use to help work through the eligibility criteria. The CRA is committed as well to make more frequent use of tax alerts and to liaise with industry in the most productive manner possible. Certainly the CRA is undertaking efforts that will facilitate those compliance and administration issues.

**Mr. Dan Harris:** Another question, this one from Research In Motion. They were before the industry committee last week and they expect the SR and ED changes to lower the amount they're able to access by one-third. Would you expect that a company like RIM, which is one of our largest companies, would be able to access that new venture capital or the additional program funding to offset that one-third diminishment in the funds they will get?

• (1550)

**Mr. Geoff Trueman:** I certainly don't want to speak for RIM. Some of the available programs may be of interest to RIM for sure, but I would leave that to RIM to comment.

One thing I would like to note is it's important to recognize that R and D tax incentives in Canada complement a very robust and attractive business tax regime. We've seen rates fall from 22% to 15% in terms of the statutory corporate income tax rate and the removal of capital taxes at the federal level. An incentive for provinces to do the same has resulted in the elimination of provincial taxes. We've seen the accelerated capital cost allowance for M and P equipment that's been brought into play, as well as the revision to certain capital cost allowance rates such as increasing VAT for manufacturing buildings.

Certainly companies such as RIM have done well by Canada's business tax system over recent years. I recognize that the R and D changes will have an impact, but it is important to have that broader perspective as well.

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

**Mr. Dan Harris:** The broader perspective is important.

How many of those reductions you mentioned have been tied to job creation?

**Mr. Geoff Trueman:** Could you be more specific?

**Mr. Dan Harris:** In the reductions in the tax rates from 22% down to 15%, and the other rate changes at provincial levels, have any of them been tied to job creation?

**The Chair:** We are here on the bill. We're getting into a general policy debate about corporate tax reductions.

**Mr. Dan Harris:** He spoke about the broader picture, so I was asking the question in that broader context.

**The Chair:** If you want to comment, Mr. Trueman, go ahead. This is beyond the scope of bill, but we can hear your comment.

**Mr. Geoff Trueman:** A quick response would certainly be that a more competitive business tax environment will facilitate the kind of investment that leads to job creation. This is certainly the link that is hoped for out of that, that it will lead to economic growth and the creation of new jobs.

**Mr. Dan Harris:** Thank you.

**The Chair:** Monsieur Caron.

[*Translation*]

**Mr. Guy Caron:** Thank you, Mr. Chair.

With regard to phasing out eligibility of expenditures of a capital nature for tax credit purposes, it seems clear to me that this will have a disproportionate negative effect on production and natural resources. Indeed, innovation in these areas often requires that pilot programs or projects be established in order to evaluate their effectiveness in the field.

The Jenkins report recommended that the change in eligibility of expenditures of a capital nature should not apply to small companies and that it be counterbalanced with new funding.

Given that this measure is going to have a disproportionate effect on certain industries, do you not think that the negative impacts are going to exceed the positive ones?

[English]

**Mr. Geoff Trueman:** One of the key criteria that the Jenkins panel highlighted was the need to make the SR and ED program less complex and to make it more user friendly. Of the elements that are eligible in the R and D base, capital is certainly the most complex element. There are rules that govern the acquisition of capital equipment, the use of that capital equipment over time, the disposition of that equipment, whether or not there's any recapture. The use of capital is very complex from an administrative and compliance point of view. It's also a relatively small percentage overall of SR and ED expenditures. Canada is not alone in removing capital from the base. Other countries, the United States and Japan, for example, among our G-7 counterparts, do not have capital in the base for R and D. Other countries, such as Australia, Singapore, New Zealand, the Netherlands, similarly do not include capital in their R and D base.

For reasons related to that reduction in complexity, it's a relatively modest proportion overall. We think it's a reasonable change to make.

[Translation]

**Mr. Guy Caron:** When you talk about a small percentage, what do you mean exactly?

[English]

**Mr. Geoff Trueman:** Capital overall is less than 5%.

[Translation]

**Mr. Guy Caron:** All right.

You probably know that groups such as the Canadian Manufacturers and Exporters are speaking out loud and clear against this abolition. They feel that the changes, not only concerning expenditures of a capital nature but also in general, might represent some \$660 million for companies. Do you think this is a reasonable figure?

[English]

**Mr. Geoff Trueman:** I'd prefer to stick with the fiscal estimates from the Department of Finance.

[Translation]

**Mr. Guy Caron:** Pardon?

[English]

**Mr. Geoff Trueman:** I would prefer to remain with the fiscal estimates from the Department of Finance.

[Translation]

**Mr. Guy Caron:** Can you remind us of the estimated amount?

• (1555)

[English]

**Mr. Geoff Trueman:** Our estimation is included in the budget framework, and it's less than—

[Translation]

**Mr. Guy Caron:** It is less than \$660 million.

[English]

**Mr. Geoff Trueman:** —the \$660 million from the CME.

[Translation]

**Mr. Guy Caron:** I would like to know how many companies will be affected overall. If you estimated the saving that this change would account for, you must have an idea of the number of companies that would be affected by it.

[English]

**Mr. Geoff Trueman:** Overall, I'd just go back to that number. There are about 25,000 R and D claimants overall. We wouldn't break it down at a micro level in terms of the application of each measure. That may change over time as well. A company may incur capital in one year, but not in another, for example.

[Translation]

**Mr. Guy Caron:** Among the changes proposed in the report, the government talks about gradually reducing the substitution rate, which enables a company to declare a portion of its labour expenditures instead of submitting a detailed statement to the Canada Revenue Agency. It wants to reduce the rate from 65 to 55%.

What was the decision to reduce the rate by 10 percentage points, rather than 5 or 15 points, based on?

[English]

**Mr. Geoff Trueman:** In terms of looking at the use of the proxy amount, it was felt that reducing that by 10 points, from 65 to 55, was reasonable in these circumstances. Again, there is the fact that companies retain the ability to track their actual overhead expenses and use that if it's more advantageous to them.

[Translation]

**Mr. Guy Caron:** All right.

I would like to come back quickly to expenditures of a capital nature. I talked about the disproportionate impact this measure would have on certain industries in relation to others.

Have you studied the impact that would have on the various sectors of the economy?

[English]

**Mr. Geoff Trueman:** Certainly, we would look at the measure overall in terms of the impact of capital. Some may be more capital intensive than others. Again, those same industries, for example, may benefit more profoundly from the removal of the capital tax or from some of the capital cost allowance measures that have been put in place over time.

[Translation]

**Mr. Guy Caron:** Thank you.

[English]

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

Mr. Mai, please.

[Translation]

**Mr. Hoang Mai:** I would like to come back to something my colleague Mr. Harris, mentioned.

You talked about what can be removed from the program, that is, the reduction of expenditures and the fact that this is made up for—maybe even more than made up for—by the expenditures you have.

Can you describe to us the difference in the programs? You talked for instance about risk capital. I would like to have a general idea how this will affect the people concerned with regard to the process enabling them to claim these funds.

[English]

**Mr. Geoff Trueman:** Certainly, at the general level, as I say, there's a resetting of the balance, as it were, between tax support and program support. Obviously, I can't say how that would play out on a company-by-company basis. Overall there would be a modest reduction in the tax support available. At the same time, some of the most popular spending programs out there, such as IRAP, will see their budgets double. That should certainly give IRAP the ability to take on a large number of new projects.

[Translation]

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

[English]

**The Chair:** Thank you.

We shall move on to tax avoidance through the use of partnerships. Are there any questions?

Okay. We'll move on to transfer pricing secondary adjustments.

[Translation]

**Mr. Hoang Mai:** I would simply like someone to brief me on this.

[English]

**The Chair:** Mr. Mai, do you want a briefing on this?

Okay, let's have a short briefing on this topic.

**Mr. Ted Cook:** Certainly.

This measure relates to existing provisions in the Income Tax Act relating to transfer pricing. Transfer pricing describes the prices at which related parties transact over international borders. These would be corporations that are part of the same group. It can be used as part of international corporate tax planning to shift profits from a high-tax jurisdiction to a low-tax jurisdiction. In particular, what happens is that companies will try to move expenditures into high-tax jurisdictions or move revenues out of high-tax jurisdictions.

Under existing rules, CRA can make an assessment to adjust prices for these transactions to what arm's-length parties would have transacted at. That gives rise to a transfer pricing adjustment. You may increase or decrease the price of something for Canadian tax purposes. However, that's just what's known as a primary adjustment. Sometimes, even if you reduce an expenditure for the Canadian taxpayer, what's happened is that by overpaying, the Canadian taxpayer has conferred a benefit on a non-resident party. Normally, when a Canadian taxpayer confers a benefit to the non-resident parent, for example, that'll be a dividend that attracts part XIII withholding tax.

What this measure does is it allows the CRA to make what's called a secondary or consequential adjustment to capture, for part XIII purposes, the benefit conferred on a non-resident. The subcommittee on transfer pricing of the Advisory Panel on Canada's System of International Taxation recommended that there be a clarification of the treatment of secondary adjustments. Current CRA practice is to

impose these kinds of adjustments under existing rules. This clarifies the operation.

• (1600)

**The Chair:** Do you have questions on this, Mr. Mai?

[Translation]

**Mr. Hoang Mai:** Yes.

[English]

Do you have an estimate of the annual fiscal impact of this measure?

**Mr. Ted Cook:** As I indicated, the CRA current official practice is to assess part XIII withholding tax in these circumstances. The only decision in which it has been considered by a court has actually upheld the ability to impose part XIII on withholding tax.

There is no booked fiscal impact. It just clarifies the operation of the act.

**Mr. Hoang Mai:** Also, so that I understand, in terms of CRA being involved in that, CRA has to do some assessment. From what I understand, it comes from the filers. They say that this is how they apply those amounts, but auditors then have to look at that issue.

Could you give us an idea in terms of the corporations and how many companies are affected in terms of groups and things like that?

**Mr. Ted Cook:** I don't have those figures at hand, but certainly transfer pricing is considered by many to be the most important international tax issue at this time. Supporting transfer pricing assessments is a significant head office function for the CRA.

It does run the gamut from fairly small companies up to very large ones. I don't think there's any sort of group of companies for which it's not relevant.

**Mr. Hoang Mai:** Do we have an estimate, an aggregate number of companies that are affected by this or are involved in this?

**Mr. Ted Cook:** Do you mean those that are subject to transfer pricing audits?

**Mr. Hoang Mai:** Yes.

**Mr. Ted Cook:** As I said, this is simply consequential and something the CRA for some time has asked us to do.

I do believe the CRA has some summary figures on the levels of transfer pricing assessments they've done in recent years. I'd be quite happy to try to get that for the committee.

**Mr. Hoang Mai:** Could you, if possible?

**The Chair:** If you could submit that, we'd appreciate that very much.

Thank you.

We will move on to the thin capitalization rules. Okay.



We'll move on to the section on foreign affiliate dumping.

**Mr. Guy Caron:** Could we have a small briefing?

**The Chair:** Could we have a small briefing on this section?

Mr. Cook.

**Mr. Ted Cook:** Certainly this measure tries to curtail the ability of multinational groups to engage in what's commonly referred to as foreign affiliate dumping.

As I was indicating in the discussion about transfer pricing, that involves amounts paid out of Canada to a non-resident shareholder of a Canadian corporation. That generally attracts part XIII withholding tax.

There are a number of strategies that have developed to allow Canadian companies to buy foreign affiliates, perhaps from a non-resident parent company. Purchasing that foreign affiliate can be done either by way of debt or by way of cash assets in the Canadian corporation.

The acquisition cost of that or the interest paid in respect of the debt of the acquisition might go out on a basis that's not subject to part XIII withholding tax. It being a foreign affiliate, if it's running particular types of income, it might come back to Canada tax-free, so there might not be any Canadian tax.

It's a measure to deal with a particular form of international tax planning that seeks to take money out of the Canadian tax net.

• (1605)

**The Chair:** Okay.

[Translation]

Mr. Caron, do you have a question to ask?

**Mr. Guy Caron:** Yes.

How many transactions of this sort have been performed in the past year or two?

[English]

**Mr. Shawn Porter (Director, Tax Legislation, Department of Finance):** I don't think we have a specific number, but we looked at it, and this was relevant for coming up with the estimate in the budget document as well.

Over the last 10 years the number has been quite large and it is growing. These tend to be larger dollar transactions, so the volume isn't particularly high but the dollar amounts are quite large, because the people involved, the taxpayers involved, are large foreign multinationals. They're the typical profile that's involved in this kind of planning.

[Translation]

**Mr. Guy Caron:** Without naming companies, could you tell us whether the transactions were performed for a specific purpose?

[English]

**Mr. Shawn Porter:** Have there been transactions carried out for this very purpose?

[Translation]

**Mr. Guy Caron:** Yes.

[English]

**Mr. Shawn Porter:** Yes, absolutely, and this rule is targeted specifically at those types of transactions.

[Translation]

**Mr. Guy Caron:** So, as far as the impact this might have on foreign investment, real investment and investment made for the right reasons is concerned, you think that there might not necessarily be any, but that it might curb transactions for exactly that reason.

[English]

**Mr. Shawn Porter:** We're very mindful of that effect, and it was touched upon in the budget documents. A consultation period was contemplated in the budget plan. Legislation was released on August 14. There have been ongoing consultations with a wide range of stakeholders to ensure that the rule hits the targeted kinds of transactions. The objective clearly is not to impede ordinary business commercial transactions in Canada.

[Translation]

**Mr. Guy Caron:** Do you know whether other countries have adopted the same measure?

[English]

**Mr. Shawn Porter:** Other countries deal with this measure, but in a variety of different ways because each country has to graft this kind of rule onto their own system of international taxation. Every country has a slightly different system of international taxation. Some countries would deal with this through interest deductibility provisions, for example. Other countries would take different approaches. It's fair to say that all of our major trading partners would be mindful of having rules that deal with this kind of tax planning.

[Translation]

**Mr. Guy Caron:** Thank you.

[English]

**The Chair:** I want to follow up on this issue as well.

Some companies from the mining sector have approached a number of us and raised concerns. My understanding, and you can correct me if I'm wrong, is that they've actually worked with finance officials on the draft, or at least given their feedback in terms of these specific amendments. I think a lot of their concerns were addressed in terms of the drafting of these amendments, and now some in the mining sector are looking at it again and saying that they still may have some concerns.

I assume this will be raised with us during the hearings, so I wonder, Mr. Porter, if you could give us some background on that, or tell us what Finance has been doing to try to deal with some of the issues raised by the mining sector.

**Mr. Shawn Porter:** We have been engaged quite actively in discussions with the mining sector and other affected stakeholders. We met with them in late September. They raised a number of issues in response to the August 14 legislation. The vast majority of those have been dealt with and they have acknowledged that they've been adequately dealt with in the legislation that was tabled in BIA 2.

We continue to have discussions with the mining industry to try to hone in on areas of particular concern that they have, and they would run to the question about whether they hit situations that aren't intended to be addressed by the rule. But generally speaking, the legislation that was introduced as part of BIA 2 for the most part seems to address the concerns, certainly of the major miners. But we do continue to have discussions with the mining industry.

• (1610)

**The Chair:** I think just the juniors, then, have some concerns, and you are continuing to dialogue with them.

**Mr. Shawn Porter:** That's exactly right.

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

Mr. Harris.

**Mr. Dan Harris:** I have just a quick follow-up on my colleague's questions.

If you don't have the number of transactions that took place last year, do we know the financial value of the transactions that did take place that this is built to affect? Do we know the financial value of those transactions?

**Mr. Shawn Porter:** In the course of coming up with the \$1.3 billion revenue number in the budget plan over the five-year period, that's based on a review of the historical transactions over the previous 10-year period. Transactions prior to the budget are all grandfathered; they are unaffected by this measure.

The estimate takes into account the rate at which foreign affiliates were being transferred under Canadian subsidiaries of foreign multinationals, and assuming that rate of capital accumulation, if you will, would continue in the absence of a measure of this nature. These transactions, generally speaking, aggregate well into the billions of dollars in terms of the value of the foreign affiliates put under any Canadian subsidiaries.

**Mr. Dan Harris:** I have one more question.

You mentioned that this is being built so as not to affect legitimate transactions. What measures are in place to ensure that this doesn't affect legitimate transactions and avoids adding red tape to the process?

**Mr. Shawn Porter:** The answer to that gets a little technical in places.

Essentially, for equity capital raised by Canadian subsidiaries of foreign multinationals, if equity capital is raised to invest in foreign affiliates of those Canadian subsidiaries, then there's a relatively certain and simple mechanism to avoid the application of the rule. The reason for this particular measure is that most reasonable people will agree that there's no Canadian tax benefit if Canadian equity capital is raised and it's used to fund investments in foreign affiliates. This rule is earmarked primarily at borrowings in Canada where

borrowed money is used to invest in foreign affiliates. That's the main measure.

An alternative mechanism has also been provided since the budget. This came out of consultations post-budget whereby Canadian subsidiaries can lend money to their foreign affiliates. They can elect into a system whereby they are required to impute income at a particular interest rate, and that's consistent with the base protection objective of the measure.

Finally, and this was announced as part of the budget package, there is a provision for a strategic business expansion. This is intended to look at a Canadian subsidiary and determine whether its profile and conduct is similar to that of a Canadian-based multinational. If it's undertaking a legitimate strategic business expansion through its foreign affiliates, then it would be excepted from this rule.

**Mr. Dan Harris:** Thank you.

**The Chair:** Thank you.

We'll move to the overseas employment tax credit section.

Are there any questions?

Mr. Cuzner.

**Mr. Rodger Cuzner:** Thanks very much, Mr. Chair.

Being an Atlantic Canadian member of Parliament, I know that tradesmen and craftsmen from Atlantic Canada have long taken pride in being a mobile workforce and working on some of the biggest construction projects not just across Canada and North America but around the world. I've received a great deal of interest in this particular change as it will impact a great number of people from my area.

The first question I have to ask is if this will apply to those Canadians who work on Canadian rigs off other shores in international waters.

• (1615)

**Mr. Ted Cook:** I believe it applies to income earned outside of Canada for residents. For international waters and rigs outside Canada, those employees should be caught by the measure.

**Mr. Rodger Cuzner:** They will be caught by the measure?

**Mr. Ted Cook:** I believe so.

**Mr. Rodger Cuzner:** Could we get clarification?

**Mr. Ted Cook:** Sure.

**Mr. Rodger Cuzner:** Do we know how many Canadians this particular measure will impact?

**Mr. Ted Cook:** It will impact approximately 7,500 employees.

**Mr. Rodger Cuzner:** That's 7,500.

**Mr. Ted Cook:** Yes.

I would point out that it's worth bearing in mind that while this measure is a credit that's available to the employees, from a policy perspective it has always been for Canadian employers an incentive to help maintain the competitiveness of Canadian employers in bidding for projects overseas.

**Mr. Rodger Cuzner:** In encouraging employees to relocate for that portion of work.

**Mr. Ted Cook:** Essentially, the history of this measure goes back to 1979. At that time in looking at the ability of Canadian firms to compete for Canadian projects it felt like there was a tax disincentive, a tax competitive disadvantage for Canadian firms. To help address that, it would help their competitiveness by allowing them to price the labour costs differently because their employees would be paying less tax. As a result they might be able to have the employees accept a wage that's somewhat lower than otherwise would have been the case once all the taxes had been factored in.

**Mr. Rodger Cuzner:** Do we have an indication what this is going to cost those it impacts?

**Mr. Ted Cook:** As I indicated, there's approximately 7,500, and in fiscal costs once it's fully phased in, it's \$95 million.

**Mr. Rodger Cuzner:** Has there been any thought or study done regarding its impact on border towns, on people who work cross-border?

**Mr. Ted Cook:** There's been no specific analysis with respect to that. At the time this was originally introduced, other jurisdictions had the same type of incentive for their businesses. Over time, those incentives, to the extent we can track them, seemed to have gone away in other countries as well. For example, when this measure was first introduced, the U.K. had a similar measure. Over the years, that measure has been pared back in the U.K. to the point where it now just applies with respect to seamen.

**Mr. Rodger Cuzner:** Would mining and oil be the largest constituency it would impact?

**Mr. Ted Cook:** It's certainly targeted to particular types of activities: engineering, oil and gas, agriculture, and that kind of thing. The other thing to note about the credit, and why we feel it's appropriate to phase it out, is there has been a judicial expansion of the credit beyond what we consider its appropriate policy bounds. There have been recent cases where, for example, you've got teachers who are teaching at colleges outside Canada, and they now have been found by the courts to be eligible for the credit, which is beyond where we originally thought the credit was going to apply. There's another case where, by virtue of the fact that a recruiting service was the nominal employer, the individual was eligible for it. Certainly, we've noticed an expansion of the credit and whom it's available to without any change in the legislation as to who claims it.

**The Chair:** Thank you.

Thank you, Mr. Cuzner.

Mr. Harris, please.

**Mr. Dan Harris:** This should be quick. You mentioned that when it was initially created, it provided a bit of a competitive advantage, and if other jurisdictions had themselves moved away from this, would that not have enhanced the competitive advantage of those tax credits?

• (1620)

**Mr. Ted Cook:** As I indicated, certainly from our own analysis and that of the CRA, the way the credit works and the way it's been used in the last several years has been creating problems in terms of its going beyond the intended scope, even if it does have a policy

purpose. In terms of the competitiveness of Canadian business, the reduction in rates, certainly since the credit was originally introduced in 1979, has more than made up for the incentive that the credit originally provided.

**Mr. Dan Harris:** You mentioned that the expansion of eligibility for the credit has happened in ways that weren't anticipated or that weren't initially supposed to be part of it. Did those changes happen because of a shift in some market forces where suddenly different types of Canadian companies were doing more work overseas, as opposed to those it was originally intended for?

**Mr. Ted Cook:** I think it's more a case of Canadian taxpayers seeing that the legislation has been drafted in a particular way and trying to see what works and finding judicial support over time. Once one or two cases show that a provision has been interpreted by the courts in a particular way, then other taxpayers will look at the same decisions and extrapolate from them.

**Mr. Dan Harris:** Certainly I think people see judicial decisions being made and would make use of them.

That, I think, is going to be it for me.

However, \$95 million does seem to be a lot of money to be getting out of such a small group of Canadians. When averaged, how much does the government expect to get back from those 7,500 Canadians?

**Mr. Ted Cook:** It would be the calculated number of that by the number of taxpayers, perhaps with some factor for increase over the

**Mr. Dan Harris:** Sorry. Is the amount of \$95 million after it's all been completely phased in, or is that the number it would be in 2013?

**Mr. Ted Cook:** That's after it's completely phased in, at the end of the—

**Mr. Dan Harris:** That's after 2015.

**Mr. Ted Cook:** That's after the complete removal of the credit.

**Mr. Dan Harris:** Thank you.

**The Chair:** Thank you.

Are there any questions regarding income tax measures dealing with pooled registered pension plans and income received from retirement compensation arrangements?

Monsieur Mai.

**Mr. Hoang Mai:** With respect to the impact of income splitting, have you evaluated the loss of revenue?

**Mr. Ian Pomroy (Senior Tax Policy Officer, Social Tax Policy, Personal Income Tax Division, Department of Finance):** Yes. It would be a relatively small cost. It would be less than \$5 million.

**Mr. Hoang Mai:** How many people could participate in that?

**Mr. Ian Pomroy:** I don't have that number available. I'm sorry.

**Mr. Hoang Mai:** How did you come up with \$5 million?

**Mr. Ian Pomroy:** I don't have it with me today. I would have to see if we could provide it.

**The Chair:** Can you provide it?

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

**The Chair:** I will move on to part 2. I'll ask the officials for part 2 to come forward, please.

On behalf of the committee, I want to thank the officials for part 1. We appreciated that very much.

Part 2, as you know, colleagues, deals with amendments to the Excise Tax Act and the Jobs and Economic Growth Act.

I want to welcome our officials to the committee. Thank you very much for being with us here today.

Do you want to give a very brief overview of part 2?

Colleagues, do you have any specific questions on the section dealing with the amendments to the Excise Tax Act and the Jobs and Economic Growth Act?

We'll start with Monsieur Mai.

• (1625)

[*Translation*]

**Mr. Hoang Mai:** From what I understand, the measures included in Part 2 were announced in 2007. But I would like to know why they are being applied now, in 2012.

**Mr. Pierre Mercille (Senior Legislative Chief, Sales Tax Division, GST Legislation, Tax Policy Branch, Department of Finance):** The measures included in that regard are part of a series of announcements that were made by the Department of Finance. First there was a communiqué on May 19, 2009. It was what we call an information document, without legislation. Another communiqué followed, on June 30, 2010. It included some proposed regulations, but no legislative proposal and no official text. It was meant for consultation. Some comments were conveyed and another communiqué was published on January 28, 2011. Draft legislation was included with it. In other words, we are not talking here about 2007.

**Mr. Hoang Mai:** What sort of comments were made on the subject at that time?

**Mr. Pierre Mercille:** Some elements of the bill are in response to comments we received. I can give you one example, where financial institutions used to have to claim a rebate from the provincial component of the HST during the actual period in which they incurred the expenditure. This was not standard. For financial institutions, the general rule regarding a claim for a tax credit respecting inputs is two years. This is an example of the changes we made in response to consultations.

**Mr. Hoang Mai:** Will the proposed changes have impacts on tax liabilities with regard to pension plans offered by an employer or offered jointly by several employers?

**Mr. Pierre Mercille:** The measures proposed here are not really designed to change the tax burden. Rather they are technical measures affecting the way of doing things. For example, we are proposing a simplified method over another method, or changing the fiscal year for the calendar year. These are not things that should have major consequences.

**Mr. Hoang Mai:** So it will not have major consequences as far as revenue is concerned. I see.

[*English*]

**The Chair:** Thank you.

On this section, Mr. Cuzner?

**Mr. Rodger Cuzner:** Yes, this is on the financial institutions.

**The Chair:** This is part 2.

**Mr. Pierre Mercille:** Yes, it's basically an amendment to the GST/HST relating to financial institutions.

**Mr. Rodger Cuzner:** Yes. Is it okay?

**The Chair:** Yes, go ahead. You have a five-minute round.

**Mr. Rodger Cuzner:** There were changes made in Bill C-45 and Bill C-38 with regard to this. Is there a reason they weren't presented together or presented to Parliament as a package?

**Mr. Pierre Mercille:** You will have to remind me what is Bill C-38.

**The Chair:** I think it's—

**Mr. Rodger Cuzner:** Sorry, I'm ahead of myself.

**The Chair:** —the first budget implementation act.

**Mr. Rodger Cuzner:** I'm slightly ahead of my time here, Mr. Chair, so we'll go at that again, okay?

**The Chair:** Okay. You're always ahead of your time, Mr. Cuzner.

[*Translation*]

**Mr. Rodger Cuzner:** I am sorry.

[*English*]

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

**Mr. Rodger Cuzner:** I'm no Scott Brison.

**The Chair:** We'll leave that comment at that.

We'll thank the officials for this part.

We'll bring our next officials forward for part 3, the Federal-Provincial Fiscal Arrangements Act.

If you're following it in your Library of Parliament briefing, in the English, it's page 12.

Do you have a question on the process, Monsieur Caron?

[*Translation*]

**Mr. Guy Caron:** Thank you.

I would just like to know one thing. At present, we are studying the various parts of the bill indicated on the sheet given to us, that is, Part 3 and certain sections of Part 4. It depends on the decision made by other committees who have been asked to examine the relevant sections. If those committees reject the offer to examine the sections concerned, will it come back here?

For instance, we are going to study sections 1, 3, 6 and 7, which are relevant to our committee. But if the committees we have asked to examine sections 2, 4 and 5 decide not to examine them, are they going to come back here so that we can invite the public servants to examine them?

•(1630)

[English]

**The Chair:** We certainly could. My intention, at this point, is to do the first set of briefings dealing with the sections that have stayed with the finance committee and allow those other committees to decide whether or not they wish to study those sections. That's why, in the letter to all the chairs, I did indicate that I'd like to know as soon as possible whether they are going to study those sections or not. Hopefully we'll have responses very quickly on that.

I believe we'll finish on Monday with the officials and, hopefully, we'll know by then what the other committees are doing. Our clerks are actually keeping a running tab in terms of what the other committees are doing and when they're having their meetings. Hopefully by Monday we will know that information for the committee. At the end of this, if members wish to, they can go back to previous sections.

[Translation]

**Mr. Guy Caron:** Thank you.

[English]

**The Chair:** Thank you.

Do you have a question on this, Ms. Nash?

**Ms. Peggy Nash:** Depending on other committees studying this, and whether or not they choose to study elements of this bill, if there is something that committee members are particularly concerned about or interested in, I assume we could still have officials or witnesses or pose questions on that here.

**The Chair:** If other committees are choosing to study it, my preference, as your chair, would be that they then go to those other committees. That's why we did send it to the other committees. If the other committee is choosing to study it, I would hope that if members of this committee are interested in that topic that they would go there and study it.

During clause-by-clause study, of course, as this committee will be doing all the clauses, all of the officials for all of the parts of the bill will be at this committee and we can certainly review it with them then.

**Ms. Peggy Nash:** We can ask our questions while we're doing the clause-by-clause study. Is that what you're suggesting?

**The Chair:** You can certainly ask questions then, but I would hope that if members of this committee are interested in, say, navigable waters, they would go to the transport committee and sit in at that committee or sit in as a member to follow that discussion there.

**Ms. Peggy Nash:** Could I ask, through you, Chair, that we be informed when the other sections being referred to other committees for review are being studied? Could we gather all of that information so that we could, in fact, take your suggestion, which is to take advantage of those meetings and try to sub in?

**The Chair:** We could certainly endeavour to do that. I would, though, encourage you to talk to the members of your own party who are on those committees. That's what I'm doing with the other chairs. I'm having an ongoing dialogue with them.

We can certainly endeavour to do that, but I would encourage you to have ongoing rapport, as I'm sure you do, with members of your own party who are on those committees.

**Ms. Peggy Nash:** Okay.

**The Chair:** On this point, we'll go to Mr. Sorenson, who is a chair of one of the committees.

**Mr. Kevin Sorenson (Crowfoot, CPC):** Yes, thank you.

Thank you to the finance committee and the public safety and national security committee for sending us some clauses to look at.

We just received the letter last night. By way of process, our understanding is that at our first opportunity of a meeting, we will have committee business. It will be decided then whether we will study it. I would assume that we will be studying it, but it would still be through a motion.

In your letter, you also stated when you want this reported back to you. If you talk to any of your critics on those committees, I would imagine it would be at a regular committee meeting. I'm certain that you'd be able to attend as well.

I know that we're going to deal with it during committee business early Monday.

**The Chair:** Okay.

In fact, a list is being drafted. Some of the other committees are indicating to us when they're having the minister, when they're having officials, and when they're having witnesses. We will endeavour to share this on an ongoing basis with members of this committee.

Mr. Harris.

**Mr. Dan Harris:** Since I don't normally sit on this committee, maybe this question was answered at another time. Is this list of 10 committees completely final at this point? Will there be no modification?

I only ask because, for instance, for the SR and ED tax credits, there are certainly a number of changes that could be studied at committee, but the industry, science and tech committee is not on the list of committees looking at the bill.

•(1635)

**The Chair:** If my recollection serves me, my understanding is that a colleague in your party proposed that, but the committee decided to leave those measures with the finance committee. That decision was made by the committee.

**Mr. Dan Harris:** If that happened, it would have happened in camera.

**The Chair:** No, it was in public. In fact, you could have watched it on TV last night. It was very scintillating.

**Mr. Dan Harris:** It was in the committee?

**The Chair:** Yes, it was in the committee.

**Mr. Dan Harris:** Was it this committee?

**The Chair:** It was our committee.

**Mr. Dan Harris:** Oh, okay.

**The Chair:** We're stars on television all across the land.

**Mr. Dan Harris:** I thought you were referencing what happened in the industry committee.

**The Chair:** No, sorry, it was this committee. I don't know what happened—

**Mr. Dan Harris:** The question was answered previously, then.

**A voice:** Yes.

**Mr. Dan Harris:** Thank you.

**The Chair:** Thank you.

Okay, we are on part 3.

Do I have any questions dealing with part 3 with respect to the amendments to the Federal-Provincial Fiscal Arrangements Act?

**Mr. Hoang Mai:** I would like a small briefing, please, just quickly.

**The Chair:** Okay.

Could you give a small briefing, Ms. Moray?

**Ms. Kei Moray (Director, Intergovernmental Tax Policy, Evaluation and Research Division, Tax Policy Branch, Department of Finance):** Okay.

Part 3 amends the Federal-Provincial Fiscal Arrangements Act to provide legislative authority to make payments to provinces in respect of two taxes.

The first tax is the tax on specified investment flow-through entities. When this tax was introduced in 2006, the government indicated that it would be sharing revenues with provinces and territories that are parties to the tax collection agreements.

The second tax is the tax on excess contributions to employee profit-sharing plans. This tax was introduced in this bill, and you were briefed on it yesterday by Mr. Cook.

Part 3 also amends the act to provide legislative authority to the Minister of Finance to obtain information from the Minister of Revenue in order to administer these shared taxes.

**The Chair:** Okay, thank you very much for that, Ms. Moray.

[Translation]

Mr. Mai, you have the floor.

[English]

**Mr. Hoang Mai:** What type of information sharing are we talking about?

**Ms. Kei Moray:** It would just be data so that we could determine the amount of the taxes that should be paid to the provinces.

**Mr. Hoang Mai:** Obviously in Quebec it's a bit different. How do the provisions apply with respect to Quebec?

**Ms. Kei Moray:** For Quebec, Quebec is not party to a tax collection agreement so we don't impose a tax. We don't have a provincial component on the taxes imposed in Quebec. Quebec has chosen to impose its own tax in both of these cases.

**The Chair:** Okay.

[Translation]

All right?

**Mr. Hoang Mai:** All right.

[English]

**The Chair:** I want to thank the officials for explaining that part to us so well.

We will move to part 4, division 1, financial institutions. This amends the Trust and Loan Companies Act, the Bank Act, the Insurance Companies Act, and the Jobs and Economic Growth Act. Just for your reference, it's page 13 of the Library of Parliament briefing.

Are there any questions on part 4, division 1?

**Mr. Hoang Mai:** Yes, a small briefing.

**The Chair:** You want a brief briefing on this section.

Welcome to the officials.

Ms. Hardy, please.

**Ms. Annie Hardy (Chief, Financial Institutions Division, Structural Issues, Financial Sector Policy Branch, Department of Finance):** My name is Annie Hardy. I'm going to give you a brief overview of this section.

The first Jobs, Growth and Long-term Prosperity Act permitted certain public sector investment pools to invest directly in Canadian financial institutions to provide access to stable long-term investment. The amendments in part 4, division 1, are consequential to the initial provision in Bill C-38 and implement technical and coordinated changes to support the previously legislated policy.

The objectives of the amendment included in this bill are to ensure the new ownership framework for public sector investment pools is harmonized with the current ownership framework for other types of investors, and to clarify that the minister has the exact same powers for this new framework for public sector investment as he has with other investors. Thank you.

• (1640)

**The Chair:** Thank you for that briefing.

Ms. Nash, please.

**Ms. Peggy Nash:** Thank you for being here and thank you for that briefing.

Could you restate that in a more plain language format so that we're all on the same page?

**Ms. Annie Hardy:** Yes, I can do that, for sure.

We created a new class of investors in the first Jobs, Growth and Long-term Prosperity Act. What we did was we ensured that the ownership framework for the current investors is harmonized with the new framework so that they all work together more smoothly.

The second thing is we also looked at all the provisions to make sure that all the powers for the minister are exactly the same for both types of investors. The minister has exactly the same tools. We clarified that in the legislation. That's why they are technical. It's not to change a policy; it's to harmonize the framework.

**Ms. Peggy Nash:** Just so I understand it, if I'm an investor who had invested before Bill C-38, now with these changes to harmonize the investments, what change would I see? If I were a previous investor, what change would I see with these new rules?

**Ms. Annie Hardy:** We didn't change the framework for the ones that were currently allowed before Bill C-38. For those ones there are exactly the same rules.

What we did is we looked at this new class of investors. We looked at whether we needed to modify certain clauses for them to make it a little more.... For instance, there are certain provisions in the Bank Act right now whereby when you've already received an approval from the minister, if you increase your share number by 0.1%, you don't need to come back for another approval. It's really a minor additional share you're getting.

We said for those types of investors we ask them to come back. We're saying, "For you, we prefer that you come back because we really want to see every share issuance." That's an example. We didn't change the status for the previous investor. We just clarified it for those ones where we say, "We want to see every share issuance. So this little technical exemption doesn't apply to you."

**Ms. Peggy Nash:** Thank you.

**The Chair:** Ms. Nash.

If you want to, Mr. Cuzner, go ahead.

**Mr. Rodger Cuzner:** There's a question on the booklet. Does the approval process for public sector investment pools differ from the approval process for other types of investors in federally regulated financial institutions, and if so, why?

**Ms. Jane Pearse (Director, Financial Institutions Division, Financial Sector Policy Branch, Department of Finance):** There are a number of different types of investors that we see that are contemplated within the Bank Act, so depending on the type of owner, the type of application, you can see there are different processes to go down.

What Annie is indicating is that we want these eligible pools to be subjected to as robust a regime as existing investors.

**Mr. Rodger Cuzner:** You said, if there was that much growth. Is there a threshold? What is the threshold?

**Ms. Annie Hardy:** Currently for investors, the minister approves share ownership above 10%.

**Mr. Rodger Cuzner:** That's 10%.

**Ms. Annie Hardy:** Yes, for those investors we want to approve every share. We have criteria. Basically it is that government and agents are prohibited from owning shares in financial institutions, with limited exceptions, so we open the door a little bit for these types of investors, which are public sector investment pools. We say that if they meet certain criteria, the minister will consider them for approval. However, for those types of investors we're saying we want to see every share issuance, so every time they want to purchase, the minister will see it, as opposed to other investors. It has to be a "significant interest" as we call it in the legislation, so it's 10% of the class of shares, but for those ones, we're more restrictive.

• (1645)

**Mr. Rodger Cuzner:** The minister will have to sign off on that with the recommendation from where?

**Ms. Jane Pearse:** That's from both the Office of the Superintendent of Financial Institutions and the Department of Finance.

**Mr. Rodger Cuzner:** That's from both.

**Ms. Annie Hardy:** Yes.

**The Chair:** Mr. Caron.

[*Translation*]

**Mr. Guy Caron:** I have a brief question.

How many such pooled investment funds are there in the public sector?

**Ms. Annie Hardy:** I do not have the exact number with me, but I know that there are several pooled funds. They exist in Asia and Australia. I think that New Zealand has one. They exist here and there around the world. But I cannot give you the exact number.

**Mr. Guy Caron:** Fine, thank you.

**The Chair:** Thank you.

Mr. Mai, you have the floor.

**Mr. Hoang Mai:** Thank you again for your presentation.

I would like to have a better understanding of the approval process. How does it work? One goes to the Office of the Superintendent of Financial Institutions, and then the Department of Finance examines the request and has a certain length of time in which to respond. Is that right? Can you review the process for me briefly, please?

**Ms. Annie Hardy:** If an applicant wishes to invest in a financial institution, they should begin with the Office of the Superintendent of Financial Institutions. The superintendent then reviews the application to ensure it complies with the law and that the minister will have the information required to give a decision. Then the superintendent makes a recommendation on a prudential basis, that is, he determines whether the applicant may represent prudential risks for the financial institution. Then, when the superintendent is of the opinion that the application meets all the criteria and that it contains the necessary information, he submits it to the Minister of Finance, who gives or withholds his approval.

**Mr. Hoang Mai:** Right.

Could you talk about the reasons why the door was opened to this sort of investment? What concerns or needs does it actually meet?

**Ms. Annie Hardy:** The reason for this change was to enable financial institutions to have access to a wider range of investors. In other countries, investors are allowed to invest in financial institutions. We wanted to make sure that our financial institutions were going to be competitive in the search for capital and that they were going to have access to the same pool of potential investors, taking into account that the minister wished to have the right to review such investors.

**Mr. Hoang Mai:** In the approval process, the minister and the OSFI must consider certain criteria. Can you talk to us quickly about these criteria in general?

**Ms. Annie Hardy:** Yes. At present there are three criteria that the law...

With your permission, I am going to consult my sheet.

**Mr. Hoang Mai:** Are these new criteria that have been added or what was there before?

**Ms. Annie Hardy:** No. I am talking to you about what is now found in Bill C-38.

**Mr. Hoang Mai:** In that case, it is fine.

**Ms. Annie Hardy:** There are not any additional criteria.

**Mr. Hoang Mai:** That is perfect, thank you.

[English]

**The Chair:** Are there any further questions on this?

Mr. Cuzner.

**Mr. Rodger Cuzner:** Could you describe the process in which a sovereign wealth fund would have to seek the approval of the minister before investing in a Canadian bank?

**Ms. Jane Pearse:** Sure. My colleague Annie has just explained the process for getting the approval of the Superintendent of Financial Institutions. In this case it would work the same way. The applicant and the financial institution in Canada would both come to OSFI to make an application. OSFI would assess it from a prudential perspective, would bring a recommendation forward to the Minister of Finance, and then there would be a process whereby we would consider whether the criteria that were added to the law in Bill C-38 had been met. That recommendation would then go to the minister for approval.

**Mr. Rodger Cuzner:** Is there a public portion on that? Does it have to go public at any time before that, with public notification?

**Ms. Jane Pearse:** There are points in time at which there has to be notification in the *Canada Gazette* that an application has been made.

**Mr. Rodger Cuzner:** That's just for notification anyway then. Okay.

• (1650)

**The Chair:** Thank you.

We want to thank our officials for being with us today. We appreciate your responses.

Colleagues, division 2 has been sent to the transport committee, so we will deal with division 3, dealing with the amendment to the Canada Deposit Insurance Corporation.

Welcome to all of you. On behalf of the committee, thank you for being here.

I've been asked if I would have you provide a short briefing to the committee on this division, on these amendments.

**Mr. Jean-François Girard (Senior Project Leader, Financial Sector Policy Branch, Department of Finance):** My name is Jean-François Girard. I work in the financial sector division, and I'm here with my colleagues, Wayne Foster and David Smith, from the financial markets division.

There are two components to this section. I'll explain the first component, and my colleagues will explain the second component.

The first component is reflected in clauses 166 and 167 of the division. These clauses amend the Canada Deposit Insurance Corporation Act. I will describe very briefly the existing legislative framework so you can better understand the amendments in their proper context.

Currently, the Canada Deposit Insurance Corporation has the power to create a bank called a bridge bank that would take over the operations of a failing bank. That's a bank that's no longer viable. The failing bank is a party to several contracts. Some of these contracts are called eligible financial contracts. An example of that is derivatives that the banks use to manage their risk. Currently, when a bridge bank is created, the legislation provides that a conditional stay can be imposed on the termination clauses of these eligible financial contracts, and the stay is imposed if the Canada Deposit Insurance Corporation undertakes to guarantee the obligations of the failing member institution under the contract, or it transfers these obligations to the new bridge bank that is created. That's the current framework, and that stay makes the creation of a viable bank easier, the new bank that's being created.

The proposed amendments provide for a new stay. It's for one business day, and it's on the same criteria so it prevents counterparties in these eligible financial contracts from terminating their contract as a result of the creation of the bridge bank. It's either the insolvency of the failing bank, or an order creating this bridge bank. You cannot invoke these events to terminate your contract. That would facilitate the creation of the bridge bank, because it would provide one day for the CDIC to decide which of these financial contracts are transferred to the new bank, or which ones will stay in what is called the bad bank, the insolvent institution that's failing.

An important exception to this stay is that the EFCs that are cleared through central counterparties are designated and named under sections 4 and 13.1 of the Payment Clearing and Settlement Act. They're exempted from that stay. This proposal in terms of context would be consistent with international standards adopted by the G-20.

**Mr. Wayne Foster (Director, Financial Markets Division, Department of Finance):** Thank you, Jean-François.

I will be speaking to clauses 168 to 172 of the bill, which amend the Payment Clearing and Settlement Act.

These are quite technical and hard to put into simple language, but they are important amendments to facilitate the central clearing of over-the-counter derivatives transactions.

To provide some background, the Payment Clearing and Settlement Act, PCSA, protects clearing and settlement systems which are, of course, integral to the operation and stability of our financial system, by essentially standing between two parties to a financial transaction, protecting against conflicting or competing laws or court decisions that might otherwise apply in the case where one of the participants were to default or become insolvent.



For example, the act protects the rules of a securities clearing house. It ensures that the rules of a securities clearing house for determining final settlement amounts or the arrangements for netting transactions, or the transfer of payments or collateral between parties to the clearing house are paramount or final and can't be challenged by a court or through other means.

It also provides a framework within which the Bank of Canada can regulate and supervise designated payment systems.

To date, most of the clearing houses that fall under the PCSA have been clearing houses for cash securities or cash payments, for example, government bonds or equities, or large-value payments between major banks, in other words, not over-the-counter derivatives transactions.

However, as many of you will know, in September 2009, G-20 leaders agreed that going forward, standardized over-the-counter derivatives transactions should be centrally cleared to increase financial stability. As a result, you will see increased use of derivatives clearing houses by Canadian banks and other financial institutions in the future.

The amendments that are in these provisions will aim to ensure that derivatives clearing houses, some of which may be based offshore, are accorded the same protections as clearing houses that fall under the act currently, which are mainly cash clearing houses. As noted, the amendments are quite technical. They amend some definitions. There is some increase in the scope in certain areas to cover these derivatives clearing houses, and clarifying certain other language, but very important.

• (1655)

**The Chair:** Thank you.

Questions?

[Translation]

Mr. Mai, you have the floor.

**Mr. Hoang Mai:** Thank you for your presentation.

I just wanted to understand one thing regarding the Canada Deposit Insurance Corporation. It includes several members, including the financial institutions and the Autorités des marchés financiers. Can you confirm to me that this is so?

**Mr. Jean-François Girard:** No. The members are depository institutions, that is, institutions that accept deposits. They are banks and trust companies.

**Mr. Hoang Mai:** All right.

That includes credit unions?

**Mr. Jean-François Girard:** Credit unions do not come under the federal structure, so they are not members.

**Mr. Hoang Mai:** That is right. Yes.

You were talking about having a centralized clearing house. There were consultations with the provinces. Were there any discussions? Did the financial institutions, in Québec or elsewhere, express any objections?

[English]

**Mr. Wayne Foster:** In terms of the specific amendments that will protect central counterparties' derivatives transactions, we did consult provincial regulators, including the AMF, for example, in Quebec, before we brought them forward.

**Mr. Hoang Mai:** Were there any objections or any—

**Mr. Wayne Foster:** Quite the contrary, there was very much support for this initiative.

**Mr. Hoang Mai:** Just so I can have a better understanding, when you talk about having the clearing houses offshore or somewhere else, is it possible to do it here in Canada also? Are there any specific bodies that do that here in Canada?

**Mr. Wayne Foster:** Yes, there are a number. One example, based in Quebec, is CDCC, which clears futures and options transactions traded on the Montréal Exchange and has started to clear certain over-the-counter derivatives products connected to equities.

**Mr. Hoang Mai:** Is the idea behind these amendments to have regulations that would apply to every clearing house, so that the rules and protection are pretty much the same? Is that it?

**Mr. Wayne Foster:** That is essentially it. They're protected in the same way that cash clearing houses are now. It protects the clearing house, but it also protects the participants in the clearing system, which would be our major banks.

• (1700)

[Translation]

**Mr. Hoang Mai:** In the past, has the CDIC had to bail out any of the financial institutions or any other institution? In practice have there been any cases that required intervention?

**Mr. Jean-François Girard:** With regard to these amendments, it must be said that the suspension of clauses for terminating contracts applies within a fairly recent framework, put in place in 2008. In fact, no institution has needed to invoke these clauses. It has not been put into practice up to now.

**Mr. Hoang Mai:** Do you know how many institutions are concerned?

**Mr. Jean-François Girard:** Potentially, all institutions that are members of the Canada Deposit Insurance Corporation are subject to these provisions. They apply to all financial institutions subject to the federal framework. In theory they could apply to the whole group.

**Mr. Hoang Mai:** Do you know how many CDIC members there are?

**Mr. Jean-François Girard:** I do not know the exact number, but I think this information might be available on the corporation's Web site.

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

**The Chair:** Thank you.

Mr. Caron, you have the floor.

**Mr. Guy Caron:** I have a brief question further to what Mr. Mai asked.

You said you consulted the provincial regulators, such as the Autorités des marchés financiers, and that they were in agreement. Was it unanimous or did one or another of the regulators express some reservations?

[English]

**Mr. Wayne Foster:** The regulators that we would have consulted on the thrust of these amendments would have included the AMF, the OSC, British Columbia Securities Commission, and Alberta. We didn't directly consult any of the others. Those four are part of a working group on over-the-counter derivatives that includes the Department of Finance, the Bank of Canada, and the Office of the Superintendent of Financial Institutions, as well as the CSA, Canadian Securities Administrators, which has been working on implementing Canada's G-20 commitment around over-the-counter derivatives for the last couple of years. This is a small element of it.

We did reach out to them as we were bringing forward these proposals among some other stakeholders, namely the legal community and others, to get a sense as to whether these were the type of amendments that would deal with the issues that a certain party had raised around the PCSA.

[Translation]

**Mr. Guy Caron:** To be more precise, was there a consensus on the issue within your working group?

[English]

**Mr. Wayne Foster:** Yes.

[Translation]

**Mr. Guy Caron:** There was no dissension or specific concern in this regard?

[English]

**Mr. Wayne Foster:** That's right.

[Translation]

**Mr. Guy Caron:** Thank you.

[English]

**The Chair:** Okay, Monsieur Mai.

[Translation]

**Mr. Hoang Mai:** Could you tell me whether other measures have been taken to attenuate the risks associated with OTC derivatives?

[English]

**Mr. Wayne Foster:** As part of the G-20 commitment, the main element is to clear standardized over-the-counter derivatives. That's an initiative Canada, the U.S. and all other G-20 members are pursuing. Another element of the commitment is to report to a trade repository all over-the-counter derivative transactions, including those that would be cleared, but also uncleared transactions. That is also an initiative that's under way. In Canada that is being led by provincial regulators. They have put out a consultation paper on this question. Their plan is very consistent with what the U.S. has put out through Dodd-Frank and now the CFTC set of rules, and Europe as well.

That's another key element to increase transparency of the central repository of all these transactions that regulators can access to get a sense of what risks are out there and who is bearing them.

[Translation]

**Mr. Hoang Mai:** Can you just remind me of the name of the committee or group that is reviewing this situation?

● (1705)

[English]

**Mr. Wayne Foster:** The group in Canada that's coordinating—because there are a number of players here, including provinces, but also the federal government—is the over-the-counter working group under what's called the heads of agencies group, which is an informal committee chaired by the Governor of the Bank of Canada.

**The Chair:** Okay.

Mr. Cuzner, go ahead, please.

**Mr. Rodger Cuzner:** Thank you very much.

This is being put forward as a bit of a solution. I think we're trying to get an idea as to just how big the problem is.

Had this legislation been put in place last year, could you give us an indication how many of the cases would have been stayed?

**Mr. Jean-François Girard:** As I mentioned, the stay applies when there's a failing bank and the CDIC decides to create a bridge bank to take over some of their operations. This regime was put in place in 2008 and there have been no failures. It's never been used, so I cannot say—

**Mr. Rodger Cuzner:** Obviously you can't.

**Mr. Jean-François Girard:** —how many transactions would be stayed.

**Mr. Rodger Cuzner:** There's no dollar value or anything like that on—

**Mr. Jean-François Girard:** The dollar value would probably vary on a day-to-day basis, depending on the institutions. If you're talking about a large institution, you would expect the value would be greater than for a smaller institution.

**Mr. Rodger Cuzner:** Yes, but the question was whether over the last year there have been any instances.

**Mr. Jean-François Girard:** There have been no instances.

**Mr. Rodger Cuzner:** That's since 2008.

**Mr. Jean-François Girard:** Yes. The bridge bank regime was put in place in 2008, and it has not been used. These clauses have not been invoked so far.

**Mr. Rodger Cuzner:** Great. Thanks.

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

I want to thank our officials for being here to explain this division and for responding to our questions.

Mrs. Glover.

**Mrs. Shelly Glover (Saint Boniface, CPC):** I was just wondering, Chair, if you've received any notice from opposition members. We had discussed perhaps advising officials for whom we wouldn't have any questions that they don't need to sit through all of this. I'm curious to know if you got any indication from the opposition about some divisions, such as division 11, division 17, and division 22, which are pretty innocuous.

**The Chair:** We don't have any indication so far. I could ask for it now.

My understanding is that we have officials for division 6, division 7, division 11, and division 14 here today. If I could, I'd like to finish those divisions.

Division 6 deals with the Bretton Woods and Related Agreements Act. I'm not sure if there will be questions. It's a fairly straightforward section, in my view.

Division 7 is on the Canada pension plan.

Division 11 is on the Merchant Seamen Compensation Act.

**Mrs. Shelly Glover:** It was division 11.

**The Chair:** I'm assuming there would be more questions on divisions 7 and 14.

Is that fair for me to say, Mr. Caron?

**Mr. Guy Caron:** I'm looking at them quickly.

**The Chair:** We'll go back to Mrs. Glover, and then we'll come back.

Mrs. Glover.

**Mrs. Shelly Glover:** If I could just clarify, there was discussion with the opposition about division 11 not being necessary to review because of its simplicity. I thought we could address that so the officials who might be here could leave.

**The Chair:** Okay.

Can I do this for division 6?

**Mrs. Shelly Glover:** Absolutely.

**The Chair:** Let me do it for division 6 as well.

Division 6 is based on the G-20 commitment. It implements the government reforms agreed to by the members in 2010. We have a short briefing note by the Library of Parliament.

I don't know what members would ask.

Can we move on to division 7 on the Canada pension plan?

Okay, so we will consider division 6 done.

I think Mrs. Glover wants me to ask if I can get an indication, because we do have officials for divisions 7, 11, and 14, whether there will be questions on division 11. If there won't be, then she's right and we should release that official.

Will there be questions on the Merchant Seamen Compensation Act?

I'm seeing no questions.

• (1710)

**Mr. Hoang Mai:** Ms. Nash is not here. We wouldn't want to answer for her.

If we come back and realize that we don't have any questions regarding revenue.... Actually, we'll let you know if there's any division that we don't need. I think we still have 20 minutes.

**The Chair:** Okay.

Could I have a gentlemen's and gentle ladies' agreement to finish division 14 by 5:30? Then the officials who are here won't have to come back on Monday. Is that fair?

Okay.

We'll move to division 7 on the Canada pension plan.

I want to welcome the officials. Thank you so much for joining us this Thursday afternoon.

We'll start with questions on this section.

We'll have a very short briefing, please.

[Translation]

**Mr. Dominique LaSalle (Director General, Seniors and Pensions Policy Secretariat, Department of Human Resources and Skills Development):** I am Dominique LaSalle, Director General, Seniors and Pensions Policy Secretariat. I am accompanied by Marianna Giordano, Director, CPP Policy and Legislation.

[English]

Also with me is Ms. Cassandra Iwankow, who is the director of policy for CPP disability.

The amendments you have before you in division 7, part 4, are technical in nature. They flow from the triennial review of the Canada pension plan conducted between 2010 and 2012. These amendments do not change the benefits. They do not change the contribution rate. The amendments renumber some of the clauses and remove some unintended gaps, those sorts of technical issues.

**The Chair:** Thank you.

[Translation]

Do you have any questions, Mr. Mai?

**Mr. Hoang Mai:** Yes. These are questions we talked about during the briefing. What I understood was that the change did not in any way affect the complaint process, with regard to either the receipt of complaints or their analysis. Is that right?

**Mr. Dominique LaSalle:** No, there is no change. We just want the bodies, like the new Social Security Tribunal, which is going to replace the...

What was it called?

**Ms. Marianna Giordano (Director, CPP Policy and Legislation, Department of Human Resources and Skills Development):** It is the Review Tribunal and the...

**Mr. Dominique LaSalle:** That is it. So we want the bodies to have the authority to hear such cases.

**Mr. Hoang Mai:** There is also the matter of payment to be made within 30 days of termination of employment. Why was the period for making such payments set at 30 days?

**Mr. Dominique LaSalle:** The clause to which I think you are referring is designed to clarify the contribution period, now that there is what is called in English the post-retirement benefit. There is the normal contribution period when people begin to receive their pension. Afterwards they accumulate a new benefit, if you like, which is called the...

**Ms. Marianna Giordano:** It is the post-retirement benefit.

**Mr. Dominique LaSalle:** This simply aims to clarify at what time the contributions apply for the regular pension and at what time we stop and count for the post-retirement benefit.

**Mr. Hoang Mai:** I know that there have been some changes respecting holidays. More specifically, changes have been made in the calculation of the amounts paid for holidays.

**Ms. Marianna Giordano:** I am sorry, I did not hear you.

**Mr. Hoang Mai:** There have been changes concerning the amounts paid for holidays to employees and those on commission, have there not?

**Ms. Marianna Giordano:** Can you tell me which section this is?

**Mr. Hoang Mai:** It is in the summary under "Simplification of holiday pay calculation." They explain that there is a new formula. Actually I can read to you what they say in the English version:

• (1715)

[English]

A new formula will be put in place to simplify the calculation of holiday pay. For most employees, holiday pay will be equal to 1/20th of wages earned—

[Translation]

**Mr. Dominique LaSalle:** I do not think that this is in the sections of concern to us.

**Ms. Marianna Giordano:** It is not under the Canada Pension Plan.

**Mr. Hoang Mai:** Oh yes, pardon me.

That is fine, thank you.

[English]

**The Chair:** I'd like to thank our officials for being with us this afternoon. Thank you for your explanations, and for responding to our questions.

We have two divisions left. Are there any questions on division 11 or should we go to division 14?

We'll go to division 14, Agreement on Internal Trade Implementation Act.

Welcome to the committee. Thank you very much for being with us today. I assume you're going to be asked for one, so could we please have a very brief explanation. Members have briefing notes with them, but perhaps we could get a short explanation, and then we'll have questions from members.

**Ms. Krista Campbell (Director General, Strategic Policy Branch, Department of Industry):** Good afternoon. My name is Krista Campbell. I'm the director general of the strategic policy branch at Industry Canada. I'm accompanied by two colleagues, Catherine Foskett, the manager of the internal trade group, and Prue Thomson, senior adviser responsible for internal trade.

The Agreement on Internal Trade is a national agreement. It was signed in 1994 by, at the time, all 13 jurisdictions in Canada: the federal government, the provinces, and the two territories. Nunavut was not in existence at that time. The goal of the agreement is to eliminate barriers to the mobility of goods, labour, and services.

In December 2008 and June 2012, all council of internal trade ministers approved amendments to the dispute resolution proce-

dures. Specifically what they approved were measures to strengthen the dispute resolution mechanism for complaints by a person against governments or between governments. All other AIT parties have either enacted or are in the process of enacting the required legislative changes to implement these amendments.

In effect, the proposed bill does three things. It enables the payment of monetary penalties from the consolidated revenue fund and ensures that such penalties would be handled in a way and enforceable similar to other penalties levied against the federal government through the Federal Court of Canada. It applies more strict criteria for appointing individuals to dispute resolution panels and other decision-making functions. It does some housekeeping by updating some of the provision numbers within the agreement and the legislation.

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

Are there questions? Monsieur Mai.

[Translation]

**Mr. Hoang Mai:** Has the government estimated the costs and benefits related to strengthening the process for settling disputes pertaining to the Agreement...

**Ms. Krista Campbell:** Sorry, I did not hear your question.

**Mr. Hoang Mai:** Have you evaluated the costs and benefits related to strengthening the process for settling disputes pertaining to the Agreement on Internal Trade?

[English]

**Ms. Krista Campbell:** If I could just confirm, do you want to know whether we have evaluated some of the costs?

**Mr. Hoang Mai:** Yes, the costs.

**Ms. Krista Campbell:** The Agreement on Internal Trade is a very consensus-based process where jurisdictions are encouraged to work out among themselves the process for identifying irritants to mobility of labour or goods or capital, and to work together to eliminate those barriers. On average there are only two or three cases that come forward that are actually disputes that need to come before a panel for a decision. The number of disputes that would go this far to result in monetary penalties would likely be very low.

• (1720)

**Mr. Hoang Mai:** Do we have a number?

**Ms. Krista Campbell:** On average, right now we have about three disputes a year that get this far. In all cases, even if the dispute gets to a panel, there are ways for governments to then reduce the barriers that are identified. It wouldn't necessarily lead to the imposition of penalties.

[Translation]

**Mr. Hoang Mai:** All right.

Regarding the amendments made to the process, has the financial responsibility of the Government of Canada been increased?

[English]

**Ms. Krista Campbell:** There is not a significant impact on the Government of Canada. At most, the penalty would be \$5 million and that would be in an instance where the federal government is found to have a measure in place that is an irritant for internal trade and then continues to refuse to remove that irritant.

Even if it were found to have something that was an irritant, there are opportunities for the government to take steps to become compliant and a penalty would not be levied, so there is a relatively minor risk to the federal government.

[Translation]

**Mr. Hoang Mai:** Right.

[English]

**The Chair:** Thank you.

Are there any questions? Okay.

We want to thank our officials for presenting these sections to us so well and for responding to our questions. Thank you so much for being with us this afternoon.

Colleagues, I'm going to recommend we adjourn the meeting. We have divisions 15, 17, 22, 23, and 24 of part 4 to deal with on Monday.

I would remind all of you that if you have not yet submitted your witness list to the clerk, please do so as soon as possible in terms of witnesses you'd like to see on the parts and divisions of the bill that the finance committee is dealing with.

You have a point, Mr. Harris?

**Mr. Dan Harris:** I apologize, and we've let the officials go, but there were a couple of questions we missed asking today. Would it be possible to ask for a follow-up, not to ask them to come back, but to ask those questions through you and ask for a written response?

**The Chair:** On which sections?

**Mr. Dan Harris:** Division 7 on the Canada pension plan. It would be question 2 regarding disability in the Library of Parliament's briefing notes.

**The Chair:** Okay.

**Mr. Dan Harris:** Then on division 11, question 4.

**The Chair:** Okay. The finance official is in the room, so we'll just clarify that.

On division 7 it would be question 2. I'll ask our analyst to provide that note to finance.

Was the other question on division 11?

**Mr. Dan Harris:** Yes.

**The Chair:** Division 11, again from the Library of Parliament's briefing notes, question 4.

**Mr. Dan Harris:** Correct.

**The Chair:** Okay. I'll ask our analyst to deal directly with Finance on that.

**Mr. Randy Hoback (Prince Albert, CPC):** Are you going to distribute that?

**The Chair:** We'll send that to the rest of the committee as well.

We will see you Monday at 3:30. Thank you.

The meeting is adjourned.

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