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⊕ (0905)

[*English*]

The Chair (Mr. Rob Merrifield (Yellowhead, CPC)): Seeing we have enough members I'd like to call this meeting to order.

I want to thank the witnesses for coming forward.

I want to remind the committee that pursuant to Standing Order 108(2), a motion adopted by the committee Wednesday, April 2, 2008, Briefing on Asset-Backed Commercial Paper in Canada, is the reason for our meeting this morning.

We're here to listen to the retail investors to understand the situation. I will remind the committee we're not here to try to interfere with private sector or provincial regulated issues.

With that, I want to proceed with the meeting. We will listen to you in order and we'll yield you the floor. I'll introduce you at the time we give you the floor. Afterwards, we'll proceed with a question and answer period.

We'll start with Murray Candlish.

Murray, the floor is yours. You may proceed.

Mr. Murray Candlish (As an Individual): Thank you, Mr. Chairman, and members of the Finance Committee hearing.

My name is Murray Candlish. I am a semi-retired farmer in Daysland, Alberta. My wife, Cindy, and I had \$350,000 in ABCP when it froze last August. That money is what we have saved over 28 years. It consisted of funds we received from selling our farmyard, the sale of our farm machinery, my mother's inheritance to me, a gift from Cindy's dad, and small amounts we had put away for many years.

Farmers don't have a pension plan to rely on in their later years and we were trying to build a savings that we could help our children with and ensure a decent retirement. Our savings did not come easy to us. We went without and worked very hard to obtain it.

June 2006 was when we became involved with an investment advisor who was advised to us from our credit union manager who we trusted very much. We placed our savings in a mutual fund which he thought was appropriate for us. Over the next five months we were down \$30,000. We felt very uncomfortable about losing this much and were afraid of losing more. We asked our investment advisor to get us out of that mutual fund and into a savings account that was very safe. He recommended a 90-day SIT trust, which was triple-A rated.

I asked him what the assets were involved with it. After our recent experience with the mutual funds I was a little shy. He replied that he didn't know what the assets were, but his quote was, "If this fails, the entire banking system in Canada will fail". It was that statement that convinced me to place our savings in what we now know is Asset Backed Commercial Paper.

From 2006 until August 2007 everything was fine. Our investment advisor told us that our funds were frozen, but not to worry, everything would be fine. Now we are April 2008 and we know that everything is not fine. In fact, everything has turned horribly wrong. Our life's savings may only be worth half of the original value at best.

The last eight months have been something that I will never forget. All of our dreams are slowly disappearing as the value of our savings erode. We've always promised our children that we would get them a decent start in their early years, like helping with college and perhaps a small down-payment on their first house.

My wife has worked hard all her life raising three children and working by my side on the farm. She is now working at a nursing home. She doesn't deserve to have her dreams evaporate like this.

At first we were in shock. How could this be when we were in a savings account that was as good as a GIC?

Watching the days go by waiting for the next deadline to arrive, only to be disappointed that another deadline was being set, in early March, rumours began circulating that this paper we owned might have a very reduced value. That is when I decided to take a more proactive approach and do what I could to help recover our savings.

In the last month I can honestly say I have received at least 300 e-mails and a couple of hundred phonecalls, many of them from folks like myself. The stories they have told me are slightly different in content, but they all have the same ending. Many of the stories made my stomach churn.

Members of the Finance Committee, please help the individual investors in our fight to get back what is rightfully ours. If the individual investors are guilty of anything, they are guilty of trusting the integrity of the Canadian banking industry.

Thank you.

⊕ (0910)

The Chair: Thank you very much.

We'll now move on to Larry Elford.

Mr. Larry Elford (As an Individual): Thank you.

My name is Larry Elford. I worked in the financial industry for 20 years. I'm from Lethbridge, Alberta. I earned the designations while I was working of chartered financial planner, certified investment manager, and fellow of the Canadian Securities Institute, as well as associate portfolio manager.

I'd like to thank this committee for bringing to light some of the underlying issues that allow financial abuses of Canadians. Financial abuse of Canadians by the investment industry has occurred over and over, often without the knowledge of those outside the industry. This most recent crisis is just the flavour of the month, and unless we address the underlying issues that allow these abuses, others will occur.

I believe I can speak to this committee about matters which appear to be criminal violations of Canada's laws. I refer to the manner in which these investments were marketed and sold to consumers. It worries me that the manufacturers and/or distributors

of these investments were asking for immunity from criminal prosecution, as this serves to support allegations that criminal laws may have been violated.

Canadian clients like these investors tend to give trust, vulnerability, and great deal of faith to investment providers who hold themselves out as professional advisors. These people were duped, in my opinion.

From my 20 years of experience inside the industry, I have come to the conclusion that consumers are granting this trust and vulnerability improperly based on false and misleading information given to them by the industry. The industry not only does not have a proper definition of the duty of care owed to clients, but it appears that it does not want to have such clarity, as it allows them to adjust these rules to suit their particular needs.

The advertising promises say, "Trust us", the code of ethics says, "We must be trusted", and yet when push comes to shove, I have seen far too many elderly and vulnerable clients beaten down by the same industry and by hordes of lawyers who tell these clients, "We owe you no duty of care; we were never acting in a fiduciary capacity with your account". This, to me, sounds too much like, "You never should have trusted us". Dozens of committees, studies, reports, and papers that suggest clarity and transparency on what duty is owed to the client are stopped by an industry that prefers to obscure.

Further to the point about misleading sales practices, here is the complete list of employees of one prominent firm that sold this particular product. There are several hundred names, 24 pages, fine print; 99% of the people on this list are registered and licensed as salespersons with the provincial securities commissions; 100% of them represent themselves to clients as financial advisors. "Advisors" is a legal registration category with the Securities Commission, and it is illegal to misrepresent that title.

Canadian consumers do not know this: I didn't know this when I was in the business for 20 years. Consumers are kept in the dark. They're duped using a misrepresentation that it's illegal under Canada's Competition Act, a misrepresentation that meets the definition of "fraud" in Canada's Criminal Code. Every investment firm in Canada knows this and it supports the misrepresentation. All 13 securities commissions have laws against this misrepresentation, and yet they either look the other way, or in some cases they grant an exemption to the law and they thus support the misrepresentation to consumers. The consumer is never informed, even when there are exemptions granted to the law which directly affect them.

The self-regulatory agencies, another body like the IDA, the Investment Dealers Association in this case, also have rules and regulations against misrepresenting industry titles and qualifications. Yet, this self-regulatory body also appears to look the other way and support the misrepresentation to consumers. Self-regulation in financial services is the greatest example I can think of, of allowing foxes to guard the henhouse.

The Competition Bureau of Canada is informed of this misrepresentative practice, and rather than investigate, it pays respect and homage to the three agents mentioned previously, and using this logic as a reason not to be involved, it also looks the other way from what appear to be clear violations of a criminal nature to the Competition Act of Canada. It not only refuses to get involved, it refuses to put anything in writing whatsoever about complaints made to the Competition Bureau.

⊕ (0915)

I cannot even imagine what could make a Canadian government body so reluctant to investigate crimes against Canadians that may have contributed to the largest debt failure in our history.

The various police agencies in Canada are either not invited to investigate criminal frauds, forgeries, breeches of trust or other violations of the public trust. Or if they are invited it's done with the help of the very self-regulatory agencies who I've referred to previously and they are representing the industry. Thus, those who may represent the guilty parties are allowed to participate in the investigation. The obvious conflicts of interest cannot be overcome with this process.

These things I mention are side issues to the debt failure and small issues at that but when you add up the dozen or more small failures that our current self-policing system allows it puts us on a very slippery slope. The interest of protecting one's job, one's loyalty to related agencies or one's position at these agencies is apparently stronger than an interest in rocking the boat or in doing the job in handling difficult matters. That's why we're here today, these are difficult matters. These clients and the public were currently helpless within the law and they were without hope of even having any access to the law in this country when it comes to matters of finance.

They are here because each and every level of regulatory and self-regulatory power has failed them. It has failed all Canadians and whether or not an 11th hour solution has been worked out is irrelevant in my opinion. I came here today to shed a small amount of light into how these failures are actually designed into our current system, so hopefully they can be designed out.

I now bring forth a list of over 100 agencies, departments, offices, associations or ombudsmen who when the full effort of their strength is applied--these are self-regulatory or professional trade bodies, etc.--they have had zero benefit to these clients and they have provided zero protection for Canadians. A 50-year industry veteran, Stephen Jarislowski is quoted as saying of some of our regulators "they do the square root of nothing".

I say it is worse than that. I say that they not only fail to protect consumers but they give Canadians a false sense of security. A false feeling that we are in good hands. Financially, we are sitting ducks. Because of these and other systemic failures financial laws in Canada have no protective effect. They are knowingly and constantly broken.

They are easily broken, sidestepped or avoided. If one finds a law being broken there is simply no police agency in the country to call which does not have a built-in conflict of interest. A conflict that allows self-dealing to take precedence over consumer protection. Further, if a law needs to be bent severely or clearly broken financial firms in Canada can make application to have an exemption to the laws which are designed to protect consumers. I bring to your attention to the public record from the Ontario Securities Commission showing thousands of examples of rulings, orders and decisions on the OSC web site over the past half dozen year. This is just the table of contents but in this list are thousands of exemptions to the law. The list of financial firms who have benefited from the granting of legal exemption in Canada runs into the thousands. My documents here are the table of contents. Each and every person in this room is affected by breaking, bending or exempting these laws. The reason you're not upset is that you're simply not aware of how this affects your life savings. You are unaware, uninformed and you cannot be faulted. In no case that I am aware of in Canada was any public notice ever given to consumers when a financial firm wished to skirt our financial laws. You were simply not allowed to know unless you went looking yourself.

If immunity from prosecution were granted to those who sought it in this restructuring it would serve two or three purposes in my eyes: 1. it would allow us to place a softer, gentler name on what may turn out to be the largest manufacture and sale of knowingly tainted products in history; 2. it would allow the guilty to avoid prosecution; 3. it would push us down a very slippery slope which may end up supporting the claim that financial crime does indeed pay in Canada. We do not want that reputation nor do we want our financial firms to prey upon Canadians without being held accountable. Here we sit with real human beings who have real human costs. I'm not one of those suffering I am however sympathetic to their plight and it is my experience that the entire financial police and regulatory system that is in place has no tangible ability to protect or serve them. Some of them might agree with that if they were asked.

⊕ (0920)

The agencies that purport to do this job have been regulatorily--if that's even a word--captured by the industry, and converted into a support system to serve its own financial interests.

I have already presented the list of some 100 financial departments and agencies, none of which have done anything to protect or to help these citizens. These people were victims of crimes for which there are no police to call in Canada.

Can anyone recall the cigarette and tobacco industry of the 1950s, many years ago, where lies, misinformation, and experts were bought and paid for by a billion dollar industry to dupe consumers and legislators? I feel we are in a very similar position today with financial services. We are being duped, every one of us and not just the victims here today.

I would like to thank this committee for taking the time and giving the attention that this matter deserves.

And I will gladly answer any questions if I am able to.

The Chair: We thank you very much for presenting to the committee.

We'll now move on to Ms. Wynne Miles. The floor is yours.

Mrs. Wynne Miles (As an Individual): Thank you.

Hello, *bonjour*. My name is Wynne Miles. My husband, Mike, and I are self-employed, and so we do not have a pension to look forward to. We have one son and one daughter in university, and both have plans for graduate studies. We are 58 and 55 years old respectively.

We were sold this faulty savings product by Canaccord, who purchased it from Scotia Capital.

Mr. Menzies, you have indicated in the past few days that you wanted to know if we, the retail clients, understood what we were buying. The short answer is no. And in actual fact, we, personally, did not ask for this product. The ABCPs were sold to us without our knowledge and consent.

On July 26, 2008 we had a significant portion of our retirement savings plans and Government of Canada T-Bills in a money market account. The next day, on July 27, these savings were in a product identified as "structured investment CP". We subsequently found out that money from our RRSP accounts had also been placed in ABCPs before July 26. However, on July 27, 80% of our now-frozen savings were put into ABCP without our knowledge or consent.

We're not sophisticated investors; rather, we're very conservative with our savings. Ironically, we kept these savings in a money market fund due to concerns about market volatility. We did not know what a synthetic collateralized debt obligation (CDO) or an ABCP was until August, when we found our savings were frozen.

We paid our financial adviser to invest these savings in secure products such as T-Bills, and we believe our investment adviser thought she was doing just that. However, at no time were CDOs or ABCPs discussed. And if we had been asked if we wanted to buy synthetic CDOs or ABCPs, we would have said no.

Our first priority over the past few months was to have our savings returned with interest. Yesterday's press releases by Canaccord are very welcome, but we need clarification with regard to the terms of the offer, and as well, I understand there may well be an appeal by Canaccord clients excluded from that offer.

We need an immediate resolution to this crisis. We, along with approximately 1,800 retail clients, have waited more than seven months and have suffered financially and emotionally. I will need our savings returned with accrued interest before I vote yes for the proposed restructuring agreement. I will also need to be assured that all the retail clients of Canaccord, Credential Securities, and the National Bank have also been made whole.

We have many concerns about the product we were sold, the restructuring process and the upcoming vote. I will briefly discuss eight of these concerns.

One, the non-bank ABCP was sold without a prospectus, which is contrary to the provincial securities act. As well, they had a flawed liquidity agreement.

Two, we need to know more about the timing--what happened when. According to the media and court documents, institutions such as Scotia Capital were aware by July 24, 2007 that the non-bank ABCP contained some American sub-prime mortgages. However, it is alleged they continued to sell these papers to retail customers such as ourselves through investment firms such as Canaccord and Credential Securities up to the day that those funds were frozen, by which time Scotia Capital had reduced their holdings of ABCP by \$140 million. So if fraud has occurred, we do not think that the CCAA (Companies' Creditors Arrangement Act) should be used to protect any guilty parties.

Three, the Pan-Canadian Investors Committee has worked very hard to come up with a solution. However, we, as retail clients, did not have input into that restructuring agreement. The proposed solution of issuing long-term notes rated only by the DBRS is not acceptable to retail clients. We cannot wait. We need our savings back now. We had our savings in short-term T-Bills because we needed access to them.

Many other retail clients are retired and completely dependent on their retirement savings. I received a phone call a few days ago from an 86-year-old veteran who has his savings frozen in both Canaccord and Credential accounts. He's afraid to speak out, as he lives alone and has concerns about his own personal safety.

⊕ (0925)

Sadly, when he does discuss the issue of ABCPs his blood pressure goes up above 200, thereby endangering his health. There are a lot of really sad stories out there. I don't think that's the way we should treat our veterans.

The new long-term notes will again only be rated by the DBRS. The ABCP trusts, which are currently frozen, were rated by the DBRS as R1 (high), or AAA. I'd like to quote from the August 22, 2007 Canacord information newsletter with regard to the DBRS rating scale for commercial paper and short-term debt:

“The DBRS short term debt rating scale is meant to give an indication of the risk that a borrower will not fulfill its near-term debt obligations in a timely manner. Every DBRS rating is based on quantitative and qualitative considerations relevant to the borrowing entity.”

So, for an R1 (high), which is how those trusts were rated, short-term debt rated,

“Short-term debt rated R-1 (high) is of the highest credit quality, and indicates an entity possessing unquestioned ability to repay current liabilities as they fall due. Entities rated in this category normally maintain strong liquidity positions, conservative debt levels, and profitability that is both stable and above average. Companies achieving an R-1 (high) rating are normally leaders in structurally sound industry segments with proven track records, sustainable positive future results, and no substantial qualifying negative factors. Given the extremely tough definition DBRS has established for an R-1 (high), few entities are strong enough to achieve this rating.”

Obviously, this was not an appropriate rating for the ABCP papers that are now frozen. However, we're being asked to accept the new long-term notes, which again are only rated by the DBRS.

The pan Pacific committee has advised the retail group to support the yes vote and therefore support the restructuring agreement. We would thereby accept long-term notes in place of our old short-term notes, not receive any of our savings for five years, and the rest, if anything is left, after nine years. As well, a yes vote requires that we accept a broad legal release. We'd give up our right to sue anyone involved in this financial fiasco. We have been told that if we vote no we will be left with little or nothing. As I've said before, I feel as if I am being offered an ultimatum, and that makes me very angry. It also makes me wonder if my rights, under the Charter of Rights and Freedoms, are being infringed on.

The proposed restructuring package—that is this 400-page document here—is too complicated for most retail clients. Some people have yet to even receive their packages. Ours arrived on Monday. We downloaded one a while ago though. Similarly, the presentation given at the information sessions by Purdy Crawford's pan Pacific committee were too technical for most retail investors, and in actual fact, they were misleading. The analysis which was presented pooled all of the conduits together while the relevant information on specific conduits—for example, our savings are frozen in Sit III and that information was not available.

My husband took three days off work to read this restructuring agreement before the pan Pacific investors committee information session in Vancouver last week. I'd like to point out that we are professionals and he didn't get paid for those three days. We have worked very hard for months now and lost a lot of professional time in the effort to get our savings back.

He was able to point out at the meeting that they had omitted to mention a significant fact, that the funds that make up the Sit III conduit, our savings is, in the most part, mature in 2013 but we would only receive 10% of our savings at that time, and the rest, if there is anything left, would not be available until 2016.

We have no idea what the new notes will sell for either in the immediate future if we wanted to sell them after the restructuring or eight years down the road. No one will give us a value. No one will project a value on these notes.

The requirement that we waive our rights to sue is completely unacceptable. We have been wronged. The proposed legal release would protect everyone except members of the retail group, such as ourselves. In fact, we have only recently received a commitment that we may be funded for legal representation.

⊕ (0930)

My last point. We do not know if all 1,800 retail investors have been contacted and, therefore, if they will be able to vote. We do not have access to the confidential client lists.

I know of one Canaccord client who only found out that he owns ABCP on April 4, and then only because he took the initiative to contact his financial advisor, and not the other way around.

So, where do we go from here?

We want to know why the provincial and federal governments did not prevent the sale of these faulty savings products. Do we need changes to the provincial securities act as well as changes to the federal Bank Act, which regulates the banking sector in Canada? Certainly the rating system for savings products needs to be reviewed.

It's not acceptable to treat people like this. It cannot be allowed to happen again, so that is your job, as I see it.

In closing, I'd like to thank you for the opportunity to present my story and my thoughts to you, as representatives of the Government of Canada.

I look forward to a speedy resolution in this financial disaster and to getting a good night's sleep.

Thank you very much. *Merci.*

The Chair: Thank you very much for coming forward in this panel.

We'll now move on to Diane Urquhart, Independent Consulting Analyst. The floor is yours.

Mrs. Diane Urquhart (Independent Consulting Analyst, As an Individual): Thank you.

I am an independent financial analyst speaking today on behalf of the retail customer group. It's 1,800 families, it's approximately \$350 million.

Yesterday an offer was made, the offer is incomplete. The banks and other brokerages need to come to the table, complete the offer.

Only some families are being paid. Numerous families have been left out, particularly the Credential Securities customers who still have asset-backed commercial paper, who still have sleepless nights, who still have their wives working in nursing homes to make ends meet.

Therefore, this problem has not been resolved, yesterday, despite the positive press coverage. There are also families in Quebec that have missed the arbitrary cutoff that the National Bank Financial has provided that anyone who has \$2,000,001 gets nothing, anyone who has \$1,999,999 gets it all. Similarly in the Canaccord settlement yesterday, anyone up to \$1,999,999 gets it, anyone with \$2,000,001 gets nothing.

So we still have a tremendous amount of work to do and to negotiate a remedy of all individuals who were placed in this paper on the basis of it being safe and triple-A getting their money back, getting their accrued interest and having their legal costs paid.

Art Field, president of the National Pensioners and Senior Citizens Federation, is dismayed how brokers put elderly people into asset-backed commercial paper as a triple-A savings project. It was said to be as safe as treasury bills and GICs.

I have the support of the National Pensioners and Senior Citizens Federation, representing 1 million seniors throughout all the provinces of Canada, in saying that Canada has failed to protect the savings of seniors in this case.

This time a broad swath of Canadians were hit by a scheme they had idea they were exposed to. No one in the Canadian financial industry and government regulators spoke out about the obvious cracks in this cash product. Bridges with cracks eventually collapse. Financial products with design cracks break down, too. This is what has happened.

The failure of non-bank ABCP is a systemic problem in the financial industry and amongst our regulators. This problem, once resolved, and it will be resolved, because it is too egregious not to be resolved for the Canadian families that have been impacted, will require that we engage in dialogue here at the finance committee to develop system reform at the federal government level, which will prevent this from ever happening again.

I'm going to deal in my presentation on what were the flaws in the product and what repairs are needed in the regulatory system.

First of all, international banks should not be permitted to operate schemes in Canada that expose Canadians to billions of dollars of losses. Deutsche Bank, HSC Bank, and Merrill Lynch are names that need to be associated with this crisis. Deutsche Bank is the

counter party for over 50% of the credit derivatives inside the trust that are currently under bankruptcy protection.

International banks and Julie Dickson, superintendent of the Office of Supervision of Financial Institutions, OSFI, which is known as that acronym in Ottawa, has indicated she is not responsible for regulating international banks. She needs to have a new job description.

We cannot let international banks engage in these contracts that have the impact and the authority that under those contracts they can make margin calls, call defaults and seize the collateral assets of trusts, which are the savings of ordinary Canadians.

These collateral assets, such as the life savings of Murphy and Cindy Candlish, the maintenance capital budget of the Beaver Creek Housing Co-op, the retirements savings plans of Wynne and Mike Miles, who are in their own businesses.

🕒 (0935)

Their money went into the trust and that money went into collateral assets, collateral being assets that people who have access to that in order to have their debts repaid. They won't lend you money if they think you don't have collateral to pay you back so that's how the scheme operated.

International banks now want to collect the debts that are associated with the accredited derivative contracts. Collect them, they certainly have the power to do. It is because they have the authority now to seize the collateral Canadian savings that the pan-Canadian committee had no choice on March 17 to enter the CCA bankruptcy protection process. Had that not occurred, Deutsche Bank, Merrill Lynch and HSBC Bank had the power to pull the plug, had the power to say we're entering default and that your collateral assets are now our collateral assets, your savings are now our profits, we're going to be in a position to take \$8 billion in the case of Deutsche Bank out of the country upon default. That is the loss of these people who had their savings in these trusts are to the direct gain of the international banks that are the counterparts to the credit default swaps inside these trusts. Why can't Julie Dixon regulate the affairs of the international banks who got access to our Canadian savings to make collateral calls to seize these savings to be taken out of the country.

Retail customers owning ABCP had no idea that they had ensured the bad loans of international banks. Canadians were unknowingly ensuring the credit losses of Deutsche Bank, HSB, Bank of America, Wachovia Bank, and others, hardly a Canadian bank on the list, on a leveraged basis. For every hundred dollars that these people put into the trusts, there was \$1,300 of international credit portfolios that got insurance from Canadian Trust from these Canadians. You just have to have a small amount of loss on that international credit portfolio. If you had a 5% loss on the international portfolio with 13 times leverage you get a 65% loss of Canadian savings. That's how leverage works. Leverage is good when everything is going well but I think everybody knows that when

you borrow money and the value of the asset goes down, you get wiped out. That is what occurred here.

Once the investment banks in the summer of 2007 saw the dramatic rise in interest rates and once they got the memorandum from Coventry which is one of the major sponsors that indicated that net asset value impairments are ahead the experts in the investment industry knew that there was leverage. They knew that there would be margin calls, knew that if new money didn't get put into the trust there would be defaults. Notwithstanding that knowledge the risk managers of the major banks of Canada, Scotia Capital in particular, made a decision that it would be better for the customers to own this impaired paper than for the banks to do so. So, Scotia Capital is alleged to have made a decision to have shifted out \$150 million of the asset-back commercial paper post the July 24 memo sold to Canaccord. Canaccord then sold it to Credential and then both the retail subagents got it into the retail customer base. This was after there was knowledge that the product was already tainted.

Can you imagine that if a food distributor was distributing tuna and the tuna was tainted and the distributor made the decision that we're going to continue to sell the tuna because we don't want to own the tuna, we've already bought it, so we're going to take the loss. Let's not we take the loss. Let's get it out to the customer base because the way our system works in our country they'll never be able to sue us because they don't have means. Worse than that, this set of distributors and banks, one of the side benefits that they got going into the bankruptcy protection proceedings--they got it because they asked for it--it wasn't enabled within the bankruptcy laws.

⊕ (0940)

They have asked for what The *Globe and Mail* refers to as the mother of all immunity deals. What that means is that these individuals who were sold the tainted product now have losses of at least 50¢ on the dollar in order to realize cash and fell into what will be an extremely depressed secondary market after this yes vote. They are being asked to take the notes and give up your rights to sue....The basic wording is give up your right to take any action for the remedy of any type of damage through any type of process in front of any type of form and that you're not to receive remedy any administration or enforcement procedure. So that pretty much says it all.

We sold it to you. You should have figured out how not to take possession of it. You own it now. It's your problem. Don't sue me. In fact, you won't be allowed to, because the institutions are going to vote yes and your vote, unfortunately, is going to be carried along.

Now what should the federal government also be doing? I would suggest that the House of Commons engage a legislative process to rescind immediately the Bank Act Regulation (b)(5). This is the act that governs asset securitization procedures. The OFSI office specifically has a regulation that describes what a liquidity agreement looks like. A liquidity agreement is a bank guarantee. These international banks would not have had

access to Canadian savings through vehicles such as Rocket trust, Planet trust, through very bizarre names, if it was not for the fact that there was a liquidity agreement.

The brokers probably sincerely thought that because there was a AAA rating and a bank guarantee that the bank guarantee would kick in. The federal government had a liquidity agreement definition which was full of holes in the Bank Act regulations itself.

These international banks came to Canada in the size that they did because the Canadian liquidity agreement was the weakest of the world. It became known as “the Canadian style liquidity agreement”. What I want you to note, however, that the banks who signed the liquidity agreement were the same international banks that are the counter-parties that took your money in the form of paying for their credit losses because these trusts agreed to ensure those losses.

So, just think of it, the situation that you were put in. You were faced with the collection agent at the front door who said okay, I'm here to collect my debt. You owe me \$1 billion, to use a nice round number. You ran to your rich uncle at the back door to get the money so you could pay the \$1 billion debt to the man who was at the front door. When you got to the back door, to your horror, you find that your rich uncle is the same guy as the collection agent at the front door and the rich guy is saying sorry, I'm not going to bail you out of your problem. I have this document here that says I don't have to and by the way, the Government of Canada told me I should write this document this way.

And the Government of Canada did so because they said we're going to protect the balance sheets of the banks. We don't want you to have a real liquidity agreement that you're going to get paid for, Mr. Bank, Deutsche Bank or the Royal Bank of Canada, because if you did, you might lose money. So why don't you write a liquidity agreement that allows you to walk and if you write it this way, this is this general market disruption clause idea, every dollar in commercial paper market could not roll over before it was going to be the case that the bank was obliged to pay for the paper that Murray and Cindy's family was placed in.

When they couldn't find a customer, they were supposed to be able to go to the Deutsche Bank, as an example, and say, Deutsche Bank, you pay us back. The Canadians at the moment don't want to buy it. Deutsche Bank said, What a fool. Did you not know that the liquidity agreement that I signed doesn't oblige me to pay you off because there seems to be bank commercial paper still trading?

In the time that's here, obviously, I can't get into the details of that whole thing. People will ask me questions.

I would like to express the view that it's my belief that the asset-backed commercial paper was sold in the Canadian market unlawfully.

☎ (0945)

It should have been sold with a prospectus at the time that Standard & Poor's in 2002 wrote a major research report called "The Leap of Faith" in which they concluded the entire Canadian non-asset-backed commercial paper market, all 20 of the trusts in the market at the time, were below investment grade.

You heard earlier from other speakers, Steve (inaud) found it to be high-grade, their top grade. Standard & Poor's, on the other hand, said it was so low, they refused to rate it. So that violated the provincial securities acts, and, as Larry indicated, the provincial securities commissions have done nothing. They stood by blindly while this continued to be sold into the market unlawfully.

The Chair: Thank you very much. We'll now move on.

I'll just remind everyone, for the interest of the committee, in asking questions, please keep it at 10 minutes. I allowed you to go over that a little bit further than I should have, but, nonetheless, I know you're passionate about this issue, and so are all Canadians.

Now from the Beaver Creek Housing Co-operative, we have Steven Furino, treasurer, and the floor is yours.

⊕ (0950)

Mr. Steven Furino (Treasurer, Beaver Creek Housing Co-operative): Thank you. My name is Steven Furino and I am the treasurer of Beaver Creek Housing Co-Operative in Waterloo, Ontario. I would like to tell our story in two parts, first how the situation came to pass for us and consequently our need to be made whole for our ABCP investments. With Canaccord's announcement yesterday it seems that this will be accomplished for us, though large losses will still be borne by others.

Second, and more importantly, I want to emphasize how the credibility of both the financial sector and the government has been damaged. Beaver Creek is a mixed income community of 50 families and as with other cooperatives Beaver Creek is owned by its members. The members contribute to the operation of the complex, specifically members democratically decide the policies, budgets and values that influence the community in which we live. We administer a rent geared to income subsidy provided by the federal government to low-income families under section 95 of the National Housing Act. Roughly one-third of the coop's families are subsidized. We have managed ourselves very well. Our housing charges are below market and hence we provide access to affordable housing beyond the subsidy program. We have very low arrears, minimal vacancy loss, no deferred maintenance and a long-term plan for capital expenditures that is, or rather was, fully funded. Our replacement reserve is a fund to pay for capital expenses such as new roofs or floors. We have made annual contributions to the reserves since our first occupancy in 1984 and the balance is currently about \$180,000.

In 2008 we had budgeted to begin the replacement of 25 year old furnaces at an estimated cost of \$88,000. The fund has held at Canaccord Capital. The agreement with

our investment advisor requires explicit instructions from us for the purchase of bonds and equities but allows his discretion for cash and cash equivalents. This agreement has been in place for more than 10 years. The money market portion of our account needs to be safe and liquid because it is intended for near term activity like the replacement of furnaces. Our advisor is certainly aware of this. In the summer of 2007 \$93,000 in this fund was frozen as part of the ABCP crisis. The paper was purchased as part of our money market funds, we were not informed of its purchase specifically nor of the risks of this kind of entity. Our investment advisor and I have engaged in repeated conversations about the risks in the American housing market and in the derivatives market. Under not circumstances would I have allowed the purchase of such an instrument had I known it contained American mortgages or any derivatives. Our investment advisor has confirmed over the phone that he was unaware of the contents of the paper and relied on its AAA rating and implicitly the good judgment of his firm. Clearly the freezing of 50% of our financial assets and the loss of a large fraction of that 50% is a serious impediment and to our members, many of whom earn less than \$30,000 a year it's a colossal loss.

Let me emphasize what the situation looks like to a typical family. Mom, Dad, two kids earning \$40,000 a year, have lived in the coop 10 years. Always pay their housing charge on time. Volunteer on the landscape committee and attend general meetings. Through no fault of their own or the coop's \$93,000 is frozen and a large fraction of that may be lost. They do not get a new furnace as planned. Why? Essentially because a much wealthier and more powerful group, choose from the list: banks; rating agencies; conduits; brokerage houses, claiming to act in their best interests perpetrated what the family can only interpret as fraud. Triple A rated paper, bank guaranteed, declared to be safe and liquid. It was neither safe nor liquid.

The Crawford committee is seen by the family as belonging to that same class of financial agents who now completely lack credibility. Without being made whole why would such a family vote in favour of a proposal that would legitimize the loss of capital, the loss of liquidity and deny recourse under the law. The obvious answer is to get some of the money back rather than none. However, prior to yesterday the coop did not know how much money it would get back nor when it would get the money back. Moreover, beyond a certain point the issue is no longer one of financial loss. To our families it's an issue of justice.

That brings me to the second part of the story. In meetings at Beaver Creek where this situation was discussed members made repeated references to failures in the corporate and financial sector over the last 10 years and to the Canadian government's apparent lack of desire to provide a regulatory and compliance framework that protected Canadians from predatory behaviour.

I've taken the following examples straight from discussions within the coop.

⊕ (0955)

When the tech bubble was crashing, popular analysts like Henry [Inaudible] were saying, "Buy in public and sell in private." Off-book accounting and fraud at Enron and other corporations caused the collapse of large firms, and the loss of employment and pensions to many tens of thousands. In the American mortgage business, predatory lending practices, biased real estate assessments and opaque securitization has plunged the American credit market into crisis. Unfortunately, it seems that similar practices may have occurred in Spain and the U.K. as well. CEO salaries, Bay and Wall Street bonuses, hedge fund managers' pay have all hit records, despite dismal performance in many cases.

No one in the co-op has any recollection of the Ontario Securities Commission or the RCMP successfully prosecuting a Canadian for a criminal act in the financial sector, though everyone was aware that Conrad Black and the CEO of Enron were convicted. This may be because Canada had no high-profile cases, or because Canadians are more honest, or more cynically that Canada's enforcement in these areas is at best pathetic and at worst acts to protect law-breakers.

If the problems in the financial sector had made very, very rich people, only rich people, that would be one thing. If those problems spread to Main Street and harmed ordinary citizens who had no part in the decision-making, risk assessment or profits, I think that's another thing.

With respect to the ABCP crisis, that such a product has been sold as a cash equivalent clearly demonstrates a failure in disclosure or regulation. My hope is that this committee would ensure that appropriate regulation is brought into force to prevent future mishap. I have also concerns about the integrity of the agencies and individuals involved. It has already been asserted that Coventry informed the Bank of Nova Scotia in early July 2007 that there were imminent problems. Neither Coventry nor the bank made those concerns public. Instead, it has been asserted that the bank sold hundreds of millions of dollars of the suspect paper, some to Canaccord, which in turn used it as routine money market tools for its clients. Even when sufficient regulation exists, there is a need for compliance enforcement.

The public continues to perceive that leaders in both politics and business lack credibility and integrity. The ABCP debacle adds more evidence to an already burgeoning file. Younger citizens do not vote much any more. In the most recent election in Ontario, I reminded my students every class of the date of the election and of the importance of their participation. Roughly 10% voted. When I asked why, the typical answers were "All politicians are corrupt," or "It makes no difference."

As someone who has personally lived under a dictatorship, I find the prospect of a disengaged citizenry frightening. Unfortunately, behaviour exhibited by the corporate and political leaders in the last 10 years provide abundant evidence to the cynical. It is imperative that elected members act to ensure the integrity of the financial system and the credibility of its participants. In the end, our society runs on institutional trust and that trust is being eroded.

Thank you.

The Chair: Thank you very much.

We have a last presenter from the Coalition pour la protection des investisseurs, Robert Pouliot and Andrée De Serres.

Andrée, I believe the floor is yours, and you're sharing your time. Andrée, take it away.

[*Français*]

Andrée De Serres (directrice, à titre personnel): Merci, monsieur le président.

Bonjour et merci au nom de la Coalition pour la protection des investisseurs de nous donner cette occasion. Je suis Andrée De Serres, professeure à l'École des sciences de gestion de l'Université du Québec à Montréal. Je représente la Coalition pour la protection des investisseurs.

La Coalition pour la protection des investisseurs est née d'un mouvement spontané en réaction au scandale financier des fonds Norbourg et du fait que des milliers de personnes ont été spoliées de quelques 130 millions de dollars lors de ce scandale.

La coalition soutient et a soutenu, lors d'un mémoire déposé à la Commission des finances publiques du gouvernement du Québec, qu'il est urgent pour les gouvernements provinciaux, comme pour le gouvernement fédéral, de réfléchir à une politique nationale sur l'épargne et l'investissement, que nous fondons autour de cinq points fondamentaux. D'abord, une réflexion d'une politique, la refonte du régime de gouvernance de fonds et des sociétés de gestion de fonds, la mise en place d'un observatoire sur l'épargne et l'investissement, l'évaluation et/ou l'annotation de ces sociétés de gestion de fonds et, enfin la mise en place d'un fonds d'indemnisation, dont nous allons vous entretenir plus longuement.

La coalition rassemble et bénéficie du support d'un groupe de personnalités dont la provenance mérite d'être soulignée et, à la fois, décrit l'ampleur du problème auquel nous faisons face. Vous avez une liste de ces supporteurs. Nous avons une série d'ex-présidents des grandes institutions financières du Québec et du Canada: M. Claude Béland, M. Claude Castonguay, M. Holger Kluge, M. Rosaire Couturier, M. Reynald Harpin, M. Jean-Luc Landry, M. Robert Pouliot, mon collègue, quelques professeurs dont M. Pierre Fortin et M. René Delsanne et moi-même et, aussi des anciens premiers ministres et ministres des Finances, M. Bernard Landry et M. Yves Séguin.

Nous avons aussi le support d'organismes qui représentent quelque 1,8 million de personnes, ce qui représente encore l'ampleur de l'intérêt et de l'inquiétude.

Si, après l'affaire Norbourg, la grande majorité des investisseurs qui ont été spoliés n'ont toujours pas été indemnisés, rien ne laisse croire qu'ils ne le seront ou qu'ils le

seront bientôt. Il faut noter que ce scandale Norbourg n'était pas le premier, mais il s'inscrivait après une longue série de scandales, soit RT Capital, Transamerica Life Canada, Strategic Value, Portus, Norshield, et bien avant, Triglobal et le scandale des papiers commerciaux adossés à des créances auquel nous faisons face. J'oserais répéter l'expression qu'un célèbre animateur de Radio-Canada utilise maintenant pour parler des PCAC en disant des papiers commerciaux adossés à n'importe quoi.

La coalition présente l'idée d'un fonds d'indemnisation qui viendrait compléter des mesures de protection des investisseurs au même titre que les épargnants le sont à l'intérieur des institutions financières. Mon collègue, Robert Pouliot, va compléter cette idée.

🕒 (1000)

M. Robert Pouliot (président-directeur général, Coalition pour la protection des investisseurs): Monsieur le président, mesdames et messieurs les parlementaires, il y a 20 ans ce Parlement décloisonnait l'industrie bancaire en permettant aux banques d'intervenir sur le marché des valeurs mobilières, la plus importante réforme financière de l'histoire de ce pays.

Le but était d'accroître la concurrence sur le marché des capitaux en bouleversant profondément les règles du jeu financier. Jusque-là, les Canadiens étaient habitués à traiter avec deux types fort différents d'institutions: l'industrie du crédit, représentée par les banques commerciales, les compagnies de finances ainsi que les cartes de crédit. Les règles de réciprocité étaient claires et clients comme institutions étaient tenus à une obligation de résultat: rembourser les prêts ou les dépôts, au risque de faire faillite.

Divers filets de sécurité existaient, comme l'assurance-dépôt, et il n'y avait qu'un seul régulateur, soit le Bureau du surintendant des institutions financières et la Banque du Canada, pour assurer une discipline de marché.

La deuxième industrie, soit l'industrie fiduciaire, représentée par tout l'univers des valeurs mobilières des courtiers, gestionnaires de portefeuille, fonds mutuels, caisses de retraite et gardiens de valeurs. Les règles de réciprocité étaient confuses, car il n'y a jamais eu d'obligation de résultats, seulement de moyens. Les consommateurs se doutaient bien que les risques étaient plus élevés et complexes, mais n'avaient rien pour reconnaître si les moyens — ces fameux moyens —, les ressources et les pratiques répondaient à des conditions généralement reconnues et acceptées. Il n'y avait pas un régulateur, mais 13. Il n'y avait pas d'assurance-indemnité contre la fraude et les abus, ni de super-gendarmes pour assurer la discipline de marché. Bref, un autre monde.

Le décloisonnement, mesdames et messieurs, a entraîné une telle confusion entre risque de crédit et risques fiduciaires que petits et grands investisseurs, avertis ou non, ont encore peine à s'y retrouver vingt ans plus tard. C'est ce qu'illustre la crise des PCAC. Beaucoup d'investisseurs ont confondu certificat de dépôt et papier commercial en se faisant promettre sécurité et liquidité. Pire, certains croyaient que ces produits libellés

d'un triple A par des BRS et vendu pour une bonne part par des filiales bancaires et coopératives étaient protégés par l'assurance-dépôt. Bref, y avait-il obligation de résultats ou de moyens?

Mille huit cents investisseurs, détenant 1 p. 100 des PCAC non-bancaires menacent aujourd'hui l'Accord de Montréal et sept mois d'efforts difficiles pour sauvegarder quelques 32 milliards d'actifs émis par des fonds spécialisés mis en place par des institutions non-bancaires. C'est la première fois depuis longtemps que les petits porteurs semblent en position de force sur le marché de capitaux. Il paraît inévitable que leur participation soit rachetée pour éviter une catastrophe de premier plan. Mais, la question est de savoir par qui.

Les vendeurs de papiers eux-mêmes devraient assumer leurs responsabilités, puisque les preuves démontrent que ces titres ont été vendus sur la foi d'une sécurité supérieure, même à celle des certificats de dépôt. Canaccord, avec des fonds propres de 390 millions de dollars et des liquidités de 422 millions de dollars à la fin 2007 et *Credential*, avec huit actionnaires coopératifs institutionnels, devraient pouvoir absorber cette transaction. C'est ce que Canaccord a justement proposé de faire hier. La Financière Banque Nationale pourrait en faire autant, ainsi que *Scotia Capital*, qui s'est retrouvée avec 220 millions de dollars de PCAC. Mais voilà, rien ne les y oblige. Plus ironique encore, ces courtiers devraient faire faillite pour que leurs investisseurs soient indemnisés par le Fonds canadien de protection des épargnants, comme ses règles le stipulent.

Le poids de la décision semble devoir être supporté par les signataires de l'Accord de Montréal, conclu en août dernier pour assurer que 100 p. 100 du projet de règlement passe. Comme par hasard, les yeux se tournent vers la Caisse de dépôt et placement du Québec et ses 150 milliards de dollars.

Pour une grande partie de l'opinion publique, la Caisse de dépôt représente le bas de laine des Québécois, même si le public en contrôle moins de 30 p. 100 par le biais de ses contributions au Régime des rentes du Québec ou ses primes à la Société d'assurance automobile du Québec. Les 20 autres déposants de la caisse sont tous des régimes de retraite privés ou des fonds d'assurance dédiés. Mais, la caisse n'est pas une société d'État, ne fait pas de profit pour son compte, comme le fait Hydro-Québec. Elle n'a pas de fonds propre comme un gestionnaire indépendant et sert uniquement ses déposants.

🕒 (1005)

À moins que les fonctionnaires, les travailleurs de la construction, les techniciens ambulanciers et les agriculteurs n'y consentent ou qu'on puisse démontrer que cela sert leurs meilleurs intérêts, la caisse ne pourrait venir à la rescousse des autres détenteurs de PCAC. En effet, la caisse n'est ni un régulateur, ni un fonds d'indemnisation, pas plus que les régimes ontariens de teachers ou *[inaudible]*.

Mesdames et messieurs, c'est justement un fonds d'indemnisation des investisseurs contre la fraude et la négligence fiduciaire qui manque le plus au Canada. On ne peut plus

continuer à se demander, chaque fois qu'un scandale éclate ou que des erreurs importantes de marché font surface, qui devrait indemniser les investisseurs ou encore dépendre de la décision discrétionnaire ou arbitraire d'une institution ou d'une autre, le mouvement Desjardins et deux autres coopératives d'épargne d'Ontario et de l'Ouest qui indemnisent ou la financière Banque nationale qui indemnise en partie ou *[inaudible]* qui, jusqu'à récemment, avait décidé de ne pas indemniser.

C'est une responsabilité, mesdames et messieurs, de places financières qui ne peut être assumé seulement par quelques institutions ou un segment de marché, comme c'est le cas au Québec, avec les conseillers en épargne, les seuls à financer le Fonds d'indemnisation des services financiers du Québec alors qu'il ne fabrique rien.

Un tel fonds augmenterait la concurrence sur le marché en permettant à un plus grand nombre de sociétés de gestion d'offrir une protection équivalente aux investisseurs. D'après Jean-Luc Landry, président sortant de l'Association des conseillers financiers du Québec, il est urgent de traiter les fonds mutuels au même titre que les autres produits de consommation de masse ou les autres produits d'épargne.

[English]

The Chair: Very quickly.

[Français]

M. Robert Pouliot: À défaut de garanties ou de droits de retour, comme cela existe pour tous produits ou services défectueux, il est important d'éliminer la fraude parmi les riches auxquels sont confronté les investisseurs.

Pour conclure, mesdames et messieurs, le fonds d'indemnisation devrait remplir trois fonctions: rééquilibrer le marché entre un nombre limité d'institutions et une masse anonyme d'investisseurs de détails, traiter équitablement les investisseurs...

[English]

The Chair: I'm sorry. I'm going to have to cut you off there. I would like to let you go a little further, but our time is very limited and it's only fair to the committee.

You will get a chance as we get into the question and answer period, so thank you very much.

We'll now move to Mr. John McCallum. The floor is yours. You have seven minutes.

🕒 (1010)

Hon. John McCallum (Markham—Unionville, Lib.): Thank you, Mr. Chair.

Just before asking any questions I'd perhaps like to make two points to provide a little bit of context. First of all, I thank you all for being here and in particular I thank those who have lost money in this episode. I found your accounts moving, and particularly as a former defence minister and veterans affairs minister the story of the 86-year veteran, and so it's our hope that by providing a forum today we will help you in your efforts to find a just solution and we will thereby help to obtain a positive vote for this accord, because I do think that is in the national interest and I'm hoping that this session might provide you with a forum that will be helpful in your endeavours.

The second point I'd like to make, Mr. Chair, is that I think as I see it this is the first step in a two-step process. I think it's very important to hear first from the retailer investors, from ordinary people if you wish, and the second step is that we will want to use OSFI and we will want to call other government agencies in coming weeks to really try to find out what went wrong and what should be done in the future, as Mr. Furino said, to preserve the integrity of our financial system and I think that's a fundamental question which we will address in coming weeks, but not particularly today.

My first question would be to Mr. Elford. I was very interested to hear your comments about various major problems but can you give some idea to us as legislators what in general terms you think the solution might be.

Mr. Larry Elford: Yes, I can. Thank you very much. Number one, end self-regulation. The simple fact that foxes shall not be allowed to look after the henhouses in Jane Jacob's book *Dark Age Ahead* most societies have discovered that allowing foxes to guard the henhouses is inappropriate.

Consumer protection laws, like I read in the newspaper yesterday, being enacted in Quebec has great consumer protection laws against faulty products and responsibility for those. They must apply to structured investments that are being manufactured today out of smoke and mirrors just like crystal meth is cooked up in labs in some bad neighbourhoods.

End the dual mandate illusion, the smoke and mirrors game of letting citizens think they're being protected by agencies that'll look after two sides of the fence. I've written down a--

Hon. John McCallum: So what would be the concrete legislative or regulatory changes that would have to be made either provincially or federally to--

Mr. Larry Elford: A single regulator that has a mandate to protect consumers without the dual mandate of trying to deal with both sides of the issue.... There is no consumer protection agency in Canada of any kind that I'm aware of that has a single mandate to protect consumers. They're all conflicted.

Hon. John McCallum: Ms. Urquhart, do you agree with that, or would you have a--

Mrs. Diane Urquhart: I had said in my remarks that I believe the House of Commons should rescind the Superintendent of Financial Institutions Guideline B-5 that allows this kind of unacceptable Canadian no-use liquidity agreement. We need to have an act that requires the banks, if they sign a liquidity agreement with their name on it, the agreement must work. It is a bank guarantee.

And the market disruption clause should be removed from the Bank Act regulations, and that should be done immediately so that no international bank or Canadian bank can say they were allowed to do it.

Hon. John McCallum: Okay, that's a different issue, right? But in terms of--

Mrs. Diane Urquhart: Oh, on his issue? Oh, okay. I'm sorry. I wanted to get to some specific changes.

Hon. John McCallum: I know you want to get that in but I want to talk about his issue.

Mrs. Diane Urquhart: There are two things that must happen to deal with the fraud aspects of what has happened.

I believe the top priority is to create--not to fix, because it is non-existent today--a Royal Canadian Mounted Police integrated market enforcement team that works with the white collar fraud squads of all the regional and municipal police across Canada. I believe that is a higher priority than a single securities commission.

I believe we also need to have a collaborative commission between the Province of Quebec and the rest of Canada because the current provincial securities commission system is broken, is not functioning, and offers no protection to Canadian investors.

🕒 (1015)

Hon. John McCallum: Thank you, and thank you, Mr. Chair.

The Chair: Thank you very much.

We'll now move on to Monsieur Crête.

[*Français*]

M. Paul Crête (Montmagny—L'Islet—Kamouraska—Rivière-du-Loup, BQ): Merci beaucoup de votre ténacité. J'aurais bien aimé que personne ne vive les réalités que vous avez vécues, mais par un genre de miracle, le 1 p. 100 que vous représentez a aujourd'hui un pouvoir qu'on ne retrouverait nul part ailleurs autrement. Je veux vous

féliciter pour ça. Je pense aussi que le comité permanent des finances va avoir, comme M. McCallum l'a dit, une responsabilité importante à continuer son travail sur deux aspects.

Évidemment, à court terme, et je vais revenir là-dessus, — peut-être que la question pourrait s'adresser particulièrement à Mme Miles — les conditions nécessaires pour que l'accord avec Canacord puisse être vraiment effectif, vous en avez parlé, mais j'aimerais que vous y reveniez. Un autre aspect dont vous en avez tous parlé, soit la nécessité de solutions en profondeur, de modifications à la loi, d'autres propositions qui sont faites, comme le fonds d'indemnisation. J'aimerais peut-être que, après, M. Pouliot ou Mme De Serres complète l'information sur cette question. Cependant, en premier peut-être Mme Miles ou quelqu'un d'autre sur ce que ça prend pour que l'accord avec Canacord soit viable pour les gens qui ont été pénalisés comme vous l'avez été.

[*English*]

Mrs. Wynne Miles: Well as I've said, I would not vote yes and give away my right to sue. I think that's very inappropriate.

But I think most of the retail investors just want their money back. So if someone buys back our notes, then the big boys can have their say. That's a very crude way of putting it.

Anyone else?

Mrs. Diane Urquhart: I would add to that, that the offer is a good start because it is proposing to give at par a crude interest and pay legal costs for 1,400 families. However, there are 1,800 families.

So we need to get back to the negotiating table and complete the offer. The other 400 families need to get par, plus accrued interest, and have their legal costs taken care of.

In addition, there is a significant discrimination going on both by Canacord and the National Bank Financial of Canada.

In the National Bank Financial case, they have offered to settle cash only up to \$2 million. Anything above \$2 million you get nothing. So we have several Quebec families who are well known, contributing, hard-working families that have accumulated above the \$2 million level that do not deserve to be discriminated against. They are still small investors. They are not pension funds, they are not governments, and they are not corporations. These people should be paid.

People at Canacord are not being paid if they're over \$1 million. Well, who made up that arbitrary rule? Hasn't anybody ever figured out that with low interest rates, how much money you need to produce your own pension? It's an absurdity to have that arbitrary distinction in the cash settlements.

Retail customers are retail customers no matter what faith, no matter what colour, and no matter how much money those retail customers were able to assemble. They were sold a tainted bill of goods. They want their money back and I think basically the Canaccord offer is deficient in that regard. The National Bank offer has been deficient from the beginning.

Everyone needs to get back to the table so that we can get the retail customer groups settled once and for all, everybody, and then the institutions can proceed with the restructuring that they have negotiated over the last seven months.

[*Français*]

M. Paul Crête: Madame, un petit commentaire pour que M. Pouliot ait ensuite le temps de répondre.

M. Robert Pouliot: Monsieur Crête, je crois que le fonds d'indemnisation aurait épargné à des milliers d'investisseurs toutes ces difficultés et ces complexités. Je crois qu'un tel fonds marquerait une avancée importante pour tous les investisseurs canadiens et pour toute l'industrie financière canadienne, il deviendrait même un symbole sur le plan international. Il faut reconnaître que la structure du marché est tellement différente de ce qu'elle était il y a à peine une génération, et aujourd'hui effectivement, sachez, monsieur Crête et mesdames et messieurs les parlementaires, que le Comité pancanadien des investisseurs a toujours manqué d'information sur qui détenait ces fameux papiers. Je le sais moi-même, parce que j'ai organisé le premier Forum sur la crise des PCAC en octobre dernier pour les caisses de retraite lorsqu'on a découvert, à notre grande stupeur, que plus d'une centaine de caisses de retraite au Québec seulement étaient directement contaminées par ce cas. Donc, un fonds d'indemnisation ici est une pièce de législation qui pourrait vraiment aider l'ensemble des investisseurs et épargner ces négociations de bouts de chandelle, de bouts de table, de fins de ceci et de fins de cela et un traitement inéquitable des investisseurs.

🕒 (1020)

M. Paul Crête: Madame Urquhart, quels sont les trois ou quatre principaux acteurs qu'il faudrait convoquer ici, qui sont, je ne dirais pas les coupables, mais qui sont à la source de la situation actuelle pour bien comprendre comment la mécanique a fait que ce système s'est établi? Qui a la responsabilité et qui devrions-nous voir ici au-delà de vos témoignages qui sont très importants?

[*English*]

Mrs. Diane Urquhart: You would call the president of Dominion Bond Rating Service. You would be calling the senior officers of Deutsche Bank, HSBC Bank, and Merrill Lynch. You would be calling the senior executives, particularly the head of risk management, for Scotia Capital, and also for the National Bank Securities. You would be calling Henry Russell, president of the Caisse de dépôt. Those would be, in my mind....

You'd be calling Julie Dickson in the government, why she continued to say that it was not her problem. It is her problem. That would be the first set, and I could think of many others.

In addition, I would call the son-in-law of Purdy Crawford, the vice-chairman of the Ontario Securities Commission, ask him why there wasn't an Ontario Securities Commission examination of the failure of the 20 sponsors for distributing product into the market when Standard and Poor's had already indicated all the product was below investment grade--why, with all this media in the last four weeks, at least with all of this, I might add, evidence that I possess that has gone to our legal counsel, documentary testimonial evidence including documents from the brokers on how this product was sold.

Has Lawrence Ritchie from the Ontario Securities Commission called me to look at this evidence? Absolutely not, not to my knowledge. I think for the first time Murray has had a call from an IBA investigator, or someone in Manitoba has. There is not a functioning police force in the country.

The Chair: Monsieur Crête.

[*Français*]

M. Paul Crête: Pouvez-vous déposer copie de ces documents?

[*English*]

Mrs. Diane Urquhart: Yes, I can...well subject to my speaking to legal counsel. This is an affidavit which will be filed in the court next week, so I may ask for the allowance of our counsel, Jurisvetsky, and Ricci, and Shipley-Righton, who is preparing the affidavit as we speak.

The Chair: Do you want that even if it's not in French?

Mr. Menzies.

Mr. Ted Menzies (Macleod, CPC): Thank you, Mr. Chair.

Certainly a heart-felt thank to you all of you involved today, and certainly the investors. Thank you for your rational presentation and keeping your emotions in check. I realize this is a troubling time for you and difficult for you to discuss, so thank you.

You need to know that, when this motion came forward at committee, it had all-party support to listen to the investors. I think that everybody is absolutely behind hearing your message. I think last August we were all under the premise, when this first came to light, that everyone that was involved in this, both the buyers and the sellers, were quite convinced that it was both secure and liquid.

I find it very troubling to hear your comment, Ms. Miles, about you didn't even know that you were invested in asset-backed paper. That will be my first question, but I do want to comment about some of what we're hearing today about the lack of a common securities regulator. Our finance minister has been pushing for that, and I think this is a strong argument.

We hear it from Mr. Elford and Ms. Urquhart that the provincial regulators—and at this point in time we're dealing with these regulations, and that's what we have is provincial regulators—obviously, are not being effective, were not effective in this role. We've been, as a government, and the Bank of Canada, have been monitoring it, but, unfortunately, that's all both the government and the Bank of Canada can do because we have 13 regulators across the country. So I guess I'd be interested in some more comments about that.

Also very troubling, the involvement of the foreign banks. Ms. Miles, if you could elaborate a little bit more on what it was you were told. Did you understand what you were buying? As you've said, you didn't even know you were buying it?

🕒 (1025)

Mrs. Wynne Miles: No, we weren't asked. As I mentioned, because of concerns of market volatility, we had a large proportion of our savings in a money market fund, and it was T-bills. We expected, we had an understanding, that it would be in money or the equivalent of money. When Canaccord sent out their notice—I think I have it somewhere—saying that these ABCPs have been frozen and my husband called just to make sure that we didn't have any, that was the first time we'd heard of them. I have to say Canaccord has not been forthcoming with more information on it.

I don't know, does that answer your question?

Mr. Ted Menzies: It does. It just affirms your original comment.

Mr. Furino, your comment, and I wrote it down, “unaware of the contents of the paper” is the way you termed it, so I would assume you would have the same comment.

Mr. Steven Furino: Yes. And our broker was also unaware of the contents of the paper. My understanding is that about one-third of all of the money market funds in Canada last summer were held in some form of asset-backed commercial paper. So my expectation is that the vast majority of Canadians who held a money market fund also held some form of asset-backed commercial paper and were also uninformed and were also unaware of the contents of that paper.

Mr. Ted Menzies: Mr. Candlish, through you, Mr. Chair.

Mr. Murray Candlish: I just wanted to add to Ms. Miles comments about the things that were said to sell this stuff to us, when they had no idea what was in it. The statement,

“If this fails, the entire banking system in Canada will fail”, that's why I bought it. When someone makes a statement that strong....

The Chair: Go ahead, Ms. Urquhart.

Mrs. Diane Urquhart: Subject to the clearance from our lawyer, we do have documentary evidence that indicates that Canaccord brokers were sending emails and other written documentation to the customers indicating that this asset-backed commercial paper was triple-A rated, that it has better liquidity than GICs, after all GICs could not be sold in the secondary market like this paper could, and to top it, there was a statement made that it had better preservation of capital than guaranteed investment certificates. The reason given was that guaranteed investment certificates were subject to the \$100,000 limit for the Canada deposit insurance.

For those not familiar with that, that's when you put your money in a bank deposit or a savings account or a term deposit or a GIC. For every bank that you have money in, \$100,000 of it is insured. So the Canaccord customers were told, in writing. We don't necessarily know all, but we have a document, and other common testimony, that indicates that this is the basis upon which it was sold to them.

Mr. Ted Menzies: Mr. Elford, do you have a comment on that?

You're the one who raised the common securities regulator more specifically than anyone else. Perhaps you might comment on that.

Mr. Larry Elford: I truly hope for a single securities regulator. I've dealt with the securities commissions across the country for 20 years. They are dysfunctional at best and complicit in the granting of legal exemptions to industry agencies at worst.

If this gentleman makes a complaint to any securities commission in Canada the doors are closed to him. He is referred to a self-regulatory agency which has no statutory authority. He's referred to an investment dealers association or a mutual fund dealers association. He's told at the front door of a crown corporation in every province of this country that he's not welcomed and that he's to go to membership associations to deal with this problem. Typically, his problem is not solved, yet any corporation in Canada can walk in and apply for an exemption and skirt the laws of our country freely and the doors are wide open.

It's a very badly structured two-tier system that serves the industry and does no service to the public in my opinion.

🕒 (1030)

The Chair: Thank you very much.

Mr. Julian, you have seven minutes.

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

Your testimony is incredibly compelling. In taking some notes it's referencing fraud, illegal practices, misrepresentation, misleading sales practices, financial abuses and immunity from prosecution. You paint a portrait essentially in this particular case of a financial services sector that's the wild wild west. There doesn't seem to be any oversight or any protection for the Canadian public.

I have a series of questions and I'd like to start with Ms. Urquhart.

You referenced in the margin calls around the ABCPs that essentially new money was needed to put in to keep the situation basically afloat. It sounds very similar to a pyramid scheme. Would that be an accurate assessment of how this situation developed?

Secondly, this offer that came from Canaccord came about the day before they knew you were all coming here to testify before the Finance Committee. Do you think there was a very clear connection?

Mrs. Diane Urquhart: It's my belief that had Brian Hunter not set up Facebook, had my husband and I not become aware of the group, and had we not engaged in a fundraising process to seek legal counsel, that it was the intent of the pan-Canadian committee and Mr. Crawford to enter a vote without them having legal representation and with the hope that the vast majority of the 1,800 families would not be organized or have the sufficient wherewithal to vote no. Most importantly, the parties who were in a position to inform them and advise them were Canaccord, Credential Securities and National Bank Financial.

Credential Securities is owned by the Credit Union Central and there were five Credit Union Centrals on the pan-Canadian committee. Canaccord was on the pan-Canadian committee. The pan-Canadian committee in whose interest it was to vote yes, and those sets of brokerages in whose interest it was for the customers not to know and to join them in saying yes, were in a position to control the list. They were in the position to advise the customers to vote yes, contrary to their own financial interests.

This was a very significant situation that we were able to recover in the last four weeks through sheer hard work, 24/7. I think every one of the members on this panel, and another 30 behind them, have been organizing, informing, seeking legal counsel and gathering evidence all for the purpose of ensuring they would not be run over by the bus in the vote.

Canaccord only came to the table, in my opinion, because of the adverse publicity and because of this hearing today.

Mr. Peter Julian: If you hadn't done your work then there was not going to be any protection or any response from financial services.

Mrs. Diane Urquhart: Yes, and I'd like to add that we are not paid to be government regulators. OSFI has paid staff; provincial securities commissions have paid staff; and even you, yourselves, as members of this committee are paid. All of the people who have been scrambling to provide investor protection through the name-and-shame process are unpaid volunteers. These people who have day jobs, who have had their money stripped from them, had to work 24/7 around the clock just to get some kind of stabilization recovery in their own affairs, and thank God for people like Robert Pouliot and Andrée De Serres, and Robert Kyle, and Larry Elford, my husband, and I'll thank myself too for making a contribution to try and get the money back for this group, to start, but more importantly to begin the program of reform so we do have government regulators who do the job. Canadians cannot rely on volunteers to provide basic, basic regulation to protect the savings of Canadians.

Mr. Peter Julian: We thank you for coming here today because the Canadian public needs to know what has happened to you and what is happening to other Canadians.

I'd like to go to Mr. Elford. You essentially said the banks and financial institutions seem to be above the law, so I wanted to ask you, why is that? We've had governments--both the current government and the previous governments--who seem to be very soft on corporate crime. Should there be consequences when CEOs and corporate directors make decisions that have such a profound impact on the lives of ordinary Canadians?

🕒 (1035)

Mr. Larry Elford: Absolutely! There should be proceeds-of-crime legislation which causes people to be responsible for their actions, fraudulent or otherwise. Robert is asking for compensation funds and those kinds of things, and I somewhat agree, but I don't think the government should simply bail out the fraudulent actions of white-collar criminals, and allow those people to skate free in a Canadian justice system which does not prosecute white-collar criminals.

Further to the first part of your question, the Alberta Securities Commission in my province, you pointed out my comments, were "above the law" type of thinking. The Alberta Securities Commission spent between \$1 million and \$2 million to legally fight the Auditor General of Alberta to audit that crown corporation, so that is how they're standing their belief of themselves to be completely above the law. I found that same attitude at numerous securities commissions at the Investment Dealers Association of Canada, and the list goes on.

Mr. Peter Julian: Mr. Candlish, Mr. Furino, Ms. Miles, I'd like to ask you what your level of confidence is now in the Canadian financial system following all of this?

Mr. Murray Candlish: I'll share a comment from a fellow back home when he found out what was going on. He said, "You know, I think I'm going to go down to my bank and put my money in a tobacco can and take it home with me".

Mr. Steven Furino: The comment in the co-op that has most commonly been made, particularly with this issue in the news out of the United States, is whether it's time to get “a bigger mattress” to stuff your savings in.

Mr. Peter Julian: That's more secure, than...? Yes.

Mrs. Wynne Miles: I recently bought some Canada Savings Bonds.

Voices: Oh, oh.

Mrs. Wynne Miles: This has been a real education process. I was very naive before, and I certainly hope now that I'm aware of it, I will see some changes being made.

The Chair: Thank you very much.

Our time has gone so now we'll move to our second round, and we'll be into five minutes.

Mr. McKay will lead that round off.

Hon. John McKay (Scarborough—Guildwood, Lib.): Thank you, Chair, and thank you, witnesses.

It looks like we're going to see a spike in mattress sales.

Voices: Oh, oh.

Hon. John McKay: My first question is to Ms. Miles, and that has to do with, generally, when you have a relationship with a broker or investor, you have a kind of disclosure document which is kind of a know-your-client. Did you enter into a know-your-client type of document with your broker?

Mrs. Wynne Miles: I believe we did--those little boxes you check on the bottom of the form?

Hon. John McKay: Yes. So that was signed.... I find it quite astounding that your broker would move from one asset to another without your knowledge or consent. That does strike me as quite astounding.

Mrs. Wynne Miles: You see, we had those funds in a Money-Market Fund, and over the years they've gone from T-bills to equally secure things like very secure bank notes. So I assumed she thought...and she doesn't ask us when she does that, okay, so I know she assumed they were very safe because she herself has her retirement savings in ABPs. We also have other funds and they are in very conservative bonds. Now whenever they mature, then she will phone us up and we will converse either by e-mail or by phone.

Hon. John McKay: So she just thought she's moving from one safe investment to another safe investment.

Mrs. Wynne Miles: That's right, yes.

Hon. John McKay: In your restructuring deal you said that you wouldn't see any money—I wasn't quite clear what you were saying, so I'm just asking for clarification—until 2013 and then the balance of your money until 2016?

Mrs. Wynne Miles: Yes, and my husband would be the one to speak to that because I haven't read the agreement. But that's the way it's set up and it's strange because most of the trusts in CIT3 which is what we own, come due by 2013. Yet we have to wait. Perhaps Diane can answer that better.

Mrs. Diane Urquhart: I believe that was one of the conditions that the international banks and banks sought to protect their loans. So they didn't want the Miles to take their cash out when the various mortgages matured because they would want the cash to make sure there was the cushion remaining within now these large three pools, so that they would be assured that what they were owed, the money would be there to owe it at the maturity date.

🕒 (1040)

Hon. John McKay: So is this a matter of the banks, if you will...? There's a pool of bank clients and there's a pool of retail clients, and what I don't understand is whether the banks are, in effect, insisting on a deal that's equivalent to the retail investors in terms of timing. Is that somewhat a problem?

Mrs. Diane Urquhart: It would have been logical for the pan-Canadian committee and the major banks of Canada to know that they had a business problem, and that there was \$350 million of paper for which there was a strong legal case to be made that they had been sold paper on misrepresentation and broker negligence. So they didn't do that. They have entered the court with the view that all are equal. So any stranded retailer that hasn't yet had a cash payment is the same as PSP Investments, the City of Hamilton, the Government of Yukon. So they're all treated the same.

Hon. John McKay: What I don't understand about the proposition that's on the table is who's funding the proposition for the retailers that's on the table.

Mrs. Diane Urquhart: First of all, the offer that was made, every major bank has already determined that errors and omissions were made. They don't say so quite so clearly, but they have made cash settlements with their own retail direct customers. National Bank put a cap of \$2 million. We don't know what the caps are in the rest of the banking system. So what has happened is the wholesalers who sold the tainted product to the independents are saying, "I'm not responsible, Canaccord and Prudential. You are an investment bank yourselves...".

Hon. John McKay: So wholesalers in this place would be Scotiabank.

Mrs. Diane Urquhart: Scotiabank.

Hon. John McKay: Okay, so Scotiabank sells to Canaccord, Canaccord sells to the retailer. So Canaccord, presumably, doesn't have enough money to cover this.

Mrs. Diane Urquhart: That is what the problem was. That's what they say the problem was.

Hon. John McKay: So where is Canaccord's money coming from?

Mrs. Diane Urquhart: In the offer that took place yesterday, the amount of notes for the Canaccord customers that they get in the restructuring has been bought by an unnamed buyer. We surmise that the unnamed buyer is a member of either the pan-Canadian committee or is Scotiabank or another bank, and who has decided to participate with Canaccord in having the Canaccord customers' problem go away. Canaccord topped that base purchase up to the full par amount, and yesterday Canaccord took a \$54 million write-off. So it was very painful and probably for the first time in Canadian history, that a financial institution was brought to heel and to account for selling flood product that caused damages to their customers.

The Chair: Thank you very much.

Monsieur Crête.

[*Français*]

M. Paul Crête: Merci, monsieur le président. Est-ce pertinent que le comité prévoit de vous rencontrer à nouveau avant le 25 avril? Serait-ce un outil important pour obtenir justice?

[*English*]

Mrs. Wynne Miles: I'm sorry. Could you repeat the question?

[*Français*]

M. Paul Crête: Est-ce que ce serait pertinent que le comité prévoit tenir une autre audience avec vous avant le 25 avril de telle façon qu'en raison de la pression, et comme le comité est responsable de la proposition de Canacor, serait-il important d'avoir une autre séance avec vous pour faire le point avant le 25 avril?

[*English*]

Mrs. Wynne Miles: Yes, thank you. I'm sorry, I'm hard of hearing. That's why I didn't hear you.

Absolutely. There's so many more questions, there's so much more to be covered, and there's so many more victims who haven't been heard.

[*Français*]

M. Paul Crête: Y a-t-il un complément à cet égard ou cette opinion est-elle partagée par tous?

M. Robert Pouliot: Monsieur Crête, je crois qu'il y a encore des investisseurs qui ne savent pas qu'ils ont des PCAC dans leur portefeuille. Plus on fera de promotion sur la question, plus les gens seront appelés à vérifier eux-mêmes.

M. Paul Crête: Croyez-vous que le gouvernement pourrait prendre une mesure à court terme ou avez-vous suffisamment de prise sur la décision du 25 avril ou vous attendez-vous à ce qu'il y ait une position de la part du ministre des Finances ou du gouvernement du Canada pour vous assurer, le plus possible, de chance égale, en bout de ligne, sur l'acceptation d'une offre raisonnable?

🕒 (1045)

[*English*]

Mrs. Diane Urquhart: I would like to make the point that it's my understanding that Jurovski and Ritchie, with their sub legal counsel, intends to enter the court next week. They're going to raise the issue that there are retail owners who are being asked to vote yes and to waive their legal rights. So they will bring it to the court.

I'm not a lawyer and I haven't seen their documentation. I have prepared my own affidavit with respect to what happened, but I would surmise that they're going to make a case that this vote cannot proceed as it is a miscarriage of justice for the retail customer group on the basis of the evidence and the reasonable causes of action they have to seek remedy.

Obviously we have a judge who is managing the CCAA process, but it would be my objective that all eyes be on the CCAA judicial process because there is nothing in the CCA Act, in and of itself, in my opinion, that has obliged the pan-Canadian group to go into a proceeding that requires everyone to waive their legal rights.

If institutions are prepared to do so and have negotiated between themselves and the international banks who have the right to call default then so be it. Let them proceed to vote and to waive their rights. But in the interest of the country, the economy, and to not have a miscarriage of justice, and not have this stumble into a justice public policy issue, it is in our mind that we would like to see the assistance of the Government of Canada in

whatever mechanism they have to persuade reasonable thought to be brought to bear so that these families are not squashed. Because if they are so, then we do have a public opinion crisis on our hands because Canadians will have had their life savings stripped, they will have had their rights to sue removed. So we have a very significant adverse situation.

The Chair: Before all of his time is gone, I'm going to allow Mr. Elford to answer.

Mr. Larry Elford: Thank you.

I think he had two questions, one being should we meet again before the 25? I, personally, have a full-time job to go to, so I wouldn't be able to, but I thank you for the invite. I would love to come back, however, if this committee or this government would consider convening a royal commission or a judicial inquiry into financial abuse and white collar crimes.

My fear is that this issue may get blanketed and smoothed over and put us on a kind of shaky road to just have the same episode again. I would like to bring information to a judicial inquiry that shows that Canadians are being abused by \$30 billion per year, every year, and amounts slightly above that.

The Chair: Thank you.

To remind the committee, we're not here to influence the private sector in any way on a decision that is upcoming. We're here to investigate how it happened and perhaps put in place protective measures in the future that it won't happen again.

We'll now move on to Mr. Del Mastro.

Mr. Dean Del Mastro (Peterborough, CPC): Thank you, Mr. Chair.

Mr. Elford, just for the benefit of the committee, can you just tell us what your qualifications are or what your work experience is and so forth?

Mr. Larry Elford: I worked for 20 years in the financial business as a retail advisor. I left and retired in 2004, after deciding that the ethics and the codes of conduct of my industry did not meet what the promises were. I now fly a helicopter over the Columbia Icefield. I probably have the dream job, but I've devoted my life to the financial industry and I feel somewhat sorry that I had to walk away from it.

Mr. Dean Del Mastro: Okay. All right, well, thank you. I appreciate that, because you've made a number of fairly significant contentions here today and I just wanted some background there so that we could back that up a little bit.

You've correctly pointed out that this is a provincial regulatory matter because the provincial securities regulators were on the job here or, as you've indicated, not quite on the job but it is their responsibility.

Now, our government and our finance minister have been quite adamant about the need for a common securities regulator in Canada. Ms. Urquhart, who appeared last year supporting the government's decision on trusts, also at that time spoke of a need for a common securities regulator, and yet we've still got pushback in the provinces.

What would you say to the provinces that are pushing back and are preventing us from getting a common securities regulator in place? What would you say to them about the need for a common securities regulator?

🕒 (1050)

Mr. Larry Elford: I would quote Richard Nixon and I would say that the same people who created this problem cannot be relied to solve it.

Mr. Dean Del Mastro: What would you add to that, Ms. Urquhart, about the need for a common securities regulator?

Mrs. Diane Urquhart: Well, I guess I would say to the provincial securities commissions that they've lost their right to govern and to regulate, that the cracks in the asset-backed commercial paper were so clear, and even was so clear to Standard and Poor, there is absolutely no basis upon which they can justify what took place. Consequently, it's in the interest of national economic prosperity that the federal government proceed, as necessary, according to the demands of Canadian people, to use its constitutional powers to enter securities regulation jointly, in collaboration with Quebec.

Quebec is doing an excellent job and is seen to be one of the leaders in the country, and still it's deficient. I'd be interested. Recently, a fraudster was put in jail for 12 years, I believe in the Norbourg case. It was the Quebec authority who was the first in history to get someone in jail that long. I think we can work with the Province of Quebec. We shouldn't let that be a stumbling block for us to move forward. We must do so. I think the federal government is going to have to show leadership and do so, in collaboration with the Province of Ontario.

I think they're ready to move. It would be my opinion, in light of the lack of confidence in Canada by international investors, because we've become a laughing stock, any province who chooses not to join this initiative is a province that's going to get a lot less money for them to develop their economies. I believe that the majority of the provinces would fold very quickly.

Mr. Robert Pouliot: May I?

The Chair: Yes, go ahead.

Mr. Robert Pouliot: Yes. May I add a point here?

There are now pensions funds that have reached their level of disbursement, complete disbursement in Quebec, okay, and have no liquidity whatsoever. The federal Parliament has power over OSFI and the Bank of Canada and a special action should be prepared or made or taken in order to allow those pension funds that have reached maturity to be able to recover funds and not leave it to institutions, one institution or another institution, setting different type of facilities that are different, and would help those pension funds get credit in order to pay out to their retirees.

Mr. Dean Del Mastro: Sir, can you just give me the relevance of that to a common securities regulator?

Mr. Robert Pouliot: Well, the securities commission in Canada may not happen, Mr. Del Mastro, before a year, two years, or perhaps even longer. But here, within the next few weeks or few months, OSFI and the Bank of Canada could provide a special type of facility that would allow pension funds that have reached the stage of disbursement to be able to disburse and to pay their pensions to the retirees. That's a very short-term action that could be taken now, and you don't need a law for that.

The Chair: Thank you very much.

Now, we'll move onto Mr. Pacetti.

Mr. Massimo Pacetti (Saint-Léonard—Saint-Michel, Lib.): Thank you, Mr. Chairman.

Thank you, again, all the witnesses, for appearing. This is an issue that's been, I think, boiling. We still haven't uncovered all the things that are out there, but we'll leave that for another day.

Mr. Furino, I guess you're the closest that comes to representing a corporation. How does it happen? You said yourself, whatever amount of money you have, whether it's \$50,000 or \$5 million, you talked to your investment advisor. How does it happen? I mean, you've told them you need the money to replace furnaces or for minor repairs or for working capital and then all of a sudden you're stuck with this product. There's enough people, you're a treasurer of an organization, you're dealing with an investment broker or banker. How does this happen?

Mr. Steven Furino: I think the short answer is that the investment advisor believed the product was safe and liquid. It wasn't.

Mr. Massimo Pacetti: So who takes responsibility? The same thing could happen to me. I have an investment advisor. Actually my investment advisor is with the National

Bank and I have some money markets and it just happens to be that he didn't put them into the National Bank products. It was just a fluke.

This is a question from what Ms. Miles was saying, I specifically tell my investment advisor these amounts of money are going to go towards safe investments and these are not. So who is going to be the responsible person? Even if the people around the table, or the group that is here testifying decide to take Prudential or Canaccord to court and by the time there is an additional settlement, who is going to pay this money?

🕒 (1055)

Mr. Steven Furino: I think there's no shortage of blame to go around. Many of the comments suggest that it's systemic and not my broker, not just Canaccord, a rating agency, regulatory authorities, banks playing both sides of the fence, liquidity guarantees that aren't guarantees.

Mr. Massimo Pacetti: So we're talking about a revamp of a system that has to be really looked at. I know, Diane, you are itching--but I'm going to have to--

Mr. Steven Furino: I think it is a systemic problem and not just (inaudible) problem.

Mr. Massimo Pacetti: I'm going to give you an even tougher question but probably easy for you to answer. I've got \$100 dollars and I want to put \$10 in safe investment and for sure I'm going to put another \$10 or \$20 in bank stocks or financial institutions. So here I am, \$10 of my safe money is no longer safe, my \$20 which is supposed to be blue chip is no longer safe because my bank or financial institution stocks are going down. So what is the safety in my investment? Meanwhile I've got another 20% in really risk investments--

Mrs. Diane Urquhart: They're probably the safe one.

Mr. Massimo Pacetti: They've now become my safe investments. So what do I do? How do we control this? I can't believe Members of Parliament are supposed to be investment advisors. I understand we are going to put some legislation forward one day but we can't even get the provincial governments to decide. Like Mr. Pouliot was saying it may take years before there's even any type of compromise on this situation. What do you see, Diane?

Mrs. Diane Urquhart: One of the big problems with the CCA vote is that there are courts whose function is to resolve disputes. There are other dispute resolution mechanisms. Some don't work that well but we also haven't mentioned today the Ombudsman for banking services and investments. What has to happen is this retail group needs to be given free access to the dispute mechanisms that are available. If their legal rights are squashed and if they're squashed this time they're going to be squashed every time because what bank wouldn't want to have the right to squash legal rights in customers are angry with them for selling them products that blew up or were tainted. So

this is a fundamental problem that we are facing. This is why these people want to speak here because they need access to the dispute mechanisms. They don't want to be run over by the bus and told by the banking industry that sold them the tainted product--

Mr. Massimo Pacetti: Who is the dispute mechanism? We have the financial consumer agency that came before us to testify and we were asking them about complaints in the financial sector and banking sector and that's not their responsibility. Their responsibility is to inform people that the banks exist.

Mrs. Diane Urquhart: There is a mechanism that works today, the problem is these people are being denied access to it. We can come back--that is the subject of another hearing on how do we fix the current dispute mechanisms which are not working as well as they should. For the most part all of the dispute mechanisms are controlled by the industry and courts are too expensive. So we do have work to do but we have to start by severing the control of the industry on the dispute mechanisms and have a place where people who have lost their life savings can go with impartiality and feel that with the provision of evidence that some reasonable arbitrator or judge or dispute resolution mediator is going to be able to come to a judgment that's fair on the basis of the evidence and that isn't controlled by the industry.

The Chair: That takes us to our time.

I want to thank you for coming forward and I want to thank the committee for their questions. You were passionate about your concern for this issue and we're very concerned about trying to do something with it. I believe there is a motion coming from Mr. Crête, I'll entertain and accept that at this time.

[*Français*]

M. Paul Crête: Merci, monsieur le président.

Je propose que le comité fasse de la question du papier commercial adossé à des actifs non bancaires sa priorité pour les prochains mois, évidemment en respectant nos obligations concernant l'étude du projet de loi C-50 qui est la mise en vigueur du budget, mais que ce soit la priorité pour les prochains mois. J'en fais la proposition et, comme c'est le sujet à l'ordre du jour, on n'a pas besoin de faire un avis de 48 heures. J'espère qu'on aura l'appui unanime du comité à ce sujet.

🕒 (1100)

[*English*]

The Chair: I don't sense there's any objections. I wouldn't want to enter into a lot of discussion on this at this time.

We will have a vote on it, unless you've got something.

[*Français*]

M. Peter Julian: Monsieur le président, j'aimerais dire que j'appuie cette motion. Je trouve que c'est un élément très important pour ce comité d'enquêter.

[*English*]

The Chair: Fair enough.

I think there's consensus to entertain a motion.

Mr. Del Mastro.

Mr. Dean Del Mastro: On a point of clarification, Mr. Crête.

Bill C-50 would be the priority and then this would be immediately following the committee's dealing with Bill C-50. Is that correct?

[*Français*]

M. Paul Crête: Ce projet peut aussi être notre priorité mais en respectant la priorité qui est accordée au projet de loi C-50, qui nous est amené de la Chambre des communes, la réglementation nous oblige à l'étudier. Au-delà de cela, ce serait notre priorité.

[*English*]

The Chair: A clarification from the chair is that on Monday we have a meeting that's already scheduled. After that it will likely be Bill C-50 and then the priority will be this motion. Is the committee clear with that?

[*Français*]

M. Paul Crête: Je pense que le comité directeur pourrait être saisi de la façon de le traiter qui en découlerait. De toute façon, à la demande, selon l'évolution du dossier, on donnera priorité à ce dossier.

[*English*]

The Chair: Mr. Pacetti.

Mr. Massimo Pacetti: Mr. Chairman, I have no problem with this motion, but we keep bringing these motions up and we don't ever seem to finish any subject that we commence. I suggest, as Mr. Crête suggested, that we have a steering committee so that we could plan our work schedule between now and the end of June. Once the fall starts then we have the PBCs. I have no problem with the motion.

The Chair: We'll entertain a vote on the motion.

All in favour?

(Motion agreed to)

The Chair: Meeting adjourned.