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Chair

Mr. James Rajotte

Standing Committee on Finance

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• (1530)

[English]

The Chair (Mr. James Rajotte (Edmonton—Leduc, CPC)): I call to order this meeting number 32 of the Standing Committee on Finance. Pursuant to the order of reference of Tuesday, April 8, 2014, we are studying Bill C-31, An Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

We have two panels here this afternoon. We are very pleased to have the Hon. Joe Oliver, Minister of Finance, in his first appearance at this committee.

Welcome, Minister, to the finance committee. We are very pleased to have you.

We are also pleased to have two officials from the Department of Finance who are well known to all of us, Mr. Brian Ernewein, the general director of the tax legislation division of the tax policy branch, and the ADM for the financial sector policy branch, Mr. Jeremy Rudin.

Welcome back to the committee, gentlemen.

Minister, welcome to the committee. You have an opening statement and then we will have questions from all members of the committee.

Hon. Joe Oliver (Minister of Finance): Thank you very much for the opportunity to appear before the committee for the first time in my new role, to discuss economic action plan 2014.

I would like to provide a brief overview of the objectives of Bill C-31 and highlight some of its key initiatives.

This is our government's 10th budget since 2006. Over that period, our country has been confronted by unprecedented economic challenges from beyond our borders. With the help of our economic action plan, Canada's economy has seen the best economic performance among all G-7 countries in recent years, both during the global recession and throughout the recovery.

[Translation]

Nearly a million net new jobs have been created since July 2009; we have the best job creation record in the G7. Over 85% of those new jobs are full time, and over 80% are in the private sector. Some two-thirds are in high-wage industries.

However, in light of ongoing global economic uncertainty, Canada cannot rest on its laurels. That is why economic action plan 2014 focuses on creating jobs and the right conditions for long-term

economic prosperity while remaining committed to returning to a balanced budget in 2015.

[English]

To that end, this government understands, as do most Canadians, that balancing a budget takes a sound fiscal plan and discipline. The budget will not balance itself. Balancing the budget keeps taxes low and ensures that government services are sustainable over the long-run. It also gives us the flexibility to deal with the unexpected, like the recent economic shocks we've had to overcome.

Our government has not wavered from our objective, and it has cut the deficit by nearly two thirds since the economic downturn. Our goal is now within sight. Including the measures announced in economic action plan 2014, we expect to realize a surplus of \$6.4 billion in 2015-16, including a \$3-billion amount, an annual adjustment for risk. Unlike previous governments, we are not returning to balance by raising taxes on Canadians or cutting transfers to persons or to other levels of government. In fact, major federal transfers to provinces and territories for health care and social services will reach a record high of almost \$65 billion in 2014-15, an increase of over 50% since 2006. Instead, we have focused on controlling the size and cost of government. Overall, since 2010, our actions are saving taxpayers roughly \$19 billion every year. That is economic leadership and a testament to my predecessor the late Jim Flaherty.

Canada has the lowest overall tax rate on new business investment in the G-7.

[Translation]

However, to achieve Canada's full economic potential, we have to ensure that Canadians have the skills they need to succeed in today's economy and be first in line for available jobs.

To increase responsiveness of training to labour market needs, the Canada job grant will be implemented this year, placing skills training decisions in the hands of employers. This will be the cornerstone of new labour market agreements with the provinces and territories.

• (1535)

[English]

Bill C-31 takes further steps to ensure that federal programs are directed towards meeting labour market requirements. They include strengthening the labour market opinion process to deter employers from breaking the rules with a system of administrative monetary penalties for employers of foreign workers, and supporting the successful implementation of an expression of interest economic immigration system.

The government has increased Canada's openness to trade and investment, promoted business competitiveness, and strengthened the financial sector. Today's legislation builds on this foundation by cutting red tape for more than 50,000 employers, by reducing the maximum number of required payments on account at source deductions, and reducing barriers in the international and domestic flow of goods and services.

[Translation]

Natural resource economic development projects are a major source of job creation in all regions of Canada. Our natural resources sector represents 18% of our economy, supports 1.8 million jobs directly and indirectly, and generates some \$30 billion per year in government revenues.

Bill C-31 is in line with our government's responsible resource development plan because it supports mining exploration by small companies by extending the 15% tax credit for flow-through share investors for one year and eliminating tariffs on mobile offshore drilling units.

[English]

Mr. Chairman, I would like to turn to the financial sector. It plays a fundamental role in transforming savings into productive investments in the economy. Bill C-31 proposes new initiatives that will build on Canada's financial sector advantage.

First, our government is at the forefront of the global fight against money laundering and terrorist financing, and implementing measures that safeguard the integrity of Canada's financial system and the safety and security of Canadians. That is why Bill C-31 will enhance the ability of the Financial Transactions and Reports Analysis Centre of Canada, FINTRAC, to disclose to federal partners threats to the security of Canada.

Mr. Chairman, while Canada's financial system has been rated one of the soundest in the world, it has the only capital markets regulatory system in the world that does not have a single national securities regulator. Critics of the current system believe that it is overly complex, inefficient, and a barrier to foreign investment in Canada, and they are right.

That is why, last September, our government and the governments of British Columbia and Ontario, agreed to establish a cooperative capital markets regulatory system. The cooperative system will better protect investors to enhance enforcement, support more efficient capital markets, and more effectively manage systemic risk. Our government invites all provinces and territories to participate in the implementation of the cooperative system.

Bill C-31 includes a measure to make payments to participating jurisdictions that will lose net revenues as a result of the transition to the cooperative system.

Finally, Mr. Chairman, our legislation builds on previous actions by our government to support families and communities, and improve the quality of life for hard-working Canadians. Specifically, Bill C-31 proposes to increase the maximum amount of the adoption expense tax credit to \$15,000 to help make adoption more affordable for Canadian families.

The bill would also introduce a search and rescue volunteers tax credit, for search and rescue volunteers who perform at least 200 hours of service in a year.

It proposes to exempt acupuncturists and naturopath doctors' professional services from the GST/HST.

It would also expand the current GST/HST exemption for training that is especially designed to help individuals cope with a disorder or disability.

And finally, it would enhance access to employment insurance sickness benefits for claimants who receive parents of critically ill children and compassionate care benefits.

In summary, the economic action plan is working. It's creating jobs, keeping the economy growing, and returning to balanced budgets. By staying the course, and sticking to our proven economic action plan, Canada remains on track for a more prosperous future.

Now I invite questions from the committee. Government officials have also joined us today to answer any questions you may have about this bill. Thank you very much.

• (1540)

The Chair: Thank you very much, Minister, for your opening statement.

We will begin members' questions with Mr. Cullen, please, for seven minutes.

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP): Thank you very much, Mr. Chair.

Thank you, Minister, for your presentation, and congratulations on your assignment to Finance. We also hold your predecessor in incredibly high regard and we know you have a difficult act to follow.

I'll step right into things. With regard to the temporary foreign worker program that you made reference to in your speech, there is an enactment in this bill to allow the minister to mete out penalties to companies that abuse the program. Could you describe what the upper limit of those penalties might be?

Hon. Joe Oliver: Mr. Chairman, in respect to the immigrant investment program, our position is clear. Canadian permanent residency and citizenship are not for sale. There was a disastrous mess left by the previous government, and immigrants were waiting for years.

I missed the very beginning of your question. I'm sorry.

You shouldn't take off that time, Mr. Chairman.

Mr. Nathan Cullen: I can clarify, Minister. Within the legislation there is an enactment to allow the minister to hand out penalties to employers who abuse the TFW program. Can you describe what the upper limits of those monetary penalties might be?

Hon. Joe Oliver: I understand the mechanism by which...I'm not certain that I know the upper limit. I can tell you that a number of factors will be considered in determining the amounts of administrative monetary penalties, including the type and the scale of non-compliance. Details, including the amounts, would be set out in amendments to the immigration and refugee protection regulations. I have to assume that the amount is not yet determined.

The Chair: Mr. Cullen, you have another... Do you want to ask Mr. Conrad to respond?

Mr. Nathan Cullen: No. I think Mr. Conrad nodded to the minister's answer that the limit has not yet been set.

Minister, can you tell us how many companies in Canada are now on the so-called blacklist of employers who have abused the TFW program?

Hon. Joe Oliver: I don't have the answer, but we can get back to you.

Mr. Nathan Cullen: Okay.

When was your department first made aware that there were abuses taking place under the temporary foreign worker program?

Hon. Joe Oliver: Well, this is a program, as you know, that relates to another ministry, so I don't have that information.

Mr. Nathan Cullen: I understand that, but there are modifications to that program that have been instituted under this omnibus legislation. Perhaps this points to the challenge with the process that the government has chosen here.

What we're trying to understand is that we've had many cases—upwards of 200 cases were found in Alberta alone in 2012—of companies abusing or allegedly abusing the temporary foreign worker program, and we can't find anywhere near that number of companies that have been applied.... You talked in your presentation—it's referenced here in the omnibus legislation—about getting tough on employers that abuse. I'm wondering if “getting tough” means those financial penalties and also putting more employers on the black list. This has existed for two years, but we've only been able to find one or two companies on this blacklist, and those were only put on within the last 30 days.

Is that correct, what I've said, or am I misspeaking?

• (1545)

Hon. Joe Oliver: I don't have that detail because it's another ministry, but the government is committed to the reforms. That's why we have introduced administrative monetary penalties as an additional deterrent that would help to promote and enhance regulatory requirements and ensure that the program is used as intended, which is as a temporary source of labour as a last resort, when Canadians and permanent residents are not available.

Mr. Nathan Cullen: Thank you.

Would you agree with the statement that the manufacturing sector in Canada has lost somewhere near 300,000 full-time jobs since the beginning of the recession?

Hon. Joe Oliver: I don't have the exact number, but we do know that the manufacturing sector has lagged the economic performance of some of the other sectors in Canada, and that's why we have maintained a low-tax policy for jobs and growth.

Mr. Nathan Cullen: Thank you.

Would having doubled the temporary foreign worker program into the manufacturing sector been a wise policy then for the Government of Canada to have taken, particularly in a sector, as you say, that lagged behind and is still missing approximately 300,000 jobs that have not since been replaced?

Hon. Joe Oliver: The temporary worker program is designed to find foreign workers in areas of the country and sectors of the economy where the particular skills are not available. That is a fact

Mr. Nathan Cullen: I know the design, but you're talking about Windsor, London, and Hamilton. Is it your government's suggestion that skilled workers could not be found in those areas to fill those jobs, because in all of those examples, hundreds and thousands of temporary foreign workers were brought in to fill vacant manufacturing jobs.

Hon. Joe Oliver: What I'm saying is that there are some companies and some regions and some sectors where there has been a shortage of people able to fulfill the specific jobs that the companies are looking to fill.

While the overall numbers do not suggest a job shortage, in individual sectors.... And I know about the natural resource sector, because I've travelled the world and throughout the country, and this has been identified as a huge issue. This is of course a big sector. It's 18% of the Canadian economy, and there are hundreds of thousands of highly skilled jobs that are not being filled, and the numbers are going to get even larger.

Mr. Nathan Cullen: Allow me one last question.

I'm sure you'd agree that small and medium business in Canada is a vital part of our economy. Was there a reason the government chose to exclude the small business hiring tax credit from this budget legislation? Was it an ineffective program? Was it something the government was dissatisfied with?

The Chair: Okay.

Minister, just a brief response, please.

Hon. Joe Oliver: Perhaps I could ask my.... Do you have an answer to that?

I'm not aware of.... We're talking here about the budget implementation act, and you're asking me about something that is not in the act. We have a variety of measures to promote small business, including a lower small business tax of 11%, which has created hundreds of thousands of jobs in this country.

The Chair: Okay, thank you.

Thank you, Mr. Cullen.

We'll move on to Mr. Keddy for seven minutes, please.

Mr. Gerald Keddy (South Shore—St. Margaret's, CPC): Thank you, Mr. Chairman.

Welcome, Minister. It's your first appearance at the finance committee, and the chairman's been very kind so far. He has a mean streak, I'm just warning you.

Minister, we have a great record of tax relief in Canada and a great record as a government, with nearly \$3,400 per family in personal income tax relief having been provided, a low corporate income tax rate, and a low business income tax rate. At the same time, there's always more to do.

Here, I think one of the really successful pieces in this budget was the search and rescue volunteers tax credit. Often this type of legislation is overlooked, quite frankly, but in this case it gives back to the community. We depend upon these individuals in rural Canada. Often they can't, in a small fire department or a small search and rescue unit, get enough volunteer hours to actually qualify for the tax credit. So can you explain the changes that budget 2014 brings down, that economic action plan 2014 brings down, to really help these individuals?

• (1550)

Hon. Joe Oliver: Thank you.

Our government respects the brave men and women who put their lives at risk to help their communities, and in recognition of their invaluable contribution, our budget this year introduces the search and rescue volunteers tax credit. This measure allows an eligible ground, air, and marine search and rescue volunteer to claim a 15% tax credit and provides up to \$450 in tax savings. The individual has to perform at least 200 hours of volunteer search and rescue services in a taxation year in any one of the eligible search and rescue organizations.

This tax credit acknowledges the service of brave Canadians like Tim Jones of British Columbia, who died in January of this year after 26 years of dedicated service with the North Shore Rescue team. Today there are three key national search and rescue associates that help to support and guide Canada's volunteer search and rescue community; and together they represent some 18,000 volunteers right across the country. So we're honoured to recognize their valuable contributions with our new bill.

Mr. Gerald Keddy: Minister, my understanding is that as part of the plan, they'll actually be able to merge hours, for example, if they worked so many hours as a volunteer firefighter and so many hours as a search and rescue volunteer. Is that correct?

Hon. Joe Oliver: Yes, that's right.

The new tax credit builds on our record of tax relief and the introduction of the volunteer firefighters' tax credit in 2011. Since taking office, we've cut taxes in every way the government collects them, bringing the overall tax burden to its lowest level in 50 years. We believe in leaving more money where it belongs, and that's in the pockets of hardworking Canadians. Our strong record of tax relief has meant savings of nearly \$3,400, as you pointed out, for a typical family of four in 2014.

Mr. Gerald Keddy: Thank you for that.

My next question is on tax non-compliance, in particular money laundering and terrorist financing. Those are issues that governments have struggled with for many years. By the very fact that these activities are hidden and occur, not only under the table but also away from the regulatory bodies, makes it very difficult to combat. However, Minister, can you explain what we've done to address non-compliance in the tax system, and especially to combat money laundering and terrorist financing?

Hon. Joe Oliver: A well-functioning tax system is essential to keep Canada positioned as an attractive place to work, to invest, and to do business. Since 2006, we've introduced measures, including in this bill—over 85 measures—to improve the integrity of Canada's tax system. They include actions to address aggressive international tax avoidance by multinational enterprises. Also, they include amendments to prevent input tax credit claims that exceed taxes actually paid. In total, these measures to address international tax avoidance, improve integrity, strengthen compliance, and enhance the fairness, now provide savings of \$44 million in 2014-2015, rising to \$450 million in 2018-2019, for a total of \$1.8 billion, this year and in the following five years.

In respect to money laundering and terrorist financing, our government is committed to a strong and comprehensive regime that is at the forefront of the global fight against money laundering and terrorist financing. We're taking concrete steps to ensure the integrity of our financial system, and the safety and security of Canadians. To strengthen this regime, the bill will improve monitoring compliance and enforcement, it'll close the gaps of the regime—such as online casinos, persons and entities that deal in virtual securities, currencies, and foreign money services—and it'll strengthen information sharing, such as allowing FINTRAC to disclose to federal partners issues related to threats to national security.

• (1555)

Mr. Gerald Keddy: Thank you, Minister. I know—

The Chair: You have 30 seconds.

Mr. Gerald Keddy: Okay, I'll try to be quick.

On the Foreign Account Tax Compliance Act, or FATCA, we know that Americans have always had to pay income taxes in the United States, even when they've lived abroad. The U.S. has been much more aggressive in tracking down such compliance with the FATCA program, but there's a lot of misinformation out there that somehow this applies to Canadian citizens. Can you explain who is actually targeted by the FATCA legislation?

The Chair: Minister, a brief response, please. I assume we'll come back to it later.

Hon. Joe Oliver: The brief response is that it only applies to U.S. citizens.

The Chair: Okay. Thank you very much, Mr. Keddy.

We'll go to Mr. Brison, please.

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

Welcome, Minister.

Budget 2014 reported that Canada's job vacancy rate is 4%. We've learned that this was based on Kijiji data, which poses errors and duplications. When you drop this data, the real rate is 1.5%, not 4%. Your government ramped up the temporary foreign worker program in Canada based on this high job vacancy rate that was cited in the recent budget. Today, the Auditor General reports that Statistics Canada doesn't know where the job vacancies are. The Auditor General's report said, for example, that reported job vacancies in Alberta could be in Fort McMurray, Grande Prairie, Medicine Hat, or any other community in the province. It was not high-quality data.

Will you provide Statistics Canada with the resources it needs to calculate reliable job vacancy rates at the community level?

Hon. Joe Oliver: As I said earlier, it is clear that these broad statistics don't paint the entire picture for job occupancy in the entire country.

Hon. Scott Brison: Will you provide Statistics Canada with the resources to get the more granular information you need?

Hon. Joe Oliver: We are looking at how this information can be better provided. We know the number is somewhere in the middle of the two numbers that you cited. We know, as a matter of fact, that there are sectoral and regional differences.

We are going to be looking at that in the Department of Finance to better target where the vacancies exist.

Hon. Scott Brison: Minister, yesterday you told the House that when it comes to U.S. taxes owed by Canadians under FATCA, the CRA will not assist the IRS in collecting U.S. taxes.

If this is the case, why does your budget bill include penalties against dual Canada-U.S. citizens who fail to provide their U.S. tax identification number to the Canadian government? Why does Canada need the U.S. tax identification number if we're not helping the U.S. collect taxes?

Hon. Joe Oliver: I can give you a broad answer, but I'll let my official be more specific.

Mr. Brian Ernewein (General Director, Tax Policy Branch, Department of Finance): I think the answer is that it doesn't assist in the direct collection of taxes; it assists in the collection of information. The intergovernmental agreement that we were discussing at the last committee hearing on the budget implementation act reviewed that.

It's not about collecting taxes, per se. Indeed, there's not an ability under the Canada-U.S. treaty for Canada to assist in the collection of taxes in relation to a Canadian citizen.

Hon. Scott Brison: Minister, yesterday you told the House that we obtained a number of concessions, including exempting certain accounts such as RRSPs, RDSPs, and TFSAs from FATCA reporting.

Now, this is only half the story. These exemptions apply to Canadian banks and their obligations, not individuals.

Can you clarify the record here at committee, that under FATCA, is there still a requirement for Canada-U.S. dual citizens living in Canada to report their registered Canadian accounts to the IRS?

• (1600)

Hon. Joe Oliver: As I said—

Hon. Scott Brison: What you said in the House yesterday implied there wasn't.

Hon. Joe Oliver: As I said, this legislation does not apply to non-U.S. citizens, but if someone is a dual citizen, they are a U.S. citizen as well.

Canadian financial institutions will have to report accounts held by U.S. persons, which include most bank accounts, mutual funds, brokerage accounts, and so on. An account is not reportable if it falls within an exempt category, and I talked about registered savings plans, pooled registered pension plans, and so on.

Hon. Scott Brison: But, to be clear, dual Canada-U.S. citizens are still obligated to report those earnings to the IRS.

Hon. Joe Oliver: Yes, a dual citizen is because they are a U.S. citizen.

Hon. Scott Brison: Canadian taxpayer-funded investments in those matching grants to those programs will be considered taxable income by the IRS.

Do you think it's appropriate that Canadian tax dollars are going to be going to the U.S. treasury when they're intended to help disabled Canadians and to help people get an education?

Hon. Joe Oliver: We're not talking here about the payment of money but rather tax exemptions which lower the tax paid in Canada. Then there's a reconciliation with the United States that doesn't automatically result in U.S. taxes.

Hon. Scott Brison: You got an exemption for Canadian banks on the reported side. Why didn't you get an exemption for Canadian citizens on these registered plans?

Hon. Joe Oliver: We're talking, here, about U.S. citizens. We do have an exemption for non-American citizens.

Hon. Scott Brison: We're talking Canadian-American dual citizens, but we're also talking about Canadian programs—RDSPs, RESPs, and other registered programs—which Canadian taxpayer-funded grants benefit their children, or benefit their family members. Do you think it's appropriate that that money go to the U.S. treasury?

Hon. Joe Oliver: The U.S. regulations apply to the global income of U.S. citizens. That's not our rule; that's their rule.

Hon. Scott Brison: In your opening remarks you said that Canada is leading the G-7 in terms of growth. I'm not sure whether you have read last week's *Economist*, but it said that Mr. Harper can no longer boast that Canada's leading the G-7 pack. The IMF projects growth will be 2.3% behind the U.S. and the U.K., and that Canada ranks fifth in the G-7 in job creation since 2008, ahead of only Italy and the U.S.

Our job growth in Canada has stalled since 2009 in terms of youth, unemployment, and long-term unemployment. Our numbers are significantly worse than pre-recession. Do you believe we need a real job strategy to address this, or are you going to just continue the same approach that you've been following?

The Chair: A brief response, Minister, please.

Hon. Joe Oliver: We've created some 1.1 million jobs. I think you're being fairly selective in your numbers. We are among the best in the developed world. Some countries that perform more poorly have bounced back a little more quickly. That tends to happen. But more recently, our record is an excellent one, and the vast majority of the jobs are permanent jobs, and they're private sector jobs.

The Chair: Thank you.

Thank you, Mr. Brison.

We'll go to Mr. Van Kesteren, please, for seven minutes.

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

Thank you, Minister, for appearing here before us again today.

Sir, in my neck of the woods, Chatham-Kent—Essex, soon to be Chatham-Kent—Leamington, of course, we are deeply involved in the auto industry, and it's an important part of our industry. As long as I've been on this committee and the industry, science and technology committee, when we speak to the merits of the auto industry, one of the problems and one of the solutions they look for is harmonization. Given that we trade with our largest trading partner and that we build so many of their cars, the lack of harmonization is something that always causes problems in that industry.

I refer now to the Motor Vehicle Safety Act, which is part of this budget implementation. I'm wondering if you could maybe just elaborate on that, just tell us about that and tell us why that's important. What will that do to help the industry and Canadians in general?

• (1605)

Hon. Joe Oliver: Yes, thank you for the question. Canada and the U.S., as we know, have a common marketplace. The vehicles that Canadians and Americans drive are pretty much the same, except for some minor differences. Differences in regulation, therefore, can create cost increases for Canadian consumers due to our smaller market. That's why our government has been moving forward with the United States to create a more competitive North American marketplace that will help increase trade, competitiveness, and consumer pricing.

Our changes to the Motor Vehicle Safety Act follow through on our commitment made in the economic action plan 2014, and the changes in the bill will allow the importation of vehicles and equipment where it's deemed that the U.S. safety standard achieves

the safety outcome that is required in this country. This change will not in any way, therefore, affect the public safety of Canadians. Where there are minor differences between countries, we can't allow these small differences to stop trade that would otherwise be beneficial.

We're also providing new powers that will increase the safety of our system, including providing the minister authority to order a company to issue a recall and increase penalties for companies that do not comply with our strict safety laws. These changes are just another example of our government's common-sense approach, removing red tape to help businesses while also increasing enforcement to ensure that Canadians are protected.

Mr. Dave Van Kesteren: Thank you.

I want to shift gears just momentarily. I'm going to give you some time to talk about this.

Your predecessor, and of course we're speaking of the late Jim Flaherty, spoke once at a meeting that a number of us were part of. He spoke of that time in 2008-2009, when the world was at a brink. You mentioned in your remarks how we expect to see this government, to see this budget, the next budget, at a surplus position. We managed to do that without quantitative easing. We managed to do that without driving ourselves further into debt, other than the debt that was incurred because of the bill in Canada, which was part of our strategy.

I'm wondering if you could just tell this committee how that is going to affect future generations and specifically this country in terms of perhaps investment from other countries' looking at us as a solid economy and our banks as places where there seems to be stability in a world where that's increasingly becoming less and less the case.

Hon. Joe Oliver: Our Conservative government believes in keeping Canadian families strong, and that's why our budget introduces several key measures to help Canadian families. They include enhancing flexibility and access to employment insurance sickness benefits for those who receive the parents of critically ill children and the compassionate care EI benefits.

The objective is to ensure that they get the support when they need it most. We're also increasing the adoption expense tax credit to further recognize the unique cost that the family incurs when adopting a child. We're removing the GST and HST on more health care products and services, to include acupuncture and naturopathic services, eyewear specially designed to electronically enhance the vision of individuals with vision impairment, and special training to help individuals cope with the effects of a disorder or a disability. And we're expanding tax relief under the medical expense tax credit to include costs associated with service animals that are trained to help people with diabetes and with specialized therapy plans to help individuals cope with the effects of a disorder or a disability.

These measures build on our Conservative government's strong record of support for Canadian families. For example, since 2005, we've reduced the GST from 7% to 5%, putting more than \$1,000 back in the pockets of an average family. We've introduced the universal child care benefit, offering families more choice in child care by providing \$1,200 every year for each child under age six; and we've introduced the family caregiver tax credit, a credit of up to \$2,000 for caregivers of all types of infirm, dependent relatives, including spouses, common law partners, and minor children. Overall, our strong record of tax relief means savings of nearly \$3,400 for a typical Canadian family of four this year.

• (1610)

Mr. Dave Van Kesteren: Thank you.

The Chair: Thank you, Mr. Van Kesteren.

We'll go to Mr. Rankin. You have five minutes, Mr. Rankin.

Mr. Murray Rankin (Victoria, NDP): Thank you.

Welcome, Minister. Thank you for being here.

I'd like to turn to the intergovernmental agreement that your government negotiated with the United States to deal with the so-called FATCA. Canadians who may also be so-called U.S. persons are very, very concerned about their personal data being shared. As you know, last week Canadians found out their personal information had been accessed 1.2 million times without their knowledge.

My first question is, under this agreement, will people be notified when their information is collected by the CRA and shared with the United States?

Hon. Joe Oliver: Well, the point is that this bill will not impact Canadian citizens, and the bill had raised a number of concerns here in Canada, but what we're doing is relying on existing framework under the Canada-U.S. tax treaty.

Mr. Murray Rankin: But, Minister, there's a million people, your officials say, are affected by this bill. You say it doesn't affect Canadian citizens. With respect, people who are born in Canada to Americans are defined as American citizens, but they're born in this country. So certainly it affects Canadian citizens.

Hon. Joe Oliver: Well, it affects dual citizens.

Mr. Murray Rankin: Of which there are a million, your officials estimated in our meetings a couple of days ago.

Hon. Joe Oliver: Well, the point is, it affects Americans, some of whom are also Canadians.

Mr. Murray Rankin: A million. It's a million according to your officials.

Sir, estimates say that there's a million people affected; we've had privacy experts say that this is unconstitutional. Peter Hogg has said it's unconstitutional. You gave 30 days for Canadians to be involved in the review and comment process on the intergovernmental agreement. Your officials don't know how much it costs our banks and credit unions, they've said, to comply with this law, although one bank said it cost \$100 million—one Canadian bank, that is. Given the complexities of this bill and its constitutional ambiguity, at the very least, would you agree, sir, to remove this agreement from the budget implementation act so we can properly study it?

Hon. Joe Oliver: The Justice department has provided us with their opinion that this agreement would not be viewed as unconstitutional, not by the courts. And so we have relied on that. And that doesn't require additional time to focus on.

There are very clear benefits to this agreement, one of which is to avoid a 30% withholding tax on all American citizens who happen to be living in this country.

Mr. Murray Rankin: Sir, I would like to ask you the following. Professor Cockfield and Professor Christians of the Law faculties of Queen's and McGill, respectively, said, "for the first time in Canadian history, our federal government is preparing to provide a foreign government with sensitive personal financial information about hundreds of thousands of Canadians. It is doing so to stave off threatened economic sanctions, and is getting nothing in return." I wonder if you could comment on that.

Hon. Joe Oliver: I think it's important to remember that without this agreement, Canadian financial institutions would still have to comply with FATCA. Obligations for Canadian financial institutions would have been unilaterally and automatically imposed by the United States. This would have required banks to report information directly to the IRS and potentially deny basic banking services to clients. Furthermore, the banks and their clients would have been subjected to a 30% withholding tax. So, without the agreement in place—

Mr. Murray Rankin: So the only gain you're referencing is the lack of economic sanctions. That's all you're saying.

The Chair: Okay.

One at a time. Mr. Rankin. Just let the Minister finish.

• (1615)

Hon. Joe Oliver: I just want to finish by saying that with the agreement in place, these very negative effects will not happen.

Mr. Murray Rankin: That's the only benefit you've articulated, namely the lack of sanctions.

Hon. Joe Oliver: That's a huge benefit. That's an immense benefit.

Mr. Murray Rankin: Sir, you said that people who are dual citizens of this country, who may also be U.S. citizens, are certainly Canadian citizens. Do you not agree with that assertion?

Hon. Joe Oliver: Well, by definition it's not that they may be U.S. citizens but that they are U.S. citizens.

Mr. Murray Rankin: And they're Canadians too.

Hon. Joe Oliver: It applies to dual citizens. That's what I said right from the beginning.

The Chair: Okay, thank you.

Thank you, Mr. Rankin.

We'll go to Mr. Allen, please, for a five-minute round.

Mr. Mike Allen (Tobique—Mactaquac, CPC): Thank you very much, Mr. Chair.

Thank you, Minister, for being here on your maiden voyage in the finance committee.

I'd like to continue on the line of questioning on the Foreign Account Tax Compliance Act. The fact is that FATCA is a U.S. law, so it affects some 7.8 million American citizens who are living anywhere outside of the U.S. I understand there are 29 or 30 agreements that have been signed between the U.S. and other countries on this. So, I understand the concern in all of this. At the end of the day, it is a U.S. law and it was brought in. Two of the major supporters of this were Republican Senator McCain and Democrat Senator Feingold, who were major supporters of this in the U.S.

I recall a conversation that took place when we were in Washington a month or so ago, during which we asked the Treasury officials about this, and we registered some of the concerns of our Canadian citizens. Their message to us, very clearly, was that Congress has spoken, and that this has been the U.S. law since 2010. So, can you clarify some of the misconceptions around this? I'd like you to reinforce the messaging with respect to just what would have happened if we had not signed this intergovernmental agreement, and what the implications would have been to the banks, the investors, and Canadians who are in the U.S. banks.

Hon. Joe Oliver: Yes.

FATCA and the subsequent intergovernmental agreement raised a number of concerns here in Canada; however, the intergovernmental agreement, or IGA, addresses these concerns by relying on the existing framework under the Canada-U.S. tax treaty. The exchange of information between Canada and the U.S. is already a long-standing practice authorized under article 27 of the Canada-U.S. income tax treaty, and it includes rigorous safeguards with respect to the use of exchanged information. This agreement is consistent with Canadian privacy laws. That was one of the issues raised.

Let me remind members again, as I did a few moments ago, that without the agreement, Canada's financial institutions would still have to comply with FATCA. Obligations for Canadian financial institutions would have been unilaterally and automatically imposed on them by the U.S. That would have required banks to report information directly to the IRS, and potentially deny basic banking services to clients. Both banks and their clients would have been subject to a 30% withholding tax. However, with the agreement in place, this will not happen. The CRA will not assist the IRS in collecting U.S. taxes, and—this is very important—no new taxes will be imposed. Nor will financial institutions in Canada report any information directly to the IRS. In our negotiations, we obtained a number of concessions, including exempting certain accounts—like RRSPs, RDSPs, TFSAs, RESPs, registered pension plans, and much more—from FATCA reporting. Smaller deposit-taking institutions like credit unions with assets of less than \$175 million will also be exempt from reporting.

Mr. Mike Allen: I have two questions on that, which somewhat follow up on Mr. Brison's line of questioning. These accounts, which do have some contributions that taxpayers match, are non-reportable accounts. So the registered disability savings plans accounts are non-

reportable. The accounts even include AgriInvest accounts, so a lot of Canadian and American farmers would do the same thing living in Canada. Could you confirm that that is, in fact, true. And is it a red herring...? There were comments made previously with respect to the banks having to invest in the technology that would allow them to screen these accounts. No matter what happens, under FATCA they would have been ordered to comply, and therefore would have had to make these same investments in their technology to trace these accounts. Is that so?

• (1620)

Hon. Joe Oliver: Yes, that is in fact the case.

The IRS will provide the CRA with enhanced information on certain accounts, but this does not mean that Canada will be enforcing U.S. tax laws. We'll be signing, I should say, similar agreements to those signed with other countries. It's consistent with recent G-8 and G-20 commitments to multilateral automatic exchange of information for tax purposes. In September 2011, G-20 leaders committed to automatic exchange of information as the new global standard and endorsed an OECD proposal to develop a global model for automatic exchange. The model is being developed based on due diligence, and the reporting procedures are similar to those in the Canada-U.S. intergovernmental agreement.

The Chair: Okay.

Thank you, Mr. Allen.

[*Translation*]

Mr. Caron, you have the floor. You have five minutes.

Mr. Guy Caron (Rimouski-Neigette—Témiscouata—Les Basques, NDP): Thank you, Mr. Chair.

I would like to continue with that line of questioning.

There is the Canada-U.S. agreement on bank accounts and FATCA. Mr. Minister, you said that you received a legal opinion from the Department of Justice according to which this agreement is constitutional. The Department of Justice usually operates on the basis of a percentage. It is not 0% or 100% sure that this agreement is constitutional. It operates on the basis of proportion or percentage.

Just how certain, in terms of a percentage, is the Department of Justice that this agreement is constitutional?

Hon. Joe Oliver: I do not know the percentage, but I know that the Department of Justice said that the risk was not high. Usually, the Department of Justice is pretty small “c” conservative. If the department said there is not much risk, then that must be true.

Mr. Guy Caron: Edgar Schmidt said otherwise about the Department of Justice's assessments. He said that the Conservative government often goes ahead with bills that have not received the basic approval of the department. That is why I asked the question. I was hoping we would see the legal opinion or, at the very least, the Department of Justice's assessment.

I would like to quickly address everything that has been said about the subject, especially by the government. The Canada-U.S. agreement is extremely complex and will affect over a million people. I think that saying it was either FATCA or the agreement the government signed is a red herring.

Our committee's job is to study the ramifications and consequences of this agreement. The problem is that we can't do that properly by studying this provision among the hundreds of others in this omnibus bill.

My colleague asked if this agreement could be removed from the bill so that we could study it properly and thoroughly. We need to know beyond a shadow of a doubt whether it is constitutional. We have to know and understand the impact that this agreement could have on the one million Canadians who are also American citizens and who will be affected by this provision.

I will ask my question again. Given all of this and the fact that, as the opposition, we do not have the Department of Justice's legal opinion, would it be possible for us to do our work as a committee and study this agreement properly by taking it out of the bill?

Hon. Joe Oliver: We think it is important to move this agreement forward because we don't want negative repercussions for Canadians or Americans living here. I have already explained the negative consequences of not signing this agreement. We do not believe it is necessary to put it off.

Mr. Guy Caron: Mr. Minister, I do not have much time.

Hon. Joe Oliver: The details of the agreement are a little complicated, but the principles are clear.

•(1625)

Mr. Guy Caron: I understand. Thank you.

I would like to move on to another provision in the bill: division 20, which is about immigrant investors.

Clause 303 of the bill terminates applications for permanent resident visas by immigrant investors and entrepreneurs that were submitted but did not have a selection decision before February 11, 2014.

I have several questions about that. I will not have time to ask them all, but I will start with this one.

Do I understand correctly that, as of February 11, 2014, those who applied to the federal immigrant investor program will not receive a letter inviting them to finalize their investment?

Hon. Joe Oliver: I'm sorry, what's your question?

Mr. Guy Caron: May I repeat the question, Mr. Chair?

The Chair: You have 30 seconds.

Mr. Guy Caron: Do I understand correctly that, as of February 11, 2014, those who applied to the federal immigrant investor program will not receive a letter inviting them to finalize their investment?

Hon. Joe Oliver: I do not have a detailed answer about that.

[English]

The Chair: Okay.

We're bumping up against time, so could we have a brief response, please?

Ms. Maia Welbourne (Senior Director, Policy Integration and Innovation, Department of Citizenship and Immigration): To repeat the question, is it that individuals will have their applications terminated if they have not received an invitation to apply prior to February 11?

Mr. Guy Caron: After February 11, actually.

Was there no other invitation letter sent to immigrant investors after February 11 to complete their file?

Ms. Maia Welbourne: Right.

The important thing to note is that we've had a pause on new intake of applications for the immigrant investor program since July 2012. There are no new applications entering the system. What we're doing is terminating applications where a selection decision had not yet been made as of February 11. That is where individuals have been determined to have passed the selection criteria. Where a final decision has not yet been made, they will proceed. In any other case, they will be terminated.

The Chair: Thank you. Merci.

Ms. Gallant, there's time for a very brief round. I apologize for the short time.

Mrs. Cheryl Gallant (Renfrew—Nipissing—Pembroke, CPC): Thank you, Mr. Chairman.

Through you to our minister, in your introductory remarks, Minister, you mentioned how important it is to get back to a balanced budget. Would you please explain to the committee how you plan on doing this through economic action plan 2014?

Hon. Joe Oliver: Thank you.

Bill C-31 legislates key aspects of the budget, which is a prudent responsible plan to control spending and will help lead to the balanced budget in 2015. Our responsible fiscal position is key to economic growth and job creation for the long term.

We have reduced direct program spending for the third year in a row, something that no other government has done in decades. We've eliminated waste to decrease the cost of government, without cutting programs that Canadians depend on. The deficit has been reduced by almost two-thirds since 2009-10 and is projected to fall to \$2.9 billion this year. A surplus of \$6.4 billion is expected next year, after taking into account a \$3-billion contingency fund.

There are significant advantages to a balanced budget. It further positions Canada as an attractive place to invest and expand business. It instills confidence in consumers and investors by helping to keep interest costs low. It means tax dollars are used for important social services, not for interest payments. It strengthens the country's ability to respond to longer-term challenges, such as population aging and global economic shocks. It allows for further tax cuts, fostering economic growth.

Nevertheless, balanced budgets are not an end to themselves; they're a means to an end, and that end is a better, more prosperous future for all Canadians.

•(1630)

Mrs. Cheryl Gallant: How is Canada's economic action plan going to help small business owners create more jobs?

Hon. Joe Oliver: This is an important issue because small businesses are the prime generators of employment in Canada. We recognize the vital role they play in the economy, and that's why we're committed to helping them grow and succeed. Since 2006 our record of supporting small businesses includes a number of things, such as reducing the small business tax rate from 12% to 11%, lowering the federal corporate tax rate to 15% to help create jobs and economic growth for families and communities, increasing the small business limit to \$500,000, and eliminating the corporate surtax for all companies in 2008.

While the economy is improving and our government returns to a balanced budget, there's nevertheless uncertainty in the global economy. I saw that in my visit to Washington where I attended the G-7, G-20, IMF, and World Bank meetings, and where we heard how growth in the eurozone was slow, inflation was troublingly low, there is volatility in emerging markets, and a new geopolitical risk of course in Europe.

We've heard about some of these concerns from economists, but also from small business owners. So we've introduced new measures to help small businesses succeed, including cutting the red tape burden by eliminating over \$800,000 payroll reduction remittances to CRA that are made every year by over 50,000 small businesses, and synchronizing cross-border regulatory regimes to better and more rapidly align Canadian and U.S. regulations and boost North American trade and competitiveness.

The Chair: Thank you.

I apologize for cutting you off, Ms. Gallant, and Minister, but our time is up this afternoon. I want to thank you, colleagues, and thank you, Minister, for being with us here today, responding to our questions.

Colleagues, we will take a two-minute break and we'll come back with the officials and do parts 5 and 6 of the bill.

Thank you.

•(1630)

_____ (Pause) _____

•(1635)

The Chair: I call this meeting back to order, meeting 32 of the Standing Committee on Finance, for the second part of this session today.

Colleagues, we are continuing with parts 5 and 6 of Bill C-31. I'll just encourage you, because there's a fair amount to cover today in an hour. When the bells ring at 5:15, I'm going to ask for a consent at that time that we continue until 5:30. They're half-hour bells, so it will enable us to get to the votes.

We are going to start again with part 5.

Mr. Ernewein, Mr. Shoom, Mr. Cook, welcome back to the committee.

We'll start with Mr. Cullen, please.

Mr. Nathan Cullen: I would like to return us for a moment to the agreement that implements FATCA.

Mr. Ernewein, we just had the minister before us and he said on several occasions that this intergovernmental agreement did not affect Canadians. I have a great deal of concern, like my colleagues across the way, about misinformation. Is a dual citizen who is both a citizen of Canada and the United States not a Canadian?

Mr. Brian Ernewein: My understanding of what the minister said and of how the rules apply is that FATCA is applicable potentially to U.S. taxpayers, including U.S. residents—according to our concept of the term—as well as U.S. citizens. So a dual citizen could be subject to the application of the intergovernmental agreement, but it requires them to be a U.S. citizen.

Mr. Nathan Cullen: Are those dual citizens not also Canadians?

•(1640)

Mr. Brian Ernewein: Yes. I believe that's what the minister said as well.

Mr. Nathan Cullen: To be clear, the minister on several points said that this agreement does not affect Canadians. If we're going to talk about misinformation and allowing Canadians to understand who might be exposed, we also asked the question—and I wonder if you can clarify this, since the minister was unable to do so—whether Canadians who are dual citizens would be notified if their information were released through the CRA to the IRS. Is that the case? Will they be made aware of the information being passed on?

Mr. Brian Ernewein: There's not an explicit requirement to that effect. It is the case today in regard to non-residents who receive Canadian-sourced income that the entities making those payments are generally required to submit information returns to the Canada Revenue Agency, and the Canada Revenue Agency shares that information with our treaty partners where provisions to that effect exist. For example, an American resident—again, using our definition of the term—investing through a Canadian bank might receive income and be subject to reporting.

Mr. Nathan Cullen: Sure. Again, the simple question was, will a dual citizen, someone who's swept up in this, be notified by their financial institution or the federal government that their information has been passed on to the IRS?

Mr. Brian Ernewein: I'm sorry, I was seeking to answer that in the second part of my response.

A U.S. citizen is not currently subject to any reporting requirement, because citizenship isn't relevant, as residence is, for Canadian tax purposes. Where a person shows a marker of having a U.S. indicator, perhaps citizenship, then the bank or the other financial institution in question will generally, one would think, be asking for follow-up to verify whether or not that person is actually a U.S. taxpayer. By virtue of that inquiry, they practically or often have the knowledge, but there's not a separate requirement to that effect.

Mr. Nathan Cullen: That's in the hands of the financial institution. I'm asking if in the agreement it's explicit that the bank must notify the person subject to this.

I want to clarify this: who defines who is subject to potential taxation in the U.S.? Is it the Canadian government, or the American government?

Mr. Brian Ernewein: Well, it's the legislation that's proposed to be before Parliament that imposes that requirement. But my answer remains that, practically, the U.S. person will be contacted to find out whether there's further information to provide, but there's not an explicit requirement for notification.

Mr. Nathan Cullen: Thank you.

I wonder if Mr. Rankin wants to take the remainder of my time.

Mr. Murray Rankin: Thank you.

To be clear, you're talking about U.S. persons as defined in... You know who's affected, whether they're dual citizens or otherwise.

Would you agree that the FATCA and IGA would impact all Canadians who have money in banks and credit unions, because as you referenced yesterday when we talked about the amount of money—although you didn't have an estimate—the literally hundreds of millions of dollars that are forecast to have to be spent will be absorbed by those of us who use banks and credit unions? And, as Canadian taxpayers, you mentioned several million dollars that the CRA would have to pay to implement this agreement. Wouldn't you agree, in those two contexts, that it would apply to all Canadians who use banks and credit unions and are taxpayers?

Mr. Brian Ernewein: Certainly there's a cost to the CRA, which was \$5.7 million over five years, if my recollection is correct, and the banks have their own estimates. But we did not speak to that and couldn't speak to that. The question is how the banks will seek to absorb that cost. I don't know the answer to that. It would be a question for the banks, but it will have to be recovered in their business, I assume.

Mr. Murray Rankin: Right. So those of us who use banks and credit unions would have to absorb that. Either the banks would have lower revenues, or there would be higher fees, or something would have to deal with it, not only U.S. persons.

Mr. Brian Ernewein: Yes, but I can't speak to the question as to how they will seek to recoup that cost, whether it will be from those involved, or generally.

Mr. Murray Rankin: The simple point is that it's going to affect all of us. The minister suggested that there was no collection of unpaid taxes, no collection of taxes by IRS from Canadians. I think I understood that, but isn't it odd to say that the CRA is not assisting the IRS in collecting U.S. taxes? Isn't it assisting it in many, many ways by providing the banking information and turning it over to the IRS? Isn't that, indeed, assisting it?

Mr. Brian Ernewein: What the CRA does today and, indeed, what the IGA may further enhance, is the ability of the American tax authorities to determine whether a liability for tax exists. That's true. As I say, it's already the case today that this agreement would enhance it in both directions. I don't believe it actually helps in the assistance of collecting that tax liability.

Mr. Murray Rankin: I asked the minister to respond to the suggestion that there's nothing in it for Canada except the avoidance of economic sanctions from the United States. He referenced the

30% withholding tax, etc. Is there anything else in it for Canada? Is reciprocity, for example, real in the existing agreement?

• (1645)

Mr. Brian Ernewein: First of all, the question of what would have happened in the alternative matters a lot, we think, but secondly, yes, there is reciprocity. It's not full reciprocity. The scope of information that the U.S. is asking its IGA partners to provide is not being committed to by the U.S. to that same level immediately.

Mr. Murray Rankin: So in other words what we're doing for the United States they're not doing for us to the same degree.

Mr. Brian Ernewein: It's not to the same degree, although there are some additional points of information that the U.S. has agreed to provide that they can do under their existing law.

Mr. Murray Rankin: There are promises that in the future they might do that, but at the moment we gave up way more than they did under this agreement.

Mr. Brian Ernewein: They are providing some information immediately and they commit to equivalent levels of exchange in the future.

The Chair: Thank you.

Thank you, Mr. Rankin.

We'll go to Mr. Keddy please.

Mr. Gerald Keddy: Thank you, Mr. Chairman.

Welcome back to our witnesses. We're going to see quite a bit of one another in the next few finance committee meetings. I want to revisit FATCA. I'm listening to the sky is falling scenario coming from the opposition and I just can't quite buy it. So I want to ask what I think are pretty straightforward questions.

American citizens have always had a responsibility to report income in the States, and report earnings, and to pay tax, or to, I should say, file a tax return in the U.S. Is that correct?

Mr. Brian Ernewein: Since the last century. I think it was in 1913 that modern citizenship taxation was introduced in the U.S.

Mr. Gerald Keddy: Most of us here can handle the last century. I'm talking about 2014, right?

So there's nothing new here. I live in a part of the world where, quite frankly, there are a lot of American citizens, quite a few dual citizens, and some American citizens by accident who happen to have been born in the U.S. I think we have to look at reality here. The idea that somehow this is going to affect us all is simply not true. It's not going to affect us all. This was targeted because Americans base their tax compliance on citizenship and not on residency. Obviously, if you're a Canadian citizen living in the States and have a residence and investments there, you're going to pay taxes in the States, but to make sure that their citizens are compliant with their taxation regime.... This is not something that the Canadian government made up. This is something that the Americans decided a long time ago and are enforcing.

For us to suggest that somehow we're complicit in this is further out there than I can think. Quite frankly, we have no right under the law to interfere in American tax legislation. Am I incorrect in saying that? What right does Canada have to tell the Americans how they're going to write their tax policy? We don't have to think it's the right thing to do. We don't have to agree with it, but quite frankly we have no right to intervene. There are individuals—again in my part of the world, many of them are friends of mine—who are dual citizens. They're dual citizens, though, for a reason. They're dual citizens because they either work in the States, they cross the border on a regular basis, or they have investments in the U.S. With that dual citizenship comes some responsibility to comply with the American tax rules. So this is not about the Canadian name on the passport. It's about a dual citizen who happens to be an American as well and who, therefore, have to comply with American tax rules. Is it more complicated than that or am I oversimplifying it?

Mr. Brian Ernewein: First of all, I think you're raising a number of important points and I won't be able to do justice to them all in my response, but in the main I would say yes, you are properly identifying the two different things that are sort of running through this file, if I can call it that.

One is the fact that the U.S. does tax on a citizenship basis. We don't. No one else does, functionally, and that difference leads to a lot of the consternation that arises with people who may not have been aware of their tax obligations, or who may have been aware but thought there really wasn't any sort of net tax owing because Canadian taxes are probably sufficiently high such that if they did a U.S. tax return on top, and taking credit for Canadian taxes, there wouldn't be anything remaining. Also, there has been.... To be fair to those people who are troubled by some of this, I think there has been a sort of ramped-up enforcement by the U.S. That shock, I think, is leading to a lot of the consternation I talked about.

But this agreement is not about enforcement of U.S. taxes, or collection of U.S. taxes, or the application of U.S. citizenship taxes. It's about exchange of information in support of each country's tax system. On that front, it's quite like what we already do on many fronts and is not novel in that respect.

• (1650)

Mr. Gerald Keddy: On the intergovernmental agreement and the enhanced exchange of tax information on the Canada-U.S. tax convention, the point of that, in my understanding, is to avoid double taxation, if you will. You pay the appropriate taxes in the appropriate country and you back that fact up: that can be based on citizenship. But citizenship comes with a whole realm of responsibilities. Quite frankly, if you hold American citizenship, you have to pay American taxes.

Again, most of the folks in my part of the world have American passports. They may be permanent residents living in Canada, but they still travel on American passports. They hold investments and some still own property in the U.S. They're Canadian citizens or permanent residents because they live in Canada and they have no intention of returning to the U.S., but they still have ties.

That leads to my question and the very difficult decision that some individuals may have to make. If they really don't want to pay taxes in the U.S., then they would have no choice, I would expect, but to

renounce that American citizenship and the benefits that come with it. If they do that, is there a liability up and to the point that they do that?

Mr. Brian Ernewein: Certainly, there's that potential reaction to this tougher enforcement, you can call it, of U.S. citizenship taxation, with people becoming appreciative of the obligation it creates and judging it not worth their while to remain U.S. citizens as a result. I've forgotten the stats, but whatever the baseline was.... I think a recent report suggested that something in the order of 3,000 American citizens were renouncing citizenship in the last period, whatever that may be. I think they are observing that.

Here I'm really freelancing, because I can't speak with any authority as to U.S. tax or citizenship law, certainly, but my understanding is that the U.S. tax law does have some rules that seek to neutralize the consequences, or neutralize the tax consequences, of renunciation of citizenship, and that in some circumstances they might still seek to apply taxation or at least ensure that taxes have been paid for the past period. So there are complications, I guess I could say with some confidence, to trying to renounce citizenship.

The Chair: Thank you.

Thank you very much, Mr. Keddy.

Mr. Brison, please.

Hon. Scott Brison: Thank you.

Each year, Canadians provide the CRA with information on their registered accounts, their TFSAs and their registered disability and education savings plans, on their tax returns. Once a Canadian is identified as a U.S. person, can the CRA then share that information on these registered accounts with the IRS?

Mr. Brian Ernewein: Not as part of the IGA, but separately from that, it's possible that on a request for information that could be provided.

Hon. Scott Brison: What personal information will the CRA be sharing with the IRS in that case? What do you envision?

Mr. Brian Ernewein: Again, this is not part of the intergovernmental agreement, but it would be a question as to the application of the Canada-U.S. treaties' exchange of information provisions generally. Under those provisions, it's possible for the U.S. to request information that's relevant to the administration of its tax system. If it's relevant to the U.S. tax system, the request could be made.

Hon. Scott Brison: Let's look at it in a different way. When it comes to U.S. persons living in Canada, what tax information is the CRA not willing to share with the IRS?

Mr. Brian Ernewein: On a request basis again, the postulation?

• (1655)

Hon. Scott Brison: Yes, if it's requested by the IRS, what would you say no to?

Mr. Brian Ernewein: It's our colleagues at the Canada Revenue Agency that would ask and answer that question. Again, the question would be whether it's relevant to U.S. taxation and the taxes covered by the Canada-U.S. tax treaty.

Hon. Scott Brison: Would that be determined by CRA?

Mr. Brian Ernewein: They would need to satisfy themselves that the U.S. explanation as to why they were requesting the information was cogent. Yes, I think that's right.

Hon. Scott Brison: Has the government sought and received an opinion from the Privacy Commissioner regarding the sharing of personal information with the U.S. government or the IRS?

Mr. Brian Ernewein: Is your question, again, about what they've been doing for the past 50 years?

Hon. Scott Brison: Has the government sought an opinion from the Privacy Commissioner in terms of sharing this information?

Mr. Brian Ernewein: I don't believe so. As I say, it's been going on for a long time.

Hon. Scott Brison: In the case where these accounts have more than one owner or beneficiary or where only one owner or beneficiary is a U.S. person, is the entire account subject to U.S. taxation or just a part of it?

Mr. Brian Ernewein: Is your question about taxation or is your question about the reporting of the account?

Hon. Scott Brison: The reporting of the account.

Mr. Brian Ernewein: For a joint account, do we know if the full amount is possible?

Mr. Kevin Shoom (Senior Chief, International Taxation and Special Projects, Department of Finance): In the case of a joint account, the full value of the account would be reported for the person who is subject to reporting. The personal information would relate only to the person who is identified as a U.S. person.

Hon. Scott Brison: The federal government held some public consultations on the agreement earlier this year. Does the government intend to publish the submissions as they have with past consultations?

Mr. Brian Ernewein: That isn't the plan. Our general practice with consultation on potential action items is that we'll say that we'll be asking for permission to post them if people are willing to allow that. If they do, it's posted on our Finance website. We generally don't do that with draft legislation, which this was, and haven't in this case.

Hon. Scott Brison: Would you agree that the exemption of certain accounts—RRSPs, RDSPs, and TFSA's—from FATCA reporting only applies to Canadian banks but not to the dual citizens?

Mr. Brian Ernewein: No, it applies to the dual citizens if you're talking about the terms of the report under the intergovernmental agreement.

Hon. Scott Brison: Are you saying that the dual citizens are exempt from reporting those to the IRS?

Mr. Brian Ernewein: I'm saying that the intergovernmental agreement exempts those accounts from reporting—

Hon. Scott Brison: By the banks?

Mr. Brian Ernewein: Yes, the banks are the only ones—well, financial institutions more generally are the ones with the potential obligation to report, and they don't have an obligation to report registered accounts such as the ones you've listed.

Hon. Scott Brison: Does the intergovernmental agreement exempt dual citizens from the reporting to the IRS of these accounts?

Mr. Brian Ernewein: A dual citizen who is a U.S. citizen under one of their—

Hon. Scott Brison: They're also a Canadian citizen.

Mr. Brian Ernewein: As I say, they've had for a long time already an obligation to comply with U.S. tax law. If that's a taxable item under U.S. tax law, they'd be required to report it.

Hon. Scott Brison: And contributions made to RESPs, RDSPs, and TFSA's by the Canadian government would be considered taxable income by the IRS?

Mr. Brian Ernewein: Not the contributions per se—

Hon. Scott Brison: I mean earnings from those.

Mr. Brian Ernewein: My understanding of the question that you raised the last time on grants, particularly from the government, is that under the Canadian tax system those are taxable if and when the grants are paid out to the beneficiary. As I mentioned the last time, from our discussions with the U.S. and our description of the regimes, they suggest that they would not be taxable on contribution to the plan but appear to be taxable by the U.S. as well in the same way we would on payout to the beneficiary.

Hon. Scott Brison: Thank you.

The Chair: You have 30 seconds, Mr. Brison.

Hon. Scott Brison: That's it for this section.

The Chair: You're done with this section?

• (1700)

Hon. Scott Brison: With this section.

The Chair: My understanding from the NDP is that they're done with part 5.

Can we move to part 6?

Do you have a couple of more on part 5?

Mr. Gerald Keddy: Yes, but they can move to part 6, if they want.

The Chair: I would like to move to part 6 as soon as possible.

Are there a couple of questions?

Mr. Allen, very briefly.

Mr. Mike Allen: Thank you very much, Mr. Chair.

I have a couple of questions on the annex. One of them is on the due diligence procedures required by the banks.

If I understand correctly, the first round of due diligence is by July 1, 2014. Is there another due diligence process that is required by the banks by 2016 on pre-existing accounts?

Mr. Kevin Shoem: The due diligence procedures have different requirements for pre-existing versus new accounts. Under the agreement for new accounts, financial institutions are supposed to begin implementing those procedures starting in July of this year, and they should be doing those procedures when those accounts are opened.

For pre-existing accounts, the agreement provides a window, a period of time, under which the financial institutions can complete the due diligence on the pre-existing accounts which are subject to review. That period will stretch out. It depends on the type of account, but it can stretch out into 2015, or in some cases into 2016.

Mr. Mike Allen: I'd like to ask a question on the amending process. I understand that this is subject to an amendment process. By the end of 2016, I believe, there can be an amendment to the IGA.

To the point that we did get some reciprocity with respect to information coming back from the U.S, it doesn't make sense that there would be full reciprocity because we don't tax based on citizenship, so how could there be full reciprocity in this agreement that way? Would that allow us to maybe look at situations where we could potentially pull up tax evasion of people who have accounts in the U.S. that are not being reported on their Canadian return as part of this agreement?

Mr. Kevin Shoem: The promise of reciprocity from the United States in the agreement is to pursue equivalent levels of information exchange. It doesn't mean identical, and since we don't tax on the basis of citizenship, we wouldn't be interested in getting information on non-resident and Canadian citizens.

What it could well mean is increased due diligence requirements at U.S. financial institutions to identify Canadian residents who hold accounts there. It could also expand the reporting requirements to equivalent types of information that, under the agreement, Canadian financial institutions are supposed to report. An example of that would be account balances.

Mr. Mike Allen: Thank you, Chair. That's it.

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

I want to thank the officials for being here. The parties have been very helpful. They've identified priority sections for them. Two parties have identified division 1, in part 6. I'll ask division 1 officials to come forward for Veterans Affairs.

The next division—I'm going to jump around a bit—will be division 20. I would ask division 20 to be ready.

I'm trying to do as many as I can by 5:30. The divisions that the parties have asked for are 1, 12, 14, 20, 23. Therefore, all the other officials are free to go at this time.

We'll start with 1, and we'll do 20 and 29 as well. That's 1, 12, 14, 20, 23, and 29.

We want to welcome Mr. Butler to the committee. Thank you for being with us today.

I'm going to go right to questions.

Mr. Cullen, please.

Mr. Nathan Cullen: I think I need to say this, Chair.

We have 30 sections in part 6. We have 25 minutes for the committee to study this before the time allocation motion moves us past this part. I hope all committee members won't even pretend that this is proper scrutiny of a 300-plus page omnibus bill. It's an absolute joke of a process. We're going to try to get through some things.

Regarding part 6, division 1, thank you for being here.

Why was the decision taken not to bring back, after the Manage decision, the earnings loss benefit and Canadian Forces income support, CFIS, from disabled veterans, going back to 2006 when the clawback began?

● (1705)

Mr. Bernard Butler (Director General, Policy Division, Policy, Communications and Commemoration Branch, Department of Veterans Affairs): Thank you for that question, Mr. Chair.

Essentially, choosing that date was a policy decision of government. That was the date, May 29, 2012, that the government announced it would cease the offsetting. The government decided that it would be the appropriate date.

Mr. Nathan Cullen: I understand that is a political decision, but can you clarify that reductions did begin in April 2006 for veterans who received this disability compensation?

Mr. Bernard Butler: Three programs are impacted by this bill. The war veterans allowance program is a legacy program that would go back to about 1930, at which time offsets would be made. For the new veterans—

Mr. Nathan Cullen: I'm sorry, Mr. Butler, it's a bit of an awkward process because, with the time available to us, one of our challenges is that we have essentially a five-minute round with 30 seconds for the official opposition.

I didn't mention this, Chair, but I very much appreciate your efforts to try to line up folks. I'm not sure how to proceed in that we have many questions on part 6, division 1, but we also have questions on other divisions that come up. I'm trying to include them in my five minutes because that is all we've got.

Logistically it seems impossible.

The Chair: If you give me a rough idea of how much time you need, I can try to—

Mr. Nathan Cullen: The time I need and the time I have are two different things in this circumstance.

The Chair: Okay.

Mr. Nathan Cullen: I want to get to division 15, if I could.

The Chair: Are you finished with division 1?

Mr. Nathan Cullen: Yes, I'm sorry, Mr. Butler, for such a rushed process.

Excuse me, but we have one small question on division 1.

The Chair: On division 1—

Monsieur Caron.

[Translation]

Mr. Guy Caron: Mr. Butler, I will be brief.

To your knowledge, is the government thinking about introducing a bill that could prevent collective recourse to recover the money for 2006 to 2012? Has any work been done on that?

[English]

Mr. Bernard Butler: I'm not sure I understand the question. Could you repeat the question?

Mr. Guy Caron: The clawback started in 2006, but the bill is talking about the refund starting in 2012. There might be a recourse for those affected from 2006 and 2012. Is the department working right now on trying to prevent any type of recourse before the tribunals, for example, through a bill or through an act?

Mr. Bernard Butler: The simple answer to that, Mr. Chair, would be no, not at this time.

Mr. Nathan Cullen: On division 15, if I could, Chair—

The Chair: Let me jump to Mr. Brison to do division 1.

Mr. Brison, could I ask you to be as brief as possible? I want to try to fit in every division.

Hon. Scott Brison: That was a rather long introduction to my question. Yes, certainly.

How many veterans are expected to receive benefits under this division and how much will the payments total?

Mr. Bernard Butler: Approximately 5,500 veterans will benefit from this one-time compensated repayment, and the total benefits paid out under this initiative will be approximately \$19.9 million.

Hon. Scott Brison: Are the payments under the division covered by the class action lawsuit *Manuge v. Canada* and the subsequent court order, or do they fall outside that lawsuit?

Mr. Bernard Butler: They are quite separate and distinct from the lawsuit. The *Manuge* class action involved the SISIP program administered by the Department of National Defence. This bill relates to only three programs that are administered by Veterans Affairs Canada, so the *Manuge* decision, you could suggest, was the prelude to the decision by government, on a voluntary basis, if you will, to make a decision to cease offsetting the disability pension against these three programs that veterans enjoy.

Hon. Scott Brison: Disabled RCMP veterans also had their benefits reduced by their service income security insurance plan long-term disability. What's the status of their claim for compensation?

Mr. Bernard Butler: I'm not really qualified to speak to that claim because it is a separate claim involving the RCMP, but I can tell you to my knowledge a settlement has been proposed, and I think you will find information about that on their website.

Hon. Scott Brison: Thank you.

That's all I have for division 1.

• (1710)

The Chair: Thank you very much, Mr. Butler. We appreciate your time.

We're going to skip a bit. I'm going to ask the officials to be as flexible as possible. Two parties want to ask questions on division 20.

Division 20 officials, please.

Welcome back to the committee. Thank you for being with us.

We'll go back to Mr. Cullen, please.

Mr. Nathan Cullen: Thank you, Mr. Chair.

Thank you to our officials again.

For monetary penalties for employers who abuse the TFW program, has the department considered what the amounts of those penalties would look like?

Mr. Alexis Conrad (Director General, Temporary Foreign Worker Directorate, Department of Employment and Social Development): I expect those details will come through the regulatory process. At this point the legislation is simply the enabling legislation that allows the minister to build the regulatory structure on top and so—

Mr. Nathan Cullen: Is a range being contemplated right now? Are you looking to other programs and other penalties that have been administered to employers as guidance for finance?

Mr. Alexis Conrad: Certainly through the process we look at other AMP regimes. We look inside the program and the minister will come forward with a specific proposal.

Mr. Nathan Cullen: At the current pace of those regulations moving through when would you imagine these penalties could be applied to employers who abuse the program?

Mr. Alexis Conrad: I couldn't put a specific date on it. I can say that the minister is extremely motivated to move this file forward as soon as possible.

Mr. Nathan Cullen: Does the minister right now have the power to revoke a company's temporary foreign worker permit? Does that exist within the legislation right now, as it's designed?

Mr. Alexis Conrad: The minister can revoke the labour market opinion now.

Mr. Nathan Cullen: An employer in the Lower Mainland has put workers to work for 12 hours a day and not paid them. Other federal bureaucrats have said this fits the definition of victims of human trafficking. Yet that company still has permits. I question the government's sincerity.

The last question I'll pass to Mr. Caron. How many companies sit on the government blacklist that was announced two years ago, of employers who abuse the program?

Mr. Alexis Conrad: There are two lists online. One is on the Citizenship and Immigration website and the other is on ESDC's website. I don't know the exact number offhand but several employer names are on the transparency list on our department website.

Mr. Nathan Cullen: When were they added?

Mr. Alexis Conrad: The list went up probably in the last month or so. I can't remember the exact date.

Mr. Nathan Cullen: There's some concern that within Alberta alone there have been some 212 citations of employers who have abused the program. The government has found two to put on the blacklist and those two were found within the last couple of months.

I'll now pass to Mr. Caron for a couple of questions.

Thank you for your responses.

[Translation]

Mr. Guy Caron: Thank you very much, Mr. Chair.

Ms. Welbourne, I would like to go back to the question I asked the minister, which you answered.

If I correctly understood your answer about the termination of the immigrant investor program, you said that letters inviting investors to invest are still being sent even though the program was officially terminated on February 11, 2014. Is that what you said?

[English]

Ms. Maia Welbourne: I'll clarify a couple of terms we're using.

There are no letters of invitation within the program. That applies in the future entry express program. The IIP, the immigrant investor program, has had a pause in place since July 2012. No new applications are being accepted at this time. A significant backlog of applications is being worked through. Under the proposed legislation any applications that have a selection decision prior to February 11, 2014, will proceed to a final decision. A selection decision is a decision made that the applicant meets the eligibility criteria of the program. Any applications that do not have a selection decision, where no decision has been made prior to February 11, 2014, will be terminated.

[Translation]

Mr. Guy Caron: If I understand correctly, some immigrant investors may still receive a letter asking them to deposit, say, \$400,000 to be eligible for the program. Is that correct?

[English]

Ms. Maia Welbourne: Those individuals who have received a positive selection decision will continue to a final decision and may be approved under the current program parameters.

[Translation]

Mr. Guy Caron: So the department is still issuing visas for immigrant investors who received a selection decision before February 11. Visas will still be issued for those who received a positive decision before February 11.

• (1715)

[English]

Ms. Maia Welbourne: That's correct. Processing continues and the termination would apply, as I said, to individuals who have not received a selection decision prior to February 11.

[Translation]

Mr. Guy Caron: I have one last question for you.

Has the department set a deadline to wrap up the process for those who received selection decisions before February 11?

[English]

Ms. Maia Welbourne: So those individuals whose applications will proceed—

Mr. Guy Caron: Do you have any idea of when the last one will be processed?

Ms. Maia Welbourne: I don't know offhand, but it's determined, to some extent, by the amount of level space in our annual levels plan provided for those categories. So we'll continue to process up until we meet the levels plan for the year and then if there are remaining applications that have those positive section decisions, we'll continue to process them in the coming year.

The Chair: Okay, merci.

Briefly, Mr. Keddy.

Mr. Gerald Keddy: Just on the immigrant investor program, my understanding is that the program is going to be stopped completely. The backlog will not be accessed. It will be left in abeyance, and we'll move to a new program under expression of interest to match skills for new immigrants coming to Canada to existing jobs that we're looking to fill in Canada.

Is that correct?

Ms. Maia Welbourne: There are two separate but related issues there. The existing IIP and entrepreneur programs are being terminated. As I said, there's been a pause on new applications for a couple of years. They are being terminated. The backlog will be eliminated, and the minister is exploring the creation of a couple of new pilot programs to essentially get at some of the objectives behind the immigrant investor and the entrepreneur program. Those are in development and details will be forthcoming.

As a separate issue, we are developing an expression of interest system, which has been recently rebranded "express entry", and that will apply to other economic immigration programs, namely the federal skilled worker program, Canadian experience class, the federal skilled trades program, and a portion of the provincial nominee program, and the system will allow us to receive expressions of interest from individuals who are interested in coming to Canada in one of those programs and select from among those expressions of interest those individuals who have the attributes that will make them most likely to succeed economically once they're in Canada.

Mr. Gerald Keddy: Just to be clear, we're streamlining them into a direct immigration process, or a permanent residency process, not into a work visa.

Ms. Maia Welbourne: Correct. They will land as permanent residents, yes.

The Chair: Thank you, Mr. Keddy.

I'm assuming I have unanimous consent to continue for a few more minutes here. Thank you.

Mr. Brison, please, on this.

Hon. Scott Brison: Does clause 302 give the immigration minister authority to establish administrative monetary penalties in other areas of the Immigration and Refugee Protection Act that are not related to the temporary foreign worker program?

Mr. Alexis Conrad: My understanding of the legislation is that it's specific to the temporary foreign worker program.

Hon. Scott Brison: Could you check on that and report back to us? That would be helpful. That is your understanding, but are you certain?

Mr. Alexis Conrad: That section refers specifically to the temporary foreign worker part of IRPA, and the details are specifically targeted at foreign workers.

Hon. Scott Brison: Okay, thank you.

The Chair: Good.

I want to thank our two officials for being here to discuss this division. We'll see you at clause by clause.

We'll move now to division 23, please.

I am doing my best to get to divisions 29, 12, and 14. I will go as long as the committee allows me.

All right, we have division 23, which amends the budget implementation act of 2009. We have Mr. Rudin back, and we'll go to Mr. Caron.

• (1720)

[*Translation*]

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

My first quick question is about the \$150 million that is being set aside.

What will that \$150 million in division 23 of the bill be for?

Mr. Jeremy Rudin (Assistant Deputy Minister, Financial Sector Policy Branch, Department of Finance): I'm sorry, Mr. Caron, but I'm having a hard time understanding you.

Mr. Guy Caron: Did you put on the listening device?

Mr. Jeremy Rudin: Sorry, Mr. Caron. Please go on.

Mr. Guy Caron: Division 23 sets out an additional \$150 million for the Canadian securities regulation regime. How will that money be used?

Mr. Jeremy Rudin: The law states that it will give the government the power to identify the provinces that decide to participate in the cooperative regime. That is all the law says.

That being said, the agreement in principle signed by the governments of British Columbia, Ontario and Canada contains additional clarification explaining that the federal government is prepared to compensate provinces that lose net revenue because of their participation in the new regime.

Mr. Guy Caron: Why is the act being amended instead of just raising the limit, which is still in the clause in the bill? Why amend the act with respect to the limit instead of voting for a new increase?

Mr. Jeremy Rudin: The idea is just to provide the flexibility to have the option of increasing the limit if that ends up being necessary.

That being said, it would have to be done through a budget bill. We would still need Parliament's approval.

Mr. Guy Caron: I have one last question about this.

We are familiar with the constitutional situation. The Supreme Court gave its opinion on this issue. The government is still pursuing its plan to create a cooperative organization, but for the time being, the only provinces that are interested are British Columbia and Ontario. Quebec and Alberta are steadfast in their objection.

What will the government do to get around the issue of jurisdiction, the constitutional issue? If the government just wants the cooperative support of the provinces, it does not seem to be getting that now.

Mr. Jeremy Rudin: If I understand correctly, you asked me two questions. The first was about jurisdiction and the second about the plan to encourage other provinces to participate in the regime.

With respect to jurisdiction, the Government of Canada's plan, with British Columbia and Ontario, is of course fully in line with the Supreme Court opinion, which found that Canada's Parliament has a role in securities regulation regarding matters of genuine national importance and scope, including maintaining the integrity and stability of the financial system and preserving fair, efficient and competitive national capital markets. Moreover, and I want to emphasize this, the government must prevent to systemic risks.

The government thinks that the example of Ontario and British Columbia demonstrates the interest of various provinces. It is continuing to work with its provincial partners and invites other provinces to join.

Mr. Guy Caron: I completely understand the Supreme Court's ruling and how it established the federal government's role with respect to systemic risk. However, it also confirmed that, from a constitutional standpoint, this issue falls under provincial jurisdiction.

[*English*]

How long does the federal government expect all the provinces to come on board and create that unique commission, even if it's cooperative, if we're only relying on the provinces to adhere to it or join it?

Right now we have provinces that are completely opposed to it. So what's the point of butting heads with the question of jurisdiction by trying to create that single securities regulator? Isn't there an easier way to try to achieve the objective of simplification and having a de facto single regulator by actually working with the provinces? I understand the rationale on the economic side and also how it is constitutionally impossible to do it. Is the government able to demonstrate it can do it in a constitutional manner? It hasn't demonstrated that it can, because we still see a strong opposition from the provinces.

•(1725)

Mr. Jeremy Rudin: As you were saying, there certainly are provinces that are on record as opposing. There are two provinces, as I just mentioned, who are clearly in favour. These provinces are quite different in their approach, in the nature of their securities markets, and their approach in some ways to regulation, but they have been able to find common ground. Then we have a large number of provinces that have yet to take a position they're clearly opposed or in favour. With British Columbia and Ontario, we continue to seek the involvement of those provinces.

The Chair: Thank you, Mr. Caron.

Thank you, Mr. Rudin. Thank you for being with us.

We'll move to division 29 quickly, please. Again, we'll try to go to divisions 12 and 14 immediately thereafter.

We welcome our two officials to the table. Thank you for being with us here.

We will go immediately to questions. Is that okay? We will go to Mr. Rankin, please.

Mr. Murray Rankin: Thank you.

Thank you, witnesses. I appreciate your being here.

I'm looking at section 5, which says that the new chief administrator is appointed to hold office during pleasure, and the purse strings have been put into the hands of that person responsible directly to the minister.

Is there a concern that this will merely be a political appointment as a consequence of being at pleasure?

Ms. France Pégeot (Special Advisor to the Deputy Minister, Department of Justice): No. This will be a regular government appointee by the Governor in Council, so if you compare this type of appointment with others, it's very similar. For example, there is the equivalent for the courts of what we're proposing here, which is called the Courts Administration Service. It's an organization that provides all the services that the federal courts need, and the person is also appointed at pleasure. So that's a fairly regular and standard type of appointment for that type of position.

Mr. Murray Rankin: This administrator would have sort of purse strings responsibility for the independent administrative tribunal, several key federal tribunals, and would also be responsible for recommending changes to legislation and regulations affecting these boards and tribunals.

I'm concerned, I suppose, about the merit-based appointments of the individuals and the concern that tribunals have expressed to me that this could.... Everyone accepts the need for shared services and efficiency, I certainly understand, but there's a concern that the importance of independence is lost.

Ms. France Pégeot: As with other Governor in Council appointees, there will be an open and public selection process. There will be a selection process that would be open to the public to fill that position, and it's very similar, as I was mentioning, to other similar positions with respect to the Courts Administration Service, for example, which is the same kind of position. So it's not unusual for that type of job.

Mr. Murray Rankin: So you don't share the concern that the minister being able to relieve the chief administrator of his or her duties without cause should they choose to stand up to the minister or a government directive would have a negative impact on the independence of those tribunals. You don't see that as a concern?

Ms. France Pégeot: No. This organization will actually operate at arm's length from the Minister of Justice, so yes, it will be in the portfolio of the Minister of Justice, but it will operate at arm's length and it would have all of the authorities necessary to manage the organization.

•(1730)

Mr. Murray Rankin: What are the administrative mechanisms that would give reality to that notion of their being arm's length? What is there to confirm that it wouldn't merely be a political appointment? After all, it's an at-pleasure appointment, reporting directly to the minister, designed no doubt to control costs but certainly having ramifications for independence. That's why the tribunals are so concerned.

You're saying, no, don't worry, it's not going to be like that because there are instruments that confirm the arm's length relationship. I'm asking what those instruments are.

Ms. France Pégeot: What I meant is that the organization—just like, for example, within the Minister of Justice portfolio you have the Canadian Human Rights Tribunal, so it's the equivalent in the sense that this person is, yes, reporting through the Minister of Justice but is operating at arm's length.

If you look at section 9 of the legislation, it says:

The Chief Administrator is the chief executive officer of the Service and has the control and management of the Service and all matters connected with it.

So it gives full authority to this person to manage the service.

Mr. Murray Rankin: But accountable to the minister on an at-pleasure basis?

Ms. France Pégeot: Governor in Council appointees are made by the Governor in Council, so therefore are made through government, not only the Minister of Justice.

Mr. Murray Rankin: There is no consultation with other parties in the way that, for example, the Security Intelligence Review Committee, or other such tribunals, or the Privacy Commissioner.... There's none of that. It's all to the minister.

Ms. France Pégeot: This person is not an agent of Parliament like those you have mentioned. This person is the head of a department.

The Chair: Thank you, Mr. Rankin.

I want to thank the two officials for being here and responding to questions. We appreciate that very much.

We'll now move quickly to division 14, please, and we'll try to get to division 12.

These are two ones from the Liberals. Okay, we'll start with Mr. Brison, then.

Hon. Scott Brison: Thank you.

The industry has been waiting for clarity on this issue for several years. Does the government have a timeline by which it intends to introduce these regulations? Would it share the timeline with the industry that is looking for clarity?

Mr. Jeremy Rudin: I don't have a specific deadline that I can share with you. All I can say is that the government is well aware, as you are, that there are certainly people involved in the industry who are anxious to be in a position to move ahead with this, and the government will take that into consideration in trying to move ahead as expeditiously as possible.

Hon. Scott Brison: How many groups or organizations are affected by this demutualization? How many mutuals are we speaking of?

Mr. Jeremy Rudin: Let me get the list. There are seven federally incorporated property and casualty or general insurance companies that have a mutual structure. It's not necessarily the case that all of them would be interested in demutualizing, but that is the maximum.

Hon. Scott Brison: Of these members, broadly how many are in favour of demutualization?

Mr. Jeremy Rudin: How many members of the companies...? I don't have that information. Indeed, I don't have a way of assessing whether members are in favour. I think many, if not most, members would want to know what the specifics of the demutualization would be. So part of the process that the government plans to elaborate in regulation, if and when it receives these additional powers from Parliament, is to ensure that, among other things, members have good information on which to base those decisions. I think for many members it would be impossible to make a statement in principle until they would see what the impact would be on them, and perhaps on the company as well.

Hon. Scott Brison: Are you familiar with the House of Commons finance committee study of demutualization that was conducted?

Mr. Jeremy Rudin: Yes, but if you ask me a detailed question, I'll get it wrong.

Hon. Scott Brison: But have you read the report from the finance committee?

• (1735)

Mr. Jeremy Rudin: Have I read the finance committee report on demutualization?

Hon. Scott Brison: Yes.

Mr. Jeremy Rudin: That's a good question. I'm sure I've seen at least a summary. I may have read the report, but I read, I'm sorry to say, many reports.

Hon. Scott Brison: This is your file.

Mr. Jeremy Rudin: It is indeed.

Hon. Scott Brison: I recognize you're a busy fellow, but it strikes me as passing strange that you've not taken time to familiarize yourself with a report. The idea was to help this finance committee to inform Finance Canada on this issue, but you're telling me you haven't read it.

The Chair: I'm going to clarify as chair. We didn't do a report on that.

Hon. Scott Brison: No, but we did a small study.

The Chair: We did one meeting.

Hon. Scott Brison: That's right.

The Chair: I just wanted to clarify.

Hon. Scott Brison: We did a meeting with witnesses, and you're saying you're not familiar with what happened at that meeting. Well, we'll provide it.

Mr. Jeremy Rudin: I'm not going to say up and down I wasn't there. I'm just not sure whether I was present at that meeting or not. I know I was a witness at a committee meeting about the mutual industry, but was it a Senate committee or a House committee? That, I'm afraid, I cannot recall.

Hon. Scott Brison: There are so many legislative branches it gets confusing.

On this, I'm told that all but one of the members or groups affected are opposed to the change.

Are you not aware of the overwhelming opposition of members or of organizations, these mutuals, to these changes and the notion of demutualization in principle?

Mr. Jeremy Rudin: I'm sorry.

Did you say that only one member of—

Hon. Scott Brison: Yes. The majority of the mutuals affected are opposed to demutualization.

Mr. Jeremy Rudin: Sorry, the majority of the companies?

Hon. Scott Brison: Yes.

Mr. Jeremy Rudin: And this is the majority of the management of the companies or the majority of the members of the companies, or which?

Hon. Scott Brison: The management speaking on behalf of the companies.

Mr. Jeremy Rudin: I'm certainly aware of the fact that there isn't strong constituency for demutualization of every one of these companies. That said, the government will bring forward a regime that would allow the members of each company to decide whether to demutualize or not.

The government has no goal as to the number of companies, or indeed, has no goal to demutualize any of them, or is not opposed to demutualization. It simply wants to create a framework so that members can come to a fair and equitable decision about whether to proceed in that regard. If it applies to a minority or a majority of companies, the government's view is that it's still necessary and important to have a framework.

The Chair: Mr. Brison, can you give me a sense of how much longer you will be? You're sort of bumping up against your time.

Hon. Scott Brison: In a timely manner. I'm almost done.

The Chair: One minute or two minutes? One question?

Hon. Scott Brison: One minute but probably not much longer than the interruption took.

The Chair: The interruption took five seconds. You have five more seconds.

Some hon. members: Oh, oh!

Hon. Scott Brison: Okay.

The concerns expressed by those individuals who appeared before the committee hearing were that there would be impacts on companies that chose not to demutualize as a result of allowing demutualization of other organizations. Those impacts would be deleterious not only for those companies, but for the community they serve. In many cases there are impacts on rural and small town Canada for some of those.

So I would urge you to familiarize yourself with the feedback and the testimony of those organizations that appeared before this committee.

Mr. Jeremy Rudin: I would be happy to do that.

I would also point out that the government organized a consultation on this and we received many submissions.

The Chair: Thank you, Mr. Brison.

M. Caron s'il vous plaît.

[Translation]

Mr. Guy Caron: I had five or six questions, but I'll limit myself to two.

With this section, how does the government plan on ensuring that an insurance company's reserves are indivisible in the case of demutualization? That's one thing the committee looked at in its study.

Mr. Jeremy Rudin: If I understand your question, you're talking about when an insurance company has a change in governance, whether the company is required to keep the reserves within the company. Is that it?

• (1740)

Mr. Guy Caron: Yes, if we're talking about a demutualization. The most studied case was the case of the Economical Mutual Insurance Company.

It had a million policyholders but only 943 mutual policyholders. The capital had been accumulated over a period of 125 years. Each mutual policyholder would have received about \$1.6 million, while regular policyholders would have been left high and dry. My question is whether the government has provided any assurances in

this bill that the reserves will remain indivisible in the case of demutualization.

Mr. Jeremy Rudin: The goal of the bill and the associated regulations is to create a fair and equitable process to move forward with demutualization if enough members support this process. If it becomes a company managed by shareholders and not by a mutual company, the reserves will be regulated the same way as they are for all insurance companies managed by shareholders.

Mr. Guy Caron: When I read the provisions in this section, I wondered whether we would end up seeing cases systematically referred to the courts. I think the Department of Finance should be responsible for making the decision about allowing demutualization, but it would be easy to put it on the courts to make that decision.

I think this takes responsibility away from elected officials. Instead of creating a framework to make a decision, they are making it easier to turn to the courts so the courts can do the work.

Mr. Jeremy Rudin: The government cannot enforce the regulations before the act is in force. All this bill does is create an option indicating that the courts have a role to play. In similar situations, the courts have often had a role to play: ensuring that the process is fair and equitable and that all stakeholders are represented. That's an option.

[English]

The Chair: I thank our two officials for being here for this division. Thank you very much. We appreciate it.

Colleagues, we have six minutes till the vote, so I think we should go to vote. Am I fair in assuming that's what the committee wants me to do?

Do you want to keep going, Mr. Keddy?

Mr. Gerald Keddy: I'll just put my head on the block.

I think you made the right call, Mr. Chairman.

The Chair: Thank you.

I thank our committee for being so accommodating. I appreciate that very much.

The meeting is adjourned.

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