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# Report to Parliament On *The Farm Debt Mediation Act* and Farm Debt Mediation Service

December 2008

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Canada 

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Catalogue No. A118-16/2006E-PDF  
ISBN 978-0-662-48950-4  
AAFC No. 10663B

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# **REPORT TO PARLIAMENT ON THE *FARM DEBT MEDIATION ACT* AND FARM DEBT MEDIATION SERVICE**

## **1. INTRODUCTION**

Section 28 of the *Farm Debt Mediation Act* (1997, c. 21) requires that the Minister of Agriculture and Agri-Food (AAFC) periodically review the operations of the Act and report to Parliament on the results of that review. The review is also to cover any program or service created for the undertaking of a detailed review of the financial affairs of a farmer in financial difficulty. This Report to Parliament is in accordance with those provisions of the *Farm Debt Mediation Act*.

## **2. BACKGROUND**

The *Farm Debt Mediation Act* received Royal Assent in 1997 and came into force on April 1, 1998. The *Farm Debt Mediation Act* replaced the *Farm Debt Review Act* which had been in force since 1986.

The *Farm Debt Review Act* was developed in 1986 to assist with the resolution of debt problems of an unusually large number of farmers that were experiencing financial difficulty in the early to mid-eighties. A somewhat similar, though more severe, set of financial circumstances in the late thirties led to the introduction of the *Farmers' Creditors and Arrangement Act*. Dormant for many years, that Act was repealed by the Miscellaneous Statute Law Amendment Act, 1987, which received royal assent in February 1988.

In recent years the incidence of serious financial circumstances in the farm sector and, accordingly, the demand for farm debt mediation services, has been at a reduced level from what it was in the last half of the eighties and early nineties and also somewhat reduced from what it was in the early 2000s. Nevertheless, current activity levels are still significant and the provision of debt mediation is important to farmers who require the service which is now generally accepted as an established and mature program for the agricultural industry.

Under the authority of the *Farm Debt Mediation Act*, Agriculture and Agri-Food Canada offers the Farm Debt Mediation Service (FDMS). The policy objective of the current, and of the previous legislation, is to provide a forum through which insolvent farmers and their creditors can attempt to reach arrangements regarding the debts and obligations that are satisfactory to all parties. Previous legislation also had as an objective to provide assistance to farmers not yet insolvent but in financial difficulty. The FDMS is an integral component of the programs and services offered to farmers by AAFC.

The FDMS is available to insolvent farmers anywhere and everywhere in Canada. Additionally, two provinces - Manitoba and Saskatchewan - also have legislation pertaining to insolvent farmers and offer farm debt mediation services to farmers in those provinces. While there are some differences between them, notably in terms of the scope of assets covered, a possible stay of proceedings and the effects on the *Bank Act*, the services are broadly similar.

The 2005 Report to Parliament included in its review of the FDMS a review of the Farm Consultation Service (FCS). Introduced in 1998, the FCS was available to Canadian farmers through to March 2003 (except in Quebec where it was available to farmers through early 2005). In 2003/2004, AAFC introduced the Canadian Farm Business Advisory Services (CFBAS) as part of the suite of programs offered through the Agricultural Policy Framework (APF). As described more fully below, one of two services offered by CFBAS is the Farm Business Assessment (FBA) which is a financial consulting service program for farmers. The FBA is the successor to the FCS but is not included as a formal part of this Report because, whereas the FCS was designed specifically to meet the needs of farmers with cash flow difficulty, the FBA is available to any interested farmer with annual gross farm sales of \$10,000 or more. Evolving from the Farm Consultation Service, the Farm Business Assessment services are still available to farmers in financial difficulty but in addition are available to farmers who, though not in financial difficulty, simply want to improve their farm business and at the same time take advantage of a low cost service that can help them do so.

To ensure effective availability of the services of these programs to farmers in all parts of the country, Agriculture and Agri-Food Canada maintains five offices: in Fredericton (serving the Atlantic provinces), in Québec City (Quebec), in Guelph (Ontario), in Regina (Manitoba and Saskatchewan) and in Edmonton (Alberta, British Columbia, Yukon Territory, Northwest Territories and Nunavut). A single toll-free telephone number is available so that a farmer in any part of the country may easily make contact with the appropriate Farm Debt Mediation Service office. The Report to Parliament in 2005 covered the FDMS and Farm Consultation Service (FCS) activities for the period 2000/2001 through 2003/2004. This report, which draws on findings from an operational review of the FDMS carried out for Agriculture and Agri-Food Canada and completed in March 2008, covers fiscal periods 2004/2005 through 2006/2007 inclusive.

### **3. PROGRAM DESCRIPTIONS, OBJECTIVES AND ACTIVITY LEVELS**

This section of the report provides descriptions and objectives of FDMS and of the FBA and presents FDMS activity levels during the review period.

#### **FARM DEBT MEDIATION SERVICE**

The FDMS provides insolvent farmers and their creditors with mediation services, pursuant to the Act and its Regulations, to help them reach a mutually-satisfactory arrangement. This free service is private and confidential. An insolvent individual, corporation, partnership, cooperative or other association engaged in farming for commercial purposes is eligible to apply to the FDMS. To be considered insolvent under the Act, an applicant must satisfy one of the following criteria: be unable to meet financial obligations as they come due; have ceased paying current obligations in the ordinary course of business; or, be in a situation in which the value of their property would not be sufficient to enable payment of their obligations.

The specific services available to insolvent farmers under the FDMS are: a stay of proceedings, a detailed review of the farmer's financial affairs, preparation of financial statements for the farm operation, preparation of a recovery plan and finally, and most importantly, mediation between the farmer and creditors. The recovery plan for the farm business that is presented at the mediation meeting is one chosen by the farmer and prepared on his/her behalf by the FDMS financial consultant.

Once an application to FDMS has been accepted by the responsible regional FDMS office, a financial consultant is assigned to the case. He/she then visits the farm, meets with the farm family and obtains the relevant information regarding their situation, objectives and the financial information about the farm business. The consultant then prepares an up-to-date balance sheet, income statement and cash flow statement. An important component of this phase of the work is ensuring that all outstanding liabilities are identified. Depending on the specific case, this can involve considerable time and effort; but it is necessary since accurate information about the farm business's liabilities, and assets is important to the credibility and outcome of the entire FDMS process. Each case is different but, in general, after the consultant has prepared the relevant financial statements for the current situation of the insolvent farm business, he/she then meets again with the family to discuss the implications of the statements and the situation and to develop an outline for the recovery plan which will be proposed to creditors at mediation. This stage of the process is very important and often hard work - especially in those cases where the farm owner/family has to have time to come to terms with the seriousness of the situation and to be fairly realistic in the proposals to be presented at mediation. In the end, the recovery plan that is taken to mediation has to be one that the farm family is comfortable with and can support. The consultant works closely with the farm family in developing the recovery plan but it is the farmer's proposal. The consultant attends the mediation meeting with the farm family and is available to counsel and assist them as appropriate.

An insolvent farmer has two options in regard to making application under the *Farm Debt Mediation Act*. If a farmer receives a notice of intent to realize on security from a creditor, he/she would normally apply under Section 5(1)(a) of the Act which provides the protection of a stay of proceedings as well as financial review, preparation of a recovery plan and mediation. The stay of proceedings restricts a creditor from realizing on security for a specified period of time - initially 30 days and with the possibility of up to three extensions of 30 days each. During the stay, the farm financial review is completed and a recovery plan prepared and then mediation occurs between the farmer and his/her creditors. An insolvent farmer who had not received a notice from a creditor would apply under Section 5(1)(b) of the Act which provides for a financial review, preparation of a recovery plan and mediation. Regardless of which of the two options a farmer chooses at the time of application, he/she may, at any stage of the process, change to the other option and apply under the other Section if it is to his/her advantage to do so. Additionally, although a farmer may not re-apply under the same Section of the Act within two years, he/she may re-apply under a different Section of the Act within the two-year period.

The financial review and mediation services under the *Farm Debt Mediation Act* are provided by private sector financial consultants and mediators. As the consultants and the mediators are compensated by Agriculture and Agri-Food Canada, there is no charge to the farmer or creditors to use the FDMS. The consultants and mediators for different cases are selected from lists of consultants and mediators who have been found qualified and been approved by Agriculture and Agri-Food Canada and who have standing offers with one of five regional FDMS offices. The lists of qualified consultants and mediators are the result of a competitive contracting process. To be on the list, consultants and mediators must demonstrate that they have the necessary training, experience and abilities. Providing they apply through the competitive contracting process for each service, financial consultants may provide consulting services to both the FDMS and the FBA. The amount of remuneration that consultants and mediators receive for each case is predetermined and fixed in the standing offer.

### FARM BUSINESS ASSESSMENT

One of two initiatives provided under Canadian Farm Business Advisory Services (CFBAS) is the Farm Business Assessment (FBA). FBA is not part of FDMS and is not targeted to insolvent farmers or to farmers in financial difficulty. However, because FBA is the successor to FCS and provides consulting services to farmers based on farm financial statements, financial management and planning, it is appropriate to provide some information about FBA in this report. FBA is available to any interested farmer with gross farm sales of \$10,000 or more but is of most interest to those who may be feeling some financial pressures and/or want to improve their situation. Under FBA, a professional consultant provides the farmer with confidential, independent, one-on-one business planning services. The farmer pays \$100 towards the cost of this service and AAFC pays the balance. FBA offers up to five days of financial consulting services. Three of the five days are allocated to preparation of a Farm Financial Assessment and two to the development of an Action Plan; both the Farm Financial Assessment and the Action Plan are tailored to the unique characteristics of the particular farm business. Through FBA, farmers have access to the professional help required to prepare income, balance sheet and cash flow statements for their current operation, to examine practical and profitable alternatives for the future and to prepare an action plan to implement the preferred alternative. A consultant will provide up to three days of service to review the farm's past and current financial information and discuss goals and objectives with the farmer and help him/her determine what options could benefit the operation financially. Included in the package of information provided to the farmer under the FBA are: a business profile, a statement of assets and liabilities, a farm business ratio analysis, an income and expenses statement for the previous three years and other relevant information related to the business.

The process in the delivery of the FBA is generally the same for each case. The financial consultant first makes a visit to the farm, meets with the farm family and obtains the necessary financial information. Then, he/she prepares an overall financial plan. The first phase of the plan is the preparation of financial statements - income statements and balance sheets - for the previous three years. The next step is to make a projection of income and expenses and cash flow to determine the viability of the existing farm business. At this point, the consultant and the

farmer, working together, re-examine the current and anticipated financial situation and consider alternatives that might improve it. In the normal course of events, though not always, more than one alternative would be identified. Each of these alternatives is then examined and compared to assess feasibility, profitability, whether it meets with the farmer's objectives, abilities and preferences and so on.

Then, ideally, the farmer chooses the alternative and the course of action that best suits his/her situation. The consultant then develops a practical operational plan for that alternative. Once the basic operational plan is decided, the consultant makes income and cash flow projections two years into the future. This latter step allows for some analysis of the risk and potential impacts of unfavorable events such as lower market prices, inclement weather, higher input costs etc., that could affect the viability of the farm business during that period. The situation of each farm and farmer is unique and the emphasis in each case depends on the characteristics of the particular farm. In addition, the consultant prepares a written report to accompany the financial information, financial statements and operational plan. This written report provides a summary of the services provided and the discussions with the farm family along with the alternatives considered, the rationale for the chosen alternative and a description of the proposed plan. The components of the description of the plan include, as appropriate, information pertaining to marketing, production, human resources, financial assessment and plan of action. In some cases, the options to improve the farm situation are straightforward and obvious. In others, the situation can be very complicated and this makes finding practical means to improve it a much tougher assignment. Therefore, while the services offered to each farmer by the FBA are the same, the difference that they can make varies somewhat from one case to another. It is important to note that both services - Farm Debt Mediation and Farm Business Assessment - consider the farm family, and not just the farm operator as the client. This orientation towards the family is simply recognition of the fact that all farm family members usually have a stake in the future of the farm. Accordingly, both services ensure that family members are involved, as appropriate, at each stage of the process. There were 9,877 FBA applications from April 2004 to March 2007.

#### ACTIVITY LEVELS UNDER FARM DEBT MEDIATION

Activity reports for the FDMS during the review period are found on pages 8 and 9 of this report. They show, province by province and at the Canada level, the number of applications and the disposition of those applications in each of the three fiscal years covered by the review period and for the three years together.

Activity levels under the FDMS, during this review period, 2004/2005 through 2006/2007, were 12% lower, on average, than they were in the previous review period, 2000/2001 through 2003/2004. The average number of applications received by FDMS per year in this review period, 2004/2005 through 2006/2007, was 540. In the previous review period, 2000/2001 through 2003/2004, the average number of applications received per year was 612. Given the relative weakness in realized farm incomes nationally and in particular provinces and the weakness in certain sub-sectors of the agricultural economy, it would not have been surprising if there had been some slight increase in the number of FDMS applications. Factors which may have mitigated somewhat the need for FDMS in the review period are outlined later in this report.



**ACTIVITY REPORT FOR FARM DEBT MEDIATION SERVICE BY PROVINCE AND CANADA  
BY FISCAL YEAR OF REVIEW PERIOD - 2004/2005, 2005/2006 AND 2006/2007**

	2004/2005			2005/2006			2006/2007		
	Applications Received	Applications Completed	Arrangements Reached	Applications Received	Applications Completed	Arrangements Reached	Applications Received	Applications Completed	Arrangements Reached
Newfoundland and Labrador	0	0	0	1	1	1	1	1	0
Prince Edward Island	18	13	8	12	14	10	7	5	5
Nova Scotia	6	5	3	7	6	2	10	4	3
New Brunswick	10	8	4	6	6	5	7	4	2
Quebec	177	158	124	151	132	105	175	149	112
Ontario	83	55	47	81	68	57	50	43	47
Manitoba	48	34	31	48	37	32	37	29	24
Saskatchewan	126	99	88	188	141	118	148	146	128
Alberta	69	75	69	63	56	51	48	37	32
British Columbia	20	22	16	12	10	7	11	9	8
<b>CANADA</b>	<b>557</b>	<b>469</b>	<b>390</b>	<b>569</b>	<b>471</b>	<b>388</b>	<b>494</b>	<b>427</b>	<b>351</b>

Source: Annual (fiscal year) activity reports for FDMS - 2004/2005 through 2006/2007 inclusive. A total of 1620 farmers applied to the FDMS during the review period, a total of 1367 - about 84% - completed the process and of those, 1129 - about 83% - reached an arrangement. The difference between the number of applications received and the number completed is the number that were rejected or withdrawn. In this review period, as in the previous one, Quebec farmers made the greatest use of the Mediation Service - both absolutely and relatively. The next highest level of activity was in Saskatchewan, followed by Alberta and Ontario. Though the number of participants in the Atlantic provinces was fairly small, the relative level of use was greater than all other provinces, except Quebec, because of the smaller number of farmers.

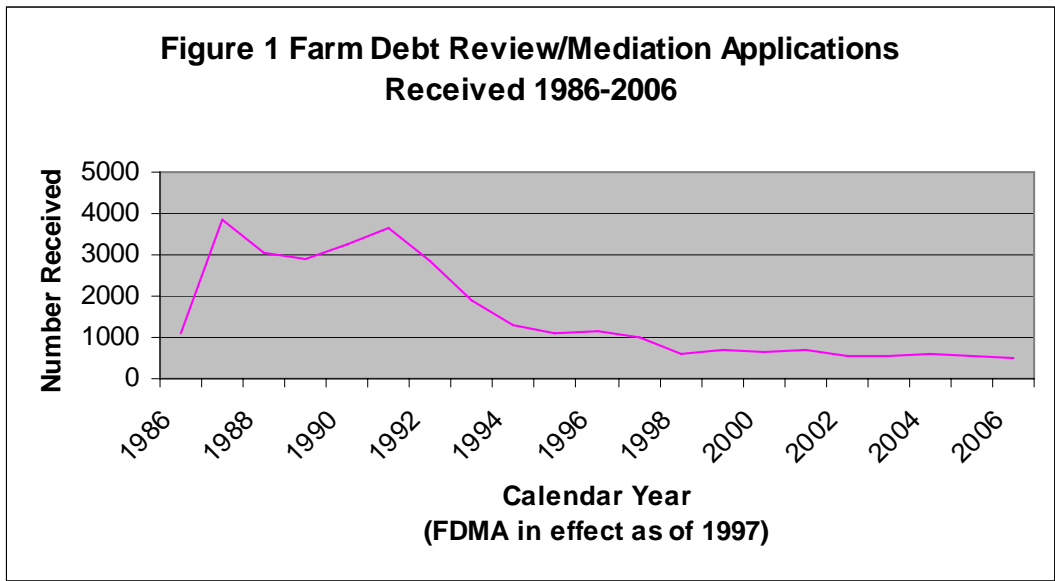
**ACTIVITY REPORT FOR FARM DEBT MEDIATION SERVICES BY PROVINCE  
AND CANADA - TOTALS FOR FISCAL YEARS 2004/2005 THROUGH 2006/2007**

	Applications Received Under Section 5(1) of <i>FDMA</i>			Applications Withdrawn/ Rejected	Applications Completed		
	5(1)(a)	5(1)(b)	Total		No Arrangement	Arrangement Signed	Total
<b>Newfoundland and Labrador</b>	1	1	2	0	1	1	2
<b>Prince Edward Island</b>	23	14	37	2	9	23	32
<b>Nova Scotia</b>	13	10	23	4	7	8	15
<b>New Brunswick</b>	17	6	23	1	7	11	18
<b>Quebec</b>	270	233	503	63	98	341	439
<b>Ontario</b>	182	32	214	56	25	141	166
<b>Manitoba</b>	69	64	133	32	13	87	100
<b>Saskatchewan</b>	122	340	462	80	52	334	386
<b>Alberta</b>	125	55	180	22	16	152	168
<b>British Columbia</b>	32	11	43	7	10	31	41
<b>CANADA</b>	854	766	1620	267	238	1129	1367

Source: Prepared from annual (fiscal year) activity reports for FDMS - 2004/2005 through 2006/2007.

Figure 1 below shows the number of debt review/mediation applications received, by calendar year, from 1986 through 2006. It shows that farm debt activity levels in the review period, 2004/2005 through 2006/2007, were fairly similar to, though slightly below, what they were in the previous review period, 2000/2001 through 2003/2004. This continues the modest, though not dramatic, downtrend in FDMS applications received that has been observed since the mid-to-late nineteen nineties. As also shown by the same line graph, in the mid-to-late eighties and early nineties, the incidence of financial difficulty and insolvency in the farm sector was unusually high due in large part to the combined effects of historically high interest rates in the late seventies and early eighties, cyclically low product prices in certain sub-sectors, and especially in the hog sub-sector, and some erosion of farm asset values in some parts of Canada.

Subsequently, interest rates declined substantially and financial conditions in the sector stabilized to an important extent. A gradual decrease in the number of insolvent farmers was not surprising during a period of comparative stability in farm financial conditions. Interest rates continued to decline, farm asset values increased in most parts of the country and farm financial conditions have been, on average, though far from universally, comparatively stable.



NOTE: Both insolvent farmers and farmers in financial difficulty were eligible under the FDRA, whereas only insolvent farmers are eligible under the FDMA.

Another factor that may have contributed to a lower number of FDMS applications in 2006 and 2007 was the Canadian Farm Family Options Program (Options) which supplemented the family incomes of eligible farmers. Over 15,000 farm families participated in this program which probably assisted some to become current on their debt obligations, avoid insolvency and not require FDMS. Some decline in the demand for FDMS could also be expected from the continuing long run decline in farm numbers.

As FDMS activity levels are an important component of a review of FDMS operations, so too are the steps taken by insolvent farmers, through the facilities of FDMS, to deal with their insolvency. The table below shows the types and frequencies of actions taken as a result of FDMS by farmers who used it during the review period, 2004/2005 through 2006/2007. It provides information about the range of actions farmers took as a result of using FDMS.

**Actions Taken by Farmers Who Participated in FDMS During Review Period and Reached a Signed Arrangement**

<b>Action/Activity</b>	<b>Percentage of Farmers</b>
Obtain Off-Farm Employment	Less than 1%
Restructure Debt	46%
Dispose of Some Assets	21%
No Change	Less than 1%
Satisfactory Exit Arrangement	15%
Bankruptcy	3%
Combination Of: Sale of Assets/Restructuring Debt and/or Management Changes/Other	14%

Not surprisingly, debt re-structuring was the most common action reported by FDMS participants to improve their situation during the review period; it was a course of action in over 45 percent of cases. Some sort of debt re-structuring, such as re-scheduling or deferring of interest and/or principal repayment, is an obvious consideration in negotiations with creditors during mediation. The next most common action was to dispose of some assets or scale down. Similar to debt re-structuring, disposing of some capital assets, if feasible, with some of the proceeds to be applied to debt obligations, is also a fairly obvious consideration as a means of resolving debt servicing problems. Given that debt levels and debt servicing are the primary concern of FDMS participants, it would be expected that these two types of decisions were the predominant results of a mediated negotiated arrangement to resolve an insolvency.

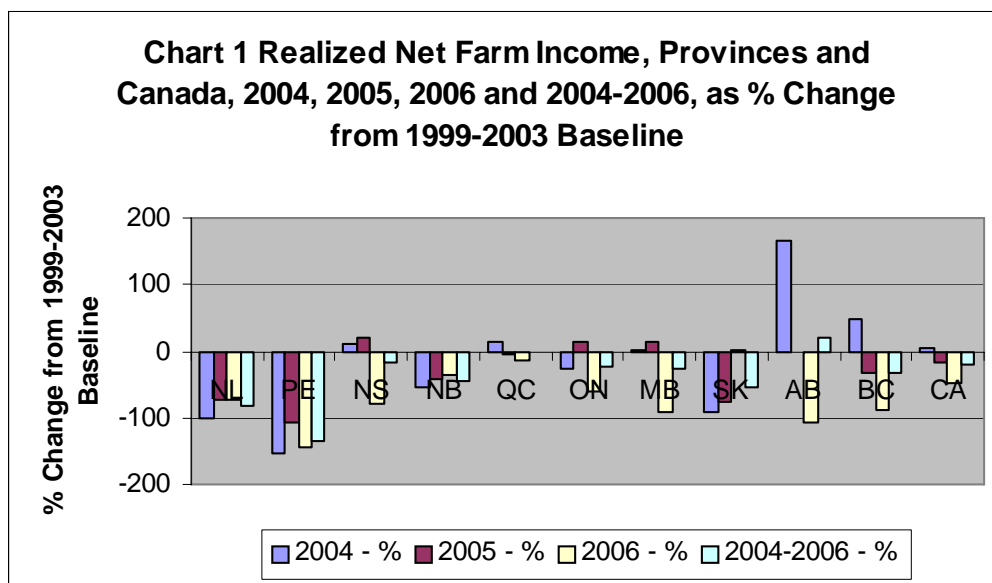
Approximately one in six (15%) of FDMS participants in the review period reported exiting the industry following mediation. This percentage of exits among all FDMS participants is probably about what one might expect, on average, for the cases that come to FDMS. It is, of course, well recognized that a satisfactory transition to another line of endeavour is not a failed FDMS process. Although maintaining the farm business remains a very high priority for most farmers who use FDMS, some financial situations are just too difficult to resolve in a way that maintains the business and sometimes too the entire situation and prospects for the family are simply improved by leaving the industry. As one example, one farmer who used FDMS and who did leave farming said ‘I’m a very happier man’.

During the financial review process, and depending on the seriousness of the farmer’s financial situation, a farmer often has the opportunity to consider a fairly broad range of options. In the course of considering these alternatives, farmers are often made aware of other resources and information sources such as opportunities for training and contacts for other programs and for other expertise. The objective here is to assist them in pursuing their business, personal and family goals.

#### 4. PERSPECTIVE ON CANADA'S DOMESTIC FARM ECONOMY IN REVIEW PERIOD

During the period covered by this review, Canada's domestic farm economy experienced both positive and negative pressures. Within the overall agriculture sector, different sub-sectors were often subject to different economic conditions: for example, economic situations varied greatly between the livestock and grains sub-sectors. Some of the differences in the economic situation arose from domestic events; others arose from international events and economic conditions. This was the case during the three-year period 2004/2005 through 2006/2007.

Chart 1, below, shows how realized net farm income in the provinces and in Canada, in each year of the current review period, 2004, 2005 and 2006 and on average, compared with the average of the five years, 1999 through 2003. For the most part, realized net farm incomes were weaker in the review period than in the 1999-2003 baseline. Relative to the baseline, realized farm net income (net cash income minus depreciation plus income in kind) was under some pressure in all provinces except Quebec and under significant pressure in several provinces.



During the three years of this operational review period, 2004 through 2006, realized net farm income per year, at the Canada level was on average below what was experienced in the previous three year period, 2001 through 2003. In the current period, realized net farm income in the Canadian farm sector averaged \$1.61B per year while in the previous period, it averaged \$2.4B. The decline in realized net farm income, at the Canada level, from the previous period, was primarily attributable to higher operating costs in the sector. Farm cash receipts from all sources, i.e., crops, livestock and program payments, were similar in both periods; however, operating costs increased and accounted for almost the entire reduction in realized net farm income at the Canada level. Among the ten provinces, the cash receipts and operating costs in the review period were similar to that for Canada - relatively stable cash receipts and significantly higher operating costs in comparison to the previous review period.

While realized farm incomes, nationally and in most provinces, were generally weaker during the review period, the most recent forecasts by AAFC for 2007 and for 2008 are more favorable. At the Canada level, realized net farm income in calendar year 2007 was forecast (in January 2008) to be \$1.57B - 86% above the level of \$0.84B in 2006. For 2008, realized net farm income is forecast to be \$2.57B - an increase of 64% over the forecast for 2007. However, it should be noted that most of the forecast improvement in realized net farm income is due to the current highest ever prices for grains and oilseeds. Accordingly, the impact of the improvement in forecast net income is most significant in the Prairie provinces. Conversely, in the remaining provinces, realized net farm incomes are generally forecast to be weaker in 2007 and in 2008 because of the lower realized net farm income of other sectors, such as livestock.

One might have expected that weaker farm incomes during the review period, 2004/2005 through 2006/2007 would have resulted in some increase in farm insolvencies and therefore increased applications to FDMS. Additionally, the review period ended with unusually weak markets and significantly higher feed grain costs in both the hog and beef sub-sectors. Also, a markedly stronger Canadian currency has made Canadian farm products considerably more expensive and less competitive in export markets. As noted earlier in this report, FDMS applications, at the Canada level, did not increase in fiscal 2006/2007. And they did not increase, at the Canada level from April through December 2007; from April 2007 through December 2007, FDMS applications at the Canada level totaled 347 compared to 360 in the same period in 2006. Three provinces - Saskatchewan, Alberta and British Columbia - had declines in that period from a year earlier and Manitoba had virtually no change. However, in the same period, FDMS applications increased in Quebec from 121 to 164, in Ontario from 39 to 60 and in the Atlantic provinces from 16 to 31. A number of factors could have been at play but it is likely that a large portion of the increase in those provinces was attributable to the unusually difficult financial circumstances in the hog sub-sector in recent months. Meanwhile, unusually strong prices for grains and oilseeds have resulted in improved financial positions for producers of these crops. In some cases, application to FDMS is made some time after insolvency occurred.

Another view of the farm financial situation is available from farm level data. AAFC's annual Farm Finance Survey (FFS) is based on farm level data from a statistically representative sample of farms of different types and sizes from all provinces. This data is used to develop representative farm income statements, balance sheets and cash flow statements by type and size of farm, by province or region and for Canada. The most recent FFS was based on information for calendar 2006 and collected in 2007. Regarding the overall financial situation, a farm business can be considered to be under significant financial stress if it has less than 75% equity and net cash flow of less than \$35,000. Within the sector, about 4% of cow-calf farms, 7% of cattle farms, 8% of grains and oilseeds farms and 16.3% of hog farms could be considered to have been under significant financial stress in 2006. Given the low hog prices and the high feed prices, it is not surprising that the hog sub-sector had the highest percentage of farms at risk with 16.3% of hog farms considered to be under significant financial stress. A possible reason that the cow-calf sub-sector does not show a higher percentage experiencing significant financial stress than it does is that, relative to hog farmers, the average cow-calf operator has more off-farm income which is normally unaffected by farm returns. Though these % are not necessarily predictive of the demand for FDMS, they show relative conditions in different sub-sectors. A factor that impacts on farm insolvencies and on the demand for FDMS is the trend in value of

farm property and especially of farm land. Over the nine year period 1997 through 2006, the average per acre value of land and buildings in the farm sector at the Canada level increased from \$758 in 1997 to \$975 in 2006 - an increase of 28.6%. The compound annual rate of increase over the nine years was 2.84%. This steady increase in the value of farm property, whether justified on business grounds or not, had the effect of increasing the equity of every farmer and, *ceteris paribus*, reducing his/her financial risk and in large measure protecting the interests and reducing the exposure of lenders who had accepted farm property as mortgage security. The increases in the value of land and buildings over the last ten years has not been unrelated to the fact that during that time, interest rates were continuing their long run decline from the highs of the early 1980s. Concurrent with increasing land values and declining interest rates, the level of farm industry debt has also steadily increased over the last ten years. It is worth noting that declining interest rates may have helped some farmers avoid insolvency as lower interest costs may enable a business to service its debt even with a reduced cash flow.

## **5. CONTRIBUTION OF THE FARM DEBT MEDIATION SERVICE TO DEPARTMENTAL PRIORITIES AND TO RISK MANAGEMENT IN THE AGRICULTURE SECTOR**

FDMS contributes to the goals of helping the agricultural sector maximize its contribution to Canada's economic objectives while maintaining a strong foundation for the agriculture and agri-food sector and rural communities. Within this latter priority, the services contribute to greater self-reliance within the sector, to taking advantage of market opportunities and providing assistance to those negatively affected by changes that impact on the farm economy. FDMS contributes by assisting participants to resolve insolvency, improve their financial position and realize business and family objectives. Participants in FDMS take a variety of steps to do this, including farm business expansion or downsizing, adding new enterprises or divesting of existing enterprise(s), diversifying income sources through, for example, non-farm employment, debt restructuring or improving productivity by reducing costs or improving revenues of existing enterprises. In some cases of course, and as circumstances warrant, FDMS also facilitates transition, of the farmer and/or family, from agriculture to another line of endeavour or, in some cases, to retirement. The FDMS is an integral component of the programs and services offered to farmers by AAFC. Risk management in any enterprise - whether in agriculture or in any other sector - is ultimately the responsibility of the owner and/or manager. At the same time, in agriculture, governments typically assist the agriculture sector to manage risk by helping individual farmers to reduce the private costs of risk management.

The FDMS is one of several Departmental programs that assist the sector, through assisting individuals, to manage risk or to recover from the effects of unforeseen events. It is complementary to other Departmental programs, and to risk management programs in particular, and does not overlap or conflict with other programs offered by the Department. It is the only permanent Departmental program targeted specifically to individual farmers experiencing debt-related financial difficulty.

More generally, and in terms of farmers' management of the ongoing risks that they encounter in their farming lifetimes, there are uninsurable financial risks in most farming enterprises. Some of these uninsurable risks can be managed to some extent - say through enterprise selection or through production and market risk programs in which producers and governments cost-share some of the production and/or market risks. Examples of such programs are: AgriInvest, which is a savings account for producers, supported by governments, which provides coverage for small income declines and allows for investments that help mitigate risks or improve market income; AgriStability, which provides support when a producer experiences larger farm income losses and which covers declines of more than 15% in a producer's average income from previous years; AgriRecovery, which is a disaster relief framework, provides a coordinated process for federal, provincial and territorial governments to respond rapidly when disasters strike, filling gaps not covered by existing programs; and AgriInsurance, which provides insurance against production losses for specified perils (weather, pests, disease) and is being expanded to include more commodities.

The risk-related programming niche that FDMS fills that is not addressed by other initiatives is where income levels, either from a drop in income or from simply being inadequate, results in, or is associated with, debt servicing problems and insolvency. Income and/or cash flow problems often result from unfavorable outcomes such as unexpectedly low prices, diseases such as BSE, crop failure or just serious errors in judgment and management. When these income/cash flow problems intersect with and are compounded by difficulties in servicing debt, the FDMS can be accessed - almost as another form of insurance - by farmers who may need such assistance. FDMS is available when a farmer has no other option and is the last resort among risk management programs and services.

One effective way of monitoring whether the FDMS is keeping up with, and adequately addressing, clients' needs is the evaluation/feedback responses that farmers and creditors are invited to provide on conclusion of the services. These evaluations provide a unique opportunity for both farmers and creditors to express how they feel. Agriculture and Agri-Food Canada has introduced revised feedback forms which better capture clients' perceptions as to whether their needs are being met. Additionally, the national database contains protected information on the balance sheets, income statements, enterprise types and so on of Farm Debt Mediation participants. Changes, over time, in this information, can indicate changes in the characteristics, and logically the needs, of the farmers and farm families that need and use FDMS. FDMS managers continue to monitor and review the information and trends in the national database for this service.

## **6. ASSESSMENT OF FARM DEBT MEDIATION SERVICE AGAINST PROGRAM OBJECTIVES AND HIGHLIGHTS OF OPERATIONAL REVIEW - 2004/2005 THROUGH 2006/2007**

Under Section 28.(1) of the *Farm Debt Mediation Act*, the Minister is required, every three years, to conduct a review of the operation of the Act, and may for that purpose consult with representatives of such organizations as the Minister considers appropriate. A review of the



operation of FDMS was conducted during the fall of 2007 through early 2008. The framework for the review was prepared by the Renewal Division of AAFC. The review identified four main issues/questions to be examined in the course of the evaluation. They were: appropriateness of program design; achievement of results; costs and benefits; and management effectiveness. The framework also created a logic model for FDMS and potential indicators for each of the issues/questions and data sources. The report on the review was completed in March 2008.

The operational review was based on a combination of analysis of program activity information and analysis of the viewpoints and opinions of stakeholders. Telephone interviews were conducted with a total of 91 persons - farmers, creditors and other stakeholders such as financial consultants, industry spokesperson(s), mediators and program managers in all provinces. Additionally, feedback forms completed by farmers and creditors at the conclusion of mediation were reviewed and analyzed, along with data on participation levels, documents such as the Act and its Regulations, program manuals and the national database.

The review of the operation of the Act found, as did the previous reviews, a reasonable level of satisfaction with the FDMS process and results among farmers who have utilized the service and among creditors who have been involved with FDMS at mediation. The main findings were:

- FDMS continues to meet satisfactorily the needs of most eligible farmers who use the service and of most creditors who participate in the mediation sessions offered by FDMS. With some relatively few exceptions, most farmers and lenders report a fairly high degree of satisfaction with the FDMS process.
- A large majority of farmers contacted felt that FDMS helped them to reduce the stress of their situation and nearly all reported that their situation was improved as a result of using FDMS.
- From the longer term perspective, based on a sample of farmers who had participated in FDMS in 2005/2006 and in 2002/2003, the large majority responded that FDMS had had a positive impact on their situation and had assisted them to satisfactorily resolve their serious financial problem. More specifically, farmers who had used FDMS reported reduced stress (70%), an improved situation (76%), reduced risk and/or credit/debt problems (100%), helped maintain constructive relations with creditor(s) (50%), increased off-farm income (30%) and higher farm revenues (20%). From the creditors' perspective, a high proportion (82%) felt that the information, developed by the financial consultant and farmer and provided to them, increased their understanding of the farmer's financial situation, the majority (54%) felt that FDMS resulted in lower costs of debt recovery and roughly one-quarter (27%) felt that the FDMS process resulted in more debt recovery than would be the case if they had to proceed by way of court action.
- The number of farmers who made application to FDMS during this review period, 2004/2005 through 2006/2007, was about 12% below the number in the previous period, 2000/2001 through 2003/2004, and the number of applications in the last fiscal year of the review period, 2006/2007, was the lowest of any year since FDMS was introduced.

The percentage of farmers who used FDMS in 2001/2002 and in 2006/2007, relative to the number of census farms in 2001 and in 2006 respectively, declined. The smaller number of FDMS applications is reflective of the relative stability in overall farm financial conditions in recent years and more recently the impact of the Options program in improving the financial situation of Options program participants.

- Farm financial conditions in 2006/2007 indicate serious financial problems in the hog sub-sector and to a lesser extent in the cow-calf sector and may lead to increased use of FDMS for these sectors. As of late 2007, grains and oilseeds prices are at historically high levels and should mitigate somewhat the situation of grains and oilseeds farmers in a weak financial position.
- 74% of farmers felt that their recovery plans, prepared with the financial consultant, for consideration by creditors were either 'useful' or 'very useful' during mediation. From creditors' perspectives, 86% felt that the recovery plans presented were reasonable and practical to 'a great extent' (45%) or 'to some extent' (41%). Given the issues at play and the interests of the different parties, these are fairly positive outcomes.
- In the opinion of both farmers and lenders contacted during the review, arrangements reached through mediation are generally stable and in most, though not all cases, carried out in line with the terms of the signed arrangement. Unforeseen events such as unfavorable weather and/or product prices and, in certain cases, a farmer's unwillingness to fulfill his/her obligations under the arrangement, were most often cited as the reasons for an arrangement going off track.
- The Farm Business Assessment (FBA) initiative is generally considered by program staff and consultants to have the potential to reduce, modestly, the demand for FDMS.
- Lenders maintain a closer watch on delinquent accounts than previously and the amount and quality of the financial information they have about their farm accounts, and other accounts, has improved significantly.
- Farmers who use FDMS are, on average, more willing to use the opportunity provided by FDMS to explore all of the options and not just the option, above all others, to continue farming.
- Manitoba's and Saskatchewan's services for insolvent farmers and their creditors remain broadly similar to services offered by FDMS. While this probably results in some duplication of effort, coordination between federal and provincial staff for the respective programs helps to better satisfy the interests and needs of farmers and minimize costs to the public.
- FDMS is an integral part of AAFC's presence in the farm community and the program plays an important role in the continuum of programs and services to farmers. While it

does not have a high profile, it does not need one to be valuable and useful and important to those who need and use it. No significant changes are needed or recommended at this time.

While the findings of the review of the Farm Debt Mediation Service were positive overall, there were some participants, albeit a minority - among both farmers and creditors - whose experience had not met their expectations. This can be due to failed attempts at reaching an arrangement or by one of the parties to mediation considering that the other party did not abide by the signed arrangement. Their viewpoints, observations and insights were as important and valuable as those whose experience did meet their expectations.

## **7. DEVELOPMENT AND EVOLUTION OF PROGRAMS AND SERVICES FOR AGRICULTURE SECTOR IN REVIEW PERIOD**

Government programs and services for agriculture evolve over time in response to changing priorities and to changing needs in the sector. This has been true for the milieu within which FDMS operates.

At their meeting in Toronto on November 16 and 17, 2007, Ministers of Agriculture from federal, provincial and territorial governments agreed to continue existing programs under the current Agriculture Policy Framework (APF) for up to one additional year, starting April 1, 2008. Governments have committed to providing the sector with sufficient notice of any program changes to ensure smooth transition. To facilitate a smooth transition from APF to Growing Forward, APF programs will continue until new programs are ready to launch. In the meantime, Ministers will continue working together and consulting with farmers and the sector on designing programs for the next generation of programs under Growing Forward.

### RENEWAL

Renewal programs and initiatives under the APF provide producers with access to information, skills, knowledge, and advisory services in farm business management. Assistance is available through regional Agri-Renewal offices to help farmers to:

- Assess the farm business (see page 6 for details)
- Develop an action plan for the farm business (see page 6 for details)
- Develop a succession, marketing, business or other specialized plan
- Take training to expand skills
- Determine the feasibility of value-added opportunities on the farm
- Benchmark for success through comparison with other farms of similar size and type

The FDMS was in place before the APF and its renewal components were developed. Although not part of the APF, the FDMS is delivered through regional Agri-Renewal offices and is consistent with Renewal's emphasis on assisting farmers to assess their situation and their options, to identify needed changes and, where appropriate, to provide referrals to other initiatives, offices and agencies that can help farmers acquire needed resources and skills.

Similar to Renewal programs and services, the FDMS provides farmers with consulting services, but in addition, helps farmers and their creditors through the provision of mediation services - a confidential and economic alternative to resolving insolvency disputes in the courts.

## NEW PROGRAMS AND SERVICES

As Renewal matured, it expanded the complement of programs and services offered to farmers. The Renewal component of the Agricultural Policy Framework refined its programs and developed additional programs and services to better meet its goals and to round out the suite of offerings to farmers in all provinces.

Under the umbrella of the Canadian Farm Business Advisory Services (CFBAS), Renewal introduced the Special Business Planning Services (SBPS) in 2004. This initiative assists farmers to develop a succession, marketing, business or other specialized plan. Also in 2004, Renewal introduced the Planning Assistance for Value-Added Enterprises (PAVE) initiative. As the name suggests, PAVE assists farmers to determine the feasibility of value-added opportunities on the farm. Both of these initiatives are cost-shared between the farmer and the federal government. The most recent initiative, launched in 2005, is the Canadian Agriculture Skills Service (CASS) program. CASS is oriented to human resource development and assists farmers and family members to assess their own interests and capabilities and when appropriate to acquire new skills and/or upgrade existing skills. CASS provides funding and practical assistance for a farmer and their spouse (if applicable) for the development of a learning plan that will lead to increased opportunities for a profitable farm. Under CASS, a farmer and his/her spouse work with a professional to develop an Individual Learning Plan and access funding to help pay for skills training and associated costs.

## **8. FUTURE STEPS**

The policy direction of the Renewal component of the Agricultural Policy Framework is to assist farmers to enhance their profitability, and enhance networks to better link scientific advances to the creation of new economic opportunities. Renewal efforts include enhanced business management and consulting services, management information and marketing information to assist farmers. Farmers, as do all business managers, operate in a dynamic and rapidly changing economic environment. Both opportunities and pressures are constant challenges. The requirement to change, to adjust and to adapt are hallmarks - in the short and in the long term - of modern farming. Both the FDMS and the FBA fit well within the policy priorities of the Renewal component of the Agricultural Policy Framework. The programs acknowledge a public interest in assisting farm families to cope with the impact of both foreseen and unforeseen events. As virtually any type and size of farm business can encounter financial difficulties, either debt-related or not, these two programs offer a valuable service to such farms and families.

The FDMS is now a mature program and a well accepted component of services available to Canada's farm sector. It achieves the objectives of the Act through a set of services that have been found to satisfy the needs of insolvent farmers and their creditors. Over the years, FDMS

managers have refined and improved the FDMS process and procedures and will continue to do so as the need arises.

## **9. NEXT REPORT**

As provided for by the *Farm Debt Mediation Act*, the Minister will next report to Parliament on the *Farm Debt Mediation Act* and the FDMS in three years' time, in 2011. The Farm Business Assessment component of the Canadian Farm Business Advisory Service will be evaluated as part of the ongoing evaluation of the Renewal Programs.