



Office of the Superintendent  
of Bankruptcy Canada

An Agency of  
Industry Canada

Bureau du surintendant  
des faillites Canada

Un organisme  
d'Industrie Canada

# Addressing the Future



## Three-Year Business Plan 2009-2010 to 2011-2012

Canada



Protecting the  
Integrity of the  
Insolvency System

Protéger l'intégrité  
du système  
d'insolvabilité

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## Message from the Superintendent of Bankruptcy

The Office of the Superintendent of Bankruptcy (OSB) was established in 1932 pursuant to the *Bankruptcy Act* to provide independent and impartial supervision of the insolvency system. As the new Superintendent of Bankruptcy, I am pleased to be able to continue the tradition of professionalism and dedication demonstrated by my predecessors, and I proudly recognize and appreciate the hard work of the staff that carry out the day-to-day-work of this Office. I also wish to thank the members of the Management Advisory Board for their strategic support.

The insolvency system is one of the pillars of the financial sector that supports the credit and investment markets. It establishes a legal framework that allows lenders and investors to have confidence in the Canadian marketplace and to facilitate the pricing of their risks. The framework must provide a degree of predictability of access to an honest, fair and transparent process as to the equitable distribution of assets when insolvency occurs, and to the ability to effectively resolve conflicts. It also must enable honest debtors who have had misfortune to secure a discharge so that they might make a new start.

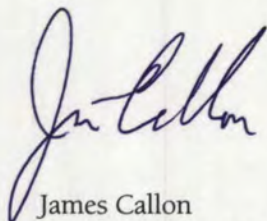
I am tabling a business plan with a three-year horizon, a period during which I expect that the capacity of the Office and the insolvency system will be tested. We will face significant stresses as a result of the present economic turmoil, which has already resulted in an increase of 13.1 percent in filings between the 2007 and the 2008 calendar year. Over the course of the year, over 400,000 consumer and business estates have been under the OSB supervision. More than ever, clients and stakeholders will need to be assured that the Office is appropriately managing the insolvency system, and that its processes are designed to be efficient, effective and capable of dealing with significant volumes of work. We must quickly assess our key program strategies and update them to reflect the expected outcomes from the present economic turmoil:

- **Accountability Strategy:** review and strengthen the OSB's accountability framework;
- **Communication Strategy:** review how well and how effectively the OSB communicates with and informs the public and stakeholders, and address any shortcomings;
- **Compliance Strategy:** review the OSB's compliance framework to identify any compliance gaps, risks and process improvements, and address any shortcomings.

This multi-year plan is ambitious and focuses on building on a strong foundation over the longer term. I am confident that the professionalism and contributions of management, staff, the OSB Management Advisory Board and stakeholders will enable its success. The plan will require a firm commitment to risk- and principle-based regulatory oversight, results-based management, strategic planning, and evaluation, as well as accountability.

In looking to the future and considering the global economic crisis, we must rely on the continuing hard work, honesty and professionalism of our stakeholders, who contribute to the efficiency of and public confidence in the Canadian insolvency system through their day-to-day work. These stakeholders include the trustee community, the insolvency lawyers, the courts and registrars, the receivers, the liquidators and auctioneers, policy makers, among others, all of whom must work in support of an effective insolvency system.

The OSB is committed to the delivery of an effective service that protects the public interest and is responsive to the needs of Canadians and all stakeholders. The OSB will continue to provide its services in a professional, open, effective and fair manner.



James Callon  
Superintendent of Bankruptcy

# 1. Purpose

## 1.1 Introduction

The insolvency system has evolved from a rather simple legal framework designed in the 19th century to deal with traders of goods and financiers. Today's much broader and more complex framework balances the interest of a variety of stakeholders who may be party to an insolvency process, whether it be the interests of a consumer, a supplier, a creditor, a business and so on.

In 1927, the Ontario Court aptly described the purpose of bankruptcy relief as follows (*Re Newsome* 3 DLR 828):

... to enable an honest debtor, who had been unfortunate in business, to secure a discharge, so that he might make a new start, and ... although the unsecured creditors receive nothing.

It evolved to a framework, which, in 1995, Canada's Supreme Court (*Husky Oil v Canada* 1995 3 SCR 453) opined that:

Our bankruptcy system serves two distinct goals. The first is to ensure the equitable distribution of a bankrupt debtor's assets among the estate's creditors *inter se*.

Bankruptcy serves this goal by replacing a regime of individual action with a regime of collective action. While the pre-bankruptcy regime of individual action allows creditors to pursue their separate and competing claims to the debtor's assets, bankruptcy's regime of collective action sorts out those diverse claims and deals with the debtor's assets in a way which brings benefits to creditors as a group (reduced costs, increased recovery). ...

The collectivization of insolvency proceedings can only be achieved by denying to creditors the use of pre-bankruptcy remedies.

The second goal of the bankruptcy system is the financial rehabilitation of insolvent individuals. This goal is furthered through the opportunity for an insolvent individual's discharge from outstanding debts.

Frank Bennett, a well-known author on insolvency, offers a practitioner's view when he further describes the objectives of the system, as follows:

Bankruptcy and insolvency legislation serves several purposes. While there has been much written on this subject, the purposes can be reduced to several major objectives:

1. to distribute the proceeds of the bankrupt's assets equitably and in accordance with a scheme of distribution;

2. to punish fraudulent debtors where there are breaches of certain standards of conduct;
3. to reform debtors whereby they can relieve themselves from financial debt and become rehabilitated;
4. to maintain confidence in the credit system such that credit grantors can seek redress for wrongdoings of debtors;
5. to permit debtors an opportunity to make proposals where individuals, or restructurings where corporations, of their debts without going into bankruptcy.

Frank Bennett, *Bennett on Bankruptcy* 8th Edition,  
CCH Canadian Limited, Toronto, 2005, 22.

## 1.2 Mandate of the Office of the Superintendent of Bankruptcy

The Office of the Superintendent of Bankruptcy (OSB) was created in 1932 under the *Bankruptcy Act* to provide an independent, impartial and official supervision of trustees administering estates. The *Bankruptcy and Insolvency Act* (BIA) states that the Superintendent shall supervise the administration of all estates and matters to which this Act applies. The duties of the Superintendent under the present BIA include:

- **Receiving applications** for and issuing licences to persons to act as trustees.
- **Requiring the deposit**, as appropriate, of guaranty bonds and/or suretyships to ensure faithful performance by trustees.
- **Making inspections and investigations** of estates or other matters to which the Act applies, as the Superintendent may deem expedient.
- **Keeping records** of complaints with respect to estates, and investigate as the Superintendent may determine appropriate.
- **Examining trustees' accounts** of receipts and disbursements and final statements.

The Superintendent's powers are also provided in the Act and include:

- **Intervening in any matter or proceeding** in court where the Superintendent considers it expedient to do so.
- **Issuing directives** with respect to:
  - keeping records;
  - providing the Superintendent with such information as the Superintendent may require;
  - giving effect to any decision of the Superintendent and/or to facilitate the carrying out of the purposes and provisions of this Act and the General Rules;



- governing the criteria to be applied in determining whether a trustee licence is to be issued to a person, and governing the qualifications and activities of trustees;
  - prescribing the form of any document.
- **Engaging such persons** as the Superintendent may deem advisable to conduct any inspection or investigation or to take any other necessary action outside of the office of the Superintendent.
  - **Where the Superintendent suspects**, on reasonable grounds, that a person has committed an offence under this Act or any other Act of Parliament, the Superintendent may, if the alleged offence might not otherwise be investigated, make or cause to be made such inquiries or investigations as the Superintendent deems expedient with respect to the conduct, dealings and transactions of the debtor concerned, the causes of the bankruptcy or insolvency of the debtor, and the disposition of the property of the debtor.

### 1.3 Vision

The OSB has updated its vision to state:

Provide leadership in protecting the integrity of the Canadian bankruptcy and insolvency system, a pillar of the marketplace.

### 1.4 Mission

The OSB's updated mission is to:

Contribute to a fair and efficient marketplace by protecting the integrity of the bankruptcy and insolvency system for the benefit of investors, lenders, consumers and the public interest.

### 1.5 Strategic Objectives

In considering the future challenges that the OSB must face, it has updated its strategic objectives to the following:

- maintain an efficient and effective regulatory framework;
- promote awareness of the rights and responsibilities of the stakeholders in the insolvency system;
- ensure trustee and debtor compliance with the legislative and regulatory framework; and
- be an integral source of information on Canadian insolvency matters.

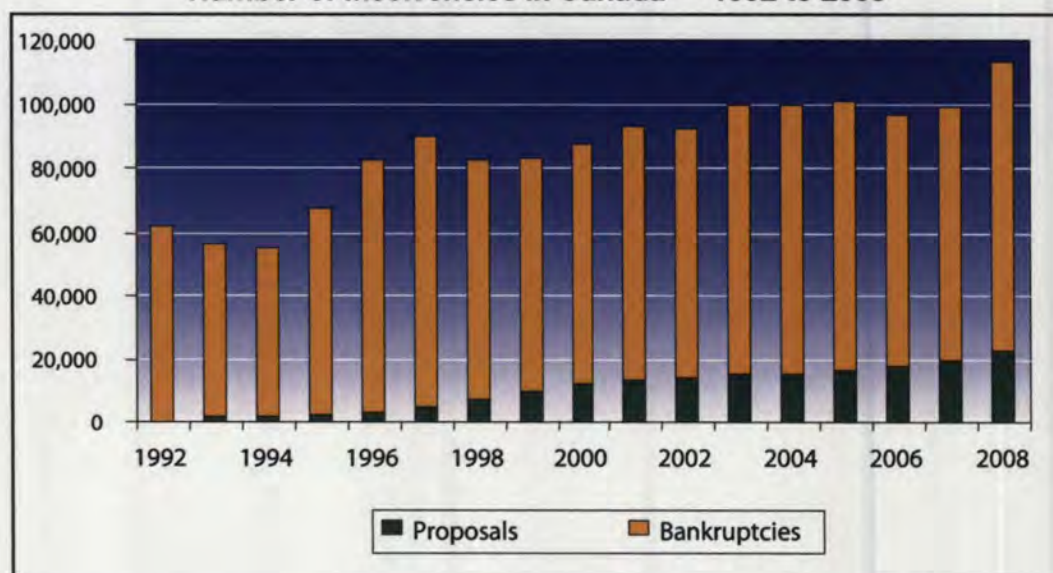
## 2. Understanding the Present Economic Turmoil

### 2.1 The Economic Situation

Since the fall of 2007, there has been significant turbulence in the world's credit markets, disrupting financial markets and national economies throughout the world. Canada is not immune from these economic failings and as a result is facing a high level of friction in credit markets in terms of accessing funds at a reasonable cost. As well, Canada is seeing declines in consumer confidence and spending and losses of wealth in equity and housing markets. At the same time, consumer debt remains at an all-time high, liquid savings are at an all-time low and unemployment rates are rising.

These factors are already having an impact within the insolvency system. For example, consumer bankruptcies increased 13.5 percent year over year from 2007 to 2008, while consumer proposals for debt renegotiations with creditors went up 17.4 percent. Over the same period, business bankruptcies declined 2.0 percent, and proposals also declined by 2.9 percent. This does not include, however, filings in the courts under the Companies' Creditors Arrangement Act (CCAA). Comparative American data shows an increase in individual bankruptcies and insolvencies of more than 30 percent. This trend for consumers is likely to continue or may even accelerate over the upcoming three planning years. The decline in insolvencies for business is expected to reverse itself and show increases as well during the next year. Also, economic forecasts are suggesting a significant increase in unemployment into 2009, which is expected to continue well into 2010, if not longer. With higher unemployment, reduced consumer spending, high consumer debt levels and little liquid savings, consumers and businesses can be expected to have a declining capacity to cope with ever-tightening budgets.

Number of Insolvencies in Canada – 1992 to 2008



Clearly, the economic situation will create pressures within the insolvency system. These pressures include:

- **Trustees** having to respond to many more debtors seeking timely access to insolvency protection, while at the same time maintaining the quality and timeliness in the trustees' administration of estates.
- **Courts** being able to provide timely consideration of cases, as well as direction for proceedings pursuant to the BIA and the CCAA.
- **Receivers** being able to undertake an expedient seizure and the realization of assets, including the provision of adequate storage and asset security.
- **Credit markets** having difficulty finding funds to finance existing and new debt while responding to increased risks in the market, including a continuing decline in the value of secured assets, as well as in the overall ability of consumers to repay debt.
- **Consumers and businesses** having the ability and support to cope with financial commitments and stress.

## 2.2 Addressing the Pressures

Over the past few years, trustees and the OSB have invested in technology to aid in the processing of insolvency cases. As a result, the use of electronic filings of insolvency proceedings has positioned the system to handle the expected increase in case volume. Nevertheless, other steps in the process of estate administration will present challenges to the trustee community, which has indicated that it is nonetheless capable of meeting demand. The Court system in major centres may face backlogs with respect to proceedings in provincial courts. The work of receivers and their ability to realize on assets may also be strained as the market becomes saturated with increased volume, decline in demand, and declining asset prices. We expect these stresses on the system to increase public and creditor complaints.

The economic situation presents several challenges that the OSB will face during the next three years. The first challenge is to increase the capacity to extensively and effectively monitor all aspects of the insolvency system so as to identify shortcomings before they become critical. To do this, the OSB will do the following:

- Develop and implement a comprehensive communications strategy, including improved information for the public and opportunities throughout the year to discuss with stakeholders the impact of these pressures and how the OSB can assist in dealing with them.

- Enhance the management, analysis and internal processing of public complaints and inquiries to respond to expected increases in demand.
- Increase the level of information generated by the OSB's economic analysis unit to examine the economic and operational consequences of the present economic situation on the insolvency system for the benefit of policy makers, stakeholders and itself.
- Review and strengthen the OSB's compliance framework to ensure that it can respond to the increased demands for effective oversight of trustees and debtors.

## **OSB Strategies to Meet External Challenges**

- Establish a comprehensive communications strategy.
- Increase capacity to deal with inquiries and complaints.
- Increase capacity to examine and analyze the economy's impact on the insolvency system.
- Review our compliance framework to ensure effective oversight.



## 3. Our Organization

### 3.1 Values and Commitments

The OSB is a key contributor to the integrity of the Canadian insolvency system, and thus its conduct must be highly professional. Through its commitment to the highest ethical standards, the OSB is a major contributor to maintaining the public trust in insolvency processes, the regulatory framework, and financial credit markets. To this end, all employees are subject to the *Values and Ethics Code for the Public Service*. The OSB's organizational values are as follows:

#### Values

- Individuals are treated with dignity, respect and courtesy.
- Our work and decisions are made with objectivity, independence and impartiality, placing the public interest first.
- Processes display transparency and integrity.
- Excellence in performing our work reflects quality, professionalism and rigour.

Values must be supported by commitment. The OSB as a government regulatory service is expected to carry out its mandate properly, to support the broad policies of the government, and to meet the needs of its stakeholders and the aspirations of its employees. In doing so, the OSB commits to the following:

#### Commitments

- To implement our mandate effectively and efficiently.
- To provide quality services in a professional, transparent, fair and timely manner.
- To meet performance commitments that meet the needs of stakeholders.
- To foster a workplace that promotes the development, motivation and professionalism of our employees.
- To conduct our activities in accordance with applicable government policies, legislation and regulation, and to support its policies and priorities.

## **3.2 Governance Structure**

### **3.2.1 OSB Management**

The OSB is established by legislation through the BIA. The Superintendent is responsible for the functioning of Canada's insolvency system.

On February 13, 1997, Treasury Board designated the OSB as a provisional special operating agency (SOA) with authorities commensurate with providing services to non-governmental clients who were/are receiving benefits beyond those received by the general public. To support this SOA status, Parliament provides a net-voting authority to the OSB as a mechanism to defray the direct cost of delivering services to those clearly receiving benefits. Industry Canada developed a draft accountability framework agreement (but did not implement it) to provide the organization with appropriate authorities to manage, including:

- clear accountability and reporting structures, with the Superintendent designated as the CEO;
- right to contract out all administrative services;
- separate human resources (HR) and other administrative services, if required;
- production of an annual report;
- extensive use of performance measurements to demonstrate client service;
- the right to use private-sector auditors as required;
- delegation of Assistant Deputy Minister-level HR and financial authorities;
- an arm's-length reporting structure to the Assistant Deputy Minister level.

In approving provisional SOA status in 1997, Treasury Board noted that the OSB would create a Management Advisory Board to provide external managerial advice.

### **3.2.2 The Management Advisory Board**

Arising from the initial establishment of the OSB as a provisional SOA, the OSB Management Advisory Board was established to provide OSB management with strategic management advice from a private-sector perspective. Experience has shown that the Management Advisory Board plays an important advisory role as the OSB undertakes changes to or updates its management strategies. Furthermore, the Board has been a useful forum for developing a better understanding of stakeholders' and partners' perspectives on OSB strategies.

### 3.3 Organizational Structure

The Superintendent provides overall leadership to the organization, undertakes adjudicative activities as mandated in legislation, and develops strategic direction with respect to legislative change, regulatory policy, program design and outreach.

The OSB is organized into four services that report directly to the Superintendent, each responsible for specific aspects of OSB program delivery:

- Corporate Secretariat;
- Outreach Services;
- Program Operations; and
- Corporate Services.

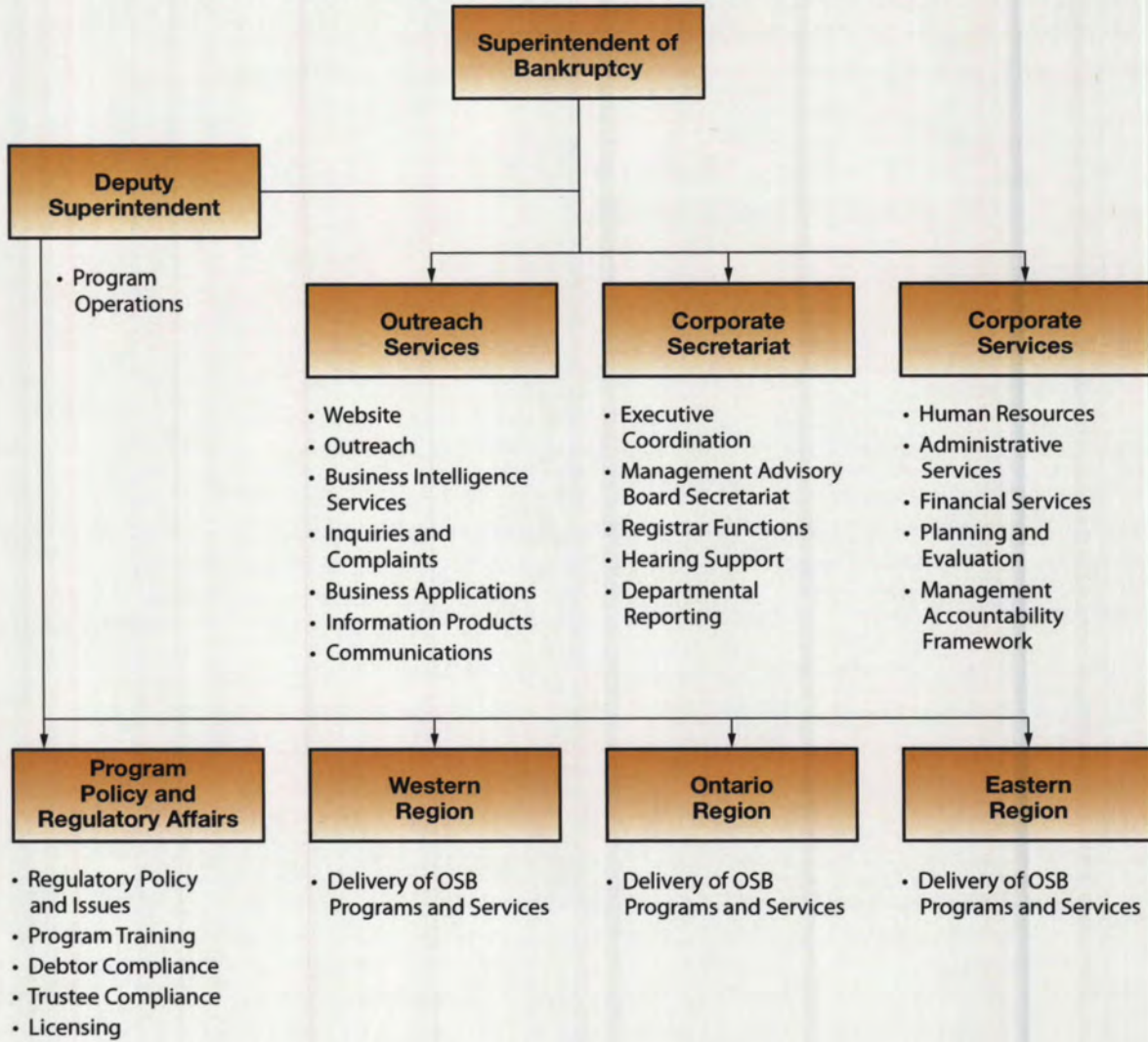
The **Corporate Secretariat** provides executive support services and coordination for senior management and its committees, as well as for the Management Advisory Board. The Secretariat coordinates responses to external correspondence received and from Industry Canada. It also provides registrar functions, including hearing support related to the Superintendent's quasi-judicial responsibilities.

The **Outreach Services Directorate** is responsible for client and stakeholder relations, as well as the information program that provides a variety of services on behalf of the OSB through website information and published materials. It manages and develops information services for Canadians to assist them with financial management and understanding their rights and responsibilities under an insolvency proceeding. It is also responsible for managing the OSB's inquiries and complaints process, data collection and analysis within its business intelligence services, and the management of the database applications, including name search, e-filing and operational systems.

**Program Operations**, led by the Deputy Superintendent, is responsible for OSB program development and implementation, including the oversight and supervision of trustees and the implementation of debtor and trustee compliance frameworks, policies and processes. It is responsible for updating and developing the legislative and regulatory framework and related directives that underpin the insolvency system. It manages the licensing process and partners with the Canadian Association of Insolvency and Restructuring Professionals in the delivery of the National Qualification Program for Trustees. Further, it is responsible for the development and delivery of specialized training programs for OSB officers. Program Operations, through the regions — Western Region, Ontario Region and Eastern Region, is also responsible for delivery on compliance and oversight programs in support of the insolvency system.

The **Corporate Services Directorate** is responsible for financial administration, HR administration, training, business planning, risk management, audit and evaluation, as well as program performance reporting. It also coordinates other administrative services, such as asset management, tenant services, records management, purchasing and contracting, all in support of day-to-day operations.

### OSB Organizational Structure and Major Responsibilities





## **3.4 Our Stakeholders**

### **3.4.1 Introduction**

In its simplest form, an insolvency represents a breakdown in the relationship between a creditor and a debtor; in reality, however, many others are implicated. Thus the operation of the insolvency system requires cooperation among a number of stakeholders so that cases are treated in a fair and expeditious manner. Major stakeholders include creditors, insolvent businesses and individuals, trustees, Provincial courts, liquidators and legal professionals, as well as Parliamentarians and other federal departments and agencies.

### **3.4.2 The Canadian Public**

The Canadian public has a vested interest in the insolvency system from the point of view of ensuring the efficiency of credit markets, the reallocation and productive use of bankrupt assets, and the ability of unfortunate debtors to have a fresh start. The public relies on the OSB to carry out its oversight role so as to promote confidence in insolvency processes.

### **3.4.3 Creditors**

Creditors rely on the legislative and regulatory framework of the insolvency system to ensure an orderly, timely and predictable collection and distribution of any funds rightfully owing to them. Predictability of outcomes allows creditors to determine their market risk and then properly price it.

### **3.4.4 Insolvent Businesses and Individuals**

Insolvent businesses and individuals rely on the insolvency system to provide protection and an orderly process for reorganizing their affairs or for going bankrupt. They expect a fair, timely and predictable process with respect to disposal of assets and that can assist them in returning to the marketplace in a more productive role. They also seek information from the system to help them develop the financial skills needed to help avoid a repeat bankruptcy and possibly to address other detrimental behaviours such as an addiction to gambling and drug and alcohol abuse.

### **3.4.5 Investors (Canadian and International)**

Like creditors, these stakeholders rely on the insolvency system to support their investment decisions with respect to analyzing risk management and determining the rate of return that should be charged.

### **3.4.6 Trustees**

Trustees are private-sector practitioners licensed by the Superintendent of Bankruptcy to administer insolvent estates and carry out significant fiduciary responsibilities pursuant to the BIA and other related legislation. Approximately 950 trustees operate under OSB oversight, which includes monitoring, inspections, investigations and professional conduct processes required to maintain their professional standards and public confidence.

### **3.4.7 The Courts**

Under the BIA and the CCAA, provincial courts can decide on a variety of bankruptcy and insolvency matters that can occur during insolvency processes, including the discharge of the bankrupt and the trustee.

### **3.4.8 Administrators**

Administrators of consumer proposals can be trustees in bankruptcy or another person appointed by the Superintendent to administer the proposals. In Nova Scotia, the province provides this service, and some of its employees have been appointed administrators. Consumer proposals enable debtors to make an offer to their creditors to modify their credit payments or the amounts owing.

### **3.4.9 Insolvency Counsellors**

Insolvency counsellors provide financial counselling to debtors who have filed under the BIA. The counselling is aimed at assisting and educating debtors on good financial management and helping them to develop strategies for achieving financial goals. They may also suggest other forms of counselling to address an underlying cause of financial trouble. Insolvency counsellors must be registered.

### **3.4.10 Industry Canada**

The OSB is accountable to Industry Canada's Minister. Industry Canada also provides support to the OSB through the provision of services, including:

- HR policy and advice, staffing, classification, pay and benefits;
- financial policy and contract administration;
- information technology;
- facilities management;
- security;
- records management;
- procurement and contracting; and
- communications services.

The OSB pays various portions of the total costs associated with the provision of these services through charges to its budget.

### 3.4.11 Other Government Departments

Any government department can be involved in an insolvency procedure as a creditor or a debtor to the insolvent. The Canada Revenue Agency and the Quebec Minister of Revenue are the departments that are most often involved in insolvency matters, but other departments that become involved in funding or lending arrangements can also become involved as a creditor.

## 3.5 HR Allocation

The following table summarizes the HR allocation within OSB directorates. The planned allocation of full-time equivalents (FTEs) comes with a caveat: there may be a requirement to expand quickly should the OSB face significant growth in its filings.

### HR Allocation

	2007-2008 FTEs (Actual)	2008-2009 FTEs (Planned)	2009-2010 FTEs (Planned)	2010-2011 FTEs (Planned)	2011-2012 FTEs (Planned)
Executive Office*	16	13	14	14	14
Outreach Services Directorate	22	28	34	34	34
Corporate Services Directorate	16	24	22	22	22
Program Operations HQ	22	31	23	23	23
Western Region	59	64	64	64	64
Ontario Region	82	81	81	81	81
Eastern Region	77	81	84	84	84
<b>Totals</b>	<b>293</b>	<b>322</b>	<b>322</b>	<b>322**</b>	<b>322**</b>

\* Includes Superintendent's Office, Corporate Secretariat and the Deputy Superintendent's Office.

\*\* Under review.

### 3.6 Summary of Planned Revenues and Expenditures

The OSB generates revenues from various services that are used to offset much of its operational costs. We have an approved expenditure level of \$31.8 million, with the flexibility of spending an additional 25 percent to cover extraordinary expenses not normally covered by the operating budget. This flexibility is dependent on the OSB collecting sufficient revenue to cover these supplementary expenses. An example of such expenditure would be the added costs resulting from IT system changes associated with legislative reform. The OSB pays varying percentages of the total costs of the various services provided by Industry Canada, Justice Canada, and Public Works and Government Services Canada.

Surplus revenues are credited to the Consolidated Revenue Fund at year-end.

#### Revenues and Expenditures

	2007-2008 (Actual)	2008-2009 (Planned) \$M	2009-2010 (Projected)	2010-2011 (Projected)	2011-2012 (Projected)
<b>Revenues (\$000s)</b>					
Respendable*	35 912	36 884	37 536	38 844	40 097
Non-Respendable*	1 000	1 000	1 000	1 000	1 000
<b>Total Revenues</b>	<b>36 912</b>	<b>37 884</b>	<b>38 536</b>	<b>39 844</b>	<b>41 097</b>
<b>OSB-Budgeted Expenditures**</b>	<b>31 100</b>	<b>32 161</b>	<b>33 947</b>	<b>34 547***</b>	<b>35 147***</b>
<b>Source of Funds</b>					
Respendable Revenues	31 850	31 850	33 636	34 236	34 836
Appropriations	0 311	0 311	0 311	0 311	0 311
<b>Total Source of Funds</b>	<b>32 161</b>	<b>32 161</b>	<b>33 947</b>	<b>34 547</b>	<b>35 147</b>

\* The OSB cannot spend revenues received for Trustee licences.

\*\* Main Estimates.

\*\*\* Under review.

The planned expenditure of funds comes with the caveat that there may be a requirement to expand quickly should the OSB face a significant growth in its filings.

	2007-2008 (Actual)	2008-2009 (Budgeted)	2009-2010 (Projected)	2010-2011 (Projected)	2011-2012 (Projected)
<b>Expenditures (\$000s)</b>					
Salary	20 018	20 825	22 611	23 211	23 811
Non-Salary	11 082	11 336	11 336	11 336	11 336
<b>Total</b>	<b>31 100</b>	<b>32 161</b>	<b>33 947</b>	<b>34 547*</b>	<b>35 147*</b>

\* Under review.

## 4. What We Accomplished in 2008-2009

The OSB continued to provide independent and impartial supervision of the insolvency system, with over 400,000 files under supervision during the year. Our ongoing activities include:

- supervising the administration of estates in bankruptcy, proposals and receiverships;
- maintaining public records of bankruptcy and insolvency proceedings and providing related record search services;
- licensing private-sector trustees in bankruptcy;
- providing professional and impartial information on bankruptcy and insolvency processes and on the rights of the stakeholders within the system;
- recording and investigating complaints;
- setting and enforcing professional standards for the administration of estates;
- ensuring that trustees and debtors comply with the BIA;
- conducting research and statistical analysis;
- continuing support for the Insolvency Research Initiative by the OSB to increase the body of knowledge on the Canadian insolvency system and to stimulate interest among academics in multidisciplinary and comparative research on insolvency issues; and
- participating in international forums and research agendas.

The following charts provide the year-over-year workload trends for carrying out our ongoing responsibilities over a three-year period. The first chart identifies a caseload of files that were still open at year-end (Appendix E provides information on estate aging). The second chart looks at complaints and inquiries received during the year.

### Open Files at Year End: Proposals and Bankruptcies\*

Type of File**	As of March 31, 2007	As of March 31, 2008	As of March 31, 2009
Summary Bankruptcies	192 425	189 564	209 722
Ordinary Bankruptcies	14 246	13 818	14 231
Division I Proposals	12 686	13 302	15 186
Division II Proposals	55 983	60 695	69 840
<b>All Files</b>	<b>275 340</b>	<b>277 379</b>	<b>308 979</b>

\* Statistics were produced using in-depth analysis of live data and totals may not agree with statistics found on the OSB web site.

\*\* As defined within the *Bankruptcy and Insolvency Act*.

### Complaints and Inquiries Received\*

Type of Public Contacts	As of March 31, 2007	As of March 31, 2008	As of March 31, 2009
Inquiries Received	18 559	24 723	24 087
Complaints Pending at Beginning of the Year	138	207	277**
Complaints Received	970	873	681**
Complaints Closed	901	803	734**

\* Statistics were produced using in-depth analysis of live data and totals may not agree with statistics found on the OSB web site.

\*\* Preliminary data.

In addition, OSB employees undertook special initiatives in support of the Office's mandate as well as Industry Canada's strategic priorities. Among these were:

- **Registrars' Conference:** The conference provided provincial court representatives from across the country, who are charged with hearing bankruptcy matters, an opportunity to share experiences, discuss insolvency issues, and listen to various presentations from experts about subjects of interest identified by the group of registrars attending. Over 30 registrars attended.
- **Academic Conference:** The conference provided an opportunity for over 20 researchers from across the country to share their research pertaining to insolvency, enabling the expansion of the body of knowledge, the sharing of expertise, and the identification of new areas of research.
- **Management Accountability Framework:** Treasury Board promotes departmental policies to develop management accountability frameworks that will strengthen management of the public service. The OSB's Management Accountability Framework is structured to emphasize 10 planning elements: public service values; governance; policies and programs; people; client-focused services; risk management; stewardship; accountability; learning and change management; and results and performance management. In the fall of 2008, the OSB created a work unit to focus on defining its framework for implementation over the next three years, discussed in detail in section 5.2.1, Management Accountability Framework.
- **Enhanced HR Management:** HR analysis indicates impending staffing shortages due to retirements and normal attrition. An HR strategy for staff retention and succession planning is under development. The OSB finalized its Organizational Renewal Exercise by implementing revised job descriptions for the professional staff.

Committed to implementing competency-based HR, the pilot project to define the competencies for the CO-03-level positions has been successfully completed and will be implemented. The project will be expanded in 2009-2010 to include all levels within the OSB.

An OSB policy was developed to support organization-wide employee performance appraisals for implementation in 2009-2010. Appraisals will assist in providing employees with regular feedback on performance and, where warranted, to provide plans for improvements. This will complement the annual work plans that are developed for staff and will help ensure follow-up on established commitments made in these plans, in which expectations are clearly articulated and understood.

In support of the OSB's mission to protect the integrity of the insolvency system for the benefit of investors, lenders, consumers and the public interest, the OSB developed a Guideline on Values and Ethics for staff that will be implemented in 2009-2010.

- **Trustee Risk Assessment Module:** The module and associated methodologies were finalized and will become a key tool as part of the annual assessment of trustees.
- **Coming into Force of the *Wage Earner Protection Program Act* and Certain Sections of the BIA:** In partnership with Human Resources and Skills Development Canada, the *Wage Earner Protection Program Act* and certain amendments to the BIA came into force on July 7, 2008. This program provides a level of wage protection for employees of businesses that are bankrupt or in receivership proceedings. The OSB developed supporting regulations for new sections of the BIA that came into force on the same date.
- **Preparation for the Coming into Force of BIA and CCAA Legislation:** Developing the regulatory framework required to support the pending legislative reforms, as well as amending of the affected directives, forms and system applications, took considerable effort. The proposed changes to the regulatory framework were published in the *Canada Gazette* in June 2008 for comment. The OSB also developed information material for stakeholders and training programs for staff and participated in industry forums.
- **Paper Burden Reduction:** In support of the government's commitment to reduce paper burden, the OSB's regulations and directives were updated. These changes were integrated into the legislative reform package of changes noted above. These reductions will be implemented once the reforms come into force.

- **Overhaul of the Website:** This year the OSB completely revamped its website to meet the new Treasury Board requirements (CLF2) and also capitalized on the opportunity by improving access and content, including the publishing of a newsletter for stakeholders.
- **Organizational Change:** The Superintendent undertook an exercise of better defining roles, responsibilities and accountabilities in headquarters, with the objective of ensuring clarity of roles, better communications, and streamlined decision making. Staffing was completed for key vacant management positions.
- **Risk Management and Audit:** In collaboration with the Audit and Evaluation Branch of Industry Canada, consultants were engaged to execute a risk management assessment exercise with OSB management. The risk profile that was developed identified the key risks facing the organization. The risk profile will assist in the development of an internal audit and review program.



## 5. Addressing the Future – Strengthening the Organization

### 5.1 Introduction

The OSB's administrative and financial authorities and accountabilities are provided through the following instruments:

- the BIA;
- the Treasury Board designation in 1997 of the OSB as a provisional SOA;
- Parliament-approved net-voting regime for the OSB as a mechanism to defray the costs of delivering services to those clearly receiving benefits;
- the Management Advisory Board, pursuant to Treasury Board's approval of provisional SOA status in 1997; and
- the Deputy Minister's delegations and reporting to an Assistant Deputy Minister.

The OSB has initiated a strategy to strengthen its management framework to demonstrate to its stakeholders and partners that revenues it receives are spent effectively, as well as to meet Treasury Board demands for a client-focused organization under its SOA status. The OSB will develop and implement an accountability framework, an audit and risk management plan, and an HR strategy.

### 5.2 Strengthening Accountabilities

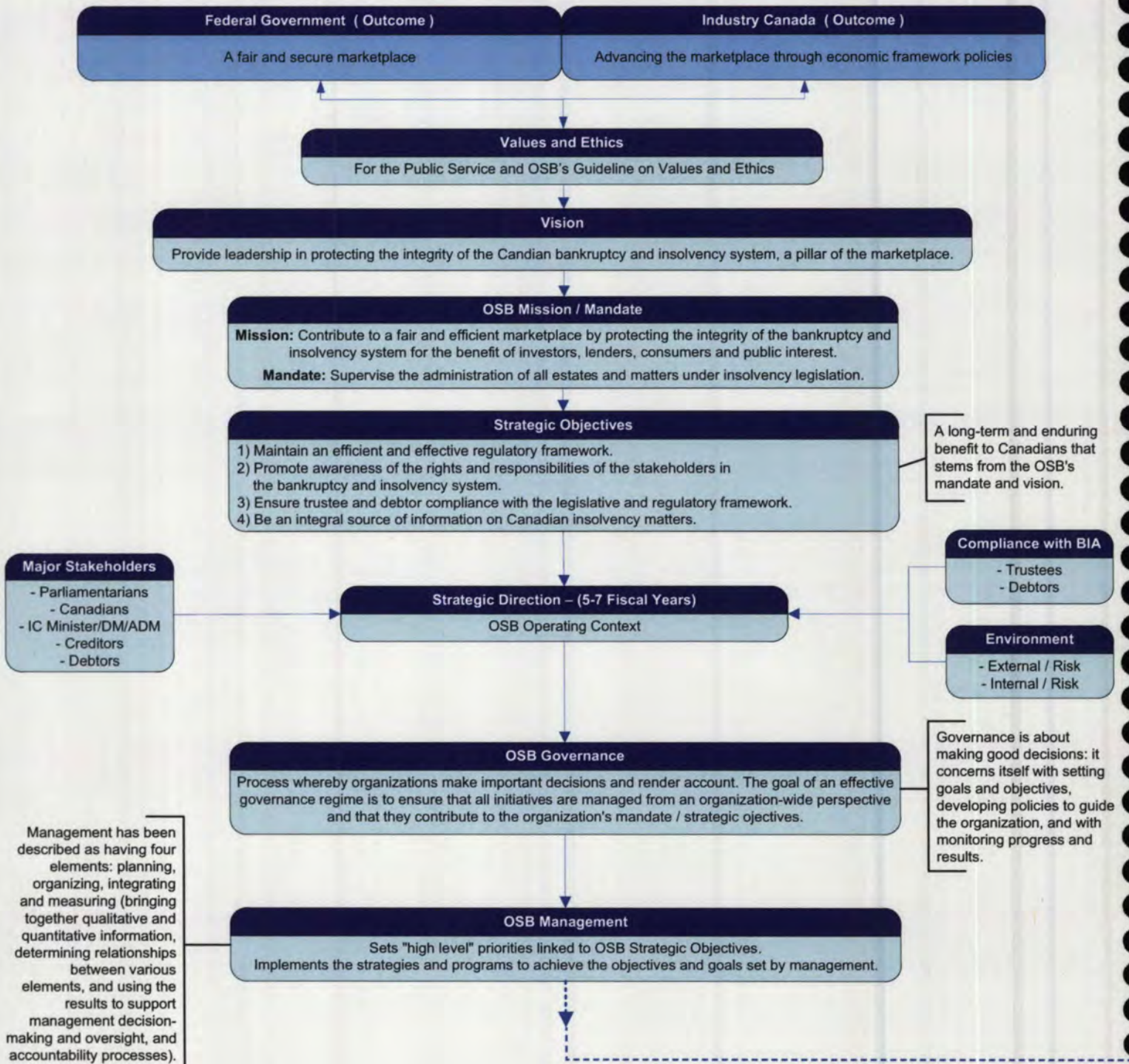
#### 5.2.1 Management Accountability Framework

Over the next three years, the OSB's management will strengthen its capacity by developing and implementing the government's multi-faceted management accountability framework (MAF), with the purpose of improving the OSB's capacity to manage within its mandate. The MAF will identify needs related to the availability of good-quality and consistent information and performance data. Once staffed, the Planning, Evaluation and Internal Investigation Section will carry out the responsibility for implementing the MAF. Specifically, the unit will focus on:

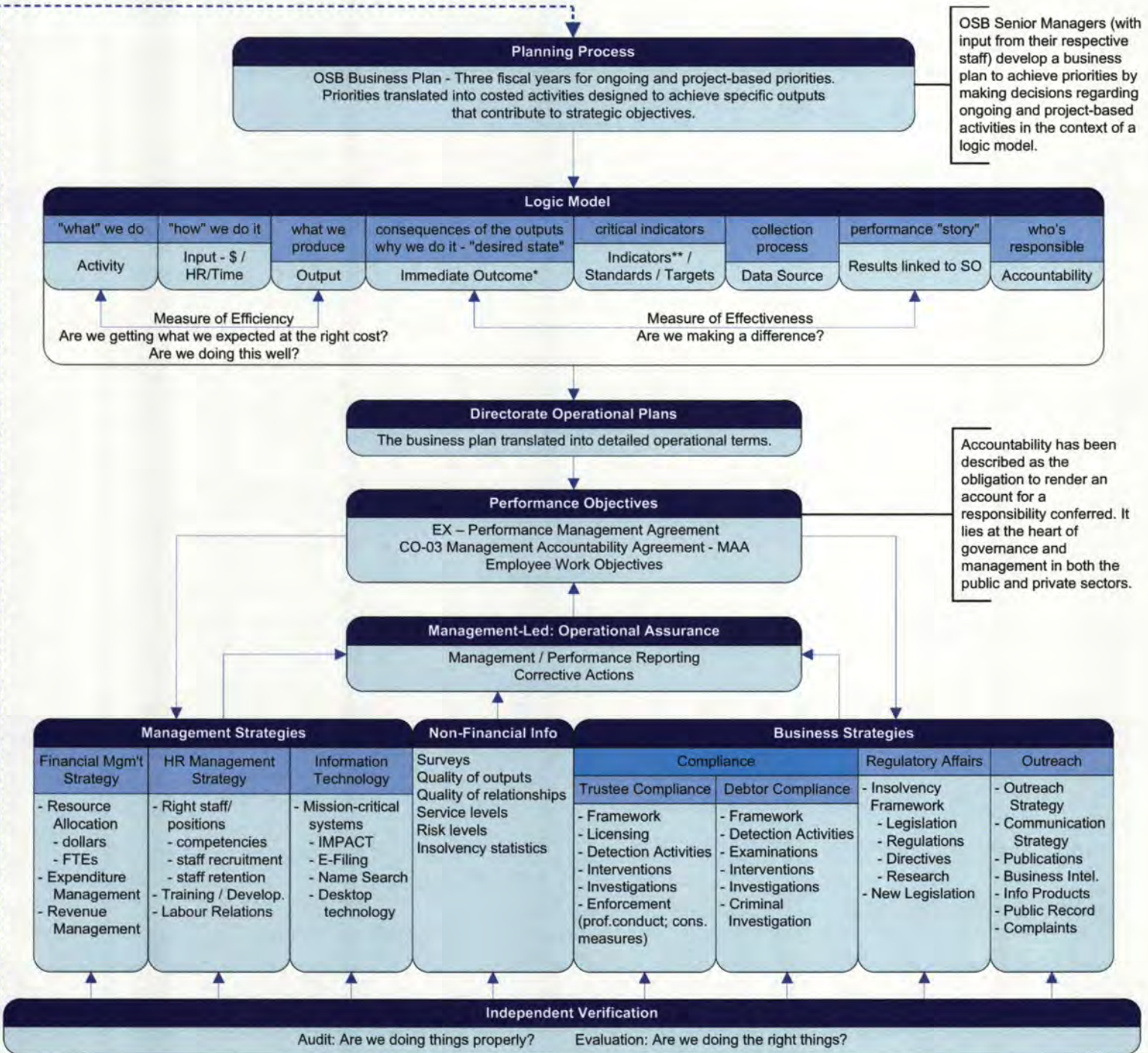
- clarifying accountabilities and expected results for managers;
- establishing stakeholder-focused service levels;
- strengthening the quality and frequency of management reporting, including monthly analysis of organizational performance and workload;
- strengthening the performance management reporting to the Management Advisory Board;
- strengthening planning processes;
- improving financial management to allow for increased control over reallocation of budget dollars; and
- promoting greater transparency when reporting on results.

The following diagram shows how the framework allows the accountability chain to flow throughout the organization.

# OSB Management



# Accountability Framework



\* Three types of outcomes: Immediate, Intermediate, Ultimate; the OSB has a high degree of influence over immediate outcomes, but as the OSB moves toward the Ultimate Outcome, its influence decreases, as there are other factors that influence the integrity of the insolvency system.

\*\* Indicator should be: specific, clear (cause and effect), reliable, and cost effective.

A key part of the above-noted MAF is an understanding of and agreement with the intended outputs of the organization's program, as well as the longer-term outcomes that the organization is trying to attain. It is the relationship between these outputs and outcomes that a performance measurement eventually has to demonstrate.

The OSB MAF will reinforce a results-based culture that is accountable for program performance and the efficient and effective use of resources. A strong discipline of performance measurement with respect to the OSB's program and service delivery mechanisms will enable the OSB to:

- demonstrate to its stakeholders and partners that revenues it receives are spent wisely;
- follow through on a commitment to Treasury Board under the SOA decision to implement a client-driven performance measurement system as a condition for SOA status; and
- use such information to reallocate resources so as to effectively deal with emerging stresses and risks in the insolvency system.

### 5.2.2 Responsibilities and Authorities

To give meaning to the SOA status, Industry Canada drafted an accountability framework agreement as part of its submission to Treasury Board in 1997. The purpose of the agreement was stated this way:

... serves as the charter or constitution for the Office of the Superintendent of Bankruptcy (OSB) and sets out, *inter alia*, its mission, mandate and strategic direction and objectives. It also details the relationships of the OSB with its home department of Industry Canada and other organizations, as well as the organization and accountability framework. It also identifies the authorities and flexibilities delegated to the Chief Executive Officer (CEO).

The framework agreement was to be reviewed with Industry Canada at a minimum of every three years.

The draft framework was to provide authorities to the OSB to manage its programs, including:

- clear accountability and reporting structures, with the Superintendent designated as the CEO;
- right to contract out all administrative services;
- separate HR and other administrative services, if required;
- production of an annual report;
- extensive use of performance measurements to demonstrate client service;
- the right to use private-sector auditors as required;
- delegation of Assistant Deputy Minister-level HR and financial authorities; and
- an arm's-length reporting structure to the Assistant Deputy Minister level.

The draft accountability framework has never been fully implemented. The Superintendent will undertake discussions with the department to put in place an accountability framework that will add clarity to the management role and to the responsibilities of the Superintendent and his relations with the department, given its regulatory and quasi-judicial mandate. Further clarity will also be sought with Justice Canada as to authority to access independent advice when a conflict of interest is perceived by the OSB with areas of the government involved in insolvency matters.

### **5.3 Risk Assessment and Internal Audit/Review**

In collaboration with the Audit and Evaluation Branch of Industry Canada, consultants were engaged to execute a risk assessment exercise with OSB management. A risk profile was developed that identifies the types of risks that the organization should review (see Appendix D). Risks were identified; the level of the risk was also estimated, which balances the impact the risk may have and the likelihood of it occurring with the level of risk mitigation put in place. The risk profile will be used to determine an audit and review program for the OSB. Use of this management tool will ensure that management has independent audits/reviews of our processes and organizational risks and will lead to consistency in the application of our programs with regard to complying with established corporate policies and procedures.

The keys areas that may pose risks are identified below and will form the basis of an internal audit program cycle for the OSB:

- Planning and Performance Measurement
  - Operational reporting may not adequately report risks, operational issues or monitoring of results.
  - The OSB may not align longer-term goals and objectives with shorter-term strategies, particularly following reorganizations and transformative initiatives.
  - Policies and procedures may be inadequate or lacking.
- Succession Planning
  - The aging of the OSB's workforce increases the risk of not meeting operational requirements and the mandate over the next three years without appropriate succession planning and knowledge transfer protocols in place.
- HR Capacity Management
  - Inadequate resources to address day-to-day business functions.
  - Policies and procedures may be inadequate or lacking.

- Trustee and Debtor Non-Compliance
  - Approaches to trustee/debtor compliance may result in non-detection of non-compliance. This could impact the integrity of the insolvency system (public confidence, creditor and investor impact).
  - Policies and procedures may be inadequate or lacking.
- Accountability
  - Roles, responsibilities and accountabilities may not be well defined.
- Financial Results and Forecasting
  - Financial reports may contain errors, or inaccuracies or not be timely.
- Revenue Process Controls
  - Controls over the revenue process may not be effective.
- Policies and Procedures
  - Policies and procedures may be inadequate, incomplete, outdated or lacking within headquarters and in the Regions, resulting in operational inconsistencies.

The internal audit plan will be developed over the course of the upcoming fiscal year, and progress will be reported in the Business Plan for the next fiscal year.

To launch the first audit/review engagement for 2009-2010, we will focus on the area of trustee and debtor non-compliance, specifically on these issues:

- Approaches to trustee/debtor compliance may result in non-detection of non-compliance. This could impact the integrity of the insolvency system (public confidence, creditor and investor impact).
- Policies and procedures may be inadequate or lacking.

The proposed engagement would be:

- To review the risk-based approach to compliance, including supporting policies and procedures, reporting provided, and monitoring and reporting activities.
  - Engagement criteria:
    - existence of policies and procedures
    - consistent controls among regions
    - compliance with policies and procedures
    - reporting and monitoring against the compliance risk framework.

It is expected that the engagement would be completed within the 2009-2010 fiscal year and would complement the strategic review of the compliance framework scheduled during the same period.

## 5.4 The HR Strategy

This strategy articulates the activities required to try to retain a professional and well-trained workforce. The priorities for HR renewal are: planning, recruitment, employee development, and the establishment of enabling infrastructure and support.

### 5.4.1 HR Challenges

The Clerk of the Privy Council has put a special priority on the renewal of HR within the public service. The Clerk noted, "If we do not commit ourselves to a continuing process of renewal, the Public Service will not remain a creative national institution, central to the governance and development of our country."

Within the OSB, the drivers for HR renewal are similar to those for much of the public service. For instance:

- Over 50 percent of the OSB's commerce officers are approaching retirement age.
- To fully develop new OSB recruits who are directly involved in bankruptcy processes requires an investment in extensive training, coaching and mentoring of upwards of two years. With such an investment, retention within the OSB becomes a vital and costly concern.
- As in any small operation, employees continually have to multi-task across a broad number of disciplines and skills. Thus, management requires employees to constantly enhance both their professional knowledge and experience base. We must continue to promote a culture of learning through formal training, as well as providing for cross-training assignments and involvement in special projects.

The OSB must face the challenges of recruiting and retaining staff with the skills it needs, as well as finding specialized expertise, either on a full-time basis or for shorter periods, to respond to immediate needs. Given the urgency of maintaining operations in a period of high demand, in addition to following the normal lengthy staffing process, the OSB will use a variety of staffing tools to obtain the required skill sets, including the use of temporary employment agencies, secondments from other departments and agencies, and the hiring of casual and part-time personnel and post-secondary students. Opportunities for part-time work will be offered as a means of tapping into the experience of retiring workers who still wish to work occasionally. The OSB participated in two job fairs and made offers to almost a dozen university graduates. We will continue to use this recruitment opportunity in the future. A multi-faceted and flexible approach will be required if the OSB is to meet the challenges of an increased workload over the coming years.

The work of the OSB has evolved to the point that competency profiles of key positions need urgent updating to improve our recruitment techniques, HR planning and training programs. A pilot project to develop a profile for the CO-03s at the OSB was successfully completed in 2009. This project will be expanded across the OSB over the next few years. With updated competency profiles, staff will better identify the skills and training they need to further their careers within the OSB.

## **Strategy for HR Renewal in the OSB**

- Monitor workforce demographics.
- Develop competency profiles for all positions that will identify the required skill levels; this enables employees to plan the skills and training they need to further their careers within the OSB.
- Participate in targeted job fairs (e.g., business schools).
- Promote various staffing options to meet the significant staffing challenge, including the use of secondments, exchanges, and casual and part-time opportunities.
- Promote opportunities for new recruits and existing staff to diversify their skills through cross-training and assignment of challenging projects.



### 5.4.2 HR Action Plan

To develop a firm foundation for HR management, the OSB is putting in place an HR action plan with the following key features:

**HR Liaison Unit:** Staff a specialized HR support unit within the OSB that will coordinate and support HR planning and evaluation, recruitment opportunities, staff training, classification requests, updating of job descriptions and drafting of competency profiles, and processing of HR transactions, including the use of temporary agency staff to meet short-term work demands.

**Official Languages Strategy:** The HR unit will conduct an assessment of its ability to meet the requirements of the *Official Languages Act* and develop a plan as to how it will meet its obligations. The plan will be a combination of identification of linguistic profiles and language training for acquisition and/or maintenance of a second official language.

**Competency Profiles:** The HR unit will begin the process of establishing and creating competency-based profiles for all OSB positions.

**Workforce Demographics:** To support the development of effective HR planning and implementation, the HR unit will develop a comprehensive understanding of its workforce demographics.

**OSB Guideline on Values and Ethics:** In support of the *Values and Ethics Code for the Public Service*, management will issue this guideline to its employees, which will make the code easier to understand in the context of OSB operations.

Action/Task	2009-2010	2010-2011	2011-2012
<b>Implementation of Specialized HR Unit Within the OSB</b>			
• Obtain classification for approved positions	X		
• Identify roles and responsibilities in the OSB	X		
• Identify roles and responsibilities in Industry Canada	X		
• Develop draft Memorandum of Understanding (MOU) for HR services with Industry Canada	X		
• Finalize and implement MOU	X		
• Develop HR Strategy, including detailed demographic analysis and recruitment and retention strategies	X		
<b>Competency Profiles and Updated Job Descriptions</b>			
• Implement CO-3 competencies	X		
• Develop CO-1 and CO-2 competencies	X		
• Develop competencies for PM and AS positions	X		
• Develop competencies for CR positions	X		
• Develop competencies for other positions		X	
• Update job descriptions	X	X	
• Competencies integrated into staffing and learning plans	X	X	
• Competencies integrated into employee appraisals		X	
<b>Performance Evaluation Process for All Employees</b>			
• Develop consistent process	X		
• Implement process	X	X	X
<b>Develop Comprehensive OSB Staffing Plan</b>			
• Expand post-secondary recruitment trial	X		
• Integrate staffing approaches within the OSB and Industry Canada	X		
• Incorporate employment equity elements		X	
<b>Develop Comprehensive Learning and Development Strategy</b>			
• Identify skills gaps in existing workforce with respect to competency profiles		X	
• Prepare plans for informal tools; e.g., training, coaching and secondments		X	
<b>Develop Comprehensive OSB Succession Plan</b>			
• Identify key OSB positions and assess risks of vacancy		X	
• Determine succession plans for key positions		X	
• Develop general succession strategy			X
<b>Develop Comprehensive OSB Retention Plan</b>		X	
<b>Promote Employee Recognition Culture and Supporting Policy</b>	X		
<b>Ongoing HR Transactions</b> (staffing, performance, training, contracting, etc.)	X	X	X

## HR Action Plan

- Specialized OSB HR Unit and improved support for ongoing HR transaction processes
- An official languages strategy
- Competency profiles for all positions
- Comprehensive workforce demographics
- Recruitment and retention plans
- Issuance of a guideline in support of the Values and Ethics Code



## 6. Addressing the Future – OSB Program Action Plan

When establishing organizational objectives, it is essential that they directly support the strategic outcomes identified by the government and/or the department. The government-wide outcome that is pertinent to the OSB is that we support a *fair and secure marketplace* for Canadians. With respect to the department's outcomes, the OSB helps to *advance the marketplace through economic frameworks*. The OSB has established four strategic objectives for the three-year planning period and has identified key activities that will be undertaken to support those objectives.

### 6.1 Objective #1: Maintain an Efficient and Effective Regulatory Framework

The OSB will work diligently to maintain an efficient and effective regulatory framework to support creditor and investor confidence in the Canadian insolvency system and to enable them to operate their businesses within a predictable, honest, fair and transparent environment.

#### Key Activities:

The regulatory framework comprises legislation, regulations, rules and directives that must be kept current to respond to the needs of today's marketplace. We work closely with the department and stakeholders to track issues as they develop, as well as to identify concerns raised by our staff, trustees or the courts concerning the interpretation and application of the framework. The key activities for 2009-2010 to support this objective are summarized as follows:

- If chapters 36 and 47 of the Statutes of Canada come into force in 2009, the OSB is prepared to implement the legislative amendments. The OSB has completed drafting of and consultation on related regulations, rules, directives and forms, and we have completed staff training. Final testing is being done on changes to IT systems to respond to the amendments under the BIA and the CCAA. The IT system will be further developed in 2009-2010 to provide added support for CCAA activities. The OSB will take on its new supervisory responsibilities over the CCAA and will become a repository for electronic documents contained in CCAA filings. The proposed system will support repository and retrieval requirements.

All BIA-related preparatory work is complete, with final preparations for the CCAA being completed in early fiscal 2009.

- Undertake a complete review of the licensing framework, including *Directive 13 R Trustee Licensing*, with the objective of ensuring that there are no unreasonable constraints in the licensing process in terms of recruiting new individuals into the trustee profession. We will address other concerns or proposals that stakeholders may wish to raise during this review, keeping in mind the goal of supporting or improving the integrity and quality of the current system.
- Review the OSB's revenue framework and requirements: revenues are derived from external client user fees and must cover direct operating costs. The review will be an extensive and timely process with the objective of setting targets that sustain the operations of the organization over the next 5- to 10-year period.
- Undertake a variety of policy and regulatory reviews over the three-year planning horizon, including such topics as:
  - trustee tariffs;
  - use of administrative monetary penalty scheme;
  - use of graduated licensing fees based on the level of compliance;
  - Directive 5 in support of an electronic annual banking review;
  - Directive 9 in support of trustees' electronic record keeping.

See Appendix A for further details.

- Reduce the paper burden on stakeholders via revisions to regulations, rules, directives and forms, which are part of the legislative reform package for chapters 36 and 47. The OSB completed the first phase of the regulatory process, including drafting and Treasury Board approval for pre-publication. The drafts have been published in the *Canada Gazette*, and we have received feedback from stakeholders. Treasury Board approval of the final version of the regulations will be obtained once a coming-into-force date is set.

## 6.2 Objective #2: Promote Awareness of the Rights and Responsibilities of the Stakeholders in the Insolvency System

The OSB will work on increasing Canadians' awareness of the roles, rights and responsibilities of the various players in the insolvency system so that more Canadians will be able to make properly informed financial decisions, in particular when considering financial options such as bankruptcy.

### Key Activities:

- We will undertake a strategic review of our external communications and outreach needs and develop and implement a strategy that includes the following:
  - Improve communications and interaction with stakeholders.
  - Improve the OSB's communications capacity to respond effectively to Canadians and to provide them with information that will help them make informed decisions.
    - Work with the financial literacy network so as to contribute our knowledge and expertise to the advancement of this valuable and timely government initiative.
    - Improve the OSB's website to address the need for information concerning financial issues and the insolvency process. This information will be aimed at both consumers and other key stakeholders.
    - Update existing or create new plain-language guides to the insolvency process and, in particular, debtor rights and responsibilities.
  - Ensure that understandable information is provided consistently to consumers across the country through insolvency practitioners and counsellors.
  - Improve the OSB's capacity and efficiency in responding to expected increases in demands by the public for information and for filing of complaints.
  - Develop internal expertise in media relations and public affairs to support Industry Canada's Communications Branch.
  - Develop a "compliance through awareness" approach by informing stakeholders regarding the consequences of debtor non-compliance.

A comprehensive communications strategy will address the challenge of informing Canadians about their options related to insolvency. This strategy must involve our stakeholders. Canadians need to know what their rights and responsibilities are before they make decisions with long-lasting impact.

### 6.3 Objective #3: Ensure Trustee and Debtor Compliance with the Legislative and Regulatory Framework

This objective forms the basis of the OSB's regulatory program, which is to instill public and stakeholder confidence in the Canadian insolvency system by ensuring high levels of compliance by participants in the system. The OSB will review its compliance operations and methods periodically to ensure they are up to date and reflective of the current operating environment.

#### Key Activities:

- Undertake a review in 2009-2010 of the OSB Compliance Framework.

We will undertake a complete review of how the OSB handles compliance to respond to the changing environment and to address concerns raised about the compliance strategy and tools used by the OSB:

- identifying oversight gaps, risks and priorities;
- drafting, updating and revising policies and procedures to reflect proactive compliance and principles-based enforcement strategies; and
- identifying workload requirements and resources.

Furthermore, our compliance capacity may need to be strengthened to respond to the demands that may arise from a large influx of cases. Given the financial stresses caused by the state of the economy, we need to update our analysis as to the potential level of compliance risks we may face as the regulator. This update includes reviewing our capacity to detect abuse and fraud on both the consumer and corporate side. When it is detected, we need to ensure there is capacity to follow up with criminal investigation and prosecution. We will review the risks, costs and feasibility of expanding our enforcement model that is in place in Montréal to other major centres across Canada.

- Focus on development and organization of a debtor compliance training program, an investigations planning program, and the course for new analysts.
- Revise and finalize policies and procedures related to conservatory measures, professional conduct, IOTA (Orderly and Timely Administration of Files), licence cancellations under subsection 13.2 (5), etc. (see Appendix A for additional details).

## 6.4 Objective #4: Be an Integral Source of Information on Canadian Insolvency Matters

By improving the level of research, analysis and reporting on insolvency matters, we can better serve public policy makers, creditors, investors and other stakeholders. Timely and pertinent public research will help to provide a common understanding of the trends and issues developing in the insolvency system and in the economy. It will also permit stakeholders to adjust in response to those matters.

### Key Activities:

- Improve content of the OSB website, focusing on consumers and small businesses.
- Acquire and implement business intelligence software tools to support more in-depth analysis and reporting activities on insolvency.
- Review and consult on the needs of stakeholders concerning their research and data analysis requirements that the OSB could provide and that would improve the available information about the trends, profiles and characteristics of the insolvency system and the various participants.
- Implement a data quality assurance program and enhance data reporting to better support business and management needs, including the needs for performance measurement data.
- Within the broader communications strategy exercise, develop better channels of distribution to improve awareness of OSB research and OSB-sponsored research.



## 6.5 Supporting Activities

To undertake the activities necessary to meet OSB strategic objectives, many indirect or supporting activities must also be planned. The following outlines the key activities.

### Key Activities:

- Develop an appropriate accountability and delegation agreement with Industry Canada, similar to the departmental draft produced in 1997 that supported the SOA submission to Treasury Board.
- Staff key support units, including HR, Planning and Administrative Services.
- Develop staff recruitment and retention strategies.
- Implement the MAF, including:
  - strengthening the corporate planning and evaluation process;
  - strengthening the annual budgeting and resource allocation process;
  - strengthening performance management and reporting on results;
  - implementing risk management and an audit program;
  - strengthening HR planning and evaluation; and
  - strengthening records management.
- Explore outsourcing of revenue collection.
- Develop MOUs for services provided by Industry Canada and Justice Canada.
- Develop a three-year IT plan identifying key strategies and priorities.
- Implement staff performance appraisal management.
- Implement competency profiles for all OSB job classifications.
- Enhance the OSB intranet as a means of providing better internal access to key business and corporate information.

## 6.6 Conclusion

The OSB's three-year business plan, *Addressing the Future*, lays out an aggressive agenda in detail, but it is necessary to ensure that the organization is equipped with a variety of tools to prepare for what is likely to be a rough economic period. It is in times like these that financial regulators are expected to show their worth. Many of our activities rely on the contributions of partners, such as Industry Canada, the RCMP and Justice Canada, as well as the collaboration of our stakeholders. Therefore, good communications, professional relations and commitment by all are essential to being able to report on future successes.

I believe that the OSB management and staff understand the demands that will be made of them over the next three years and that they will respond as they have in the past, with dedication, hard work and professionalism.

## Appendix A: OSB Activities by Strategic Objective

### List of Acronyms

**Admin:** Administrative Services

**BAPS:** Business Applications and Products Services

**BI:** Business Intelligence Services

**CCAA:** Companies' Creditors Arrangement Act

**CS:** Corporate Secretary

**DDC:** Debtor Detection and Compliance

**E and C:** Enquiries and Complaints Management

**FIN:** Financial Services

**HR:** Human Resources Services

**Lic:** Trustee Licensing

**O:** Outreach

**PACS:** Public Affairs and Communication Services

**PEII:** Planning, Evaluation and Internal Investigation

**PRA:** Policy and Regulatory Affairs

**REG:** Regions

**TDC:** Trustee Detection and Compliance

### Strategic Objective #1: Maintain an Efficient and Effective Regulatory Framework

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
PRA	Possible regulatory amendments where recommended	Monitor regulatory instruments to determine whether policy objectives are being met			
PRA	Position papers	<ul style="list-style-type: none"> <li>Respond to issues and interpretation about policy</li> <li>Provide consistent interpretation and implementation of the BIA</li> </ul>			
PRA		Editorial Advisory Board for Annual Review of Insolvency Law			
PRA		Legislative reform training Update/Rapid Response Team			
PRA	Timely information exchange	Regular liaisons with officials: <ul style="list-style-type: none"> <li>CRA</li> <li>CAIRP</li> <li>HRSDC (WEP Program)</li> </ul>			
CCAA		Implementation of new program to support responsibilities under CCAA			
PRA		Support activities related to UNCITRAL and International Association of Insolvency Regulators			
PRA	Procedure on handling issues and consistency		Implement a process for handling regulatory issues in a consistency manner with proper analysis, consultation, decision making, communication		
Lic.	New Directive 13		<ul style="list-style-type: none"> <li>Review Licensing Framework</li> <li>Develop recommendations on Directive 13</li> </ul>	Review and update Directive 13: Trustee Licensing	Review and update if necessary

## Strategic Objective #1: Maintain an Efficient and Effective Regulatory Framework (continued)

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
Lic.	Memorandum of understanding (MOU) with CAIRP		Review the OSB's role in the National Insolvency Qualification Program, taking into account CAIRP's recommendations and other analysis and considerations as necessary	<ul style="list-style-type: none"> <li>Implementation of changes to the Licensing Directive and Policy further to previous year's review</li> <li>Further review of other elements may still need attention (e.g., Trustee Code of Ethics)</li> <li>Implementation of amended MOU with CAIRP (NIQP)</li> </ul>	
PRA	Amended BIA Rules		Regulatory amendments required to correct miscellaneous aspects of BIA rules		
PRA	New Directive 16		Finalize Directive 16: Verification of the Statement of Affairs		
PRA	Regulatory Amendments		Trustee tariff review: begin consultations	Commencement of the regulatory process	Regulatory process continues
PRA	Draft reports, recommendations and/or issue papers on issues for legislative amendments		Commence consultation for next legislative reform package (Corporate and Insolvency Law Directorate is the lead)		
PRA	Updated Directive		Update Directive 7: Retention of Documents by the Trustee, in light of Trustee Electronic Record Keeping (at the same time, review Directive 9 for consistency)		
PRA	Revised Directive 5		Revise Directive 5: Estate Funds and Banking, in accordance with new policy for an electronic Annual Banking Review		
PRA	Policy paper on options for compliance tools		Consult and research the applicability of an administrative monetary penalty system		
PRA	Policy paper on options for compliance tools		Consult and research the applicability of graduated licensing fees		
PRA	Directive 12 revoked and Circular 4 issued		Revoke Directive 12: Administrative Agreements with Trustees and Receivers, and issue new Circular 4		
PRA	Updated policy to better take into account risk associated with money in trust			Review trustee bonding policy	<ul style="list-style-type: none"> <li>Implement new policy</li> <li>Internal communication</li> <li>Communications with trustees</li> </ul>
CCAA			Submission to Treasury Board for CCAA levy		
BI	<ul style="list-style-type: none"> <li>Preliminary list of issues for the next legislative review</li> <li>Research reports</li> </ul>		Support research for next round of legislative amendments	Support research for next round of legislative amendments	Support research for next round of legislative amendments

## Strategic Objective #2: Promote Awareness of the Rights and Responsibilities of the Stakeholders in the Insolvency System

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
BI		Registrars' Conference (every two years)			
PACS		Coordinate media relations			
PACS		Supporting participation at various conferences across the country by various groups			
PACS		Articles on insolvency			
PACS	OSB newsletter	Produce OSB external newsletter			
PACS	<ul style="list-style-type: none"> <li>• Stronger branding and more consistent image</li> <li>• New partnerships</li> <li>• Continuous improvement of Internet site</li> <li>• New/improved publications</li> </ul>		Development of an OSB communication plan and implementation (external)	Implement plan	<ul style="list-style-type: none"> <li>• Evaluate outreach strategy and communication plan</li> <li>• Prepare next three-year plans.</li> </ul>
PACS/ DDC	<ul style="list-style-type: none"> <li>• Communication plan</li> <li>• New tools supporting compliance awareness</li> </ul>		Develop a communication strategy on compliance through awareness approach	Implement communication plan of the Compliance Awareness Program	Implement communication plan of the Compliance Awareness Program
O and BI	<ul style="list-style-type: none"> <li>• New networks with clients and stakeholders</li> <li>• New partnerships</li> </ul>		Develop new three-year outreach strategy (focus on using partnerships: e.g., financial literacy)	Continue implementation of outreach strategy	Continue implementation of outreach strategy
PRA and BI and PACS				Review and analysis of the efficacy of mandatory counselling services by trustees	Develop of new processes, procedures and documentation for mandatory counselling
O	Leveraging of partnerships in ensuring that consumers have the information they need		Identify partners to work with in the area of financial literacy		
E and C/REG	<ul style="list-style-type: none"> <li>• Improved processes</li> <li>• Service standards confirmed or revised</li> <li>• Better information on complaints</li> </ul>		<ul style="list-style-type: none"> <li>• Review OSB inquiry/complaint process (regional and HQ)</li> <li>• Start implementing decisions coming out of the study on inquiries/complaints (the exercise will include a review of the service standards and Key Performance Indicators [KPIs])</li> </ul>	Implement systems changes including training	Full evaluation of new inquiry/complaint process, a horizontal initiative that will involve all groups
PACS			Develop new Communication group		
PACS	<ul style="list-style-type: none"> <li>• Identification of publications to work on and timelines to do so</li> <li>• Continuous improvement of publications</li> <li>• Taking advantage of new possibilities on Internet sites to deliver information</li> </ul>		<ul style="list-style-type: none"> <li>• Review of some publications</li> <li>• Based on research conducted, possible development of new brochure</li> </ul>	Improve or replace current publications or develop new ones	Improve or replace current publications or develop new ones

**Strategic Objective #3:  
Ensure Trustee and Debtor Compliance with the Legislative and Regulatory Framework**

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
REG		Mediations			
REG		Meetings of creditors			
REG		Inquiries and complaints			
REG	<ul style="list-style-type: none"> <li>• Debtor examination</li> <li>• Debtor examination reports</li> <li>• Court intervention, debtors</li> <li>• Criminal investigation orders</li> </ul>	<ul style="list-style-type: none"> <li>• Identification of cases of debtor non-compliance</li> <li>• Debtor examinations</li> <li>• Debtor interventions</li> </ul>			
REG	Trustee risk assessment report	Trustee risk assessment			
REG	<ul style="list-style-type: none"> <li>• Improvement plans</li> <li>• Investigation reports</li> <li>• Professional conduct investigations and reports</li> <li>• Conservatory measures (CM)</li> <li>• Court interventions: trustees</li> <li>• Criminal investigation orders</li> </ul>	<ul style="list-style-type: none"> <li>• Baseline of supervision</li> <li>• Banking reviews</li> <li>• Practice reviews</li> <li>• Interventions</li> <li>• Investigations</li> </ul>			
DDC		Maintain and update user guide (debtor compliance [or DC], workflow manual)			
DDC		DC module issue identification and resolution			
DDC		DC training needs definition and identification			
DDC		DC tool and process refinement			
DDC		Data integrity issues			
TDC		Trustee Compliance tool and process refinement			

### Strategic Objective #3: Ensure Trustee and Debtor Compliance with the Legislative and Regulatory Framework (continued)

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
TDC		Finalize and maintain trustee compliance process compendium			
TDC		TC training needs definition and identification			
TDC		Review trustee transfer process between detection and compliance units			
TDC		Annual Banking Review (ABR) manual input (should end with the introduction of an electronic ABR in subsequent years)			
TDC		Annual trustee risk analysis run/work plans			
TDC		Detection unit baseline review			
TDC	Guidelines and procedures for investigating trustees	Finalize the review of the professional conduct (PC) policy and process		Develop procedures for the role of Investigator (from the PC policy) and training	Review and update
TDC	New policy, taking into account IOTA (Orderly and Timely Administration of Files)	Aging: review		Aged inventory policy	Review and update if necessary
TDC/ DDC	Compliance framework document		Begin major review of OSB compliance framework for trustee and debtor compliance	Continue review and finalize with phased implementation	
TDC	Compliance framework document			Review application of alternative dispute resolution policy and proactive compliance measures	Continue work with the policy shop at the OSB, IC and TB
DDC	Compliance framework document		Develop framework — pilot project regarding corporate debtor compliance files	Evaluate project and consider extension of pilot	Implementation
DDC	Compliance framework document		Review the risks, costs and feasibility of expanding our debtor enforcement model that is in place in Montréal to other major centres across Canada.		
TDC	Compliance framework document and new CM policy (updated accountability, roles, responsibilities)		Revise CM policy and procedures, finalize manual, develop and deliver training (roles and responsibilities in regions)	Post-mortem	

### Strategic Objective #3: Ensure Trustee and Debtor Compliance with the Legislative and Regulatory Framework (continued)

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
DDC	Training manual and coordination plan for its implementation		Develop staff training program related to debtor compliance		
DDC	Project scope and assessment report		Conduct a needs assessment for enhancement of automated reporting from the DC module	Implementation	
DDC	<ul style="list-style-type: none"> <li>• Best practices framework document</li> <li>• Post-mortem in the review and update stage</li> </ul>		Develop and implement a process for sharing information and best practices/jurisprudences between the regions	Review and update	Review and update
TDC	New policy reflecting ATIP requirements		Develop conservatory measures policy on publication	Review and update if necessary	
TDC	New policy		Start development of licence cancellation policy and process (section 13.2.5)	Complete policy	
TDC	Updated policy reflecting the purpose of practice and banking reviews			Policy on notice requirements to trustee on Practice and Banking Reviews	Review and update if necessary
TDC	Mystery shopping exercise			Mystery shopping exercise development (linked to policy on notice)	Mystery shopping
DDC	Assessment document			Assessment of the trustee compliance report enhancement for debtor compliance team needs	Implementation
TDC	Hearing process		Update language used in published process to reflect organizational changes	Review and update published process on professional conduct and develop a procedure guideline for delegates	
TDC/ DDC	Staff development and operational consistency			OSB Compliance Staff Conference	
Training	New analyst courses	Organization and delivery of new analyst training			
			Begin developing an investigation and planning course for senior bankruptcy analysts	Detailed review of new analyst course	



### Strategic Objective #4: Be an Integral Source of Information on Canadian Insolvency Matters

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
BAPS		Bankrupt name search services			
BAPS		Sales of other public information products, including bulk data			
BI and BAPS		Statistical reports for internal use and published			
BI	Reports on insolvency issues	Research and analysis			
BI		Academic symposium (yearly) and academic round table/advisory committee (in development)			
BI		Insolvency research program (external research)			
BI	Efficient tools are developed together with related reporting modules	Advisory role in development of the OSB's business applications and new modules/systems			
BI		International Association of Insolvency Regulators (annual report; lead or cooperate on various international studies)			
O and BI/ BAPS	Various reports, business and management (internal/external)	Produce reports for business and management needs			
PACS		Continued updating of information on website			
O and BI	<ul style="list-style-type: none"> <li>Improved reporting for business and management purposes</li> <li>Enhanced analytical capacity</li> </ul>			Continue development of BI capacity	Continue development of BI capacity
O and BI	<ul style="list-style-type: none"> <li>Updated framework</li> <li>Enhanced analytical capacity</li> </ul>			Review and consult on stakeholders' research and analysis data needs	
O and BI	Confidence level is preserved		Start designing and implementing data collection quality control program (horizontal initiative)	Continue implementation of data collection quality control program (horizontal initiative)	

**Strategic Objective #4:  
Be an Integral Source of Information on Canadian Insolvency Matters  
(continued)**

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
BAPS	Policy as to the sale of new information products		Implementation of policy on the sale of new information products (dependent on various factors)		
BAPS				<ul style="list-style-type: none"> <li>• Provide clients and stakeholders increased access to reliable and secure online insolvency information stored in OSB databases</li> <li>• Possible development of new information products (involves BI and BAPS sections)</li> </ul>	Continue development of new information products (involves BI and BAPS sections)
BAPS				Evaluation of new name search services	

## Corporate Services and Other Support Activities

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
CS		Reporting and responding to the demands of IC			
CS		Correspondence management for Superintendent's Office			
CS		Registrar's functions for PC cases			
CS		Hearing support for PC cases			
CS		Support for Management Advisory Board			
CS		Support for Executive Committee			
CS		Administrative support for Superintendent's Office			
Admin		Coordinate facilities management			
Admin	Asset management policies and reports	Ongoing management of OSB IT assets			
FIN		Monthly financial forecasting, year-end financial reporting			
FIN	Summary reports to IC and to Comptrollership and Administrative Services as required	OSB Finance officers to receive training and development, in accordance with IC policy	Language training for FI-03		
HR		Provide strategic and operational support to the OSB for HR management			
HR		Annual HR plan and evaluation			
HR	OSB HR plan	Develop OSB HR plan	Expand HR unit's infrastructure and support capabilities		
HR	Monthly required training and personal learning plan reports (to IC)	Track and report required training, employment equity, personal learning plans	Introduce monthly reporting capabilities to track all aspects of OSB HR plan		
PACS		Continuous improvement of intranet site			
PACS		<i>Reaching out</i> employee newsletter			

## Corporate Services and Other Support Activities (continued)

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
BAPS		Management of business IT Systems and liaison with CIO, including SLA	<ul style="list-style-type: none"> <li>Update of SLA with CIO</li> <li>Start discussions for the development of MOU with CIO</li> </ul>		
BAPS		Testing to support ongoing changes to systems, including new legislation			
BAPS		Support services for our IT systems (internal and external help desks)			
BAPS		Liaison with CAIRP and service providers for trustee system issues (e.g., E-Filing)			
BAPS		Coordinate IT changes			
BAPS		Manage internal standard reports			
BAPS		Continuous update of workflow manual			
BAPS			Implement new governance approach for IT projects		
Admin			Publish OSB guidelines for allocation of computers		
Admin			Implement IC guidelines for printer entitlement		
Admin				Create internal process for emergency provision of desktop computers	
Admin	Creation of OSB Shared Drive management and procedures manual		Implement BCS in OSB shared drive environment		
Admin	Creation of regional-specific OSB Shared Drive manual pages			Implement BCS in regions in records offices and shared drive environments	
Admin	RDMS feasibility study and business case for the OSB (2011-2012)				Examine business case for possible implementation of RDMS in 2012-2013
Admin	IT Asset Management Plan		Develop inventory tracking system to monitor purchase, delivery and disposition of IT hardware and software		
FIN	Alternate service delivery method: validation unit		Evaluate outsourcing of processing payments (e.g., cheques) to PWGSC		
FIN	Long-term financial strategy		Assess the OSB's financial flexibility and management of financial resources within its net vote authority		

## Corporate Services and Other Support Activities (continued)

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
FIN	Resource allocation process		Review and explore a "zero-based" resource allocation process		
FIN	Unclaimed dividend client services		Creditor listings received by trustees are to be input in IMPACT on a timely basis		
FIN	MOU between the OSB and Comptrollership and Administrative Services			Create an MOU between the OSB and CAS, outlining services and service standards that are to be received by the OSB	
HR	HR strategy		Complete HR activities resulting from HQ realignment		
HR	Official languages strategy			Develop official languages strategy for the OSB	
HR	Succession plan			Implement succession management process	
HR	Defined competencies		Develop competencies for CO-01, CO-02, CO3, PM-02 and CR-04	Develop competencies for all other positions	
HR	National statements of merit		Develop inventory of national statements of criteria for COs, PMs and CRs: CO-01, CO-02, PM-02 and CR-04	Develop and maintain inventory of national statements of criteria for all other positions	
HR	Performance appraisal policies and procedures		Implement Performance Appraisal Management across the OSB for 2009-2010		
HR			Communicate new OSB guideline on ethics and values initiative		
HR	Staffing plan		Combine staffing activities for more efficient staffing at HQ		
HR	OSB HR strategic plan		Scheduling review of work descriptions		
HR	Personal learning plan analysis		Provide analysis of PLP information to prepare better learning strategies		
HR	MOU between the OSB and HRB for HR services		Develop an MOU between the OSB and Industry Canada to define HR services and service levels		
PEII	OSB MAF		<ul style="list-style-type: none"> <li>• Develop MAF</li> <li>• Identify gaps</li> <li>• Develop performance framework and indicators</li> <li>• Implement reporting on results</li> </ul>	Formalize and strengthen implementation of other elements of MAF	Review and readjust indicators and framework based on full cycle of measurements

## Corporate Services and Other Support Activities (continued)

Unit	Key Outputs	Ongoing Activities	New Activities 2009-2010	New Activities 2010-2011	New Activities 2011-2012
PEII	Report on results with action plans to correct deficiencies		Implement Risk Management and Audit Plan		
BAPS	Systems are responsive to business needs and support evolution of programs		Develop and Implement three-year IT strategic plan resulting from business needs over the next three years	Annual update of IT strategic plan	<ul style="list-style-type: none"> <li>Annual update of IT strategic plan</li> <li>Start development of new three-year plan</li> </ul>
BAPS			Begin implementation of plan for enhanced reporting, including new standard reports and possible modification of database structure	Continue implementation of plan for enhanced reporting	
O and BI BAPS	Reports to help managers manage, including better information related to OSB business programs		As part of plan for enhanced reporting, develop plan for IT changes to capture performance management data; implementation schedule as per plan for enhanced reporting plan	Ongoing	Ongoing
TDC	New IMPACT module			Develop practice review module	
TDC	New system application		Development of an electronic annual banking report system	Electronic annual banking report launch and training	
TDC	New IMPACT module		Banking review module completion and launch Dec. 09	System enhancements: reflect new structure of teams (detection and compliance)	
TDC	New IMPACT module			CM Module (part of Project 83);	Post-mortem and enhancements
TDC	New IMPACT module			Trustee financial loss risk module (part of Project 83)	Post-mortem and enhancements
TDC	Improved IMPACT DEC module		DEC improvements		
Training			Develop and deliver an insolvency overview training module for clerical/support staff, including those in HQ		
Training				Conduct needs analysis and commence development of a multimedia-based training solutions to improve training flexibility and reduce wait times for training	Training
CS	Policies and procedures documents		Develop policies and procedures for Secretariat's responsibilities: <ul style="list-style-type: none"> <li>Hearing process</li> <li>Adjudication process</li> <li>Correspondence management</li> <li>Registrar's roles and responsibilities</li> </ul>		

## Appendix B: OSB Service Standards

(as published on the OSB website February 15, 2009)

The Office of the Superintendent of Bankruptcy is committed to providing you with quality services. To achieve this, we pledge to:

- Be courteous by responding to your inquiries promptly and politely.
- Be just and impartial by offering a fair service.
- Be accessible by providing information from the public record in a timely manner.

We offer bilingual services from our 14 offices across Canada from 8:30 a.m. to 4:30 p.m., Monday to Friday. A list of contacts can be found in Appendix F.

### OSB Service Standards

Services	Standards	If we do not meet this deadline...
Bankruptcy and Insolvency Registration	Registration will be complete within two business days of receiving completed documents.	...contact the local Designated Assistant Superintendent of Bankruptcy, who will respond within one business day.
Bankruptcy Assistance Program <a href="http://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/br01407e.html#seven">www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/br01407e.html#seven</a>	Bankruptcy registration forms will be forwarded to a licensed trustee within two business days. After that, you will have access to the bankruptcy process within 30 days	...contact your local Designated Assistant Superintendent of Bankruptcy, who will respond within three business days.
Complaints	We will acknowledge your written complaint by phone or in writing within three business days. We will try to resolve the complaint and inform you about it by phone or in writing within 30 business days. Because some complaints are complicated and take more time, we will let you know if this is the case within the 30-day period.	...contact your local Designated Assistant Superintendent of Bankruptcy, who will respond within one business day.
Inquiries	We will answer your inquiries or refer you to someone who can within three business days.	...contact your local Designated Assistant Superintendent of Bankruptcy, who will respond within one business day.
Bankruptcy and Insolvency Records Search <a href="http://www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/h_br01991.html">www.ic.gc.ca/eic/site/bsf-osb.nsf/eng/h_br01991.html</a>	If you have an account with us, we will respond to your telephone requests for search services immediately. At your request, we will confirm these findings by fax within one business day of the search. We will process your written request within one business day.	...contact the Manager, Information and Client Services, at 613-941-1000. Your complaint will be handled within one business day.

## **Appendix C: Applicable Legislation, Regulations, Directives and Circulars**

### **Legislation**

*Bankruptcy and Insolvency Act*  
*Companies Creditors Arrangement Act*  
*Wage Earner Protection Program Act*

### **Regulations**

Bankruptcy and Insolvency General Rules  
Orderly Payment of Debts Regulations

### **Directives**

Omnibus Directive – Administrative Delegations  
General Transitional Directive  
1R2: Counselling in Insolvency Matters  
2R: Joint Filing  
3: Duties of the Bankrupt to Deliver Credit Cards to the Trustee  
4: Delegation of Tasks  
5R2: Estate Funds and Banking  
6R: Assessment of an Individual Debtor  
7: Inventory of Estate Assets  
8R4: The *Bankruptcy and Insolvency Act* Forms (Coming into force on July 17, 2006)  
8R5: The *Bankruptcy and Insolvency Act* Forms  
9R3: Electronic Filing and Other Methods  
10: Redemption of Security and Section 147 Levy of the BIA  
11R: Surplus Income  
12: Terms of Discharge  
13R: Trustee Licensing



## Directives from before 1992 but still in force

- 3R: Use of Related Persons to Perform Services for Bankruptcy Estates and Costs Chargeable to the Estate
- 4: Trustee Consultation Fees in Non-business Bankruptcies
- 5R: Third-Party Deposits and Guarantees
- 6: Criminal Investigations
- 7: Retention of Documents by the Trustee
- 8: Unclaimed Dividends and Undistributed Funds
- 10: Reporting of Receipts Resulting from the Realization of Assets in Summary Administrations
- 11: Bankruptcy Assistance Program
- 12R: Administrative Agreements with Trustees and Receivers
- 13: Estate Bonding
- 14R: Proofs of Claim, Proxies and Quorums at the First Meeting of Creditors
- 15R: Costs and Disclosure Associated with the Realization by the Trustee of Secured Creditors' Assets
- 16R: Preparation of the Statement of Affairs
- 18: Informing Creditors of the Result of the Bankrupt's Application for Discharge
- 19R: Publication in Local Newspaper
- 20: Information to be Provided to Creditors in Commercial Proposals
- 22: Realization of Estate Assets
- 23: Notice to Bankrupts and Officers of a Bankrupt Corporation with Regard to Their Duties and Status
- 24: Withdrawal of Advances on Trustee Remuneration in Ordinary Bankruptcy Administration
- 29: Non-resident Office
- 30R: Advertising by Trustees
- 32: Trustee's Report to the Creditors on Preliminary Administration

## Circulars in Force

- 1: Income Tax Returns
- 2: Summary Administration Estates with Realizable Assets Exceeding \$10 000
- 3R2: Employment Insurance

## Appendix D: Key Risks and Proposed Audit/Review

Project	Major Business Processes and Key Risks Implicated	Engagement Objective	Core Management Control
Planning and Performance Measurement	<p><b>Processes:</b></p> <ul style="list-style-type: none"> <li>▶ Trustee and debtor compliance and detection</li> <li>▶ Outreach</li> <li>▶ Business planning process</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>▶ Operational reporting may not adequately report risks, operational issues or monitoring of results.</li> <li>▶ The OSB may not have alignment of longer-term goals and objectives and shorter-term strategies, particularly following reorganizations and transformative initiatives.</li> <li>▶ There is a risk that policies and procedures are inadequate or lacking.</li> </ul>	<p>To review that performance reporting/Key Performance Indicators are aligned with the strategic plan, that key measures are in place and monitored regularly, and that compliance aligns with policies and procedures.</p> <p><b>Engagement Criteria:</b></p> <ul style="list-style-type: none"> <li>▶ Accuracy</li> <li>▶ Timeliness</li> <li>▶ Alignment with strategic and business plans</li> </ul>	<p>Management has identified appropriate performance measures linked to planned results.</p> <p>The organization has in place operational plans and objectives aimed at achieving its strategic objectives.</p>
Succession Planning	<p><b>Processes:</b></p> <ul style="list-style-type: none"> <li>▶ Develop and implement OSB staffing plan</li> <li>▶ Provide support for HR activities</li> </ul> <p><b>Risk:</b></p> <ul style="list-style-type: none"> <li>▶ Aging workforce increases the risk of not meeting operational requirements and mandate over the next three years without appropriate succession planning and knowledge transfer protocols being in place.</li> </ul>	<p>To review the design, controls and processes for succession planning and to provide recommendations on process improvements and effective design control.</p> <p>Assess HR plans for succession planning.</p> <p><b>Engagement Criteria:</b></p> <ul style="list-style-type: none"> <li>▶ Reporting to Superintendent on staffing actions, including timeliness, accuracy and monitoring against plan</li> <li>▶ Alignment of plan with strategic priorities</li> <li>▶ Plan includes:               <ol style="list-style-type: none"> <li>1) current and future competency resource needs</li> <li>2) analysis of key positions</li> </ol> </li> </ul>	<p>HR planning is aligned with strategic business planning.</p>

Project	Major Business Processes and Key Risks Implicated	Engagement Objective	Core Management Control
HR Capacity Management	<p><b>Processes:</b></p> <ul style="list-style-type: none"> <li>▶ Corporate training</li> <li>▶ Development and implementation of OSB staffing plan</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>▶ Inadequate resources to address day-to-day business functions.</li> <li>▶ There is a risk that policies and procedures are inadequate or lacking.</li> </ul>	<p>To review that OSB HR planning is designed to address recruitment, staffing shortfalls, length of hiring process and training needs. In addition, to review that HR activities are in compliance with policies and procedures.</p> <p><b>Engagement Criteria:</b></p> <ul style="list-style-type: none"> <li>▶ Compliance with IC policy requirements</li> <li>▶ Recruitment, hiring and promotion plans are put in place and aligned with current and future resource requirements</li> <li>▶ Existence of and monitoring adherence to training and development plans</li> </ul>	<p>Recruitment, hiring and promotion consider the current and future needs of the organization. The organization provides employees with the necessary training, tools, resources and information to support the discharge of their responsibilities.</p>
Trustee and Debtor Non-Compliance	<p><b>Processes:</b></p> <ul style="list-style-type: none"> <li>▶ Regulatory affairs</li> <li>▶ Trustee and debtor compliance and detection</li> <li>▶ Legal proceedings</li> </ul> <p><b>Risks:</b></p> <ul style="list-style-type: none"> <li>▶ Approaches to trustee/debtor compliance may result in non-detection of non-compliance. This could impact the integrity of the insolvency system (public confidence, creditor and investor impact).</li> <li>▶ There is a risk that policies and procedures are inadequate or lacking.</li> </ul>	<p>To review the risk-based approach to trustee compliance, including supporting policies and procedures, reporting provided, and monitoring and reporting activities.</p> <p><b>Engagement Criteria:</b></p> <ul style="list-style-type: none"> <li>▶ Existence of policies and procedures</li> <li>▶ Consistent controls among regions</li> <li>▶ Compliance with policies and procedures</li> <li>▶ Reporting and monitoring against the risk framework</li> </ul>	<p>Management identifies the risks that may preclude the achievement of its objectives.</p>
Accountability	<p><b>Processes:</b></p> <ul style="list-style-type: none"> <li>▶ Trustee and debtor compliance and detection</li> <li>▶ Legal proceedings</li> <li>▶ Shared services with IC</li> </ul> <p><b>Risk:</b></p> <ul style="list-style-type: none"> <li>▶ Roles, responsibilities and accountabilities may not be well defined.</li> </ul>	<p>To review that Performance Management Agreements (PMAs) and Service Level Agreements (SLAs) within the OSB (as well as with IC shared services) are aligned with OSB plans, priorities, objectives and key performance measures.</p> <p><b>Engagement Criteria:</b></p> <ul style="list-style-type: none"> <li>▶ Existence of SLAs and PMAs</li> <li>▶ Monitoring mechanisms are in place between the following:                             <ol style="list-style-type: none"> <li>1) OSB headquarters and OSB Regions</li> <li>2) OSB headquarters and IC shared service providers</li> <li>3) OSB Regional offices and IC regional offices</li> <li>4) IC and Superintendent</li> </ol> </li> </ul>	<p>Authority, responsibility and accountability are clear and communicated.</p>

Project	Major Business Processes and Key Risks Implicated	Engagement Objective	Core Management Control
Financial Results and Forecast	<p><b>Processes:</b></p> <ul style="list-style-type: none"> <li>▶ Contract management</li> <li>▶ Revenue management</li> <li>▶ Expenditure management</li> <li>▶ Budgeting and analysis of revenue and expenditure trends</li> </ul> <p><b>Risk:</b></p> <ul style="list-style-type: none"> <li>▶ Risks of errors, inaccuracies and lack of timeliness in the preparation of financial reports.</li> </ul>	<p>To review the effectiveness of the financial forecasting processes.</p> <p><b>Engagement Criteria:</b></p> <ul style="list-style-type: none"> <li>▶ Monthly financial reporting is prepared</li> <li>▶ Forecasts are prepared and communicated to management and variances are reported</li> <li>▶ Financial reporting is timely and accurate and escalated to senior management on a timely basis</li> <li>▶ Policies and procedures for financial reporting and forecasts exist</li> <li>▶ Policies and procedures are in place and consistent from region to region</li> </ul>	<p>A timely budget is developed at the appropriate level of detail.</p> <p>Forecasts are monitored on a regular basis.</p>
Revenue Process Controls	<p><b>Process:</b></p> <ul style="list-style-type: none"> <li>▶ Revenue management</li> </ul> <p><b>Risk:</b></p> <ul style="list-style-type: none"> <li>▶ Controls over revenue process may not be effective.</li> </ul>	<p>To review that processes and controls exist, are consistently applied, documented, and effective in managing collection of revenue.</p> <p><b>Engagement Criteria:</b></p> <ul style="list-style-type: none"> <li>▶ Policies, procedures and key controls are consistently applied across the OSB</li> <li>▶ Adequacy and evidence of controls exists (reconciliations)</li> <li>▶ Appropriate segregation of duties exist</li> </ul>	<p>Transactions are coded and recorded accurately and in a timely manner to support accurate and timely information processing.</p>
Policies and Procedures	<p><b>Processes:</b></p> <ul style="list-style-type: none"> <li>▶ Various</li> </ul> <p><b>Risk:</b></p> <ul style="list-style-type: none"> <li>▶ There is a risk that policies and procedures are inadequate, incomplete, outdated or lacking within Corporate and within the Regions, resulting in operational inconsistencies.</li> </ul>	<p>A review of compliance to policies and procedures within the OSB have been focused on the following audits:</p> <ul style="list-style-type: none"> <li>▶ Planning and performance measurement</li> <li>▶ Succession planning</li> <li>▶ HR capacity management</li> <li>▶ Trustee and debtor non-compliance</li> </ul> <p>Note: Policies and procedures can be done either as a separate project or incorporated into the projects noted above.</p>	<p>Clear departmental policies and guidelines are consistent with government policies.</p>

## Appendix E: Bankruptcy Statistics

Please note: The following statistics were produced using in-depth analysis of live data and totals may not agree with statistics found on the OSB web site.

### New Proposals and Bankruptcies Received

(by fiscal year)

Type of Estate*	2006-2007	2007-2008	2008-2009
Summary Bankruptcies	81 784	83 402	100 067
Ordinary Bankruptcies	3 238	3 173	3 437
Division I Proposals	3 051	3 252	4 132
Division II Proposals	18 207	19 682	24 613
<b>All Estates</b>	<b>106 280</b>	<b>109 509</b>	<b>132 249</b>

\*As defined in the *Bankruptcy and Insolvency Act*.

### Proposals and Bankruptcies Closed

(by fiscal year)

Type of Estate*	2006-2007	2007-2008	2008-2009
Summary Bankruptcies	86 656	86 229	79 908
Ordinary Bankruptcies	3 951	3 632	3 119
Division I Proposals	2 637	2 641	2 262
Division II Proposals	14 004	14 969	15 479
<b>All Estates</b>	<b>107 248</b>	<b>107 471</b>	<b>100 768</b>

\*As defined in the *Bankruptcy and Insolvency Act*.

## Average and Median Age of Open Bankruptcy Files

(by fiscal year)

Type of Estate*		As of March 31, 2007	As of March 31, 2008	As of March 31, 2009
Summary	Mean	551 days	549 days	519 days
		1.51 years	1.50 years	1.06 years
	Median	428 days	417 days	386 days
		1.17 years	1.14 years	1.06 years
Ordinary	Mean	1 427 days	1 392 days	1 383 days
		3.91 years	3.81 years	3.79 years
	Median	862 days	860 days	866 days
		2.36 years	2.36 years	2.37 years

\*As defined in the *Bankruptcy and Insolvency Act*.

## Aging of Open Bankruptcy Files

(in years)

Type of Estate*		As of March 31, 2007	As of March 31, 2008	As of March 31, 2009
Summary	Less than 1 year	81 574	83 162	99 847
	1 to 2 years	63 502	59 624	62 123
	2 to 3 years	29 683	29 565	28 441
	More than 3 years	17 666	17 213	19 311
	<b>Totals</b>	<b>192 425</b>	<b>189 564</b>	<b>209 722</b>
Ordinary	Less than 1 year	3 224	3 155	3 438
	1 to 2 years	2 955	2 804	2 787
	2 to 3 years	2 153	2 176	2 104
	More than 3 years	5 914	5 683	5 902
	<b>Totals</b>	<b>14 246</b>	<b>13 818</b>	<b>14 231</b>

\*As defined in the *Bankruptcy and Insolvency Act*.

## Appendix F: Contacts for the Office of the Superintendent of Bankruptcy

### National Headquarters

Heritage Place  
155 Queen Street, 4th Floor  
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K1A 0H5  
Tel: 613-941-1000  
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Floor  
Calgary, Alberta  
T2P 0M9  
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Fax: 403-292-5188

Suite 725, Canada Place  
9700 Jasper Avenue  
Edmonton, Alberta  
T5J 4C3  
Tel: 780-495-2476  
Fax: 780-495-2466

### British Columbia

2000 - 300 West Georgia Street  
Vancouver, British Columbia  
V6B 6E1  
Tel.: 604-666-5007  
Fax: 604-666-4610

### Manitoba

400 St. Mary Avenue, 4th Floor  
Winnipeg, Manitoba  
R3C 4K5  
Tel: 204-983-3229  
Fax: 204-983-8904

### Nova Scotia

Maritime Centre  
1505 Barrington St., 16th Floor  
Halifax, Nova Scotia  
B3J 3K5  
Tel: 902-426-2900  
Fax: 902-426-7275

### Ontario

Place Bell Building  
160 Elgin Street, 11th Floor,  
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K2P 2P7  
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Fax: 613-996-0949

25 St. Clair Avenue East, 6th Floor  
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M4T 1M2  
Tel: 416-973-6486  
Fax: 416-973-7440

Federal Building,  
55 Bay Street North, 9th Floor,  
Hamilton, Ontario  
L8R 3P7  
Tel: 905-572-2847  
Fax: 905-572-4066

Federal Building  
451 Talbot Street, Room 303  
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### Quebec

1141 Route de l'Église, 4th floor  
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5 Place Ville Marie, 8th floor  
Suite 800  
Montréal, Quebec  
H3B 2G2  
Tel: 514-283-6192  
Fax: 514-283-9795

### Saskatchewan

600 - 1945 Hamilton Street  
Regina, Saskatchewan  
S4P 2C7  
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Fax: 306-780-6947

123 - 2nd Avenue South, 7th Floor  
Saskatoon, Saskatchewan  
S7K 7E6  
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