



Innovation, Science and
Economic Development Canada
Office of the Superintendent
of Bankruptcy Canada

Innovation, Sciences et
Développement économique Canada
Bureau du surintendant
des faillites Canada

Office of the Superintendent of Bankruptcy **BUSINESS PLAN**

2022–23



Canada

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MESSAGE FROM THE SUPERINTENDENT



I am pleased to share the 2022-23 Office of the Superintendent of Bankruptcy (OSB) Business Plan that builds on last year's priorities and OSB's strategic objectives; engagement, compliance, and organizational excellence.

This year, with these objectives in mind, the OSB will fulfill its mandate and advance its priorities while continuing to respond to the challenges resulting from the COVID-19 pandemic, as needed, to ensure a well-functioning insolvency system that helps promote investment and creditor confidence in the Canadian marketplace. The OSB has taken steps to ensure it is well positioned to handle any significant rise in insolvency filings which may occur in the coming year. In 2021, the OSB initiated the collection of additional data on those filing an insolvency which will allow for analysis, on an anonymized basis, of any unintended consequences on specific groups which could be addressed through program enhancements. This will be particularly important, in the years to come, given that the COVID-19 pandemic is reported to have had a disproportionate impact on traditionally marginalized groups.

The OSB will continue to implement changes to its regulatory framework, seeking to modernize and reduce unnecessary administrative burden on those it regulates. It will also finalize last year's work of implementing a revised, risk-based Debtor Compliance (DC) Program using artificial intelligence (AI) and will continue to strengthen its risk-based approach to Licensed Insolvency Trustee (LIT) compliance. The OSB will carry on with its IT renewal

initiative, in an effort to modernize systems and maximize efficiency to better support monitoring and compliance activities and to respond to stakeholder needs.

Mindful of the financial challenges faced by many Canadians, the OSB will continue to collaborate with partners to promote its debt solutions portal to help support those experiencing serious financial difficulties find the right debt solution.

The OSB will keep supporting increased diversity and inclusion within the insolvency profession through ongoing program enhancements, outreach and promotional activities.

Additionally, the OSB will continue to focus on organizational excellence through investments in training, ensuring employees have the necessary skills and information, a focus on diversity, equity and inclusion, and efforts to attract and retain top talent.

The team of dedicated and professional employees at OSB is integral to the successful delivery of these priorities and the fulfillment of OSB's mandate, and I look forward to working with them, and with stakeholders, to achieve significant results for the benefit of Canadians.

Elisabeth Lang
Superintendent of Bankruptcy

THE OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY

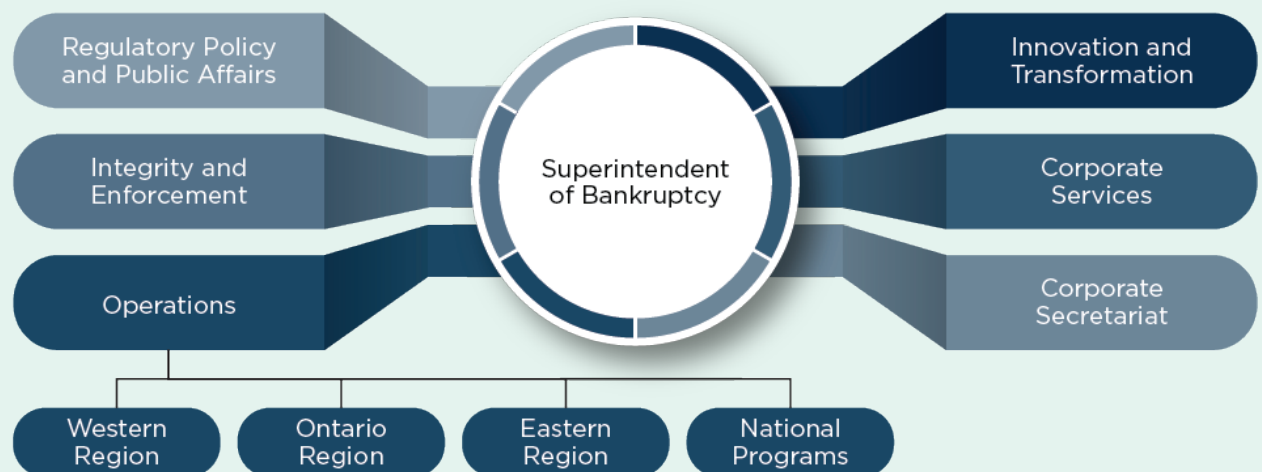
WHO WE ARE

The OSB contributes to an efficient marketplace by maintaining the integrity of the Canadian insolvency system, thereby strengthening confidence in the Canadian economy.

Operating as a vote net revenue organization within Innovation, Science and Economic Development (ISED) Canada, the OSB recovers its costs from the insolvency system and is led by the Superintendent of Bankruptcy, a Governor in Council appointee, with independent statutory and quasi-judicial authorities.

To deliver its mandate, the OSB carries out its operations with approximately 370 employees across Canada.

OSB Directorates



370
Planned FTEs¹ for 2022-23



Budget Authority:
\$47 million

¹ Full-time equivalent employees

WHAT WE DO

The OSB is responsible for the administration of the *Bankruptcy and Insolvency Act* (BIA), as well as certain aspects of the *Companies' Creditors Arrangement Act* (CCAA). It licenses and regulates the insolvency profession, ensures an efficient and effective regulatory framework, supervises stakeholder compliance with the insolvency process, and maintains public records and statistics.

The OSB is part of the Small Business and Marketplace Services Sector of ISED. It works collaboratively with colleagues across the department to achieve results for Canadians.

OSB employees are instrumental to the success of the organization. Together, they form a strong foundation for the delivery of national programs. Operations employees contribute to OSB's mandate and programs delivery by carrying out compliance promotion and monitoring, performing numerous regulatory duties, and responding to public enquiries and statutory complaints.

OSB employees also contribute to the mandate by:

- Developing policies guidance, and training;
- Conducting research and analysis;
- Providing support for business applications;
- Developing information products;
- Delivering LIT licensing services; and
- Ensuring that cases of non-compliance and insolvency offences are thoroughly investigated and addressed, as appropriate, including enforcement consequences.

In addition, internal services' employees enable program delivery by providing subject matter expertise in the areas of finance, human resources, business planning and performance measurement, administration, as well as business information and data management.



Regulatory Policy and Public Affairs



Canada's insolvency system is defined by a regulatory framework that includes the BIA and the CCAA, regulations, directives and policies, as well as related provincial legislation.

The OSB consults on and proposes amendments to regulatory instruments to ensure they remain relevant and effective, and balance the interests of stakeholders in a way that protects the integrity of the insolvency system. The regulatory framework provides the foundation on which the professional standards for the administration of estates are built. It guides the collection of information to support insolvency registration and administration and to support compliance-monitoring activities.

The OSB also engages with both domestic and international organizations regarding increasingly complex global issues impacting the Canadian insolvency system.



Licensing



The Superintendent of Bankruptcy grants licences to qualified private-sector practitioners, who use the professional designation of Licensed Insolvency Trustee or LIT, to manage the administration of insolvent estates pursuant to the BIA and the CCAA. Before granting a licence, the Superintendent requires that LIT candidates successfully complete a curriculum designed to ensure they have the necessary qualifications, including knowledge, skills and experience, as set out in Directive No. 13R7, *Trustee Licensing*. The OSB issues and renews trustee licences electronically via the OSB Licence Administration Application (OLAA).

In addition, the OSB provides ongoing support to LITs to ensure they continue to meet the requirements of the regulatory framework.



Licensed Insolvency Trustee Compliance



LITs manage the administration of insolvent estates in the Canadian insolvency system. They apply the legislation by working with debtors, creditors and other stakeholders to accomplish the objectives of the legislation through bankruptcy, proposal, receivership or restructuring proceedings.

The OSB administers and enforces the laws and requirements governing insolvencies in Canada. In its oversight capacity, it seeks to ensure that LITs are fulfilling their obligations as set out in the legislative and regulatory framework, which include effectively managing estates and estate trust funds. Most LITs are fully compliant and act in a highly professional and ethical manner. To detect, assess, and address LIT non-compliance, the OSB conducts compliance promotion and monitoring activities, reviews stakeholder complaints against LITs, and insolvency estate banking and management practices. LIT non-compliance may result in various enforcement measures, such as professional conduct proceedings, conservatory measures, and civil and/or criminal sanctions.



Debtor Compliance



The obligations of insolvent debtors include full and complete disclosure of financial information, co-operation in the insolvency process, and active participation in their financial rehabilitation or restructuring.

In its oversight capacity regarding debtors, the OSB seeks to ensure debtors are fulfilling their obligations as set out in the legislative and regulatory framework. Most debtors are honest and fully cooperate in their insolvency proceeding. To detect, assess, and address debtor non-compliance, the OSB engages in compliance promotion and monitoring of insolvency filing data, reviews complaints against debtors, receives information through the OSB's Debtor Compliance Referral Program, and conducts debtor examinations. Debtor non-compliance may result in civil and/or criminal sanctions.



Creditor Compliance



The obligations of creditors as set out in the legislative and regulatory framework include respecting the stay of proceedings and the discharge of debts in the insolvency process. The OSB, as part of its compliance mandate, seeks to ensure creditors are fulfilling their obligations.

Most creditors respect and understand the consequences of an insolvency filing. To detect, assess, and address creditor non-compliance, the OSB reviews complaints and intervenes in legal proceedings, as appropriate. Creditor non-compliance may result in civil and/or criminal sanctions.



Insolvency Information and Consumer Protection



The OSB receives and registers all insolvency filings in Canada. It provides access to and maintains a public record of BIA and CCAA filings. It is committed to providing Canadians with relevant, accurate, and timely insolvency information across a variety of channels, including its website and its National Service Centre, which handles public enquiries related to the insolvency system. The OSB publishes insolvency data and statistics on its website and on the Government of Canada's Open Data Portal in various forms.

The OSB engages in compliance promotion, in part by disseminating information on insolvency so that debtors, creditors, and LITs clearly understand their rights and responsibilities and are therefore better able to voluntarily comply with their statutory obligations.

The OSB also protects consumers by updating its debt solutions portal and providing tools and information to help Canadians in financial distress understand their situation and the options available so they can most efficiently find the right debt solution. It also maintains an LIT directory on its website that allows Canadians to easily search for LITs across the country.



Statutory Complaints



The OSB receives complaints and provides responses to them from stakeholders on matters relating to the BIA and the CCAA. Where warranted, complaints may be further pursued where there appears to have been any non-compliance with the regulatory framework.



Investigations and Enforcement



When egregious cases of non-compliance are detected, the OSB may proceed with investigations, which may result in enforcement measures. In the case of criminal investigations, the OSB works collaboratively with law enforcement partners to ensure matters are prosecuted effectively and efficiently.



Internal Services



The OSB's internal services support the achievement of the Superintendent's strategic objectives by facilitating the delivery of sound and effective corporate planning, performance measurement, human resource management, professional development, internal communications, as well as financial and administrative services.

By using best practices in information management, information technology (IT) and business data analytics, the OSB manages a significant amount of information resources of business value that is integral to the effective oversight of the insolvency system in Canada.

OUR PRIORITIES FOR 2022-23



Engagement

Increasing engagement with stakeholders, including meaningful consultations, will help the OSB pull the right players together in order to achieve significant results for the benefit of Canadians.



Compliance

The OSB has an important compliance mandate that it must fulfill effectively. To ensure compliance from all those it regulates, the OSB will use its full range of compliance and enforcement tools in a meaningful and effective manner.



Organizational Excellence

Organizational excellence involves establishing an evidence-based approach to decision-making, as well as recruiting, training and retaining a qualified workforce that is healthy, respectful, and high performing.



Regulatory Modernization

- Directives, Forms, and Regulations
- Licensing



Compliance Promotion and Enforcement

- Strengthening the OSB's Compliance Framework



IT Modernization

- Technology and Infrastructure Enhancements





REGULATORY MODERNIZATION

Effective regulations promote social and economic wellbeing, protect health and safety, and foster innovation and a competitive business environment. In recent years, the Government of Canada has undertaken a number of initiatives to modernize the regulatory framework and improve its performance for both Canadians and businesses. With that in mind, the OSB is seeking to modernize its regulatory framework, comprised of BIA Rules, CCAA Regulations, the Superintendent's Directives and forms, all of which govern the Canadian insolvency system.

Directives, Forms and Regulations

The OSB's 90 day public consultation on a [Comprehensive Review of Directives and Regulations](#) (CRDR) concluded in June 2021. A wide range of stakeholders provided input and feedback, including professional and legal associations, counselling organizations and individual and corporate LITs. The feedback generally fell within the themes of:

- Modernization and innovation:
 - Removing outdated requirements in regulations;
 - Reflecting gender neutral language;
 - Allowing modern means of communication such as virtual services; and
 - Improving forms under the BIA and CCAA for better data integrity.
- Promotion of a more efficient and effective insolvency system:
 - Reviewing LIT services and remuneration;
 - Strengthening consumer protection;
 - Increasing accessibility to insolvency for both individuals and businesses; and
 - Refining surplus income requirements.

In light of this feedback, the OSB will implement changes to directives and forms in accordance with its priority-based roadmap.



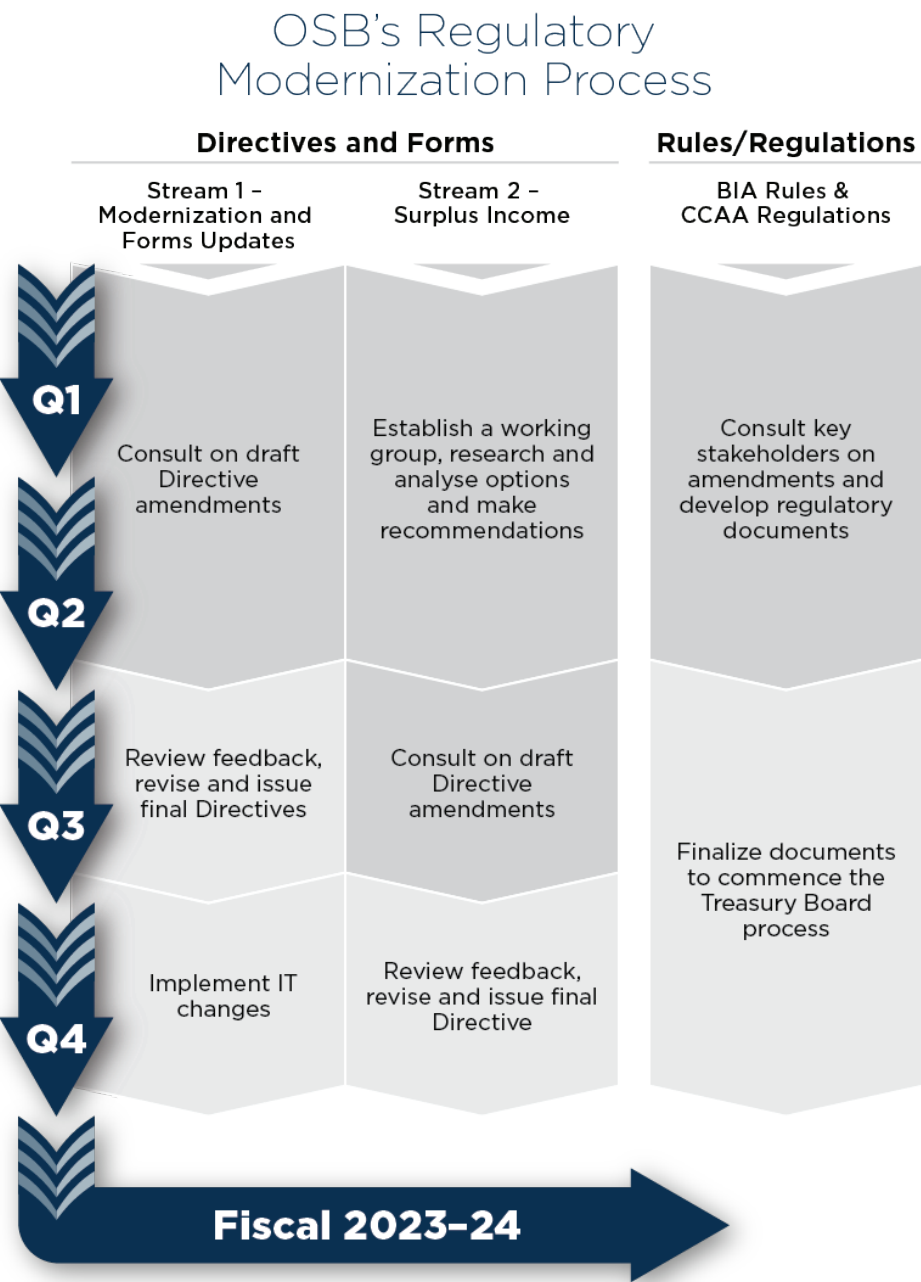
As a separate project, the OSB will commence the regulatory process to recommend changes to regulations under the BIA and the CCAA. This regulatory modernization endeavour represents a significant amount of work and involves many areas of the OSB including regulatory policy, operations, data analytics, and IT.

In addition to changes to forms, directives and regulations, stakeholders also took the opportunity to suggest technological innovations to improve insolvency administration. Many of the comments align with the OSB's long-term vision of a single IT system to serve the OSB, LITs and potentially other stakeholders. In 2022-23, the OSB will commence exploration of this long-term goal.

The plan for 2022-23

In 2022-23, as a next step to the CRDR, the OSB will:

- Implement changes to directives and forms in accordance with short-, medium-, and long-term priorities; and
- Undertake the process to recommend changes to regulations under the BIA and the CCAA by:
 - Consulting with key stakeholders on the proposed amendments; and
 - Preparing a package of recommended regulatory reforms in accordance with Treasury Board requirements.



Licensing

In 2021-22, the OSB engaged with stakeholders on a review of its Licensing Program for trustees in order to assess the impact of the recent technological and operational innovations, taking into account evolving LIT business models as well as debtor and creditor preferences for insolvency services. Following this review, the OSB will explore a bifurcated licensing process, which will allow candidates to indicate a preference for a consumer, corporate or full LIT licence at the Oral Boards. This change would better reflect the current realities of practice and support diversity and inclusion in the LIT profession while maintaining high standards of training and knowledge for both consumer and corporate insolvency matters. The OSB will work with Canadian Association of Insolvency and Restructuring Professionals (CAIRP) to assess whether there are any barriers to entry, as CAIRP continues their review of the Chartered Insolvency and Restructuring Professional Qualification

Program (CQP). The OSB will also implement a Trustee Annual Report (TAR), further to its consultation, to collect information on LIT business models and practices that will help inform the OSB's oversight activities and help reduce administrative burden on LITs. Finally, the OSB will update its physical office requirements for LITs further to its consultation and feedback received.

The plan for 2022-23

In 2022-23, the OSB will:

- Explore a bifurcated licence process and make appropriate changes to Oral Board processes;
- Work with CAIRP to review data and assess whether there are any barriers to entry;
- Implement a TAR; and
- Update physical office requirements for LITs.

COMPLIANCE PROMOTION AND ENFORCEMENT



A comprehensive, risk-based approach to program delivery is key to the success of the OSB's Compliance Framework (CF) and supports the objectives of efficiently assessing compliance and responding to identified non-compliance. With that in mind, the OSB continuously enhances its compliance activities to effectively fulfill its core mandate of protecting the integrity of the insolvency system.

Strengthening the OSB's Compliance Framework

Over the last three years, the OSB has undertaken various multi-year initiatives aimed at strengthening its CF. It has taken steps to ensure the effective enforcement of insolvency offences, finalize a risk model leveraging AI for DC, and it has continued to prioritize compliance promotion and a risk-based approach as it strengthened its LIT Compliance Program. The OSB has also explored the compliance risks arising from LIT relationships with debt advisors. Building on these major initiatives, the OSB will continue to implement program enhancements in response to the needs of the insolvency system.

- Explore compliance enforcement options for the most serious insolvency offences in Canada by:
 - Engaging with the enforcement community to discuss best practices in criminal enforcement with a view to increasing enforcement capacity and improving outcomes; and
 - Researching enforcement case management software options for implementation.
- Continue to engage with federal and provincial stakeholders on a variety of issues including the debt advisory marketplace.

The plan for 2022-23

In 2022-23, the OSB will:

- Publish its CF, as sections are updated, in support of compliance promotion;
- Continue to enhance its quality assurance (QA) activities to ensure that established standards, policies, and procedures are adhered to by:
 - Increasing its capacity to collect, analyze, and assess nationally consistent QA data to ensure its activities support the achievement of a high-level of operational effectiveness and organizational excellence.





IT MODERNIZATION

Thinking about the future, investing in innovation and making evidenced-based decisions are key areas of focus for every organization. In support of these efforts, and to deliver agile results and maximize efficiency as it preserves the integrity of the insolvency system, the OSB must continually modernize its IT systems.

Technology and Infrastructure Enhancements

Over the last years, the OSB has invested significant resources to modernize its IT and infrastructure systems to ensure the effective delivery of operational programs. In 2021-22, the OSB initiated the transfer of its Estate Administration (EA) system, along with its electronic filing system, from old technology to an updated and integrated IT platform. In the coming year, the OSB will continue its efforts to ensure it has efficient and modern IT systems.

The plan for 2022-23

In 2022-23, the OSB will:

- Implement a new, highly integrated and updated EA system to manage insolvency estates; and
- Launch the new Debtor Compliance Management System incorporating its Debtor Compliance Risk Model with AI capability.



ONGOING ACTIVITIES



In 2022–23, in addition to its core mandate and business priorities, the OSB will continue to advance the following activities that support its strategic objectives.

Financial Trend and Risks Analysis

The OSB will continue to explore effective methods of identifying emerging financial risks and trends that could have adverse impacts on the Canadian insolvency system, to conduct periodic environmental scans and to share data, as appropriate, to support informed decision-making and investigations.

Registrars Conference

The OSB is committed to convening a conference for Registrars on a regular basis in support of discussions on key insolvency topics of national interest and information sharing on the application of insolvency laws across the country.

Finding the Right Debt Solution

In its efforts to increase awareness of the range of debt solutions available to help Canadians evaluate their level of financial risk, the OSB will continue to collaborate with federal partners and stakeholders to promote its debt solutions portal and ensure useful tools and reliable information are available.

Diversity and Inclusion in the Licensed Insolvency Trustee Profession

The OSB, in collaboration with CAIRP, will continue to review and analyze data relating to diversity and inclusion among LITs and LIT feeder groups, seek ways to address barriers to entry into the profession, and will continue outreach and promotional efforts aimed at increasing awareness of the insolvency profession.

Operational Training

The OSB will continue to invest in its Operational Training Program, enabling a qualified and knowledgeable workforce in support of organizational excellence.