



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 |||||
2023-24



Canada

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MESSAGE FROM THE SUPERINTENDENT



I am pleased to share the 2023-24 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 to ensure a well-functioning insolvency system that supports business, investor and consumer confidence in the Canadian marketplace. 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 continue to focus on strengthening its risk-based approach to Licensed Insolvency Trustee (LIT) oversight and carry on with its information technology (IT) renewal initiative, to modernize systems and maximize efficiency in support of monitoring and compliance activities and to respond to stakeholder needs.

Mindful of the financial challenges faced by many Canadians, OSB will continue collaborating with partners and promoting its debt solutions portal to help support those experiencing serious financial difficulties find the right debt solution. This year, the OSB will also review its outreach strategy to ensure it continues to be a targeted, efficient and effective support of diversity and inclusion in OSB's engagement with Canadians.

There has been a great deal of speculation in recent years regarding a potential, sudden increase in insolvency filings following the notable decrease in filing volumes observed during the COVID-19 pandemic. The OSB

regularly monitors all aspects of the insolvency system to ensure it remains well positioned to handle any significant increases in insolvency filings.

The OSB is also collecting additional diversity data on those filing an insolvency which will allow for anonymized analysis of any unintended consequences for 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. Stakeholders are encouraged to report this information in support of a well-functioning insolvency system.

The OSB will also continue to support increased diversity and inclusion within the insolvency profession through ongoing program enhancements, outreach and promotional activities.

The OSB is also committed to enhancing diversity, equity and inclusion within its own workforce, particularly as it shifted to a hybrid workplace model in the fall of 2022. The OSB will continue to focus on organizational excellence through efforts to attract and retain top talent as well as investments in training to ensure employees have the necessary skills and information to deliver results for Canadians.

The COVID-19 pandemic, and the ongoing economic recovery, have been difficult for many Canadians, including LITs. We would like to thank LITs for their continued dedication to high quality service and professionalism, particularly during this challenging period, which is crucial to maintaining the integrity of the profession. The OSB appreciates the Canadian Association of Insolvency and Restructuring Professionals (CAIRP) for its collaboration and valuable input and we look forward to continuing to work with them and other key stakeholders for the benefit of Canadians in the year ahead.

I would like to recognize all OSB employees for their contribution to OSB's success

in delivering its priorities and fulfilling its mandate through hard work and dedication. Thanks to everyone's effort to go above and beyond, through all the challenges and transitions we experienced in the last few years, we have achieved impressive results on behalf of Canadians.

We should all be very proud of Canada's world class insolvency system and excited about the future as we continue to modernize and strive for excellence.

Elisabeth Lang

Superintendent of Bankruptcy

THE OFFICE OF THE SUPERINTENDENT OF BANKRUPTCY

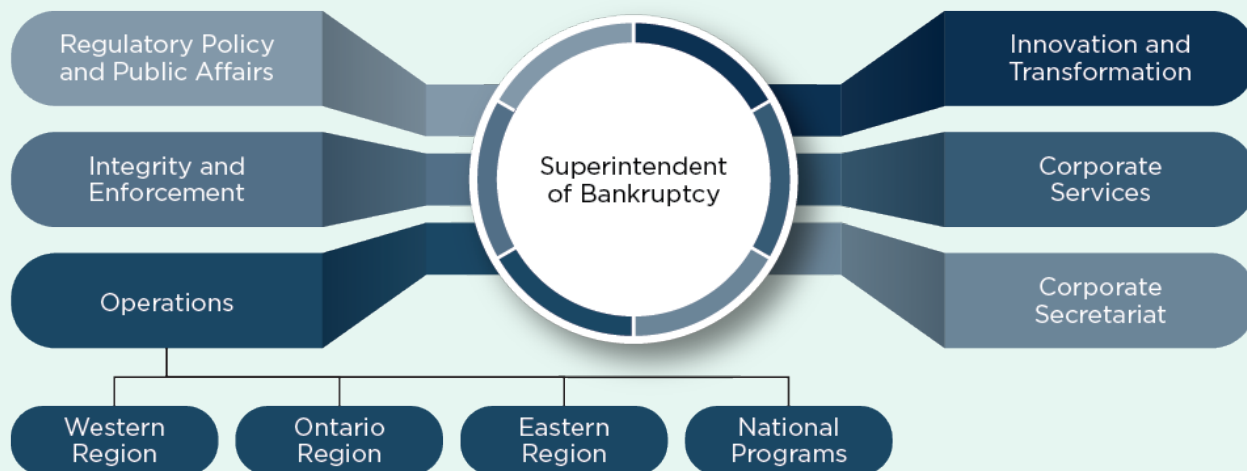
WHO WE ARE

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 netted 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 2023-24



Budget Authority:
\$47 million

¹ Full-time equivalent employees

WHAT WE DO

The OSB is responsible for ensuring the effective 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.

As a part of the Small Business and Marketplace Services Sector of ISED, the OSB 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. The majority of OSB's employees work in front line operations and make significant contributions to OSB's mandate by carrying out a wide range of day-to-day oversight and compliance

activities. These activities include compliance promotion and monitoring as well as responding to public enquiries and investigating 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 with enforcement consequences, as appropriate.

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 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 and oversight 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 administer 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, experience and skills, 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, responding to their business needs while ensuring they continue to meet the requirements of the regulatory framework.



Licensed Insolvency Trustee Compliance



LITs are responsible for the administration of 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 a variety of proceedings including bankruptcies, proposals, receiverships, plans of compromise or arrangements, etc.

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 and investigates stakeholder complaints against LITs. 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, 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, investigates complaints against debtors and information received 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 investigates 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 maintains and provides access to 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 on matters relating to the BIA and the CCAA. Complaints will be investigated where there appears to have been non-compliance with the regulatory framework.



Investigations and Enforcement



When serious 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 as efficiently and effectively as possible.



Internal Services



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

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

OSB'S STRATEGIC OBJECTIVES AND 2023-24 PRIORITIES

OSB's Strategic Objectives



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.



Our Priorities

Regulatory Modernization

- Directives, Forms and Regulations



Compliance Promotion and Enforcement

- Strengthening the OSB's Compliance Framework



IT Modernization

- Technology and Infrastructure Enhancements



Consumer Awareness

- Engagement with Indigenous Peoples



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 the BIA Rules, CCAA Regulations, the Superintendent's Directives and forms, all of which govern the Canadian insolvency system.

Directives, Forms and Regulations

Feedback from a wide range of stakeholders on the OSB's [Comprehensive Review of Directives and Regulations](#) (CRDR) concluded in June 2021 and generally fell within the themes of:

- Modernization and innovation:
 - Removing outdated requirements in regulations;
 - Reflecting language that is inclusive and respectful of gender preferences;
 - 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 completed a first phase of amendments in 2022-23. In 2023-24, it will finalize revisions to the Surplus Income Directive following the review committee's recommendations and stakeholder consultation. On a separate track, the OSB will seek approvals to complete the lengthy process required to amend regulations under the BIA and the CCAA.

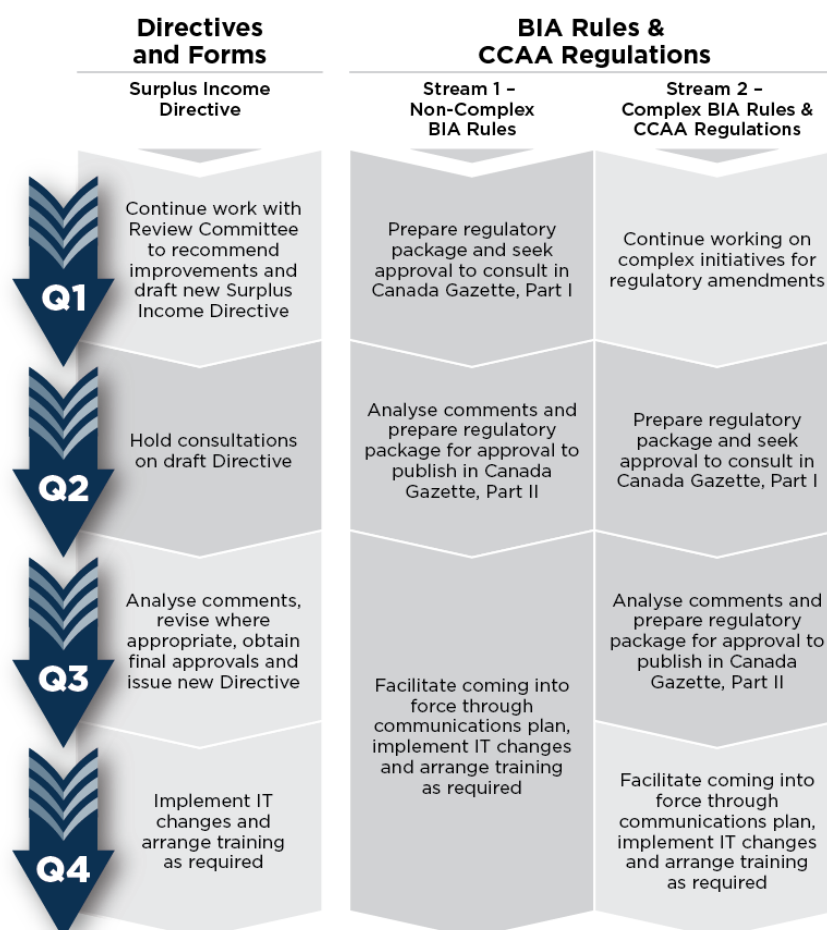


The plan for 2023-24

In 2023-24, the OSB will turn its focus to the:

- Surplus Income (SI) Directive
 - Consult on a revised directive based on the review committee's recommendations;
 - Amend and issue the revised directive, based on feedback received;
 - Work with partners to implement any IT changes.
- BIA & CCAA Regulatory Amendments
 - Prepare two regulatory proposals, one to make simpler amendments to select BIA Rules and a second to make more complex amendments to both the BIA Rules and the CCAA Regulations, including for example, a recommendation to review the Tariff;
 - Seek approval to publish regulations for consultation in the *Canada Gazette*, Part I, for 30 days;
 - Review and analyze comments received;
 - Prepare a regulatory package to seek final approval and publish in the *Canada Gazette*, Part II;
 - Work with partners to implement any IT changes; and
 - Issue communications to support coming into force.

OSB's Regulatory Modernization Process



COMPLIANCE PROMOTION AND ENFORCEMENT



A comprehensive, risk-based approach is key to the success of the OSB's Compliance Framework (CF) and supports the objectives of efficiently assessing compliance and addressing 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 four 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 Artificial Intelligence (AI) for Debtor Compliance and it has continued to prioritize compliance promotion, consistency 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.

The plan for 2023-24

In 2023-24, the OSB will:

- Develop a Statement of Receipts and Disbursements (SRD) Risk Model, leveraging AI, to more efficiently and effectively select estates for further review.
- Develop a broader LIT Risk Assessment System (LITRAS), also leveraging AI, to more efficiently and effectively monitor LIT compliance.
- Prepare for implementation of a modernized and efficient process for more consistent oversight of national and multijurisdictional insolvency firms and LITs.
- Develop modernized LIT Compliance Program processes, leveraging IT in support of more efficient electronic inspections, including both on-site and remote Trustee Office Visits.
- Take concrete steps to address conduct, of both LITs and debt advisors, that harms the integrity of the insolvency system, via notices to LITs, civil and criminal proceedings and professional conduct investigations.
- Continue working to improve the efficacy and efficiency of criminal investigations in order to ensure that the most serious offences are prosecuted.





IT MODERNIZATION

Thinking about the future, investing in innovation and making evidenced-based decisions are key areas of focus for any effective 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. This project, which will be completed in 2023-24, also includes new and updated EA processes and procedures and a review of legacy data.

In the coming year, the OSB will continue its efforts to ensure it has efficient and modern

IT systems. Further to the exploration in 2022-23 of an integrated IT system to serve insolvency stakeholders, the OSB is taking first steps in its long-term goal to develop one IT ecosystem that will allow stakeholders to easily access relevant and accurate information in support of a well functioning insolvency system.

The plan for 2023-24

In 2023-24, the OSB will:

- Complete the update and modernization of its EA system.
- Develop a phased implementation plan, in consultation with stakeholders, of an integrated IT system that will better support insolvency stakeholders in Canada.



CONSUMER AWARENESS



The OSB regularly engages with stakeholders through outreach efforts to exchange ideas, increase awareness and discuss opportunities to improve the insolvency system. Mindful of the financial challenges faced by many Canadians, the OSB will continue to collaborate with partners to share key information relating to insolvency and help support those experiencing serious financial difficulties to find the right debt solution.

Engagement with Indigenous Peoples

In 2023-24, the OSB will update its Outreach Strategy to ensure that it continues to be targeted and efficient while supporting diversity and inclusion in OSB's engagement with Canadians. To start, the OSB will look to engage with Indigenous Peoples to better understand the particular needs, challenges and potential gaps in insolvency services for Indigenous Peoples and to collaborate on possible solutions.

The plan for 2023-24

In 2023-24, the OSB will:

- Update its Outreach Strategy to reflect the current environment and implement effective strategies.
- Conduct research and engage with Indigenous Peoples on potential needs, systemic issues or gaps.
- Undertake work on possible solutions to help address identified needs, systemic issues or gaps.



ONGOING ACTIVITIES

In 2023–24, 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 business, investor and consumer confidence in the Canadian marketplace, to conduct periodic environmental scans and to share data with key federal partners, 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.

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, consider and address any identified barriers to entry into the profession and continue outreach and promotional efforts aimed at increasing awareness of the insolvency profession, all in support of increasing diversity and inclusion over the long term.

Operational Training

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