The Liversidge *e*-Letter

An *Executive Briefing* on Emerging Workplace Safety and Insurance Issues

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WSIB Funding Crisis
Everything Old is New Again

WSIB funding crisis now a national story

WSIB is in a very real funding crisis

As I reported in the October 16, 2008 issue of **The Liversidge *e*-Letter**, ***"Stay the Course or Change Direction" Tough Times. Tough Choices"***, the Workplace Safety & Insurance Board ["WSIB" or "Board"] unfunded liability ["UFL"] is likely nearing, or over, historically high levels. At the moment it is anybody's guess as to the state of the UFL (except, of course, the Board's). ***But it is beyond question that the WSIB is in a full-blown funding crisis***. This is what I said:

Beginning in 2007 things started to dip

For 2007, the excess of expenses over revenues increased to $1.13 billion **[WSIB 2007 Annual Report, p. 18]**, with $720 million of that driven by the ***Budget Reforms***. In 2007, while noting that the 2007 funding ratio had declined 6.8 percentage points to 66.4% (mainly due to falling investment returns), "*the WSIB believes that elimination of the unfunded liability by 2014 is still possible, provided improved outcomes consistent with the targets in the WSIB's Five-Year Strategic Plan, 2008-2012*" **[WSIB 2007 Annual Report, p. 21]**.

LOE benefits up 12.3% 2006 to 2007

Loss of earnings ["LOE"] benefits were up almost $100 million, an increase of 12.3% (from $807 million in 2006 to $906 million in 2007) **[WSIB 2007 Annual Report, p. 23]** even though injury rates continued a steady decline, in spite of more money being "invested" in labour market re-entry ["LMR"] programs. LMR costs increased 14.1% to $283 million **[WSIB 2007 Annual Report, p. 24]**. Health care costs jumped 6.7% to $527 million. Benefit liabilities increased $702 million due to the net growth in LOE claims inventory **[WSIB 2007 Annual Report, p. 24]**.

I suggested that the Board's funding is perhaps now in the mid-50 percentile range:

WSIB funding ratio likely in mid-50 percentile range

That would reduce the Board's funding ratio to the mid-50 percentile range (55% - total liabilities would be $24.066 billion; total assets $13.2212 billion; and the UFL would be just shy of $11 billion). If the Board's investments dropped in line with the TSX (30%), the Board's funding ratio would be just under 50%, a far cry from the recent height of 73% in 2006, but still better than the early 1990s.

That guess is probably very optimistic. More likely, the funding is in the 30 to 40 percentile ranges, with the actual UFL being anywhere from $11 to $15 million.

WSIB funding attracts comment in the National Post

This story has now attracted the attention of the esteemed Terence Corcoran of the Financial Post in his November 18th story "***Ontario WSIB funding fiasco***." Mr. Corcoran repeated a theme that I have been writing about in these pages for a long while – that notwithstanding claims by the Board in 2006 that the finances were in check (see the September 19, 2007 issue of **The Liversidge *e*-Letter**, "***WSIB says starting to turn the financial corner***"), the Board's fortunes started going south in 2007, well before the more recent market melt down. I said more than a year ago that the Board was skating on thin ice. Well, that ice may have cracked. Mr. Corcoran observes, "***it's a safe bet that the WSIB's unfunded liability is about to fly to a new record during 2008***".

Is *Bill 119* a back door funding strategy?

Mr. Corcoran has also introduced an interesting thesis – that some of the Board's (and government's) motivation to increase the number of construction industry "workers" through the recently introduced and soon to be passed *Bill 119* is linked to the Board's funding implosion.

Bill 119 decrees mandatory WSIB coverage for independent operators, owners and executive officers in the construction sector, creating a new "worker pool" in excess of 90,000. Mr. Corcoran suggested this "*hardly seems like the time to impose new taxes*" unless "*it's a back door attempt to cover the mounting liabilities within the mismanaged WSIB*".

Bill 119 does not come into effect until 2012 - the Board should not bank on those revenue streams until then

While Bill 119 is likely to be passed this year, it will not come into effect until 2012. I will comment more on *Bill*

50 Acadia Ave., Suite 101, Markham, ON L3R 0B3 Tel: 905-477-2039 Fax: 905-477-4659 E-mail: lal@laliversidge.com ISSN 1710-5757

119 in a future issue of **The Liversidge *e*-Letter**, but the Board should be cautioned not to bank on future projected revenue streams linked to *Bill 119* initiatives when it reports on the state of its finances at the end of 2008. This will mask the true size of the UFL. Unproven theoretical revenue streams are too weak a foundation upon which to base long-term financial projections. More on this in a future issue.

WSIB has no option – it must change its business plan

On October 16, I suggested the Board must change course – that the current "plan" is dead. This is what I said:

> . . . . faced with increasing benefit costs, a world-wide financial crisis depleting the Board's asset values, and an imminent downturn in the economy, a "*stay the course*" plan is not on.

I noted last month that while the Board has faced tough times before, the going this time around will be tougher:

> **This time around the going will be tougher**
>
> There is however a difference between "*then and now*". In 1994 when the UFL was in the mid-$11 billions, Ontario was just pulling out of the effects of a recession. This time around, the bow of the good ship WSIB is being trimmed into stormy, uncertain seas when the UFL is likely at or nearing record levels, and economic prospects are dimming.

I set out nine suggestions:

1. Employer premiums must stand pat (Premier McGuinty has commented that "*the worst thing you can do in times of an economic slowdown*" would be to raise taxes).
2. Defer the January 1, 2009 2.5% benefit hike (I am confident that had the WSIB been funded at current levels when those political decisions were taken, they never would have seen the light of day).
3. Establish sound guidelines to future indexing calls (at a minimum, the WSIB funding ratio should be in the mid-seventy percentile before contemplating any additional indexing beyond prescribed levels).
4. The WSIB must provide a special financial report declaring its performance to the end of October, 2008 and every quarter thereafter.
5. WSIB funding plan should be revisited to set out a renewed and more realistic long term funding plan.
6. The WSIB should slow down its reorganization plans.
7. As part of its "persistency study" the WSIB should encourage a review of the structural elements of ***Workplace Safety and Insurance Act*** ["WSIA"] which in my view are driving higher claims costs through the inability to distinguish between unemployment caused by an injury and unemployment caused by economic reasons.
8. The Board should get back to basics and promote prevention through its insurance levers and not as a stand alone business initiative.
9. It is time for an external review of the WSIB.

I add one more

I now add one more. The world-wide financial meltdown is a game changer. We are in a new world. While I know the Board's leadership is alarmed, and I am certain is devoting much brain-power to these serious issues, so far that alarm has not translated into a new plan, or even a process through which to achieve that plan. As I have said, this is not the time to panic, but it is the time to act.

The WSIB must realign *all* of its plans

In too many ways, however, the Board is operating, at least publicly, as if it is "*situation normal*". This is not situation normal. ***Every element of the Board's business must be realigned to respond to the new critical times we face. Every current plan must be re-opened and be recalibrated to respond to the new reality***.

World events have voided the pre-melt down agenda

Yet, day-to-day, the Board is still working through the pre-melt-down policy and administrative agenda, including plans that will add significant new benefit costs to the system (such as initiatives on the occupational disease file).

World leaders responded to a crisis – so must the Board

In the last few months, the world has witnessed first hand the calamity caused by ill-conceived corporate actions or inactions, by irresponsible plans, or been dumbfounded by the absence of any plan at all. Financial markets melted away in days, stocks in weeks, and now entire industries are at risk of fading away in months. However, governments all over the world not only acted, they have been at the forefront of a new public discourse. The WSIB is well advised to take heed and similarly respond. ***This is the time to act.***

Past lessons of what not to do

In the next issue of **The Liversidge *e*-Letter**, I will review the legacy of the last 30$^+$ years of the Board's approach to change, but there are important lessons to be learned from the Board's actions in the early 1980s. The 2014 funding plan (now toast of course), found its genesis in similar times – a stable or declining revenue base and increasing expenses (benefits), creating of course the UFL.

Everyone should remember that the Board's first reaction was not the development of the 30 year funding plan. *Far from it*. ***The Board's first reaction was to act unilaterally and issue a notice that premiums would be increased in 1984 by 27%***. It was the immediate, aggressive, angry, political and table-pounding reaction of employers that gave rise to the 30 year plan. Employers demanded a say. That voice was channelled politically. It was heard. A plan was then developed.

This time cut right to the chase

So, this time around, let's skip the first and second steps, and go right to developing the plan. Let us also toss out some political niceties and the notion that WSIB funding is an issue that requires the joint and equal participation of labour and capital.

***LAL's tenth suggestion*: The WSIB must organize an urgent Funding Summit**

By no later than mid-January, 2009, the WSIB should facilitate an urgent funding summit with Ontario's business leaders and senior government officials, to develop a new long-term funding strategy - a newly conceived 20 or 30 year plan. The Board should make this announcement right away, propose an agenda, develop alternatives, and commit to a process to be completed no later than the end of the 1st quarter of 2009. ***A new era must start today***.

50 Acadia Ave., Suite 101, Markham, ON L3R 0B3 Tel: 905-477-2039 Fax: 905-477-4659 E-mail: lal@laliversidge.com