The Liversidge *e*-Letter

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

April 4, 2008 — An *Electronic Letter* for the Clients of L.A. Liversidge, LL.B. — 2 pages

"*Rabbit in the Hat*" now WSIB "Plan B"

Plan A: Stay the Course

In a WSIB *Funding Framework* meeting WSIB Chair Mahoney open and forthright.

Employer premiums will stay flat-lined to 2014 but:

Accident rates must continue to decline; time on claim must be reduced; and WSIB investments must continue to perform well.

In the March 6th issue of **The Liversidge *e*-Letter**, I presented a summary of the arguments first advanced in my September 2007 series on the Government's workplace safety and insurance ["WSI"] reforms **[the *Budget Reforms*]** and the likely impact they would have on the future financial viability of the WSI system. I noted:

> The *Budget Reforms* cancelled out the indexing adjustments of the NDP (1995 – *the Friedland formula*) and the PCs (1998 – *modified Friedland*) and restored *de facto* full indexing (first introduced by the Liberals in 1985) **[see the September 12th issue of The Liversidge *e*-Letter]**, adding about $2.3 billion to the system's costs (the Board's figures, not mine).
>
> **I support full indexing**
>
> I suggested however that not only was there nothing wrong with full indexing, I fully support it – ***providing that the system can afford it!*** I argued that "affordability" was measured from the perspective of worker, not employer interests, and that the ultimate yardstick was employment impacts **[see the October 1, 2007 issue of The Liversidge *e*-Letter, "*Budget Reform concerns are about accountability not expenditures*"]**.

The WSIB is not immune to economic reality

I introduced the pressing reality that the Board's funding targets may be already starting to be impacted by unexpected economic downturns noting that:

> In a February 11, 2008 *Funding Framework* review, the Board advised that for 2007, the UFL ended the year at about $8 billon, and is expected to peak at about $9 billion by 2009. ***Still, the Board remains optimistic in its outlook that not only can it retire the UFL by 2014 with no rate hikes, but within a few years of that target, the Board just may well have accumulated an impressive surplus*!**

My bottom line assessment: Hitting the targets is getting a lot harder. There are many factors in motion, any one of which can rain out the whole ball game.

On March 19, 2007 WSIB Chair Mahoney talked straight and made it crystal clear – *it won't be easy*

On March 19th, the WSIB held a well attended strategy session with "all of the usual suspects" where the Board continued discussion on the revamped *Funding Framework*.

WSIB Chair Mahoney laid his cards on the table

Very much to his credit and very consistent with the style I have seen since he took on the assignment as WSIB Chair, Steve Mahoney was exceedingly open. He laid his cards on the table. No bafflegab. No bamboozle. He made his points clearly and honestly. Straight talk.

The price of full indexing included in funding model

Recall that in past issues of **The Liversidge *e*-Letter**, I argued that notwithstanding that the ***Budget Reforms*** only offered *ad hoc* yearly increases beyond the statutory indexing formulae at the call of Cabinet, it would be exceedingly tough for any government of any stripe, present or future, not to continue the practice of full inflation indexing.

***Very much to its credit, the Board has now incorporated the cost of full indexing into its future funding models*.** This is a big deal and kudos to the Board, and the Board's Actuary, for doing this.

The WSIB did not take the easy way out

It would have been easier for the Board to proceed under the fiction that future liability projections are to be based only on the prescribed inflationary formulae prescribed in the *Workplace Safety and Insurance Act* ["WSIA"] (commonly referred to as "the modified Friedland formula").

By accounting fully for the real price of likely future increases, the Board has had to absorb a significant increase in its future liabilities, likely in the neighbourhood of $2+ billion.

So, why is this good news? One of the criticisms that I have been pitching at the government (see the September 2007 series of **The Liversidge *e*-Letter**), is that the system has historically gotten into trouble when benefits went up but there was no corresponding regard with how to pay for them. Dodging the true price of reforms was a political trick routinely used by all political players a generation ago.

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**

<u>Increasing benefits but not taking the full price into account is not sustainable</u>

Past practice a generation ago was, understandably, politically alluring – it allowed the best of both worlds – higher benefits and lower (or low) premiums. But, it was not sustainable. This was the very thinking that led to the creation of the unfunded liability ["UFL"] in the first place, that has been a millstone on the system for a quarter of a century now. So by pricing the <u>*true likely cost*</u> of the indexing elements of the ***Budget Reforms***, the Board has struck a firm commitment for openness. **<u>This *is* a big deal</u>**.

[I still think the ***Budget Reforms*** were ill-timed. I would have preferred seeing the UFL knocked down many more notches before the spending cycle increased. I am confident that history will prove me right on this (even though I wouldn't mind at all being quite wrong)].

<u>Mahoney will fight for low premium rates (but not at the cost of worker benefits)</u>

Mr. Mahoney made it crystal clear he has no stronger commitment but to deliver the best and highest possible level of benefits to the injured workers of Ontario without raising employers premiums one cent (well, perhaps one, working himself out of a job by reducing Ontario injuries to zero).

<u>But keeping rates flat-lined will not be easy. Everyone must pitch in.</u>

But, he made it ever so clear that this will not be easy. And while not said, if it comes to a contest between fair benefits and higher premiums, I expect that benefits will trump premiums. (Actually, I have always said much the same. In past issues of **The Liversidge *e*-Letter**, I have long argued that the provision of fair benefits will always trump premiums, *and should*. But, the balance is sometimes a delicate one. Once taxation levels start impacting employment levels, other considerations rightly creep in.)

<u>WSIB sets tough targets – if not met, all bets are off</u>

Mr. Mahoney set out some very tough targets that must be met by everyone involved or all bets are off.

Investment return: The Board is banking on an average 7% yearly investment return. Readers will recall that the Board did very well in 2006 with a 16.2% return, but no so well for 2007 (the Board had a negative return). So, this will be a tough one. But Mr. Mahoney suggested, and rightly so, that the investment horizon must be viewed long-term.

Lost time injury rates: Continuing the ambitious trend set with the recent 20% injury reduction target (2005-2008), which was successful (the Board will exceed those targets), the Board has set the bar even higher. The "new and improved target" is more ambitious – a 35% reduction by 2012, starting this year. Mr. Mahoney made the point that the "**<u>Road to Zero</u>**" program, which is exactly what it sounds like, is not a public relations campaign – ***it is a real target***, and one that Mr. Mahoney has set as his personal mission. (In fact, when he attended my client "town hall" meeting in November 2006 **[see the November 15, 2006 issue of The Liversidge *e*-Letter]**, I said that "*injury prevention ignites Mr. Mahoney's personal passion – safety is his cause*". 16 months later, this is all the more true.)

So, it should be no surprise that the **Road to Zero** concept and plan is the foundation of the Board's *Funding Framework*. In fact, the defining commitment at the core of the *Funding Framework* is the "*alignment of all system partners with the **Road to Zero***".

Health Care Costs: Estimates are projected at a long-term growth of 6.5% per year, which on its own, will be tough to achieve.

Occupational Disease: The plan factors in an expected 5% growth per year (based on WSIB studies). I have no way of knowing whether this is, or is not, a reasonable projection. I do though know this – projecting the costs of occupational disease ["OD"] cases is daunting and many of the drivers are well out of the Board's control. Adjudicative wise, the Board is responding to long-latency exposures from eras long-past. Compensation for OD is as complex a subject as anyone is ever going to touch in a workplace safety and insurance ["WSI"] context. [I encourage readers to go back to my OD discussion in the June 29 & September 28, 2004 issues of **The Liversidge *e*-Letter.**]

Injured worker benefits: As already noted, the plan takes into account full indexing for partially disabled workers (both before and after the ***Budget Reforms*** 100% disabled workers benefits are already fully indexed).

Administration: "Controllable expenses" are tied to CPI.

The Board has described its "tool box" as including: An innovative prevention partnership model; targeting prevention priorities; recognizing and rewarding superior workplace behaviour (this is one small bullet with a massive potential impact and more on this in future issues); drive a cultural health and safety shift; implement a new service delivery model; and a new health care strategy.

The Board expects its workplace parties to: Create a safer work environment; access system supports; commit to and promote a health and safety charter; engage in construction return to work ["RTW"] efforts; and integrate RTW plans with health care treatment.

<u>And, what if the targets are not met</u>?

Well, it is pretty much a no-brainer now. My long discussed ***"rabbit in the hat"*** of adjusting the terms of the *Funding Framework* and moving out the 2014 UFL date by a few years, *or* adjusting the funding targets, *or* both, is now elevated to being the Board's "**<u>unofficial Plan B"</u>**.

But, the Board stands firmly behind <u>the official Plan A</u>. Mr. Mahoney acknowledges that it is tough but, in his view, it is achievable or he would not be presenting it. But, if events intervene and they don't make it, **Plan "B"** is the only other option.

Plan "C" so far is not on the table. ***Everyone remember Plan "C"?*** That's what employers thought they were going to get a few years ago - premium rate hikes for the next several years. Right now, that seems to be off the radar (at least for now). Any which way you cut it, Plan A, B or C, funding issues will define a large part of *the Mahoney Era*.

***<u>My advice to employers</u>*:** Pick up the gauntlet. *Change*. **No matter how well you are doing, *do better*. <u>But, demand the same of the Board</u>**. More on where the Board needs to change in upcoming **Liversidge *e*-Letters**.