

# **Bankruptcies and Employee Claims - Nortel Case**

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## **Key Actions**

- **Change the Federal Bankruptcy and Insolvency Act (BIA) to give preferred status for employee benefits over unsecured creditors**
  - **Pension Fund Deficits**
  - **Long Term Disability Self-Insured Plan Deficits**
  - **Unpaid Severance**
- **Ontario Pension Benefit Guarantee Fund must honour its moral obligation to Ontario pensioners**
- **Canadian creditors must get equal cash settlement to U.S. creditors within the courts administering international bankruptcies**

## **Impact of Doing Nothing**

**If Federal bankruptcy law amendments for the preferred status of pension and long term disability plan claims and unpaid severance are not implemented:**

- The Federal Government has to bear the responsibility for more than 30% cuts in pension, LTD and severance income for hundreds of thousands of Canadians affected by corporations in bankruptcy.**
- Canadian taxpayers must pay billions of dollars for the downloading onto social security programs and reduced income taxes due to bankrupt corporations being permitted to walk away from their obligations to former employees.**

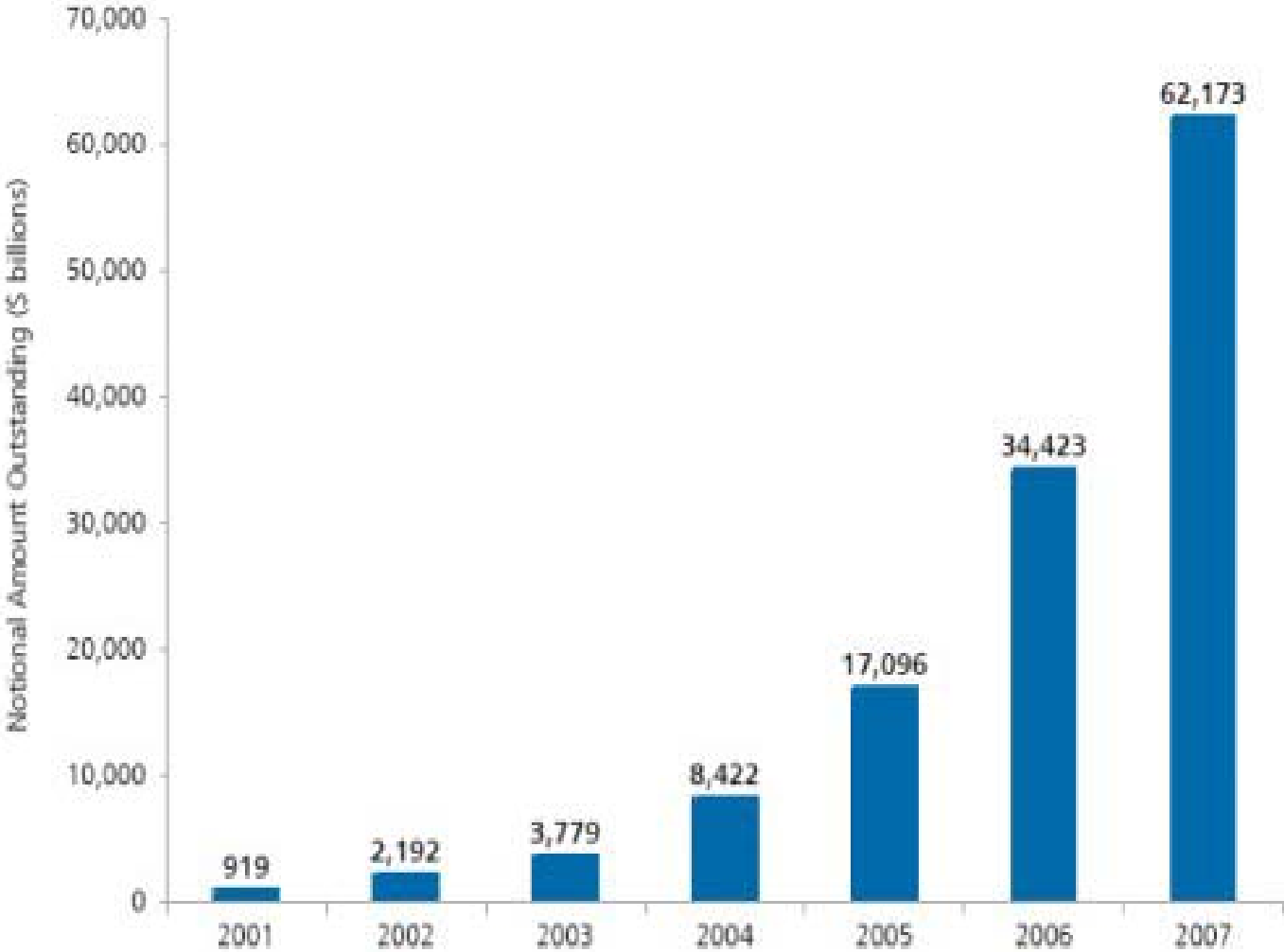
# **Well-Known Bankruptcies Affecting Canadians Pensioners, Disabled and Laid Off Workers**

**Intrawest  
Canwest  
Nortel  
Edscha  
Masonite  
Fairmont Resort  
Irwin Toy  
Hollinger  
Quebecor World  
Abitibi Bowater  
Stone Consolidated  
Fraser Papers  
New Skeena Forest Products  
Terrace Bay Pulp  
Shire International  
Calpine Canada  
General Motors  
Chrysler**

# **Financial Crisis and Induced Bankruptcies**

- **Bonds and leveraged loans have new insurance vehicle, called credit default swaps**
- **Private equity making acquisitions using leveraged loans**
- **Short term capital gains being sought without effort to build businesses in the long term**
- **Liquidation is preferred over restructuring businesses as ongoing concerns**
- **No social responsibility amongst the executives and owners of business, willing to download costs onto former employees and the taxpayers funding our social security programs**

# Exponential Growth of the Unregulated Credit Default Swap Market



## Performance of Large Private Equity Firms Summary Data on Sponsored Companies

PE Firm	Deals Initiated Prior to 1/1/08						
	Total Deals	In Default		Distress (B3 Neg & Lower)		Default & Distress	
		Deals	% of Total	Deals	% of Total	Deals	% of Total
KKR	20	1	5%	2	10%	3	15%
Madison Dearborn	12	2	17%	1	8%	3	25%
Blackstone	22	3	14%	3	14%	6	27%
JP Morgan	7	-	0%	2	29%	2	29%
Welsh Carson	13	-	0%	4	31%	4	31%
TPG	19	3	16%	3	16%	6	32%
Providence Equity	12	2	17%	2	17%	4	33%
Warburg Pincus	14	1	7%	4	29%	5	36%
Goldman Sachs	21	6	29%	2	10%	8	38%
Bain	22	5	23%	5	23%	10	45%
Carlyle	31	5	16%	11	35%	16	52%
IH Lee	11	5	45%	1	9%	6	55%
Apollo	20	8	40%	5	25%	13	65%
Cerberus	6	2	33%	2	33%	4	67%
Sub Total	229	43	19%	47	21%	90	39%
Adj. for Club Deals	(44)	(7)		(9)		(16)	
Total	186	36	19%	38	21%	74	40%

Moody's Investors Service, [Private Equity: \\$640 Billion & 640 Days Later](#), November 6, 2009

## Contrary Arguments Do Not Hold Water

- 34 of 54 countries studied by the OECD and World Bank have either super-priority or preferred status in their bankruptcy laws for their employee claims.
- There are 13 countries that have public pension benefit guarantee insurance to protect it's pensioners in bankruptcies.
- Preferred status for employee benefit claims cannot have a devastating impact on the cost and availability of credit in Canada's credit markets based on the fact that there are 34 countries who have preferred or better status in their bankruptcy laws. These countries have properly functioning credit markets.
- The estimated impact of getting preferred status for employee benefit claims is at most 0.16% annually for investment grade 10 year bonds and about 0.69% annually for junk 10 year bonds. Since only about 20% of corporations have pension funds, the impact on the entire credit market is miniscule at .02% for the investment grade bond portion and 0.09% for the junk bond portion.



# International Comparison of Priority Status for Employee Claims

	Pensions	Severance
	Priority Status	Priority Status
<b>EUROPE</b>		
<b>Austria</b>	Preferred status	Super-priority
<b>Belgium</b>	Preferred status	Preferred status
<b>Czech Republic</b>	9% of Estate Limit	Preferred status
<b>Denmark</b>	Super-priority	Super-priority
<b>Finland</b>		Preferred status
<b>France</b>	Super-priority with certain restrictions	Super-priority
<b>Germany</b>	Buyers legally bound to fund pensions	Preferred status
<b>Hungary</b>	Preferred status	Preferred status
<b>Ireland</b>	Preferred status	Super-priority statutory amount
<b>Italy</b>	Super-priority	
<b>Latvia</b>		Preferred status by contract
<b>Luxembourg</b>	Super-priority	Preferred status @ 50%
<b>Malta</b>	Super-priority state pension rights	Preferred status
<b>Norway</b>	Preferred status	Preferred status
<b>Poland</b>	Preferred status	Preferred status
<b>Romania</b>	Preferred status below fixed secured but above floating secured	
<b>Scotland</b>	Preferred status below fixed secured but above floating secured	Preferred status below fixed secured but above floating secured
<b>Slovakia</b>	Preferred status below fixed secured but above floating secured	Collective agreement
<b>Slovenia</b>	Super-priority	
<b>Spain</b>	Super-priority with certain restrictions	Super-priority with certain restrictions
<b>Sweden</b>	Preferred status	Employee Security Agreements
<b>Switzerland</b>	Preferred status	

34 Countries

38 Countries

# International Comparison of Priority Status for Employee Claims

	Pensions	Severance
	Priority Status	Priority Status
<b>NORTH AMERICA</b>		
<b>Mexico</b>	Super-priority	Super-priority
<b>AUSTRALASIA</b>		
<b>Australia</b>	Preferred status	Preferred status
<b>China</b>	Preferred status below fixed secured but above floating secured	Preferred status below fixed secured but above floating secured
<b>Hong Kong</b>	Preferred status below fixed secured but above floating secured	Preferred status (capped)
<b>Indonesia</b>	Super-priority	Super-priority
<b>Japan</b>	Preferred status	Preferred status (capped)
<b>Korea</b>	Super-priority	Super-priority
<b>Malaysia</b>		Preferred status
<b>New Zealand</b>	Preferred status	Preferred status
<b>Thailand</b>	Preferred status	Preferred status
<b>Vietnam</b>	Preferred status	Preferred status
<b>SOUTH AMERICA</b>		
<b>Brazil</b>	Super-priority (Subject to 150 X minimum wage limit 2005)	Super-priority (Subject to 150 X minimum wage limit 2005)
<b>Chile</b>	Super-priority	Super-priority
<b>Columbia</b>	Super-priority	Super-priority
<b>Venezuela</b>	Preferred status	Preferred status
<b>OTHER</b>		
<b>Egypt</b>		Super-priority
<b>Israel</b>	Preferred status below fixed secured but above floating secured	Preferred status below fixed secured but above floating secured
<b>Russia</b>	Super-priority with certain restrictions	Super-priority with certain restrictions
<b>Tunisia</b>		Super-priority
<b>United Arab Emirates</b>		Super-priority

34 Countries

38 Countries

## 6 Countries Do Not Have Preferred Status, But Have Public Pension Insurance

**Bulgaria  
England  
Finland  
Germany  
Netherlands  
United States**

## 7 Countries Have Both Preferred Status And Public Pension Insurance

**Denmark  
Ireland  
Luxembourg  
Scotland  
Sweden  
Switzerland  
Japan**

## Comparison of Canada, U.S., U.K. And Germany Pension Benefit Insurance Programs

Maximum Annual Guarantee	Home Currency	29-Dec-09 Currency Exchange	29-Dec-09 Cdn Dollars
Ontario Pension Benefit Guarantee Fund	12,000	1.0000	12,000
U.S. Pension Benefit Guarantee Corporation	54,000	1.0384	56,075
U.K. Pension Protection Fund	28,743	1.6626	47,788
Germany PSVaG	86,700	1.4974	129,825

## Comparison of Canada and U.S. Maximum Government Disability Benefits

		Canada Pension Plan	U.S. Social Security
<b>Disability income</b>	<b>Per Month</b>	<b>\$1,106</b>	<b>\$2,323</b>
<b>Supplement for 2 children of disabled parent</b>	<b>Per Month</b>	<b>\$428</b>	<b>\$1,742</b>
<b>Disability income</b>	<b>Per Year</b>	<b>\$13,272</b>	<b>\$27,876</b>
<b>Supplement for children of disabled parent</b>	<b>Per Year</b>	<b>\$5,136</b>	<b>\$20,904</b>
<b>Disability income for family</b>	<b>Per Year</b>	<b>\$18,408</b>	<b>\$48,780</b>

# Downloading Cost of Nortel Liquidation

\$ Millions in Aggregate Present Value	Pension	Survivor Pension Assumed @ 20%	Active &	Long Term Disabled	Severance	Total
			Deferred			
<b>Number of Persons</b>	9,810	3,905	9,049	410	1,500	24,674
<b>Present Value Factor</b>	10.70	10.70	6.76	14.72	1.00	
<b>Government Program Incremental Costs</b>	\$0	-\$39	\$0	-\$61	-\$14	-\$114
<b>Government Taxes Lost</b>	-\$102	-\$18	-\$84	-\$10	-\$27	-\$241
<b>Government Impact Programs/Taxes Lost</b>	-\$102	-\$57	-\$84	-\$71	-\$41	-\$355
<b>Employee Lost After Tax Income</b>	-\$626	-\$117	-\$412	-\$77	-\$69	-\$1,302
<b>Employee Lost After Tax Health Benefits (Non Taxable Grossed-Up)</b>	-\$204	-\$85	\$0	\$0	-\$1	-\$291
<b>Combined Government &amp; Employee Loss</b>	-\$933	-\$259	-\$496	-\$148	-\$112	-\$1,947

Source: Diane A. Urquhart

## Financial Institutions on the Nortel Creditor List Also on the CDS List

**Barclays \***  
Bank of Montreal  
BNP Paribas  
**Bank of America \***  
**Citigroup/Citibank \***  
**CIBC \***  
Citadel  
Credit Suisse  
**Deutsche Bank \***  
Dresdner Bank  
Goldman Sachs  
JPMorgan  
Lehman  
Bank of Tokyo  
**Merrill Lynch \***  
Morgan Stanley  
Oppenheimer  
PNC Bank  
**Royal Bank of Canada \***  
State Street Bank & Trust Co  
TD Bank/TD Ameritrade /TD Waterhouse Canada  
**UBS \***  
**Wachovia \***  
Wells Fargo

## Financial Institutions on the Ad Hoc Bondholder Group Also on the CDS List

Loomis Sayles & Company  
Pacific Investment Management Co. (PIMCO)  
Sankaty Advisors

# Impact of Nortel Liquidation on Income and Health Benefits

	Nortel Provided		Nortel & Government	
	Worst	Best	Worst	Best
Nortel Liquidation Cash Settlement Ratio	15%	50%	15%	50%
Table 1: Nortel Pension Benefit	-40%	-35%	-25%	-20%
Table 2: Nortel Long Term Disabled Benefit	-85%	-50%	-55%	-30%
Table 3: Nortel Survivor Benefit	-45%	-35%	-20%	-20%
Table 4: Nortel Severance Benefit	-85%	-50%	-60%	-50%

(1) Key Government Programs

Canada Pension Plan

Old Age Security

Guaranteed Income Supplement

Canada Pension Plan Disability

Canada Pension Plan Survivor Pension

Canada Employment Insurance

**Source: Diane A. Urquhart**



## COMPASS CEO Poll Give Priority to Pensions in Bankruptcy

*Table 2b: (Q2) To what extent do you agree with the following proposals from some Opposition members RANDOMIZE*

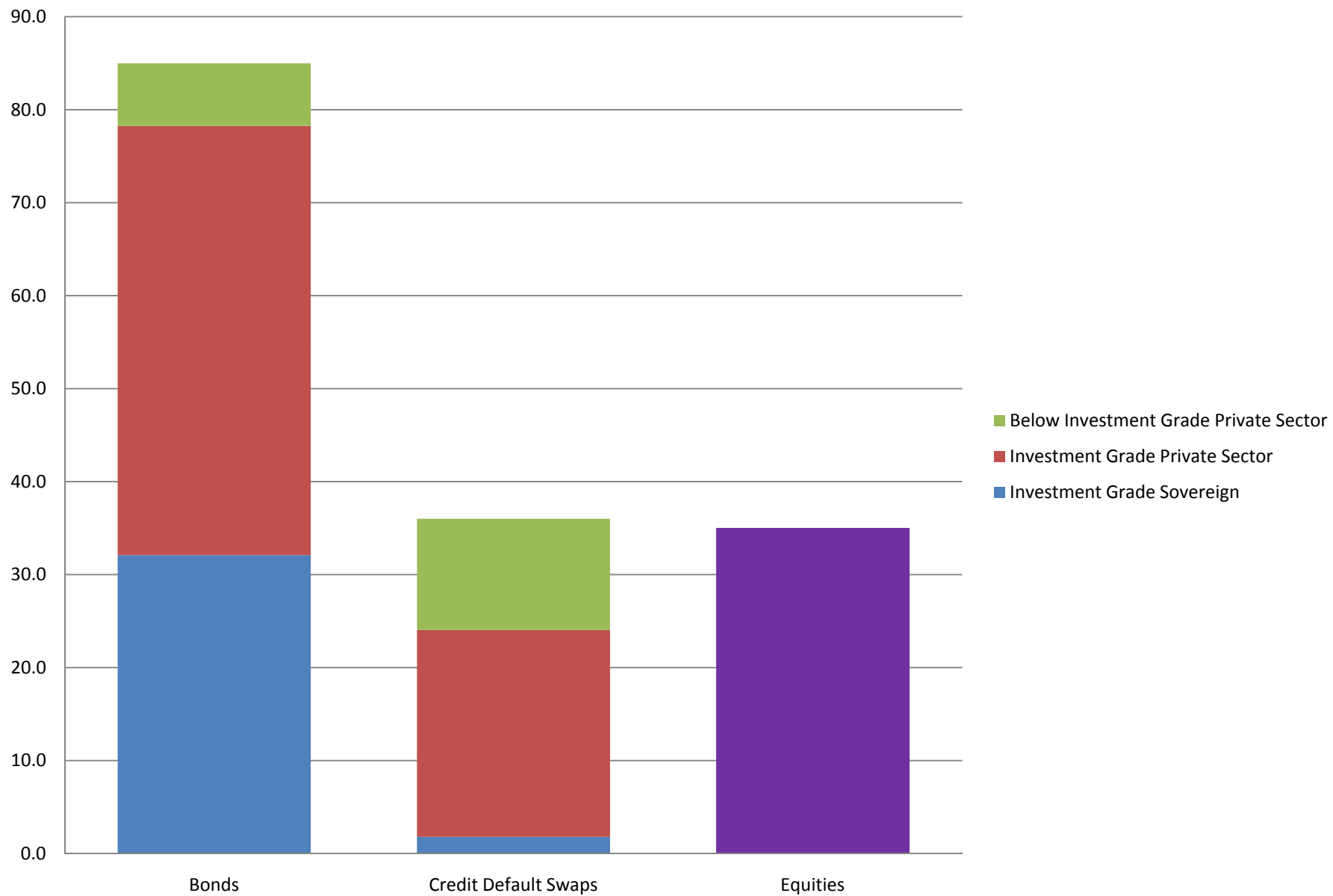
	Mean	7	6	5	4	3	2	1	DNK
Give priority of pensions in the event of corporate bankruptcy	5.1	24	24	24	11	5	6	6	1
Expand the CPP	4.8	19	23	16	18	11	6	7	0
Provide companies with tax incentives to build pension surpluses	4.8	17	21	28	13	7	3	11	0

## **Citizens speak up:**

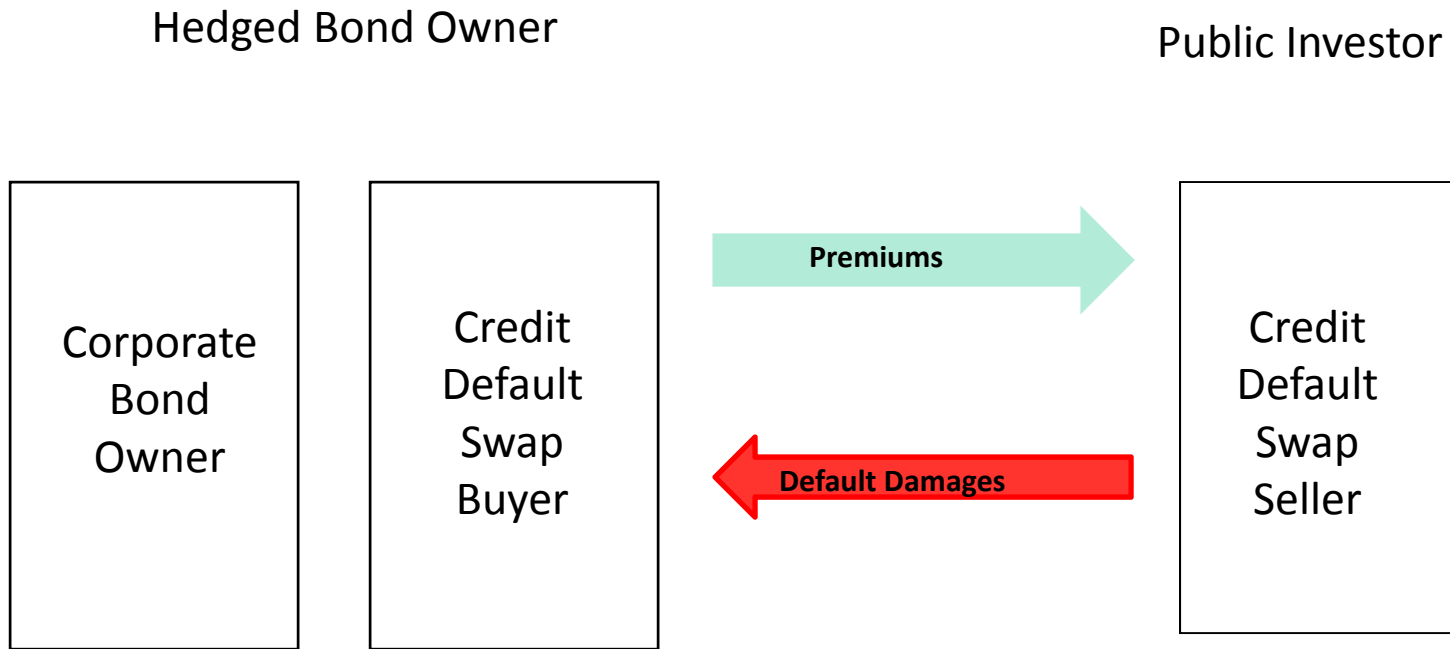
- Credit default swaps and private equity inducing bankruptcies**
- Key players profiting from bankruptcies**
- Canada losing jobs**
- Former employees losing income**
- Taxpayers being downloaded social security costs**

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## Size of Global Markets June 2009 (\$Trillions)



# What is a Credit Default Swap



# NO BALANCE OR EQUAL COMPROMISE BETWEEN EMPLOYMENT RELATED CLAIMS & BOND CLAIMS

SCENARIO ONE: Nortel Bonds Bought on February 11, 2008	Per \$1.00 Face Amount	Canada Estate Worst Case
<b>Credit Default Swap Valuations</b>		
CDS Effective Put Price	@ Feb. 11, 2008	0.963
CDS Auction Cash Settlement	@ Feb. 10, 2009	0.120
<b>Bond Valuations</b>		
Bond Purchase Price	@ Feb. 11, 2008	0.963
Bond Bankruptcy Court Cash Settlement Price	@ June 30, 2010	0.500
Employment Related Claim		1.000
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500
Employment Claim Gain (Loss)	@ June 30, 2010	-0.500
<hr/>		
Bond Purchase Price	@ Feb. 11, 2008	0.963
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500
Unhedged Bond Owner's Gain (Loss)	@ Dec. 31, 2009	-0.463
<hr/>		
Bond Purchase Price	@ Feb. 11, 2008	0.963
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500
Hedged Bond Owner's Gain (Loss)	@ June 30, 2010	-0.463
CDS Actual Hedge Gain (Loss)	@ Feb. 10, 2009	0.843 = 0.963 - 0.120
Hedged Bond Owner's Gain (Loss)	@ June 30, 2010	0.380

## Simplified Illustration of Impact of Cost of Credit (Excluding Credit Default Swap Hedges)

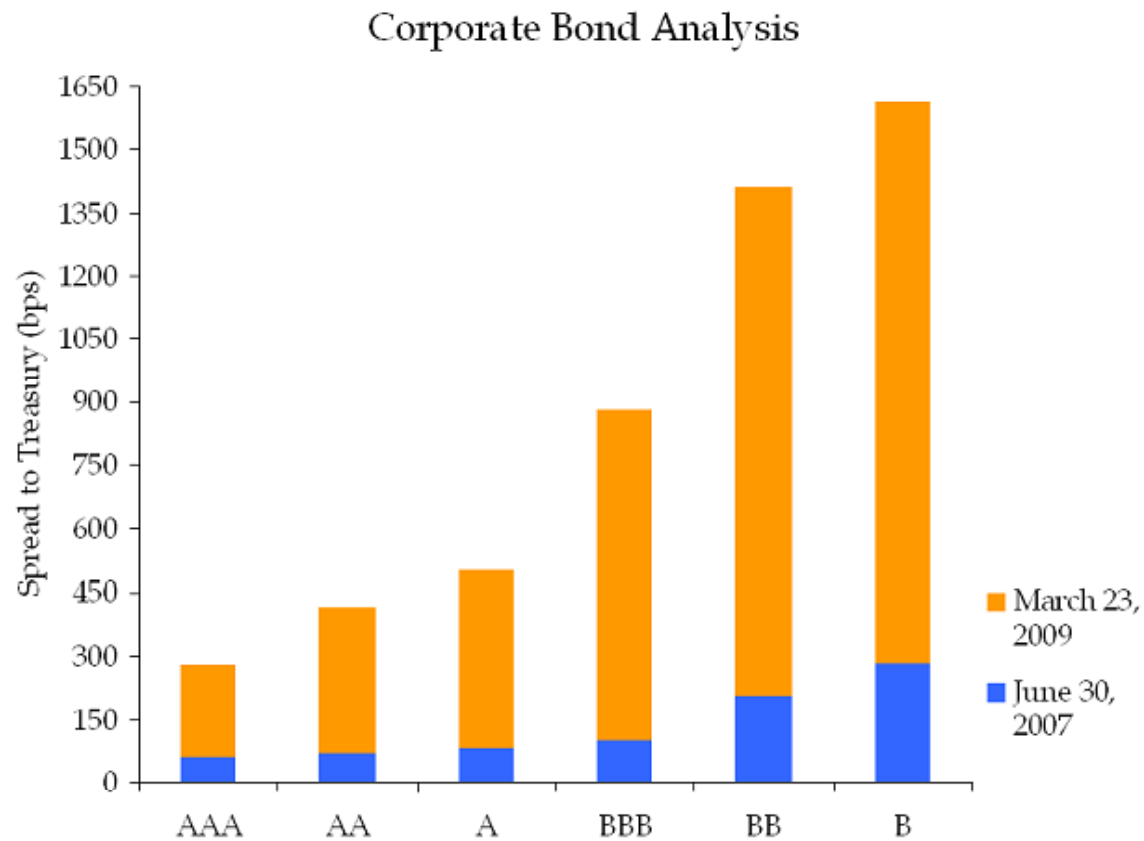
	All Corps	Corps With Pension Funds	% Defaulting (1)	Extra Loss (2)	Per Year Factor	% With Pension Funds	% Pension Funds with Deficit	% Bonds Outstanding
Junk Bonds	0.09%	0.69%	26%	27%	10%	15%	90%	20%
Investment Grade Bonds	0.02%	0.16%	4%	39%	10%	25%	60%	80%
All Bonds	0.04%	0.26%	8%	36%	10%	23%	66%	100%

(1) Moody's Global Corporate Finance - Average Cumulative Issuer-Weighted Global Default Rates 1920-2007 for End of 10 Year Period

(2) Moody's Global Corporate Finance - Average Corporate Debt Recovery Rates 1987-2007 Sr. Unsecured for Investment Grade and Subordinated for Junk Bonds

Source: Diane Urquhart

# Recent Experience with Default Risk Premiums in the 2007 to 2009 Financial Crisis

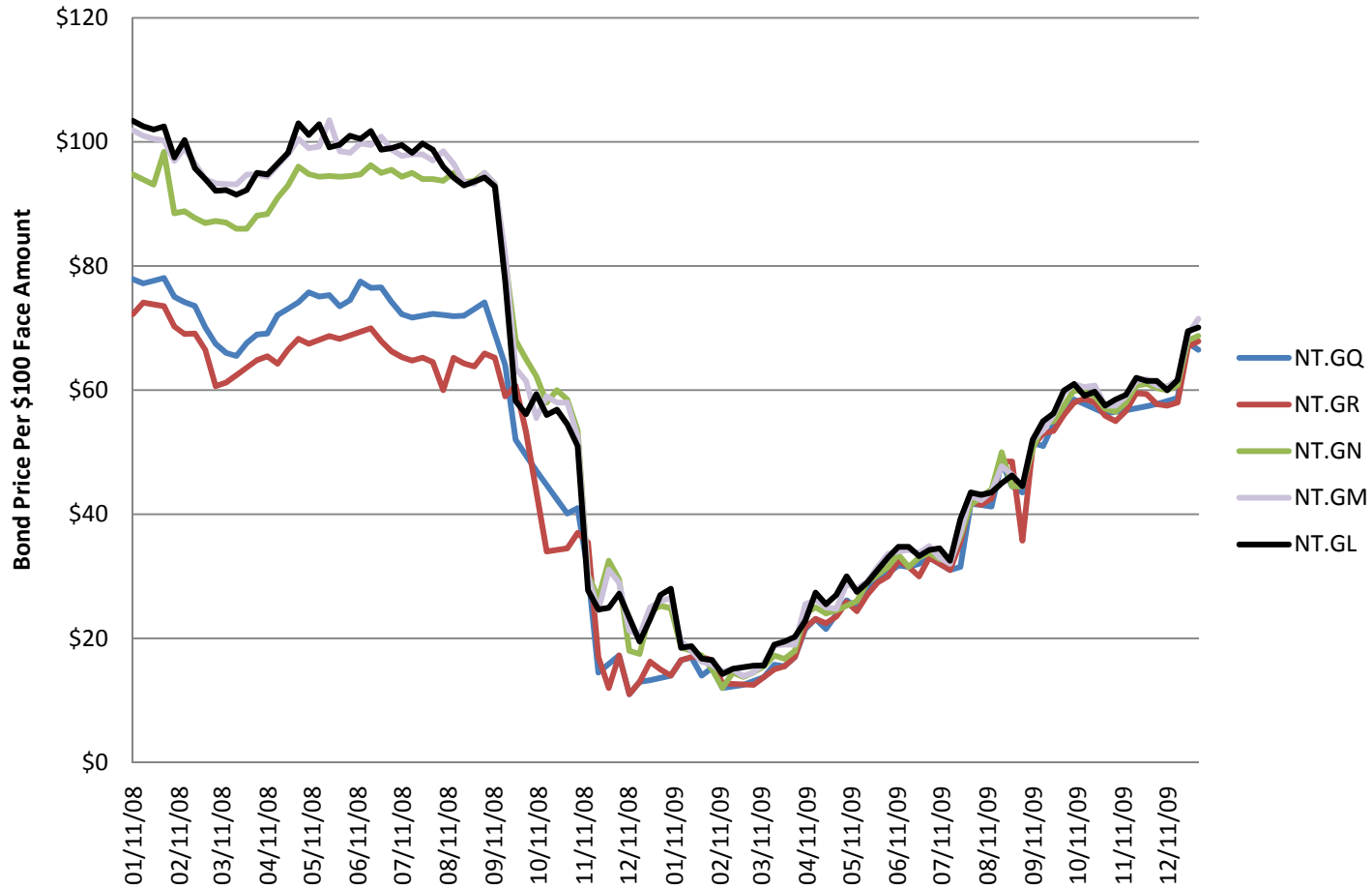


## Credit Ratings on Nortel Long Term Bonds Issued or Guaranteed by NNC or NNL

Period	Moody's		Standard & Poors		Investment Grade
	Credit Rating	Last Update	Credit Rating	Last Update	
2001	Baa2	Oct. 3, 2001	BBB-	Oct. 3, 2001	Investment Grade
2001	Ba3	April 4, 2002	BB	April 9, 2002	Speculative Grade
2002	B3	Nov. 1, 2002	B	Sept. 18, 2002	Speculative Grade
2003	B3	Nov. 1, 2002	B-	April 28, 2004	Speculative Grade
2004	B3	Nov. 1, 2002	B-	April 28, 2004	Speculative Grade
2005	B3	Feb. 8, 2006	B-	Feb. 8, 2006	Speculative Grade
2006	B3	Sept. 26, 2006	B-	June 16, 2006	Speculative Grade
2007	B3	March 22, 2007	B-	March 22, 2007	Speculative Grade
2008	Caa2	Dec. 15, 2008	D	Jan. 14, 2009	Speculative Grade
2009	Ca - NNC/D-Other	Jan. 15, 2009	D	Jan. 14, 2009	Speculative Grade

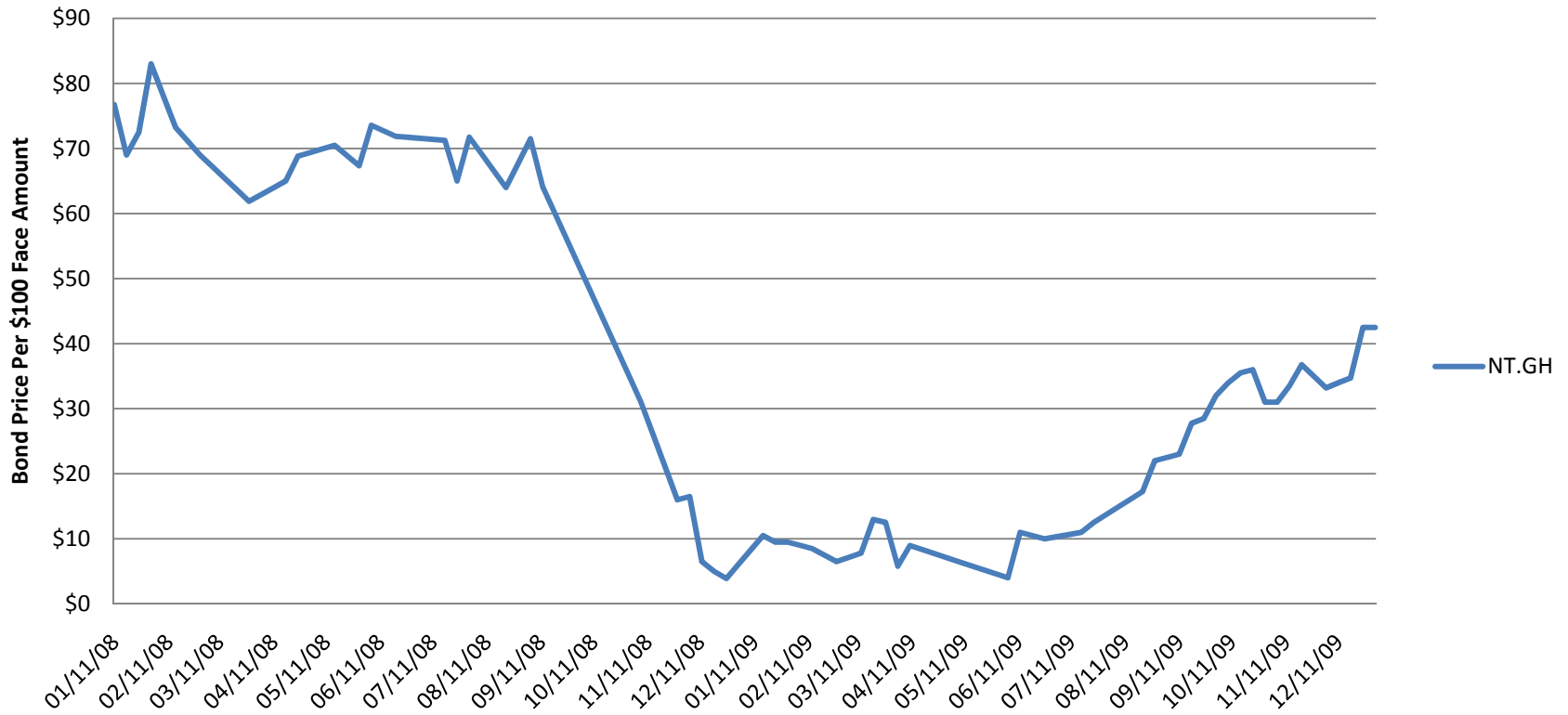


# Nortel Networks Corporation and Nortel Networks Limited Bonds Guaranteed by Nortel Networks Inc. U.S.

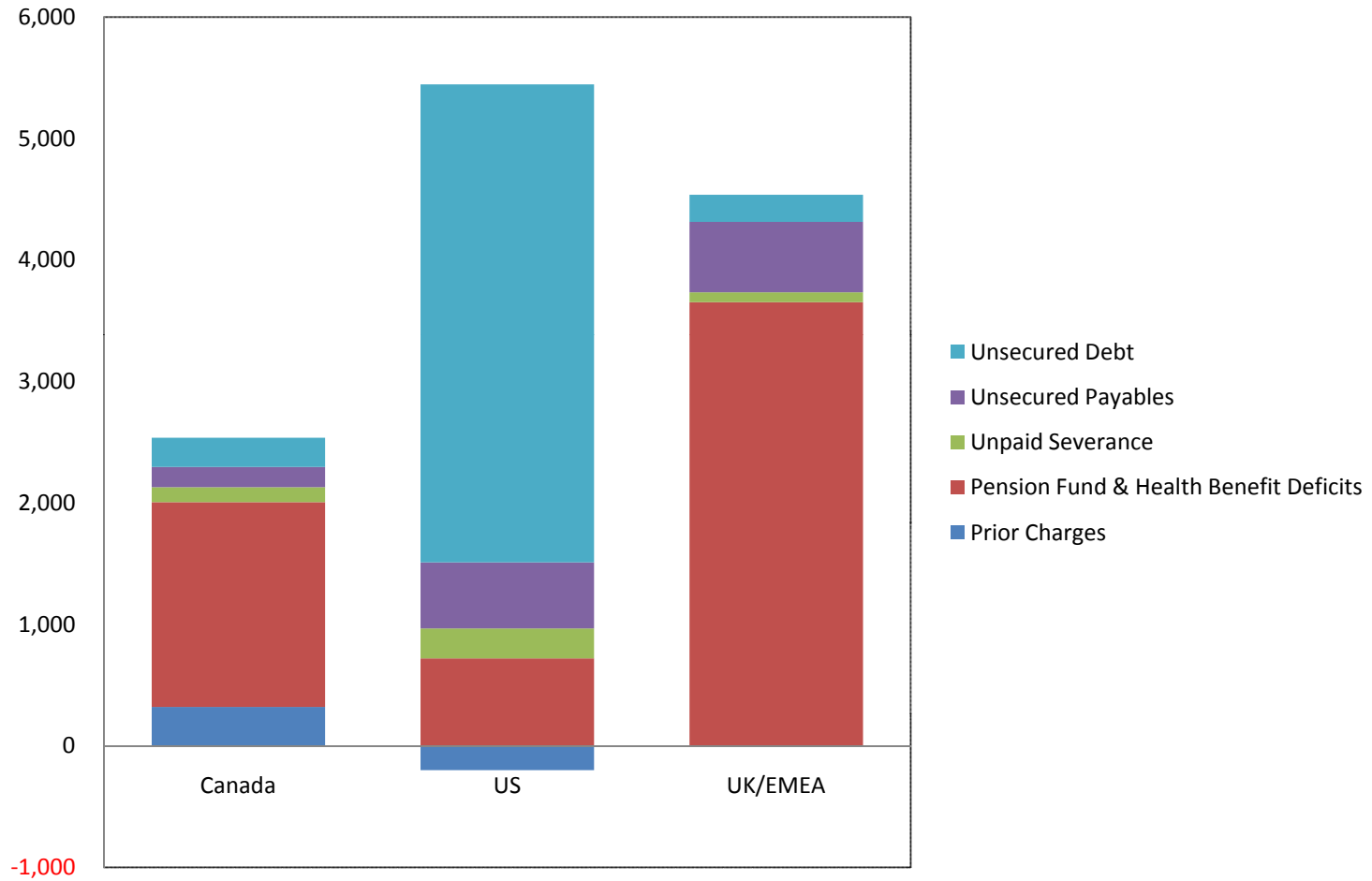


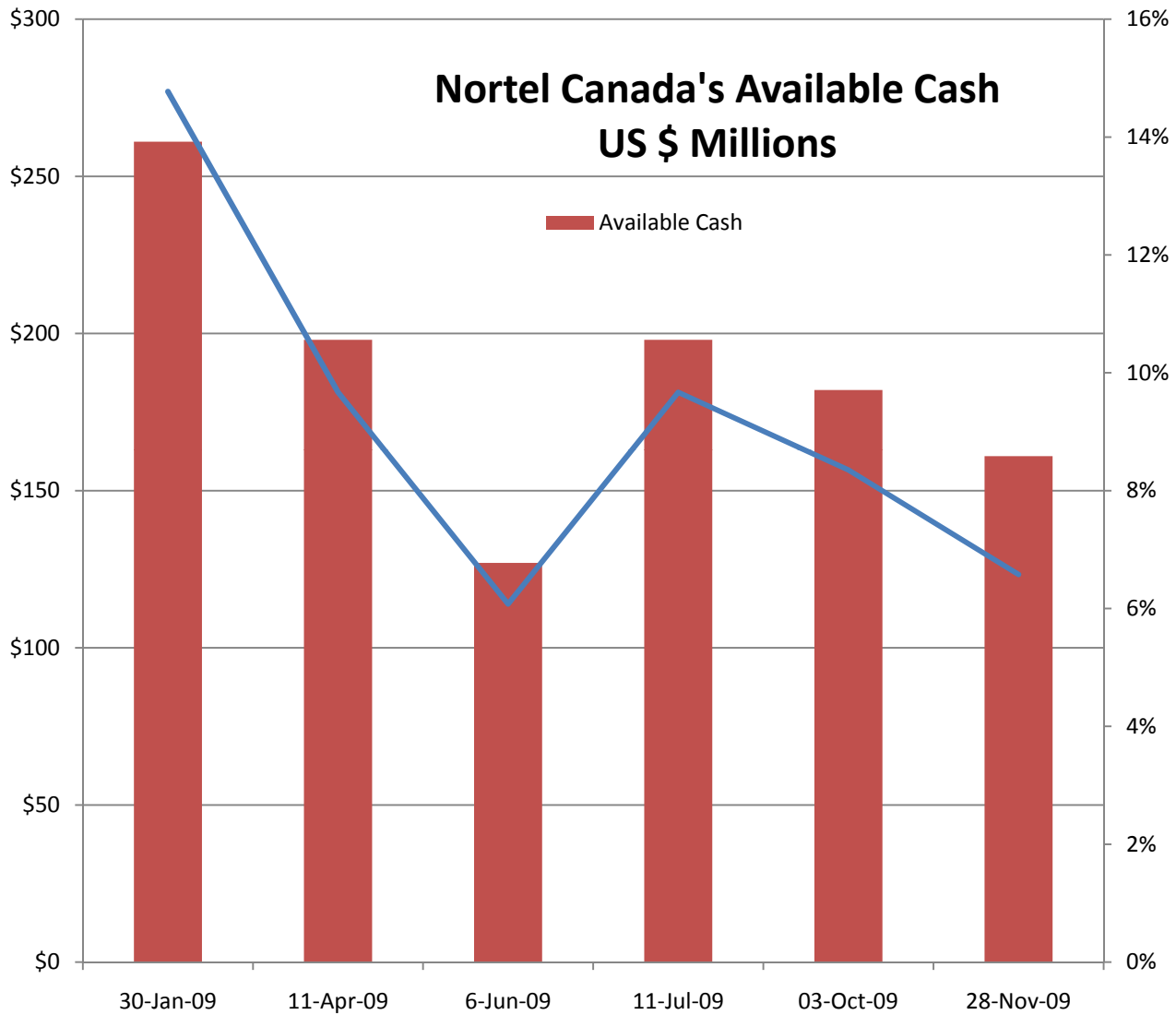
# Nortel Networks Limited Bond

## Not Guaranteed by Nortel Networks Inc. U.S.

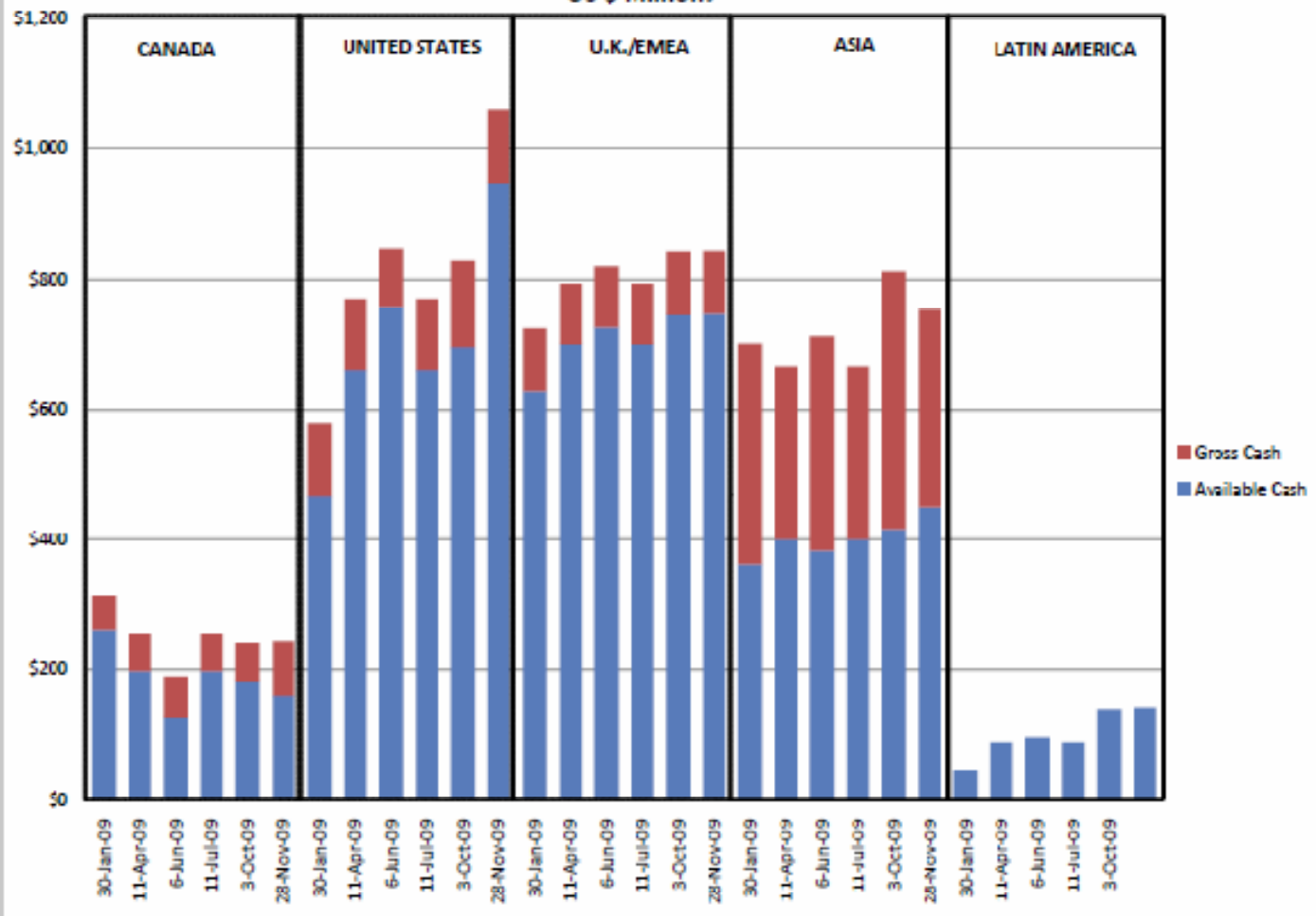


## Nortel Global Creditor Claims By Region and Type





Nortel's Canada Versus Other Regions Cash Balances  
US \$ Millions



## Nortel Bankruptcy Restructuring Costs

Nortel Bankruptcy Professional Fees \$ Millions	Jan-09 to Nov-09 Actual	Nov-09 to Jun-10 Forecast	Total
Canada	49	40	89
US	81	80	161
UK (Assumed at One Half Canada)	24	20	44
<b>Total</b>	<b>154</b>	<b>140</b>	<b>294</b>
No. Months	10	8	18
Avg. Per Month	15	18	16

# Countries with No Employee Benefit Protection

## For Pension Benefits

Greece (Higher % public pension)  
Portugal (Higher % public pension)  
Canada  
Cyprus  
Estonia  
Lithuania  
Singapore  
South Africa

Czech Republic (Higher % public pension)  
Latvia  
Malaysia  
Egypt  
Tunisia  
United Arab Emirates  
Bulgaria

14 Countries

## For Severance

Greece  
Portugal  
Canada  
Cyprus  
Estonia  
Lithuania  
Singapore  
South Africa

England  
Estonia  
Italy  
Netherland  
Romania  
Slovenia  
Switzerland  
United States

16 Countries