Consolidated and Updated Report - Bankruptcies and Employee Claims - Nortel Case

PREPARED BY: **Diane A. Urquhart**
Independent Financial Analyst
Tel: (905) 822-7618
Cell: (416) 505-4832
urquhart@rogers.com

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The Bankruptcy and Insolvency Act Amendment Requested

The recommended Bankruptcy and Insolvency Act Amendment is to give preferred status for employee benefits over unsecured creditors. This is the best short-term and long-term solution to prevent corporations from walking away from their pension and long term disability plan deficits and unpaid severance, when there is money in the bankruptcy estate. This BIA Amendment is recommended, whether or not Canada decides to introduce a public pension and disability benefit guaranty program similar to that of the U.S. , U.K. and 11 other countries. The BIA Amendment prevents the downloading of unpaid employee benefits onto Canadian pensioners, long term disabled and terminated employees and onto the taxpayers who must pay for the additional use of Canada's social security programs and the lost income taxes from abandoned former employees of bankrupt companies.

The Federal Government`s assessment of how preferred status for employee benefit claims would affect the cost of credit for ongoing concerns should be based on research studies. There are 34 other countries that have preferred or better status for employment claims in their bankruptcy laws. These countries have functioning credit markets. Public policymakers should not err by accepting the fear-mongering and rhetorical claims of investment bankers, money managers and junk bond owners, who have no studies to back up their claims.

Induced bankruptcies caused by unregulated and undisclosed credit default swap market and private equity firm practices are harming the Canadian economy and its citizens. The BIA Amendment is a good way to have corporations pay for the employee benefits they promised and that the Provinces legislated they pay. Also, the BIA Amendment will offset the bias that now exists to liquidate corporations rather than make efforts to restructure as a going concern, since it will be better for the bond holders to seek compromise from the employee groups than bear the full cost of their preferred creditor status in liquidation.

The CCAA judge can force the Nortel liquidation to be done under the Bankruptcy and Insolvency Act (BIA) after the Companies Creditors Arrangement Act (CCAA) proceeding. If he chooses not to do so, then the Canadian creditors can insist they have the right to vote under the CCAA. Nortel will abide by the new BIA law, and its junk bond holders are unlikely to formally oppose the change. No law could ever be changed if retroactivity was considered illegal by the courts.

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 must bear the responsibility for significant pension and other employee benefit cuts. Canadian taxpayers bear the cost of 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. Does the Canadian government only listen to the junk bond owners, executives and restructuring lawyers making money from bankruptcies? Why does our Canadian government have the belief there is a serious adverse impact on the cost and availability of credit, when it has no studies to back this up? Most of the world's governments protect their citizens in bankruptcies without harming their credit markets. Canada needs to move on bankruptcy reform now without making any more excuses to the Canadian public about why it cannot do so.

Finance Minister Flaherty and Parliamentary Secretary of Finance Menzies Positions

Evan Solomon Interview of Federal Finance Minister James Flaherty on Power and Politics, December 16, 2009

http://ismymoneysafe.org/video/CBCPowerandPolitics-FlahertyonPensionReform12162009.wmv

Evan Solomon Interview of Federal Parliamentary Secretary of Finance Ted Menzies on Power and Politics, December 8, 2009

http://ismymoneysafe.org/video/CBCPowerandPolitics-Menzies_McCallum_Marston_Pension_LTD_Reform_12082009.wmv

Canada Fails to Protect Pensions in Bankruptcies Compared to the Rest of the World

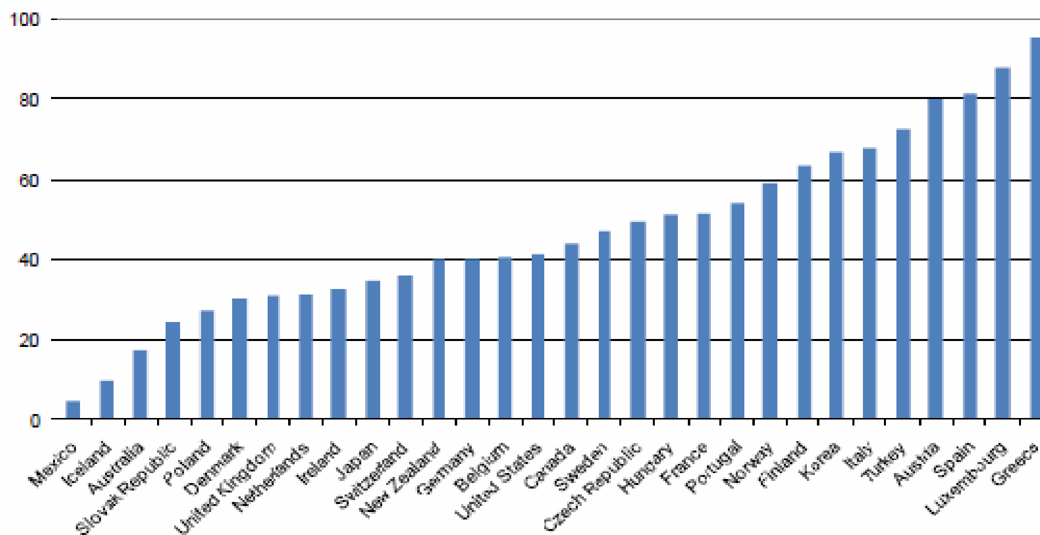
Canada fails to protect pension and other employee benefits in bankruptcies compared to the rest of the world.

Pension protection is achieved in three ways:

(a) Public universal and earnings-based pension plans
(b) Super-priority or preferred status of private pension fund deficits in the bankruptcy estate
(c) Public pension benefit guarantee insurance.

Figure 1, from the 2007 OECD Pensions at a Glance Report, shows that Canada's combined Old Age Security and Canada Pension Plan provides about 42% gross replacement of the average worker's earnings. Canada is just above the median country, the United States, out of 30 countries studied by the OECD.

Figure 1: Gross Replacement Rates for Public Pension Plans Throughout World



Note: Gross replacement rate for an individual entering the system in each country at age 20 with average worker earnings.

Source: OECD (2007), *Pensions at a Glance*.

Canada's Bankruptcy and Insolvency Act puts pension fund deficits below secured creditor claims and at equal priority to unsecured creditor claims.

According to Figure 2, 34 of the 53 countries listed have either super-priority or preferred status in their bankruptcy laws for their employee claims, which includes pension fund deficits. The difference between super-priority and preferred status is that that super-priority is ahead of the secured creditors and preferred status is behind the secured creditors but ahead of the unsecured creditors.

Preferred status for pension and long term disability plan deficits and unpaid severance 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.

Figure 2: International Comparison of Priority Status of Employee Claims

Country	Status
Austria	Preferred status
Belgium	Preferred status
Bulgaria	
Cyprus	
Czech Republic	9% of Estate Limit
Denmark	Super-priority
Estonia	
Finland	
France	Super-priority with certain restrictions
Germany	Buyers legally bound to fund pensions
Greece	
Hungary	Preferred status
Ireland	Preferred status
Italy	Super-priority
Latvia	Pensions not common
Lithuania	
Luxembourg	Super-priority
Malta	Super-priority state pension rights
Netherlands	
Norway	Preferred status
Poland	Preferred status
Portugal	
Romania	Preferred status below fixed secured but above floating secured
Scotland	Preferred status below fixed secured but above floating secured
Slovakia	Preferred status below fixed secured but above floating secured
Slovenia	Super-priority
Spain	Super-priority with certain restrictions
Sweden	Preferred status
Switzerland	Preferred status
England	GBP 800 Limit
NORTH AMERICA	
Canada	
Mexico	Super-priority
United States	
AUSTRALASIA	
Australia	Preferred status
China	Preferred status below fixed secured but above floating secured
Hong Kong	Preferred status below fixed secured but above floating secured
Indonesia	Super-priority
Japan	Preferred status
Korea	Super-priority
Malaysia	
New Zealand	Preferred status
Singapore	SGD 7 500 limit
Thailand	Preferred status
Vietnam	Preferred status
SOUTH AMERICA	
Brazil	Super-priority (Subject to 150 X minimum wage limit 2005)
Chile	Super-priority
Columbia	Super-priority
Venezuela	Preferred status
OTHER	
Egypt	
Israel	Preferred status below fixed secured but above floating secured
Russia	Super-priority with certain restrictions
South Africa	ZAR 4000 (rand) to ZAR 12,000 Limit
Tunisia	
United Arab Emirates	

http:/ismymoneysafe.org/pdf/Sources_InternationalComparisonofPreferredStatusandPublicInsurance.pdf

Prepared By: Diane A. Urquhart 29-Dec-09

Canada is also not amongst the 13 countries that have public pension benefit guarantee insurance in place to protect its pensioners in the event their former employers file for bankruptcy protection. These 13 countries include the United States, England, Germany, Japan, Scotland, Ireland, Denmark, Finland, Sweden, Switzerland, Luxembourg, Netherlands and Bulgaria.

The U.S. Pension Benefit Guaranty Corporation (PBGF) guarantees Cdn$56,000 of annual pension income; the U.K. Pension Protection Fund (PFF) guarantees Cdn$48,000 of pension annual income; and, the Germany Sicherungs-Verein Versicherungsverein auf Gegenseitigkeit (PSVaG) guarantees Cdn$130,000 of pension annual income.

Federal Bankruptcy Laws Overrule Provincial Pension Benefit and Severance Laws

Federal bankruptcy laws cause the employment benefit cuts through the ousting of the benefit standards in Provincial laws, whose intent was to protect these claims. Nortel-like bankruptcies do not involve compromises to enable ongoing concern and there is money in the bankrupt estate to pay for part or all of the employment benefit obligations otherwise protected by provincial laws. See the Appeal Court of Ontario denial on November 26, 2009 of the Nortel severance appeal and denial on October 17, 2006 of the appeal sought by the Financial Services Commission of Ontario for payment of the special contributions into the Ivaco pension plan.

Failure to amend the bankruptcy laws is a federal government policy to reduce employee benefits in Canada and to reduce the standard of living for Canadian workers and retirees

Preferred Status Has Minimal Impact on Cost and Availability of Credit

It is not surprising that 34 countries with preferred or better status for employment claims in their bankruptcy laws have properly functioning credit markets. Analysis of how credit defaults affect credit spreads dictates this outcome. Credit spreads are the difference between corporate loan or corporate bond interest rates and risk-free government bond interest rates. These credit spreads or "default risk premiums" arise due to loan and bond investors needing to be compensated in their credit portfolios for the proportion of their loans and bonds suffering losses due to corporations filing for bankruptcy.

Secured bank loans and secured bonds are not affected by the requested preferred status for pension and long term disability plan deficits and unpaid severance because they retain priority status above the employment claims.

In Figure 3, I summarize the findings of the analysis I have done on 10 year investment grade bonds and 10 year junk bonds using the 1920 to 2007 average for 10 year cumulative default rates. The estimated impact of pension fund deficits getting preferred status for the corporations that have pension funds with deficits is about 16 basis points or 0.16% annually for investment grade 10 year bonds and about 79 basis points or 0.79% 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 2 basis points for the investment grade bond portion and 11 basis points for the junk bond portion.

I stress tested the impact on bonds having a one year term, for a very high one year default rate of 4% and an extra loss of -31% on the defaulted bonds. I get that the preferred status for pension fund deficits would likely create an increase in the cost of credit in the whole market of only about 23 basis points or 0.23% based on a one year term to maturity.

The change in "default risk premiums" for bonds when pension plan deficits and severance get preferred status is a function of the following factors:

(1) Expected Default Rate %
(2) Increase in Expected Loss %
(3) Proportion of Bonds Where Corporate Issuers Have Defined Benefit Pension Plans
(4) Likelihood that Defined Benefit Pension Plans are in Deficit at the Time of Bankruptcy
(5) A Factor for Defaults Occurring over Future Years Before Bond Maturity

The layman's high level explanation for why preferred status can have only nominal impact is shown in Figure 4 based on the first four factors: the % of investment grade corporate bonds that enter liquidation is very small; the % of corporations that have defined benefit pension funds is only about one quarter in Canada; only a portion of pension plans should be in deficit at the same time that the corporations are liquidating due to government pension regulations; and, the average realized loss for unsecured creditors in bankruptcy is already very high and so the additional loss for unsecured creditors that arises due to pension fund deficits and severance being at preferred status is incrementally modest.

Putting employment-related creditor claims at preferred status for bankrupt companies is not affecting their ability to raise new credit financing since bankrupt companies are not raising new credit financing.

There is no impact on international competitiveness and international free trade, because at least thirteen countries, including the US and UK, force the payment of insurance premiums on their corporations for funding their public pension and disability income guaranty insurance programs; the cost of preferred status for employment claims in BIA is not likely higher than the premiums for the other countries' public pension and disability income guaranty insurance that these other countries' corporations are forced to pay.

34 other countries have preferred status for employee claims in their bankruptcy laws that is not affecting the vitality of their credit markets.

Bankrupt companies' junk bond owners are primarily speculators making their investment very late in the process of the corporation being financially distressed, aiming to make a short-term profit. Junk bond owners have access to and often use credit default swaps to hedge against their losses when corporations go bankrupt. In fact, we see from the Nortel bankruptcy case, there is double-dipping going on because CDS cash settlement auctions provide for full recovery of their investment, while permitting the investor to keep his bonds.

Figure 3: Change in Annual Default Risk Premiums in Bonds Due to Pension Fund Deficits Preferred Status

Annual Default Risk Premiums in Bonds			
	Investment Grade	Investment Grade	Junk
Term	1	10	10
Status Quo	2.44%	0.25%	2.13%
Preferred Status for Pension Fund Deficits			
Corporations with Pension Funds	4.00%	0.41%	2.92%
Change in Annual Default Risk Premium	1.56%	0.16%	0.79%
All Corporations	2.67%	0.27%	2.24%
Change in Annual Default Risk Premium	0.23%	0.02%	0.11%
Assumptions:			
Risk Free Rate	3.50%	3.50%	3.50%
Default Rate	4%	4%	26%
Loss %			
Before	-61%	-61%	-73%
After	-100%	-100%	-100%
Percentage of Corporations with Pension Funds	25%	25%	15%
Percentage of Pension Funds with Deficits	60%	60%	90%

Source: Diane A. Urquhart

It is almost a farce in the context of today's financial crisis to argue that there can be no preferred status for pension, health and long term disability plan deficits and severance in bankruptcies, when the estimated increase in the cost of credit ranges from less than 0.02% to 0.23% annually. Investment banks and debt players throughout Canada and the world were designers, distributors and/or buyers of toxic structured credit products that caused the financial crisis, where the cost of credit measured by increased credit default risk premiums rose 2.50% to 13.50% for the market as a whole, shown in Figure 5 below.

Surely, the Federal Government is not expecting Canada's seniors, long term disabled and terminated employees to pay for the bailout of corporations that are unable to raise credit financing in the aftermath of the financial crisis. The financial crisis was caused by the investment industry itself and had nothing to do with Canada's seniors, long term disabled and terminated employees who are being asked to pay the price of severely slashed employee benefits.

Figure 4: Simplified Illustration of Impact of Cost of Credit

(Excluding Credit Default Swap Hedges)

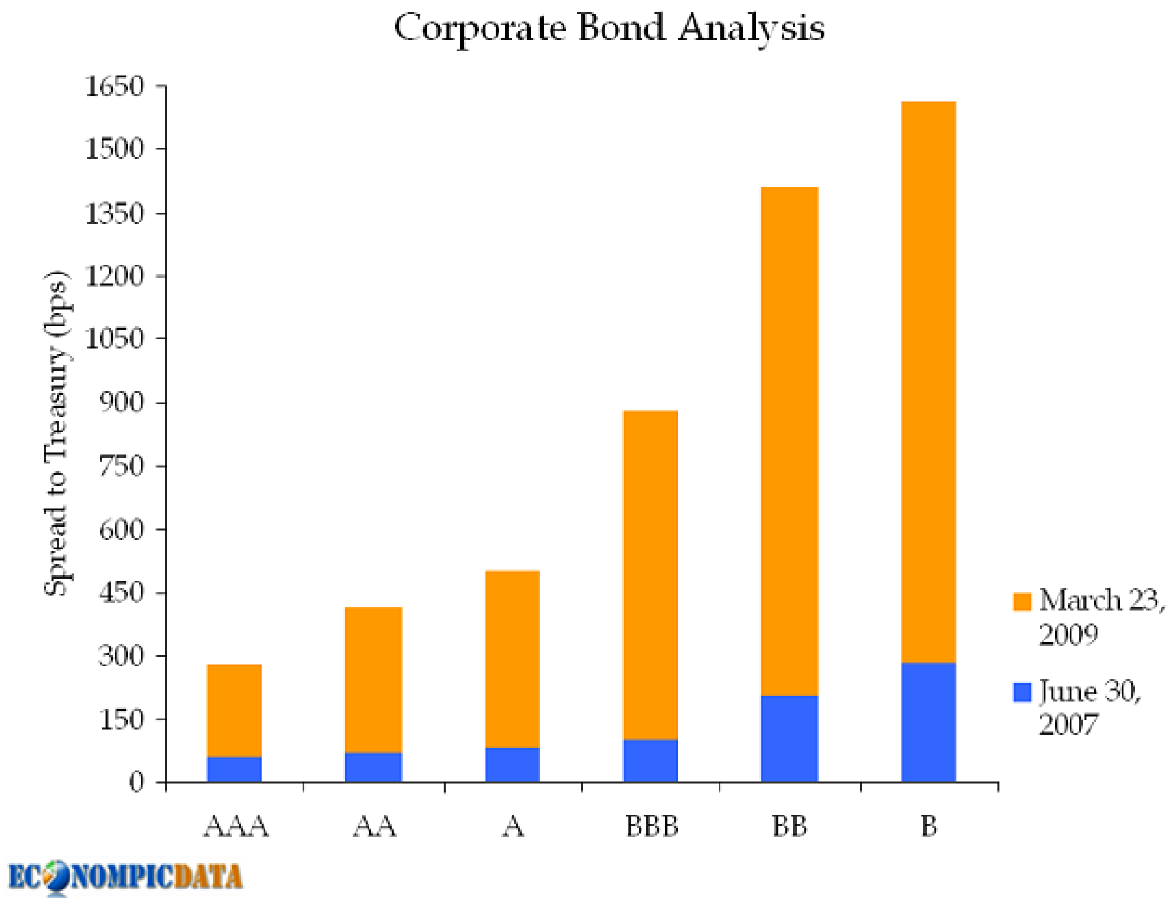
	All Corps	Corps With Pension Funds	% Defaulting (1)	Extra Loss (2)	Per Year Factor	% With Pension Funds	% Pension Funds with Deficit	% Bonds Outstanding
Junk Bonds	0.09%	0.69%	26%	27%	10%	15%	90%	20%
Investment Grade Bonds	0.02%	0.16%	4%	39%	10%	25%	60%	80%
All Bonds	0.04%	0.26%	8%	36%	10%	23%	66%	100%

(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

Figure 5: Recent Experience with Default Risk Premiums in the 2007 to 2009 Financial Crisis



Invention of Credit Default Swaps Encourages Bankruptcy Filings and Liquidation

Canada failing to protect its pensioners, long term disabled and terminated employees while most countries do so, leaves Canadians particularly exposed to the radical change in bankruptcy process caused by the invention of the credit default swap market (CDSs) in 1997.

There is a great YouTube video explaining the role of credit default swaps in induced bankruptcies at:

http://www.youtube.com/watch?v=jHVnEBw93EA

The consequence of the new CDSs is that even junk bond owners can buy insurance to cover the losses on their credit investments due to an adverse credit event. The CDSs provide a new incentive to make court filings for bankruptcy protection. Once filed for bankruptcy protection, CDSs also provide a bias towards decisions for liquidation rather than acceptance of compromise in a restructuring plan for an ongoing concern. If a large proportion of bond owners have already recovered their credit investment, or even made a profit due to how the CDS cash settlement auctions are conducted, there is no hammer to force a restructuring plan for an ongoing concern. The alternative of no restructuring plan for hedged bond owners is not that they will lose their entire bond investment. The hedged bond owners have already been made whole. The hedged bond owners are apt to prefer liquidation over restructuring for the simple reason that under Federal bankruptcy laws the corporation can avoid paying pension and long term disability plan deficits and severance. These are obligations that are otherwise payable under Provincial laws. The hedged bond owners gets a higher recovery value for their bonds in liquidation than in a restructured ongoing concern, where the pension and long term disability plans continue and the restructured corporation needs to make Special Contributions to bring the pension plan to full funding.

There is a very deep market for credit default swaps on junk bonds. At June 30, 2009, the Bank for International Settlements reports that there is a notional amount of US$5.2 trillion of credit default swap contracts on single name corporation bonds and notes that are rated below investment grade, ie. that are CDSs on junk bonds. The dollar amount of below investment grade bonds and notes outstanding in the U.S. is US$1 trillion, and so scaling this up produces a reasonable estimate of the below investment grade bonds and notes outstanding in the world is US$2.5 trillion. The CDS's on single name below investment grade bonds and notes appears to be twice the size of the underlying below investment grade bonds and notes.

This ratio of CDSs to underlying bonds is much higher in the below investment grade sector than in the whole market for bonds and notes. At June 30, 2009, the Bank for International Settlements shows a notional amount of CDSs outstanding of US$36 trillion compared to total bonds and notes outstanding of US$87 trillion, including the sovereign, financial institutions and corporation sectors.

Given the depth of the market of CDSs on junk bonds, one can only conclude that the impact of preferred status for pension and other employment benefits in bankruptcy laws on the cost of credit is minimal after taking into account credit default swap hedge gains.

It is not surprising that there was relatively more use made of CDSs on below investment grade bonds and notes since these weaker credits would have a higher need for insurance against bankruptcy losses and these also offered "super-profits" for the junk bond owners, since the junk bond spreads less the premiums for credit default swaps were well in excess of the returns from risk-free government bonds. The suppliers of the credit default swap insurance-like contracts were not charging adequate premiums for the risk involved. These suppliers were both sophisticated banks and insurers making excellent short term profits and compensation bonuses and unsophisticated buyers of structured credit products who did not know they had funded credit default swap contracts.

Federal Government Gave Super-Priority Status to CDS's in the BIA after ABCP Market Froze

The BIA was amended on November 17, 2007 to define credit default swap contracts (CDS) as eligible financial contracts after the market for Canadian Non Bank Asset Backed Commercial Paper froze on August 13, 2007. This was an amendment for primary benefit to the international banks.

Eligible financial contracts cannot be stayed in bankruptcy protection court proceedings and under this BIA Amendment, the international banks' CDS creditor claims got super-priority for payment before both secured and unsecured creditors, pension fund deficits, long term disability claims and unpaid severance. Had the BIA Amendment not been made, there would have been greater negotiating power by the institutional owners of the ABCP to force a greater compromise on the dollar amounts owed under the original CDS contract terms. The Non Bank ABCP fiasco has cost Canadian investors, ranging from pension funds, government treasuries and individuals $18 billion of lost value at this time. The consequence of breaking the inane CDS contracts sold by the Canadian Non bank ABCP trusts would have been substantially lower losses on the new MAV notes issued. Read more about the November 17, 2007 BIA amendment benefitting the international banks in the following research report.

http://ismymoneysafe.org/pdf/BIAAmendmentCreditDefaultSwapsV.EmploymentRelatedClaims.pdf

Private Equity Investing Induced Bankruptcies Too

The private equity funds have put little equity into their investments, relying upon leveraged loans to complete their massive purchases. These private equity funds have generally made money from cash distributions extracted from the acquired companies before they filed for bankruptcy. CDSs have been available to hedge the banks offering the leverage loans used by the private equity funds. This would partly explain why such risky loans were made because the lenders were off-loading the risk onto the CDS sellers.

Watch the following New York Times video to understand the private equity angle to induced bankruptcies.

http://ismymoneysafe.org/video/NewYorkTimesHowprivateequitydealmakerscanwinwhiletheircompanieslose.wmv

On November 5, 2009, Moody`s released a new report concluding that about 19.4 percent of corporations bought by the 14 largest private equity firms from January 2008 to September 2009 have defaulted, slightly more than the 18.6 percent default rate for similarly rated companies not bought by private equity firms. Moody’s concludes “The default rates may be

similar now, but in the future they may be higher." The 10 largest companies bought by private equity firms are performing worse than similar stand-alone companies or smaller private equity deals, according to the new Moody`s report. Four of the 10 companies have defaulted on their debts, one is about to, and at least three have done special deals — called distressed exchanges — to reduce the debt loads placed on them by private equity transactions, the report says.

27 Financial Institutions On Both The Nortel Creditor And CDS Ownership Lists

Not amending the BIA to give preferred status to employee claims is benefitting the international banks, such as the 27 financial institutions appearing on both the Nortel creditor list and the Nortel CDS cash settlement auction participants list shown in Figure 6. Of these financial institutions, 9 of them are the same financial institutions that were credit default swap counterparties to the Canadian Non Bank ABCP trusts. These 9 financial institutions that are involved in both the Nortel and the Canadian Non Bank ABCP bankruptcy proceedings, were amongst the total 12 international banks, CIBC and RBC who were the CDS counterparties in the Canadian Non Bank ABCP freeze-up.

Figure 6: Financial Institutions on the Nortel Creditor and CDS Ownership Lists

Financial Institutions on the Nortel Creditor List Also on the CDS List (1)

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 (1)

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

(1) Financial institutions on the Nortel Docket 1796 - Global IP Law Group Conflict of Interest List (containing 75 financial institutions, counting related financial institutions as one), Nortel Docket 61 Creditors' List (bondholders, suppliers and other creditors) and List of Adhering Parties for 2009 Nortel Entities CDS Protocol (participants in the Nortel CDS cash settlement auctions on February 10, 2009).

* Financial institutions that were asset providers in the Canadian Non Bank ABCP trusts, as counterparties in credit default swaps sold by the Non Bank ABCP trusts. These financial institutions effectively bought credit default loss insurance from the Canadian Non Bank ABCP trusts that were financed by Canadian governments, pension funds, corporations and retail investors. The retail investors were not informed that their savings were used to buy assets that were pledged as collateral to cover the amounts owed to the international banks under their credit default swap contracts.

Nortel Junk Bonds Had Extensive Access to CDSs to Hedge Against Loss

In the Nortel case, the bond owners in Nortel Networks Corporation and Nortel Networks Limited had extensive access to CDS contracts to hedge their investment. There is no mandatory requirement in the bankruptcy courts for the Nortel bond owners to declare whether they have or had CDS contract hedges in place. The following link is to a list of the 435 parties that submitted letters to the International Derivatives and Swaps Association agreeing to adhere to the 2009 Nortel CDS Entities Protocol as of February 5, 2009. The names on this list would

be the parties to the Nortel CDS contracts and their dealers. The names on the list are primarily foreign, with the exception of Canada's 6 banks, HOOPP, the Caisse and Her Majesty the Queen in Right of Alberta.

LIST OF ADHERING PARTIES FOR 2009 NORTEL ENTITIES CDS PROTOCOL

http://ismymoneysafe.org/pdf/ListofAdheringPartiesfor2009NortelEntitiesCDSProtocol02052009.pdf

Bloomberg News reported on January 14, 2009 in "Credit-Default Swaps Jump Amid Concerns Recession Will Persist" that "Nortel's bankruptcy filing will trigger about US$1.5 billion of derivatives protecting against a default on its bonds." Creditflux reported on January 14, 2009 in "CDX HY Index Hit by New Default," that Nortel CDS contracts were widely held and were consistently included across the CDX HY Index Series. Figure 7 shows that Nortel Networks Corporation had CDS contracts outstanding at the time of their cash settlement auction on February 10, 2009 of US$5,120 million on a gross notional and US$520 million on a net notional basis. There was no information supplied on the gross and net notional amount outstanding of Nortel Networks Limited CDS contracts in the February 10, 2009 auction details for these NNL bonds (See Figure 8).

Figure 7: Markit - NNC Senior Unsecured CDS Cash Settlement Auction on February 10, 2009

Nortel Networks Corporation CDS

Final Price 12

Auction Date 10Feb09

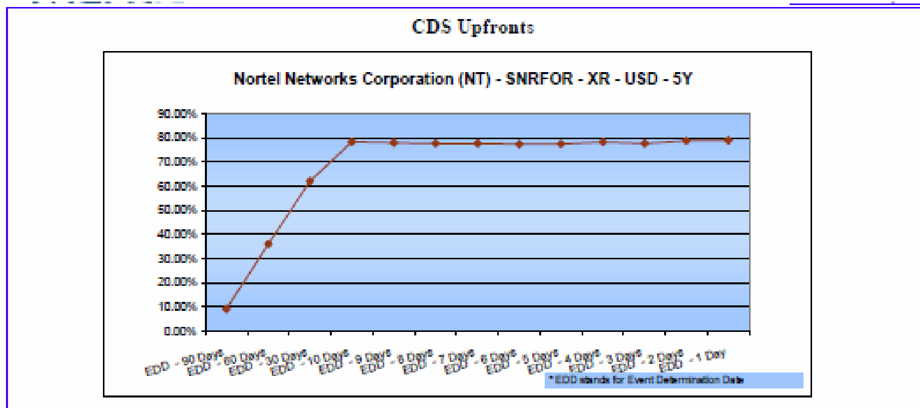
Reference Data		**Deliverable Obligations**		
RED 6 :	6BIBBE	US656568AC66	US656569AK65	US656569AE06
RED 9 :	6BIBBEAD3	US656568AF97	USC65614AC08	USC65614AB25
Index Constituents of	"Markit CDX.NA.HY 1 to 11	US656568AE23	US656569AL49	USC65614AA42
	Markit CDX.NA.HY.B 1 to 9	US656568AD40	US656569AG53	US656569AB66
	Markit CDX.NA.HY.HB 10, 11	US656569AD23	USC65614AD80 – Red Preferred	

Trade Information Warehouse (DTCC)

Gross Notional :	$5,119,713,532	Contracts :	1,150
Net Notional :	$520,147,826	Date as of:	2/6/2009

Bond Details

	ISIN	CUSIP	Name	Coupon	Maturity
Bond 1	US656568AC66	656568AC6	Nortel Corp.	1.75	04/15/12
Bond 2	US656568AF97	656568AF9	Nortel Corp.	1.75	04/15/12
Bond 3	US656568AE23	656568AE2	Nortel Corp.	2.125	04/15/14
Bond 4	US656568AD40	656568AD4	Nortel Corp.	2.125	04/15/14
Bond 5	US656569AD23	656569AD2	Nortel Limited	10.75	07/15/16
Bond 6	US656569AK65	656569AK6	Nortel Limited	LIBOR + 4.25	07/15/11
Bond 7	USC65614AC08	C65614AC0	Nortel Limited	LIBOR + 4.25	07/15/11
Bond 8	US656569AL49	656569AL4	Nortel Limited	10.75	07/15/16
Bond 9	US656569AG53	656569AG5	Nortel Limited	10.125	07/15/13
Bond 10	USC65614AB25	65614AB2	Nortel Limited	10.125	07/15/13
Bond 11	US656569AE06	656569AE0	Nortel Limited	10.125	07/15/13
Bond 12	USC65614AD80	65614AD8	Nortel Limited	10.75	07/15/16
Bond 13	USC65614AA42	65614AA4	Nortel Limited	10.75	07/15/16
Bond 14	US656569AB66	656569AB6	Nortel Limited	10.75	07/15/16



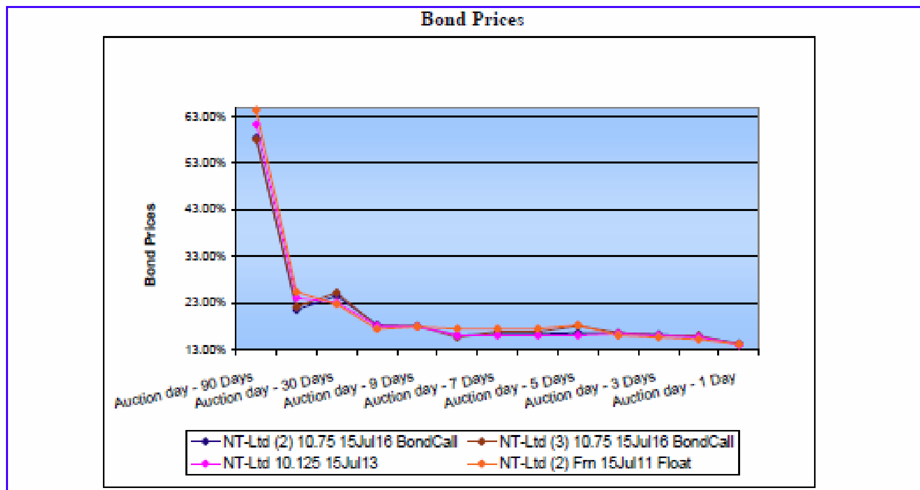


Figure 8: Markit - NNL Senior Unsecured CDS Cash Settlement Auction on February 10, 2009

Nortel Networks Limited CDS

Final Price	6.5
Auction Date	10Feb09

Reference Data

RED 6 :	N/A
Index Constituents of :	None

Deliverable Obligations

US656569AD23	USC65614AB25	US665815AH97
US656569AK65	US656569AE06	US665810AB31
USC65614AC08	USC65614AD80	US656569AG53
US656569AL49	USC65614AA42	US656569AB66

Bond Details

	ISIN	CUSIP	Name	Coupon	Maturity
Bond 1	US656569AD23	656569AD2	Nortel Limited	10.75	07/15/16
Bond 2	US656569AK65	656569AK6	Nortel Limited	LIBOR + 4.25	07/15/11
Bond 3	USC65614AC08	C65614AC0	Nortel Limited	LIBOR + 4.25	07/15/11
Bond 4	US656569AL49	656569AL4	Nortel Limited	10.75	07/15/16
Bond 5	US656569AG53	656569AG5	Nortel Limited	10.125	07/15/13
Bond 6	USC65614AB25	65614AB2	Nortel Limited	10.125	07/15/13
Bond 7	US656569AE06	656569AE0	Nortel Limited	10.125	07/15/13
Bond 8	USC65614AD80	65614AD8	Nortel Limited	10.75	07/15/16
Bond 9	USC65614AA42	65614AA4	Nortel Limited	10.75	07/15/16
Bond 10	US656569AB66	656569AB6	Nortel Limited	10.75	07/15/16
Bond 11	US665815AH97	665815AH9	Nortel Limited	6.875	09/01/23
Bond 12	US665810AB31	665810AB3	Nortel Networks Capital Corporation	7.875	06/15/26

Nortel's Bonds Had Speculative Grade Credit Ratings Since the Year 2002

Nortel Networks Corporation (NNC) has US$1,150 million of bonds outstanding and Nortel Networks Limited (NNL) has US$3,025 million of bonds outstanding. Figure 9 shows that all of the Nortel long term unsecured bonds had speculative grade credit ratings since April 4, 2002. Speculative credit ratings put the Nortel bonds in the category of junk bonds. Pension funds and other funds with conservative beneficiaries have restrictions on the ownership of junk bonds in their Statement of Policies and Procedures, so the Nortel junk bonds are now owned primarily by speculative investors. If the Nortel net notional amount of CDS contracts is the US$1.5 billion reported by Bloomberg News, this is a substantial 36% of total Nortel bonds outstanding that were hedged. It is interesting that even junk bond owners are able to buy CDS hedges to eliminate their credit default risk. By contrast, houses in flood zones are typically uninsurable. It is unfortunate that the Canadian pensioners, long term disabled and terminated employees have had no opportunity to buy comparable insurance to hedge their losses.

Figure 9: Nortel Bonds Have Had Speculative Grade Credit Rating Since April 4, 2002

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

	Moody's		Standard & Poors		
Period	**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

Investment Grade:	Moody's	Standard & Poors
Exceptional	Aaa, Aaa1, Aaa2, Aaa3	AAA, AAA-, AA+
Excellent	Aa, Aa1, Aa2, Aa3	AA, AA-, A+
Good	A, A1, A2, A3	A, A-, BBB+
Adequate	Baa, Baa1, Baa2, Baa3	BBB, BBB-, BB+
Speculative Grade:		
Questionable	Ba, Ba1, Ba2, Ba3	BB, BB-, B+
Poor	B, B1, B2, B3	B, B-, CCC+
Very Poor	Caa, Caa1, Caa2, Caa3	CCC, CCC-, CC+
Extremely Poor	Ca, Ca1, Ca2, Ca3	CC,CC-, C+
Lowest	C	C

BIA Obsolete as the Horse and Buggy in its Treatment of Employee Claims

The old premise of balance or equal compromise in Canada's bankruptcy laws between employee claims and bond claims is as obsolete as the horse and buggy.

The Federal Bankruptcy and Insolvency Act (BIA) is based on the goal of balance or equal compromise amongst employee claims and bond holder claims, but the metrics used no longer make sense due to the evolution of the credit default swap (CDS) market. Under the BIA, pension, health and long term disability plan deficits and unpaid severance are creditor claims treated the same as bond owners' claims. If there is inadequate assets for disbursement, under the current BIA, balance or equal compromise means, for example as shown in Figure 10, that for every $1.00 of employee claims and every $1.00 of face amount of bonds outstanding, the loss ratio of say -$0.50 per $1.00 of claim is the same for the two types of claims.

However, since the credit default swap market was invented in 1997, bond owners are able to insure their loss from possible future bankruptcy, by buying CDS contracts. The CDS hedge contracts are not part of the compromise calculation in the bankruptcy courts. The hedged bond owners, who get assigned a loss of -$0.50 in the bankruptcy court, would have an equal offsetting gain of $0.50 from the cash settlement of their CDS hedge contracts outside of the bankruptcy court. The hedged bond owners actually suffer no loss in the bankruptcy process as shown in Figure 10.

Prior to the invention of credit default swaps, there was no vehicle for bond owners to transfer the risk of a credit default or other credit event to third parties. In a CDS, the bond owner "sells" his credit risk to a counterparty who "buys" this risk. The "buyer" of the CDS pays fees in the form of upfront and regular annual payments to the "seller" of the CDS, similar to how you pay premiums for car insurance. In return, the seller agrees to pay the buyer of the CDS a set amount when there is a credit default (technically, a credit event). CDSs are designed to cover many credit risks, including: credit default, corporate debt restructuring and credit rating downgrades. The "seller" of the CDS is effectively acting as an insurance company, just like your car insurance company reimburses you for your car accident damages. But the sellers of CDS are public investors and not large insurance companies.

In fact, many hedged bond owners can make a profit from the bankruptcy process, either because: (1) they have bought more CDS contracts than the amount of bonds they own and as such are "short the bonds"; or, (2) their CDS hedge contracts are settled within days of the bankruptcy protection announcement, when the bond price is usually at its lowest point, so that the CDS hedge gain is greater than the actual bond loss when the liquidation occurs at a higher recovery amount calculated at a later date in the bankruptcy process. (See Figures 11 and 12 below)

Canadian pension, health and long term disability plan deficits and unpaid severance have no private sector insurance coverage. Canadians must rely upon the nominal amount of protection under the Ontario Pension Benefit Guaranteed Fund for Ontario residents only, the Canada Pension Plan disability benefit and provincial welfare programs, and the Federal Employment Insurance Fund. The negative situation for Nortel's Canadian pensioners, long term disabled and terminated employees is made worse by the depletion of the Nortel Canada estate by Nortel's foreign subsidiaries, such that their loss could be $-0.85 per dollar of claim.

Figure 10: Old Theory on Equal Compromise Between Employment Related & Bond Claims

BALANCE AND EQUAL COMPROMISE BETWEEN EMPLOYMENT RELATED CLAIMS & BOND CLAIMS			
OLD THEORY:		**Per $1.00 Face Amount**	**Canada Estate Worst Case**
Credit Default Swap Valuations			
CDS Effective Put Price	@ Purchase Date	1.000	
CDS Auction Cash Settlement	@ June 30, 2010	0.500	
Bond Valuations			
Bond Purchase Price	@ Purchase Date	1.000	
Bond Bankruptcy Court Cash Settlement Price	@ June 30, 2010	0.500	
Employment Related Claim		1.000	1.000
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500	0150
Employment Claim Gain (Loss)	@ June 30, 2010	-0.500	-0.850
Bond Claim @ Original Face Amount		1.000	
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500	
Unhedged Bond Owner's Gain (Loss)	@ June 30, 2010	-0.500	
Bond Claim @ Original Face Amount		1.000	
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500	
Hedged Bond Owner's Gain (Loss)	@ June 30, 2010	-0.500	
CDS Actual Hedge Gain (Loss)	@ Feb. 10, 2009	0.500	= 1.000 - 0.50
Hedged Bond Owner's Gain (Loss)	@ June 30, 2010	0.000	

Nortel CDS Hedged Bond Owners and Unhedged Bond Buyers After Nov. 14, 2008 Have Gains

The Nortel hedged bond owners are expected to have a gain of $0.38 or more per $1.00 of face amount, as shown in Scenario 1 of Figures 11 and Scenario 2 of Figure 12. The Nortel CDS hedge contracts have already been cash settled at the February 10, 2009 CDS auctions called upon the credit event of Nortel filing for bankruptcy protection on January 14, 2009. Figure 2 shows that the Nortel Networks Corporation February 10, 2009 CDS settlement auction had a final cash settlement price of $0.12. This CDS cash settlement of $0.12 is about where the relevant Nortel bonds traded on February 10, 2009. The impact of the CDS cash settlement at $0.12 is that the effective cost base for these Nortel hedged bond owners is now $0.12. The final liquidation cash settlement in the Nortel US estate is estimated to be about $0.50. So, the Nortel hedged bond owner will earn an estimated $0.38 profit from the Nortel bankruptcy.

This expected Nortel hedged bond owner gain of $0.38 compares to the Nortel unhedged bond owners' loss of -$0.50. **This expected Nortel hedged bond owner gain of $0.38 occurs, even though the expected Nortel Canada estate loss could be -0$.85 per $1.00 of claim due to the depletion of the Canada estate to date and the prospects for the Canada estate getting an inadequate amount of the business sales proceeds to get out of its starting hole.** It does not matter what the purchase price is for these Nortel hedged bond owners provided they bought their CDS hedge contracts at about the same time their bonds were bought. For example in Figure 11, the Nortel bond owner purchasing his bond on February 11, 2008 at $0.963 per $1.00 face amount has an expected gain of $0.38. The Figure 12 Nortel hedged bond owner purchasing his bond on December 10, 2008 at $0.200 per $1.00 face amount has the same expected gain of $0.38.

The Nortel unhedged bond buyer in Figure 12, who paid only $0.20 on December 10, 2008, is also making a profit during the bankruptcy process, since his expected cash recovery amount of at least $0.50 is $0.30 above his purchase price of $0.20. **The buyers of Nortel bonds after about November 14, 2008 and for a two month period prior to the bankruptcy protection filing date paid less than $0.50 and would be making a profit in this bankruptcy process.** Bankruptcy laws throughout the world have accepted bond claims at the face amount being the legitimate amount of claim, notwithstanding the fact that many bond owners bought their bonds at discount prices. However, the BIA and other bankruptcy laws in the world have not adjusted for the new phenomena of bond owners having insurance and not taking credit default risk on their investment due to their CDS hedge contracts. This new phenomena surely compels Canada to take a fundamentally different public policy stance on the concept of what balance and equal compromise means between employment related and bond claims during bankruptcy.

The employee claims getting preferred status over the unsecured bond owners in the BIA is necessary to restore integrity to the BIA process and to give balance between different types of unsecured creditors that was intended to be there. With preferred status the pension, health and long term disability plan deficits and unpaid severance claims have a shot at being paid in full, just like the bond owners have had the opportunity to be immunized from loss in bankruptcies by buying CDS hedging contracts.

Figure 11: Scenario 1 - Nortel Bonds Bought on February 11, 2008

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**
Credit Default Swap Valuations			
CDS Effective Put Price	@ Feb. 11, 2008	0.963	
CDS Auction Cash Settlement	@ Feb. 10, 2009	0.120	
Bond Valuations			
Bond Purchase Price	@ Feb. 11, 2008	0.963	
Bond Bankruptcy Court Cash Settlement Price	@ June 30, 2010	0.500	
Employment Related Claim		1.000	1.000
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500	0150
Employment Claim Gain (Loss)	@ June 30, 2010	-0.500	-0.850
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	
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	

Figure 12: Scenario 2 - Nortel Bonds Bought on December 10, 2008

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

SCENARIO TWO: Nortel Bonds Bought on December 10, 2008		**Per $1.00 Face Amount**	**Canada Estate Worst Case**
Credit Default Swap Valuations			
CDS Effective Put Price	@ Dec. 10, 2008	0.200	
CDS Auction Cash Settlement	@ Feb. 10, 2009	0.120	
Bond Valuations			
Bond Purchase Price	@ Dec. 10, 2008	0.200	
Bond Bankruptcy Court Cash Settlement Price	@ June 30, 2010	0.500	
Employment Related Claim		1.000	1.000
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500	0150
Employment Claim Gain (Loss)	@ June 30, 2010	-0.500	-0.850
Bond Purchase Price	@ Dec. 10, 2008	0.200	
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500	
Unhedged Bond Owner's Gain (Loss)	@ June 30, 2010	0.300	
Bond Purchase Price	@ Dec. 10, 2008	0.200	
Bankruptcy Court Cash Settlement Ratio	@ June 30, 2010	0.500	
Hedged Bond Owner's Gain (Loss)	@ June 30, 2010	0.300	
CDS Actual Hedge Gain (Loss)	@ Feb. 10, 2009	0.080	= 0.200 - 0.120
Hedged Bond Owner's Gain (Loss)	@ June 30, 2010	0.380	

Nortel CDS Cash Settlement Below the Expected Liquidation Amount, Producing a 38% Profit

The Nortel Networks Corporation CDS cash settlement of $0.12 on February 10, 2009 is well below the expected Nortel U.S. estate settlement of at least $0.50. The related Nortel bonds are trading in the range of $0.665 to $0.715 per $1.00 face amount at December 31, 2009. There is great opportunity for bankruptcy abuse due to the difference in timing between cash settlement in the CDS market upon announcement of a credit event and the final cash disbursement in liquidation or the provision of new securities in a restructuring as an ongoing concern. At the time of the bankruptcy protection announcement, there is dumping of bonds in the market, and the CDS cash settlement shortly thereafter will likely be at the bond price's lowest point. This locks in a very low cost base for the hedged bond owners, from which major profits can be achieved as the true value of the business is discovered by acquirers and restructuring actions.

It is a grave concern that the relatively new CDS market is causing an increase in bankruptcy protection filings and bankruptcies, because the bond owners who also own CDS contracts need to have a credit event in order to trigger the CDS cash settlement auction process. A fully hedged bond owner would rather realize upon the full value of his investment by collecting upon his CDS hedge rather than take the uncertain value of new securities offered in an out-of-court restructuring plan. The incentive for advocating bankruptcy court filings is high from the bond owner who bought more CDS coverage than the amount of bonds owned, since he can make more money on the CDS contract cash settlement than he loses on the underlying bonds. Also, as we see in the Nortel case, there is money to be made from the bankruptcy court filing even on a perfectly hedged bond position, because the CDS cash settlement occurs when the bankruptcy court filing is announced and not when the liquidation occurs.

It is a reasonable question to ask whether the Nortel CDS contracts were a significant contributing factor for Nortel making its bankruptcy protection filing. This factor would be in addition to Export Development Canada pulling its US$750 million line of credit on January 15, 2009. It is believed that Nortel began contemplating its bankruptcy protection filing in September 2008, well before EDC pulled its credit line.

Nortel Bond Prices Validate the Canada Estate is Being Depleted to the Benefit of the US Estate

The various Nortel Networks Corporation and Nortel Network Limited bond prices are shown in Figures 13 and 14 denoted in $ per one hundred dollar of face amount. The Figure 13 Nortel bond prices are currently $66.50 to $71.50 compared to the Figure 14 Nortel bond price currently of $42.50. The difference between the Nortel bonds in Figure 13 and the one in Figure 14 is that the Figure 14 Nortel bonds are the ones guaranteed by the Nortel Networks Inc. U.S. and the Figure 8 Nortel bond is not. **The Figure 14 Nortel bond price at $42.50 currently is one of the two Nortel Networks Limited Canada bonds that is not guaranteed by the Nortel Networks Inc. U.S. It is very important to note the differential in the two sets of Nortel bond prices validates my conclusion that the Nortel Canada estate is being depleted and that the expected cash recovery for the Canadian pensioners, long term disabled and terminated employees is likely to be substantially less than that obtained by the U.S. and U.K creditors of, unless government intervention occurs.**

Figure 13: Recent Price History of Nortel Bonds Guaranteed By NNI US

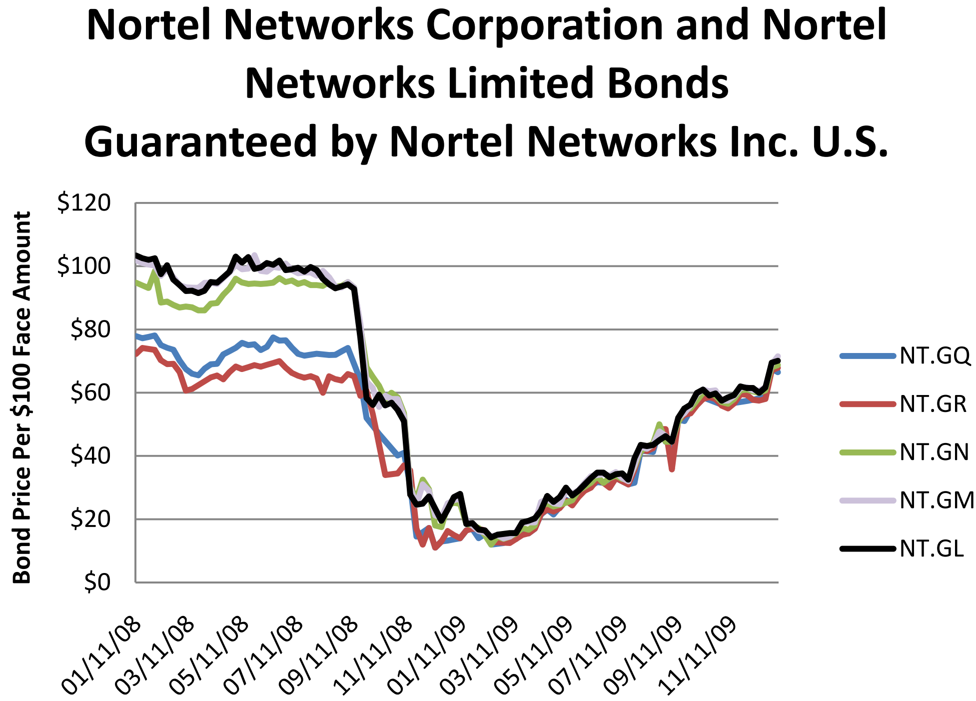
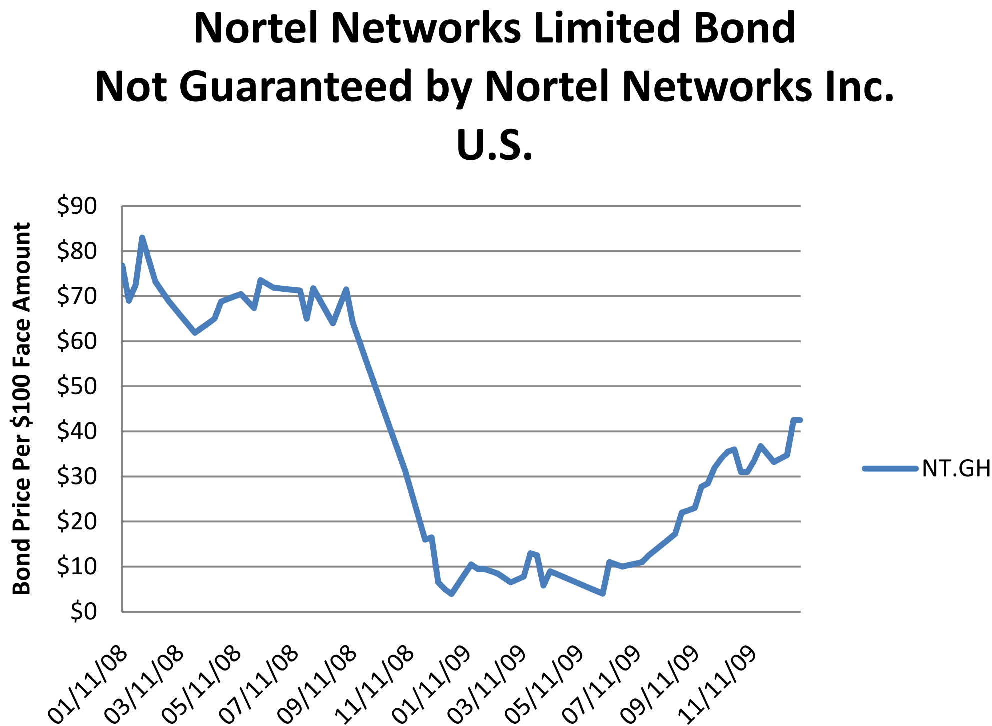


Figure 14: Recent Price History of Nortel Bonds Not Guaranteed by NNI US



Nortel Liquidation Causing Nortel Income and Health Care Benefit Cuts of -35% to -85%

The percentage declines in income and health benefits expected for each of the groups affected by the Nortel liquidation is shown in Figure 15. Figure 15 shows the percentage decline in income and health benefits caused by the Nortel liquidation on the promised Nortel employee benefits and also on total income and health benefits, taking into account the Canada Pension Plan, Old Age Security and Guaranteed Income Supplement Pension and Survivor Pension, Canada Pension Plan Disability, and Employment Insurance. Figure 15 impacts are on a pre-tax basis. TABLES 1 to 4 showing the full details of the income and health benefits before and after the Nortel liquidation are in the Appendix of this report.

Figure 15: 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

The degree of Nortel income and health benefits cuts for the Nortel group is expected to be in the range of -35% to -85%. The consequence of these Nortel cuts is that the total income and health care benefits of the affected 24,674 persons will be cut by in the range of -20% to -60%, after taking into account the Canada Pension Plan, Old Age Security and Guaranteed Income Supplement Pension and Survivor Pension, Canada Pension Plan Disability, and Employment Insurance (13,715 pensioners and survivor pensioners, 9,049 deferred and active pension plan beneficiaries, 410 long term disabled employees and 1,500 severed employees.)

Nortel's long term disabled employees have the severest damages amongst the four employee groups because: their future disability income has been deeply underfunded in a self-insured plan, Nortel has stopped making new cash contributions into the Health & Welfare Trust (H & WT) to pay for the current LTD income and so the capital in the H & WT is being depleted by current long term disability income being paid during the restructuring period; the long term

disabled employees have heavy health care costs estimated at $12,000 annually whose reimbursement will be cut off at the time of Nortel's liquidation; the long term disabled are being threatened to lose their health benefits sooner if they attempted to shut down the H & WT to get their capital out now before it is depleted during the remainder of the restructuring period; the CPP Disability Income is a low $13,272 annually and the long term disabled cannot go back to work.

"You're No Worse than Everyone Else" Argument Wrong for 5 Reasons

Federal Industry Minister Tony Clement and some academic pundits say that the expected Nortel pension income cuts of about 30% are no worse than what Canadians without defined benefit pension plans have experienced and hence no federal government action is required on the Nortel liquidation. Those making the "you're no worse than everyone else" argument are wrong in five respects:

(1) Employee benefits adversely impacted by Federal bankruptcy laws are unlike personal retirement savings and defined contribution retirement plans because they are promised deferred wages that are part of the employees' total financial compensation and their employment contract.

(2) Provincial laws already provide for employers being forced to pay for defined benefit pension plan deficits and severance, and it is federal bankruptcy laws that oust these protections when corporations file for Federal bankruptcy protection.

(3) When Federal bankruptcy laws allow corporations with cash available to nonetheless walk away from their employee benefit obligations, they are requiring that the taxpayers without employ benefits pay more taxes for the social security programs that will be used by the pensioners, survivor pensioners, long term disabled and terminated employees of corporations who file for Federal bankruptcy. **The Canadians without employment benefits have to pay more taxes and get no improvements in their own social security benefits because the Canadians who had employee benefits are pushed onto these social security programs.**

On the other hand, the junk bond holders of the liquidating corporations have had access to the credit default swap market to insure their credit default losses. The junk bond holders owning credit default swaps have a compelling new reason to push corporations into bankruptcy in order to trigger credit events so as to collect on their insurance. These hedged junk bond owners often double dip on their insurance and make profits from the bankruptcy. Their profits are at the expense of Canadian taxpayers supporting Canada's social security programs and lost tax revenues from the employees losing their employee benefits when their employers file for bankruptcy.

(4) The degree of Nortel pension and health benefit cuts are in the range of -35% to -50% in even the best case scenario where the Nortel Canada Estate gets a cash settlement of $0.50 per dollar of creditor claim at the same level as the U.S. and U.K. Estates . The cuts are -40% to -85% in the realistic scenario, where the Canada Estate gets a cash settlement ratio that is substantially less at $0.15 per dollar of claim.

- Without an Ontario Pension Benefit Guaranty Fund payment, the Nortel pensioners are expected to take a cut of -35% to -40% of their combined pension income and health benefits from Nortel. (TABLE 1).

  Pensioners with pension income cuts had their RRSP contribution room reduced by the Registered Pension Plan contributions and so when the pension plans are wound up upon employer bankruptcies, the pensioners have a permanent loss in income. Whereas the other Canadians saving for their own retirements through RRSPs have prospects for recovery of their retirement assets as the capital markets recover over time.

- The Nortel long term disabled employees are expected to take a cut of -50% to -85% of their combined LTD income and health benefits from Nortel (TABLE 2). In the worse case, the Nortel long term disabled employees will have their total income taken down to close to the $13,272 provided by CPP long term disability as first payer. This is well-below the poverty line. These long term disabled employees will also lose most of their health care benefits that are estimated to be $12,000 per year, so there will be little money left over for their food and shelter.

  The Nortel LTD employees were mislead before 2005 about their long term disability benefit being insured and after 2005 were still mislead that while the LTD plan was self-insured and that Nortel took all the risk as if it were an insurer. Nortel also potentially breached the Quebec and Canada Charter of Rights and Freedoms by exploiting its LTD employees and not providing them with security for their LTD benefits, a large portion of which they paid for with their own contributions.

- Without an Ontario Pension Benefit Guaranty Fund payment, the Nortel survivor pensioners are expected to take a cut of -35% to -45% of their combined pension income and health benefits from Nortel. (TABLE 3).

  These survivors whose spouses were gainfully employed at Nortel are being brought down to under $21,000 per year, which is close to the poverty level. Nortel top executives are being paid Annual Incentive Plan bonuses, Key Executive Incentive Bonuses or Key Employee Retention Bonuses for cost cutting that includes putting survivors close to the poverty line.

- The Nortel terminated employees are expected to take a cut of -50% to -85% on their unpaid severance and health benefits, where the example assumes a person making $50,000 per year, working 20 years and has severance pay of 3 weeks per year of service. (TABLE 4)

(5) The Federal and Provincial Governments' civil servants and many elected representatives of our Governments are the beneficiaries of public defined benefit pension plans and health benefit plans, where their employers are not likely ever to file for bankruptcy. These public employees are not suffering cuts in their pension income and health benefits and yet Nortel pension income cuts are said to be no worse than what other Canadians are experiencing.

Explanation for the Worst Case and Best Case Range of Nortel Liquidation Damages

The best case scenario is where the Nortel Canada Estate gets cash settlement of $0.50 per dollar of creditor claim at the same level as the U.S. and U.K. Estates . The worst case and realistic scenario is where the Canada Estate gets a cash settlement ratio that is substantially less at $0.15 per dollar of claim.

The powerful U.S. Pension Benefit Guaranty Corporation, U.S. junk bond owners and U.K. Pension Protection Fund have been depleting the Canada Estate by hoarding operating cash outside of Canada, placing cash proceeds from business sales in U.S. bank accounts, placing liens on business sale proceeds or taking advance cuts from business sale proceeds rather than having all of the sale proceeds become part of the Nortel Global Estate to be shared by all creditors, imposing non-arm's length debtor in possession financing and other inter-country loans against the Canada Estate.

I wrote about the problem of the Nortel Canadian estate being depleted by Nortel`s foreign creditors in the following research report:

A Cross-Border Equalization Model for the Nortel Bankruptcy Courts
http://www.ismymoneysafe.org/video/Cross-BorderEqualizationModelfortheNortelBankruptcyCourts.pdf

Federal Bankruptcy Laws Permit Induced Bankruptcy Downloading onto the Taxpayers

We are not asking for the taxpayers to bailout Canada's pension funds and LTD plans at bankrupt companies. We are asking for the Federal bankruptcy laws to be amended so the companies honour their obligation to pay employment benefits when they have cash to pay for them. The BIA amendment protects taxpayer dollars by keeping the employees and pensioners of bankrupt companies off EI, GIS, drug assistance programs and welfare.

Nortel not paying its employee benefit obligations when there is expected to be over $6 billion of cash in the Nortel Global Estate is an example of how the Federal Government is allowing induced bankruptcies to download employee benefit obligations onto the public social security programs. For example Figure 16 below (repeating TABLE 6 of the Appendix) shows that Nortel's liquidation could be costing $114 million of additional Guaranty Income Supplement, Employment Insurance, and Provincial drug purchase assistance. In addition, Nortel not paying for its employee benefit obligations is causing an aggregate present value of lost pre-tax income of $1,543 million for close to 25,000 affected Canadians. There will be lost income taxes due to this lost income. I estimate that there will be an aggregate present value of lost income taxes of at least $241 million. So, my estimate of the Nortel liquidation's downloading onto Federal and Provincial Governments is $355 million. These are aggregate present value estimates based on per person annual income and health benefits lost for each of the noted four Nortel former employee groups.

The parties who are benefiting from the employee benefit cuts borne by the affected Canadian employees and taxpayers are the executives making bonuses due to employee benefit cost cutting, the restructuring professionals making large fees and the junk bond owners making profit on the bankruptcies due to credit default swaps or due to buying the bonds at low prices after the corporations became known to be in financial distress.

In the Appendix to this report, there is TABLE 5: Impact of Nortel Bankruptcy on Governments and Employees on a Per Person Basis, and TABLE 6: Impact of Nortel Bankruptcy on Governments and Employees in Aggregate. These TABLES assume that the Nortel affected persons do not have material income sources above their Nortel income benefits and the public social security programs. Under this assumption, the income tax loss estimate is apt to be understated due to the income tax rates being low as set out in TABLE 8 for persons receiving their Nortel income benefit sources and public social security programs only, without other income sources.

- The expected up to -40% cut in Nortel pensioners' combined pension income and health benefits from Nortel (TABLE 1) causes $102 million in lost income taxes, including incremental tax credits being paid for additional Age Allowance and Medical Expenses. The actives and deferred beneficiaries of the Nortel pension plans have present value of future lost income taxes of $84 million.

- The expected up to -45% cut in Nortel survivor pensions (TABLE 3) is going to cause the Nortel survivor pensioners, without other sources of income, to get an additional $39 million of Federal Guaranteed Income Supplement. The estimate for Nortel survivors' lost income taxes is $18 million, including incremental tax credits for Medical Expenses.

- The expected cut of up to -85% for Nortel long term disabled employees (TABLE 2) is going to cost $61 million of incremental drug assistance program spending and $10 million of lost income taxes. Provincial means tested drug assistance, such as that provided by Trillium in Ontario, is certainly going to be required. The Nortel long term disabled employees are going to have to rely on family and charity for their basic living, which Canadian society has pledged they would never have to do.

- The expected up to -85% cut for Nortel unpaid severance (TABLE 4), will have a permanent cost of $14 million on the Federal Employment Insurance system and lost income taxes of $27 million, including incremental tax credits for Medical Expenses.

Assuming the average Nortel severed employee was paid $75,000, the estimated impact on Federal Employment Insurance is $34 million in the year of unemployment based on $22,350 of annual maximum EI available at $447 per week for 50 weeks. Table 7 in the Appendix shows that there is an estimated claw-back of the EI paid of $12,981 per person in the worst case scenario for the Nortel liquidation cash settlement of $0.15 per dollar of claim. So, the net Employment Insurance permanent cost per person is $9,369.

The U.S. and U.K. governments and U.S. junk bond owners are getting the benefit of Nortel Canadian severed workers being forced onto Canadian Employment Insurance and of Canada's lost income taxes, because Canadian bankruptcy laws have ousted the Provincial severance protection laws that require employers to pay severance.

Figure 16: Impact of Nortel Bankruptcy on Governments and Employees in Aggregate ($ Millions)

TABLE 6: Impact of Nortel Bankruptcy on Governments and Employees in Aggregate Worst Case @ 15% Nortel Canada Estate Cash Settlement Ratic	Pension	Survivor Pension Assumed @ 20%	Active & Deferred	Long Term Disabled	Severance	Total
Number of Persons	9,810	3,905	9,049	410	1,500	24,674
$ Millions in Aggregate	Aggregate Present Value	Aggregate Present Value	Aggregate Present Value	Aggregate Present Value	Aggregate Present Value	Aggregate Present Value
Present Value Factor	10.70	10.70	6.76	14.72	1.00	
Government Program Incremental Costs	$0	-$39	$0	-$61	-$14	-$114
Government Taxes Lost	-$102	-$18	-$84	-$10	-$27	-$241
Government Impact Programs and Taxes Lost	-$102	-$57	-$84	-$71	-$41	-$355
Employee Lost After Tax Income	-$626	-$117	-$412	-$77	-$69	-$1,302
Employee Lost After Tax Health Benefits (Non Taxable Grossed-Up)	-$204	-$85	$0	$0	-$1	-$291
Combined Government & Employee Loss	-$933	-$259	-$496	-$148	-$112	-$1,947

Source: Diane A. Urquhart

The Equitable Principles for Pension Deficits and Severance Preferred Status

(i) Pensioners, disabled and severed employees are persons with one source of income only and without other sources of income to replace the loss on either an interim or permanent basis:

- severed employees have an interim loss before finding a new job, with employment insurance only a fraction of what they used to earn and insufficient to fund living expenses

- pensioners and long term disabled former employees cannot be expected to go back to work, with only the Ontario Pension Guaranty Fund protecting up to $12,000 of annual income for Ontario pensioners and welfare being the safety net for others in need.

(ii) Pensioners, disabled and severed employees were promised employment benefits, which were amongst their reasons for taking jobs at Nortel versus working for organizations without benefits:

Defined benefit pension plan benefits were deferred wages, with Nortel accepting less take-home salaries.

(iii) Pensioners with defined benefit pension plans were limited in their capacity to obtain tax benefits for their own RRSP savings, without there being an assurance in place that the corporation sponsors of the defined benefit pension plans had an obligation to pay the registered pension plan benefits upon bankruptcy.

(iv) Pensioners, disabled and severed employees are not in the business of extending credit, like the debt investors or suppliers. Did not get rewarded for taking calculated risks in the form of credit risk premiums or conducting profitable business with the corporation as suppliers.

(v) Pensioners, disabled and severed employees have no future opportunity to make up for the damages from future business opportunities with the corporation or the acquirers of its businesses.

(vi) Pensioners, disabled and severed employees have no tax credits to cushion their damages on an after tax basis like the debt holders and suppliers who can deduct their losses for tax purposes.

(vii) Pensioners, disabled and severed employees had no access to public or private insurance to protect themselves from their bankruptcy losses.

(viii) Public taxpayers and public insurance premium payers should not be required to bear the burden for corporations who choose to enter bankruptcy protection so as not to pay for pension, health and long term disability benefits and severance that would otherwise be payable by their implicit or explicit contracts, employment benefit protection minimum statutes or common law standards. This means that the debt holders benefit by shifting costs onto the public purse.

In times of financial and economic crisis, who deserves preferred status, Canadian pensioners, disabled and severed employees or distressed debt holders trying to profit from the situation of gaps in bankruptcy laws?

"The Carrot And The Stick" Approach To Encourage Restructuring As An Ongoing Concern

In theory, there is merit in having both the Federal CCAA and BIA giving preferred status to pension, health, disability plan deficits and severance over the unsecured creditors. However, the Nortel former employee representatives are seeking that only the BIA get an emergency amendment at this time. In this way the BIA amendment can provide benefit to the Nortel pensioners, disabled and severed employees without triggering retroactivity, since Nortel is under CCAA currently. The goal would be to get the BIA amendment, while Nortel is in CCAA and before it enters BIA, which is the expected likely outcome down the road.

The CCAA having a different approach for employment benefit plan deficits and severance than the BIA would be good public policy, in my opinion. If pension fund deficits remain a contingent unsecured claim for an ongoing concern until the company liquidates, there is a greater chance that the company will have a successful restructuring as an ongoing concern and as such will live to provide future special contributions to make up for the pension fund deficit. During CCAA, if pension fund deficits are priority claims above unsecured creditors, their crystallized nature at this stage could cause liquidation rather than strenuous efforts to restructure the company as an ongoing concern.

If the company must enter liquidation under BIA, the pension fund deficit becoming crystallized as part of the pension fund wind-up process has the desired effect of discouraging liquidation. The debt holders are more likely to work hard on the restructuring of the company as an ongoing concern, if pension plan deficits need to be paid first before them in liquidation. This is "the carrot and the stick" approach. Pension fund deficits being contingent unsecured claims only during CCAA is the carrot for restructuring as an ongoing concern and pension fund deficits becoming crystallized preferred status claims during BIA is the stick to deter debt holders from seeking liquidation.

COMPAS Poll Finds Business Community Supports the Requested BIA Amendment

The Canadian business community is not opposed to the Bankruptcy and Insolvency Act amendment to give preferred status to employee benefit claims over the unsecured creditors as shown in Figure 17: COMPASS CEO Poll. It seems those who say that this BIA amendment would have severe ramifications for the debt markets have not done any quantitative studies to back up their claim. My many years of education and research on capital markets indicate to me that it will not be possible to produce studies to back up such a fear-mongering and rhetorical claim.

Jim Gray, former chair, Canadian Hunter Exploration; Bill Dimma, chairman emeritus, Home Capital; and Jim Gillies, professor emeritus, Schulich School of Business have spoken out publicly in support of bankruptcy law amendment for preferred status of employee benefit claims in BNN interviews at the following webpage.

http://watch.bnn.ca/headline/october-2009/headline-october-20-2009/#clip225668

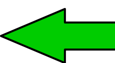
Also, you need to look at the Business Panel Embraces Harper/Flaherty Pension Reforms; Recommend Priorizing Pensions in the Event of Bankruptcy, BDO Dunwoody Weekly CEO/Business Leader Poll by COMPAS in Canadian Business for Publication November 2, 2009, found at the following link.

http://ismymoneysafe.org/pdf/CompassBusinessPanelRecommendPriorizingPensionRightsBankruptcy11022009.pdf

Figure 17: 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



This CEO Poll is giving high marks to reforms proposed by the Federal opposition parties. Most popular was a plan to make pensions a priority in the event that a company goes bankrupt. While the CEOs endorsed the proposed reforms, they also expressed considerable anger with the current system. “The companies and the management that have screwed with pension plans, removed funds or underfunded plans piss me off to no end,” commented one CEO. “I can’t believe anyone would be so callous.”

Federal Government Bailed Out Other Companies to Save Their Pension Plans

- Air Canada announced on July 30, 2009 that it was receiving Federal Government loan assistance, through Export Development Canada providing $250 million. So, in 2009 we had GM, Chrysler and Air Canada getting assistance from the Federal Government, while Nortel was forced into CCAA by both EDC withdrawing its previous US$750 million line of credit on January 15, 2009 and the Federal Government denying a request for replacement funding from Nortel management.

  Of note, is that Standard & Poor`s had downgraded its credit rating for Air Canada from B- to CCC+ on June 4, 2009,which is one notch down in the Poor category. By comparison, the Moody`s credit rating downgrade of Nortel on Dec. 15, 2009 was from B3 to Caa2, down three notches and dropping from the Poor category to the Very Poor Category. While the credit rating downgrade for Nortel is to a slightly more severe level than Air Canada, this would hardly be enough difference to warrant EDC providing $250 million of emergency funding in the Air Canada case to avoid CCAA filing, while withdrawing its US$750 million line of credit that forced Nortel into its CCAA filing (EDC replaced its US$187 million loan outstanding on its earlier facility with a US$30 million loan having a prior charge in CCAA.)

Figure 18: Air Canada Pension Funds' Deficit

Air Canada Pension Funds

		2009 DU Est	2008
On Solvency Basis ($ Millions)			
Assets	85%	9,319	10,963
Liability	103%	12,488	12,124
Deficit $		-3,169	-1,161
Solvency %		75%	90%

The Air Canada pension funds are regulated by the Federal Office of the Superintendent of Financial Institutions. Whereas, the Nortel pension funds are regulated by the Financial Services Commission of Ontario. Yet, it is the Federal bankruptcy laws that are causing the expected severe cut in Nortel pensions, long term disability income and unpaid severance.

- In the restructuring of Chrysler, the New Chrysler received US$6 billion from the U.S. government and Cdn$3.2 billion from the Ontario and Federal Governments. The U.S. Treasury and the Canadian Governments received 8% and 2% respectively of the company's new equity. New Chrysler issued a note in an amount of nearly $4.6 billion to a Voluntary Employee Benefit Association (VEBA) of the United Auto Workers. The VEBA will also receive 55% of New Chrysler's equity. The secured Chrysler creditors got assigned $2 billion in cash or 29% of their secured creditor claim. When a small group of Chrysler secured creditors sought to appeal the Chrysler restructuring settlement, the U.S. Supreme Court refused to hear the case.

- The Ontario and Federal Governments contributed a total of Cdn$10.5 billion of funding to keep GM Canada alive. The Chrysler and GM Canada retirees were clear beneficiaries of these government bailouts, although the Ministers involved wanted the public to believe they were bailing out the Chrysler and GM businesses and not the pension and health funds. The following internal memo to GM Canada Salaried Retirees presents a different perspective on the GM government bailout and how it helped them.

The following note was sent to General Motors of Canada, Limited Salaried Retirees on Monday, June 22, 2009.

Dear GM Canada Salaried Retirees,

As an interested stakeholder in the viability of General Motors, you are no doubt aware that the re-invention of General Motors is well underway. The re-invention includes measures to secure the viability of the salaried pension plan and to help ensure that retirees are confident about the future.

In discussions with the Governments of Canada and Ontario regarding the long term viability of GM, reducing the underfunded status of the GM pension plans and the reduction of benefit costs took centre stage. The solution to General Motors' financial difficulties would have to include measures that help ensure that retirees are protected.

In response to that mandate, the agreement with the Governments includes provisions that require GMCL to rescind the Section 5.1 election (Qualified Plan status) that allows going concern funding, and move to implement 10 year solvency funding by the end of the year. In addition, GMCL is required to make a large upfront contribution to the pension plan in 2009 and make significant annual contributions going forward. These actions will ensure solvency funding levels commensurate with other pension plans in Ontario.

We are happy that the re-invention of General Motors includes measures to assist in securing the future that the retirees had planned. We are excited about the reinvention of General Motors and count on your continued support.

Elise Grenier
General Director Human Resources Management

John Stapleton
Vice President of Finance and CFO

Nortel's Canada Estate Is Being Depleted Relative to the Rest of the World

In international bankruptcies, powerful foreign creditors, especially those sitting on the U.S. Unsecured Creditor Committee, are able to hoard cash in their foreign jurisdictions and deplete cash resources in the Canadian operations, and to obtain prior charges for non arms-length debtor in possession (DIP) financing and other inter-company loans. This causes Canadian unsecured creditors to potentially receive substantially lower cash settlement ratios than the foreign unsecured creditors.

Nortel's Canada estate is being depleted relative to the rest of the world due to the following factors:

(1) Canada's Starting Cash Balance Was Too Low

(2) US Bondholders - Unsecured Creditor Committees and U.K. Administrator's Control

(3) Canada's Estate Has Heavy Prior Charges

(4) Cash Burn Is Too High Due to Inadequate TPA and Excessive Restructuring

(1) Canada's Starting Cash Balance Was Too Low

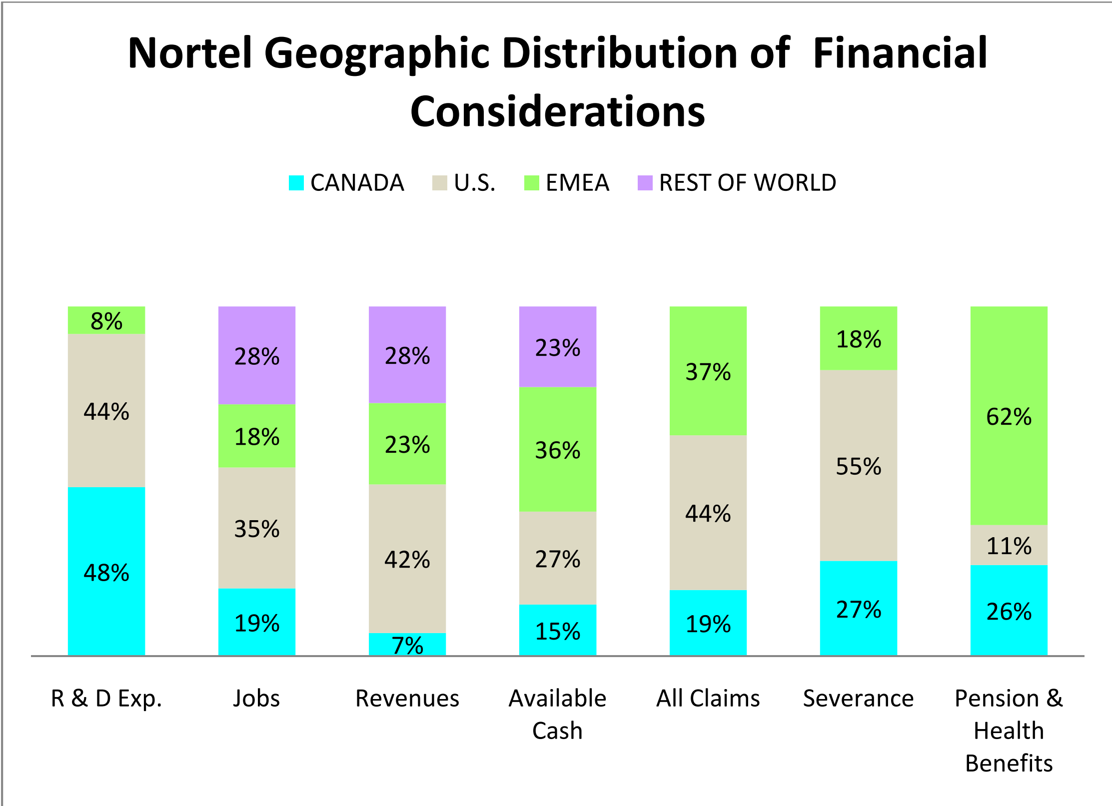
Canada's estate started the bankruptcy protection process on January 14, 2009 with only US$261 million or 15% of the global available unrestricted cash, despite its creditor claims estimated to be 19% of the global estate, as shown in Figure 19. The cash available in the Canada estate is on a gross basis, not deducting for an inter-company loan of US$295 million outstanding at January 14, 2009 owed to US Nortel Networks Inc. (NNI)

The lesser starting point for cash means the Canada estate has much less flexibility to spend money during the restructuring period than other countries as its cash will be used up much sooner by its "cash burn." Cash burn is the amount by which cash receipts fall short of the cash expenses each month.

The lower starting point for Canada's available cash also means that the Canadian creditors will get a much smaller contribution from this small starting cash balance, which is further eroded by the Canada's cash burn during the restructuring period.

To make the situation worse, the cash burn rate in Canada is at a much higher relative level than the other countries, due to it being primarily a cost center for head office and research & development services that must rely upon transfer pricing agreement payments from the other countries where 93% of the sales occur. The factors causing Canada's relatively high cash burn rate are discussed in point (3) below.

Figure 19: Nortel Geographic Distribution of Financial Considerations



(2) US Unsecured Creditor Committee, Ad Hoc Bondholders Committee, and U.K. Administrator's Control

Nortel's head office country, Canada, is being badly treated in this bankruptcy protection process. You need only look at the role of the US Unsecured Creditor Committee, US Ad Hoc Bondholders Committee, and the UK/EMEA Ernst & Young Court Administrator in the international bankruptcy process to see why the Canadian-based creditors are being so badly outmanoeuvred.

Figure 20: Key Stakeholders in Negotiations

US Unsecured Creditors Committee

The Bank of New York Mellon
New York, NY

Law Debenture Trust Company of New York
New York, NY

Flextronics Corporation
Broomfield, CO

Airvana, Inc.
Chelmsford, MA

U.S. Pension Benefit Guaranty Corporation
Washington, DC

Ad Hoc Bondholder Group

Mackay Sheilds LLC
Loomis Sayles & Company, L.P.
Fidelity Management & Research Co.
Pacific Investment Management Company LLC
Sankaty Advisors LLC
Milbank Tweed LLP (advisors)

Ernst & Young U.K. Court Administrator

Ernst & Young Canada Court Administrator

Richards Layton & Finger PA and Akin Gump Strauss Hauer & Feld LLP, the lawyers for the US Unsecured Creditors' Committee, seem to not know that one of the significant parties in the Nortel bankruptcy is Koskie Minsky LLP representing the Canadian pensioners, long term disabled and severed employees, with estimated creditor claims of $2 billion. See the list below of the Significant Parties in the Nortel Case on the website maintained at the direction of these two American law firms.

http://www.kccllc.net/nortelcommittee
[See the Kurtzman Carson Consultant site of the US Unsecured Creditor Committee of Nortel. Click on Significant Parties.]

Note: Kurtzman Carson Consultants LLC ("KCC") maintains this website at the direction of Richards Layton & Finger, PA and Akin Gump Strauss Hauer & Feld LLP, the attorneys for the General Unsecured Creditors' Committee. KCC maintains this website for the public's convenience and, while KCC makes every attempt to assure the accuracy of the information contained herein, this website is not the website of the United States Bankruptcy Court and does not contain the complete, official record of the Bankruptcy Court. All documents filed with

the Court are available for inspection at the United States Bankruptcy Court for the District of Delaware.

Counsel to the Creditors' Committee
Fred S. Hodara, Esq.
David H. Botter, Esq.
Akin Gump Strauss Hauer & Feld LLP
One Bryant Park
New York, NY 10036
T: 212-872-1000
F: 212-872-1002
http://www.akingump.com

Committee Members
Airvana, Inc.
Flextronics Corporation
Law Debenture Trust Company of New York
Pension Benefit Guaranty Corporation
The Bank of New York Mellon

Canadian Counsel to the Creditors' Committee
Fraser Milner Casgrain LLP
1 First Canadian Place, Suite 4200
Toronto, Ontario, Canada M5X 1B2
T: 416-863-4511

European Counsel to the Creditors' Committee
Ashurst LLP
Broadwalk House
5 Appold Street
London EC2A 2HA United Kingdom
T: +44 20-7638-1111

Local Delaware Counsel to the Creditors' Committee
Richard, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
T: 302-651-7700

Investment Banker to the Committee
Jefferies & Company, Inc.
520 Madison Avenue, 17th Floor
New York, New York 10022
T: 212-284-2550

Financial Advisor and Forensic Accountant to the Committee
Capstone Advisory Group, LLC
1065 Avenue of the Americas, Suite 1801
New York, New York 10018
T: 212-782-1400

Counsel to the Debtors
James L. Bromley, Esq.
Cleary Gottlieb Steen & Hamilton LLP
One Liberty Plaza
New York, New York 10006
T: 212-225-2000

Canadian Counsel to the Debtors
Ogilvy Renault LLP

Royal Bank Plaza, South Tower
200 Bay Street, Suite 3800
P.O. Box 84
Toronto, Ontario, Canada M5J 2Z4
T: 416-216-4000

Local Delaware Counsel to the Debtors
Morris Nichols Arsht & Tunnell LLP
1201 North Market Street
PO Box 1347
Wilmington, Delaware 19899-1347
T: 302-658-9200

Financial Advisor to the Debtors
Lazard Freres & Co. LLC
30 Rockefeller Plaza
New York, New York 10020
T: 212-632-6000

United States Trustee
Office of the United States Trustee
33 Whitehall Street, 21st Floor
New York, New York 10004
T: 212-510-0500

Court
United States Bankruptcy Court, District of Delaware
The Honorable Kevin Gross
824 Market Street, 6th Floor, Courtroom 3
Wilmington, Delaware 19801
T: 302-252-2900

Canadian Monitor
Ernst & Young LLP
Ernst & Young Tower, 16th Floor
222 Bay Street
Box 251
Toronto, Ontario M5K 1J7 Canada
T: 416-864-1234

Counsel to the Canadian Monitor
Allen & Overy LLP
1221 Avenue of the Americas
New York, New York 10020
T: 212-610-6300

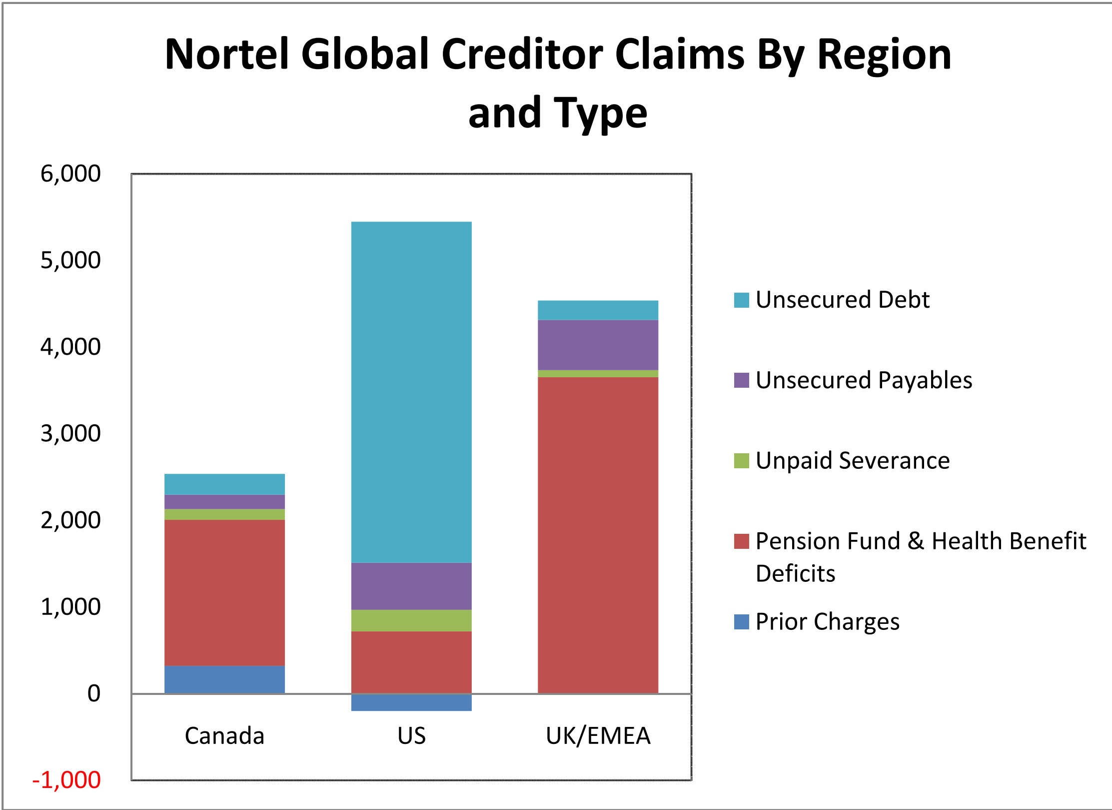
U.K. Administrator
Allen Bloom
Stephen Harris
Ernst & Young LLP
1 More London Place
London SE1 2AF United Kingdom
T: +44 20-7951-9898

The CCAA legislation does not require disclosure of the creditors to the Canada estate, but we believe that the Canadian pension, health and long term disability plans and the severed employees are by far the largest Canadian-based creditor group. Koskie Minsky LLP was appointed by Justice Morawetz to be the representative counsel for all the Nortel employment-related claims and staff CAW legal counsel is acting for the Nortel pensioners who are CAW members.

Figure 21 shows that the Canada creditor claims are estimated to be 19% of global creditor claims, but there are few large bond holders and supplier creditors in Canada. The Ontario Government is listed as a key stakeholder eligible for Nortel progress reports on the sales procedure for LG Nortel, but the interests of the Ontario Government to protect against abuse of the Ontario Pension Guaranty Fund, really just deals with the first $12,000 of annual pension guaranteed for the Nortel Ontario-based pensioners only.

The Ernst & Young CCAA Court Administrator has excessive control of the public disclosure of material information and of negotiations with the large creditors, showing a bias to protect the interests of the debtor company and the large bondholders. Steering Committees for the long term disabled and terminated employees and pensioners are unnecessarily held to non disclosure agreements, that prevent proper communications with their constituency of thousands of persons. Greater transparency is needed to ensure the court room operates with integrity rather than like a lawyers' fraternity protecting their uncontrolled professional fees.

Figure 21: Nortel Global Creditor Claims by Region and Type ($ Millions)



(3) Canada's Estate Has Heavy Prior Charges

The CCAA court judge has approved six heavy prior charges for payments that must be made from the Canada estate before the Canadian pension, health and long term disability plan deficits and severance and other unsecured creditor claims may be paid.

The prior charges are:
First - Administration Charge
Second - Carling Facilities Charge
Third - EDC Charge
Fourth - Directors' Charge
Fifth - NNI Loan Charge
Sixth - Inter-Company Charge

(i) First - Administrative Charge is US$5 million for the professional fees and disbursements of the Ernst & Young Court Monitor, the Monitor's lawyer Goodmans LLP and for Nortel's Canadian lawyer, Ogilvie Renault LLP. This is a standard prior charge and Justice Morawetz has approved this prior charge amount. There has already been US$33 million restructuring costs deducted from the Canada estate operations between February 1st to June 7th, 2009 according to the Eighth and Fifteenth Ernst and Young Canada Court Monitor's Reports.

(ii) Second - Carling Facilities Charge relates to the US$200 million non-arm's length Debtor-in-Possession (DIP) line of credit from NNI, which stands for Nortel Networks Inc., Nortel's US operations. The US$200 million non-arm's length DIP line of credit receives the benefit of both the Second - Carling Facilities Charge and Fifth - NNI Loan Charge. The purpose of the DIP line of credit is to finance the expected cash burn within Canada, in the event that the cash available within Canada is insufficient to absorb the expected cash burn within Canada during the restructuring period.

The DIP line of credit being a prior charge means that the outstanding amount of loan under this DIP line of credit must be paid before the Canadian unsecured creditors get paid. The Canadian unsecured creditors are predominantly the Canadian pensioners, disabled and terminated employees. The current amount of DIP loan outstanding is US$75 million and Nortel has pledged that this will not increase before September 30, 2009. However, due to the significant cash burn occurring in Canada each month, I am expecting the full US$200 million DIP line of credit to be utilized before the Nortel restructuring is complete, which is still apt to be a year from now.
This is a non-arm's length DIP line of credit because it is provided to the Canada estate from the US estate of Nortel and not from a commercial third party lender. Nortel puts this non-arm's length DIP financing in place with a prior charge on the Canada estate rather than sending up to US$200 million of cash to Canada from elsewhere in the world. This is presumably done because the US Unsecured Creditors Committee and the Ad Hoc Bondholders Committee and the U.K. bankruptcy administrator, Ernst & Young U.K., want to retain the cash they already have in their own country to maximize their own country's estate.

The non-arm's length US$200 million DIP line of credit was approved by the CCAA judge on the first day of the CCAA filing on January 14, 2009. The CAW and Koskie Minsky LLP had not yet been retained by Canadian pensioners in time to oppose the non-arm's length DIP line of credit

receiving the Second - Carling Facilities Charge on the first day. There has been no appeal of Justice Morawetz's first day decision on the matter.

(iii) Third - EDC Charge was approved by Justice Morawetz on the first day of the CCAA filing. Export Development Canada (EDC) recalling its US$750 million credit facility on January 15, 2009 is a contributing cause for Nortel filing for bankruptcy protection on January 14, 2009. EDC was or could recall its US$187 million loan outstanding on January 15, 2009. EDC appears to have cancelled its original US$750 million line of credit on January 15, 2009, left its US$187 million EDC loan outstanding, and then agreed to extend a new US$30 million EDC loan under this Third - EDC Charge.

The initial decision of the EDC to call for the early termination of the US$750 million EDC Credit Facility was within its legal means to do so after Moody's downgraded Nortel credit below B3 on December 15, 2008. This decision can be rationalized as necessary to protect the Canadian taxpayers, while compelling Nortel to take strenuous restructuring actions to remain an ongoing concern.

The EDC initially and the Federal Government subsequently appear not to have considered removing the current Nortel management and Directors in order to select a new team that was willing and knew how to preserve Nortel as a leaner and more focussed ongoing concern with its head office based in Canada. Nortel as an ongoing concern would have mitigated the estimated Cdn$1,500 million damages for the Nortel Canadian pensioners, disabled former workers and terminated employees, since the Nortel Canadian pension, health and long term disability plans would remain as ongoing concerns rather than being forced to be wound up with substantial funding shortfalls.

EDC's subsequent US$300 million funding of the foreign acquisition of Nortel's wireless business has accelerated Nortel's decision to liquidate the company rather than downsizing to a leaner more focused ongoing concern. The Federal Government rationalizes this subsequent EDC financing as necessary to protect about 800 Canadian jobs. Yet the combination of not funding Nortel's' ongoing concern plan and supporting Nortel's liquidation plan, is imposing CDN$1,500 million income losses on Nortel's 19,000 Canadian pensioners, disabled former employees and severed employees.

The EDC gets this Third - EDC Charge for US$30 million to be paid, while these 19,000 Canadian pensioners, disabled former employees and severed employees are expected to suffer significant impairments of their living and the Ontario Pension Guarantee Fund, Federal Employment Insurance Fund and Provincial welfare programs are burdened by the swell of Nortel persons filing for these minimal social security benefits.

(iv) Fourth - Directors' Charge was also approved on the first day of the CCAA filing. This is $90 million for indemnification of the Directors for liabilities that arise in lawsuits against them. This is an indemnification amount for Directors who are working for the global operations of Nortel. Yet, the entire Directors' indemnification amount is a prior charge to the Canada estate only. There was no appeal of his decision on this full allocation of the Directors' indemnification amount to the Canada estate.

(v) Fifth - NNI Loan Charge was created on April 7, 2009, when Justice Morawetz approved that the $200 million non-arm's length DIP line of credit, that was initially subject to the Second - Carling Facilities Charge, be extended to become a general Fifth - NNI Loan Charge. Had the DIP line of credit been restricted to the sale of the Carling Facilities only, the Canadian

unsecured creditors would have benefited in the event that the Carling Facilities are sold for less than US$200 million. The CAW and Koskie Minsky LLP did not oppose the extension of the non-arm's length DIP line of credit to both the Second - Carling Facilities Charge and the Fifth - NNI Loan Charge, and so there was also no appeal of his decision on this extension.

(vi) Sixth - Inter-Company Charge has been granted for any amount of inter-company loans or other transfers of value from the US Chapter 11 Nortel entities to the Canada estate that is made after January 14, 2009. There does not seem to be a mechanism within the Canadian CCAA court for Nortel's Canadian pensioners, disabled and terminated employees to set limits on how much money NNI lends to the Canada estate and therefore takes a prior charge ahead of them for disbursement of the Canada estate upon liquidation.

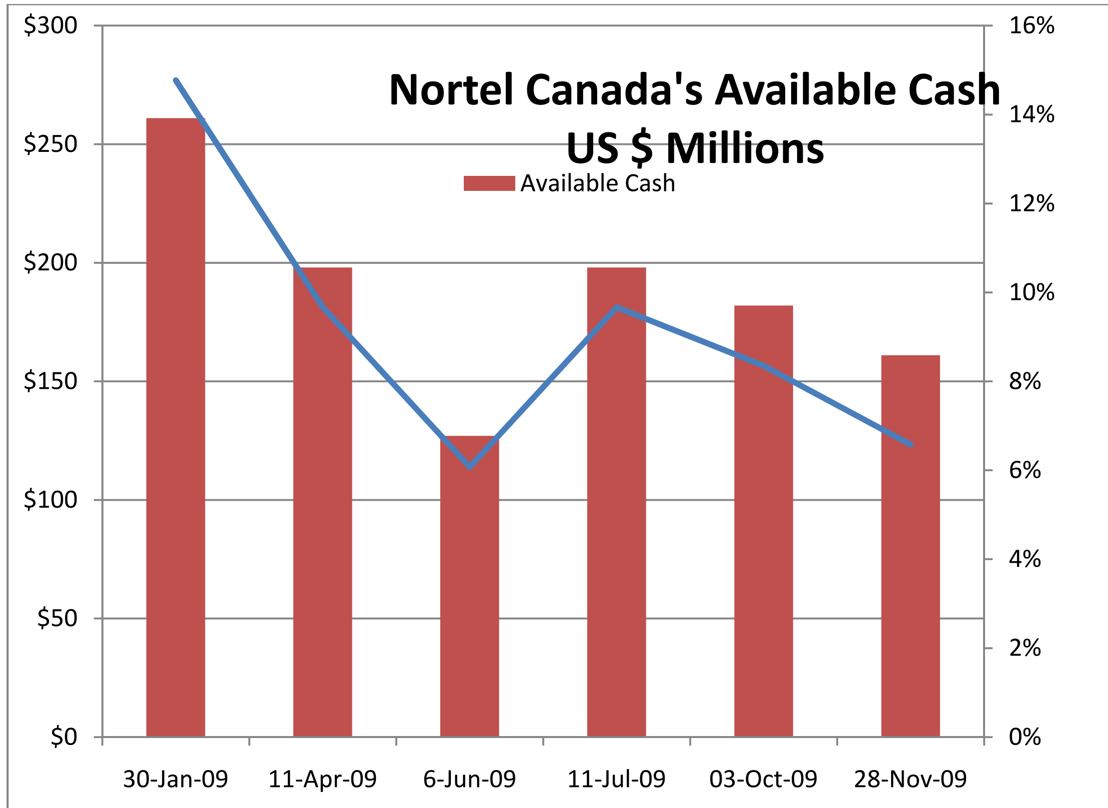
This Sixth Charge does not cover the pre-filing Inter-Company Loans owed to the US Chapter 11 Nortel entities from the Canada estate, whose amount was disclosed to be US$295 million in the Doolittle affidavit dated January 14, 2009. The inter-company loan of US$295 million outstanding at January 14, 2009 ranks equally to the Canadian pensioners, disabled and terminated employees' claims.

(4) Cash Burn Is Too High

The cash burn in Canada is at a much higher relative level than the other countries due to it being a cost center and due to it relying upon Transfer Pricing Agreement payments from the other countries where most of Nortel's sales occur.

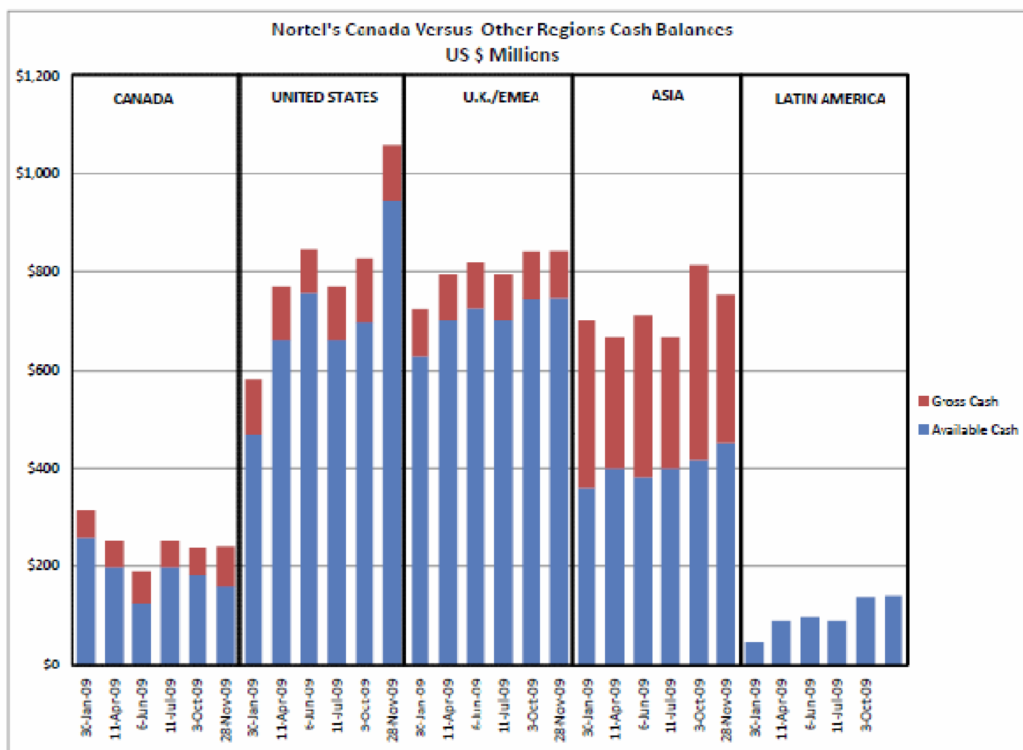
In Figure 22 , you can see the dramatic decline in Nortel's available cash balance from US$261 million on January 14, 2009 to just US$161 million on November 28, 2009. Canada's available cash balance has fallen from 15% to 7% of the global available cash balance.

Figure 22: Nortel Canada's Available Cash



The financial stress in Canada is much worse than in the other countries where Nortel operates. In Figure 23, you see that Canada is the only country where the cash balances are declining. Not surprising there are big cash balance increases in the US and UK/EMEA that are under the significant influence of the US Unsecured Creditors Committee, US Ad Hoc Bondholders Committee, , and the UK Ernst & Young Court Administrator, who are the likely significant players that asked for the TPA payments to be withheld from Canada during February 1, 2009 to June 7, 2009 and who negotiated the Funding Settlement Agreements going forward.

Figure 23: Nortel Canada's Versus Other Regions' Cash Balances



(i) Transfer Pricing Agreements Not Paid and the Canadian Funding and Settlement Agreements Are Woefully Low

Transfer Pricing Agreements are explained in point 17 below from the Motion Record, Interim Funding Agreement (returnable June 29, 2009.) NNL stands for Nortel Networks Ltd., the Canadian based company.

17. Within Nortel, NNL is the owner of the vast majority of Nortel's intellectual property assets and, in accordance with the Master R&D Agreement, NNL licenses its intellectual property to the Main Nortel Companies on a royalty-free basis. The Nortel Transfer Pricing Regime, in normal times, is the means by which NNL is compensated for the development and use of its intellectual property by affiliates. NNL has historically been a net recipient of payments under the Nortel Transfer Pricing Regime given that NNL generates lower levels of revenue when compared to the high level of corporate overhead and R&D Activity incurred in Canada.

The US Unsecured Creditor Committee, US Ad Hoc Bondholders Committee, and the U.K.\EMEA Ernst & Young Court Administrator have had major influence on the Transfer Pricing Agreement (TPA) payments not being to Canada from February 1, 2009 to June 6, 2009. On July 9, 2009, the Canadian CCAA court approved a new Inter-Company Funding and Settlement Agreement (IFSA) to replace the current TPA Agreement. The IFSA paid Canada US$157 million for the period June 7 to September 30, 2009, which was an amount far short of the Nortel's Canada operating costs during this period. There is no disclosure to compare the new IFSA with what the old TPA payment would have been. For the period June 7 to September 30, 2009, the IFSA normalized payment is only 42% of the expected Canada operations costs or negative cash burn without this IFSA payment.

The IFSA had been negotiated between the Nortel Canada, US and U.K.\EMEA debtor companies with input from the US Unsecured Creditor Committee, US Ad Hoc Bondholders Committee, and U.K/EMEA Court Administrators.

On December 23, 2009, and recorded on the U.S. Chapter 11 EPIQ site, Nortel released agreements between the IRS, the Canada Revenue Agency, NNL and NNI, which included the Final Canadian Funding and Settlement Agreement.

There is a motion for NNI to pay NNL $190M to continue operations until the final wrap up of Nortel. The motion will only be approved contingent on a number of complicated deals. First, that NNI and NNL agree that NNI overpaid NNL by $2 Billion during the 2001 to 2005 period for R&D and other charges. That means that NNI's profits were understated and they will have to file amended tax returns for those periods with extra revenue and profit. It also means that NNL will have to re-file in Canada with less revenue and profit and will have tax owed to them by Canada.

The agreement under an IRS APA (Advanced Pricing Agreement) has to be agreed to by both NNI,NNL, IRS and CRA to make this all work. If that happens then NNI will pay the IRS $37.5 M and the IRS will extinguish its liens and also will no longer look for the $3 billion claim filed earlier. In return the IRS will also allow the $814M tax credit claims that NNI has to offset taxes owed from 2001 to 2005 as a result of the extra $2 billion income. There is no indication of why the CRA has changed its position on the transfer pricing agreements being paid from the U.S. to Canada, which it would previously have agreed to.

On October 13, 2009, Bert Hill of the Ottawa Citizen reports "But two U.S. government bodies are not wasting any time. They have moved aggressively to lock down some assets of Nortel Networks to protect U.S. pensioners and taxpayers. The Internal Revenue Service and the Pension Benefit Guaranty Corp. have effectively tied up the assets of two choice U.S. subsidiaries -- Nortel Government Services and Diamondware -- in the $915-million sale of enterprise assets to Avaya. By applying strategic legal pressure, they forced Nortel to make the concessions in a U.S. bankruptcy court in Delaware or face big expenses and threats to the deal."

At this point in the process, it is reasonable to conclude that the original $200 million DIP line of credit is apt to be fully utilized as a prior charge against the Canada estate before Nortel's liquidation is completed, in addition to the second and final Funding and Settlement Agreement. Also, in any case, the NNI has the Sixth - Inter-Company Charge as a general catch-all for providing an additional inter-company loan post January 14, 2009, which will be repaid out of the Canada estate before the Nortel's Canadian pensioners, disabled and terminated employees are paid.

(ii) Excessive Restructuring Costs Allocated To The Canada Estate

Bankruptcy lawyers and accountants are taking a high percentage of the bankruptcy estate in professional fees with limited bankruptcy court monitoring and control. Figure 24 shows an estimated $290M legal and accounting professional fees during the Nortel bankruptcy proceeding, of which about $90M is booked in the Canada Estate.

Figure 24: Nortel Bankruptcy Restructuring Costs

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

Source: Ernst & Young Canada Monitor's Reports and US DIP Monthly Operating Reports

(iii) Canada Estate Paying for the KEIP & KERP and Canada's AIP

There are high bonuses being paid to executives and current employees (estimated $380M of Nortel 2009 Annual Incentive Plan, Key Executive Incentive Plan and Key Employee Retention Plan bonus payments), while pensioners, long term disabled and severed employees are asked to take significant cuts and LTD contributions are not being made into the Health & Welfare Trust (estimated $1,593M of after-tax income and health care benefits lost by Nortel's close to 25,000 affected Canadian pensioners, survivor pensioners, active and deferred beneficiaries of the pension plans, long term disabled and terminated employees). The Canadian taxpayers must bear the cost for these former employees' use of social security programs and their lost income taxes (estimated $355M in additional Federal and Provincial social security program expenditures and reduced income tax revenues).

The Canada estate is paying for an undisclosed share of the US$45 million being spent on the KEIP and KERP bonuses. With Canada being the official Head Office jurisdiction a significant portion of the KEIP & KERP costs would be charged to the Canada estate.

The Canada estate is also paying an estimated Cdn$68 million for the Annual Incentive Plan applicable to its Canadian current employees.

Nortel pensioners and severed employees have been asking whether the KEIP & KERP will be paying out lesser executive and key employee bonuses now that Nortel has announced that it is liquidating rather than completing a CCAA Compromise Plan for an ongoing concern. The answer is no, the Unvested Bonus Awards of the KEIP and KERP are paid in full, if there is a

sale of businesses and the Key Executives and Employees are terminated at the time of the sale or related to the sale later.

One line in the KEIP & KERP document is very confusing since it suggests that the whole KEIP & KERP are paid to their participants on the date of the consummation of the applicable divestiture, regardless of whether they are terminated or not.

DEBTORS' MOTION FOR AN ORDER SEEKING APPROVAL OF KEY EMPLOYEE RETENTION PLAN AND KEY EXECUTIVE INCENTIVE PLAN, AND CERTAIN OTHER RELATED RELIEF

18. The KEIP, which has been designed by taking into account the levels of compensation at other comparable companies, is properly tailored to provide incentives to the Debtors' senior executives to maximize the size of the Debtors' estate and guide the Debtors out of bankruptcy as swiftly as possible. Accordingly, the awards under the KEIP will be tied to the achievement of three important milestones: (1) the achievement of North American objectives of Nortel's cost reduction plan ("First Milestone"); (2) the achievement of certain parameters, which have been disclosed to the Monitor, the Committee and the advisors to the Bondholder Group, that will result in a leaner and more focused organization ("Second Milestone"); and (3) the later of the confirmation of the Debtors' plan of reorganization or the confirmation by the Canadian Court of a plan or plans of restructuring and/or arrangement in Canada ("Third Milestone" and together with the First Milestone and the Second Milestone, the Milestones").

Under the KEIP, 25% of each incentive award would vest upon achievement of the First Milestone; 25% would vest upon achievement of the Second Milestone; and the remaining 50% would vest upon achievement of the Third Milestone.

20. The KERP has been tailored to provide incentives to the Debtors' critical employees to remain with Nortel and to strive for speedy achievement of the Milestones. Under the KERP, the incentive awards shall vest as follows: 25% upon the earlier of June 30, 2009 or the achievement of the First Milestone; 25% upon the earlier of December 31, 2009 or the achievement of the Second Milestone; and 50% upon the earlier of June 30, 2010 or achievement of the Third Milestone.

24. The participants under the Plans whose employment with Nortel is terminated as a result of a divestiture (including participants who are transferred to or hired by a third-party buyer in connection with a divestiture or any employee whose employment is terminated as a result of organizational re-sizing following and related to a divestiture) will continue to have a right in any Unvested Awards, unless those participants receive, with Nortel's consent, an opportunity to be employed by the buyer and fail to accept the buyer's offer.
Any Unvested Awards will be accelerated on the date of the consummation of the applicable divestiture (the "Closing Date") and will vest automatically on the Closing Date.

Suppliers Getting Full Cash Settlements Rather Than Waiting In Line

Airvana at $40M and Flextronics at $51M-$280M are getting paid in full during Nortel bankruptcy proceeding.

According to the Fierce Wireless article on November 16, 200, it was announced that “Airvana will receive $39.6M in payments related to outstanding invoices it had with Nortel Networks, following the close of Ericsson’s $1.13B deal to acquire Nortel’s CDMA and LTE assets. The invoices are for products and services that Airvana sold to Nortel before it filed for bankruptcy in January. Airvana said that as part of Ericsson’s acquisition of the Nortel assets, which closed on Friday [November 13, 2009], the contract it had with Nortel has now been assigned to Ericsson.”

The 23rd Ernst & Young Court Monitor's Report dated November 27, 2009 describes a settlement agreement with Flextronics, the other supplier besides Airvana on the U.S. Unsecured Creditor Committee. This agreement was approvedin the CCAA court on December 2, 2009. The U.S. Bankruptcy Court B1 (Original Form) showed Flextronics being owed an aggregate of US$51M. However, the legal release signed by Flextronics on November 20, 2009 specifically refers to higher amounts of US$181M for accounts receivable and US$99M for inventory claims and other claims being released.

This Flextronics Settlement agreement has the settlement dollar value and the allocation methodology for its payment from the three country estates redacted. The following reasons are given for the redacted information: "If disclosed, this information could severely impair the ability of the Applicants to successfully manage their relationship with other competitors, suppliers and creditors thereby potentially disrupting ongoing operations and affect the transfer of supply arrangements in connection with other possible Divestitures. Furthermore, information redacted within the Side Agreement relates to the Side Agreement Parties’ payment obligations and agreements regarding the allocation methodology that could compromise the process for allocation of the Settlement Cost."

While the settlement dollar amounts are redacted, the wording of the 23rd Ernst & Young Court Monitor's Report implies that Flextronics achieved a fully satisfactory settlement, which means that Flextronics' pre-filing claims are being treated more favourably than other unsecured creditors in the Nortel Global Estate.

Pt. 46: " One of Nortel’s goals is to maximize recovery for the benefit of its stakeholders. This goal can best be accomplished through maximization of net proceeds from pending and future Divestitures and minimizing operational and administrative costs. "

Pt 47: "As a result of the magnitude, complexity and uniqueness of the relationship between Nortel and Flextronics, it is essential a solid, workable relationship exist between them in order to achieve the above stated goal. Furthermore, a settlement between Nortel and Flextronics will provide market confidence with respect to their ability to deliver a seamless and efficient transition of a Divestiture to a Purchaser. This will assist in maximizing net proceeds from a Divestiture and minimizing the costs involved in transitioning the businesses."

Pt 43: "The [Ernst & Young Canada Court] Monitor is aware the [US Unsecured Creditor] Committee, the [Ad Hoc] Bondholder Group and the [UK/EMEA] Joint Administrators are fully apprised of the terms contained in the Settlement Documents and none of these parties have raised any objection to such terms."

Pt: 44. "The Monitor is also aware the legal and financial advisors to the Ontario Superintendent of Financial Services as Administrator of the Pension Benefits Guarantee Fund and Former Employees are fully apprised of the terms contained in the Settlement Documents. While their clients are still in the process of reviewing the Settlement Documents; as of the time of the

preparation of this Thirty-First Report, no objection has been raised to the terms set forth therein."

BIA Amendment is Not Retroactive

The BIA amendment is not retroactive since Nortel is currently operating under the Companies' Creditors Arrangement Act (CCAA) and is not expected to liquidate until June 2010.
CCAA decisions on corporations that are liquidating under CCAA all speak about the BIA cash disbursement priorities and that the CCAA decision needs to be consistent with the BIA. The judge has the authority to force a BIA transfer by removing the stay. Also, the CCAA creditors can effectively force the CCAA judge to require the filing of a CCAA Restructuring Plan and a CCAA vote, if he intends to permit a liquidation under CCAA that does not meet the preferred status for employee claims under the newly amended BIA . The CCAA employment related creditors not getting preferred status in a liquidation under CCAA, that is attainable from the newly amended BIA, would vote no in the CCAA vote. The CCAA judge who refuses to force the transfer of the Nortel liquidation to the BIA and who orchestrates the Nortel liquidation within CCAA without a vote in order to avoid the preference in the newly amended BIA would go down in history as a biased judge. Most judges do not want to be visibly biased towards junk bond speculators and adverse to the well-being of millions of Canadians.

Long Term Disability Benefits are Federal Responsibility Only

The rules for Nortel's Long-term Disability Plan can be found in one government only: the Federal Government, within two of their agencies - Canada Revenue Agency and Canada Pension Plan Disability. The relevant legislation that can be found is the Federal Income Tax Act (ITA) subparagraph 6(1)(a)(i) and paragraph 6(1)(f).

The Canada Revenue Agency has Interpretation Bulletin (IT) 428 "Wage Loss Replacement Plan," which clearly states that the Nortel plan should have been properly funded which would have protected the LTD benefits in the case of the company's insolvency.

> "If, however, insurance is not provided by an insurance company, the plan must be one that is based on insurance principles, i.e., funds must be accumulated, normally in the hands of trustees or in a trust account, that are calculated to be sufficient to meet anticipated claims. If the arrangement merely consists of an unfunded contingency reserve on the part of the employer, it would not be an insurance plan."

The CRA's rules for its Health and Welfare Trust are found in the Interpretation Bulletin (IT-85R2) that was written in 1986. CRA has published subsequent comments on IT-85R2 in its Technical News. Although IT-85R2 discusses the need for an "arm's length trustee" and a "trust document," it does not require the company to submit the Trust Document to them to ensure it meets their requirements.

The bottom line safety net for Canada's disabled is the maximum CPP disability income of just $13, 272 per year. This is less than half of what the U.S. social security program provides for long term disabled persons in the U.S. as shown in Figure 25.

Figure 25: Comparison of Canada and U.S. Maximum Government Disability Benefits

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

		Canada Pension Plan	U.S. Social Security
Disability income	Per Month	$1,106	$2,323
Supplement for 2 children of disabled parent	Per Month	$428	$1,742
Disability income for family with 2 children	Per Month	$1,534	$4,065
Disability income	Per Year	$13,272	$27,876
Supplement for children of disabled parent	Per Year	$5,136	$20,904
Disability income for family	Per Year	$18,408	$48,780

Stand Up For Change We Can All Believe In! See the Video

http://ismymoneysafe.org/video/PensionersDisabledandSeveredEmployees.wmv

Appendix - TABLES 1 -8