Growing Old Gracefully, An Investigation into the Growing Number of Bankrupt Canadians over age 55

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I. Introduction

For the past five years, the number of Canadians over age 55 who have declared bankruptcy has grown steadily. This is a troubling phenomenon, since presumably economic certainty and freedom would only be more likely in the later stages of life as habits of prudence are inculcated. Our inquiry seeks to explain the phenomenon, more specifically, to discern the causes for the rise of bankruptcy for the group of Canadians who have filed and are over age 55, both regionally and nationally. Our study has made a preliminary analysis of data collected by the Office of the Superintendent of Bankruptcy (OSB) for bankrupts filing from 2003-2005, augmented by a qualitative survey of consumer bankrupts that declared bankruptcy during this period. This project examined the growth in bankruptcies for those over age 55 from a legal, economic, social and philosophical perspective, allowing for a multidisciplinary investigation with research collaborators from the Faculty of Law, Department of Economics and Department of Philosophy at the University of British Columbia to assess the potential and limitations of the fresh start paradigm for older consumer debtors.

If one public policy objective is truly to allow our citizens to “grow old gracefully” by having social and economic security, we need to identify the factors that serve as barriers to realization of that goal and make policy recommendations that would ensure our social and economic instruments are responsive to the underlying causes of consumer bankruptcy.

II. Research Objectives

The principal objective of the study was to explore issues unique to consumer bankrupts over age 55 and, in particular, to discern the causes of bankruptcy nationally and regionally. It explored whether there were any gender issues associated with bankruptcy at an older age. Another objective was a qualitative survey of consumer bankrupts over age 55, to ascertain information about their experience with the bankruptcy system through in-person or telephone interviews.

A further objective, which will be the subject of a scholarly paper later this year, was an exploration of the adequacy of the current system to address over-indebtedness of aging citizens, undertaking a comparative analysis with similar trends in the United States. The goal is to provide meaningful analysis for insolvency administrators and legislators, to provide a better basis on which to consider revision to consumer bankruptcy legislation in Parliament's anticipated reform of the *Bankruptcy and Insolvency Act (BIA)* in 2006.

There were a number of research questions at the outset of the study. The data available allowed the investigators to answer some of those questions. Others were not possible to research given the current state of data collection in Canada and are discussed in our recommendations for further research and data collection at the end of this report. This report addresses the following research questions:

1. How is consumer bankruptcy being used as an economic adjustment tool for an increasingly aging Canadian population and is it the appropriate mechanism for relief of over-indebtedness for those that are approaching the limits of their income earning years?

2. What are the principal causes of bankruptcy for consumer debtors over age 55, explored in 5-year cohorts from age 55 to 74 and then for the group over age 75.

3. A sub-question of this inquiry is whether over-indebtedness is due to inadequate pension savings or the lack of social safety nets and, if so, are those no longer active in the workforce required to meet their basic needs through overuse of credit purchases or other credit facilities?

4. The OSB reports that there are considerable regional differences in the growth in the number of consumer bankruptcies. Are the numbers for those over age 55 increasing

at the same rate as the general population? If not, what factors are contributing to a higher or lower rate of growth?

III. Context for the Study

There has been a large increase in the number of consumer debtors that experience financial distress. The number of consumer bankruptcies in Canada has grown in the past 30 years from 6,271 bankruptcies in 1973 to 84,638 in 2005.[1] The total number of insolvencies, including both proposals and bankruptcies was 111,807 in 2005.[2] The average age of debtors who filed bankruptcy proceedings in 2004 was 42.5 years old, higher than the average age of the Canadian population, which was 38.3 years in 2004.[3]

In 1980, the insolvency rate was 1.1 per thousand Canadians; by 2004, that rate had quadrupled to 4.0 per thousand Canadians.[4] Comparing the Canadian rate of bankruptcy to other countries in 2004, the United Kingdom rate was 1.1 per thousand population; Australia was 1.8 per thousand; and the United States is 7.0 per thousand population.[5] Hence while Canada fares better than its neighbour to the south, its rates are much higher than the UK and Australia.

Scholars have attributed the rise in consumer indebtedness to the rapid growth in credit card availability and the ease of receiving credit facilities from manufacturers of consumer goods.[6] The downsizing of government and the financial failure of numerous large corporations, as well as the exportation of jobs to transition nations has also, arguably, had an impact on the financial security of Canadians. Many of our citizens that are approaching their retirement years were employed in the resource sector or the automotive sector, both of which have experienced fluctuations in economic activity and frequently, the shedding of long-term employment. Unlike the United States, in which there is considerable empirical analysis of consumer bankruptcy, in Canada, there has not yet been sufficient investigation into the underlying causes of consumer

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[1] Office of the Superintendent of Bankruptcy, http://osb-bsf.gc.ca, accessed March 2006.
[2] This was a 0.3% increase from 2004 to 2005; the OSB suggests that the slower rate of increase in the past year was attributable to low interest rates and better job creation performance; *ibid*.
[3] Office of the Superintendent of Bankruptcy, *An Overview of Canadian Insolvency Statistics*, (Ottawa: Industry Canada, 2006) at 3.
[4] *Ibid*. at 21.
[5] *Ibid*.
[6] Karen Gross, *Failure and Forgiveness; Rebalancing the Bankruptcy System*, (Yale University Press, 1997); Teresa Sullivan, Deborah Thorne and Elizabeth Warren, "Young, Old, and In-Between: Who Files for Bankruptcy?" (2001) 9 Norton Bank. Law Advisor; Teresa Sullivan, Elizabeth Warren and Jay Lawrence Westbrook, "The Fragile Middle Class: Americans in Debt" (2000); Daniel Skoler, "The Elderly and Bankruptcy Relief: Problems, Protections, and Realities" (1989) 6 Bank. Dev. J. 121.

bankruptcy. Analogously, there have been few efforts to reform public policy or information gathering that might address this recent trend.

There has also been a dramatic rise in the number of summary administration bankruptcies, where the net value of the estate is below $10,000. In 2002, 96.4% of bankruptcies administered by the OSB were summary administration bankruptcies. Roughly 85% of consumer bankrupts do not have surplus income over Statistics Canada Low Income Cut-offs that would be available to meet payments to creditors over a prescribed period. A working hypothesis for this study was that this percentage would be considerably higher for those over age 65. There has been a lack of empirical data on the causes underlying this level of financial distress.

Moreover, the exemptions of property in consumer bankruptcy vary considerably across Canada, because the provinces currently regulate them. Exemptions are designed to meet basic needs and to protect a limited number of apparel and furnishings, medical aids, limited equity in vehicles and tools of the trade from being brought into the estate and liquidated to satisfy creditors' claims. In some provinces, there is no exemption for equity ownership in housing, while in other provinces there are limited amounts, with little acknowledgement in the exemptions of the rising cost of living. Given that those over age 65 are less likely to require exemptions for tools of the trade but may have equity ownership in their homes as economic security, it may be that the current exemption scheme is inadequate to deal with the particular needs of aging consumers. Moreover, the issues faced by those aged 55-65 likely are quite different than those over age 65 or 75. Hence the study examined consumer bankrupts in the following age categories: age 55-59, 60-64; 65-69; 70-74 and age 75 and older, in order to ascertain a more reliable picture of what is occurring within these age groups.

The Senate Committee observed that the bankruptcy system is increasingly compromised for low-asset low-income debtors, but acknowledged that there needs to be more empirical evidence as to the precise effects of the system on this class of debtors. This study has commenced this investigation in respect of consumer debtors over age 55, but much more work is required in order to have a sufficient picture.

Another research objective was to make policy recommendations to the OSB as to ways in which the current data collection could be improved as the OSB moves toward greater electronic filing and statistics administration, which we propose throughout this report.

IV. Methodological approach

Given the limited amount of research funds available, the study concentrated on statistics of consumer debtors over age 55 for the past two years, with reference back for comparative periods where the information is available. The OSB currently has an electronic database of roughly 60,000 consumer bankruptcy files, and this project was aimed at retrieving and analysing the information related to those over age 55. The OSB has data on 7,997 consumer bankrupts over age 55 who filed in 2003-2005.

Stage 1: Analysis of 1,000 Representative Files

The first part of the study involved design of research fields for retrieval of electronic records, working with staff and economists at the OSB. The study then analyzed a sample of 1,000 cases of bankrupts to determine the causes of bankruptcy. One problem that currently exists with the electronic data is that there are not separately captured fields for cause of bankruptcy. Hence, the data on causes had to be manually pulled from the files, assessed in terms of the primary cause (self-declared) of bankruptcy and then entered into an Excel database. This was a very labour intensive task. A methodology for analyzing the data was developed, coding variables within cases on a consistent basis so that comparisons could be generated across age cohort and region.

One recommendation is that the OSB seriously consider revising its forms to begin to capture cause of bankruptcy data in different fields. The data collection tool should provide a way for bankrupts to indicate primary and secondary causes, where there are multiple causes. This would allow for empirical research on causes of bankruptcy across the entire population, including all bankrupts over age 55.

One limitation to analyzing this data was that there were instances in which bankrupts listed more than one cause of bankruptcy, for example, job loss combined with over-extension of credit. For purposes of this study, we took the declared primary cause, but it is important to note that there are frequently synergistic contributions to financial distress that are not captured when reporting global statistics.

Stage 2: Full Database

The project analyzed the full data set of 7,797 bankruptcy files with filing dates from 2003-2005 by retrieving data and undertaking analysis of the data by age cohort, region, occupation, type and quantum of debt, asset level, income level and gender.[7] This allowed for global analysis of the data for which there are discreet fields, as discussed in parts V-VII of this report. While the data set was relatively complete, there were files in which fields had not been completed with information. Given that some data collection is relatively recent by the OSB, the completeness of the data is likely to be enhanced in the future.

One recommendation would be that the OSB set up its e-filing system so that the trustee cannot file the forms if particular fields are not completed, allowing the OSB to collect the most critically important data.

Stage 3: Qualitative Study

The objective of this part of the study was to design and conduct a qualitative survey by interviewing recent consumer bankrupts over age 55, aimed at enhancing the raw data. The qualitative study was undertaken in conformity with privacy legislation and university ethics approval. Given the age cohort, it was expected that most of the information would be gathered in telephone interviews; however an offer was made in the greater Vancouver area to conduct the interviews in person if the individual wished.

There were significant challenges for conducting the qualitative part of the study and the study encountered some difficulties in gathering the empirical data. The objective was originally 100 participants. The questions were formulated with the assistance of five trustees, who discussed their recent experiences with consumer bankrupts over age 55. There were 15 questions in the survey, set out below.

The ethics approval from the University of British Columbia took seven months, requiring three amendments to the application because of concern by the Ethics Board about the vulnerable nature of the survey group. When approval was granted, the conditions were very specific and limited. The research team was prohibited from following up on the initial letter and consent form with a telephone call, unless the consent had been mailed in. Since there is a much greater likelihood of participation when letters are combined with personal contact, this severely limited the number of possible participants in the survey. The Ethics Board declined to approve an accompanying letter from the OSB on the basis that the bankrupt person may feel pressure to cooperate given the involvement of the OSB. Our view, to the contrary, is that such a letter would have assisted in

[7] The data was generated on February 27, 2006 by the OSB.

reassuring older bankrupts of the value and legitimacy of the survey. The Ethics Board also declined to allow trustees, who work with bankrupts in part to alleviate the financial distress, to approach possible participants.[8]

The Ethics Board also required that the letter outlining the purpose and goals of the study had to specify that the survey would cause the participant stress. We conjecture that this may well have been a factor in the number of willing participants. Let us also note here that the interviewer (a trained graduate student) was not allowed to deviate from the 15 approved questions, even where a follow up question might have been warranted. We respect the importance of uniformity in the survey, but also believe that the process itself might have unearthed additional factors had more questions been admissible.

The Board also imposed a very high standard of confidentiality and protection of privacy requirements, which we deemed appropriate given the vulnerability of this population.

Once ethics approval was received, 400 letters were mailed to participants based on a random list by region generated by the OSB. The letters were accompanied by the questions that would be asked; a covering letter setting out the project, including names and contact numbers of the person surveying; consent forms; and self-addressed stamped envelopes. The study required that the covering letter include ethics department contact information for complaints about the survey.

Of the 400 letters sent, 81 letters returned as moved, a figure very high for an older population. This may reflect continuing financial uncertainty, although there is no clear evidence of this. Eight letters were returned by a family member, advising that the bankrupt had passed away. Ultimately, only 16 bankrupts agreed to be surveyed. As a result, the sample size is not significant enough to draw any firm conclusions. The small survey did, however, yield observations congruent with the findings of the 1,000 sample provided by the OSB, both in terms of the primary causes of bankruptcy and the causes of the recent increase in bankruptcies.

While not statistically significant, the qualitative survey did provide a texture to the electronically filed data, and so is included on that basis. Further consideration should be given as to whether additional qualitative study should be conducted, seeking

[8] Trustees have multiple roles in the Canadian bankruptcy system, including realization of assets for the benefit of creditors; assisting the debtor in filing bankruptcy; serving as a proposal trustee; and counselling bankrupts.

participation of a broader number of people in order to capture a sample that is statistically significant.

Survey questions**:**

1. What was the main reason for your bankruptcy?
2. Did you use your credit card to pay your utilities bills?
3. Did you use your credit card to pay for groceries?
4. Did you use your credit card to help your family?
5. Did you co-sign a loan for a family member?
6. If yes, you co-signed a loan for a family member, was it for a business? A car? A mortgage?
7. Were there any family related issues that caused the financial distress? (For example, child's loss of income, death of spouse?)
8. Were there costs for health care that led you to declare bankruptcy?
9. Did any social activities make your financial situation worse?
10. Was it difficult to tell family or friends about the bankruptcy?
11. If you had someone to talk to about your finances before the bankruptcy, would it have helped?
12. Did you have access to your pension savings before declaring bankruptcy?
13. If the bankruptcy was caused in part by a job loss, were you able to find employment again?
14. How long has it been since your bankruptcy and has your economic situation improved?
15. Is there anything else that you think would help us with our research in understanding why more people over age 55 are declaring bankruptcy?

V. Consumer bankruptcy as an economic adjustment tool

The study found that 63% of the total bankrupts over age 55 were age 55 to 65, indicating that this is a very high risk period for financial distress. While the causes of bankruptcy were not available for the entire data set, for the sample of 1,000 files, 16% of bankrupts in this age category reported job loss as the primary cause of bankruptcy. In most of these cases, the bankrupt did not report new employment that generated surplus income within the meaning of the *BIA.*

Out of the 7,797 bankrupts over age 55, 28% of the total bankrupts over age 55 were between ages 65 and 74 and 8% were 75 and older. That 8% represents 624 people, a relatively high number for that age group.

Our analysis of the data suggests that consumer bankruptcy is increasingly used as an economic adjustment tool for the aging Canadian population. As the figures below will indicate in greater detail, credit card debt was very high across all age groups. More than 85% of bankrupts over age 55 held credit card debt, with a median credit card debt between $13,338 and $15,610. Bankruptcy appears to have been a mechanism to get out from under these large debts and the spiraling cycle of high interest rates and the inability to pay off the debt.

The issue of credit card debt has been studied by bankruptcy scholars in the United States. Elizabeth Warren observes that the profit margins of credit card issuers have increased substantially since the early 1980s and that during highly profitable periods, credit card companies are more likely to give credit cards to marginal borrowers and borrowers already loaded with debts because they increase their overall profits from the interest payments from these borrowers even though it also increases the default rate.[9] She cites economist Lawrence Ausubel's work, which found an extremely high rate of correlation between credit card defaults and bankruptcies in the United States.[10] Another study in the US found that credit card debt among indebted seniors (over age 65) increased by 89% between 1992 and 2001, with 73.7% of seniors holding credit card debts in 2001.[11]

While the figures are not directly comparable to Canadian figures, it does indicate that credit card debt is growing among older people and that there is likely a correlation between credit card debt and financial distress among those over age 55. Given the high interest rates on credit cards, older debtors who do not have an income stream to cover the interest rates are more likely to default on the credit card payments. Bankruptcy becomes a means of relieving the financial distress and having a "fresh start" in terms of the credit card debt.

The OSB data indicates that 15.3% of all individual bankrupts in Canada were over age 55 in 2003. In 1993 this figure was 6.9%; hence it has more than doubled in the past decade. At a

[9] Elizabeth Warren, "The Bankruptcy Crisis" (1998) 73 Ind. Law Journal 1079 at 1083.
[10] *Ibid.,* citing Lawrence M. Ausubel, "Credit Card Defaults, Credit Card Profits and Bankruptcy" (1997) 71 Am. Bankr. Law Journal 249 at 250.
[11] Heather McGhee and Tamara Draut, "Retiring in the Red", Briefing Paper (New York: Demos, 2003).

time when it is expected that individuals will have accumulated sufficient assets to carry themselves through to their retirement years, this increase in the bankruptcy rate of Canada's aging population is of concern. The very nature of bankruptcy suggests that there are few assets remaining, those limited assets for basic needs that are exempt from seizure by creditors. Unlike younger consumer debtors that can utilize the bankruptcy provisions to shed onerous credit obligations and have a "fresh start" in terms of earning capacity, credit history and quality of life, older consumers, particularly those over age 65, are less likely to be able to recover economically and socially from the bankruptcy. The aging population and shifting social safety nets and familial supports are likely contributors to this trend, although we were not able to conclude that definitively from the data available.

A. Regional Rates of Bankruptcy

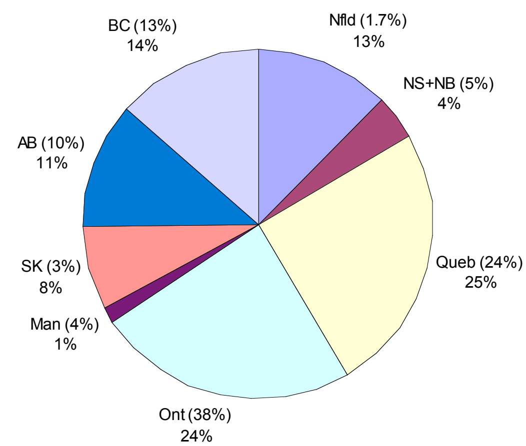
There are considerable regional differences in the growth in the number of consumer bankruptcies. The study examined whether the numbers for those over age 55 who were bankrupt were at the same rate as the general population.

Chart 1 illustrates the percentage of bankruptcies per province, compared with the percentage of general population in each province. Bankruptcy rates vary across provinces, with Newfoundland and Saskatchewan having proportionately more bankrupts than the percentage of overall population. Newfoundland has 1.7% of Canada's population, 1.6% of those over age 55 in Canada and yet has 9.5% of Canada's older bankrupts. Saskatchewan has 3% of Canada's population and 6% of the country's older bankrupts. Older Ontarians are less likely to be bankrupt, representing 38% of the population over age 55 and 24% of older bankrupts. Similarly, while Manitoba has over 4% of the Canadian population, it has only 1% of the bankrupts in this age group.

In contrast, in British Columbia, Alberta, Québec, Nova Scotia and New Brunswick, the percentage of bankruptcies over age 55 was within one percent of the percentage of population over age 65. Hence there were no regional discrepancies observed in two Maritime Provinces. By contrast, Newfoundland's bankruptcy rate for aging individuals far outstrips the other Maritime Provinces and Canada as a whole. The Nova Scotia and New Brunswick figures are particularly interesting because it flies in the face of the general perception that the entire Maritimes is economically depressed, with lack of jobs being a key feature of the economy.

Chart 1

Percentage of Bankruptcies per Province (share of population)



B. Sources of Debt

The full data set also generated information on the sources of debt, with credit card and mortgage debt comprising the largest source of financial pressure. More than 85% of the bankrupts held credit card debt, with a median credit card debt between $13,338 for bankrupts aged 55-59 and $15,610 age 75 and older.

Table 1, Sources of Debt, illustrates that the percentage of bankrupts with credit card debt increases as individuals get older and the amount of that debt also increases, notwithstanding the fact that the oldest individuals are unlikely to have employment income to meet these debts. One observation made by the trustees that assisted in framing the questions for the study is that often individuals who have successfully carried and paid off credit card debt during their employment years, do not adjust their standard of living or financial practices on retirement, and then find they are unable to pay the credit card debt.

Table 1 also indicates that 17% of bankrupts held mortgages, and the median value of mortgage debt lay in the range $48,140 to $66,452. While this figure raised the question of whether bankrupts were refinancing their homes as an economic survival strategy, we were not able to answer this question with the data available. This would be important information to try to gather in future empirical study.

Only 3% of bankrupts owed individuals money and both the percentage of bankrupts and the amount owed steadily decreased with age. Only 2% of those over age 75 owed individuals, yet 90% of this group had credit card debt.

Overall, 32% of bankrupts over age 55 owed money to finance companies, with a median debt of $8,500. The median amount did not vary much across the age groups, except for those over age 75. 42% owed money to banks, and the median debt declined from $11,627 for the age 55-59 group to $7,700 for the 70-74 age group. It rose, however, to $9,569 for the over 75 group.

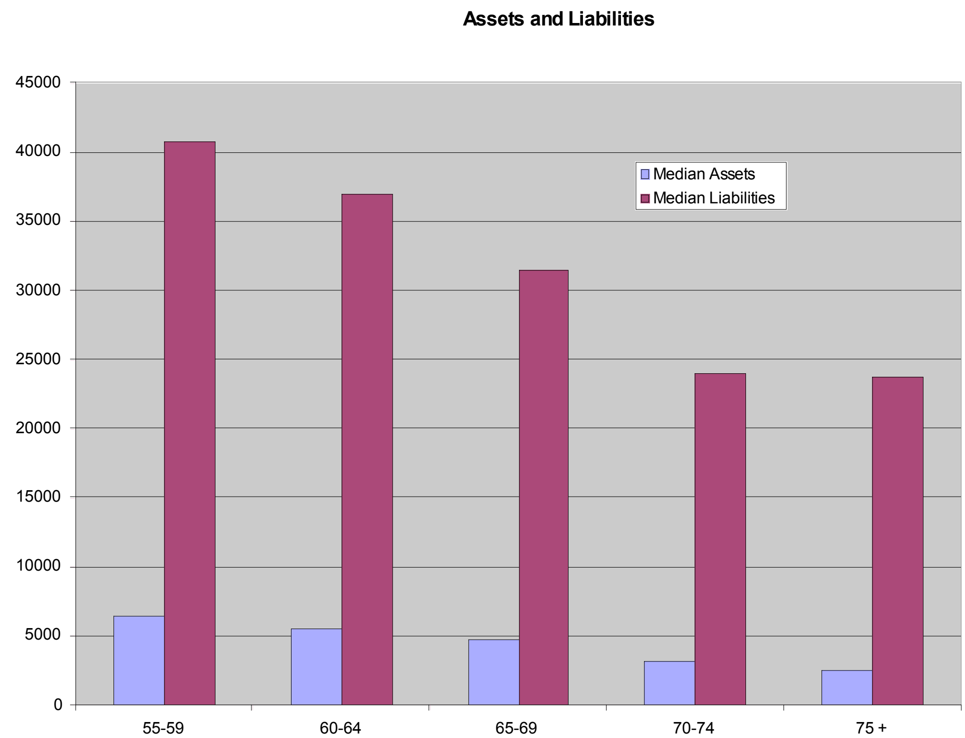
Table 1

Sources of Debt

	Credit Cards		Mortgages		Bank Loans		Finance Co.		Individuals	
55-59	85%	13338	21%	66452	47%	11627	36%	9987	4%	9500
60-64	86%	14362	20%	56000	43%	10333	33%	8950	3%	5000
56-69	87%	13952	16%	48140	41%	9848	35%	8000	3%	4250
70-74	87%	13958	11%	65441	35%	7700	32%	8000	2%	6950
75 +	90%	15610	8%	53000	30%	9569	23%	5244	2%	4465

Another indicator that bankruptcy is being utilized as an economic adjustment tool is the ratio of assets to liabilities. Chart 2 indicates that there was a very high liability to asset ratio. The median level of liabilities declined monotonically from $40,796 for the 55-59 age group, to $23,739 for the over 75 age group. Similarly the median level of assets declined monotonically, but from $6,463 to $2,501.

Chart 2



C. Gender and Marital Status

55% of all bankrupts over age 55 were male and 45% were female. While one working hypothesis had been that an increased number of older women may be filing for bankruptcy because of inadequate income support during earlier years, these figures are similar to the gender breakdown for bankruptcies in all age groups in 2004 (55.5% male and 44.5% female).[12] Moreover, compared with general population figures, proportionately fewer women over age 55 are bankrupt, as they comprise 50.5% of the Canadian population, but only 45% of those over age 55 who file for bankruptcy.[13]

[12] Office of the Superintendent of Bankruptcy, *An Overview of Canadian Insolvency Statistics*, (Ottawa: Industry Canada, 2006) at 3.
[13] Statistics Canada, *Labour Force Survey,* cited in *ibid*. at 3.

By far the majority of bankrupts over age 55 were married. Charts 3 and 4 illustrate that more than 3,000 bankrupts in this age group were married, 40% of all those over age 55. Another 5% were living common law with a partner. Over 15% were widowed at the time of filing and 20% were divorced.

Chart 3 Marital Status- total numbers

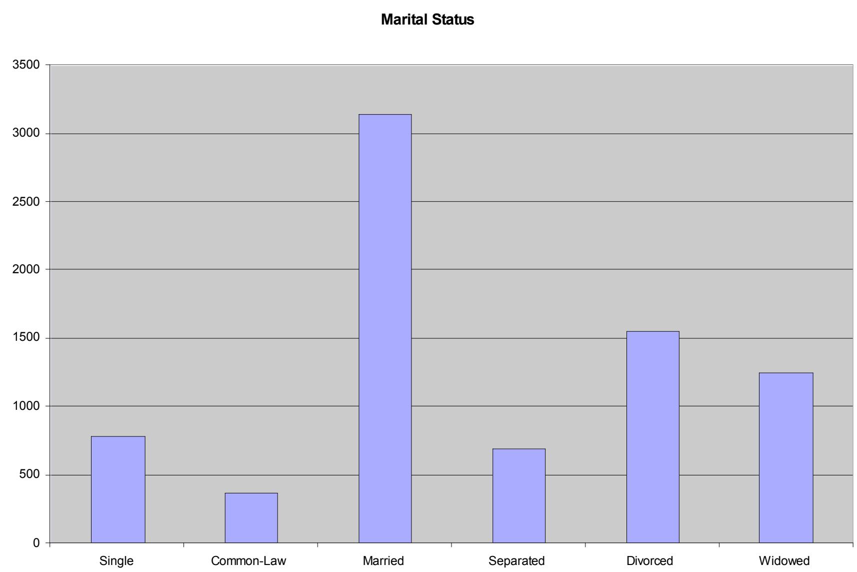
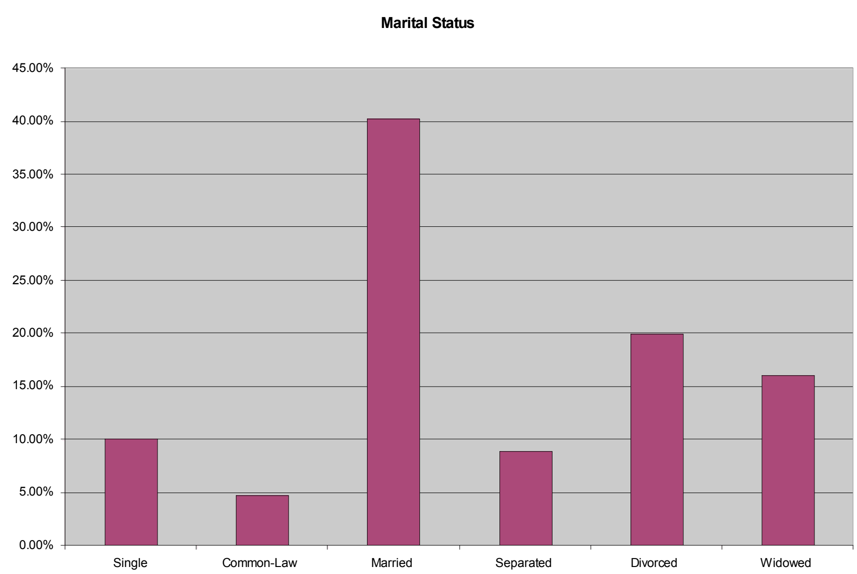


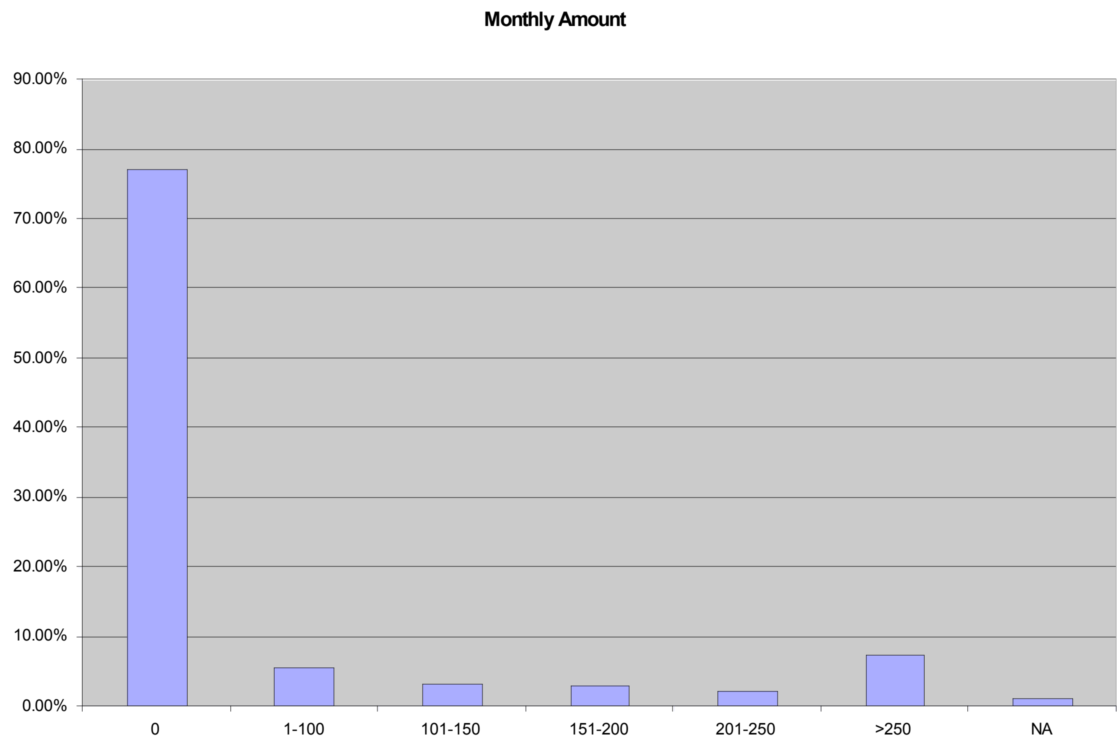
Chart 4 Marital Status- by percentage



D. Surplus Income Payments

As Chart 5 illustrates, almost 80% of those over age 55 did not have the resources to make surplus income payments. This reflects figures nationally, but interestingly, was not higher than the national figures for all age groups, as originally anticipated. The rate is interesting because the earning potential of a number of these people would be limited, depending on their age or health. Those who were or are making surplus income payments at the various dollar amounts, vary, but never reach 10% of the group studied.

Chart 5 Surplus Income Payments



VI. Sample of 1,000 Files of Bankrupts over Age 55

As noted in the introduction, the current electronic database of the OSB does not capture separate fields for causes of bankruptcy. As a result, data in this study is drawn from 1,000 files of bankrupts over age 55, pulled randomly from across all regions. The reported causes of bankruptcy had to be manually extracted from the files, and then a method of standardizing the reported causes and inputting the data developed. There was a fair degree of consistency in how causes of bankruptcy were reported by individual bankrupts. However, it is important to note that while the individual completes the form declaring cause of bankruptcy, he or she may be influenced by the trustee's advice on how to report causes. While this may assist in a degree of uniformity, there is also some risk of less than full accuracy of reporting, as there is no standardized definition of how causes are to be reported. One recommendation to the OSB is that it consider providing a more standardized list of causes of bankruptcy, which could then be collected in separate electronic fields at the time of bankruptcy filing.

A. Sources of Debt

For comparative purposes, Table 2 provides a comparison of some of the sources of debt for the 1,000 sample population. It illustrates total liabilities and credit card debt across the entire sample of 1,000 bankrupts, analyzing the mean, minimum, maximum, and 25th and 75th percentiles. The median was taken as the most accurate picture of liabilities. Note that there was one debt at over $41 million in the age 70 to 74 category, which skews the average debt upward in that age group to $333,510. Yet the median debt for that age group was $28,061. By using the median, the study was able to draw a clearer picture of how total liabilities are reflected by age group.

Table 2 indicates that the median amount of liabilities steadily declines by age group, but that bankrupts age 70-74 and over age 75 continue to have a median debt of $28,061 and $24,942 respectively. Credit card debt thus figures very prominently in bankruptcy among the aging population. Whereas overall debt decreases as individuals are older, the amount of credit card debt increases, with a median of $18,713 for the over age 75 group, more than ¾ of their debt at the time of bankruptcy. In contrast, credit card debt is only about one third of the total liabilities of bankrupts aged 55-59.

This indicates that credit card debt rises when other fixed financing commitments, such as bank loans or mortgages are paid down. Since credit card debt does not require the guarantees, assets or income assurance that banks and other lenders require for more traditional loans, it is easier for debtors to acquire debt on credit cards at this age, possibly creating the wrong incentive effects. The credit card debt becomes proportionately higher as an individual ages.

Table 2 Comparison of Total Liabilities with Credit Card Debt

Total liabilities						
age group	mean	min	5th percenti	median	75th %ile	max
55-59	112,128	3,018	21,596	38,191	88,722	6,615,700
60-64	67,624	2,506	18,333	36,848	70,143	1,617,863
65-69	51,995	5,299	16,751	31,325	57,698	470,977
70-74	333,510	4,881	15,391	28,061	47,972	41,272,776
75 +	35,108	5,030	14,796	24,942	44,281	180,023
Credit Cards						
age group	mean	min	25th %ile	median	75th %ile	max
55-59	19,733	100	6,492	12,398	23,174	206,221
60-64	19,462	333	6,681	13,569	24,170	149,851
65-69	18,716	270	7,336	13,384	23,314	124,835
70-74	17,908	472	7,391	13,929	23,370	133,938
75 +	22,713	367	9,631	18,713	27,457	91,838

Comparing the same total liabilities with private loans, one sees the same pattern. Whereas overall debt decreases as individuals are older, the amount of loans from private individuals increases. Both tables 2 and 3 analyze only those who have the credit card debt (85%) and those that have private loans (3%).

Table 3 Comparison of Total Liabilities with Private Loans

Total liabilities						
age group	mean	min	25th %ile	median	75th %ile	max
55-59	112,128	3,018	21,596	38,191	88,722	6,615,700
60-64	67,624	2,506	18,333	36,848	70,143	1,617,863
65-69	51,995	5,299	16,751	31,325	57,698	470,977
70-74	333,510	4,881	15,391	28,061	47,972	41,272,776
75 +	35,108	5,030	14,796	24,942	44,281	180,023
Loans from Individuals						
age group	mean	min	25th %ile	median	75th %ile	max
55-59	19,382	765	1,800	8,300	24,000	105,000
60-64	8,945	1	3,000	7,500	10,000	30,000
65-69	13,421	1,400	2,000	2,500	8,206	53,000
70-74	44,318	4,500	4,500	19,500	108,953	108,953
75 +	10,490	6,479	6,479	10,490	14,500	14,500

B. Causes of Bankruptcy

Chart 6 illustrates the causes of bankruptcy over the entire 1,000 sample. Overall, 29% of bankrupts over age 55 reported over-extension of credit as the primary cause of bankruptcy.

15% declared medical reasons the primary cause, although it was unclear from the data whether this was the costs of care over and above the Medicare system or income loss due to medical reasons, or some combination of both.

Elizabeth Warren and Melissa Jacoby, looking at the situation in the United States, have suggested that when medical reasons are cited as a cause of consumer bankruptcy, the normal case is attributable to some combination of causes, specifically, direct health care costs, loss of income due to medical problems or loss of income due to caregiving responsibilities in connection with medical problems.[14] In the files studied in this project, a number of those citing medical reasons as the principal cause also cited loss of employment income; hence there is likely some linkage there.

12% overall reported insufficient income as the primary cause, while 11% reported loss of employment income. 9% reported money mismanagement. 4% attributed the financial distress to marriage breakdown. The "other" 13% in Chart 6 represents the following primary reported causes of bankruptcy: fraud less than 1%; the cost of moving 0.5%; gambling 2.44%; inadequate pension 2%; failure to pay taxes 3.6%, financial support of a child 1.6% and miscellaneous other 1%.

7% reported involvement in a failed business as the primary cause. This number could be low, given how the OSB defines consumer and business bankruptcy in its statistics. Consumer bankruptcy is defined as individuals with more than 50% of liabilities related to consumer spending. Business bankruptcy includes not only corporations, but individuals whose commercial debts account for more than 50% of the total value of debts.[15] Hence a sole proprietor or person with a business that fails, leading to both personal and commercial financial crisis, is counted as a business bankruptcy if the commercial debts are 50% or more of the debts. A number of these

[14] Melissa Jacoby and Elizabeth Warren, "Beyond Hospital Misbehavior; An Expanded Account of the Financial Consequences of Illness or Injury" (Working Paper, 2005), which found that over 80% of medical filers reported income loss as contributing very much or somewhat to their bankruptcies.
[15] Office of the Superintendent of Bankruptcy, *An Overview of Canadian Insolvency Statistics*, (Ottawa: Industry Canada, 2006) at 1.

individuals with failed businesses are therefore likely to be included in those statistics. The OSB reports that of 9,856 business insolvencies in 2004, 7,075 were sole proprietorships.[16]

Chart 6 Causes of Bankruptcy – Reported Primary Cause

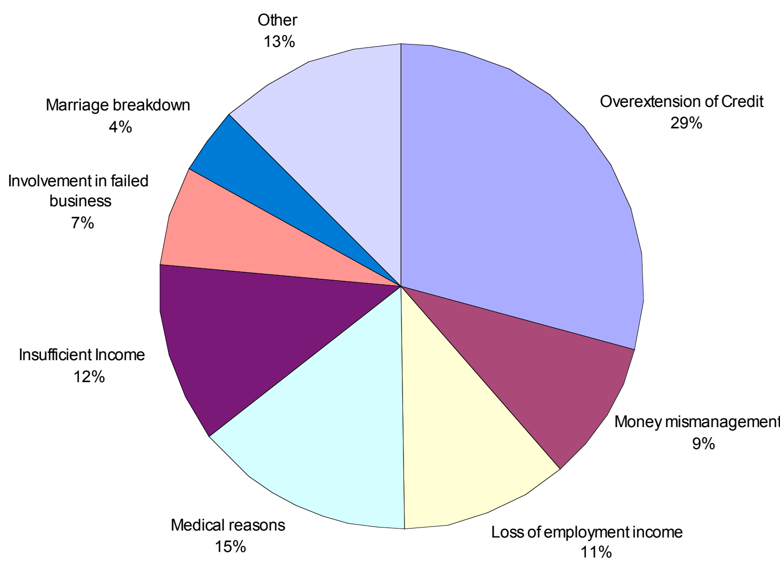


Table 4 analyses the causes of bankruptcy by age group for the 1,000 bankruptcy sample. There are a number of significant statistics. Overextension of credit is a huge contributing factor across all age groups, and particularly significant among older bankrupts. The overextension of credit rises steadily as the principal reason for bankruptcy. 26.50% of those aged 55-64 report it as the primary cause of bankruptcy, compared with almost 36% of those aged 70-74 and almost 40% of those over age 75.

Loss of employment income is very significant for the age 55-59 group, with almost 16% declaring loss of employment as the primary reason for their bankruptcy. This rate is better for those aged 60-64 and 65-69, with 11.73% and 10.70% declaring loss of employment income as the primary cause of bankruptcy, although it is still surprisingly significant given what was previously a standard age of retirement at age 65. While the percentage drops at age 70-74 to

[16] OSB, *Insolvencies in Canada 2004,* http://strategis.ic.gc.ca/epic/internet/inbsf-

8.39%, this is still relatively highly, particularly when there is an expectation at this age that job loss is not going to be a factor in one's financial health.

As noted above, medical reasons are quite significant as a primary cause of bankruptcy. Of note is that medical reasons are more significant for the younger age group and decline monotonically as one grows older. Medical reasons are the primary cause of bankruptcy for 15.59% of those aged 55-59; 15.96% for those aged 60-64, but dropping to only 10.78% for those over age 75. One explanation for this may be that senior citizens have greater access to drug coverage, health care and home care as they age, whereas some of the economic burden of those costs would fall more directly on the shoulders of those aged 55-64.

Another significant statistic in Table 4 is the high percentage of bankrupts aged 55-64 declaring involvement in a failed business as the primary cause of bankruptcy. As noted earlier, the OSB statistics report that there were 9,856 business insolvencies in Canada in 2004, including 2,781 corporations and 7,075 sole proprietorships.[17] There is likely a spillover effect in that a number of individuals end up declaring personal bankruptcy after their business or the company that employed them failed. Moreover, even if an individual files for business bankruptcy, a spouse or common law partner might also file a personal bankruptcy during the same period in light of the failed business and resultant financial distress for the family. It would be useful in the future if the OSB could cross-reference business failure with consumer bankruptcies by asking the consumers that file to indicate the name and date of the failed business, and whether they were an employee, principal owner, director or officer of the business.

Money mismanagement was reported as the primary cause in 6.24% of bankrupts aged 55-59; and 9% to 11.5% for all other age groups. It is difficult to draw any conclusions from this statistic, although it may be evidence that at least in a number of cases, counselling regarding financial management is of some assistance.

Finally Table 4 illustrates that marriage breakdown is a significant cause for bankruptcy in the younger age categories; for those aged 55-59, 5.79% reported marriage breakdown as the primary cause and for those aged 60-64, 5.19% reported marriage breakdown as the primary reason for their bankruptcy.

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osb.nsf/en/br01476e.html.

[17] OSB, *Insolvencies in Canada 2004,* http://strategis.ic.gc.ca/epic/internet/inbsf-osb.nsf/en/br01476e.html.

Table 4

Primary Causes of Bankruptcy

Reported – By Age

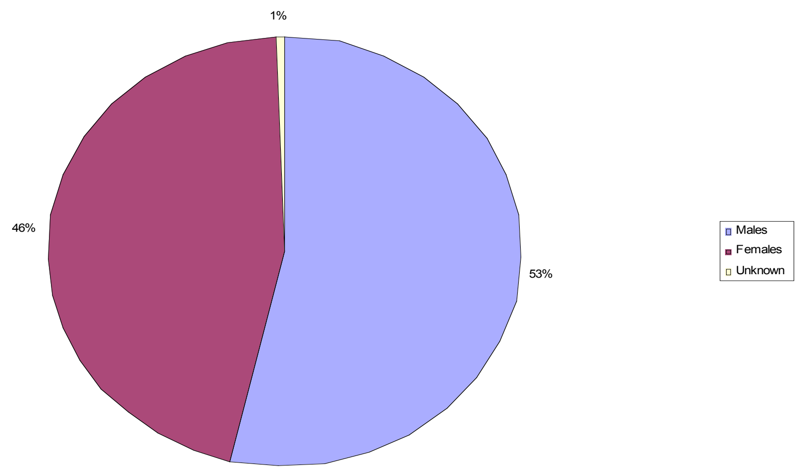
	55-59	60-64	65-69	70-74	75+	All
Overextension of Credit	26.50%	25.77%	27.68%	35.66%	37.75%	29.21%
Money mismanagement	6.24%	9.23%	11.49%	11.19%	10.29%	9.39%
Loss of employment income	15.81%	11.73%	10.70%	8.39%	4.90%	11.24%
Medical reasons	15.59%	15.96%	16.45%	11.19%	10.78%	14.66%
Insufficient Income	10.24%	11.35%	13.05%	11.19%	15.20%	11.83%
Costs of moving	0.45%	0.96%	0.26%	0.35%	0.49%	0.54%
Involvement in failed business	7.35%	8.65%	6.53%	4.90%	3.43%	6.73%
Gambling	2.23%	2.50%	2.87%	2.10%	2.45%	2.44%
Pension not sufficient	1.11%	1.35%	1.31%	3.85%	1.96%	1.74%
Marriage breakdown	5.79%	5.19%	3.39%	1.75%	4.41%	4.34%
Failure to pay taxes	3.12%	3.27%	3.13%	5.24%	3.92%	3.58%
Financial support of child	1.56%	1.73%	1.31%	1.40%	2.45%	1.63%
Fraud	1.11%	0.38%	0.52%	1.40%	1.47%	0.87%
Other	2.90%	1.92%	1.31%	1.40%	0.49%	1.79%

C. Causes of Bankruptcy by Gender

The gender breakdown of the sample of 1,000 was roughly the same as the gender breakdown among the entire population of bankruptcy over age 55, with 53% of bankrupts being male, 46% female and almost 1% unknown. As noted earlier, the entire universe of data examined, 55% of the bankrupts were male.

Chart 4

Breakdown of Bankruptcy by Gender



Examining the causes by gender, the principal reason for bankruptcy was overextension of credit for both women and men, 34% and 31% respectively for the 1,000 cases studied. Insufficient income was cited as principal reason for women in 14% of cases, compared with 9% for men. Given that women continue on average to earn only 60% of the income of males in the Canadian workforce, this statistic is not particularly surprising.

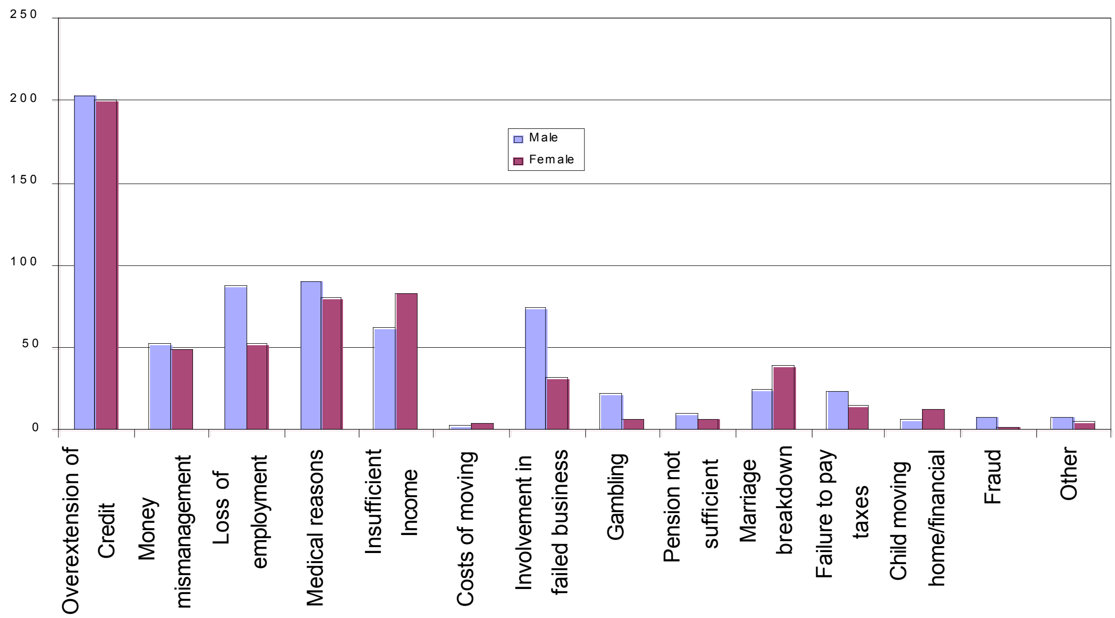
Loss of employment income was cited as principal reason for women in 9% of cases, compared with 13% for men, significant in both cases given the age cohort. Yet while women are less likely to cite job loss as the primary cause of bankruptcy, they are considerably more vulnerable to bankruptcy even with employment income, since a lower on-average income increases the appeal of bankruptcy as a fresh start opportunity.

Men were far more likely to be involved in a failed business, which then led to their bankruptcy. Involvement in failed business cited as principal reason for women in 5% of cases, compared with 11% for men, more than double the rate for women.

There were comparable figures in money mismanagement (8% for both) and medical reasons (14% and 13%). Marriage breakdown was a cause more frequently for women than men.

Chart 5

Causes of Bankruptcy by Gender



D. Causes of Bankruptcy by Region

Table 5 sets out causes of bankruptcy by region, illustrating that there are significant regional differences.

Table 5

Causes of Bankruptcy
Provincial and Regional Breakdown

Causes by Province	Maritime	Quebec	Ontario	Man	Sask	Alta	BC	All
Overextension of Credit	47%	29%	28%	40%	29%	31%	27%	32%
Money mismanagement	6%	9%	8%	5%	14%	9%	5%	8%
Loss of employment income	9%	8%	13%	5%	13%	12%	15%	11%
Medical reasons	6%	15%	14%	30%	7%	18%	16%	13%
Insufficient Income	16%	17%	11%	5%	4%	7%	6%	11%
Costs of moving	1%	0%	0%	0%	2%	1%	1%	1%
Involvement in failed business	7%	6%	10%	0%	12%	7%	12%	8%
Gambling	1%	3%	3%	0%	5%	2%	1%	2%
Pension not sufficient	1%	1%	3%	0%	1%	0%	2%	1%
Marriage breakdown	3%	5%	5%	5%	4%	5%	7%	5%
Failure to pay taxes	1%	3%	3%	5%	4%	3%	5%	3%
Financial support of child	0%	1%	1%	0%	4%	3%	2%	2%
Fraud	1%	1%	1%	0%	1%	1%	0%	1%
Other	1%	2%	0%	5%	0%	1%	1%	1%

Nationally, the top four causes of bankruptcy are: 32% report overextension of credit as the principal cause of bankruptcy; 13% report medical reasons; 11% report insufficient income as the principal reason; 11% report loss in income and 8% report involvement in a failed business.

The national figures are compared with the top four causes of bankruptcy by region, set out below. While overextension of credit tops the list in all regions, it is particularly significant in the Maritimes, cited as the source in 47% of cases. Medical reasons are the second top cause of bankruptcy in all regions except Québec and the Maritimes, where insufficient income is cited as second top cause.

Highlights by region of the top four reported causes of bankruptcy:

British Columbia
- 27% over-extension of credit
- 16% medical reasons
- 15% loss of employment income
- 12% involvement in failed business

Prairies:
- 31% over-extension of credit
- 15% medical reasons
- 12% loss of employment income
- 11% money mismanagement

Ontario
- 28% over-extension of credit
- 14% medical reasons
- 13% loss of employment income
- 11% insufficient income

Québec
- 29% over-extension of credit
- 17% insufficient income
- 15% medical reasons
- 9% money mismanagement

Maritimes:
- 47% over-extension of credit
- 16% insufficient income
- 9% loss of employment income
- 7% involvement in failed business

VII. Qualitative Survey

As noted in the discussion on methodological challenges for surveying a vulnerable population, the study was able to interview only 16 people of the 400 contacted, hence the sample does not provide any empirically value information. The 16 people interviewed were from Ontario (4), British Columbia (3), Québec (2), Newfoundland (4), Alberta (1), Manitoba (1), and Saskatchewan (1). Both Québec interviews were conducted in French.

Notwithstanding the fact that there is no statistically significant information, given the nature of the responses, it is helpful to provide the highlights as they provide a texture to the data. In the future, it would be helpful to consider whether this data could be collected when individuals are still in the bankruptcy process, through trustees or staff of the OSB.

Over extension of credit, medical reasons and insufficient income were principal reasons for the bankruptcy, which aligns with the data set of 1,000 bankrupts. More than half of those interviewed used their credit card to pay utilities bills on a regular basis. Although not statistically significant, this was an important insight that may help to explain why credit card debt is so high among older people. Similarly, 37.5% used a credit card to pay for groceries several times per month within the preceding year. It would seem that credit card debt, at least in this small sampling, plays a number of roles that it traditionally has not in a prior generation, and that individuals are paying extraordinarily high interest rates for goods and services that could be viewed as necessities.

31% had used the credit card in the two years prior to bankruptcy to help family members, which aligned with information that we had gathered from trustees, but which did not appear in our data analysis. 25% had co-signed a loan for a family member in the two years prior to their bankruptcy. 50% of those loans were for a mortgage and remainder for business loan for a family member. Of those signing for a business loan for a family member, all had signed a loan for a child and more than two-thirds reported that the business had failed.

31% cited family related issues that caused the financial distress. In some cases, individuals talked about children losing employment and moving back home (4 cases), while one was not specific. 19% reported that health care costs contributed to financial distress, but only 12.5% said it was the principal cause of bankruptcy.

Of the 31% that reported that the bankruptcy was caused in part by a job loss, more than three-quarters were not able to find employment again. When asked if any social activities made their financial situation worse, 31% reported that home shopping channel, casino visits, lottery tickets or on-line poker influenced their financial situation. This information may flag that further study needs to be undertaken as to the role of social activities in bankruptcy. While one working hypothesis of the study was that gambling was on the increase among older bankrupts, gambling as the primary cause of bankruptcy was, in the 1,000 sample, not significant as it was reported as the primary cause of bankruptcy in only 2.44% of cases.

75% reported that the bankruptcy had brought financial relief, although the economic situation had not really improved for over 56%. This is of concern in thinking about the fresh start philosophy for seniors.

100% of those surveyed said that it was difficult to tell family or friends about the bankruptcy, some discussing at quite length feelings of shame, fear and humiliation, particularly in having to tell their children. 25% responded that if they had someone to talk to about finances before the bankruptcy, it would have helped.

VIII. Conclusion and Further Research

Presumably habits of spending and money management are inculcated long before the age of 55, and that if anything, financial planning at an earlier age helps to reduce the risk of shortfalls in retirement or the approach thereof. The rise of bankruptcy thus calls out for explanation. Possibly there are new temptations; shopping channels or gambling, or the imprudence of children enlisting the financial aid of parents forge two of our working hypotheses. But neither was borne out by this preliminary study. Only 2.44% reported gambling as the principal reason for bankruptcy, yet trustees had reported that the incidence seems much higher. It may be that there is a stigma attached to gambling such that it is not easily declared as the reason. Only 2% report children moving back home or financial support of children as the principal reason for bankruptcy, although here again, a limited sampling of trustees had indicated that in their observation this trend is on the rise.

One question the study had hoped to explore was the percentage of consumer bankrupts that are prejudiced by not having their RRSPs protected from seizure for the benefit of creditors, compared with those who have the exemption protection for their registered pension plans. Currently under the *BIA*, benefits from registered pension plans and RRSPs associated with life insurance policies are generally exempted from seizure. However, RRSPs held by banks, brokerages or self-directed RRSPs are not exempt from seizure. With the move in Canada from defined pension plans to defined contribution plans and the practice of encouraging employees to invest in self-directed RRSPs, our bankruptcy policy and pension policies may be failing to align in terms of protection for aging debtors.

The Senate Committee recognized this problem and recommended exempting RRSPs from seizure, while acknowledging that this would reduce the moneys available for distribution to creditors. This has been recognized in part in c. 47, amending the *BIA*, not yet proclaimed in force. Unfortunately, the study did not shed any light on the question of the current mix of registered pension and RRSP assets that are treated differently in consumer bankruptcy. In part, this was due to the way in which the data is collected. The OSB may wish to consider separating out different kinds of pension savings, in order to document this information in the future.

It was also unclear from the study as to whether current exemptions of property from seizure for all bankrupts appropriately reflect the needs of older debtors; and whether we need to consider public policy reforms that assess basic needs differently for older citizens. This information could not be analysed using the data available, but should be studied by the OSB in the future.

Finally, the OSB should consider further qualitative study through interviews. While the information is difficult to obtain, it dramatically enhances the quantitative statistics. Design of any future such study would, however, have to take account of the issues raised by university ethics boards in terms of how to acquire the information from a population that is particularly vulnerable.

The data in this report only provides a small glimpse into the economic, legal, social and philosophical factors that are important to understanding over-indebtedness or bankruptcy of older consumers. A better understanding of these dynamics is required before one can assess whether there particular policies or strategies that could be deployed to address or prevent financial distress in this age cohort. One question that requires further exploration, but which was not possible for this report, is whether bankruptcy is the appropriate mechanism for relief of over-indebtedness for those that are approaching the limits of their income earning years.