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**LAL Briefing Notes for CEC**  
**CEC Request for WSIB Funding Surplus**  
**Distribution**

**Prepared for 20240910 CAC TEAMS**  
**meeting 2:30 pm – 3:30 pm**

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**L.A. Liversidge**

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**Subject:** Special CAC Meeting  
**Location:** Teams  
**Start:** Tue 2024-09-10 2:30 PM  
**End:** Tue 2024-09-10 3:30 PM  
**Recurrence:** (none)  
**Meeting Status:** Accepted  
**Organizer:** Leif Malling

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**From:** Lamise Kablawi Lamise\_Kablawi@wsib.on.ca  
**Date:** August 15, 2024 11:36:41 AM  
**Subject:** Special CAC Meeting  
**To:** Karen Bailey [Karen\\_Bailey@wsib.on.ca](mailto:Karen_Bailey@wsib.on.ca), Philip Welford [Philip\\_Welford@wsib.on.ca](mailto:Philip_Welford@wsib.on.ca), Janine Dycik [Janine\\_Dycik@wsib.on.ca](mailto:Janine_Dycik@wsib.on.ca), Lamise Kablawi [Lamise\\_Kablawi@wsib.on.ca](mailto:Lamise_Kablawi@wsib.on.ca), parisier@rescon.com, [tmackay@ecao.org](mailto:tmackay@ecao.org), [lal@laliversidge.com](mailto:lal@laliversidge.com), [valm@orba.org](mailto:valm@orba.org), [icunningham@ccca.on.ca](mailto:icunningham@ccca.on.ca), [blanier@concreteontario.org](mailto:blanier@concreteontario.org), [pete@hcat.ca](mailto:pete@hcat.ca), [sanghi@gha.com](mailto:sanghi@gha.com), [Chodjison@oms.on.ca](mailto:Chodjison@oms.on.ca), [telenis@orhna.com](mailto:telenis@orhna.com), [sprins@retailcouncil.org](mailto:sprins@retailcouncil.org), [maria.marchese@live.com](mailto:maria.marchese@live.com), Vincent Caron@cmc-mec.ca, [khou@cvma.ca](mailto:khou@cvma.ca), Susan A. Adams@ontario.ca, [sroberts@otlca.com](mailto:sroberts@otlca.com), [dvelis@onyourteam.com](mailto:dvelis@onyourteam.com), [james.l.pilipov@esso.ca](mailto:james.l.pilipov@esso.ca), [KBarnier@restaurantcanada.org](mailto:KBarnier@restaurantcanada.org), [Lainortresse@canadianfuels.com](mailto:Lainortresse@canadianfuels.com), [giovanni@OGCA.ca](mailto:giovanni@OGCA.ca), [Ccab1952@gmail.com](mailto:Ccab1952@gmail.com), [aconnell@aeon.com](mailto:aconnell@aeon.com)

Hello everyone,

Following an action item from our last CAC meeting and at Andrew Parisier's request, we will be holding a special meeting to discuss the sufficiency ratio. During this session, Andrew asked that WSIB staff present on the sufficiency ratio from an internal perspective, followed by a 30 min open discussion and round table.

1

we are aware that there is significant interest from about 10 of you. However, we decided to open the invitation to all CAC members to ensure everyone has the same opportunity to participate. That said, the meeting is optional and the date is fixed at this time.

Thank you,

**Microsoft Teams** [Need help?](#)

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Meeting ID: 261 341 765 225  
Passcode: WQ9R5q

**Join on a video conferencing device**

Tenant key: [wsib@m.webex.com](mailto:wsib@m.webex.com)  
Video ID: 114 215 806 7

[More info](#)

For organizers: [Meeting options](#)

Please turn your camera on in meetings and add a profile photo that shows your face to your Microsoft Office account.

Please let me know if you require accommodation to fully participate in this meeting.

If you require additional information please contact us at [accessibility@wsib.on.ca](mailto:accessibility@wsib.on.ca).

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2

## LAL Notes for September 10, 2024 CAC Surplus Distribution Meeting

**A. Background leading to the September 10, 2024 “special” CAC funding surplus meeting**

1. In light of a 122.5% funding ratio reported by WSIB as at Q4 2023,<sup>1</sup> immediately prior to the April 30, 2024 WSIB Chiefs’ Advisory Committee (CAC) meeting, LAL introduced the suggestion for CEC to request that the WSIB disperse excess funding to employers so that the Board’s funding level, at the highest, does not exceed 120%.

2. See LAL email of April 29, 2024, 1:54 pm, at **Attachment #1**, the key excerpt from which is:

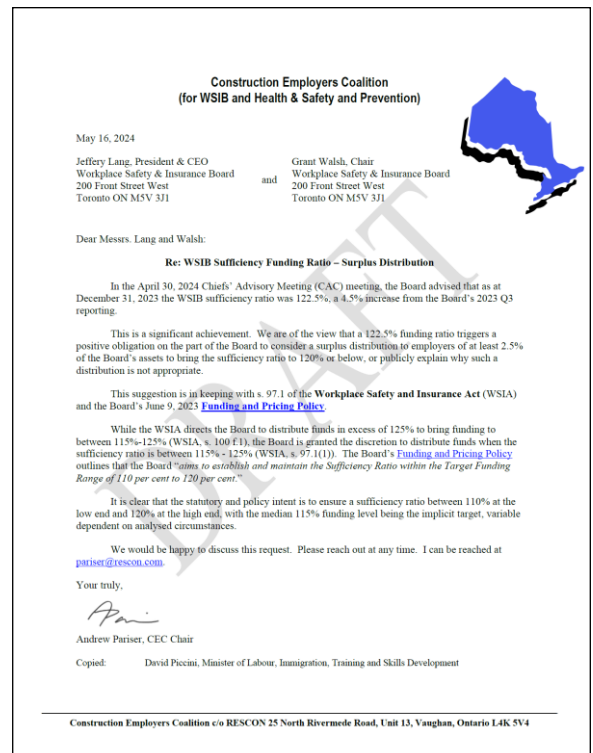
**Agenda Item #3: Q4 Financials and 2023 Annual Report:** Only a skeleton report is provided. The Sufficiency Ratio is 122.5%. Remember, this is the sufficiency ratio and unanticipated gains and losses are smoothed over five (5) years. With that noted, at a 125% sufficiency ratio the Board is statutorily required (**WSIA, s. 97.1 (2)**) to disperse the surplus to employers such that the sufficiency ratio does not exceed 115.1% (**O. Reg. 141/12, s. 2**). I have excerpted the relevant sections of the WSIA and **O. Reg. 141/12** below. **Suggested CEC ask:** Since the sufficiency ratio is approaching 125%, and as the statutory direction appears to be clear to maintain the sufficiency ratio at around 115%, the CEC should ask the Board to disperse excess funding.

3. LAL drafted a May 16, 2024 letter for the CEC to send to the WSIB (excerpted right - **Attachment #2**).

4. The letter was discussed at the June 26, 2024 CEC meeting (an earlier discussion was not possible).

5. See LAL June 26, 2024 CEC meeting notes, **Attachment #3**. As the letter was not previously released, and as an upcoming CAC meeting was scheduled for July 5, 2024, LAL moved and it was agreed that the CEC Chair would raise the issue at the July 5, 2024 CAC meeting.

It is suggested that the message set out in the draft letter (i.e., that the Board initiate a surplus distribution to bring the sufficiency ratio down to at least 120%), be presented by the CEC Chair in the July 5, 2024 CAC meeting, supported by other CEC members in attendance.



<sup>1</sup> **Note:** Only cursory information was released by the WSIB at the April 30, 2024 CAC. Detailed 2023 Q4 statements have not been released. No detailed 2024 financial results have been released (beyond the brief information appearing on the WSIB [website](#)). The 2023 WSIB Annual Report has not been released.

**LAL Notes for September 10, 2024 CAC Surplus Distribution Meeting**

6. CEC Chair Andrew Pariser did raise the issue. However, rather than address the substance of the issue at that July 5, 2024 meeting, the WSIB agreed to schedule a separate “special” CAC meeting to discuss. This meeting has been scheduled for Tuesday, September 10, 2024 2:30-3:30 pm via MS Teams. Essentially, this is the same discussion commenced by the CEC April 30, 2024.

**B. Statutory and regulatory instructions**

1. The relevant sections of the **WSIA** and **O. Reg. 141/12** follow. The core elements are **highlighted**.

**Workplace Safety and Insurance Act, 1997**  
**S.O. 1997, CHAPTER 16, Schedule A**

**Distribution of surplus**

97.1 (1) If the amount of the insurance fund meets a sufficiency ratio that is equal to or greater than 115 per cent and less than 125 per cent, the Board may distribute any amount in excess of the amount prescribed under clause 100 (c) that it considers appropriate among Schedule 1 employers having regard to such criteria as may be prescribed and such other factors as the Board considers appropriate. 2021, c. 35, Sched. 6, s. 3.

**Same**

(2) Except in such circumstances as may be prescribed, if the amount of the insurance fund meets a sufficiency ratio that is equal to 125 per cent,

(a) the Board shall distribute the difference in the amount prescribed under clause 100 (f.1) and the amount in the insurance fund among Schedule 1 employers; or

(b) if no amount is prescribed under clause 100 (f.1), the Board shall distribute any amount in excess of the amount prescribed under clause 100 (c) that it considers appropriate among Schedule 1 employers having regard to such criteria as may be prescribed and such other factors as the Board considers appropriate. 2021, c. 35, Sched. 6, s. 3.

**Distribution of different amounts**

(3) The Board may determine that Schedule 1 employers are to be distributed different amounts under this section having regard to such criteria as may be prescribed and such other factors as the Board considers appropriate, including an employer’s compliance with this Act. 2021, c. 35, Sched. 6, s. 3.

**No distribution**

(4) The Board may determine that a Schedule 1 employer is not to be distributed an amount under this section having regard to such criteria as may be prescribed and such other factors as the Board considers appropriate, including an employer’s compliance with this Act. 2021, c. 35, Sched. 6, s. 3.

**Timing of disbursements**

(5) Subject to such requirements as may be prescribed, the Board may determine the timing of disbursements made under this section and may distribute amounts to different Schedule 1 employers at different times. 2021, c. 35, Sched. 6, s. 3.

**Form of disbursements**

(6) The Board may determine the form of disbursements made under this section. 2021, c. 35, Sched. 6, s. 3.

**LAL Notes for September 10, 2024 CAC Surplus Distribution Meeting**

**Same**

(7) The Board may distribute an amount to a Schedule 1 employer under this section in more than one disbursement. 2021, c. 35, Sched. 6, s. 3.

**Regulations**

100 The Lieutenant Governor in Council may make regulations,

- (a) prescribing anything referred to in this Part as prescribed;
- (b) prescribing the date by which the insurance fund must become sufficient;
- (c) prescribing the amount of the insurance fund required to make the fund sufficient by the prescribed date or prescribing the method of determining that amount, including any formula, ratio or percentage to be used to calculate the amount;
- (d) REPEALED: 2021, c. 35, Sched. 6, s. 4 (1).
- (e) prescribing the requirements with which the Board shall comply for the purposes of section 96.2, including the time period within which the Board must comply with those requirements;
- (f) prescribing any terms, conditions, limitations or requirements on the use of reserve funds for the purposes of subsection 97 (2.1);
- (f.1) prescribing, for the purposes of subsection 97.1 (2), an amount, expressed as a ratio or percentage, that is greater than a sufficiency ratio of 115 per cent but less than a sufficiency ratio of 125 per cent;
- (f.2) prescribing circumstances for the purposes of subsection 97.1 (2);
- (f.3) prescribing criteria for the purposes of section 97.1;
- (f.4) prescribing requirements for the purposes of subsection 97.1 (5);
- (f.5) prescribing the method of calculating the sufficiency ratio for the purposes of section 97.1, including any formula, ratio or percentage to be used to calculate the amount;
- (g) providing for such transitional matters as the Lieutenant Governor in Council considers necessary or advisable in relation to this Part and the regulations made under it. 2010, c. 26, Sched. 21, s. 3 (2); 2021, c. 35, Sched. 6, s. 4.

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**Workplace Safety and Insurance Act, 1997**  
**ONTARIO REGULATION 141/12**  
**INSURANCE FUND**

**Sufficiency of insurance fund**

1. (1) For the purposes of Part VIII of the Act, the day section 1 of Ontario Regulation 864/21 comes into force is the date prescribed under clause 100 (b) of the Act. O. Reg. 864/21, s. 1.
- (2) For the purposes of Part VIII of the Act, a sufficiency ratio of 100 per cent is the amount prescribed under clause 100 (c) of the Act. O. Reg. 864/21, s. 1.
- (3) The sufficiency ratio of the insurance fund shall be calculated by dividing the value of the insurance fund assets by the value of the insurance fund liabilities and shall be expressed as a percentage. O. Reg. 864/21, s. 1.
- (4) The values of the assets and liabilities shall be determined by the Board in actuarial valuations made using actuarial methods and assumptions that are consistent with accepted actuarial practice for going concern valuations. O. Reg. 864/21, s. 1.

**Prescribed amount**

2. For the purposes of clause 97.1 (2) (a) of the Act, 115.1 per cent is the amount prescribed under clause 100 (f.1) of the Act. O. Reg. 864/21, s. 1.

**Prescribed criteria**

3. For the purposes of subsection 97.1 (4) of the Act, the following criteria are prescribed:

1. Whether, during the preceding year, a Schedule 1 employer has been convicted of an offence under the Act in a proceeding commenced under Part III of the Provincial Offences Act.
2. Whether, during the preceding five years, a Schedule 1 employer has been convicted more than once of an offence under the Act in a proceeding commenced under Part III of the Provincial Offences Act.
3. Whether, during the preceding year, a Schedule 1 employer has been convicted of an offence under the Occupational Health and Safety Act in a proceeding commenced under Part III of the Provincial Offences Act.
4. Whether, during the preceding five years, a Schedule 1 employer has been convicted more than once of an offence under the Occupational Health and Safety Act in a proceeding commenced under Part III of the Provincial Offences Act. O. Reg. 864/21, s. 1.

**Timing of disbursements**

4. For the purposes of subsection 97.1 (5) of the Act, the following requirements are prescribed:

1. Disbursements made under subsection 97.1 (1) of the Act shall be made within 90 days of the Board determining that it will distribute an amount of the insurance fund to Schedule 1 employers.
2. Disbursements made under subsection 97.1 (2) of the Act shall be made within 30 days of the Board determining that the amount of the insurance fund meets a sufficiency ratio that is equal to 125 per cent. O. Reg. 864/21, s. 1.

**C. WSIB June 9, 2023 Funding and Pricing Policy**

1. The **June 9, 2023 Funding and Pricing Policy** is attached at **Attachment #4** and found on-line [here](#). Relevant elements are excerpted. Core elements are **highlighted** however, the entire document should be read in preparation for the September 10, 2024 meeting.

**Policy statement**

The WSIB shall make decisions governed under this Policy with the overall objectives of equity and fairness, in support of **the following priorities listed in descending order of importance:**

1. Maintaining sufficient funding, i.e. a Sufficiency Ratio of at least 100 per cent, and taking action to achieve high level of confidence in returning the Sufficiency Ratio to the mid-point of the Target Funding Range should it fall below the Target Funding Range;
2. **Mitigating the risk of the Sufficiency Ratio reaching 125 per cent;** and
3. Maintaining premium rate stability, in combination with any target funding contributions.

**The WSIB aims to establish and maintain the Sufficiency Ratio within the Target Funding Range of 110 per cent to 120 per cent.** Further, the WSIB takes a proactive, tiered approach to managing the risks that the Sufficiency Ratio will move outside the Target Funding Range and fall below 100 per cent or reach 125 per cent.

*Proactive approach:* Should the Sufficiency Ratio be at high risk of falling below or exceeding the Target Funding Range over the next five years, the WSIB will take necessary action, intended to maintain the Sufficiency Ratio within the Target Funding Range, over a period of up to five years.

**LAL Notes for September 10, 2024 CAC Surplus Distribution Meeting**

*Tiered approach:* The level of prudence and conservatism in making Funding Decisions and Pricing Decisions will depend on the level of the Sufficiency Ratio. At lower Sufficiency Ratios, risk appetite is lower and increasing action will be taken to mitigate the risk of underfunding and have high confidence of returning the Sufficiency Ratio to the mid-point of the Target Funding Range. At higher Sufficiency Ratios, risk appetite is higher and increasing action will be taken to mitigate the risk of overfunding, including potential surplus distributions to return value to employers.

Stochastic asset-liability analysis will be used to assess the risk of the Sufficiency Ratio moving outside of the Target Funding Range, the risks of falling below 100 per cent or reaching 125 per cent, and the potential impacts on premium stability.

The Target Funding Range shall be reviewed and reassessed every five years or more frequently as needed to ensure it continues to be appropriate. The Target Funding Range is, for example, influenced by risk appetite and the prioritization of the above risks and premium stability, the level of investment risk resulting from the investment asset allocation, and the Sufficiency Ratio at a given point in time.

**Definitions**

**Target Funding Range:** a Sufficiency Ratio range of 110 per cent to 120 per cent, which is established to maintain confidence that the Sufficiency Ratio will not fall below 100 per cent or reach 125 per cent.

**D. The CEC ask:**

1. The CEC ask is consistent with the **WSIA** and **O. Reg. 141/12**:

The current Sufficiency Ratio is (likely) in the 121.5% to 122.5% range, perhaps more.

CEC understands that the sufficiency ratio smooths unanticipated gains and losses over five (5) years.

With that noted, at a 125% sufficiency ratio the Board is statutorily required (**WSIA, s. 97.1 (2)**) to disperse the surplus to employers such that the sufficiency ratio does not exceed 115.1% (**O. Reg. 141/12, s. 2**).

WSIB Funding and Pricing Policy defines the target funding range as being between 110% and 120%.

**CEC ask:** Since the sufficiency ratio is above 120%, and has been above 120% for a year, and as the statutory direction and Board policy appears to be clear to maintain the sufficiency ratio between 110% and 120%, with the optimal funding level sought being 115%, the CEC requests that the WSIB disperse excess funding such that the funding ratio will not exceed at a maximum 120%, and that this dispersal be facilitated by year's end 2024.

**L.A. Liversidge**  
**September 05, 2024**

**E. Additional Notes for meeting prepared September 10, 2024**

1. It is important to understand the evolution of the calculation of the sufficiency ratio.
2. A good overview presents itself in the **WSIB 2013 Sufficiency Ratio Report, pp. 6-9.**

*Ontario Regulation 141/12* (“Regulation 141”), which came into force January 1, 2013, requires the WSIB to meet prescribed Sufficiency Ratios by certain dates over the next 15 years. Regulation 141 is a regulation under the WSIA and addresses the WSIB’s unfunded liability (the “UFL”), which has increased to a significant size and poses a threat to the future of the WSIB’s Insurance Fund. Regulation 141 mandates that the WSIB meet the following prescribed ratios:

December 31, 2017	60%
December 31, 2022	80%
December 31, 2027	100%

On December 16, 2013, *Ontario Regulation 338/13* (“Regulation 338”) was filed under the WSIA that changes the method that the WSIB is required to use to calculate its assets for the purpose of reporting its Sufficiency Ratio pursuant to *Subsection 1 (3)* of Regulation 141. The Sufficiency Ratio measures whether there are sufficient funds to meet the WSIB’s future projected claims payouts. Regulation 338 will come into force on January 1, 2014.

3. History:
  - a. **O. Reg. 141/12** came into force January 1, 2013, and set out the 60%, 80% and 100% funding target requirements for 2017, 2022 and 2027 respectively. When first enacted, **O. Reg. 141/12** required that the WSIB establish the sufficiency ratio on an IFRS (International Financial Reporting Standard) basis, or in other words, on a cash or wind-up basis.
  - b. **O. Reg. 338/13** amended **O. Reg. 141/12** on January 1, 2014 allowing the Board to calculate the Sufficiency Ratio on “going concern basis” (**O. Reg. 141/12, s. 1(4)**). This remains in force and is the current method. That approach amortizes unanticipated gains and losses over a five (5) year period.
  - c. **O. Reg. 864/21** further amended **O. Reg. 141/12** setting out certain parameters for surplus distribution and is the last amendment to **O. Reg. 141/12**.
4. Current sufficiency ratio:

**L. A. Liversidge, LL.B.**  
**Barrister & Solicitor, Professional Corporation**

**LAL Notes for September 10, 2024 CAC Surplus Distribution Meeting**

- a. Sufficiency ratio formula: **O. Reg. 141/12, s. 1(3): assets/liabilities\*100**
  - b. No recent information appears on the Board website. A detailed financial statement has not been made available since Q3 2023.
  - c. 2023 Q3: 118% on a sufficiency ratio basis; 120.5% on IFRS basis
  - d. 2023 Q4: 122.5% sufficiency ratio, no data re IFRS
  - e. 2024 Q1: 121.5% sufficiency ratio; no data IFRS
5. Summary of future gains and losses yet to be realized (as per 2023 Q3 sufficiency report):

Workplace Safety and Insurance Board			
Third Quarter 2023 Sufficiency Report			
Sufficiency Ratio Statement September 30, 2023 (millions of Canadian dollars)			
Sufficiency Ratio Statement			
	Note(s)	September 30 2023	December 31 2022 <i>restated</i>
Total assets under IFRS	1,4	36,643	35,889
Add: Asset adjustments	2,4	3,202	2,860
Less: Sufficiency Ratio non-controlling interests	2	(309)	(463)
Sufficiency Ratio assets		39,536	38,286
Total liabilities under IFRS	1,4	30,408	31,174
Add: Liability adjustments	3,4	3,089	1,219
Sufficiency Ratio liabilities		33,497	32,393
<b>Sufficiency Ratio (assets divided by liabilities)</b>		<b>118.0%</b>	<b>118.2%</b>



Workplace Safety and Insurance Board

**Third Quarter 2023 Sufficiency Report**

**Notes to Sufficiency Ratio Statement**  
**September 30, 2023**  
**(millions of Canadian dollars)**

The amount of unrecognized investment returns to be recognized in future years is as follows:

Year earned	Total unrecognized gain (loss) as at Sep. 30, 2023	Investment returns to be recognized in future years:				
		Remainder of 2023	2024	2025	2026	2027
2023	(376)	22	89	88	89	88
2022	(3,400)	261	1,047	1,046	1,046	-
2021	1,038	(116)	(461)	(461)	-	-
2020	(93)	18	75	-	-	-
2019	132	(132)	-	-	-	-
	<b>(2,699)</b>	<b>53</b>	<b>750</b>	<b>673</b>	<b>1,135</b>	<b>88</b>

LAL