The Liverside Letter

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

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WSIB Funding Surplus Distribution of $2.0 Billion!

Part 3: Based on the high level of funding, there was little choice but for the Board to announce a surplus distribution

A brief recap

In the December 11, 2024 issue of **The Liversidge Letter** (**Part 1**), I introduced the WSIB and government announcements of a planned February 2025 distribution of a $2.0 billion funding surplus. I expressed my opinion that the government's announcement "*implies too close a connection between the government and the Board.*" In the December 20, 2024 issue, I introduced my view that the Board had no real choice but to issue (at least) a $2.0 billion surplus distribution.

In the January 8, 2025 issue (**Part 2**), I presented a history of WSIB funding, explained how the unfunded liability was eliminated, and set out the backdrop for the development of the current statutory, regulatory and policy framework governing funding surplus distribution, what I referred to as the "three-legged-stool." In this **Part 3**, I explain the term "sufficiency ratio," outline the current state of WSIB funding and explain why it is my view the Board had no choice but to declare a funding surplus distribution. I will support my opinion that the $2.0 billion is too low and should be at least 25% more.

What is a "sufficiency ratio" anyway?

"Sufficiency ratio" is actually a fairly new term. Until 2013 the same broad concept was called the "funding ratio." They differ only technically and numerically. The Ontario workers' compensation vernacular is a somewhat complicated and evolving language, full of acronyms and technical terms that often require a sustained deep dive to fully understand. "Sufficiency ratio" is no different. At first blush, "sufficiency ratio" is easy to conceptually understand. Since this has to do with funding, a "sufficiency ratio" defines the funding levels the Board needs to be sufficiently funded. Simple enough. *Ah, but not so fast Kemosabe!* It is a little more nuanced than that. So, first a quick history on the evolution of the term "sufficiency ratio."

Before 2013 the term was "funding ratio"

Governance action turns on the ratio of the Board's assets to its liabilities. If the ratio (assets/liabilities) is less than 100%, the WSIB is not fully funded and has an unfunded liability (UFL), the Board's "state of nature" before 2018 (well, actually before 2010 when the will was finally cultivated to properly tackle this problem). The lower the ratio, the higher the UFL. This was called the "funding ratio" until 2013. Amazingly, the funding ratio actually dipped to the mid-thirty percentile range in the 1990s (35.6% as per the **WCB 1991 Annual Report, p. 39**). If the ratio is greater than 100%, the Board has a funding surplus. The higher the ratio, the better the funding. As I set out in **Part 2**, funding that is too low and funding that is too high equally violate the principle of inter-generational employer equity.

In 2013, the term "funding ratio" was replaced with the term "sufficiency ratio"

As set out in **Part 2** of this series, as a result of the **2009 Auditor General Report**, a "three-prong response" (not to be confused with my "three-legged-stool"!) included **Prong 1** which was the establishment of funding targets (the required sufficiency ratios) through amendments to **O. Reg. 141/12** of 60% by 2017; 80% by 2022; and 100% by 2027. The 2013 version of **O. Reg. 141/12** calculated the "sufficiency ratio" "*by dividing the value of the insurance fund assets . . . by the value of the insurance fund liabilities . . .*" expressed as a percentage (**2013 version, O. Reg. 141/12, s. 1(3)**). Initially, the WSIB established the sufficiency ratio on what came to be known as the **IFRS** basis (International Financial Reporting Standard), or on a cash or wind-up basis, as it had since time immemorial. Before 2013, the method of calculation really didn't matter. Beyond being a general performance indicator and a year-to-year comparator, nothing really turned on the funding ratio.

O. Reg. 141/12 changed that. Big time. For the first time, the Board was required to meet clear and prescribed funding (sufficiency) targets. There was no discretion. There was no wiggle-room. While the system long-needed this clarity, there was a significant problem built into this direction. The "sufficiency ratio" fluctuated as the value of

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the Board's assets fluctuated (the valuation of liabilities is a little more stable) with that valuation being quite volatile at times. While the Board's funding projections are based on fairly conservative and pragmatic valuations and anticipate smooth, consistent gains, the real world is less predictable. Extreme unanticipated gains or losses in a post **O. Reg 141/12** world could mean significant adjustments to employer premiums, or a technical funding failure, *even if the Board was overall making progress!* A solution was found before this became a problem.

O. Reg. 338/13 amended **O. Reg. 141/12** on January 1, 2014 allowing the Board to calculate the sufficiency ratio on a "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. **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**.

Performance over the last 10 years has validated the "going concern" method

Over the past 10 years or so, the sufficiency ratio approach of smoothing unanticipated gains or losses over five years has proven to be an effective policy. For example, 2022 was a very volatile year, experiencing a drastic drop in the valuation of the WSIB's assets. As set out in the **WSIB 2022 Annual Sufficiency Report** (*ed.,* the 2022 Sufficiency Report was the last one posted on the Board's website – see **The Liversidge Letter** series, "***Is WSIB Accountability Fading Away?***"), the Board's assets fell $4.181 billion 2021 to 2022. On a sufficiency basis however, as the losses were smoothed over five years, there was no drop in the sufficiency basis assets 2021 to 2022 (although the sufficiency ratio went from 121.2% 2021 to 118.2% 2022). In fact, on a sufficiency basis, there was a $900 million asset gain! See the chart below (**2022 Annual Sufficiency Report**, **p. 12**):

Sufficiency Ratio Statement

	Note(s)	Dec. 31 2022	Dec. 31 2021
Total assets under IFRS	4	36,351	40,532
Add (Less): Asset adjustments	2,4	2,398	(2,403)
Less: Sufficiency Ratio non-controlling interests	2	(463)	(756)
Sufficiency Ratio assets		38,286	37,373
Total liabilities under IFRS	4	32,728	32,517
Less: Liability adjustments	3,4	(335)	(1,681)
Sufficiency Ratio liabilities		32,393	30,836
Sufficiency Ratio (assets divided by liabilities)		**118.2%**	**121.2%**

The next chart (**2022 Annual Sufficiency Report, p. 16**), shows the year-to-year distribution of unexpected gains and losses to be absorbed into future calculations of the sufficiency ratio.

	Investment returns to be recognized in future years:				
Year earned	Total unrecognized gain (loss) as at Dec. 31, 2022	2023	2024	2025	2026
2022	(4,185)	1,046	1,047	1,046	1,046
2021	1,384	(462)	(461)	(461)	-
2020	(150)	75	75	-	-
2019	529	(529)	-	-	-
	(2,422)	**130**	**661**	**585**	**1,046**

By Q3 2024 the sufficiency basis (going concern) ratio was almost the same as the IFRS basis (cash) ratio

At the end of 2022, after the market decline *and* the $1.2 billion surplus distribution issued in the Spring of 2022 (more on this in a moment), on a sufficiency basis the sufficiency ratio was 118.2%. However, on an IFRS basis (the "old way") the ratio was 111.1%, well below the 115% benchmark as set out in the statute (**WSIA, s. 97.1(1)**), **O. Reg. 141/12 (s. 2)** and the **WSIB Funding and Pricing Policy** (**section 1.1.2, "Elements of the Legislative Framework"**). See the January 8, 2025 issue of **The Liversidge Letter**, pp. 4 & 5 for details.

Whether by luck, good policy design, or a bit of both, by **Q3 2024**, as a result of 2024's market recovery, the ratio as calculated on a sufficiency basis and an IFRS basis were almost the same. See the chart below from the WSIB "**Third Quarter 2024 Sufficiency Report," p. 2**. This, and similar reports, for reasons I still find perplexing, are no longer posted on the WSIB website (as explored in my WSIB fading accountability series). On a sufficiency basis, the sufficiency ratio was a 123.4%, a new high water-mark. On an IFRS basis, the ratio was 122.3%, also a new high-water mark. The asset difference between the IFRS method and sufficiency method was a minimal $158 million, a first.

Sufficiency Ratio Statement

	Note(s)	September 30 2024	December 31 2023
Total assets under IFRS	1,2	41,303	38,164
Add: Asset adjustments	2,3	116	1,846
Less: Sufficiency Ratio non-controlling interests	3	(274)	(294)
Sufficiency Ratio assets		41,145	39,716
Total liabilities under IFRS	1,2	33,773	33,050
Less: Liability adjustments	2,4	(430)	(637)
Sufficiency Ratio liabilities		33,343	32,413
Sufficiency Ratio (assets divided by liabilities)		**123.4%**	**122.5%**

So, at least so far, the sufficiency basis method has proven to be effective. Over time, whether general performance is improving or deteriorating, the smoothing method limits significant year-to-year fluctuations. In short, the sufficiency method is a reliable tool to measure the long-term funding viability of the WSIB, and is an effective tool to gauge the prudence of a funding surplus distribution.

The 2022 $1.2 billion funding surplus distribution – what does this say about the planned 2025 surplus distribution?

On February 16, 2022 the WSIB announced its intention to issue "*a rebate of surplus funds totaling up to $1.5 billion to eligible safe Ontario businesses*." The WSIB provided the following as rationale: "*The WSIB's strong financial and operational management, along with its positive investment returns have led to a surplus in its insurance fund beyond the needed reserve*." The actual payout was about $1.2 billion (**WSIB 2022 Annual Report, p. 2**).

I will examine the state of WSIB funding at the time the 2022 surplus distribution was announced, explore the impacts on both a sufficiency and IFRS basis, and use this as a solid indication of the Board's "comfort level" in deciding

to distribute the 2022 funding surplus. I will then apply this same "comfort level" to the planned 2025 surplus distribution. For the reasons which will become very clear, I will set out my opinion that for 2025 the WSIB is not applying the same standard as it did in 2022. I suggest there may be different motivations that have less to do with the concept of intergenerational employer equity, which should be the exclusive driver, and more to do with simply avoiding hitting the decisive 125% funding level, which triggers a statute driven (**WSIA, s. 97.1 (2), O. Reg. 141/12, s. 2**) disgorgement down to a 115.1% sufficiency ratio.

There may be other motivations at play as well, which I will explore in upcoming issues, including an in-depth discussion of **Bill 229, Working for Workers Six Act, 2024, Schedule 6** (part of the Schedule 1 funding surplus is transferred to fund Schedule 2 employers). In the wake of last year's **Bill 149** (benefit indexing above inflation) and **Bill 229**, it is my view that the government is pushing the Board past its prescribed purposes (WSIA, s. 1).

The state of WSIB funding December 31, 2021

As the WSIB 2022 surplus distribution announcement was February 16, 2022, the year-end **2021 Sufficiency Report** was likely determinatively influential in the Board's decision to issue a surplus distribution and to set the amount of the distribution. From the **2021 Annual Sufficiency Report** (p. 14):

Sufficiency Ratio Statement

	Note(s)	Dec. 31 2021	Dec. 31 2020
Total assets under IFRS	4	40,532	40,837
Less: Asset adjustments	2,4	(2,403)	(849)
Less: Sufficiency Ratio non-controlling interests	2	(756)	(2,569)
Sufficiency Ratio assets	4	37,373	37,419
Total liabilities under IFRS	4	32,517	34,011
Less: Liability adjustments	3,4	(1,681)	(2,118)
Sufficiency Ratio liabilities	3,4	30,836	31,893
Sufficiency Ratio (assets divided by liabilities)		**121.2%**	**117.3%**

The sufficiency ratio was 121.2%, and on an IFRS basis, even better. Based on the sufficiency ratio as at December 31, 2021, the planned $1.5 billion surplus distribution (the actual was lower at $1.2 billion but "up to" $1.5 billion was approved), using 2021 final numbers as a guide, would be expected to drive a post-surplus-distribution sufficiency ratio in the 116% range. As it turned out, by Q3 2022, the sufficiency ratio was 115.4% (see the chart below from the **Third Quarter 2022 Sufficiency Report**, at p. 2):

Sufficiency Ratio Statement

	Note(s)	Sep. 30 2022	Dec. 31 2021
Total assets under IFRS	4	36,325	40,532
Add (Less): Asset adjustments	2,4	2,689	(2,403)
Less: Sufficiency Ratio non-controlling interests	2	(715)	(756)
Sufficiency Ratio assets		38,299	37,373
Total liabilities under IFRS	4	33,565	32,517
Less: Liability adjustments	3,4	(370)	(1,681)
Sufficiency Ratio liabilities		33,195	30,836
Sufficiency Ratio (assets divided by liabilities)		**115.4%**	**121.2%**

By the end of 2022, the sufficiency ratio bounced back to 118.2% largely as a result of WSIB liabilities projections declining $802 million Q3 2022 to Q4 2022 (as per **2022 Annual Sufficiency Report** vs. **Third Quarter 2022 Sufficiency Report**).

The drop in the sufficiency ratio post-2022 surplus distribution did not faze the WSIB

The drop in the sufficiency ratio from 2021 to 2022, based on comments in the **WSIB 2022 Annual Report**, didn't faze the WSIB a bit, even though, according to the **2022 Annual Sufficiency Report**, on an IFRS basis, the ratio was 111.1% by year-end. Viewed through the lens of inter-generational employer equity, the surplus distribution was the right decision at the right time. In the **2022 Annual Report**, the Board lauded the "*historic first for Ontario*" of distributing a $1.2 billion funding surplus to Ontario's employers (at pp. 2, 3, 17) even though the Board "*generated $4,074 million of total comprehensive loss*" which "*primarily reflects a net loss on investments of 9.1% and a surplus distribution of $1,193 million*" (p. 18). The Board advised that the "*surplus was accumulated due to positive past financial performance including investment performance in recent years*" (footnote 8, p. 30).

A few distribution "standards" emerge

As the 2022 surplus distribution was a "historic first" (the Board's own descriptor), a few standards emerge. *First*, the Board's action demonstrates that it is quite comfortable, and should be, with a post-surplus-distribution sufficiency ratio in the 116% range (I think the target should actually be 115.1% and will discuss this in **Part 4**). *Second*, the sufficiency ratio is the determinative "guiding light" and not the IFRS "cash" basis funding ratio.

What is the likely impact of the announced $2.0 billion funding surplus distribution?

Using the **Third Quarter 2024 Sufficiency Report** as the benchmark (the most current information available), and assuming constant sufficiency ratio liabilities of $33.343 billion, a $2.0 billion surplus distribution will reduce the sufficiency ratio assets from $41.145 billion to $39.145 billion, resulting in a post-distribution sufficiency ratio in the range of 117.4%. Depending on Q4 gains, it is likely more.

Applying the 2022 standards, the planned surplus distribution should have been more

In 2022, as explained, the post-distribution sufficiency ratio would be expected to be in the 116% range. If this was the target zone, the 2025 surplus distribution would be $2.5 billion, 25% more than announced, a more equitable target.

The exclusive guiding principle for surplus distribution must be inter-generational employer equity. Period. Not only should the sufficiency ratio not get close to 125%, it should not approach 120% except in exceptional circumstances. In **Part 4** I will suggest adjustments to the "three-legged-stool" to make future surplus distribution considerations more equitable and predictable, and more consistent with the principle of inter-generational equity.

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