

Consultations Report:  
Capital Leasing Pilot Project Design  
and Draft Regulations

Industry Canada  
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## Executive Summary

Industry Canada is developing a capital leasing pilot project under the *Canada Small Business Financing Act* (CSBFA) to test how the CSBFA guarantee will apply to the capital leasing market. The pilot project will be tested for five years. If it is found to be viable, it will become a permanent addition to the core CSBFA loan loss sharing program.

The purpose of this consultations report is to summarize the feedback of industry stakeholders on an earlier discussion paper on the pilot project design. Three outstanding issues for consideration are the eligibility criteria for inclusion of used equipment, the administration fee and the maximum interest rate. In addition, this consultations report gathers suggestions for changes to the proposed regulations drafted for the pilot project from both business and legal advisers.

Consultations meetings on the capital leasing pilot project were held in Toronto, Quebec City, Calgary and Vancouver. Participants included lessors, members of leasing associations, credit unions, small business associations and other stakeholders.

Throughout the discussion, participants were asked questions to clarify certain parameters and issues. They were also asked to provide their views on other areas of the pilot project proposal. Written comments were received from a few groups. The views expressed by participants do not necessarily reflect those of their organizations or those of the government.

Overall, the response has been positive. The leasing industry is supportive of the proposal and sees this pilot project as an additional financing product to offer to young businesses that are not currently served by this industry. The consultations participants are confident that uptake will be good. They cautioned, however, that certain adjustments should be made, especially with respect to lease funding vehicles. They also suggested keeping the administrative burden simple and minimal. Moreover, they said that the government will have to reconsider its “super-priority” policy in order to give targeted small businesses access to credit.

Industry Canada is taking the comments received during these consultations into consideration as it refines the draft regulations to find the right balance for the pilot project. After seeking approval from Cabinet, the draft regulatory process will be published in the *Canada Gazette Part I*, probably in the fall of 2001, which will provide an additional opportunity for stakeholders to comment on the proposed regulations. As required under the Act, the regulations will be tabled with the appropriate parliamentary committees, which may choose to hold hearings. Then, the implementation phase will begin for the launch of the pilot project, planned for April 1, 2002.

## Background to the Consultations

The CSBFA was passed in Parliament in December 1998 to replace the *Small Business Loans Act* (SBLA) of 1961. The 1998 comprehensive review of the SBLA, which led to the CSBFA, sought changes to ensure that the program remains relevant to the needs of small businesses and can be financially self-sustaining, and to improve the administrative accountability framework.

The CSBFA program is unique in a number of ways. Through a government guarantee of 85 percent on lenders' losses on CSBFA-registered loans, this program improves the access of eligible small businesses to asset-based debt financing. The program is delivered through 1500 private sector financial institutions across the country, banks, credit unions and other credit providers. These lenders, not government officials, make the credit decisions and bear part of the risk in the event of default. Although this is a federal government program, private sector financial institutions play a crucial role in its administration by using the program to extend financing to clients outside their normal lending criteria.

The CSBFA does not provide a subsidy. On the contrary, it is structured so that program users pay fees that are sufficient to cover the projected costs over the period of the loan. Because the fees are built in, the maximum interest rate and the overall cost of the loan are higher than for conventional financing. The objective of the program is not to provide subsidized credit but to provide access to credit, even if it means that firms must pay a higher interest rate and fees.

In response to requests from leasing companies, a number of studies and consultations with small businesses through the 1998 comprehensive review of the SBLA investigated the feasibility of extending the program to include capital leasing. In light of the positive reactions and research results, Industry Canada designed and drafted regulations for a pilot project for capital leasing. With an extension of the CSBFA to include capital leasing, small businesses would benefit from a significant new alternative in having their financing needs guaranteed under the CSBFA.

Industry Canada has designed the capital leasing pilot project to operate over a five-year period. If it is found to be viable, it may become a permanent addition to the core CSBFA financing loss sharing program. Its viability will be measured primarily by its success in satisfying two core objectives set out for the CSBFA:

- ▶ incremental access to asset-based debt financing (in the case of the pilot, to capital leases)
- ▶ independent cost recovery, separate from the core program, whereby user fees cover projected costs over the life of the capital leases made during the five years of the pilot project.

Other success measures for determining the viability and effectiveness of the pilot project include its ability to balance the needs of the small businesses, the lessors and the government.

Performance measures and a performance evaluation framework are being developed to track and evaluate the pilot project results during and after its five-year term.

In designing the capital leasing pilot project, Industry Canada conducted extensive research and consultations to ensure that it would effectively meet the goals of the CSBFA while meeting the financing needs of small businesses. The objective is to provide financial institutions and leasing companies with more financing alternatives to offer their clients.

Following Industry Canada's presentation to the House of Commons Standing Committee on Industry in May 2000, a first round of consultations on the viability of the preliminary proposal for the capital leasing pilot project was held over the summer months of 2000 in Quebec City, Montreal, Ottawa, Toronto and Edmonton. Small business owners, lenders and lessors, industry associations and bond rating agencies were asked to provide feedback on the proposed pilot project parameters.

In general, the response to the proposed capital leasing pilot project was positive. The lending and leasing industry supported the proposal because it would enable them to provide financing to young businesses that would not otherwise be eligible under the current requirements. They were confident that uptake would be high as long as certain adjustments were made to the interest rate, fees, cap on claims and securitization.

Small business owners said they would welcome the extension of the CSBFA to capital leasing, since leasing offers a number of advantages over borrowing. However, they expressed some reservations with the project because of its cost. They asked the government to reconsider the interest rate and fees associated with the lease.

Comments received during that first round of consultations were incorporated, where possible, into the draft regulations. Most research and consultations results are summarized in publications titled "*The Canada Small Business Financing Act: Assessing New Opportunities*" (Industry Canada, 1999) and "*The Canada Small Business Financing Act: Consultations Report: Pilot Projects Designs*" (Industry Canada, 2000). These publications are available electronically on the World Wide Web at: <http://strategis.ic.gc.ca/CSBFA>.

Prior to a second round of consultations on the capital leasing pilot project proposed design and draft regulations, a discussion paper on the pilot project design and draft regulations was sent to stakeholders across the country in late January 2001. The paper provided background information on the pilot project and outlined the consultations objectives, a summary of the pilot project parameters, key questions, discussion issues, draft regulations and the next steps anticipated. Over 600 stakeholders were invited to attend consultation meetings across the country or to respond in writing by sending their comments and recommendations to Industry Canada.

A second round of consultations was held in February, March and April 2001 in several cities across the country ( Table 1). The purpose of these consultations was to gather the views of the stakeholders in order to refine the design and regulations further prior to the formal approval process.

**Table 1 – Consultations Meetings, 2001**

<b>City</b>	<b>Participants</b>
Toronto	<ul style="list-style-type: none"><li>▶ Leasing companies</li><li>▶ Canadian Finance and Leasing Association members</li><li>▶ Canadian Bankers Association</li><li>▶ Canadian Federation of Independent Business</li></ul>
Quebec City	<ul style="list-style-type: none"><li>▶ Leasing companies</li><li>▶ Canadian Finance and Leasing Association members</li></ul>
Calgary	<ul style="list-style-type: none"><li>▶ Leasing companies</li><li>▶ Canadian Finance and Leasing Association members</li><li>▶ Credit unions</li></ul>
Vancouver	<ul style="list-style-type: none"><li>▶ Leasing companies</li><li>▶ Canadian Finance and Leasing Association members</li></ul>

Participants were asked to provide feedback on a discussion paper outlining three outstanding issues with respect to the pilot project design. This report summarizes the concerns, suggestions and recommendations of the individual participants. The views expressed by the participants do not necessarily reflect those of their organizations or those of the government.

The overall objective of the consultations was to gather views on a number of issues regarding project design and draft regulations prior to undergoing the formal regulatory approval process, namely:

- ▶ proposed eligibility criteria for the inclusion of some classes of used equipment
- ▶ proposed options for the administration fee
- ▶ proposed bilevel maximum interest rate.

As well, the consultations gathered input from both a business and legal perspective on the draft regulations.



## Consultations Results and Summary

Representatives from the leasing industry were generally positive about the design and draft regulations. Their major concerns revolved around the securitization issue. In their view, while the proposed capital leasing pilot project draft regulations go a long way toward accommodating one form of capital lease funding, namely securitization, it could be too narrow to capture and facilitate emerging forms of funding. The participants also made recommendations regarding the proposed definition of lessor, eligibility criteria for used equipment, maximum interest rate, loss-sharing ratio and administration fee.

The majority of participants from the leasing and small business sectors supported the pilot project, with some modifications. Their recommendations are summarized below (Table 2).

**Table 2 – Summary of Recommendations of Consultation Participants**

Issue	Recommendations
Eligible small businesses	<ul style="list-style-type: none"> <li>▶ The agriculture or agri-business sector should be included in the pilot project.</li> </ul>
Used equipment	<ul style="list-style-type: none"> <li>▶ A minimum threshold on the value of used equipment should not be imposed.</li> <li>▶ The term of the lease should not exceed the remaining economic life of the equipment.</li> <li>▶ The lessor should be responsible to substantiate the fair market value and the remaining economic life.</li> </ul>
Loss sharing ratio	<ul style="list-style-type: none"> <li>▶ The loss sharing ratio should be increased to 85:15 and even to 90:10.</li> </ul>
Content of the capital lease registration form	<ul style="list-style-type: none"> <li>▶ Lessors should not be required to disclose the interest rate being charged on the registration form, which is seen by the lessee, but rather on a separate form.</li> </ul>
Appraisal	<ul style="list-style-type: none"> <li>▶ Lessors should be able to make their own reasonable investigation to substantiate the fair market value and economic life of any used equipment.</li> <li>▶ An appraisal should be required only for non–arm’s-length transactions.</li> </ul>
Fees	<ul style="list-style-type: none"> <li>▶ The list of fees payable by a lessee should be enlarged. Many fees are charged to lessees under customary leasing procedures. These fees should be permitted but not necessarily guaranteed.</li> </ul>

Administration fee	<ul style="list-style-type: none"> <li>▶ The annual administration fee should be remitted quarterly.</li> <li>▶ The proposed rate for the annual administration fee should be revisited to consider potentially lower loss rates.</li> <li>▶ There should be a mechanism to refund any overpayment of upfront administration fees on leases that terminate earlier than the prescribed expiry date.</li> </ul>
Maximum annual rate of interest	<ul style="list-style-type: none"> <li>▶ There should be one maximum rate of interest covering all leases that fall under the pilot project, without distinguishing between classes of leases based upon equipment cost thresholds.</li> <li>▶ CLB + 12% would be acceptable to participants for leases above \$10 000, but they felt that CLB + 17% would better reflect the pricing practices for lower amounts.</li> </ul>
Payment terms	<ul style="list-style-type: none"> <li>▶ Terms should reflect the length of capital leases, which are usually between three and five years.</li> </ul>
Security	<ul style="list-style-type: none"> <li>▶ The project design should note that capital leases below \$10 000 are usually not registered under personal property security legislation.</li> </ul>
Calculation of eligible loss	<ul style="list-style-type: none"> <li>▶ The timing of reductions in the applicable rate of post default interest should be the same as in the core program.</li> <li>▶ The discount rate to be used for the calculation of the present value of the future payments should be the rate specified in the liquidated damage clause (around 5%)</li> </ul>
Lease funding	<ul style="list-style-type: none"> <li>▶ Securitization should not be the only lease funding mechanism considered. Inclusion of lease funding mechanisms is key to lessors' participation in the pilot.</li> </ul>
Other issues	<ul style="list-style-type: none"> <li>▶ Lessors' losses resulting from a Crown "Super-priority" claim (right to seize leased equipment to pay tax arrears) should be eligible under the pilot project.</li> </ul>

## Responses to Discussion on Outstanding Issues

### Eligibility criteria for used equipment

During the first round of consultations, small business representatives had strongly stated that used equipment is often the only kind of equipment small, startup firms can afford and that the exclusion of all classes of used equipment, which was the initial proposal, would exclude a large portion of the targeted small businesses. They suggested that used equipment with a longer economic life and higher value should be included.

In the draft regulations, the proposal was that used equipment meeting the following conditions would be eligible under the capital leasing pilot project:

- ▶ cost of equipment is greater than \$100 000
- ▶ economic life of the equipment is greater than 10 years.

During the second round of consultations, participants were asked the following question:

***Are the proposed eligibility criteria for the inclusion of some classes of used equipment adequate and objective?***

Participants stated that used equipment definitely needs to be included in the pilot project, but that the \$100 000 limit made no real sense. The following comments were made:

- ▶ Given our target clientele, we should not restrict used equipment, but rather encourage it.
- ▶ The loss rate is definitely variable from one lessor to another but is not significantly higher for used equipment, given that most of the depreciation has already been taken into account in pricing. In some cases, the loss rate is lower for used equipment.
- ▶ Used equipment capital leases should be eligible as long as the lease term is not greater than the remaining economic life of the equipment.
- ▶ The determination of the economic life is variable and is very hard to determine.
- ▶ Since the credit processes of leasing companies are at least equivalent to an appraisal, appraisal could be restricted to non-arm's-length transactions involving used equipment.
- ▶ A lot of tools are available to lessors to determine the fair market value of used equipment (e.g. blue/black book, databases, Internet, etc.). Documenting the capital lease file should create no problem.
- ▶ Due diligence requirements could be modified to specify an obligation for the lessor to substantiate the fair market value of the used equipment in the lease file to be eligible for a claim.

## **Administration fee**

During the first round of consultations, some participants had supported the proposed 1.25 percent rate for the annual administration fee. However, many leasing company representatives advised that the proposed structure of the annual administration fee (e.g. annual calculation of the outstanding balance and quarterly payments) was too burdensome and would discourage their participation in the pilot project. They suggested combining the administration fee with the registration fee and paying the combined fee upfront with the registration of the lease.

Taking these concerns into consideration, Industry Canada conducted research to analyse the current revenue streams provided by the annual 1.25 percent charge on CSBFA loan to determine the equivalent upfront fee rate to charge on capital leases. The results of this research gave rise to the following two options, only one of which one can be chosen for the pilot project:

- ▶ Option 1: an annual administration fee of 1.25 percent applied on the outstanding balance of the capital lease at the end of the year and remitted quarterly to the Minister (based on an estimate of the annual aggregate outstanding balance).
- ▶ Option 2: an upfront administration fee, which could be combined with the registration fee, based on the capital lease term as follows:
  - 2 percent for leases less than three years
  - 4 percent for leases equal to or more than three years but less than seven years
  - 8 percent for leases equal to or more than seven years.

During the second round of consultations, participants were asked the following question:

### ***Should the administration fee be annual (remitted quarterly) or upfront?***

Although the views were mixed, most participants agreed that an annual administration fee of 1.25 percent paid quarterly would be the preferred option. The following comments were made:

- ▶ An annual administration fee of 1.25 percent paid quarterly would be easier to administer than an upfront administration fee.
- ▶ Since an upfront fee seems to be more costly, the annual one would be a better option for startups.
- ▶ In case of early termination on default, the program would have to provide for reimbursement, since an upfront fee takes into account that all the payments are made.
- ▶ The rate of 1.25 percent may be too high given the loss rate of approximately 5 percent or less (on this point, the industry participants could not provide hard data to support their argument).
- ▶ Any new administrative burden or difference between the pilot project and the core lending program may have a negative impact on certain participants, particularly the lenders involved in the CSBFA lending program.

## Maximum interest rate

During the first round of consultations, the participants stated that the proposed maximum interest rate of 8 percent above the Government of Canada long bond (CLB) rate was sufficient for leases of more than \$50 000, but was too low to permit smaller leases. The industry representatives said that they would not offer leases less than \$50 000 (e.g. computers) with the proposed maximum interest rate cap. The proposed bilevel cap on the maximum interest rate that can be charged under the capital leasing pilot project tries to balance the need to offer a broad range of leases to small businesses under the pilot project with the need to protect small businesses from excessive financing costs.

The draft regulations proposed a bilevel maximum interest rate based on the total financing amount of the capital leasing, as follows:

- ▶ 8 percent above the CLB rate for leases equal to or more than \$50 000 (i.e. currently equivalent to about 14 percent);
- ▶ 12 percent above the CLB rate for leases below \$50 000 (i.e. currently equivalent to about 18 percent).

Participants were asked to respond to the following question:

***Is the proposed bilevel maximum interest rate adequate to permit a broad range of capital leases under the capital leasing pilot project?***

Participants felt that one cap would be better, but that the proposed cap of 12 percent above the CLB rate may not be enough for smaller leases (below \$10 000). The following comments were made:

- ▶ A bilevel maximum interest rate creates an artificial barrier which could encourage manipulation (lease splits), and it does not reflect the reality of the market, but most participants think it would be acceptable.
- ▶ There is enough competition in the leasing industry to assure there is no abuse in relation with the interest rate.
- ▶ The proposed cap of 12 percent above the CLB rate would not work for smaller leases (i.e. below than \$10 000; lessors also said that they often do not register security interests in equipment which is the subject of a lease of this size, which would make such a lease ineligible under the pilot project), and is very low for new businesses.
- ▶ Since smaller leases cost approximately the same as larger ones for the lessors to administer, the interest rate should reflect it.
- ▶ A rate of 17 percent above the CLB rate is recommended for the cap.
- ▶ A more graduated structure would also be acceptable, but it would introduce an administrative burden for lessors, assignees and the government. Participants suggested a five-level interest rate if the multi-level approach were to be introduced.

- ▶ The rate of interest is not disclosed to the lessee in the capital lease and in the registration form, but rather in a separate form.

The following sliding scale would be acceptable to most participants:

<b>Amount of the capital lease</b>	<b>Rate</b>
\$1 000 to \$10 000	CLB plus 17%
\$10 000 to \$25 000	CLB plus 15%
\$25 000 to \$50 000	CLB plus 12%
\$50 000 to \$100 000	CLB plus 6%
\$100 000 and over	CLB plus 5%

## Advice and Feedback on Draft Regulations

Throughout the consultations, participants were asked to outline their concerns, comments and questions on the proposed draft regulations. The following paragraphs summarize the comments and suggestions received.

### Interpretation (section 1)

“Aggregate outstanding balance”

Participants agreed that the outstanding balance of a capital lease should be calculated at the implicit imputed rate of interest used in the calculation of the monthly payments of the capital lease.

“Capital lease”

The definition of capital lease raised some concerns with the lessors, mainly because they felt that the majority of leases made under the pilot project will not contain a discount rate. They suggested replacing the discount rate with the rate specified in the liquidated damage clause of the capital lease.

“Cost of the equipment”

Participants stated that, given the very restricted list of admissible fees, there needs to be clarification on what is meant by “the additional costs necessary to the operation of the equipment.”

“Lessor”

Participants had some concerns with some elements of the proposed definition of “lessor,” particularly the leasing companies approved by a Canadian bond rating agency and the organizations designated by the Minister.

They said that leasing companies approved by a Canadian bond rating agency were not necessarily originators of capital leases. Therefore this criterion would not serve its purpose, which is to designate organizations that have already gone through a rigorous scrutiny process, in this case through the rating agency. Some suggestions were made to replace this criterion:

- ▶ use the “de minimis” financial institutions test set out in Section 149 of the *Excise Tax Act*.
- ▶ impose a requirement that the leasing company must meet the following conditions:
  - its securities are publicly traded

- it has issued commercial paper in the past two years with a rating of BBB or more by a Canadian bond rating agency.

With respect to organizations designated by the Minister, participants strongly felt that Industry Canada will have to be careful in designating smaller lessors.

Participants also had concerns about the distribution of the cap of 150 and the criteria that will be used.

“Small business”

A number of participants strongly suggested that the agriculture or agri-business sector should be included in the pilot project, given the importance of lease financing in this sector.

They also argued that it is more and more difficult to differentiate between agricultural business and business in general.

### **Cap on claims (section 7)**

Participants agreed that the proposed thresholds seem fair and reasonable.

However, they strongly stated that in order to get funding for their capital lease, it was necessary for the funder to receive some assurance that the guarantee attached to the capital lease would follow once the lease had been assigned.

They suggested that, for situations where the lease is assigned within three months of the date it was entered, the funder could register the lease under the pilot project, so that it would get the guarantee. No suggestions were made for a situation where the lease would be registered by the lessor before being assigned.

### **Loss sharing ratio (section 9)**

This issue seemed to be a major concern among participants. They argued that since leases to targeted small businesses are riskier, the share of the lessor’s loss should not be increased but rather reduced in order to encourage them to offer these leases.

They suggested that the loss ratio be increased to 85:15 as in the core lending program, and even to 90:10 to ensure that if a lease were being assigned for the purpose of securitization, it would be treated as a “sale” for tax purposes.



### **Content of the capital lease registration form (section 12)**

Participants all agreed that the interest rate is never set out in the capital lease. They made it clear that they were not willing to disclose the rate of interest to the lessee, but that they would be willing to disclose the interest rate to the government on a separate form, which would not be seen by the lessee.

They also suggested replacing the term “interest rate” with the “imputed rate of interest,” as it is the term generally used in the industry.

### **Appraisal (section 13)**

Participants felt that, since lessors usually develop specialized knowledge about the types of equipment they lease, this section should be modified to permit the lessor to make its own reasonable investigation to substantiate the value and economic life of any used equipment. They suggested that an appraisal of the value of the used equipment should be required only for non-arm’s-length transactions.

### **Fees or charges payable by a lessee (section 14)**

This was a major issue for all participants. They all agreed that many fees charged to lessees under customary leasing procedures are precluded by the current proposal. Usual fees include “booking” or “setup” fees, non-sufficient funds charges, personal property security registration charges, inspection costs, costs and expenses associated with repossession of the collateral, improvements, repairs, preparation for disposition, costs of sale, bailiff’s fees, administration fee for changes to the lease requested by the lessee and protective disbursements made by lessors.

### **Due diligence requirements (section 19)**

In general, lessors had no problem with the due diligence requirements proposed, since they are already applying these requirements or are used to them under the core lending program. However, they strongly urged finding a way to make sure that all the participating lessors apply the same due diligence requirements to the leases under the program as for non-guaranteed leases.

Participants seemed comfortable with adding a requirement to substantiate the fair market value and remaining economic life of the used equipment leased in their lease file.

## **Payment terms (section 20)**

Given that capital leases are usually for terms between three and five years, some participants thought that a maximum payment term of ten years might be too long.

## **Security (section 22)**

The majority of lessors admitted that smaller leases (i.e. less than \$10 000) are usually not registered under personal property security legislation because they feel such registration is not worth the cost incurred. They suggested that this requirement apply only for leases of more than \$10 000.

## **Securitization (section 35)**

Participants' major concerns revolved around the securitization issue. In their view, while the proposed capital leasing pilot project draft regulations go a long way toward accommodating one form of capital lease funding, namely securitization, stakeholders were concerned that this would be too narrow to capture and facilitate emerging forms of funding that do not depend on securitization per se. The following comments were made:

- ▶ The facilitation of lease funding as it is currently carried on in the leasing industry is fundamental to the success of the pilot project.
- ▶ The proposal should be modified in order to make the funding patterns for capital leases mirror those that exist generally today.
- ▶ Since most lease fundings take place on a "non-notification" basis, the lessee's signature should not be required on the transfer form.
- ▶ In most lease funding mechanisms, the transferor will continue to administer the lease even if it is assigned to a funder.
- ▶ The guarantee definitely has to follow the lease.
- ▶ A designated lessor should have the right to receive an assignment of an unregistered lease and to register that lease in its own name; in such a case, the funder's own limits would be applicable.
- ▶ The current proposal regarding the 90:50:10 rule could cause a problem with lease funding situations if the funder is not the entity registering the lease under the pilot.

## **Calculation of the eligible loss (subsection 43(7))**

Participants strongly felt that there is no rationale for differential treatment of loans and capital leases in the cases of the timing of reductions in the applicable rate of post default interest. They also agreed that leasing companies tend to move faster than their colleagues in the lending sphere.

## **Other Issues**

The following are some additional issues and concerns raised by the participants throughout the consultation process.

### *Upgrades*

Since one of the most important benefit of capital lease is the ability for the lessee to make ongoing improvements to and substitutions of equipment subject to a capital lease, participants felt that the pilot project regulations should give the parties more latitude to do so. The following suggestions were made:

- ▶ The definition of what constitutes an upgrade under the pilot project needs clarification.
- ▶ The registration fee should be calculated on the difference between the outstanding balance of the lease before and after the upgrade.
- ▶ The extension of the lease term following an upgrade should not require ministerial approval.
- ▶ Lessors should be able to charge the lessee reasonable administration and setup fees.

### *“Super-priority”*

“Super-priority” rules give the federal Crown the right to seize assets or to demand the proceeds of sale of any assets to reimburse the Crown for losses arising from employee deductions at source and for GST not remitted by a business taxpayer as required by law. This is a major issue for the lessors. Participants made the following comments regarding these rules:

- ▶ The “super-priority” rules will have a long-term impact on business access to credit, especially for small businesses targeted by the pilot project.
- ▶ Lending and credit policies are currently being reviewed because of those rules, and some of the new policies are constricting credit to business customers, especially startups and new clients.
- ▶ Lessors are no longer willing to work with lessees who have financial problems in order to find solutions.
- ▶ If lessor losses resulting from a Crown “super-priority” claim are not considered to be eligible under the pilot project, lessors will be more reluctant to participate in the project.

## Next Steps

Following these consultations, Industry Canada intends to refine the draft regulations prior to seeking the necessary Cabinet approvals. Then, the regulatory process, including prepublication in the *Canada Gazette Part I*, is expected to take place through the fall of 2001. As required under the Act, the regulations will be tabled with the appropriate parliamentary committees, which may choose to hold hearings on them and to call witnesses from the industry.

Another key step to be undertaken in parallel with the consultations and the regulatory development process is the development of the capital leasing pilot project performance evaluation framework. It will be based on the CSBFA program evaluation framework and will have the objective of measuring the performance and success of the pilot project. The development of the performance evaluation framework began in January 2001 and will continue through July 2001.

Finally, following regulatory approval, the pilot project will be implemented. The launch is targeted for April 1, 2002. Industry Canada has committed to giving the project deliverers training on the pilot and its implementation at least 90 days prior to the launch date. Implementation efforts will be key to the success of the pilot project, as they will increase awareness and provide information to potential users of the pilot project. The awareness program will include marketing initiatives targeted at small businesses. Information products will include a lessor application package. The package will provide financial institutions and leasing companies with information on the capital leasing pilot project and an application form for designation as lessor under the pilot project. There will also be guidelines and a self-learning tool for lessors to ensure ease of delivery and use of the pilot project.