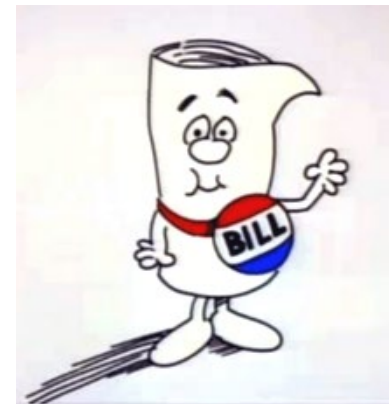




**ULCC 2009 Annual Meeting
Ottawa, ON**

Proposed *Uniform Trust Indenture Act*

*Wayne Gray
McMillan LLP*



Origin of Proposal

Securities Law Subcommittee

Business Law Section

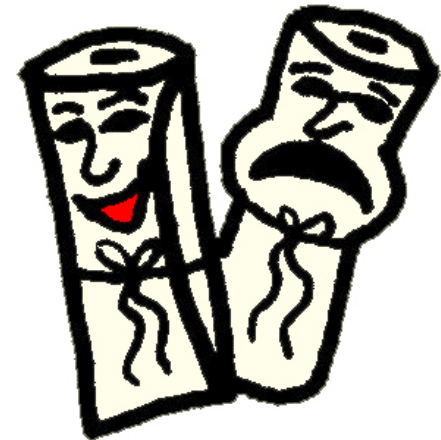
Ontario Bar Association



OBA • ABO

Ontario Bar Association

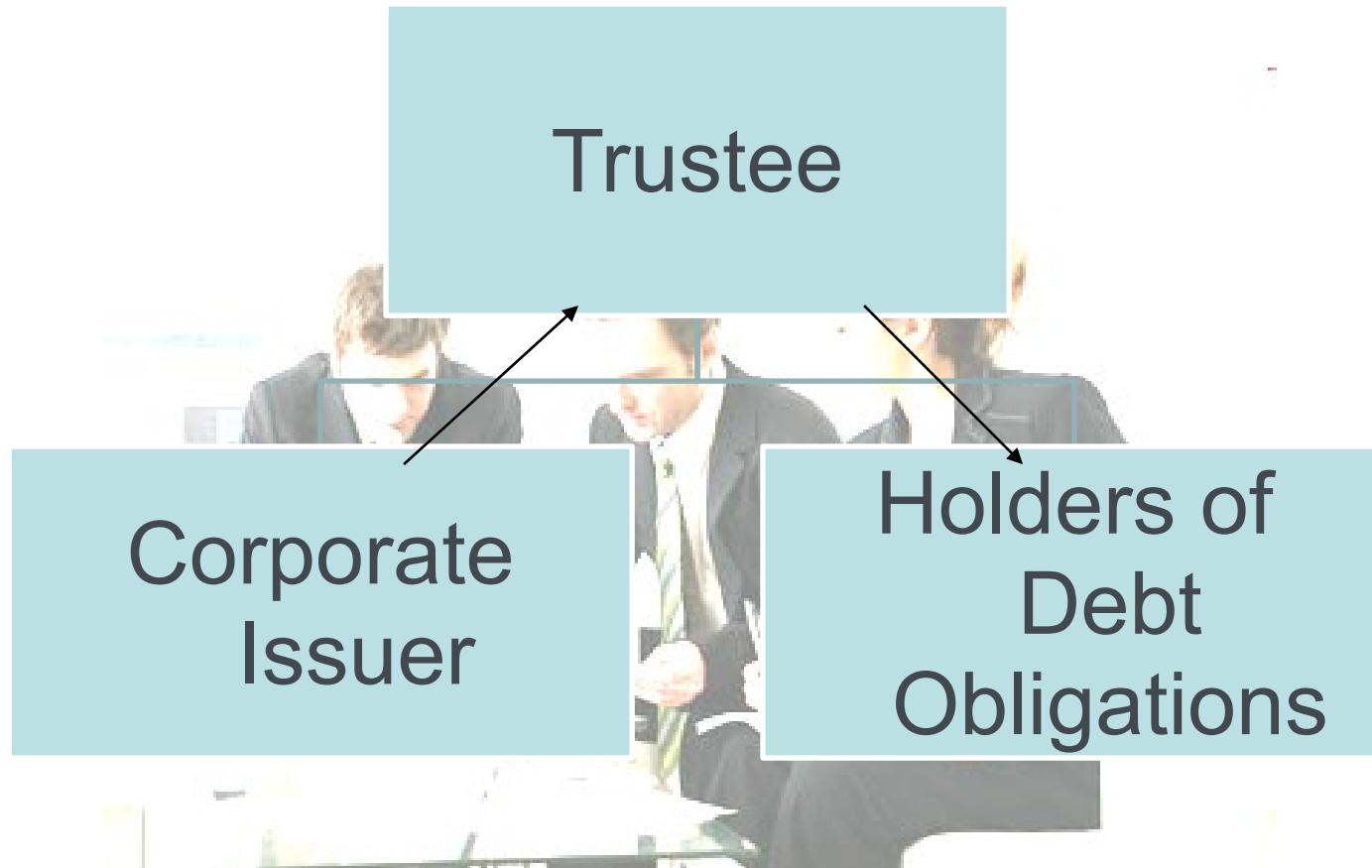
Association du Barreau de l'Ontario



What is a Trust Indenture?



Structure of Trust Indenture



Terms of Trust Indenture:

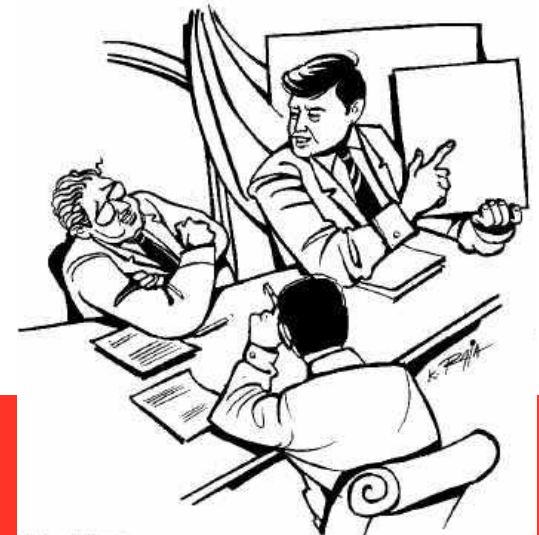
- Principal
- Interest Rate
- Repayment Terms
- Events of Default
- Security Interests (if any)



Holders bond together for common action

Purposes of Regulation of Trust Indentures

1. Holders served by a disinterested trustee
(quality control of trustee)
2. Full and fair disclosure to holders of debt obligations
 - (a) upon issuance
 - (b) until repayment in full



Drivers for Uniformity

- Investors - who expect high level of uniformity in investor protection mechanisms
- Trustees - similar laws govern their duties
- Issues - similar expectations to other issuers



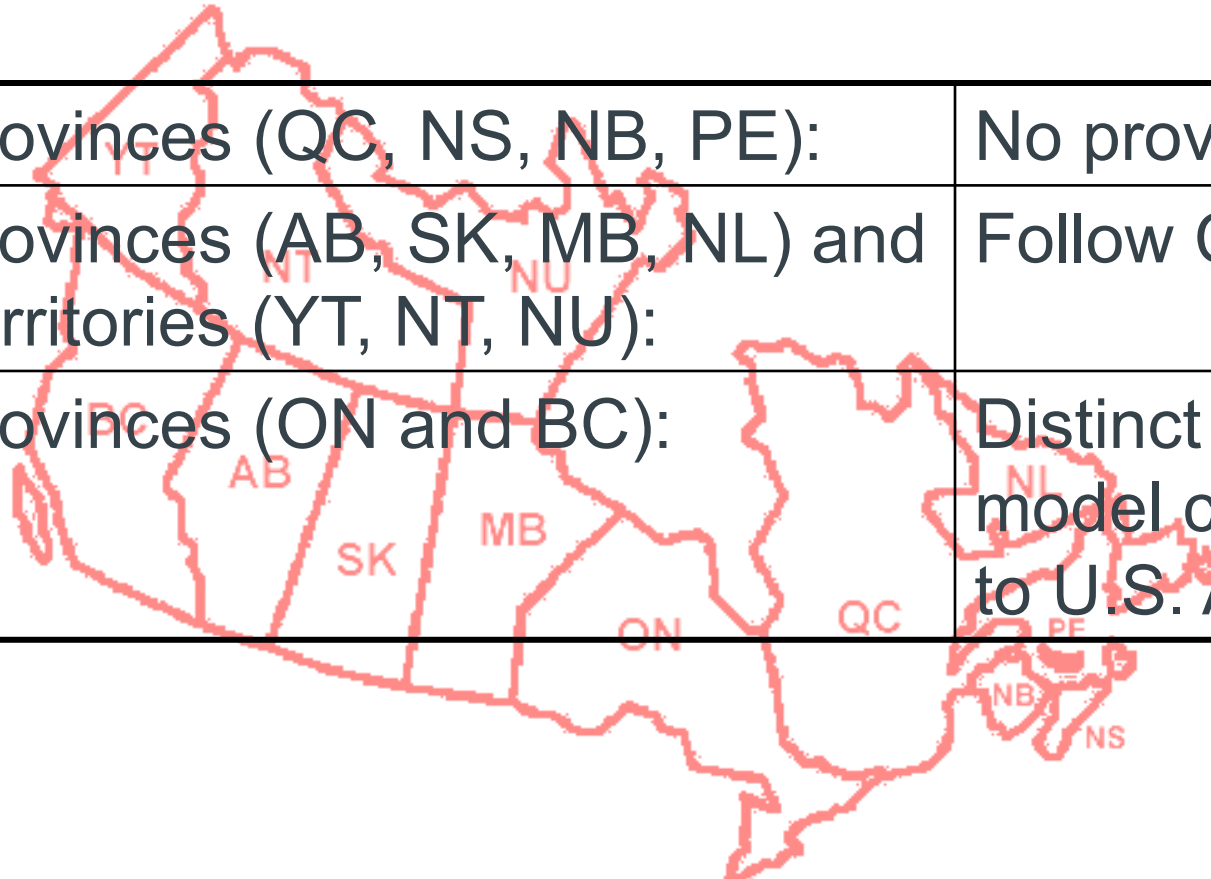
State of Uniformity in Canada



Federal law:

- CBCA, Part VIII
- new *Canada Not-for-profit Corporations Act*
- *Canada Cooperatives Act*
- Federal financial institutions legislation
(e.g. *Bank Act*, *Insurance Companies Act* and *Trust and Loan Companies Act*)

Provincial/Territorial Law



4 Provinces (QC, NS, NB, PE):	No provisions
4 Provinces (AB, SK, MB, NL) and 3 Territories (YT, NT, NU):	Follow CBCA
2 Provinces (ON and BC):	Distinct model closer to U.S. Act

U.S.

- Governed by *Trust Indenture Act* of 1939
- Completely Uniform
- Closest Analogues in Canada are ON and BC



Fundamental Difference between Prevailing Models

- CBCA Model regulates corporate issuers, not investor protection *per se*
- U.S., ON and BC provide investor protection



Other Differences

- Distribution to the Public vs. Prospectus Filing
- Exemptions



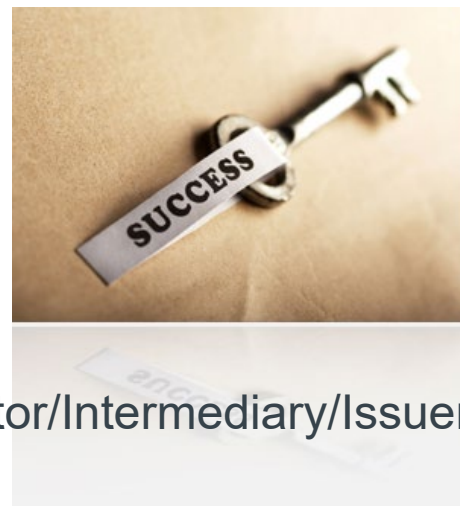
Exemptions



CBCA Model:	Director/Registrar may exempt if home jurisdiction is substantially equivalent (e.g. U.S. Act)
U.S./ON/BC	Securities Commission has discretion to exempt if satisfied not prejudicial to public interest

Summary

- Neglected Area
- Great Natural Candidate
- Market Forces strongly favour Uniform Investor/Intermediary/Issuer Expectations
- This Drives Uniformity
- State of Affairs in Canada Highly Balkanized
- Project Highly Doable
(Part VIII of CBCA comprises 12 Sections)
- New Ground
- ULCC has an opportunity to create a Uniform Act that ought to be well-received by capital markets and, one expects, legislators





Proposed Uniform Trust Indenture Act

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