Although there may be some differences among the federal and provincial acts, broad lines of the legislation are common. In their financial intermediary business, the companies have the power to borrow or, in the case of trust companies, to accept funds in guaranteed accounts subject to maximum permitted ratios of these funds to shareholders' equity. The funds may be invested in specified assets which include: first mortgages secured by real property; government securities; bonds and equity of corporations having established earnings records; loans on the security of such bonds and stocks; and unsecured personal loans. Trust and mortgage loan companies are not required to hold specified cash reserves, as are the chartered banks, but there are broadly defined liquid asset requirements in a number of the acts.

In the 1920s, trust and mortgage companies held about half the private mortgage business in Canada but their growth rate fell off sharply because of the effects of the depression and World War II on the mortgage business. Since then strong demand for mortgage financing has led to sustained rapid expansion.

At the end of 1987, total assets of trust companies in the Statistics Canada survey were $90.0 billion compared with $79.4 billion in 1986, an increase of 13%. Trust companies have been putting a high proportion of their funds into mortgages and 62% of their total assets were represented by mortgages at the end of 1987. The trust companies had $61.0 billion in term deposits outstanding and $19.5 billion in demand and notice deposits at the end of 1987, accounting for 89% of total funds. About 44% of demand or savings deposits were in chequing accounts. There is considerable variety among the trust companies and a few have developed a substantial short-term business, raising funds by issuing certificates for terms as short as 30 days and also operating as lenders in the money market. But the main business of trust companies in their financial intermediary role is to channel savings into mortgages. In addition, trust companies, as at December 31, 1987, had $173 billion under administration in estate, trust and agency accounts.

Mortgage loan companies had total assets of $77.5 billion at the end of 1987, compared with $57.8 billion in 1986. Their holdings of mortgages were $64.3 billion, or 83% of total assets. To finance their investments, these companies raised $38.4 billion of term deposits and $18.0 billion of demand deposits and sold $561 million of debentures.

More complete and up-to-date financial information may be found in quarterly financial statements published by Statistics Canada and the Bank of Canada, the reports of the superintendent of financial institutions on loan and trust companies and the reports of provincial supervisory authorities.

18.3 Insolvency

The term "insolvency" refers to the state or condition of a person (or of a company engaged in business) when he is no longer able to pay his debts as they normally become due for payment.

Bankruptcy may be defined as a legal process which stays all legal actions pertaining to a debtor's debts and which, in general, involves a summary and immediate seizure of all debtor property as assets by a trustee, distribution of these assets among the estate creditors, and discharge of the debtor from future liability for most of the debts which existed at the moment of bankruptcy.

While involving essentially the same administrative principles and processes under the Bankruptcy Act, a distinction is made between a consumer bankruptcy and a commercial bankruptcy because of different conceptual objectives and the impact of provincial legislation respecting the property of an individual which is exempt from seizure in a bankruptcy. A consumer bankruptcy is viewed primarily as a mechanism for providing relief to a financially overburdened debtor from legal actions such as the seizure of assets and the imposition of wage garnishments. A commercial bankruptcy is usually more complex and it is primarily a mechanism for the orderly and equitable distribution of assets of an insolvent company to free them for eventual reintegration into the economy.

Responsibility for the supervision of the bankruptcy process rests with a Superintendent of Bankruptcy appointed by the Governor-in-Council who oversees the provisions of the Bankruptcy Act as it applies to trustees in bankruptcy, creditors and bankrupts. The Superintendent of Bankruptcy is also the Director of the bankruptcy branch of Consumer and Corporate Affairs Canada. His prime responsibility is to promote confidence in and to protect the integrity of the credit system through the regulation of the bankruptcy process and through the systematic detection and prosecution of fraudulent practices and other abuses.

Operational responsibilities of the Superintendent of Bankruptcy include licensing and supervision of all trustees in bankruptcy, examining bankrupt estates for possible offences under the Bankruptcy Act or the Criminal Code,