



# Capital Markets Tribunal Rules of Procedure and Forms

(As of April 29, 2022)

Made under the *Statutory Powers Procedure Act*, RSO 1990, c S.22, s 25.1



Ontario

# Table of Contents

<b>General Rules.....</b>	<b>1</b>
1. Objective.....	1
2. Scope .....	1
3. General Powers.....	1
4. Practice Guideline for Proceeding Management .....	1
5. Definitions.....	1
6. Service.....	3
7. Filing .....	4
8. Communicating with a Panel .....	4
9. Calculation of Time .....	4
<b>Proceedings .....</b>	<b>4</b>
10. Commencement of Proceeding .....	4
11. Enforcement Proceeding .....	4
12. Application for Authorization to Disclose.....	5
13. Request for a Temporary Order or for Extension of Temporary Order .....	6
14. Application for Hearing and Review.....	6
15. Application for Further Decision or Revocation or Variation of a Decision.....	7
16. Application for Transactional Proceeding .....	7
17. Other Applications .....	7
18. Amendment of Application or Allegations .....	8
19. Withdrawal of Application, Allegations or Motion .....	8
20. Confidential Conferences .....	8
21. Participation in Proceedings .....	9
<b>Conduct in Hearings.....</b>	<b>9</b>
22. Public Access .....	9
23. Types of Hearings.....	11
24. Language of Proceedings.....	11

25. Accessibility .....	11
26. Summonses.....	12
27. Disclosure .....	12
28. Motions .....	13
29. Adjournments .....	14
30. Joint Hearings.....	14
31. Notice of Constitutional Question.....	15
<b>Settlement .....</b>	<b>15</b>
32. Confidential Settlement Conference .....	15
33. Public Settlement Hearing .....	16
<b>Decisions.....</b>	<b>16</b>
<b>Sanctions and Costs .....</b>	<b>16</b>
35. Sanctions and Costs Hearing .....	16
<b>APPENDIX A: STATEMENT OF ALLEGATIONS .....</b>	<b>18</b>
<b>APPENDIX B: MOTION .....</b>	<b>19</b>
<b>APPENDIX C: APPLICATION FOR AUTHORIZATION TO DISCLOSE INFORMATION .....</b>	<b>20</b>
<b>APPENDIX D: APPLICATION FOR EXTENSION OF A TEMPORARY ORDER .....</b>	<b>21</b>
<b>APPENDIX E: APPLICATION FOR HEARING AND REVIEW.....</b>	<b>22</b>
<b>APPENDIX F: APPLICATION FOR FURTHER DECISION OR REVOCATION OR VARIATION OF A DECISION .....</b>	<b>24</b>
<b>APPENDIX G: APPLICATION FOR TRANSACTIONAL PROCEEDING .....</b>	<b>25</b>
<b>APPENDIX H: NOTICE OF WITHDRAWAL .....</b>	<b>26</b>
<b>APPENDIX I: SUMMONS.....</b>	<b>27</b>
<b>APPENDIX J: ORDER .....</b>	<b>28</b>

# General Rules

## 1. Objective

The objective of these Rules is to ensure that proceedings before the Tribunal are conducted in a just, expeditious and cost-effective manner.

## 2. Scope

These Rules apply only to proceedings before a Panel.

## 3. General Powers

A Panel may waive any of these Rules at any time on such terms, if any, as it considers appropriate, to further the objective set out in Rule 1.

## 4. Practice Guideline for Proceeding Management

### (1) Practice Guideline

The Tribunal may issue and amend a guideline to assist with the application of these Rules.

### (2) Timelines

Timelines for procedural steps shall be as set out in the guideline issued by the Tribunal, unless a Panel orders otherwise.

## 5. Definitions

In these Rules:

- (a) “Act” means the *Securities Act*, RSO 1990, c S.5;
- (b) “Adjudicative Record” means:
  - (i) an Application, Statement of Allegations, Motion or Notice of Withdrawal;
  - (ii) a Notice of Hearing;
  - (iii) a written submission filed in respect of a proceeding;
  - (iv) a document that has been admitted as evidence at a hearing or otherwise relied upon by a Panel in making a decision or an order;
  - (v) a transcript of a hearing;
  - (vi) a decision or an order and any reasons for the decision or order; and
  - (vii) any other record that relates to a proceeding before a Panel and that is prescribed by the regulations made under the *Tribunal Adjudicative Records Act, 2019*, SO 2019, c 7, Sched 60.

Records relating to any attempt to resolve a matter in a proceeding, including documents filed in respect of a confidential settlement conference or a confidential conference, are not Adjudicative Records.

- (c) “Adjudicator” means an individual appointed as an adjudicator to the Tribunal pursuant to the *Securities Commission Act, 2021*;
- (d) “Applicant” means a person or company who files an Application under these Rules, and includes Staff;
- (e) “holiday” means:
  - (i) every Saturday and Sunday;
  - (ii) New Year’s Day, Family Day, Good Friday, Victoria Day, Canada Day, August Civic Holiday, Labour Day, Thanksgiving Day, Christmas Day and Boxing Day;
  - (iii) any special holiday proclaimed by the Governor General or the Lieutenant Governor; and
  - (iv) if:
    - i. New Year’s Day or Canada Day falls on a Saturday or Sunday, the following Monday is a holiday;
    - ii. Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday are holidays; and
    - iii. Christmas Day falls on a Friday, the following Monday is a holiday;
- (f) “Panel” means one or more Adjudicators who preside over a hearing or make an order or decision relating to a proceeding;
- (g) “Party” includes an Applicant and a respondent to an Application and Staff;
- (h) “Practice Guideline” means the guideline issued by the Capital Markets Tribunal under these Rules;
- (i) “proceeding” means any matter commenced under these Rules by the issuance of a Notice of Hearing, and includes all hearings in the matter;
- (j) “representative” means an individual authorized under the *Law Society Act*, RSO 1990, c L.8, to represent a person or company in a proceeding before a tribunal, and “represented” has the corresponding meaning; and
- (k) “Tribunal” means the Capital Markets Tribunal, established as a division of the Ontario Securities Commission under section 25 of the *Securities Commission Act, 2021*.

## **6. Service**

### **(1) Service on representatives**

Anything required by these Rules to be served on a represented Party shall be served on the representative.

### **(2) Service on Unrepresented persons or companies**

Anything required by these Rules to be served on an unrepresented person or company shall be served by one of the following methods:

- (a) if on an individual, by electronic or personal delivery;
- (b) if the person or company has an officer, director, agent or business partner, by electronic or personal delivery to the officer, director, agent or business partner;
- (c) if the person or company has a place of business, by leaving a copy with an individual who appears to be in control of the place of business;
- (d) by courier or mail to the person or company's last known address; or
- (e) by any other means authorized by a Panel.

### **(3) Effective date of service**

Service is effective, when delivered:

- (a) electronically, on the day of delivery;
- (b) by personal delivery, on the day of delivery;
- (c) by leaving a copy with an officer, director, agent or business partner of a person or company or an individual in control of a place of business of the person or the company, on the day of delivery;
- (d) by mail, on the fifth day after the day of mailing;
- (e) by courier, on the earlier of the date on the delivery receipt or the fifth day after sending;
- (f) after 4:30 p.m., on the day following the day specified in this Rule for the applicable method of service; and
- (g) by any other means authorized by a Panel, on the date specified by the Panel.

### **(4) Waiver of service**

A Panel may waive or validate service.

## 7. Filing

### (1) How to file

Anything required by these Rules to be filed shall be filed by sending it to the Registrar in accordance with the Practice Guideline and, after a proceeding is commenced, shall identify the file number assigned to the proceeding.

### (2) Filing after 4:30 p.m.

A document filed after 4:30 p.m. shall be considered filed on the next day.

### (3) Filing is not service

Filing a document with the Registrar does not constitute service on any Party, including Staff.

## 8. Communicating with a Panel

All communications with a Panel member by a Party, other than in a hearing, shall be sent to the Registrar with a copy to all other Parties.

## 9. Calculation of Time

A time requirement in these Rules, the Practice Guideline or an order of a Panel shall be calculated as follows:

- (a) if the number of days between two events is stated:
  - (i) the date of the first event is not counted; and
  - (ii) the date of the second event is counted;
- (b) if the time is less than seven days, holidays are not counted; and
- (c) if the day by which an act shall be done, or is effective, falls on a holiday, the act shall instead be done by, or effective on, the next day that is not a holiday.

## Proceedings

### 10. Commencement of Proceeding

A proceeding shall be commenced by the issuance of a Notice of Hearing by the Tribunal after a Statement of Allegations or an Application is filed.

### 11. Enforcement Proceeding

#### (1) Enforcement proceeding brought by Staff – s.127(1)

A request by Staff for an order under s.127(1) of the Act shall be made by filing a Statement of Allegations using the form in Appendix A.

## **(2) Service**

Staff shall serve the Notice of Hearing and Statement of Allegations on all Parties and file an Affidavit regarding service without delay.

## **(3) Inter-jurisdictional enforcement proceeding, expedited procedure**

In an inter-jurisdictional enforcement proceeding under ss.127(1) and 127(10) of the Act, Staff may adopt the following expedited procedure:

- (a) Staff shall file its Statement of Allegations, in which Staff elects this expedited procedure;
- (b) the Notice of Hearing issued by the Tribunal shall provide notice of this expedited procedure;
- (c) Staff shall serve without delay the Notice of Hearing, the Statement of Allegations, its hearing brief containing all documents relied on, and its written submissions, on all respondents;
- (d) Staff shall file without delay its hearing brief and written submissions, along with an Affidavit of Service evidencing the service referred to in Rule 11(3)(c);
- (e) a respondent may request, within 21 days following the service referred to in Rule 11(3)(c), that the proceeding be heard orally by serving and filing a written request;
- (f) if no request for an oral hearing is filed within 21 days of the service referred to in Rule 11(3)(c), the hearing will proceed in writing, unless a Panel orders otherwise;
- (g) a respondent who does not request an oral hearing may serve and file a hearing brief and written submissions within 28 days following the service referred to in Rule 11(3)(c); and
- (h) if a respondent files written submissions, Staff may serve and file written reply submissions within 14 days following service of the respondent's submissions or if more than one respondent files written submissions, following the latest date on which a respondent may file written submissions.

## **12. Application for Authorization to Disclose**

### **(1) Authorization to disclose information about an investigation or examination – s.17**

A request for an order under s.17 of the Act authorizing disclosure of information about an investigation or examination under Part VI of the Act shall be made by filing an Application using the form in Appendix C.

## **(2) Service**

If all persons and companies who are entitled to an opportunity to object consent to the Application, or if a Panel is satisfied that the Application may proceed under s.17(2.1) of the Act, the Application may proceed in writing under Rule 23(2). Otherwise, the Applicant shall serve without delay the Application on Enforcement Staff (if Enforcement Staff is not the Applicant) and on any other person or company that a Panel directs. Otherwise, the Applicant shall serve without delay the Application on Enforcement Staff (if Enforcement Staff is not the Applicant) and on any other person or company that a Panel directs.

## **13. Request for a Temporary Order or for Extension of Temporary Order**

### **(1) A request for a temporary order or for an extension of a temporary order made under s.127(5) – ss.127(7) or (8)**

A request made on notice for a temporary order or to extend a temporary order shall be made by filing:

- (a) if the request is not made in an existing proceeding, an Application using the form in Appendix D and the temporary order, if applicable; or
- (b) if the request is made in an existing proceeding, a Motion using the form in Appendix B and the temporary order, if applicable.

## **(2) Service**

If the request is made by application, the Applicant shall serve without delay the Application and the Notice of Hearing on any person or company directly affected by the temporary order and shall file an Affidavit regarding service without delay. If the request is made by motion, the moving Party shall comply with Rule 28 and the Motion shall constitute a notice of hearing under s.127(9) of the Act.

## **14. Application for Hearing and Review**

### **(1) Hearing and review of a decision of the Director, an exchange, self-regulatory organization, quotation and trade reporting system, clearing agency or trade repository – ss.8 and 21.7**

A request for a review of a Director's decision under s.8 of the Act or for a review of a decision of a recognized exchange, self-regulatory organization, quotation and trade reporting system or clearing agency or a designated trade repository under s.21.7 of the Act shall be made by filing an Application using the form in Appendix E.

## **(2) Service**

The Applicant shall serve without delay the Application and Notice of Hearing on every other party to the original proceeding and on Enforcement Staff.

## **(3) Stay of decision**

The Applicant may, under s.8(4) of the Act, request a stay of the original decision until the hearing and review is concluded by filing and serving a Motion using the form in Appendix B.

# **15. Application for Further Decision or Revocation or Variation of a Decision**

## **(1) Further decision or revocation or variation of a decision – ss.10(7) or 144.1**

A request for a further decision under s.10(7) of the Act or a request for revocation or variation of a decision under s.144.1 of the Act shall be made by filing an Application using the Form in Appendix F.

## **(2) Service**

The Applicant shall serve without delay the Application and Notice of Hearing on every other Party to the original proceeding.

# **16. Application for Transactional Proceeding**

## **(1) Transactional proceeding – ss.104 or 127(1)**

A request for an order under s.104 or s.127(1) of the Act relating to a matter regulated under paragraph 26, 27 or 28 of s.143(1) of the Act, including a take-over bid, issuer bid, amalgamation, statutory arrangement, other form of merger or acquisition however structured, related party transaction or meeting of security holders, shall be made by filing an Application using the form in Appendix G.

## **(2) Service**

The Applicant shall serve without delay the Application and Notice of Hearing on every other Party, including M&A Staff.

# **17. Other Applications**

## **(1) Other applications**

A request for an order not specified in these Rules shall be made by filing an Application that states:

- (a) the order sought;

- (b) the grounds for the request; and
- (c) the evidence the Applicant intends to use.

## **(2) Service**

The Applicant shall serve without delay the Application and Notice of Hearing on every other Party, including Enforcement Staff.

## **18. Amendment of Application or Allegations**

An Applicant may amend a Statement of Allegations or an Application at any time with consent of the Parties or with permission from a Panel granted on a Motion using the form in Appendix B. The motion record shall include an amended version that clearly indicates the amendments by underlining the new text and striking-through removed text. A Panel shall grant permission unless the amendment would be unfairly prejudicial to a Party.

## **19. Withdrawal of Application, Allegations or Motion**

### **(1) Notice of Withdrawal**

A Party may withdraw a Statement of Allegations, an Application or a Motion, against one or more Parties at any time before a final determination by a Panel, by filing and serving every Party with a Notice of Withdrawal using the form in Appendix H, and, in the case of withdrawal against some but not all Parties, an amended Statement of Allegations or Application that clearly indicates the amendments resulting from the withdrawal by underlining the new text and striking-through the removed text.

### **(2) Title of the proceeding**

If a Statement of Allegations or an Application is withdrawn against some but not all other Parties, the title of the proceeding on all subsequent documents shall be as a Panel directs.

## **20. Confidential Conferences**

### **(1) Confidential Conferences**

At any stage of a proceeding, a Party may request or a Panel may direct that the Parties participate in a confidential conference to consider:

- (a) the settlement of any or all of the issues;
- (b) the simplification of the issues;
- (c) facts that may be agreed upon; and
- (d) any other matter that may further a just, expeditious and cost-effective disposition of the proceeding.

## **(2) Disqualification of confidential conference Adjudicator**

An Adjudicator who presides at a confidential conference at which the Parties attempt to settle issues shall not preside at a subsequent hearing in the proceeding unless the Parties consent.

## **21. Participation in Proceedings**

### **(1) Change in representation**

A Party who is represented may:

- (a) change the Party's representative by serving every other Party with, and filing, notice of the change, including the name, address, telephone number and e-mail address of the new representative; or
- (b) elect to appear on the Party's own behalf by serving every other Party with, and filing, notice of the change, including the Party's address, telephone number and e-mail address.

### **(2) Removal of representative of record**

On a motion by a representative or Party, a Panel may order the removal of a representative as the representative of record.

### **(3) Failure to participate**

If a Notice of Hearing is served on a Party and the Party does not attend a hearing, the proceeding may continue in the Party's absence and the Party is not entitled to any further notice in the proceeding.

### **(4) Intervenor participation**

On motion, a Panel may grant a person or company who is not a Party to a proceeding intervenor status to participate in all or part of the proceeding on terms the Panel considers appropriate, and subject to such terms, the intervenor shall be treated as a Party.

## **Conduct in Hearings**

### **22. Public Access**

#### **(1) Public hearings**

A hearing shall be open to the public, unless a Panel orders otherwise.

#### **(2) Confidential hearings**

A Panel may order that a hearing or part of a hearing be held without the public present if it appears that:

- (a) matters involving public security may be disclosed;
- (b) avoiding disclosure of intimate financial or personal matters or other matters during the hearing outweighs adherence to the principle that hearings should be open to the public; or
- (c) a confidential hearing is required by law.

### **(3) Public access to Adjudicative Records**

Applications, Statements of Allegation, Notices of Hearing, Motions, Notices of Withdrawal, decisions, orders, reasons and approved settlement agreements are published on the Tribunal's website, unless a Panel orders otherwise.

Access to other Adjudicative Records shall be available to the public upon request, if practicable, unless a Panel orders otherwise.

Requests for access to Adjudicative Records should be made to [record@osc.gov.on.ca](mailto:record@osc.gov.on.ca).

### **(4) Confidentiality Orders**

A Panel may order that all or part of an Adjudicative Record be confidential and not available to the public if it appears the circumstances described in Rule 22(2) apply to the Adjudicative Record.

The following persons may request a confidentiality order:

- (a) a Party; and
- (b) a person who would be affected by the disclosure of the information contained in all or part of an Adjudicative Record.

The request shall be made by filing:

- (a) if the request is made in an existing proceeding, a Motion, and the person making the request shall comply with Rule 28; or
- (b) if the request is not made in an existing proceeding, an Application and the person making the request shall comply with Rule 17.

The Motion or Application and related materials will be available to the public and not confidential unless a request for confidentiality is made when they are filed.

### **(5) Recordings**

Visual or audio recording of a hearing is prohibited unless a Panel grants permission. A request for permission to make a visual or audio recording shall be in writing and sent to the Registrar and all Parties at least five days before a hearing. A person who obtains permission to make a visual or audio recording shall be subject to the directions of the Panel and shall not engage in any behaviour that disrupts or detracts from the hearing.

## **23. Types of Hearings**

### **(1) Oral hearings**

Unless otherwise provided in these Rules or ordered by a Panel, all hearings shall be oral hearings, which term includes hearings by telephone, videoconference and other electronic means.

### **(2) Written hearings – consent**

A hearing shall be conducted as a written hearing if all Parties consent, unless a Panel orders otherwise.

### **(3) Written hearings – Order**

A Panel may order that a hearing be conducted as a written hearing if:

- (a) the only purpose of the hearing is to deal with procedural matters; or
- (b) the Panel is satisfied that there is good reason to conduct the hearing as a written hearing.

## **24. Language of Proceedings**

### **(1) French or English or both**

A proceeding shall be conducted in English or in French or in both English and French, as requested by the Parties.

### **(2) Effect of Practice Guideline**

A hearing in French or in both French and English shall be conducted in accordance with the section of the Practice Guideline regarding language of proceedings.

### **(3) Interpreters for English and French**

The Tribunal shall, upon request, provide an interpreter to translate to English from French, or French to English, during a hearing.

### **(4) Request for interpreter**

If a Party or a Party's witness requires an interpreter to translate to or from any language other than French or English, the Party shall notify the Registrar and the other Parties of its request at least 30 days before the hearing.

## **25. Accessibility**

If a Party, representative or witness has an accessibility need that will affect the individual's ability to participate in a hearing, the individual shall notify the Registrar at least 30 days before the hearing so that reasonable accommodation can be arranged.

## **26. Summonses**

### **(1) Residents of Ontario**

At the request of a Party, a Panel may issue a Summons using the form in Appendix I to require a person resident in Ontario to:

- (a) give evidence under oath or affirmation at an oral hearing; and
- (b) to produce any document or thing specified in the Summons at an oral hearing.

### **(2) Witnesses outside Ontario**

A Party who may call a witness who is not resident in Ontario shall inform a Panel as soon as possible before the hearing.

## **27. Disclosure**

### **(1) Initial disclosure by Staff in an enforcement proceeding**

In an enforcement proceeding under s.127(1) of the Act, Staff shall:

- (a) provide to every other Party copies of all non-privileged documents in Staff's possession that are relevant to an allegation;
- (b) identify to every other Party all other things in Staff's possession that are relevant to an allegation; and
- (c) where inspection of an original document or thing identified in (a) or (b) of this Rule is requested by a Party, make the document or thing available for inspection.

### **(2) Disclosure of Hearing Briefs**

A Party shall provide every other Party to a proceeding with a copy of the documents, and shall identify the other things, that the Party intends to rely on or enter as evidence at a hearing.

### **(3) Witness lists and summaries**

A Party shall file and serve a list of the witnesses, including witnesses that are Parties, the Party intends to call on every other Party to a proceeding and shall serve on every such Party a summary of the evidence that each witness is expected to give that includes, unless previously disclosed:

- (a) the witness's name and address or if the address is not provided, the name and address of a person through whom the witness can be contacted;
- (b) the substance of the witness's evidence; and

- (c) the identification of any document or thing to which the witness is expected to refer.

Witness lists and witness summaries are not Adjudicative Records and are not available to the public.

#### **(4) Expert witnesses**

A Party who intends to call an expert to give evidence at a hearing shall provide every other Party to the proceeding with notice of the Party's intention to call an expert, including a summary of the issues on which the expert will be giving evidence.

#### **(5) Expert report**

A Party who intends to introduce expert evidence shall serve the expert's report and qualifications on every other Party.

#### **(6) Expert reports in response and reply**

A Party who is served with an expert's report may serve an expert's report in response, and the Party who served the initial expert's report may serve an expert's report in reply.

#### **(7) Timelines for disclosure**

A Panel shall set timelines for disclosure and expert reports in accordance with the Practice Guideline.

#### **(8) Failure to disclose**

A Party who fails to comply with a disclosure obligation in these Rules, the Practice Guideline or an order of a Panel shall not, without a Panel's permission, be permitted to rely on material or testimony that was not properly disclosed.

#### **(9) Particulars**

At any stage in a proceeding, a Panel may order an Applicant to provide another Party with particulars necessary for a full and satisfactory understanding of the subject of the proceeding, including:

- (a) the grounds on which a remedy or order is being sought; and
- (b) a general statement of the facts being relied on.

## **28. Motions**

### **(1) Motion**

A Party who intends to make a motion shall file the Motion using the form in Appendix B, and shall serve the Motion on every other Party.

## **(2) Materials in support of the motion**

A Party who makes a motion shall file and serve with the Motion a motion record that includes any affidavits setting out the facts relied on by the Party.

## **(3) Responding and reply materials**

A Party who is served with a Motion may file materials in response to the Motion, and the Party making the motion may file materials in reply.

## **(4) Timing for delivery of motion materials**

Service and filing of a Motion, motion record, and responding and reply materials shall comply with the time periods in the Practice Guideline.

## **(5) Motion without notice**

A Panel may permit a Party to make a motion without notice if:

- (a) the nature of the motion or the circumstances make service of the Motion impractical or unnecessary; or
- (b) the delay necessary to effect service would be likely to have serious consequences.

# **29. Adjournments**

## **(1) Exceptional circumstances**

Every merits or sanctions hearing in an enforcement proceeding, and every hearing of a motion or application, shall proceed on the scheduled date unless a Party satisfies the Panel that there are exceptional circumstances requiring an adjournment.

## **(2) How to request an adjournment**

A Party who requests that a hearing be adjourned shall file and serve a Motion using the form in Appendix B.

## **(3) Terms**

A Panel may grant a request that a hearing be adjourned on terms the Panel considers appropriate.

# **30. Joint Hearings**

## **(1) Joint hearings with other securities administrators**

A Panel may hold a hearing in or outside Ontario jointly with another body that is authorized by statute to regulate trading in securities, commodities or derivatives.

## **(2) Request for a joint hearing**

A request for a joint hearing shall be made by motion using the form in Appendix B and shall state the reasons for the request.

## **(3) Payment of expenses**

A Panel may require as a condition of approving a request from a Party to hold a joint hearing outside Ontario that the Party pay any additional costs incurred by the Commission.

## **31. Notice of Constitutional Question**

A Party who intends to question the constitutional validity or applicability of any legislation, regulation, bylaw, or common law rule shall serve notice of the constitutional question on the Attorneys General of Canada and Ontario and on the other Parties and shall file the notice as soon as the circumstances requiring the notice are known and, in any event, at least 15 days before the day on which the question is to be argued.

# **Settlement**

## **32. Confidential Settlement Conference**

### **(1) Settlement conference**

The Parties to a proposed settlement shall attend at least one settlement conference.

### **(2) Request for a settlement conference**

The Parties to a proposed settlement shall file a joint request for the settlement conference no later than five days before the date of the settlement conference, which request shall include:

- (a) the written consent of the Parties to participate in the settlement conference;
- (b) an agreement that the discussions and any document or thing presented at the settlement conference shall be confidential;
- (c) a draft of the proposed settlement agreement or a joint memorandum setting out the terms of the proposed settlement; and
- (d) any materials in support of the settlement.

### **(3) Notice**

Notice of a settlement conference shall not be public.

### **(4) Confidentiality**

A settlement conference shall be confidential and no transcript shall be made.

## **(5) Disqualification of confidential settlement conference Adjudicator**

An Adjudicator who presides at a confidential settlement conference shall not preside at a subsequent hearing other than at a subsequent confidential settlement conference or at the public settlement hearing under Rule 33, unless the Parties consent.

## **33. Public Settlement Hearing**

### **(1) Request for a settlement hearing**

If the Parties to a settlement request a hearing to approve the settlement, they shall file a joint request at least three days before the settlement hearing, which request shall include:

- (a) a Statement of Allegations, if one has not previously been filed;
- (b) a signed settlement agreement that includes a draft Order, using the form in Appendix J, and each Party's consent to the Order; and
- (c) any materials in support of the settlement.

### **(2) Notice**

The Tribunal shall issue a Notice of Hearing after a request that complies with subsection (1) has been filed.

### **(3) Settlement hearing Panel**

A Panel that presides at a hearing to consider a settlement shall include at least one Adjudicator from the Panel that presided at the settlement conference relating to the settlement.

## **Decisions**

### **34. Notice of Decision**

The Governance & Tribunal Secretariat shall send a copy of a Panel's written decision, reasons, and any order to each Party's representative and to each unrepresented Party.

## **Sanctions and Costs**

### **35. Sanctions and Costs Hearing**

#### **(1) Separate hearing for sanctions and costs**

If a Panel makes a finding in an enforcement proceeding that provides a basis for sanctions and costs, a separate hearing shall be held to consider sanctions and costs, unless the Parties agree that all issues may be decided in one hearing.

## **(2) Schedule**

A Panel shall set a schedule for the sanctions and costs hearing.

## **(3) Materials in support of a request for costs**

If Staff claims costs, it shall file materials in support of the claim for costs that include:

- (a) the amount of the costs claimed;
- (b) the basis of the claim for costs;
- (c) a summary statement of hours and fees, supported by time records setting out relevant hourly rates;
- (d) a summary statement of disbursements supported by invoices and receipts, or if they cannot be obtained, by a written record of disbursements and associated dates; and
- (e) an affidavit declaring that the information contained in the time records and the summary statement of disbursements are true and accurate, and that the disbursements were incurred directly and necessarily as a result of the investigation and/or hearing of the proceeding.

## APPENDIX A: STATEMENT OF ALLEGATIONS

### IN THE MATTER OF [Name(s) of Respondent(s)]

#### STATEMENT OF ALLEGATIONS

(Subsection(s) 127(1) [and 127(10)] and Section 127.1 of the *Securities Act*, RSO 1990, c S.5)

#### A. OVERVIEW

1. [Set out in separate, consecutively numbered paragraphs an overview of the allegations]

#### B. FACTS

Staff of the Enforcement Branch of the Ontario Securities Commission (“**Enforcement Staff**”) makes the following allegations of fact:

2. [Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on to substantiate the alleged breaches of Ontario Securities law and/or conduct contrary to the public interest]

#### C. BREACHES AND CONDUCT CONTRARY TO THE PUBLIC INTEREST

Enforcement Staff alleges the following breach(es) of Ontario securities law and/or conduct contrary to the public interest:

3. [Set out in separate, consecutively numbered paragraphs each provision of Ontario Securities law alleged to have been breached and/or conduct alleged to be contrary to the public interest]

#### D. ORDER SOUGHT

Enforcement Staff requests that the Tribunal make the following order(s):

4. [Set out in separate, consecutively numbered paragraphs the order(s) sought, including sanctions and costs]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number of Enforcement Staff]

## APPENDIX B: MOTION

### IN THE MATTER OF

**[Name(s) of Applicant(s) or Respondent(s) (use title of existing proceeding)]**

File No. [#]

### MOTION

**OF [Name(s) of Moving Party or Parties]**

(For [specify relief sought])

Under Section [#] of the *Securities Act*, RSO 1990, c S.5 and/or Rule [#]

#### A. ORDER SOUGHT

The [Moving Party or Parties], [name(s) of Party or Parties], request(s) [with or without] notice, that the Tribunal make the following order(s):

1. [Set out in separate, consecutively numbered paragraphs the order(s) sought]

#### B. GROUNDS

The grounds for the motion are:

2. [Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule]

#### C. EVIDENCE

The [Moving Party or Parties] intend(s) to rely on the following evidence for the motion:

3. [Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Moving Party or Parties intend(s) to use]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number  
of Moving Party or Moving Party's  
representative]

**APPENDIX C: APPLICATION FOR AUTHORIZATION TO DISCLOSE INFORMATION**

**IN THE MATTER OF**

***[Name(s) of Applicant(s) or, if a proceeding is pre-existing, Respondent(s)]***

**CONFIDENTIAL APPLICATION**

**OF *[Name(s) of Applicant(s)]***

(For Authorization to Disclose Information  
Under Section 17 of the *Securities Act*, RSO  
1990, c S.5)

**A. ORDER SOUGHT**

The *[Applicant or Applicants]*, *[name(s) of Applicant(s)]*, request(s) that the Tribunal make the following order(s):

1. *[Set out in separate, consecutively numbered paragraphs the order(s) sought]*

**B. GROUNDS**

The grounds for the request are:

2. *[Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule]*

**C. EVIDENCE**

The *[Applicant or Applicants]* intend(s) to rely on the following evidence at the hearing:

3. *[Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use]*

**DATED** this *[day]* day of *[month]*, *[year]*.

*[Name, address, email and telephone number of Applicant(s) or representative of Applicant(s)]*

## APPENDIX D: APPLICATION FOR EXTENSION OF A TEMPORARY ORDER

### IN THE MATTER OF

***[Name(s) in the title of proceeding on the temporary order]***

### APPLICATION

**OF *[Name(s) of Applicant(s)]***

(For Extension of a Temporary Order Under

Subsection(s) 127[(7) **and/or** (8)] of the *Securities Act*, RSO 1990, c S.5)

#### A. ORDER SOUGHT

The *[Applicant or Applicants]*, *[name(s) of Applicant(s)]*, request(s) that the Tribunal make the following order(s):

1. *[Set out in separate, consecutively numbered paragraphs the order(s) sought, identifying the temporary order in respect of which the order(s) is/are sought and the proposed duration of the extension]*

#### B. GROUNDS

The grounds for the request are:

2. *[Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule]*

#### C. EVIDENCE

The *[Applicant or Applicants]* intend(s) to rely on the following evidence at the hearing:

3. *[Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use]*

**DATED** this *[day]* day of *[month]*, *[year]*.

*[Name, address, email and telephone number of Applicant(s) or representative of Applicant(s)]*

## APPENDIX E: APPLICATION FOR HEARING AND REVIEW

### IN THE MATTER OF [Name(s) of Applicant(s)]

#### APPLICATION

(For Hearing and Review of a Decision Under Section  
[8 or 21.7] of the *Securities Act*, RSO 1990, c S.5)

#### A. ORDER SOUGHT

The [Applicant or Applicants], [name(s) of Applicant(s)], request(s) that the Tribunal make the following order(s):

1. *[Set out in separate, consecutively numbered paragraphs the order(s) sought, identifying the specific decision in respect of which the order(s) is/are sought and stating the Applicant(s)' interest in that decision]*

#### B. GROUNDS

The grounds for the request and the reasons for seeking a hearing and review are:

2. *[Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule, and identifying any alleged errors in the decision in respect of which the order(s) is/are sought]*

#### C. DOCUMENTS AND EVIDENCE

The [Applicant or Applicants] intend(s) to rely on the following documents and evidence at the hearing:

3. *[Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use, including, where applicable:*
  - (a) *the decision that is the subject of the request for a hearing and review and the related reasons, if reasons were given;*
  - (b) *the application or other document by which the original proceeding was commenced;*
  - (c) *any interim orders made in the original proceeding;*

- (d) *any documentary evidence filed in the original proceeding, subject to any limitation expressly imposed by any statute, regulation or rules;*
- (e) *any other relevant documents in the original proceeding; and*
- (f) *any transcript of the oral evidence given at the original hearing.]*

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number  
of Applicant(s) **or** representative of  
Applicant(s)]

**APPENDIX F: APPLICATION FOR FURTHER DECISION OR REVOCATION OR VARIATION OF A DECISION**

**IN THE MATTER OF**  
**[use title of existing proceeding]**

**APPLICATION**  
**OF [Name(s) of Applicant(s)]**

(For [*Further Decision or Revocation of a Decision or Variation of a Decision*] Under Section [10(7) or 144.1] of the *Securities Act*, RSO 1990, c S.5)

**A. ORDER SOUGHT**

The [*Applicant or Applicants*], [*name(s) of Applicant(s)*], request(s) that the Tribunal make the following order(s):

1. [*Set out in separate, consecutively numbered paragraphs the order(s) sought, identifying the specific decision in respect of which the order(s) is/are sought and stating the Applicant(s)' interest in that decision*]

**B. GROUNDS**

The grounds for the request are:

2. [*Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule, new material or significant change in circumstances*]

**C. EVIDENCE**

The [*Applicant or Applicants*] intend(s) to rely on the following evidence at the hearing:

3. [*Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use, including any new evidence that the Applicant(s) propose(s) to introduce at the hearing*]

**DATED** this [*day*] day of [*month*], [*year*].

[*Name, address, email and telephone number of Applicant(s) or representative of Applicant(s)*]

## APPENDIX G: APPLICATION FOR TRANSACTIONAL PROCEEDING

**IN THE MATTER OF**  
**[Name(s) of Applicant(s)]**  
**- and -**  
**IN THE MATTER OF**  
**[Name(s) of Respondent(s)]**  
**APPLICATION**  
**OF [Name(s) of Applicant(s)]**

(In connection with a transactional proceeding under Rule 16 and  
Under Section(s) [104 and/or 127(1)] of the *Securities Act*, RSO 1990, c S.5)

### A. ORDER SOUGHT

The [Applicant or Applicants], [name(s) of Applicant(s)], request(s) that the Tribunal make the following order(s):

1. [Set out in separate, consecutively numbered paragraphs the order(s) sought]

### B. GROUNDS

The grounds for the request are:

2. [Set out in separate, consecutively numbered paragraphs each of the factual and legal grounds to be argued, including reference to any relevant statutory provision or rule]

### C. EVIDENCE

The [Applicant or Applicants] intend(s) to rely on the following evidence at the hearing:

3. [Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the Applicant(s) intend(s) to use]

**DATED** this [day] day of [month], [year].

[Name, address, email and telephone number  
of Applicant(s) or representative of  
Applicant(s)]

APPENDIX H: NOTICE OF WITHDRAWAL

IN THE MATTER OF

**[Name(s) of Respondent(s) in an enforcement proceeding,  
or Applicant(s) in any other application]**

File No. [#]

NOTICE OF WITHDRAWAL

*[Name(s) of Applicant(s)]* withdraw(s) the *[Statement of Allegations or Application or Motion]*.

**OR**

*[Name(s) of Applicant(s)]* withdraw(s) the *[Statement of Allegations or Application]* against *[name(s) of Party (Parties)]* as shown in the Amended *[Statement of Allegations or Application]* attached hereto.

**DATED** this *[day]* day of *[month]*, *[year]*.

*[Name, address, email and telephone number  
of Applicant(s) or representative of  
Applicant(s)]*

**APPENDIX I: SUMMONS**

**THE *SECURITIES ACT*, RSO 1990, c S.5**

**IN THE MATTER OF**

**[use title of existing proceeding]**

File No. [#]

**SUMMONS TO A WITNESS BEFORE THE  
CAPITAL MARKETS TRIBUNAL**

TO: [FULL NAME AND ADDRESS OF WITNESS]

**YOU ARE REQUIRED TO ATTEND TO GIVE EVIDENCE** at the hearing of this proceeding on [DATE] at [TIME], before the Capital Markets Tribunal, located at 20 Queen Street West, 17th Floor, Toronto, Ontario, and to remain until your attendance is no longer required.

**YOU ARE REQUIRED TO BRING WITH YOU** and produce at the hearing the following documents and things: [*Set out the nature and date of each document and give sufficient particulars to identify each document and thing.*]

**IF YOU FAIL TO ATTEND OR TO REMAIN IN ATTENDANCE AS THIS SUMMONS REQUIRES, THE SUPERIOR COURT OF JUSTICE MAY ORDER THAT A WARRANT FOR YOUR ARREST BE ISSUED, OR THAT YOU BE PUNISHED IN THE SAME WAY AS FOR CONTEMPT OF THAT COURT.**

Date: \_\_\_\_\_ CAPITAL MARKETS TRIBUNAL

\_\_\_\_\_  
On behalf of the Capital Markets Tribunal

NOTE: You are entitled to be paid the same fees or allowances for attending at or otherwise participating in the hearing as are paid to a person summoned to attend before the Superior Court of Justice. **If you have questions, you should contact the party that requested that the Tribunal issue this Summons: [Name, address, email and telephone number of Party requesting that the Tribunal issue the Summons].**

**APPENDIX J: ORDER**

**IN THE MATTER OF**  
**[use title of existing proceeding]**

[Name(s) of Adjudicator(s) comprising the Panel]

File No. [#]

[Day and date Order made]

**ORDER**

(Section(s) [#] of the  
*Securities Act*, RSO 1990, c S.5)

WHEREAS on [date], the Capital Markets Tribunal held a hearing [at 20 Queen Street West, 17th Floor, Toronto, Ontario, **or** in writing], [recite any particulars necessary to understand the Order];

ON READING [give particulars of the material filed] and on hearing the submissions of the representative(s) for [name represented Parties], [add as applicable: (name Parties) appearing in person; **and/or** no one appearing for (name Parties), although properly served as appears from (indicate proof of service)], [and considering (indicate any consents or undertakings if provided)];

IT IS ORDERED THAT:

- 1.
- 2.

\_\_\_\_\_  
**[Name of Panel Chair]**

\_\_\_\_\_  
**[Name of Adjudicator]**

\_\_\_\_\_  
**[Name of Adjudicator]**



## Contact Information

Registrar, Governance & Tribunal Secretariat

20 Queen Street West

22<sup>nd</sup> Floor

Toronto, ON M5H 3S8

Phone Number: 416-595-8916

Email: [registrar@osc.gov.on.ca](mailto:registrar@osc.gov.on.ca)