



# Rules of Procedure

(As of March 19, 2024)

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



Ontario

# Table of Contents

- Rules of Procedure..... 1**
- 1. Objective..... 1
- 2. Definitions ..... 1
- 3. General powers ..... 2
- 4. Calculation of time ..... 2
- 5. Service ..... 2
- 6. Filing ..... 3
- 7. Communicating with the Tribunal ..... 4
- 8. Public access..... 4
- 9. Hearings ..... 6
- 10. Language of proceedings ..... 7
- 11. Personal information ..... 8
- 12. Accessibility ..... 9
- 13. Commencement of proceeding, title of proceeding and scheduling of hearings  
..... 9
- 14. Enforcement proceeding – s.127(1) .....10
- 15. Application for authorization to disclose – s.17 .....13
- 16. Request for a temporary order or for extension of temporary order.....13
- 17. Application for review of a decision .....14
- 18. Application for further decision or revocation or variation of a decision .....16
- 19. Application relating to a transaction .....16
- 20. Other applications.....16
- 21. Application and motion records .....17
- 22. Amendment or particularization of application .....18
- 23. Withdrawal of application or motion .....18
- 24. Participation in proceedings .....19
- 25. Joint hearings .....19
- 26. Notice of constitutional question.....20
- 27. Summonses.....20
- 28. Disclosure .....20
- 29. Evidence .....21
- 30. Expert evidence.....22

31. Submissions .....	23
32. Motions .....	25
33. Confidential conferences .....	26
34. Adjournments .....	26
35. Sanctions and costs hearing .....	27
36. Summary dismissal of application or motion.....	27
37. Settlement conference.....	28
38. Public settlement hearing.....	28
39. Notice of decision .....	29
<b>APPENDIX A: APPLICATION FOR ENFORCEMENT PROCEEDING .....</b>	<b>30</b>
<b>APPENDIX B: MOTION .....</b>	<b>31</b>
<b>APPENDIX C: APPLICATION FOR AUTHORIZATION TO DISCLOSE INFORMATION .....</b>	<b>32</b>
<b>APPENDIX D: APPLICATION FOR TEMPORARY ORDER OR EXTENSION OF A TEMPORARY ORDER.....</b>	<b>33</b>
<b>APPENDIX E: APPLICATION FOR REVIEW .....</b>	<b>34</b>
<b>APPENDIX F: APPLICATION FOR FURTHER DECISION OR REVOCATION OR VARIATION OF A DECISION .....</b>	<b>35</b>
<b>APPENDIX G: APPLICATION RELATING TO A TRANSACTION .....</b>	<b>36</b>
<b>APPENDIX H: NOTICE OF WITHDRAWAL .....</b>	<b>37</b>
<b>APPENDIX I: SUMMONS.....</b>	<b>38</b>
<b>APPENDIX J: ORDER .....</b>	<b>39</b>
<b>APPENDIX K: PROTOCOL FOR DOCUMENT PRODUCTION IN A MERITS HEARING IN AN ENFORCEMENT PROCEEDING .....</b>	<b>40</b>
<b>APPENDIX L: HEARING PARTICIPANT CHECKLIST .....</b>	<b>46</b>
<b>APPENDIX M: SAMPLE INDEX FILE.....</b>	<b>48</b>

# Rules of Procedure

## 1. Objective

The objective of these rules is to ensure that proceedings before the Tribunal are conducted justly, expeditiously and cost-effectively.

## 2. Definitions

In these rules:

- (a) “Act” means the *Securities Act*, RSO 1990, c S.5;
- (b) “adjudicative record” includes all of the following documents, unless the document is filed in connection with a settlement conference or confidential conference, or it relates to an attempt to resolve all or part of a proceeding:
  - (i) an application, motion or notice of withdrawal;
  - (ii) a notice of hearing;
  - (iii) a written submission filed in a proceeding;
  - (iv) a document that has been admitted as evidence at a hearing or otherwise relied upon by the Tribunal in making a decision;
  - (v) a transcript of a hearing;
  - (vi) a decision; and
  - (vii) any other record that relates to a proceeding and that is prescribed by the regulations made under the *Tribunal Adjudicative Records Act, 2019*, SO 2019, c 7, Sch 60;
- (c) “adjudicator” means an individual appointed as an adjudicator to the Tribunal under the *Securities Commission Act, 2021*, SO 2021, c 8, Sch 9;
- (d) “Commission” means the Ontario Securities Commission;
- (e) “holiday” means:
  - (i) every Saturday and Sunday;
  - (ii) New Year’s Day, Family Day, Good Friday, Victoria Day, Canada Day, 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;

- ii. Christmas Day falls on a Saturday or Sunday, the following Monday and Tuesday; and
  - iii. Christmas Day falls on a Friday, the following Monday;
- (f) “party” includes, in a proceeding, all applicants and respondents (either of which may include the Commission), and any person or company granted status under rule 24(4);
  - (g) “proceeding” means any matter commenced under these rules by the issuance of a notice of hearing, and includes all hearings and other steps in the matter;
  - (h) “representative” means an individual who represents a person or company in a proceeding before the Tribunal, and “represented” has the corresponding meaning; and
  - (i) “Tribunal” means the Capital Markets Tribunal, established as a division of the Commission under section 25 of the *Securities Commission Act, 2021*.

### 3. General powers

The Tribunal may waive or modify the application of a rule, prospectively or retroactively, on such terms as it considers appropriate.

When making any order under these rules, the Tribunal may do so on such terms as it considers appropriate.

### 4. Calculation of time

A time requirement in these rules or that the Tribunal orders 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.

### 5. Service

#### (1) Service on representatives

Anything these rules require to be served on any represented party shall be served on the representative.

Where the Commission has no representative of record in the proceeding, anything these rules require to be served on the Commission shall be served by email to [originalservice@osc.gov.on.ca](mailto:originalservice@osc.gov.on.ca).

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

Anything these rules require 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 the Tribunal authorizes.

## **(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 the Tribunal authorizes, on the date the Tribunal specifies.

## **(4) Service of summons**

A summons shall be served by personal delivery to the person summonsed.

# **6. Filing**

## **(1) Method and format of filing**

Anything required by these rules to be filed shall be filed in PDF by sending it electronically to the Registrar ([registrar@capitalmarketstribunal.ca](mailto:registrar@capitalmarketstribunal.ca)), copying all parties. If the document is filed after a proceeding has been commenced, it shall identify the proceeding's file number.

For the following documents, a Microsoft Word version must be filed at the same time that the PDF is filed: applications (*i.e.*, a Word version of the application document only, not the entire application record), motions (*i.e.*, a Word version of the motion document only, not the entire motion record), notices of withdrawal, and settlement agreements (including amended versions of any of those).

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

A document filed after 4:30 p.m. shall be considered filed on the next day that is not a holiday.

## **(3) Filing is not service**

Filing a document with the Registrar does not constitute service on any party, including the Commission.

# **7. Communicating with the Tribunal**

No party shall communicate with the Tribunal, including any of its adjudicators, about a proceeding, other than in a hearing or in writing through the Registrar ([registrar@capitalmarketstribunal.ca](mailto:registrar@capitalmarketstribunal.ca)) with a copy to all other parties.

# **8. Public access**

## **(1) Public hearings**

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

## **(2) Confidential hearings**

The Tribunal may hold a hearing or part of a hearing in the absence of the public if it appears that:

- (a) matters involving public security may be disclosed;
- (b) the public interest, or the interests of a person or company, that would be served by avoiding disclosure of intimate financial or personal matters or other matters outweigh 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**

Unless the Tribunal orders otherwise, or has not yet decided a pending request for confidentiality, the Tribunal will publish applications, notices of hearing, motions, notices of withdrawal, decisions and approved settlement agreements on the Tribunal's website. Other adjudicative records are available to the public, if practicable, on request to [record@osc.gov.on.ca](mailto:record@osc.gov.on.ca).

#### **(4) Confidentiality orders**

The Tribunal may order that all or part of an adjudicative record be confidential and not available to the public if it appears that any of the circumstances described in subrule 8(2) apply to the adjudicative record.

The following may request a confidentiality order:

- (a) a party; and
- (b) a person or company 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:

- (c) a motion, if the request is made in an existing proceeding, and the person or company making the request shall comply with rule 32; or
- (d) an application, if the request is not made in an existing proceeding, and the person or company making the request shall comply with rule 20.

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.

A request that parts of a document be confidential and not available to the public shall be accompanied by:

- (e) the original unredacted document if it has not already been filed, and
- (f) a copy of the original document, redacted to mask the parts that are the subject of the confidentiality request.

#### **(5) Recordings**

Recordings of hearings, confidential conferences and settlement conferences, whether audio or visual, are prohibited unless the Tribunal grants permission or the purpose of the recording is note-taking, in which case the recording may be made but may not be transmitted for any other purpose.

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 Tribunal and shall not engage in any behaviour that detracts from the hearing.



## 9. Hearings

### (1) Modes

Hearings may proceed orally or in writing or both. Hearings and parts of hearings that proceed orally may be conducted in one or more of the following modes:

- (a) with some or all participants participating electronically (*i.e.*, by videoconference, with or without video capability for all participants); or
- (b) with some or all participants physically present in the hearing room.

For any part of a hearing where some or all of the participants are physically present in the hearing room, the chair of the panel (but not necessarily all members of the panel) will be physically present in the hearing room.

### (2) Oral hearings or oral parts of hearings – Tribunal’s authority

The Tribunal may determine the mode of an oral hearing or oral part of a hearing, including with respect to participants’ physical presence in the hearing room. In exercising that discretion, the Tribunal will consider subrules 9(3) and 9(4) below.

### (3) Oral hearings or oral parts of hearings – default mode

Unless the Tribunal orders otherwise:

- (a) a witness giving oral testimony, and any person (whether party or representative) examining or cross-examining the witness will be physically present in the hearing room, and other participants in the hearing may also be physically present in the hearing room or may participate electronically; and
- (b) all other oral hearings, or oral parts of hearings, will proceed electronically.

### (4) Oral hearings or oral parts of hearings – factors to be considered

In determining the appropriate mode of an oral hearing or oral part of a hearing, the Tribunal will consider, among other things:

- (a) the objective set out in rule 1, of conducting proceedings justly, expeditiously and cost-effectively;
- (b) the type of hearing (*e.g.*, case management, merits);
- (c) the matters in dispute, and the issues to be addressed at the hearing;
- (d) any delay that might be caused by proceeding electronically or in a hearing room;
- (e) accessibility of the hearing to participants and the public;
- (f) the efficacy of examination or cross-examination of witnesses;

- (g) cost to the participants;
- (h) facilitation of participation by vulnerable or disadvantaged individuals; and
- (i) health and safety considerations, and measures that may be taken to mitigate related risks.

## **(5) Oral hearings or oral parts of hearings – change of mode**

Where the Tribunal has ordered that an oral hearing or oral part of a hearing proceed with some or all participants physically present in the hearing room, all participants must be prepared for the mode of any part of the hearing to change, including on short notice.

## **(6) Written hearings**

A hearing shall be conducted as a written hearing if all parties consent, unless the Tribunal orders otherwise.

Even without the consent of all parties, the Tribunal may order that a hearing be conducted as a written hearing, unless:

- (a) the hearing deals with something other than procedural matters; and
- (b) a party satisfies the Tribunal that there is good reason not to conduct the hearing in writing.

# **10. Language of proceedings**

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

A proceeding shall be conducted in English or in French or both, as the parties request.

A party may request that the Tribunal conduct a hearing wholly or partly in French by serving and filing a written notice as soon as possible and, in any event, at least 60 days before the hearing.

## **(2) Language of documents**

If a party requests that a proceeding be conducted wholly or partly in French, the Tribunal shall ensure any notice of hearing is translated into French.

Parties, witnesses and representatives participating in a hearing may submit documentary evidence or written submissions in English or in French.

The Tribunal has no obligation to translate documentary evidence or written submissions. A party may bring a motion requesting translation into English or French of documentary evidence and/or written submissions that is necessary for a fair hearing.

The Tribunal has no obligation to translate hearing transcripts.

### **(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 English or French, the party shall notify the Registrar and the other parties of its request at least 30 days before the hearing.

### **(5) Tribunal correspondence**

The Tribunal will communicate all its correspondence and decisions in the language of the proceeding as requested by the parties. Where at least one party uses French and at least one party uses English, Tribunal correspondence will be provided in both languages.

## **11. Personal information**

### **(1) Definition**

“Personal information” means recorded information about an identifiable individual, including but not limited to an individual's:

- (a) social insurance number, driver's license number, passport number, license plate number, and Ontario Health Insurance Plan number (or other similar health plan number);
- (b) date of birth;
- (c) municipal address, including street name, street number and postal code (but not city or province);
- (d) telephone number; and
- (e) bank account number and trading account number (including a joint account);

but does not include:

- (f) the name of an individual who is not a child; or
- (g) the title, contact information or designation of the individual in a business, professional or official capacity.

### **(2) Disclosure of personal information**

Each party shall use reasonable efforts to limit disclosure of personal information to that which is relevant to the disposition of a matter and shall redact documents that the party intends to file or enter into evidence accordingly.

The obligation to limit disclosure of personal information extends to documents the party intends to enter into evidence, as well as to applications, motions, written submissions and affidavits.

## **12. Accessibility**

If a party, representative or witness has an accessibility need that may affect the individual's ability to participate in a hearing, the individual shall notify the Registrar at least 30 days before the hearing.

## **13. Commencement of proceeding, title of proceeding and scheduling of hearings**

### **(1) Commencement of proceeding**

A proceeding is commenced by the Tribunal issuing a notice of hearing after an application is filed.

Before filing an application, the applicant must make reasonable efforts to consult the other parties and propose one or more dates to the Registrar for the first hearing in the proceeding.

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

Every application shall contain a title of proceeding setting out the names of all the parties. The title of proceeding shall name the party or parties commencing the application as the applicant(s) and the opposite party or parties as the respondent(s). Where the Commission is not the applicant, the Commission shall be named as a respondent.

The Commission:

- (a) shall be so named in the title of proceeding as the party before the Tribunal; and
- (b) may be referred to throughout documents (other than in the title of proceeding) as "the Commission".

### **(3) First hearing**

Unless the Tribunal orders otherwise, the first hearing in a proceeding will be for case management purposes. For enforcement proceedings and reviews of decisions, the matters to be addressed at the first hearing are set out in rules 14(4) and 17(6), respectively. For all other proceedings, at the first hearing the Tribunal will impose a timeline for some or all of the following:

- (a) disclosure of documents and things;
- (b) disclosure of witness lists and summaries of anticipated evidence;
- (c) notice of intention to call an expert witness;

- (d) any other interlocutory matter, including motions;
- (e) subsequent case management hearings;
- (f) filing deadlines for written submissions; and
- (g) hearing the application.

#### **(4) Scheduling of subsequent hearings**

Before attending a hearing at which dates will be set for further steps in the proceeding, parties must make reasonable efforts to consult amongst themselves and agree on a schedule. If parties are unable to agree, they must come to the hearing prepared to present competing schedules for discussion with the Tribunal.

#### **(5) Decision not to process commencement of a proceeding**

When a party files a document that relates to commencing a proceeding, the Tribunal or Registrar may decide not to process the document if it is incomplete or defective.

If the Tribunal or Registrar decides not to process the document, the Tribunal or Registrar shall, in writing, tell the party who filed the document why the document is not being processed and what steps must be taken for the document to be processed.

### **14. Enforcement proceeding – s.127(1)**

#### **(1) Form of application**

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

#### **(2) Service**

The Commission shall serve the notice of hearing and application on all parties and file without delay an affidavit regarding service.

#### **(3) Enforcement proceeding to which ss.127(4.0.1), 127(4.0.2) or 127(4.0.3) applies**

If the Commission requests that the order under s.127(1) be made without providing the person or company that is to be the subject of the order an opportunity to be heard, in reliance on ss.127(4.0.1) (prior conviction), 127(4.0.2) (prior order) or 127(4.0.3) (prior settlement agreement) of the Act, the Commission shall:

- (a) make that request in the application;
- (b) file its book of documents and any written submissions in support of its application at the same time as its application; and
- (c) as soon as is practicable after the Tribunal issues its order, provide a copy of that order to the person or company that is the subject of the order.

#### (4) All other enforcement proceedings

This subrule does not apply to proceedings to which subrule 14(3) applies.

The Tribunal will impose a timeline for hearings and other steps in enforcement proceedings. Subject to the discretion of the Tribunal, the expected hearings and other steps in an enforcement proceeding, and the timelines for those hearings and steps, are as follows:

<b>14(4)A: First case management hearing</b> (to be held on the date in the notice of hearing, which is to be a date within thirty days of the issuance of the notice of hearing)	
<b>Step to be scheduled</b>	<b>Date</b>
Second case management hearing	No later than 120 days after the first case management hearing
Disclosure by the Commission (see rule 28(1))	No later than 30 days after the first case management hearing
Respondents to serve and file any motion relating to the Commission's disclosure	No later than 10 days before the second case management hearing; motion to be heard or scheduled at the second case management hearing
Commission to serve and file list of witnesses (see rule 28(3))	No later than five days before the second case management hearing
Commission to serve summaries of anticipated testimony (see rule 28(3))	
Commission's notice of intention to call an expert witness (see rule 30(1))	

<b>14(4)B: Second case management hearing</b>	
<b>Step to be scheduled</b>	<b>Date</b>
Third case management hearing	No later than 60 days after the second case management hearing
Respondents to serve and file list of witnesses (see rule 28(3))	No later than 30 days before the third case management hearing
Respondents to serve summaries of anticipated testimony (see rule 28(3))	
Respondent's notice of intention to call an expert witness (see rule 30(1))	

<b>14(4)C: Third case management hearing</b>	
<b>Step to be scheduled</b>	<b>Date</b>
Merits hearing	
Final case management hearing	No later than 30 days before the merits hearing
Parties to serve books of documents (see rule 28(2))	No later than 15 days before the final case management hearing
Parties to advise all other parties of any issues about the authenticity or admissibility of documents contained in the books of documents	No later than five days before the final case management hearing
Parties to advise the panel of any issues about the authenticity or admissibility of documents contained in the books of documents	At the final case management hearing
Parties to serve and file affidavit evidence (see rule 29(2))	
Parties to provide to the Registrar a completed copy of the <i>Hearing Participant Checklist</i> , provided in Appendix L.  ( <i>Note: The Checklist is not an adjudicative record and will not be made available to the public</i> )	No later than five days before the final case management hearing

<b>14(4)D: Final case management hearing</b>	
<b>Step to be scheduled</b>	<b>Date</b>
Parties to provide to the Registrar electronic versions of their book of documents containing the documents that the party intends to rely on or enter as evidence at the merits hearing (see Appendix K), along with an Index File (see Appendix M).  ( <i>Note: documents contained in the book of documents will be seen by the merits hearing panel only if and when the documents are introduced into evidence during the hearing.</i> )	No later than five days before the merits hearing

## **15. Application for authorization to disclose – s.17**

### **(1) Form of application**

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) Form of hearing**

The hearing shall be held as a written hearing if the Tribunal is satisfied that the application may proceed under s.17(2.1) of the Act, or if the conditions set out in rule 9(6) are met, for which purpose “party” in that rule includes those persons and companies identified in s.17(2) of the Act. Otherwise, the hearing shall be held as an oral hearing.

### **(3) Service**

Unless the Tribunal is satisfied that the application may proceed under s.17(2.1) of the Act, the applicant shall serve the application without delay on every person or company mentioned in s.17(2) of the Act, and if the Commission is not an applicant, then also on the Commission. If necessary, the applicant may seek directions from the Tribunal with respect to service on persons or companies in accordance with s.17(2)(a) of the Act.

### **(4) Application record**

The applicant shall file an application record that conforms to the requirements in rule 21.

## **16. Request for a temporary order or for extension of temporary order**

### **(1) Request for a temporary order – s.127(5)**

A request for 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; or
- (b) if the request is made in an existing proceeding, a motion using the form in Appendix B.

### **(2) Request for an extension of a temporary order – ss.127(7) or (8)**

A request to extend a temporary order shall be made by filing:

- (a) if the request is made to extend a temporary order that was not made by the Tribunal, an application using the form in Appendix D and the temporary order;  
or



- (b) if the request is made to extend a temporary order that was made by the Tribunal in an existing proceeding, a motion using the form in Appendix B and the temporary order.

### **(3) 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 without delay an affidavit regarding service.

If the request is made by motion, the moving party shall comply with rule 32 and the motion shall constitute a notice of hearing under s.127(9) of the Act.

### **(4) Timing**

If the request is made by motion, the motion shall be filed at least 10 days before the requested motion date.

### **(5) Application record**

The applicant shall file an application record that conforms to the requirements in rule 21.

## **17. Application for review of a decision**

### **(1) Review of a decision of the Director, or a recognized exchange, self-regulatory organization, quotation and trade reporting system or clearing agency, or a designated trade repository or information processor – 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 direction, decision, order or ruling of a recognized exchange, self-regulatory organization, quotation and trade reporting system or clearing agency, or a designated trade repository or information processor 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:

- (a) the Commission;
- (b) the entity mentioned in subrule 17(1) from which the direction, decision, order or ruling was made;
- (c) if the direction, decision, order or ruling to be reviewed emanated from a proceeding, then on every other party to the original proceeding; and
- (d) if there was no original proceeding, then on every person or company that made submissions leading to the direction, decision, order or ruling.

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

The applicant may, under s.8(4) of the Act, request a stay of the original direction, decision, order or ruling until the proceeding is concluded by filing and serving a motion using the form in Appendix B.

### **(4) Record of original proceeding**

The “record of the original proceeding” referred to in subrules 17(5) and 17(6) includes the following from the original proceeding or matter:

- (a) the application or other document by which the original proceeding or matter was commenced or initiated;
- (b) any notice of hearing;
- (c) any interim orders;
- (d) documentary evidence filed;
- (e) any transcript of the hearing, including oral testimony; and
- (f) the decision, order or ruling that is the subject of the request for a review, including any reasons for it.

### **(5) New evidence**

A party may seek permission to rely on witness testimony, or on documents or things not included in the record of the original proceeding, by filing a motion using the form in Appendix B.

### **(6) Scheduling**

At the first hearing in a review proceeding, the Tribunal will impose a timeline for subsequent hearings and, if applicable, for the following:

- (a) service and filing by the applicant, Director, regulatory exchange, self-regulatory organization, quotation and trade reporting system or clearing agency, or designated trade repository or information processor, of the record of the original proceeding;
- (b) any other interlocutory matter, including motions;
- (c) subsequent hearings for case management;
- (d) filing of written submissions; and
- (e) hearing of the merits of the review.

## **18. 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 party to the original proceeding.

### **(3) Application record**

The applicant shall file an application record that conforms to the requirements in rule 21.

## **19. Application relating to a transaction**

### **(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 that could be the subject of the Commission's rule-making authority under paragraphs 26, 26.1, 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 the Commission.

### **(3) Application record**

The applicant shall file an application record that conforms to the requirements in rule 21.

## **20. 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 order sought; and

- (c) the evidence the applicant(s) intend(s) to use.

## **(2) Service**

The Applicant shall serve without delay the application and notice of hearing on every other party, including the Commission.

## **(3) Application record**

The applicant shall file an application record that conforms to the requirements in rule 21.

# **21. Application and motion records**

## **(1) Generally**

For all applications, other than an application for an enforcement proceeding or review proceeding, the applicant(s) shall, as soon as practicable, serve and file an application record.

For all motions, the moving party(ies) shall, as soon as practicable, serve and file a motion record.

The application or motion record shall be a single, bookmarked PDF that includes:

- (a) the application or motion;
- (b) any affidavits and accompanying exhibits submitted in support of the application or motion;
- (c) other documents (other than written submissions) that the applicant(s) and/or moving party(ies) intend(s) to rely on; and
- (d) a table of contents that briefly describes, and contains hyperlinks to, each component of the record.

Each bookmarked entry in the record shall identify and describe the item (e.g., “Exhibit A – Call logs”).

The filename of the record shall indicate the document type (e.g., “Application Record”), the name of the party filing the document, and the date on which the document is filed.

## **(2) Division of large PDFs**

Where the size of a single PDF exceeds 500 pages, the party shall separate the PDF into two or more parts, each of which shall be broken down into volumes, reflected in the title of the document (*i.e.*, Application Record Volume 1 of X, Motion Record Volume 2 of X, etc.).

Where an application or motion record includes one or more affidavits, each part of the application or motion record shall include as its first element(s) the main body of each affidavit whose exhibits are included in that part of the application or motion record, even

though that may result in the main body of an affidavit appearing in more than one part of the record.

### **(3) Exception**

The requirements in subrule 21(1) do not apply to documents in Microsoft Excel format, which may be filed separately.

## **22. Amendment or particularization of application**

### **(1) Amendment of application**

An applicant may amend an application at any time with consent of the parties or with permission from the Tribunal granted on a motion using the form in Appendix B. The motion record shall include an amended version of the application that clearly indicates the amendments by underlining any new text and striking through any removed text. The Tribunal shall grant permission unless the amendment would be unfairly prejudicial to a party.

### **(2) Particularization of application**

At any stage in a proceeding, the Tribunal may order an applicant to provide particulars necessary for a 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.

## **23. Withdrawal of application or motion**

### **(1) Notice of withdrawal**

A party may withdraw, against one or more parties, an application or a motion at any time before a final determination by the Tribunal, 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 application that clearly indicates the amendments that effect the withdrawal by underlining any new text and striking through any removed text.

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

If an application is withdrawn against some but not all parties, the title of proceeding on all subsequent documents shall be as the Tribunal directs.

## **24. Participation in proceedings**

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

A party who is represented may:

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

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

On a motion by a representative or party, the Tribunal may order the removal of a representative as the representative of record.

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

If notice of a hearing has been given to a party and the party does not attend or participate in the hearing, the hearing may proceed in the party's absence and the party is not entitled to any further notice in the proceeding.

### **(4) Intervenors**

On motion, the Tribunal 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. Subject to terms imposed by the Tribunal, the intervenor shall be a party.

## **25. Joint hearings**

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

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

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

A request for a joint hearing shall be made either by including that request in the application, or if the proceeding has already been commenced, then by motion using the form in Appendix B.

## 26. Notice of constitutional question

A party who intends to question the constitutional validity or applicability of any legislation, regulation, bylaw, or rule of common law shall file notice of the constitutional question in accordance with s.109(2.1) of the *Courts of Justice Act*, RSO 1990, c C.43, and shall serve the notice on the Attorneys General of Canada and Ontario and on the other parties. The party must effect service and filing as soon as the circumstances requiring the notice are known and, in any event, shall file proof of service at least 15 days before the day on which the question is to be argued.

## 27. Summonses

At the request of a party, the Tribunal 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.

## 28. Disclosure

### (1) Initial disclosure by the Commission in an enforcement proceeding

In an enforcement proceeding under s.127(1) of the Act, other than a proceeding to which ss.127(4.0.1), (4.0.2) or (4.0.3) applies, the Commission shall:

- (a) provide to every other party copies of all non-privileged documents in the Commission's possession that are relevant to the Commission's allegations, including documents that have a reasonable possibility of being relevant to the respondents' ability to make full answer and defence to the Commission's allegations;
- (b) identify to every other party all other things in the Commission's possession that are relevant to the Commission's allegations, including those that have a reasonable possibility of being relevant to the respondents' ability to make full answer and defence to the Commission's allegations; 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 book of documents

In any proceeding, a party shall serve on every other party to the proceeding a book of documents containing a copy of the documents, and identifying the other things, that the party intends to rely on or enter as evidence at a hearing.

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

In any proceeding, a party shall file, and serve on every other party, a list of the witnesses (including witnesses that are parties) that the party intends to call. The party shall serve on every other party a summary of the testimony that each witness is expected to give, which summary shall include, 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 expected testimony; 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) Failure to disclose**

A party who fails to comply with a disclosure obligation in these rules or in an order of the Tribunal may not, without the Tribunal's permission, rely on material or testimony that was not properly disclosed.

## **29. Evidence**

### **(1) Affidavits – form**

An affidavit shall be a single, bookmarked PDF that includes all exhibits referred to in the affidavit, and a table of contents that identifies each exhibit (e.g., "Exhibit A"), briefly describes the exhibit (e.g., "Call logs"), and contains a hyperlink to the exhibit.

The file name of the affidavit shall contain:

- (a) "Affidavit";
- (b) the name of the deponent; and
- (c) the date the affidavit was sworn or affirmed, or the word "Draft" if the affidavit has not yet been sworn or affirmed.

Unless all parties consent and the Tribunal permits, any witness who provides affidavit evidence must be available for cross-examination at the hearing at which the affidavit evidence will be tendered.

### **(2) Affidavit – required by the Tribunal**

The Tribunal may order that part or all of the evidence of a witness be provided by affidavit and may set timelines for the affidavit evidence to be served on every other party and filed with the Tribunal.



### **(3) Statement of agreed facts and joint book of documents**

Before a hearing at which evidence will be tendered, parties are encouraged to agree on the evidence that is not in dispute. Parties are encouraged to file a statement of agreed facts, and to file a joint book of documents containing a copy of the documents that any of the parties intends to adduce as evidence, where authenticity and admissibility are not in dispute.

A joint book of documents must include a table of contents identifying each document by its name and date, where applicable, and that provides a hyperlink to each document. The joint book shall be a bookmarked PDF, with each bookmark including the title of the bookmarked item.

The filename of the joint book shall include:

- (a) “Joint book of documents”;
- (b) the names of the parties filing the joint book (e.g., “Commission and [respondent name]”), unless all parties are filing the book jointly, in which case this is not necessary; and
- (c) the date on which the joint book is filed.

### **(4) Documentary aids prepared by a party for the hearing**

If a party intends to rely on a summary chart or other aid, which purports to distill or analyze other evidence (such as a source and use of funds analysis or a chronology), the party shall, no later than ten days before the hearing, serve on every other party:

- (a) the chart or other aid; and
- (b) an affidavit from the witness the party intends to call to testify about how the chart or other aid was prepared.

If there is no dispute as to whether the chart or other aid fairly distills or analyzes the underlying evidence, then the party may file the documents at the hearing. The witness’s affidavit is sufficient, and the witness need not testify orally as to how the document was prepared. The opposing parties are not precluded from cross-examining the witness on the witness’s affidavit, and the party calling the witness may re-examine.

This subrule does not apply to expert evidence (see rule 30).

## **30. Expert evidence**

### **(1) Notice of intention to call expert**

A party who intends to call an expert to give opinion 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 testifying.

## **(2) Service of expert report**

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

## **(3) 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.

## **(4) Notice of objection to expert testimony**

A party that objects to the admissibility of the expert's testimony must notify every other party, identifying the grounds for objection.

## **(5) Notice of intention to cross-examine expert**

A party who intends to cross-examine an expert must notify every other party.

## **(6) Expert reports as evidence**

The Tribunal may set a timeline for:

- (a) the above steps;
- (b) the filing of expert reports before the hearing; and
- (c) parties' submissions, before or at the hearing, about whether the Tribunal should admit a report as evidence, and if so, the weight the Tribunal should give to that evidence.

After receiving submissions from the parties, the Tribunal may admit the report and may direct that the expert need not attend the hearing to give oral testimony.

# **31. Submissions**

## **(1) Generally**

Citations of authorities in written submissions shall, where applicable, identify the particular passages on which the party relies, and shall, where possible, include a hyperlink to a free, publicly available online source (e.g., CanLII, Ontario e-Laws). The hyperlink shall, where applicable, link to the specific paragraph(s) or statutory provision(s) on which the party intends to rely.

Written submissions shall be in a bookmarked PDF that includes:

- (a) the submissions themselves;
- (b) copies of any exhibits or other documents to which the submissions refer;
- (c) the cover or first page of, and relevant excerpts of, any cited authorities that are not available from a free, publicly available online source; and

- (d) a table of contents that briefly describes, and contains hyperlinks to, each item contained in the PDF.

Each bookmark entry shall identify and describe the item, e.g., “Exhibit 12 – Call logs”.

## **(2) Format**

Where the size of a single PDF would exceed 500 pages, the party shall separate the PDF into two or more parts, each of which shall be broken down into volumes, reflected in the title of the document (*i.e.*, Written Submissions Volume 1 of X, Written Submissions Volume 2 of X, etc.).

Each part shall include as its first element the complete main body of the submissions, such that the submissions are repeated as the first element of each part.

The filename of the submissions shall include the document type, *i.e.*, “Submissions”, the name of the party filing the document, and the date on which the submissions are filed.

## **(3) Condensed Book to supplement oral closing submissions**

Each party who will be making oral closing submissions is encouraged to file a condensed book in advance, to supplement those submissions.

The condensed book shall be a bookmarked PDF that contains:

- (a) a table of contents describing each document by its nature and date, and
- (b) any of the following to which the party intends to refer during oral submissions:
  - (i) any PowerPoint or similar presentation;
  - (ii) any excerpts from hearing transcripts; and
  - (iii) the first page, and other relevant pages, of any authorities, exhibits or other documents.

Each bookmark shall identify and describe the bookmarked item.

The filename of the condensed book shall include:

- (a) “Condensed book”;
- (b) the name of the party(ies) filing the condensed book; and
- (c) the date on which the condensed book is filed.

## **(4) Draft orders**

Any party seeking an order from the Tribunal shall provide a draft of the terms of the order sought, as part of their closing submissions. The draft order must identify the statutory or other provision that gives the Tribunal jurisdiction to make the order sought.

## **32. Motions**

### **(1) Obligations of moving party**

A party who intends to bring a motion shall, where practical:

- (a) canvass the responding parties for the following, prior to the hearing of the motion:
  - (i) potential hearing dates for a case management hearing;
  - (ii) responding parties' preliminary position(s) on the motion; and
  - (iii) an agreed-upon schedule for the exchange of materials for the motion, to be presented to the Tribunal for consideration;
- (b) arrange with the Registrar a date for a case management hearing; and
- (c) file the motion using the form in Appendix B and serve the motion on every other party.

### **(2) Motion materials**

The schedule for the exchange of materials for a motion shall be as agreed to by the parties or ordered by the Tribunal. The schedule shall anticipate the filing of:

- (a) affidavit(s) setting out the facts relied on by the moving party, if any;
- (b) affidavit(s) in response to the motion, if any;
- (c) affidavit(s) from the moving party in reply, if any; and
- (d) written submissions.

### **(3) Examination of affiant(s)**

A party who files an affidavit shall make the affiant reasonably available for cross-examination by any adverse party before the motion hearing.

Before or at a motion hearing, the Tribunal may order or permit oral testimony and cross-examination of an affiant at that hearing.

### **(4) Motion without notice**

The Tribunal 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.

## **(5) Motion record**

The moving party shall file a motion record that conforms to the requirements in rule 21.

## **33. Confidential conferences**

### **(1) Confidential conferences**

At any stage of a proceeding, a party may request or the Tribunal 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.

A confidential conference is not a hearing.

### **(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.

### **(3) Confidentiality**

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

## **34. Adjournments**

### **(1) Exceptional circumstances**

Any party that requests that a hearing be adjourned must satisfy the Tribunal that the adjournment furthers the objectives outlined in rule 1.

Every merits hearing, sanctions and costs hearing, and motion hearing shall proceed on the scheduled date unless a party satisfies the Tribunal that there are exceptional circumstances requiring an adjournment.

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

A party who requests that a merits hearing, sanctions and costs hearing, or motion hearing be adjourned shall file and serve a motion using the form in Appendix B.

## **35. Sanctions and costs hearing**

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

In an enforcement proceeding, if the Tribunal makes a finding that provides a basis for sanctions and costs, the Tribunal shall hold a separate hearing to consider sanctions and costs, unless the parties have agreed that all issues may be decided in one hearing.

The Tribunal shall set a schedule for the sanctions and costs hearing.

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

If the Commission requests costs, it shall file supporting materials that include:

- (a) the amount of costs requested;
- (b) the basis of the request 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 those 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.

## **36. Summary dismissal of application or motion**

### **(1) Grounds for dismissal**

The Tribunal may dismiss an application or motion without a hearing on the following grounds:

- (a) the application or motion is frivolous, vexatious, or commenced in bad faith;
- (b) the application or motion relates to matters that are outside the Tribunal's jurisdiction; or
- (c) the statutory requirements for bringing the application or motion have not been met.

### **(2) Notice**

Before dismissing an application or motion under this rule, the Tribunal shall:

- (a) give the parties notice of its intention to dismiss the application or motion;
- (b) provide the reasons for its intention to dismiss the application or motion;

- (c) inform the parties of their right to make written submissions to the Tribunal within 30 days as laid out in the notice; and
- (d) consider any written submissions provided.

## **37. Settlement conference**

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

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

A settlement conference is not a hearing. A settlement conference and all materials filed in support of the proposed settlement shall be confidential. No transcript shall be made of the 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 requested date for the settlement conference, which request shall include:

- (a) a draft of the proposed settlement agreement or a joint memorandum setting out the terms of the proposed settlement; and
- (b) any materials in support of the settlement.

### **(3) Vacating scheduled hearing dates**

If one or more hearing dates are scheduled in a proceeding in which a settlement conference is requested, the parties may request in their materials or at the settlement conference that the settlement conference panel vacate some or all of those hearing dates.

### **(4) Disqualification of settlement conference adjudicator**

An adjudicator who presides at a settlement conference shall not preside at a subsequent hearing in the proceeding other than the public settlement hearing under rule 38, unless the parties consent.

## **38. 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 requested date for the settlement hearing, which request shall include:

- (a) an application, 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 an order substantially in the form of the draft order; and
- (c) any other materials in support of the settlement.

## **(2) Notice**

The Tribunal shall issue a notice of hearing after a request that complies with subrule 38(1) has been filed.

## **(3) Settlement hearing panel**

The adjudicators that preside at a hearing to consider a settlement shall include at least one adjudicator that presided at the settlement conference relating to the settlement.

## **39. Notice of decision**

The Registrar shall send a copy of the Tribunal's written decision(s) to each party's representative and to each unrepresented party.



## APPENDIX A: APPLICATION FOR ENFORCEMENT PROCEEDING

### ONTARIO SECURITIES COMMISSION

Applicant

– and -

[NAME(S) OF RESPONDENT(S)]

Respondent(s)

### APPLICATION FOR ENFORCEMENT PROCEEDING

(Insert relevant statutory provision(s))

#### A. OVERVIEW

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

#### B. GROUNDS

The Ontario Securities Commission makes the following allegations of fact:

*[Set out in separate, consecutively numbered paragraphs each allegation of material fact relied on to substantiate the alleged breaches of Ontario securities or commodity futures law and/or other conduct justifying an order under s. 127(1) of the Securities Act]*

#### C. BREACH(ES) [AND OTHER BASES FOR THE ORDER SOUGHT]

The Commission alleges the following breach(es) of Ontario securities *[and/or commodity futures]* law *[and/or other reasons it would be in the public interest to grant the order sought]*:

*[Set out in separate, consecutively numbered paragraphs each provision of Ontario securities or commodity futures law alleged to have been breached and/or other reasons it would be in the public interest to grant the order sought]*

#### D. ORDER SOUGHT

The Commission requests that the Tribunal make the following order(s):

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

[Date]

*[Name, address, email and telephone number of counsel for the Commission]*

## APPENDIX B: MOTION

[NAME(S) OF APPLICANT(S)]

- and -

[NAME(S) OF RESPONDENT(S)]

*[using existing title of proceeding]*

File No. [#]

### MOTION

(Include relevant statutory provision(s) or rule(s))

#### A. ORDER SOUGHT

[Name(s) of moving party(ies)] request(s) [with or without] notice, that the Tribunal make the following order(s):

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

#### B. GROUNDS

The grounds for the motion are:

*[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(ies) intend(s) to rely on the following evidence for the motion:

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

[Date]

[Name, address, email and telephone number  
of moving party or moving party's  
representative]

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

**[NAME OF APPLICANT(S)]**  
**- and -**  
**[NAME OF RESPONDENT(S)]**

**CONFIDENTIAL APPLICATION FOR  
AUTHORIZATION TO DISCLOSE INFORMATION  
OF [Name(s) of applicant(s)]**  
(Include relevant statutory provision(s) or rule(s))

**A. ORDER SOUGHT**

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

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

**B. GROUNDS**

The grounds for the request are:

*[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(s) intend(s) to rely on the following evidence at the hearing:

*[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]*

[Date]

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

**APPENDIX D: APPLICATION FOR TEMPORARY ORDER OR EXTENSION OF A  
TEMPORARY ORDER**

**[NAME OF APPLICANT(S)]**

**- and -**

**[NAME OF RESPONDENT(S)]**

***[use existing title of proceeding, if applicable]***

**APPLICATION FOR TEMPORARY ORDER OR  
EXTENSION OF A TEMPORARY ORDER**

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

**(Include relevant statutory provision(s) or rule(s))**

**A. ORDER SOUGHT**

*[Name(s) of applicant(s)]* request(s) that the Tribunal make the following order(s):

*[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:

*[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(s) intend(s) to rely on the following evidence at the hearing:

*[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]*

*[Date]*

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

## APPENDIX E: APPLICATION FOR REVIEW

[NAME OF APPLICANT(S)]

- and -

[NAME OF RESPONDENT(S)]

### APPLICATION FOR REVIEW

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

(Include relevant statutory provision(s) or rule(s))

#### A. ORDER SOUGHT

The [*applicant or applicants*], [*Name(s) of applicant(s)*], request(s) that the Tribunal make the following order(s):

*[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 review are:

*[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

In addition to evidence contained in the record of the original proceeding, the *applicant(s)* intend(s) to bring a motion to seek to rely on the following documents and evidence at the hearing:

*[Set out in separate, consecutively numbered paragraphs the affidavits, other documentary evidence and oral testimony, if any, that the applicant(s) will seek to use]*

[Date]

[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

[NAME OF APPLICANT(S)]

- and -

[NAME OF RESPONDENT(S) (*use existing title of proceeding*)]

APPLICATION FOR FURTHER DECISION OR  
REVOCATION OR VARIATION OF A DECISION

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

(Include relevant statutory provision(s) or rule(s))

### A. ORDER SOUGHT

The [*applicant or applicants*], [*Name(s) of applicant(s)*], request(s) that the Tribunal make the following order(s):

*[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:

*[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(s)* intend(s) to rely on the following evidence at the hearing:

*[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]*

[Date]

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

## APPENDIX G: APPLICATION RELATING TO A TRANSACTION

[NAME OF APPLICANT(S)]

- and -

[NAME OF RESPONDENT(S)]

### APPLICATION RELATING TO A TRANSACTION

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

(Include relevant statutory provision(s) or rule(s))

#### A. ORDER SOUGHT

The [*applicant(s)*], [*Name(s) of applicant(s)*], request(s) that the Tribunal make the following order(s):

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

#### B. GROUNDS

The grounds for the request are:

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

*[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]*

[Date]

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

## APPENDIX H: NOTICE OF WITHDRAWAL

**[NAME OF APPLICANT(S)]**

- and -

**[NAME OF RESPONDENT(S) (*use existing title of proceeding*)]**

File No. [#]

### NOTICE OF WITHDRAWAL

*[Name(s) of applicant(s)] withdraw(s) the [application or motion; if a motion, briefly specify the relief sought on the motion].*

**OR**

*[Name(s) of applicant(s)] withdraw(s) the [application] against [name(s) of party(ies)] as shown in the amended [application/motion] attached hereto.*

*[Date]*

*[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**

[NAME OF APPLICANT(S)]

- and -

[NAME OF RESPONDENT(S) (*use existing title of 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 OR electronically in the following manner: [set out sufficient particulars to enable witness to participate]], and to remain until your attendance is no longer required.

**YOU ARE REQUIRED TO** 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 OR PARTICIPATE] 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

[NAME OF APPLICANT(S)]

- and -

[NAME OF RESPONDENT(S) (*use existing title of proceeding*)]

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

File No. [#]

[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** by other means (e.g., “by videoconference”) **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]

## APPENDIX K: PROTOCOL FOR DOCUMENT PRODUCTION IN A MERITS HEARING IN AN ENFORCEMENT PROCEEDING

In a merits hearing, the documents that the parties intend to enter into evidence are provided electronically to the Registrar and then displayed on screens during the hearing.

This document sets out the protocol and document requirements for merits hearings. Any questions may be sent to the Registrar at [registrar@capitalmarketstribunal.ca](mailto:registrar@capitalmarketstribunal.ca).

In advance of a merits hearing, the parties are required to provide the following items to the Registrar:

Required Item	Timeline for Delivery
Hearing checklist	Five days before the final case management hearing
Book of documents	Five days before the start of the merits hearing
Index File	Five days before the start of the merits hearing

The timelines for delivery are guided by these rules and may be varied by the Tribunal.

### HEARING CHECKLIST

The hearing checklist (see Appendix L) must be filed **five days before the final case management hearing**.

The hearing checklist is not an adjudicative record and will not be available to the public.

The following information may assist with the completion of the checklist:

### LAPTOP AND INTERNET ACCESS

#### Permanent IT Equipment Set-Up in Each Hearing Room

Each hearing room is equipped with at least two laptops that are connected to the A/V system (one for the Commission and one for respondents) that displays content to the public screen and to the monitors in front of the panel and in front of the parties.

Parties may bring their own laptops.

Each hearing room is equipped with a WIFI hub to provide internet access to the parties upon request.

### VIDEOCONFERENCING

Each hearing room has a videoconference system.

If a witness will be testifying by video-conference, indicate the following information on the hearing checklist: the witness' name, anticipated date and time for the witness'

testimony, and the witness' email address.

## BOOK OF DOCUMENTS

Each party shall provide its book of documents to the Registrar electronically, along with the Index File, at least five days before the start of the merits hearing.

The book of documents must contain all of the documents that the party intends to enter into evidence at the merits hearing.

Any documents provided to the Registrar will only be seen by the panel if the document is subsequently introduced as evidence at the hearing.

## FORMAT OF DOCUMENTS

All documents (including text and image/picture documents) shall be provided as PDF documents with embedded underlying Optical Character Recognition (OCR) text. For scanned documents, the PDF document must be processed using OCR software and the PDF must be searchable using full text searching.

Documents that cannot be converted to a PDF shall also be provided to the Registrar in their native format.

Documents must be accessible, readable, printable and free of computer viruses, malware, Trojan horses or other items of a destructive nature. If any such item is detected, the document will be rejected and deemed not to have been received. The Registrar will request that the document be disinfected or recreated and then resubmitted.

## REDACTING DOCUMENTS

Redactions of PDF documents must remove the embedded underlying OCR text. Simply blacking out the text is not sufficient. Various software products may be used for redactions. Consult your software's manual for specifics about redacting and removing embedded underlying OCR text. As a general guideline:

- Use the software redaction tool to block out the confidential text;
- Finalize/burn-in all redactions;
- Ensure the underlying OCR text is removed;
- Re-OCR the document; and
- Review the document to ensure that the redacted text does not show up in the OCR text.

## PROVIDING DOCUMENTS TO THE REGISTRAR

Each party must provide the Registrar with the book of documents electronically, which can include delivery by e-mail, or other means of electronic transfer (*i.e.*, SharePoint) as considered appropriate by the Registrar.

When delivering documents to the Registrar, always specify the following:

- matter name
- file number
- name of party providing documents; and
- representative for the party (if applicable).

Documents provided by e-mail shall be sent to the Registrar at [registrar@capitalmarketstribunal.ca](mailto:registrar@capitalmarketstribunal.ca). The email and its attachments shall not exceed the size of 30MB. If the total size of the documents exceeds 30MB, then a secure link must be used.

## AFFIDAVITS

Any party intending to introduce affidavit evidence at a merits hearing should provide the affidavit, as well as any attachments, to the Registrar as soon as practicable before the hearing. The party should adhere to the requirements listed above when filing the documents with the Registrar.

## INDEX FILE

The Index File lists and describes all the documents contained in the book of documents. It is a comma delimited text file in “.csv” format (which can be created in Excel or other programs). See Appendix M for an example of an Index File. A downloadable Index File template is available on the Tribunal website.

The Index File and the book of documents are filed with the Registrar at the same time, at least five days before the start of the hearing.

The Index File is not an adjudicative record and will not be available to the public.

## INFORMATION CONTAINED IN THE INDEX FILE

The Index File must include the relevant information in all the mandatory fields, where applicable. The mandatory fields are identified below with an asterisk (“\*”). The additional optional fields should be completed wherever possible, as a matter of best practice. See below and Appendix M for examples.

The Index File contains the following fields:

<b>A*</b>	<b>B*</b>	<b>C*</b>	<b>D</b>	<b>E*</b>	<b>F</b>	<b>G</b>	<b>H</b>	<b>I*</b>	<b>J*</b>	<b>K*</b>	<b>L*</b>	<b>M</b>	<b>N</b>
<b>Document ID</b>	<b>Unitized Parent Document ID</b>	<b>Confidential Parent Doc ID</b>	<b>Date</b>	<b>Description</b>	<b>Type</b>	<b>Author</b>	<b>Recipient</b>	<b>Path</b>	<b>Confidential</b>	<b>Redacted</b>	<b>Format</b>	<b>Native File name</b>	<b>Themes</b>
ABC000001	ABC000001		13/06/2013	Affidavit of [Name]	Affidavit	[Name]		ABC000001.pdf			pdf		Transaction 1
ABC000104C		ABC000104C	05/05/2013	List of Shares sold during 2013	Report			ABC000104C.pdf	C		pdf		Transaction 2
ABC000104R		ABC000104C	05/05/2013	List of Shares sold during 2013	Report			ABC000104R.pdf		R	pdf		Transaction 2

The field names entered into the first row of the Index File must be exactly as shown, with no extra spaces or other punctuation.

**Column A – DocumentID – Mandatory field:**

The DocumentID is a unique identifier that the party creates to name each of the documents in the book of documents. Each document must have a unique alphanumeric DocumentID, such as ABC000001, ABC000002, etc. No two documents can have the same DocumentID. DocumentIDs have no prescribed length.

When the parties have previously exchanged documents electronically using DocumentIDs, the parties may continue to use the same DocumentIDs for the Index File. The parties do not need to rename the document.

At the merits hearing, a document will be referred to by its DocumentID number or by its exhibit number if the document is marked as an exhibit by the Tribunal.

**Column B –Unitized Parent DocID – Mandatory field:**

Column B must be entered when individual documents are part of a family of related documents. For example, an email with attached documents is referred to as a “family”. The email itself is referred to as the “parent” and the attachments are referred to as the “children”. Document unitization is the process of preserving the relationship between the individual documents in the family (e.g. the email and its attachments). It allows the family of documents to be marked together as one exhibit at the e-hearing.

A family usually includes documents that are attached to each other. In addition, for the purposes of the Index File, a family of documents can also include any group of related, similar documents that a party intends to have entered as a single exhibit during the merits hearing (e.g. a set of financial statements for a single company, banking records for a specific account, phone records for a single phone number, etc.).

For each document that is part of a family, including the parent and all children, identify the family by entering the parent document's DocumentID in Column “B” (the Unitized Parent DocID Field).

**Column C – Confidential Parent DocID - Mandatory field:**

If the party intends to request that part of a document be confidential and not available to the public, Column C must be entered for both the original and redacted versions of the document.

Column C need not be entered if the party intends to request that the entire document be confidential.

Column C is used to unitize the original unredacted document and the redacted version into a family of two documents. The original document is the “parent” and the redacted version of the document is the “child”. Identify the confidential family by entering the original unredacted document's DocumentID in Column “C” (the Confidential Parent DocID Field) for both the original and redacted versions of the document.

These confidential families are separate and apart from the related document families discussed in Column B. Confidential families can occur as sub-families, within larger families of related documents.

**Column D - Date - Optional field:**

Enter the date of the document (if available) in Column D in mm/dd/yyyy format. Partial dates are not accepted.

**Column E - Description - Mandatory field:**

Enter the “Re:” line, title or short description of the document in Column E. Examples of document descriptions are: affidavit of [Name], email attachment, audio recording of [Name], etc.

**Column F - Type - Optional field:**

Enter the type of document in Column F (e.g. contract, email, letter, etc.).

**Column G - Author - Optional field:**

Enter the name of the author(s) of the document in Column G, if applicable. If the author is an individual, enter the name in this format: “last name, first name”. For multiple authors, separate each author’s name by a semi colon.

**Column H - Recipient – Optional field:**

Enter the name of the document’s recipient(s), if applicable (e.g. for emails, reports, and memos, etc.). If the recipient is an individual, enter the name in the following format: “last name, first name”. For multiple recipients, separate each recipient’s name by a semi colon.

**Column I - Path – Mandatory field:**

The path is the DocumentID, followed by the document’s file extension (e.g.

ABC00001.pdf, ABC00020.xls).

**Column J - Confidential - Mandatory field:**

If the party intends to request that the document be confidential, enter a “C” in Column J. For each such document, ensure that the “C” suffix is also added to the DocumentID in Column A.

**Column K - Redacted - Mandatory field:**

If the document is a redacted version of a document the party intends to request be confidential, enter an “R” in Column K.

Do not enter an “R” in Column K for documents that have been redacted in accordance with rule 11.

**Column L – Format – Mandatory field:**

Enter the document’s file extension (e.g. pdf, xlsx, mp3, wav) in Column L.

**Column M – Native Filename – Optional field:**

Enter the original filename of the document in Column M. The original filename is the name given by the document’s author at the time the document was created or last modified.

**Column N – Themes – Optional field:**

Use Column N to identify a theme related to a document. For example, the theme may indicate a witness, subject or issue related to the document.



## APPENDIX L: HEARING PARTICIPANT CHECKLIST

This form can be downloaded from the Tribunal website

MATTER INFORMATION	
<b>Matter Name</b>	[INSERT MATTER NAME]
<b>File Number</b>	[INSERT FILE NUMBER]
<b>Scheduled Dates for the Hearing</b>	[INSERT SCHEDULED DATES]
<b>Name:</b> [INSERT FIRST AND LAST NAME] [INSERT TITLE]	<b>Address:</b> [INSERT ADDRESS] <b>Phone:</b> [INSERT PHONE] <b>Email:</b> [INSERT EMAIL]

TRIAL RUN		
The Registrar will schedule a videoconference platform trial run based on the parties' availability prior to the hearing. The training will take approximately 30 minutes to one hour. Please provide a list of dates and times of your availability.		
	<b>Available Dates</b>	<b>Available Times</b>
<b>1</b>	[INSERT AVAILABLE DATE]	[INSERT AVAILABLE TIME]
<b>2</b>	[INSERT AVAILABLE DATE]	[INSERT AVAILABLE TIME]
<b>3</b>	[INSERT AVAILABLE DATE]	[INSERT AVAILABLE TIME]
Please attach a separate document with the above information if you require more room.		

INDIVIDUALS PARTICIPATING IN THE HEARING			
<b>Note that there are generally only two laptops in the hearing room available to each of the Commission and the respondents</b>			
<b>Name</b>	<b>Role</b>	<b>Laptop for Hybrid Hearing</b>	<b>Email Address Required</b>
[INSERT FIRST AND LAST NAME]	[INSERT ROLE]	[SELECT OPTION]	[INSERT EMAIL ADDRESS]

[INSERT FIRST AND LAST NAME]	[INSERT ROLE]	[SELECT OPTION]	[INSERT EMAIL ADDRESS]
[INSERT FIRST AND LAST NAME]	[INSERT ROLE]	[SELECT OPTION]	[INSERT EMAIL ADDRESS]
[INSERT FIRST AND LAST NAME]	[INSERT ROLE]	[SELECT OPTION]	[INSERT EMAIL ADDRESS]
[INSERT FIRST AND LAST NAME]	[INSERT ROLE]	[SELECT OPTION]	[INSERT EMAIL ADDRESS]

**HEARING WITNESS LOGISTICS**

**Total Number of Anticipated Witnesses:** [INSERT TOTAL]

<b>Witness Name</b>	<b>Email Address</b>	<b>Time</b>	<b>Anticipated Length</b>	<b>In person or Virtual Attendance</b>
[INSERT FIRST AND LAST NAME]	[INSERT EMAIL ADDRESS]	[INSERT ANTICIPATED TIME]	[INSERT ANTICIPATED LENGTH]	[SELECT OPTION]
[INSERT FIRST AND LAST NAME]	[INSERT EMAIL ADDRESS]	[INSERT ANTICIPATED TIME]	[INSERT ANTICIPATED LENGTH]	[SELECT OPTION]
[INSERT FIRST AND LAST NAME]	[INSERT EMAIL ADDRESS]	[INSERT ANTICIPATED TIME]	[INSERT ANTICIPATED LENGTH]	[SELECT OPTION]
[INSERT FIRST AND LAST NAME]	[INSERT EMAIL ADDRESS]	[INSERT ANTICIPATED TIME]	[INSERT ANTICIPATED LENGTH]	[SELECT OPTION]

## APPENDIX M: SAMPLE INDEX FILE

Document ID	Unitized Parent DocID	Confidential Parent DocID	Date	Description	Type	Author	Recipient	Path	Confidential	Redacted	Format	Native Filename	Themes
ABC000001	ABC000001		13/06/2013	Affidavit of [Name]	Affidavit	[Name]		ABC000001.pdf			pdf		Transaction 1
ABC000011	ABC000001		01/06/2013	Tab 1 - Resume of [Name]	Resume	[Name]		ABC000011.pdf			pdf		Transaction 1
ABC000021	ABC000001		01/05/2013	Tab 2 - Share Price Analysis vs TSE Index	Report	[Name]	[Name]	ABC000021.pdf			pdf		Transaction 1
ABC000051	ABC000001		23/04/2013	Tab 3 - Stock performance in 2010	Article			ABC000051.pdf			pdf		Transaction 1
ABC000066	ABC000001		01/01/2012	Tab 4 - Email titled "Please review analysis"	Email	[Name]	[Name]	ABC000066.pdf			pdf		Transaction 1
ABC000081	ABC000001		12/01/2013	Tab 5 - Share Certificates for ABC issued to Fred Flint	Certificates			ABC000081.pdf			pdf		Transaction 1
ABC000101			01/06/2013	RE: Offer Price	Memo	[Name]	[Name]	ABC000101.pdf			pdf	Offerprice.pdf	Transaction 1
ABC000102C		ABC000102C	01/06/2013	RE: Share Cap	Presentation	[Name]		ABC000102C.pdf	C		pdf		
ABC000102R		ABC000102C	01/06/2013	RE: Share Cap	Presentation	[Name]		ABC000102R.pdf		R	pdf		
ABC000104C		ABC000104C	05/05/2013	List of Shares sold during period Jan to Feb 2013	Report			ABC000104C.pdf	C		pdf		Transaction 2
ABC000104R		ABC000104C	05/05/2013	List of Shares sold during period Feb to March 2013	Report			ABC000104R.pdf		R	pdf		Transaction 2

Document ID	Unitized Parent DocID	Confidential Parent DocID	Date	Description	Type	Author	Recipient	Path	Confidential	Redacted	Format	Native Filename	Themes
ABC000105	ABC000105		05/02/2013	Email from [Name]	Email			ABC000105.pdf			pdf		
ABC000106	ABC000105		26/04/2013	Email attachment offer price docs	Report			ABC000106.pdf			pdf		
ABC000110C	ABC000105	ABC000110C	01/01/2013	Email attachment Trend Analysis for period 2012-2013	Spreadsheet			ABC100110C.pdf	C		pdf		
ABC000110R	ABC000105	ABC000110C	01/01/2013	Email attachment Trend Analysis for period 2012-2013	Spreadsheet			ABC100110R.pdf		R	pdf		
ABCvideo1			05/04/2013	Video titled "Investment information"	Video			ABCvideo1.mpg			mpg		
ABCAudio1			05/03/2013	Audio recording "Phone call to [Name]"	Audio			ABCAudio1.wav			wav		



## Contact Information

Email: [registrar@capitalmarketstribunal.ca](mailto:registrar@capitalmarketstribunal.ca)

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Toronto ON M5H 3S8