

ONTARIO SECURITIES COMMISSION PRACTICE GUIDELINE

| | |
|--|----------|
| 1. APPLICATION AND INTERPRETATION | 1 |
| (1) APPLICATION | 1 |
| 2. FILING DOCUMENTS..... | 1 |
| (1) REDACTIONS..... | 1 |
| (2) MERITS HEARING FOR AN ENFORCEMENT PROCEEDING | 1 |
| (3) ALL OTHER HEARINGS | 1 |
| (4) FORMAT OF ELECTRONIC FILINGS..... | 1 |
| (5) AUTHORITIES | 1 |
| 3. USE AND DISCLOSURE OF PERSONAL INFORMATION | 1 |
| (1) OBLIGATION TO REDACT | 1 |
| (2) PERSONAL INFORMATION..... | 2 |
| (3) PERSONAL INFORMATION OF RESPONDENTS | 2 |
| 4. LANGUAGE OF PROCEEDINGS | 2 |
| (1) CHOICE OF LANGUAGE FOR CONDUCT OF PROCEEDINGS..... | 2 |
| (2) LANGUAGE OF APPLICATION | 2 |
| (3) NOTICE OF HEARING | 2 |
| (4) COMMUNICATIONS WITH THE COMMISSION | 2 |
| (5) EVIDENCE AT THE HEARING | 2 |
| (6) TRANSLATION OF EVIDENCE | 2 |
| (7) TRANSLATION OF TRANSCRIPTS | 2 |
| (8) DECISIONS AND REASONS..... | 3 |
| 5. ENFORCEMENT PROCEEDINGS | 3 |
| (1) PROCEEDING MANAGEMENT: | 3 |
| 6. HEARING AND REVIEW PROCEEDINGS | 4 |
| (1) FIRST ATTENDANCE | 4 |
| (2) RECORD OF ORIGINAL PROCEEDING | 5 |
| 7. ALL OTHER PROCEEDINGS | 5 |
| (1) FIRST ATTENDANCE | 5 |
| 8. MOTIONS | 5 |
| (1) TIMING..... | 5 |
| (2) CROSS-EXAMINATION..... | 6 |
| (3) EVIDENCE..... | 6 |

1. APPLICATION AND INTERPRETATION

(1) Application: This Practice Guideline applies to proceedings before a Panel of the Commission.

2. FILING DOCUMENTS

(1) Redactions: A party who files a redacted document shall file a confidential clean copy with the redacted copy of the document.

(2) Merits Hearing for an Enforcement Proceeding: The merits hearing in an enforcement proceeding, except an inter-jurisdictional enforcement proceeding, shall be an e-hearing. Each party shall file the party's documents electronically and shall follow the *Protocol for E-Filing and E-Hearings* that is attached as Appendix A.

(3) All Other Hearings: In a hearing other than an e-hearing pursuant to subsection (2) above, each party shall file the party's documents both electronically and in paper in accordance with the *Rules of Procedure and Forms*. Five copies of a paper filing shall be filed with the Registrar. A party who files a document or thing shall,

(a) if the document or thing is filed electronically and

(i) the file size is 50MB or less, send it by email to the address: registrar@osc.gov.on.ca;
or

(ii) the file size exceeds 50MB, deliver it on physical media (e.g., DVD, CD, USB flash drive, external hard drive, or other method approved by the Registrar) to the address in (b) below; or

(b) if the document or thing is filed in paper, deliver it by mail, facsimile transmission (if under 25 pages), courier or personal delivery to:

Ontario Securities Commission
20 Queen Street West, 22nd Floor
Toronto, Ontario
M5H 3S8
Fax: 416-593-2318
Attention: Registrar, Office of the Secretary

(4) Format of Electronic Filings: A party who files an electronic document (including text and image/picture documents) shall file it in multi-page Portable Document Format (PDF) that allows full text searching.

(5) Authorities: Each party shall file copies of Commission decisions, court decisions and other legal authorities referred to in the party's submission, except for authorities included in the Commission's [Book of Authorities \(http://www.osc.gov.on.ca/en/Proceedings_before-commission_book-authorities.htm\)](http://www.osc.gov.on.ca/en/Proceedings_before-commission_book-authorities.htm). When relying on an authority from the Commission's [Book of Authorities](http://www.osc.gov.on.ca/en/Proceedings_before-commission_book-authorities.htm) in a written submission, a party shall identify the case name, citation and tab number from the alphabetical index to the Commission's [Book of Authorities](http://www.osc.gov.on.ca/en/Proceedings_before-commission_book-authorities.htm) and shall not append the authority to the party's submission.

3. USE AND DISCLOSURE OF PERSONAL INFORMATION

(1) Obligation to Redact: Each party shall use reasonable efforts to limit disclosure of personal information of an investor, witness or other third party to information that is necessary for the disposition of a matter and shall redact the party's documents accordingly.

(2) Personal Information: In this Practice Guideline, “personal information” means recorded information about an identifiable individual investor, witness or third party, including but not limited to a person’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;
- (e) bank account number and trading account number (including a joint account); and
- (f) name of spouse and child.

“Personal information” does not include a name, title, contact information or designation of an individual in a business, professional or official capacity.

(3) Personal Information of Respondents: It is not expected that personal information of a respondent that is relevant to the disposition of a matter be redacted. A party or participant may bring a motion before the Panel to request that any personal information about a respondent be redacted from any documents in the hearing record.

4. LANGUAGE OF PROCEEDINGS

(1) Choice of Language for Conduct of Proceedings: A party may request that a Panel conduct a hearing wholly or partly in French by serving and filing a written notice with the Registrar as soon as possible and, in any event, at least 60 days before the hearing.

(2) Language of Application: If a party to a proceeding brought by Staff requests that the proceeding be conducted wholly or partly in French, Staff shall serve and file, as soon as possible, a French translation of the Statement of Allegations or the Application, as the case may be.

(3) Notice of Hearing: Parties to a proceeding have the right to receive the Notice of Hearing in either English or French upon request.

(4) Communications with the Commission: The Commission will communicate and provide all of its correspondence, orders and decisions in the language of the proceeding as requested by the parties, and the parties may change their language of choice by notifying the Registrar in writing. Where at least one party uses French and at least one party uses English, Commission correspondence will be provided in both languages or will be translated.

(5) Evidence at the Hearing: Parties, witnesses and counsel participating in a hearing may submit evidence or written submissions either in English or in French. These documents will form part of the record in the language in which they are submitted.

(6) Translation of Evidence: The Commission has no obligation to translate documentary evidence. A party may bring a motion requesting translation into English or French of documentary evidence that is necessary for a fair determination of a matter.

(7) Translation of Transcripts: The Commission has no obligation to translate hearing transcripts. However, the Commission may, at its discretion, provide English or French translation of hearing transcripts.

(8) Decisions and Reasons: Commission decisions and reasons will be issued in the language of the hearing. If a hearing is conducted in both English and French, Commission decisions and reasons will be issued in both languages.

5. ENFORCEMENT PROCEEDINGS

(1) Proceeding Management: A Panel will impose a timeline for attendances and other steps in enforcement proceedings as follows, subject to the discretion of the Panel:

| Stage of the Proceeding: | Timeline: |
|--|--|
| <p>First Attendance A timeline will be set for:</p> <ul style="list-style-type: none"> • Disclosure of documents and things and service of witness lists and summaries and notices of intent to call expert witnesses; and • Any additional interlocutory matters, including subsequent attendances. | On the date set in the Notice of Hearing, which date should occur within four weeks of the issuance of the Notice of Hearing |
| <p>Staff's Disclosure of Relevant Documents Staff shall disclose to each respondent relevant documents in the possession or control of Staff.</p> | No later than 30 days after the First Attendance |
| <p>Disclosure Motion by a Respondent A respondent may serve and file a Motion regarding Staff's disclosure or seeking disclosure of additional documents.</p> | No later than 10 days before the Second Attendance |
| <p>Staff's Witness Lists and Intention to Call Experts Staff shall:</p> <ul style="list-style-type: none"> • Serve a witness list and witness statements on each respondent; and • Indicate any intention to call an expert witness. If Staff intends to call an expert witness, it shall provide the expert's name and state the issues on which the expert will give evidence. | No later than five days before the Second Attendance |
| <p>Second Attendance A motion by a respondent regarding Staff's disclosure will be heard or scheduled for a subsequent date. Other interlocutory motions, if any, will be scheduled.</p> | No later than 120 days after the First Attendance |
| <p>Respondent's Witness List and Intention to Call Experts Each respondent shall:</p> <ul style="list-style-type: none"> • Serve a witness list and witness statements to Staff; and • Indicate any intention to call an expert witness. If a respondent intends to call an expert witness, the respondent shall provide the expert's name and state the issues on which the expert will give evidence. | No later than 30 days before the Third Attendance |
| <p>E-hearing Checklist Each party shall file a completed copy of the <i>E-hearing Checklist for the Hearing on the Merits</i> provided in Appendix B.</p> | No later than 10 days before the Third Attendance |

| Stage of the Proceeding: | Timeline: |
|---|--|
| <p>Third Attendance</p> <ul style="list-style-type: none"> • Dates will be set for: <ul style="list-style-type: none"> ○ the merits hearing; and ○ the provision of expert reports including expert reports in response and in reply. • Further interlocutory motions may be held or scheduled. | <p>No later than 60 days after the Second Attendance</p> |
| <p>Delivery of Hearing Briefs</p> <p>Each party shall serve every other party with a hearing brief containing copies of the documents that the party intends to produce or enter as evidence at the merits hearing.</p> | <p>No later than 10 days before the Final Interlocutory Attendance</p> |
| <p>Filing of Hearing Brief Indices</p> <p>Each party shall file a copy of an index to the party's hearing brief.</p> | <p>No later than five days before the Final Interlocutory Attendance</p> |
| <p>Final Interlocutory Attendance</p> <ul style="list-style-type: none"> • Each party shall advise the Panel of any issue with respect to authenticity or admissibility of a document in a hearing brief. • Outstanding interlocutory issues will be addressed. | <p>No later than 30 days before the Merits Hearing</p> |
| <p>Electronic Documents and Index Files</p> <p>Each party shall provide to the Registrar the documents that the party intends to rely on or enter into evidence at the merits hearing, along with an Index File, in accordance with the <i>Protocol for E-Filing and E-Hearings</i> that is attached as Appendix A. An electronic document provided to the Registrar will become part of the hearing record only if the document is tendered into evidence and marked as an exhibit by the Panel in the hearing.</p> | <p>No later than five days before the Merits Hearing</p> |

6. HEARING AND REVIEW PROCEEDINGS

(1) First Attendance: At the first attendance in a hearing and review proceeding, the Panel will impose a timeline for subsequent attendances and, if applicable, for the following:

- (a) service and filing by the applicant of the record of the original proceeding;
- (b) notice of intention to rely on documents or things not included in the record of the original proceeding;
- (c) disclosure of documents or things not included in the record of the original proceeding;
- (d) disclosure of witness lists and summaries;
- (e) notices of intention to call an expert witness;
- (f) any other interlocutory matter, including motions;
- (g) subsequent attendances for proceeding management;
- (h) filing hearing briefs;

- (i) filing written submissions; and
- (j) hearing the application.

(2) Record of Original Proceeding: The record referred to in clause (1)(a) above includes:

- (a) the application or other document by which the original matter was commenced;
- (b) any Notice of Hearing;
- (c) interim orders;
- (d) documentary evidence filed in the original proceeding;
- (e) other relevant documents in the original proceeding on which the applicant will rely;
- (f) any transcript of oral evidence; and
- (g) the decision that is the subject of the request for a hearing and review, including any reasons for the decision.

7. ALL OTHER PROCEEDINGS

(1) First Attendance: At the first attendance in a proceeding other than an enforcement proceeding and a hearing and review proceeding, the Panel will impose a timeline, if applicable, for the following:

- (a) disclosure of documents and things;
- (b) disclosure of witness lists and summaries;
- (c) notices of intention to call an expert witness;
- (d) any other interlocutory matter, including motions;
- (e) subsequent attendances for proceeding management;
- (f) filing deadlines for written submissions; and
- (g) hearing the application.

8. MOTIONS

(1) Timing: The following timelines apply for filing motion materials:

- (a) at least 10 days before a motion date, the moving party shall serve and file the Motion and motion record as prescribed in the *Rules of Procedure and Forms*;
- (b) at least six days before the motion date, the responding party shall serve and file any responding affidavits;
- (c) at least four days before the motion date, the moving party shall serve and file:
 - (i) any reply affidavits; and
 - (ii) a memorandum of fact and law;
- (d) at least two days before the motion date, the responding party shall serve and file a memorandum of fact and law.

If a party fails to comply with these time limits or other time limits ordered by a Panel, a Panel may dispose of the motion as it considers appropriate.

(2) Cross-Examination: A party who files an affidavit shall make the affiant reasonably available for cross-examination by any adverse party before the motion.

(3) Evidence: A Panel may by order, before or at a hearing, require or permit oral testimony and cross-examination of an affiant at the hearing of the Motion.