

ASC NOTICE
AMENDMENTS TO ASC RULE 15-501
RULES OF PRACTICE AND PROCEDURE
FOR COMMISSION PROCEEDINGS

February 14, 2019

Introduction

The Alberta Securities Commission (**ASC**) is adopting amendments (**Amendments**) to ASC Rule 15-501 *Rules of Practice and Procedure for Commission Proceedings* (**ASC Rule 15-501**).

The Amendments will remove some outdated references and create or amend provisions that will further promote the efficient use of scheduled time for hearings.

The text of the Amendments is attached as Annex A to this Notice and will be available on the ASC's website at: www.albertasecurities.com

Background

ASC Rule 15-501 came into force on April 1, 2009, and is designed to foster efficient, cost-effective and timely proceedings before the Commission while ensuring fairness to each participant.

ASC Rule 15-501 represents a comprehensive outline of the procedural obligations that are imposed upon all parties who participate in a proceeding before the Commission. ASC Rule 15-501 codified what were, at the time, both new and existing but unwritten practices and procedures for proceedings before the Commission.

In order to further promote the efficient use of scheduled time for hearings while continuing to ensure that parties are treated fairly, the ASC is adopting the Amendments. The Amendments were published for comment on December 13, 2018, and the comment period expired on January 28, 2019. No comments were received by the ASC.

Summary of the Amendments

The Amendments address the following matters:

- (a) adds a definition for the phrase “Canadian financial institution” to support the implementation of the presumption of authenticity for specified documents;
- (b) removes outdated references to “facsimile” and “facsimile number”;
- (c) specifically requires a pre-hearing conference at least 2 weeks prior to the scheduled commencement of a hearing;

- (d) requires documents that are tendered as evidence to be in electronic format to explicitly embed the concept of electronic hearings; and
- (e) creates a presumption respecting the authenticity of specified documents, including official documents created by a department of a provincial government or the federal government, a municipal government or a “Canadian financial institution” (as defined in the Proposed Amendments).

In respect of implementing electronic hearings, the ASC intends to issue guidelines in which the procedural steps that will be necessary will be clearly described for the benefit of all participants in a hearing.

Effective Date

The Amendments will be effective on **April 1, 2019**, and will only apply to proceedings commenced on or after the effective date.

Contents of Annex

This Notice contains the following annex:

- Annex A - Amendments to ASC Rule 15-501 *Rules of Practice and Procedure for Commission Proceedings*

Questions

Please direct your questions to:

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Annex A

Amendments to Alberta Securities Commission Rule 15-501 *Rules of Practice and Procedure for Commission Proceedings*

1. *Alberta Securities Commission Rule 15-501 Rules of Practice and Procedure for Commission Proceedings is amended by this Instrument.*
2. *Section 1.1 is amended by adding the following definition:*
 - (c.1) **"Canadian financial institution"** means a bank, loan corporation, trust company, insurance company, treasury branch, credit union or caisse populaire that, in each case, is authorized to carry on business in Canada or in a province or territory of Canada, or the Confédération des caisses populaires et d'économie Desjardins du Québec;
3. *Paragraph 3.3(a) is replaced with the following:*
 - (a) If authorized by the Act, a person or company may commence an appeal before the ASC by serving, within the time prescribed by the Act, a written notice of appeal on the Commission in accordance with section 217(1.1) of the Act, and the notice of appeal shall include a statement indicating the order sought, the statutory provisions relied upon, and the grounds for the order..
4. *Section 5.1 is amended by adding "or" at the end of paragraph (a), by replacing "; or" at the end of paragraph (b) with "." and by deleting paragraph (c).*
5. *Section 5.3 is amended by replacing ", electronic mail or facsimile" with "or electronic mail".*
6. *Paragraph 5.5(d) and section 5.8 are amended by deleting "or facsimile".*
7. *Section 5.6 and paragraph 5.7(b) are amended by replacing ", electronic mail address or facsimile number" with "or electronic mail address" wherever the expression occurs.*
8. *Paragraph 7.1(c) is amended by replacing "30" with "60".*
9. *Paragraph 7.2(b) is amended by replacing "15" with "30".*
10. *Paragraph 7.3(b) is amended by replacing "45" with "75".*
11. *Section 8.1 is amended by adding "at any time after a proceeding is commenced. Despite the foregoing, a pre-hearing conference shall be held at least 2 weeks before a hearing in the proceeding is scheduled to commence. The purpose of a pre-hearing conference is" after "with a panel".*

12. *The rule is amended by adding the following sections in Part 10:*

10.4 Electronic Hearings

In respect of a proceeding commenced by staff pursuant to section 3.2 of these Rules, all documents that the parties intend to enter as evidence at a hearing shall be presented in electronic form.

10.5 Authenticity of Documents

- (a) In this section, “authentic” means that:
 - (i) in the case of a document identified as an original, it was created, printed, written, signed or executed as it purports to have been; and
 - (ii) in the case of a document identified as a copy, it is a true copy of the original.
- (b) Subject to clause (c), in a proceeding, the following documents are presumed to be authentic:
 - (i) an official or public document created by a department of the Government of Canada, a department of a government of a province or territory in Canada, or a municipal government in Canada; and
 - (ii) an official or public document created by a Canadian financial institution.
- (c) Clause (b) does not apply to a document if a party to the proceeding objects to the authenticity of the document,
 - (i) at least 15 days prior to the commencement of a hearing, with respect to a hearing under Part 16 of the Act, or
 - (ii) at least 3 days prior to the commencement of any other hearing to which these Rules apply.
- (d) Clause (b) does not preclude a party to a proceeding from objecting to the admission of the document as evidence in the proceeding on grounds other than its authenticity, and the absence of an objection to the authenticity of the document by a party to the proceeding does not constitute an acknowledgment that the document is relevant or material..

13. This Instrument comes into force on April 1, 2019, and shall only apply to a proceeding commenced on or after the effective date.