

## **GUIDELINES AND PROTOCOL FOR HYBRID HEARINGS**

**October 2022**

*Note: References to “hearing(s)” in this document include all matters to be heard by a Hearing Panel of Commission members, including pre-hearing conferences, motions, and enforcement hearings.*

This protocol applies to anyone (including employees, Commissioners, parties, legal counsel, and members of the public) who will be attending a Nova Scotia Securities Commission (the Commission) hearing scheduled to be held by a combination of in-person attendance and videoconference.

The safety of Commission employees, Commissioners, participants in a hearing and the public is of paramount importance when determining if a Commission hearing will be held in-person (either in the Commission’s Hearing Room at Suite 400, 5251 Duke Street in Halifax or at another venue in Halifax) and/or by videoconference.

The Hearing Panel will make the decision about how and where the Commission hearing will be held on a case-by-case basis. As early as possible in advance of a hearing, a Notice of Hearing or Amended Notice of Hearing will be posted on the Commission’s website advising of the format and location of the hearing.

### **Attending Commission Hearings In-Person**

For in-person hearings, the Province’s guidelines and best practices for cleaning and disinfecting will be followed.

### **COVID-19 Symptoms and Exposure**

You must NOT attend a hearing in-person if you:

- (a) have any symptoms of COVID-19 as detailed by the Nova Scotia Provincial Government on its website at <https://www.nshealth.ca/protecting-myself-and-others>; or
- (b) have received instructions to obtain a COVID-19 test, are awaiting results of a COVID-19 test, or have tested positive for COVID-19, until it is no longer required or recommended that you self-isolate.

If you are a participant in a hearing and develop symptoms of COVID-19 prior to or during the hearing, and are unable to attend or must leave the hearing due to the above guidelines, you must immediately notify the Secretary to the Commission – [doug.harris@novascotia.ca](mailto:doug.harris@novascotia.ca) or (902) 424-4106 – so that arrangements may be made for you to attend by videoconference.

### **For Participants Attending the Hearing In-Person**

- Parties should notify the Secretary at least one week in advance of a hearing of the names of the persons who will be appearing with them as well as how many, as the rooms used for a hearing will have capacity limits.
- Participants must wear a mask in all public spaces, including in hallways, on elevators, in lobbies, in washrooms, etc. Participants in a hearing may remove their masks while seated in the hearing room if they are able to maintain a two-metre separation from others or with consent from the Hearing Panel. Participants may wear a mask during the hearing even if they are able to maintain two-metre separation from others.
- Participants must follow all instructions (directions) at the hearing venue, including upon entry and exit of the hearing room.
- Participants should arrive at the hearing venue no more than fifteen minutes before the scheduled start time of the hearing. Participants arriving earlier will not be allowed in the hearing room and will not be permitted to wait in the lobby of the venue as it may not be large enough to allow for adequate physical distancing.
- Participants should bring, and remove at the end of each day, any stationery, personal effects or any beverages (with lids) that they may require during the hearing. Water may not be provided.

### **For the Public Attending Hearings In-Person**

- Due to physical distancing requirements, the attendance by members of the public in person at a hearing may be restricted or limited.
- If a member of the public wants to attend a hearing, they must:
  - contact the Commission's Communications Officer at [david.harrison@novascotia.ca](mailto:david.harrison@novascotia.ca) to request access to a hearing in advance, which may be approved or denied based on health and safety considerations at the hearing venue;
  - provide the Communications Officer with their name and contact information; and
  - follow all other requirements set out above.

- Recording of the hearing (audio, visual or otherwise) or the taking of photos by anyone is strictly prohibited.

### **Physical Distancing at Hearing Venues**

All attendees at a hearing venue are required to maintain physical distancing by:

- maintaining a two-metre physical distancing in all spaces, wherever possible;
- following the instructions posted for each shared space (reception, hearing rooms, meeting rooms) regarding the maximum capacity, entry, and use; and
- following safety protocols when entering or exiting the hearing venue, such as elevator capacity limits, use of stairwells, etc.

### **Practice Good Hygiene at Hearing Venues**

All attendees at a hearing venue are required to:

- wash their hands frequently with soap and water for a minimum of twenty (20) seconds;
- use the hand sanitizers located throughout the building when unable to wash their hands;
- cough and sneeze into an arm or sleeve;
- avoid touching your eyes, nose and mouth; and
- avoid any personal contact, such as handshakes and hugs.

## **Attending Commission Hearings by Videoconference**

### **Access to the Commission Hearing**

- Outlook Invitation – Participants, including Hearing Panel members, will be sent an invitation for the Commission hearing by e-mail at least two days before the date of the scheduled hearing matter.
  - The invitation will contain a link to the Commission hearing via [MS Teams](#) videoconferencing. Click on the “[Join Microsoft Teams Meeting](#)” link to access the hearing.
  - To join a meeting, the invitee can simply open the email or the calendar item and click on “[Join Microsoft Teams Meeting](#)”. The invitee will be redirected to a page where they will have to make a choice: “[Open the Teams app](#)” (Teams desktop application if it is installed) or “[Join on the web](#)” (no download required).

- The meeting invitation also includes a telephone number and conference ID# to be used as a backup if a participant is unable to connect via the link or there are technical difficulties during the hearing.
- Advance Testing - All participants should test their access in advance of the hearing date to ensure they are able to connect, test their camera and microphone configuration settings, address any security restrictions on their systems, and familiarize themselves with the video and audio settings and how to leave the hearing. To arrange a test, please contact the Secretary.
- Access on Hearing Day. External participants may have to wait in a virtual lobby until the Secretary provides access to the hearing. The Secretary will enable access to the [MS Teams](#) technology 15 minutes before the scheduled start time of the hearing. The parties are strongly encouraged to connect early to ensure any technological issues are addressed prior to the scheduled start time, and to ensure access prior to the Hearing Panel.
- Connections. Do not use public Wi-Fi to access the hearing. If possible, connect to the hearing via a network connection rather than Wi-Fi to ensure the best and most reliable connection.

### **Videoconference Hearing Etiquette**

- Business attire is required.
- Participants should be in an appropriate, well-lit and private setting, with steps taken to reduce the risk of interruptions.
- The background should be as neutral as possible. Artificial digital backgrounds should be avoided as they may affect the speed of the technology.
- Devices used to connect to the hearing should be placed on a stable surface (not held) and positioned at eye-level or slightly above eye-level so that participants are directly facing the camera. Eye contact is achieved by looking at the camera on your computer rather than looking at the participants on the screen.
- Participants should not move away from the screen or turn their video off during the hearing without permission from the Chair of the Hearing Panel.
- To minimize background noise, a headset or earphones should be used when possible.
- Participants should close all applications on their computer that are not needed for the hearing and should mute all notifications, such as phones, emails, texts, etc.
- There should be no eating during the hearing. Parties may have water, coffee or tea available but nothing else.

- Unless addressing the Hearing Panel, or otherwise requested to speak, all participants should have their microphones muted.
- The Hearing Panel should be addressed in the same manner as if the hearing is being held in the Commission's hearing room.
- Participants should speak one at a time. Speak slowly and pause when necessary, as there may be video lag.
- If a participant wishes to speak, they should raise their hand on-screen or using the function in Teams and wait to be recognized.
- Be mindful that your video is on and be wary of unwanted facial expressions.

### **Breakout Sessions**

- Counsel should plan in advance on how to communicate with their clients and co-counsel privately during the hearing through a separate communication channel (e.g., via email or text messaging). Do not use the chat function of the video platform because such communications may be seen by others during the hearing.
- The Hearing Panel will be provided with a separate meeting link accessible only by the Hearing Panel members (and the Secretary) for any Hearing Panel deliberations during a recess.

### **Public Access**

Notice of the hearing by videoconferencing will be posted on the Commission's website. Members of the public wishing to attend the hearing should contact the Communications Officer at [david.harrison@novascotia.ca](mailto:david.harrison@novascotia.ca), who will forward the [MS Teams](#) link to them. This will ensure that the Hearing Panel knows the names of the individuals attending each matter since their names may not necessarily appear when they connect to the hearing.

At the start of the hearing, the Hearing Panel Chair will advise of the following housekeeping matters:

- Recording of the hearing (audio, visual or otherwise) or the taking of photos or screen captures by any participants, the media or the public is strictly prohibited. Saving copies of any documents shared during the hearing by the media or the public is strictly prohibited (copies of public documents may be requested from the Secretary in the ordinary course).
- How private or sensitive information will be referred to or protected during the hearing.
- Any other directions by the Hearing Panel.

### **Issuing Orders at the End of a Hearing**

If the Hearing Panel wishes to issue an order during the hearing, the Chair of the Hearing Panel should read the order aloud for the record. The Chair of the Hearing Panel should also advise that any Hearing Panel member attending by videoconference will (i) confirm orally for the record that they are signing the order, (ii) orally authorize the Secretary to insert their electronic, conformed signature in an electronic version of the order for the purposes of it being issued, and (iii) forward their copy of the originally signed order to the Secretary following the hearing.

### **Technological Problems**

In the event of technical problems that occur during the hearing, a participant should alert the Hearing Panel immediately.