

2.1 -- Applications to the Ontario Securities Commission

A. Types of Applications and Fees

1. The procedures set forth in this Policy Statement apply to all applications made to the Ontario Securities Commission under appropriate sections of the Securities Act (Ontario) (the "Act"), the regulations made under the Act (the "Regulation"), O.S.C. Policy Statements and the Business Corporations Act (Ontario) (the "OBCA"). Applications for registration as an adviser, dealer or underwriter are not dealt with here. In addition, there are other, more informal decisions made by the Commission (such as under National Policy No. 11), the Director of the Commission or the Deputy-Director under the Act, the Regulation or some of the Policy Statements that do not require the formal application contemplated by this Policy Statement.
2. The following sections of the Act, the Regulation and the OBCA provide for applications to the Commission. Applications made otherwise than to the Commission are not dealt with here. Generally speaking, such sections contemplate orders by the Commission granting relief from various statutory requirements. The fee payable to the Commission when an application under one of these sections of the Act or the OBCA is found in Schedule 1 to the Regulation and the Schedule to the regulations made under the OBCA, respectively:

Section of the Act	Section of the Regulation	
61(5) [62(5)]	2(4)(b)	
73 [74]	12(5)	
73 [74]	133(3) [Revoked by O.Reg. 345/87, s. 7]	
(supplementary Application)	136(4) [Revoked by O.Reg. 345/87, s. 10]	
79 [80]	138 [149]	
79 [80] (b)(iii)		
(in conjunction with Policy Statement 2.6)	Section of the OBCA	
82 [83]	1(8)	
87 [88]	117(2)	
99 [100]		
109 [113]		
111(2) [115(2)]		
113(2) [117(2)]		
114(3) [118(3)]		
117(2) [121(2)]		
140 [144]		

B. Submission of Applications

1. All applications shall be addressed to:

The Secretary to the Commission,
Ontario Securities Commission,
Suite 1800, Box 55
20 Queen Street West,
Toronto, Ontario, M5H 3S8.

TDX #76

2. Cheques in the amounts of the appropriate fees should be submitted with the application and made payable to the Treasurer of Ontario.

C. Number of Copies and Confidentiality

1. The original executed application and two copies should be submitted. If Commission staff determine that the application should be heard by the full Commission, nine additional copies will be requested from the applicant. Additional copies should be made available on request of the Secretary for the use of the financial press. If the supporting material appended to the application is bulky, only one copy of the supporting material need be filed unless the Commission requests further copies.
2. Upon receipt by the Commission of an application, one copy of the application shall be placed immediately in the public file unless confidentiality is specifically requested. Where confidentiality is requested, applicants should be prepared to demonstrate that such confidentiality is reasonable in the circumstances and would not be contrary to the public interest. Reference may be made in this regard to section 137(2) [140(2)] of the Act.

D. Contents and Format

There is no prescribed form for applications but they are often prepared in letter form. Applications should be divided into parts dealing with each of the following headings, as applicable, including the information, where relevant, indicated below:

(a) Summary

Include the name of the issuer, the name of the applicant (if different from the issuer), the statute, regulation or policy statement pursuant to which the application is made and the nature of the relief sought.

(b) The Issuer

- (i) the name of the issuer;

- (ii) jurisdiction and date of incorporation or (in the case of unincorporated entities) organization;
 - (iii) (if relevant (such as in most applications under section 73 [74] of the Act) and where not otherwise dealt with in an exhibit such as financial statements or an annual report) capital structure -- authorized and issued capital and debt obligations;
 - (iv) whether the issuer is a reporting issuer;
 - (v) listing status -- whether listed on the TSE or any other stock exchange or trading over-the-counter, and recent price and volume trading data, if relevant;
 - (vi) a statement that the issuer is not on the list of defaulting reporting issuers maintained pursuant to section 71(9) [72(9)];
- (c) The Applicant

If the applicant is a person or company other than the issuer, include those items in clause (b) which are relevant to the applicant and explain the applicant's relationship to the issuer.

(d) Order or Decision Sought

- (i) the facts on which the application is based;
- (ii) the reasons for making the application;
- (iii) relevant considerations including case law, prior Commission decisions, policies and argument regarding the foregoing;
- (iv) other relevant circumstances including regulatory decisions, applications pending, conditions or recommendations;
- (v) supporting documents -- such documents may be included as schedules or exhibits to the application and references in the application may be made to such supporting documents; and
- (vi) where thought appropriate, a draft form of order for the consideration of the Commission staff.

Where more than one order or decision is sought, so indicate and remit the necessary fees.

(e) Verification

Each application must be signed by the party submitting the application and must contain a statement certifying the truth of the facts contained therein. If the application is not signed by the applicant and is made by an agent for the applicant such statement may be omitted if the application is accompanied by a statement made by the applicant confirming the authority of the agent to prepare and file the application and confirming also the truth of the facts contained in the application. Sample language might include:

We authorize the making and filing of the attached application by _____ and confirm the truth of the facts contained therein.

DATED at _____ this _____ day of _____, 19

authorized
officer"

E. Commission Procedure

1. Upon receipt of an application with the correct fee, a member of the Commission staff will be assigned to review the application and recommend disposition. The staff member may contact the applicant if further information or clarification is required. Where the additional information or clarification sought is not provided with reasonable dispatch, the Commission on its own motion or on the recommendation of the staff member may decide that the application should be treated as abandoned. No application will be treated as abandoned simply because a staff member has not had an opportunity to review it. The staff member may recommend that a quorum of the Commission make a certain decision on an ad hoc basis without a hearing. If such a recommendation is accepted, an order will be prepared and signed by two members of the Commission without a hearing. No application will be refused without the applicant being afforded the opportunity of a hearing.
2. Where the staff member recommends denial of an application or where a matter is contentious or of general importance or of a non-routine nature, the application will be set down for hearing before the Commission. The staff memorandum respecting the application will be forwarded to the applicant. The Commission meets regularly on Thursdays and hears such applications. The applicant is afforded an opportunity to present the application and the staff member who dealt with the application will generally be present at the hearing.
3. The application and all relevant supporting material and the staff memorandum must be delivered to the Commission no later than the Wednesday, eight days prior to the regular Commission meeting at which the application will be heard.
4. In those cases where a clear and compelling situation exists, requests may be made to the Secretary to the Commission or to the staff member dealing with the application to expedite the hearing.
5. The hearing itself is generally conducted on an informal basis with the decision being rendered orally by the Commission. In the normal course, the Commission will have reviewed the material prior to the meeting, will ask questions of the applicant with respect thereto and will not expect the application to be set forth again. In some cases a more formal hearing may be required. Hearings are open to the public unless the Commission is satisfied that there is sufficient reason to hear the matter, or part of the matter, in camera. Hearings are usually transcribed, although an applicant should specifically request transcription if it is believed necessary. Hearings under section 73 [74] of the Act are seldom transcribed as section 73 [74] rulings are not subject to appeal.
6. Although section 73 [74] of the Act provides for rulings with respect to trades or intended trades, the Commission is generally reluctant to issue rulings which have

retroactive effect. As an alternative, the Commission may in appropriate circumstances determine that no action will be taken with respect to a particular transaction.

7. An application may be withdrawn at any time before the Commission has reached a decision on the matter without prejudice to the right of the applicant to re-apply. Decisions of the Commission, except rulings made under section 73 [74] of the Act, are subject to appeal to the Divisional Court of the Supreme Court of Ontario.