

# ALBERTA SECURITIES COMMISSION

## *REMOTE HEARING GUIDELINES*

Some Alberta Securities Commission (ASC) matters are being conducted remotely, in whole or in part. This document applies to a matter (a **Remote Hearing**) before a panel of ASC members in which one or more of those participating will not be physically present (a **Remote Participant**) in a hearing room at the ASC (the **Hearing Room**). These are general guidelines to assist in determining what procedures will be appropriate for a particular Remote Hearing.

A Remote Hearing may be conducted by videoconference or teleconference, with videoconference typically the preferred means. Specifics will be addressed during hearing management sessions. The current videoconferencing platform used by the ASC is Zoom. The ASC clerk (the **Clerk**) will control the technology during a Remote Hearing.

For the duration of time that pandemic restrictions are in place, a party to a proceeding will not need to request that part or all of that proceeding be conducted remotely (as otherwise required under s. 10.3 of [Rule 15-501 Rules of Practice and Procedure for Commission Proceedings](#)), and the ASC will ensure the necessary facilities and equipment are available in the Hearing Room. A panel's permission is not required for remote participation, but each party is to notify the panel during a hearing management session or through the ASC Registrar if that party and any of its proposed witnesses plan to attend the Remote Hearing remotely or in person. Counsel are also to notify the panel which counsel intend to appear remotely or in person.

The technology a Remote Participant will need for a Remote Hearing by Zoom is set out in **Appendix A Technical Guidelines for Remote Hearings by Videoconference (Zoom)**. If a Remote Participant does not have access to the necessary technology, arrangements and alternatives are to be discussed among the parties as soon as possible. If a Remote Hearing is to be conducted by teleconference, those procedures are also to be discussed among the parties as soon as possible.

Any participants planning to attend a Remote Hearing at the ASC in the Hearing Room or at another business location (such as a law firm) need to:

- if planning to attend at the ASC, review **Appendix B COVID-19 Health and Safety Protocols for Visitors to the Alberta Securities Commission**.
- if planning to attend at another business location, ensure they are aware of the COVID-19 protocols in place at that other location.
- have an alternative plan in the event they become subject to isolation requirements at any point during the Remote Hearing; if that situation arises, it must be raised as soon as possible.

### **I. PLANNING AND COOPERATION**

It is essential that all parties work together before and during a Remote Hearing so that it will proceed as efficiently as possible. This may also require flexibility during a Remote Hearing if one or more Remote Participants experience technical difficulties.

Planning before the Remote Hearing should include ensuring that all Remote Participants have suitable technology and are familiar with how to use it. This would likely be straightforward when teleconferencing is used (note that dialing in through an internet connection is not recommended). When videoconferencing is being used, appropriate planning would include a practice session among some or all of the parties.

Specifics of participation, testing and any practice sessions may be coordinated with the Clerk.

Ideally, all panel members, the Clerk and the court reporter will be physically present in the Hearing Room when there is a Remote Hearing. However, there may be circumstances in which one or more of those will be Remote Participants. Other hearing participants (respondents, counsel and witnesses) may typically attend remotely or in person – subject to restrictions in place at Centennial Place and the ASC offices.

For the duration of time that pandemic restrictions are in place, the ASC will provide hand sanitizer and will ensure high-touch or common surfaces are properly and regularly cleaned.

## **II. LOGISTICS**

Each Remote Participant needs the necessary technical capacity for the Remote Hearing – the proper hardware and software, and the ability to use them. Further information is set out in **Appendix A *Technical Guidelines for Remote Hearings by Videoconference (Zoom)***.

If a Remote Participant is able to use Zoom from home, there should be no need to travel to another location if it is inadvisable to do so.

Basic technical assistance is available from the ASC. A Remote Participant requiring such assistance should contact the Clerk ([clerk@asc.ca](mailto:clerk@asc.ca)).

Each Remote Participant should have the contact information for the Clerk ([clerk@asc.ca](mailto:clerk@asc.ca) or 403.355.4203 or 587.439.2697) in the event of technical problems, such as losing the connection to the Remote Hearing. The Clerk should have the contact information for each Remote Participant.

## **III. PROCEDURE**

- speak one at a time
- speak slowly and clearly for the court reporter
- a person needing to interrupt the proceedings – such as for a technical problem, an objection to a question, or a need to confer with a participant in a different physical location – is to interrupt verbally (or contact the Clerk using the contact information provided if participating remotely and the connection to the Remote Hearing has been lost)
- people who need to confer while a Remote Hearing is in session but are in different physical locations should establish their own process for doing so (e.g., text or email), as this cannot be done confidentially as part of the Remote Hearing; this applies to counsel and a client, co-counsel, co-respondents, etc.

- each counsel appearing in person is to have a camera and microphone (e.g., a laptop computer) at that counsel's place at the counsel table and is to speak from that place; the lectern will not be used.

#### IV. ETIQUETTE

- attire for videoconferences is the same as is expected in the Hearing Room
- join the Remote Hearing 15 minutes before the scheduled start time to ensure all technology is working
- no audio or visual recording (including taking a photograph or screen shot) of any part of an ASC proceeding, including a Remote Hearing, is allowed
- mute any devices in the room with you (e.g., smart phones, watches, speakers, alarms and notifications)
- minimize distractions (e.g., if participating from home, ideally be in a quiet room with no children or pets)
- ensure nothing in the video picture is private or inappropriate (e.g., confidential paperwork)
- all participants should be on mute unless speaking
- remain seated and in the camera's view while the Remote Hearing is in session
- try to look at the camera when speaking
- do not eat while the Remote Hearing is in session
- do not use the "chat" function on Zoom unless communicating with the Clerk regarding technical issues
- do not rustle paper, type on a keyboard or make other distracting noises (unless the microphone is on mute).

#### V. DOCUMENTS

- the Clerk should have electronic versions of all documents the parties intend to use at the Remote Hearing (for more information, see the separate document [\*Guidelines for Using Electronic Documents in ASC Enforcement Hearings\*](#)).
- the Clerk will display those documents on the screen when asked to by the parties
- if a party wishes to refer to a document for which the Clerk does not have an electronic version, the party will have to make arrangements to provide to the Clerk that document electronically and in a timely manner.

#### VI. WITNESSES

Remote witness testimony can be challenging. Some of these challenges can be mitigated with the following procedures:

- the witness will be affirmed or sworn remotely by the court reporter (a witness preferring to be sworn will need to have the appropriate religious book)
- the witness must be alone in the room when testifying
- the witness must close any other communication programs or applications on the computer or during the testimony
- if the witness wishes to refer to any notes, the panel should first be informed and will decide if the witness may do so while testifying (in addition, the panel may

allow other parties to see those notes and may hear arguments from other parties as to whether the witness will be allowed to refer to them)

- the witness is not to be coached by anyone or by any means during testimony (e.g., orally, text messages or gestures)
- the witness must have the Clerk's contact information to use if there are technical difficulties, and the Clerk needs the witness's contact information
- witnesses are generally excluded from a hearing until after they have testified; therefore, witnesses will be told before the Remote Hearing how they will be joining the Remote Hearing to testify.

For the duration of time that pandemic restrictions are in place, a witness testifying in the Hearing Room will not be provided with a religious book on which to swear an oath.

## **VII. PUBLIC ACCESS**

Remote Hearings, as with most ASC proceedings, are open to the public unless otherwise ordered by an ASC panel.

For the duration of time that pandemic restrictions are in place, members of the public or media will not be able to attend hearings in person in the Hearing Room. Information will be posted on the ASC website under [Status of Current Proceedings](#) regarding the process for members of the public or media to listen to Remote Hearings. During a Remote Hearing held by videoconference, members of the public or media are restricted to listening to the proceedings and will not have access to the video portion (they would not be able to see any of the participants or to see any documents displayed by the Clerk).

## **APPENDIX A**

### **Technical Guidelines for Remote Hearings by Videoconference (Zoom)**

During the COVID-19 pandemic, the Alberta Securities Commission will be conducting some hearings as remote videoconferences via Zoom (a Remote Hearing).

#### **Technical Requirements**

- Stable Wi-Fi or direct connection to the internet by Ethernet cable. Use of public Wi-Fi is not recommended for security and connectivity reasons.
- A modern PC or laptop (ideally with a 15” or larger screen) running the free Zoom desktop software. A second monitor is optional, but will allow documents to show on one monitor and Remote Hearing participants on the other. Accessing the Zoom meeting from a cell phone or tablet is not recommended.
- A high definition webcam and a high clarity audio headset or microphone may be useful. The record function on Zoom will be disabled.
- Do not share any links or Zoom connection information provided for the Remote Hearing with anyone who is not a participant in the Remote Hearing.

#### **Recommendations**

- Choose a quiet location. Minimize background noise. Any unnecessary noise could disrupt the proceedings.
- Position your PC or laptop so that your face is lit from the front by a light or window. If you have a laptop, plug it in.
- Do not use Zoom virtual backgrounds. This feature requires more PC power and may be distracting.

#### **Testing and Assistance**

The ASC IT department, the Clerk, Staff counsel, the respondents and respondents' counsel (if any) are to participate in a test Zoom meeting at least 24 hours prior to the start of the Remote Hearing to ensure the Zoom setup is working and to address any technical issues. An individual time for a test Zoom meeting will be set up between the Clerk and each remote witness.

Please contact the Clerk at [clerk@asc.ca](mailto:clerk@asc.ca) if you require assistance.

## **APPENDIX B**

### **COVID-19 Health and Safety Protocols for Visitors to the Alberta Securities Commission**

#### **Access to the Alberta Securities Commission's offices:**

The Alberta Securities Commission (ASC) is located in the Centennial Place West Tower, at 250 – 5th Street SW in Calgary, Alberta.

The building is accessible to the public, with some restrictions:

- Although portions of Calgary's Plus 15 network are closed, Centennial Place, Eau Claire Tower and Devon Tower can now be accessed through the Plus 15 connectors between 6 a.m. and 6 p.m., Monday through Friday.
- The building's revolving doors are open on 5th Street SW, with signs indicating which to use.
- **DO NOT** enter the building or ASC offices if you are experiencing any symptoms of COVID-19.

#### **Once in the building:**

- Everyone is required to maintain physical distancing of 6ft/2m in all common areas.
- A face covering is required in all indoor public areas (City of Calgary Bylaw 26M2020).
- Signage has been posted throughout the building's public areas demarcating 6ft/2m intervals and delineating the flow of traffic.
- Hand sanitizer stations are located throughout the building's public areas.
- Cleaning protocols within the building have been enhanced, and the air filtration/HVAC system optimised in response to the COVID-19 pandemic.
- Visitors scheduled to participate in ASC Hearings should proceed to the ASC's offices on the 5th floor where the hearing rooms are located.
- A maximum of two people are allowed in an elevator at one time.

#### **Once in the ASC's offices:**

- All employees and visitors to the ASC's offices are required to wear face coverings while in public areas within the office or where appropriate social distancing cannot be assured. These spaces include all elevator lobbies, Reception, hallways, washrooms, and coffee/copier stations.
- All employees and visitors are required to maintain physical distancing of 6ft/2m whenever possible. If not possible, face coverings are required.
- Hand sanitizer stations have been established in the elevator lobbies and outside of the hearing rooms.
- Disinfectant supplies will be available to all hearing participants in the hearing rooms.
- Maximum occupancy has been posted for each Hearing Room. For Hearing Room A, the maximum occupancy is 12. For Hearing Room B, the maximum occupancy is 16.

- All employees and visitors to the ASC's offices are asked to observe appropriate hygiene practices:
  - wash your hands frequently using soap and water, or use the provided hand sanitizer
  - cough and sneeze into an arm or sleeve
  - avoid touching your eyes, nose or mouth
  - avoid personal contact – no hand shakes, fist bumps, etc.
- In conjunction with the landlord, enhanced cleaning protocols have been established throughout the ASC's office space:
  - all common areas and high-touch surfaces are cleaned several times each day
  - deep cleaning is conducted weekly
  - cleaning staff are being monitored to ensure they are healthy when at work
  - all building staff are wearing face coverings and other appropriate personal protective equipment at all times.