

Alberta Securities Commission: Primer

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The Practical Side of Administrative Agencies, Boards, and Tribunals

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Overview of the Alberta Securities Commission

The Alberta Securities Commission (**ASC**) was established in 1955. It is a self-funded regulatory agency operating under the *Securities Act*, RSA 2000, c. S-4 (**Act**), having the dual mandate of protecting investors and fostering a fair and efficient capital market in Alberta. The ASC oversees the trading of securities in Alberta (both terms broadly defined in the Act). It does so by regulating the conduct of issuers of securities and their officers, directors and significant shareholders, as well as intermediaries, certain service providers, and marketplaces located or carrying on business within Alberta. The ASC regulates such conduct through:

- (a) The oversight of issuers and market participants and their compliance with Alberta securities laws;
- (b) the investigation of alleged breaches of Alberta securities laws, the commencement and adjudication of enforcement action against offenders, and the review and resolution of disputes among market participants and investors; and
- (c) the formulation of new, and the recommendation of amendments to existing, provisions of the Act and other Alberta securities laws through the Alberta Minister of Finance and Enterprise and through work with the Canadian Securities Administrators.

The ASC is a corporation with a board of directors consisting of the members of the Commission (Members - of whom currently there are 11). Members are appointed by the Lieutenant Governor in Council and are headed by a full-time Chair and Chief Executive Officer, and one or more Vice-Chairs (currently there are two). Members are chosen from various professions and backgrounds, including lawyers, accountants, brokers, geologists and directors. New Members are provided a briefing book detailing the operations of the ASC and the duties and responsibilities of the Members.

The Members set policy, make rules and recommend changes to the Act and accompanying regulations to the provincial government. Members also: have an adjudication function and are empowered to hear matters that affect the public interest in Alberta (e.g., enforcement proceedings and applications for exemptions from the requirements of Alberta securities laws), make orders and rulings, and hear appeals from the decisions of internal administrative staff and from certain other regulatory authorities.

The Chair may designate two or more Members to sit as a panel (s. 23(1)). Two Members constitutes a quorum at a sitting of a panel of the ASC (s. 23(2)).

The fact that Members have both a policy and adjudicative function does not, of itself, create a reasonable apprehension of bias. Some act going beyond its statutorily authorized duties must be found to disqualify the ASC from hearing a matter (*Brosseau v. Alberta Securities Commission*, 1989 CarswellAlta 19 (S.C.C.)).

The ASC has a staff and executive management group (Staff) headed by the chief administrative officer, the Executive Director (ED), who run the day-to-day operations of the Commission. ASC Staff responsibilities include registration and oversight of persons and companies operating in Alberta's securities industry, reviewing prospectuses and continuous disclosure, considering applications for exemptions from specified requirements of Alberta securities laws, developing changes to and making recommendations regarding Alberta securities laws, and taking enforcement action against persons who are alleged to have contravened Alberta securities laws.

The staff of the ASC is composed of legal, financial, accounting, management, engineering, geology and communication professionals, as well as securities analysts, investigators and administrative support personnel. As at March 12, 2012, the ASC employed 166 staff on a full-time basis, all in Calgary.

Roles and Responsibilities

The ASC is organized into the following divisions or branches:

- (a) Chair's Office – represents the ASC and addresses emerging issues in securities regulation.
- (b) Office of the ED – oversees Corporate Finance, Enforcement and Market Regulation, among other groups. The ED also has an adjudicative role, and acts in an appellate capacity from decisions made by Market Regulation, Corporate Finance, and Enforcement.
- (c) Office of the General Counsel – reports to the Chair, and provides legal advisory services to the ASC on a broad range of operational, transactional and policy projects. This branch also provides guidance to market participants on the interpretation of securities laws.