

Financial Services Tribunal

2023/24 – 2025/26

Annual Business Plan

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1.0 MESSAGE FROM THE CHAIR

It is my pleasure to present the 2023/24 – 2025/26 Annual Business Plan (Plan) for the Financial Services Tribunal (FST or “Tribunal”). The Plan provides an overview of the Tribunal’s activities and priorities for the coming years. It highlights the FST’s core functions, future commitments and challenges and sets out our strategic direction along with an assessment of the resources necessary to achieve our goals. Through this Plan, we continue to support the government’s priorities, including creating greater public confidence in financial services regulation and support for our independent adjudicative function.

The COVID-19 pandemic changed the way in which the FST conducts its daily operations. During the pandemic, the Tribunal moved quickly to switch from in-person hearings, which had been the norm, to an electronic audio/video format using the Microsoft Teams platform, governed by new practice directions and our existing Rules. As a result, we have enhanced our ability to hold (and have been holding) electronic hearings, in-person hearings and hybrid hearings (combination electronic and in-person). We will continue to offer these formats to parties as appropriate in the circumstances and will be making further changes to our Rules and practice directions to reflect current best practices as public health restrictions are relaxed.

We are committed to aligning the FST’s operations with the government’s priority to offer enhanced digital service offerings. We continue our work on the re-design and modernization of our website to offer a more streamlined, user-friendly public interface.

The FST is dedicated to meeting its legislated commitments and to achieving excellence in conducting its proceedings, writing quality decisions and maintaining high standards in delivering its services to the public. FST members and staff will continue to work together to achieve the strategic directions described in this Plan.

I would like to thank the hard-working and dedicated FST members and staff whose valuable contributions and professionalism make it possible for the FST to succeed in discharging its mandate in an efficient, fair and effective manner. I would also like to thank the Government of Ontario for its ongoing support of the FST as an independent adjudicative body.

Sincerely,



Ian McSweeney
Chair

2.0 OVERVIEW OF THE FST

The FST is an independent, expert decision-making body that, at the request of affected persons, hears appeals from decisions and holds hearings to review proposed decisions of the Chief Executive Officer of the Financial Services Regulatory Authority of Ontario (FSRA) or its predecessor the Superintendent of the Financial Services Commission of Ontario. These decisions relate to market conduct, licensing or pension matters arising out of the sectors currently regulated by FSRA.

The FST is prescribed as an Adjudicative Tribunal in Schedule 1 of Ontario Regulation 126/10 under the *Adjudicative Tribunals Accountability, Governance and Appointments Act, 2009*. Although the FST is an administrative adjudicative body with powers similar to those of a court, it is not a court of law. Members of the FST are adjudicators (not judges) and form panels of one or three members (Panel) with respect to proceedings before them. A Panel makes decisions based on the evidence and submissions presented by parties during the proceeding.

The FST has authority to hold hearings and adjudicate appeals under the Ontario statutes that govern the regulated sectors within FSRA's mandate, including the:

- *Pension Benefits Act*;
- *Insurance Act*;
- *Mortgage Brokerages, Lenders and Administrators Act, 2006*;
- *Loan and Trust Corporations Act*;
- *Credit Unions and Caisses Populaires Act, 2020*;
- *Prepaid Hospital and Medical Services Act*; and
- *Financial Professionals Title Protection Act, 2019*.

3.0 LEGISLATIVE MANDATE, VISION AND MISSION STATEMENT

Legislative Mandate

As summarized in the above overview, the FST is an independent, expert decision-making body established under the *Financial Services Tribunal Act, 2017* (FST Act) with a mandate to conduct hearings and appeals on licensing, market conduct and other matters arising under, and in accordance with, legislation governing the financial services industry sectors regulated by FSRA,

the *Statutory Powers Procedure Act* (SPPA) and the FST's Rules of Practice and Procedure for Proceedings before the FST and practice directions.

Vision Statement

The FST encourages and embraces diversity, inclusion and belonging in the Tribunal. We provide our services with compassion and respect. We continuously seek opportunities to collaborate, innovate and improve.

Mission Statement

The FST delivers adjudicative services to the citizens of Ontario in a fair, independent, effective and efficient manner that promotes public confidence in the sectors regulated by FSRA and protects the public interest in accordance with its legislated authority. The FST promotes public confidence by exercising integrity, expertise and excellence, and by being accessible, accountable and responsive.

4.0 FST FUNCTIONS

The FST has the following three main functions:

- 1. Conducting pre-hearings, hearings and decision-making** – This function is performed by the FST's members (with administrative assistance from the FST Registrar and Assistant Registrar) and includes conducting hearings and pre-hearings, hearing motions, and making decisions and writing reasons for those decisions. Traditionally, the FST has held its hearings in person, or in writing in accordance with its Rules and the SPPA. As part of our commitment to offering high-quality services, as is expected of a modern tribunal that meets the needs of the people of Ontario, the FST will continue to offer in-person, electronic and hybrid hearings, in addition to written hearings as appropriate.

Under the FST's published service standards, its members are typically required to render their decisions within 90 calendar days from the final day of the hearing. This provides the hearing Panel time to fully consider and discuss all evidence and submissions presented at the hearing and to prepare written reasons. The FST has been able to exceed this standard in most proceedings.

- 2. Administration of Proceedings** – This function is primarily performed by FST staff with the assistance of the FST Chair/Panel Chair and includes all administrative steps necessary to process a Request for Hearing or Notice of Appeal from the date of filing to the completion of the hearing. This may include reviewing the filed application and assessing its compliance with the applicable legislation, requesting additional information from the parties as

necessary, scheduling the pre-hearing(s), any motions and the hearing, monitoring and managing the case throughout the process, sending the final written decision to the parties and to legal reporting websites such as CanLII, and monitoring any appeals or judicial reviews of the FST’s decisions.

- 3. Providing public access** – This function includes providing the public with access to hearings and information regarding the FST’s role, hearing procedures, status of cases, hearing locations and administrative processes under all relevant statutes through its website and public inquiries, as well as providing for any accessibility needs required by parties who appear before the FST. Any member of the public who wishes to participate in an electronic hearing can contact the FST Registrar’s office via the FST website for more information.

5.0 STRATEGIC DIRECTION AND INITIATIVES

The FST is committed to continuous improvement to meet the needs of its stakeholders. To achieve this goal, the FST has created a strategic framework to guide the development of this Plan and annual operations. The framework for the FST’s procedures and processes is properly aligned with government priorities. There are three key strategic directions that the FST will focus on over the coming three fiscal years.



1. Maintain a pool of qualified members to adjudicate hearings

- The FST will continue to work with the Ministry of Finance (MOF) and the Public Appointments Secretariat (PAS) on the appointment of a sufficient number of

qualified members to meet its expected caseload and expertise requirements, and on the provision of adequate staff and technical resources to continue offering efficient and effective adjudicative services to the regulated sectors within FSRA's jurisdiction.

- The FST will continue to advertise positions on the PAS website to provide equal opportunities for all to apply and to attract and maintain a pool of qualified members.
- The FST will continue to provide adequate training (internal and external) so that members have the appropriate skills and expertise to hear proceedings to which they are assigned. To assist with this the FST is continuing its mentoring program for new appointees.

2. Continue to keep the FST Rules, practices, procedures, and guidelines current

- The FST will continue to review its Rules, practices, procedures, and guidelines as required to reflect legislative and other changes to its mandate, as well as to provide transparency to the public in relation to the conduct of its proceedings.
- The FST will continue to review and revise performance standards as needed so that available resources continue to deliver effective adjudicative services.

3. Operate in a modern and efficient manner

- The FST continues to modernize operations while maintaining quality service standards by ensuring that:
 1. The FST is capable of conducting hearings in both a hybrid and electronic capacity.
 2. The FST continues to allow electronic filing of applications and documents.
 3. The Case Management System supports the day-to-day operations of the Registrar's Office.
 4. The work to upgrade the FST's website continues and supports the FST's capacity to deliver on its mandate.

The FST continues to hold hybrid hearings which enables the FST to continue to deliver on its mandate and meet the needs of stakeholders.

The FST's long-term objective is that its decisions will form a body of precedents which will provide clarity in the application of requirements related to financial services, pension plans, licensing and market conduct regulation, resulting in greater confidence in the financial services sectors and the independent adjudicative process.

The FST has developed Rules of Practice and Procedure for Proceedings before the FST, a Guide to Regulatory Proceedings, practice directions and conflict of interest guidelines, all of which are regularly reviewed and posted on the FST’s website. In addition, the FST has a number of internal policies associated with governance best practices, public access to adjudicative records and its decision-making process.

6.0 HUMAN RESOURCES AND ADMINISTRATIVE SUPPORT

Effective human capital planning for the FST requires a clear understanding of strategic priorities and emerging workforce challenges. The FST’s personnel practices align with the Government’s overarching vision, mission and strategy. It engages in human resources planning exercises to hire, train and manage its workforce within the limits of its budget.

The FST Act requires that the FST have a minimum of nine members. If the FST’s membership falls below nine, the FST will become improperly constituted after 90 days and will lose its jurisdiction to conduct proceedings until the minimum membership threshold is regained by the appointment of additional members. Its administrative functions and ability to receive new Requests for Hearing or Notices of Appeal would, however, not be affected. The FST currently has a total of 14 part-time members, including the Chair and two Vice-Chairs. The following table provides details on the current members of the FST and their respective tenures.

Table 6.1: Current Tribunal Members and their Tenures

	Name	Title	Appointment Duration
1.	Ian McSweeney	Chair	March 11, 2015 – September 12, 2023
2.	Bethune Whiston	Vice-Chair	December 17, 2013 – September 23, 2024
3.	Paul Farley	Vice-Chair	January 5, 2015 – November 17, 2023
4.	Anthony Fredericks	Member	April 11, 2018 – April 10, 2025
5.	Martin Guest	Member	December 2, 2021 – December 1, 2023
6.	Caroline Hunt	Member	February 8, 2018 – February 7, 2025
7.	Christopher Portner	Member	August 17, 2017 – September 12, 2025
8.	Nicholas Savona	Member	March 18, 2020 – March 17, 2025
9.	Mohammad Faisal Siddiqi	Member	March 1, 2017 – March 20, 2023
10.	Ed Skwarek	Member	March 18, 2020 – March 17, 2025
11.	Jill Wagman	Member	December 17, 2013 – December 16, 2023
12.	Ruth Wahl	Member	December 2, 2021 – December 1, 2023

Note: As of February 2023

All FST members are appointed by the Lieutenant Governor in Council through an Order-in-Council. The Chair and Vice-Chairs are responsible for agency governance and relations with MOF. MOF will continue to provide the FST with two full-time equivalents (FTEs) support staff (who are MOF employees), consisting of one Registrar and one Assistant Registrar.

Table 6.2: Estimated MOF FTEs Staff Provided to the Tribunal

	2023/2024	2024/2025	2025/2026
FTEs staff	2	2	2

MOF will also continue to provide the FST with working space, information technology resources, and other administrative and organizational support.

7.0 FINANCIAL REPORTING

Revenues

The FST’s spending authority is funded through interim payments from the Consolidated Revenue Fund, authorized under Section 15.1 of the *Financial Administration Act*, which are to be fully recovered in each fiscal year.

Expenses

The expenses and expenditures of the FST are charged to MOF’s Financial Services Tribunal Program and are fully recovered from the regulated sectors through FSRA.

Table 7.1: Estimated Costs (in \$ thousands) Associated with Supporting the Tribunal

Expense Type	2023/2024	2024/2025	2025/2026
Salaries and Wages	174.9	176.6	178.4
Employee Benefits	22.7	23.0	23.2
Services	535.8	386.0	374.6
Transportation and Communication	4.2	4.2	4.2
Supplies and Equipment	1.7	1.7	1.7
Total	739.3	591.4	582.1

Note: Numbers presented may not add up to the totals provided due to rounding

Budgeted costs in 2023/24 are expected to be lower when compared to the prior fiscal years due to transitional activities being largely complete. However, the implementation of a modernized Tribunal website is a significant cost driver that will result in a one-time cost

increase for 2023/24. Due to a change in the implementation timing for the refresh of the FST’s website in 2022/23, \$135,000 (or 100%) of previous years allocated funds, approved as a one-time increase, has been deferred to the 2023/24 fiscal year.

8.0 PERFORMANCE MEASURES AND TARGETS

In accordance with the OPS Service Directive, the FST has service standards to meet the Directive’s requirements, as shown in the table below. For a full listing of FST service standard results, please visit the FST service standards webpage page.

Table 8.1: Performance Measures and Targets

Performance Measures		Target
1.	% of cases in which the Tribunal sends the letter of acknowledgement within 5 calendar days	100%
2.	% of cases in which pre-hearing date is scheduled within 35 calendar days of filing a completed Request for Hearing or Notice of Appeal	90%
3.	% of cases in which the Tribunal has issued a decision within 90 calendar days from the final day of the hearing	90%

Note: Performance targets are the same for the next three years