

# FINANCIAL SERVICES TRIBUNAL

## PRACTICE DIRECTION REGARDING FINANCIAL HARDSHIP PROCEEDINGS

This Practice Direction is issued pursuant to **Rule 2.04** of the *Rules of Practice and Procedure for Proceedings Before the Financial Services Tribunal* (“Rules”). Where the provisions of this Practice Direction conflict with the Rules, this Practice Direction shall govern.

### **Application of this Practice Direction and the Rules of Practice and Procedure**

1. This Practice Direction applies to proceedings before the Tribunal pursuant to subsection 89(6) of the *Pension Benefits Act* regarding a Notice of Proposal by the Superintendent to refuse to consent to an application to withdraw money from a locked-in retirement account, life income fund or locked-in retirement income fund based on financial hardship. Any such proceeding shall be referred to as a “Financial Hardship Proceeding”.
2. **Rules 8.08, 9, 11, 15 to 29 and 31 to 47** do not apply to a Financial Hardship Proceeding unless the Tribunal orders otherwise.

### **Definitions**

3. For the purposes of this Practice Direction:

“**Applicant**” means a person who requests a hearing before the Tribunal regarding a Notice of Proposal by the Superintendent to refuse to consent to the person’s application to withdraw money from a locked-in retirement account, life income fund or locked-in retirement income fund based on financial hardship.

### **Format of the Financial Hardship Proceeding**

4. A Financial Hardship Proceeding shall be conducted as a written hearing as described in this Practice Direction, unless the Applicant requests and the Tribunal agrees, or the Tribunal orders, that the Financial Hardship Proceeding be conducted in a different format,
5. A decision and order with respect to a Financial Hardship Proceeding may be made by a single member of the Tribunal as assigned by the Chair.

## Commencement of Proceedings

6. The Applicant shall initiate a Financial Hardship Proceeding by completing and filing a written *Request for Hearing* (in **Form 1.1**) **within 30 calendar days** after the date the Applicant receives the Superintendent's Notice of Proposal to refuse to consent to the withdrawal of money from the Applicant's locked-in retirement account, life income fund or locked-in retirement income fund based on financial hardship.
7. The Applicant shall file with the *Request for Hearing*, copies of the following documents, if available:
  - a. the Superintendent's Notice of Proposal to refuse to consent to the withdrawal of money from the Applicant's locked-in retirement account, life income fund or locked-in retirement income fund based on financial hardship,
  - b. the application filed by the Applicant with the Superintendent for the Superintendent's consent to the withdrawal of money from the Applicant's locked-in retirement income fund based on financial hardship, and
  - c. any correspondence between the Applicant and the Superintendent regarding the application filed by the Applicant and the Superintendent.
8. The Registrar shall assign a Financial Services Tribunal file number to the *Request for Hearing* and shall give a copy of the *Request for Hearing* to the Superintendent forthwith after receipt.

## Superintendent's Response

9. The Superintendent shall complete and file a written *Superintendent's Response* (in **Form 1.2**) **within 14 calendar days** after the date the Superintendent receives the copy of the *Request for Hearing*.
10. The Superintendent shall file with the *Superintendent's Response* copies of any Document described in section 7 of this Practice Direction that the Applicant has not filed with the *Request for Hearing*.
11. The Registrar shall give a copy of the *Superintendent's Response* filed by the Superintendent to the Applicant forthwith after receipt.

## Applicant's Reply

12. The Applicant may complete and file a written *Applicant's Reply* (in **Form 1.3**) **within 14 calendar days** after the date the Applicant receives the copy of the *Superintendent's Response*.

13. The Registrar shall give a copy of the *Applicant's Reply* filed by the Applicant to the Superintendent forthwith after receipt.

#### **Further Information**

14. The Tribunal may require any party to provide by a specified date such further information, particulars or documents as the Tribunal considers necessary to enable it to obtain a full and satisfactory understanding of the Financial Hardship Proceeding.

#### **Withdrawal**

15. The Applicant may withdraw the *Request for Hearing* by filing a letter signed by the Applicant or his or her representative requesting a withdrawal of the *Request for Hearing*.

#### **Order of the Tribunal**

16. An order of the Tribunal with respect to a Financial Hardship Proceeding shall contain the relevant Financial Services Tribunal file number, but shall not identify the Applicant by name or provide any other information by which the Applicant may be readily identified.
17. An order of the Tribunal with respect to a Financial Hardship Proceeding shall be published by the Tribunal after being communicated to all parties.

#### **Confidentiality of Information**

18. Any personal or financial information contained in forms, documents or records filed with respect to a Financial Hardship Proceeding shall be held in confidence by the Tribunal and any party in the Financial Hardship Proceeding.

Revised Effective August 1, 2004