

Financial Services Tribunal

2022/23 - 2024/25

Annual Business Plan

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1.0 MESSAGE FROM THE CHAIR

It is my pleasure to present the 2022/23 – 2024/25 Annual Business Plan (Plan) for the Financial Services Tribunal (FST). The Plan highlights the FST's core functions, future commitments and challenges. It sets out the FST's strategic direction and the resources necessary to achieve our goals. Through this Plan, we will continue to support the government's priorities, including greater public confidence in financial services regulation and our independent adjudicative function.

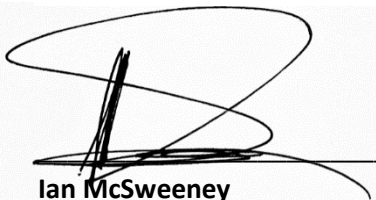
At the outset of the COVID-19 pandemic, the Tribunal moved quickly to switch in-person hearings to an electronic audio/video format using the Microsoft Teams platform governed by new practice directions and our existing Rules. As a result, we now have the ability to hold electronic hearings, in-person hearings and hybrid hearings (combination electronic and in-person), subject to public health and safety protocols and our in-person hearing vaccination/screening requirements which are posted on the FST website.

We are committed to modernizing the FST's operations. As a result of the pandemic, our 2021 move to new offices and the government's priority to offer more enhanced digital services, the FST upgraded to new hearing room technology, including a new Audio Visual (AV) system. We also plan to upgrade our website to a more streamlined user-friendly public interface.

The FST is dedicated to meeting its commitments and achieving excellence in conducting its proceedings, writing quality decisions and maintaining the highest standards in delivering its services to the public. FST members and staff will 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,


A stylized, handwritten signature in black ink, appearing to read 'Ian McSweeney', is positioned above a horizontal line.

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 (CEO) of the Financial Services Regulatory Authority of Ontario (FSRA) or its predecessor the Superintendent of the Financial Services Commission of Ontario (FSCO). These decisions relate to market conduct, licensing or pension matters arising out of the sectors 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 called 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*;
- *Loans and Trust Corporations Act*;
- *Credit Unions and Caisses Populaires Act, 1994*;
- *Prepaid Hospital and Medical Services Act*; and
- *Financial Professionals Title Protection Act, 2019 (proposed)*.

3.0 LEGISLATIVE MANDATE AND MISSION STATEMENT

Legislative Mandate

As summarized in the above overview, the FST is an expert and independent adjudicative 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 and practice directions.

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:

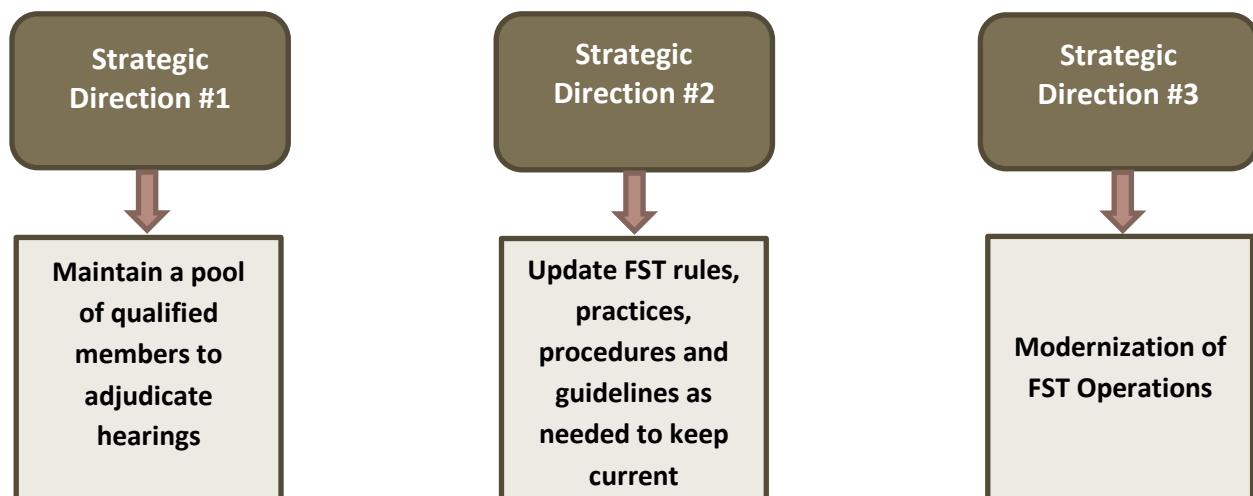
- 1. Conducting pre-hearings, hearings and decision-making** – This function is performed by the FST’s members (with administrative assistance from the FST Registrar and Assistant Registrar) and includes conducting hearings and pre-hearings, hearing motions, and the writing of related decisions and accompanying reasons. Hearings take place at the offices of the FST, which were recently relocated to 25 Sheppard Ave W, 7th floor, Toronto, ON. Traditionally, the FST has held its hearings in person, or in writing in accordance with its Rules and the SPPA. As part of the ongoing development of the FST into a modern organization offering high-quality services that meet the needs of the people of Ontario, we will continue to offer in-person, electronic and hybrid hearings in accordance with public health measures and with the appropriate health and safety protocols, in addition to written hearings when appropriate.

Under the FST’s published service standards, its members are normally 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. Proceeding administration** – This function is primarily performed by FST staff with 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 its Business Plan and annual operations. The framework ensures that the FST's procedures and processes are properly aligned with government priorities. There are three key strategic directions that the FST will focus on over the coming 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 to ensure the appointment of a sufficient number of qualified members to meet its expected caseload and expertise requirements, and to ensure that the FST has adequate staff and technical resources to continue providing efficient and effective, conflict-free adjudicative services to the regulated sectors within FSRA's jurisdiction.
- The FST will continue to provide adequate training (internal and external resources) to ensure that members have the appropriate skills and expertise to hear proceedings to which they are assigned. To assist with this the FST has recently introduced a mentoring program for new appointees.

2. Update FST rules, practices, procedures and guidelines as needed

- The FST will continue to review its rules, practices, procedures and guidelines as required to reflect legislative and other changes to its mandate, as needed, 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 to ensure that available resources continue to deliver effective adjudicative services.

3. Modernization of FST Operations

- The Pandemic identified opportunities for modernization including:
 1. **Fully electronic hearings** - provide parties with the option for all individuals to participate in the hearing process in a fully online environment.
 2. **Hybrid hearings** - provide parties with the option to participate in the hearing process in-person and via electronic means on a discretionary basis subject to compliance with public health guidelines.
 3. **FST website modernization** - As digital services become more prevalent, the FST's website will increasingly be an integral part to conducting its business.
 4. **Electronic document filings and records** - have allowed the FST to continue operations in the absence of being present in the physical office to create paper files and receive paper copies of submissions from parties. The Registrar's office now maintains files and documents in a purely electronic format through its Case Management System and the majority of documents provided to FST members in preparation for a hearing are electronic versions only.
- In April 2020, the FST made changes to the way it conducts hearings and motions in response to the COVID-19 related health and safety measures issued by various levels of government. The FST also continues to operate under its business continuity plan and posted communication materials in response to the pandemic on its website. To ensure that the FST continues to deliver on all of its critical functions, the FST developed an electronic hearing practice direction, a discretionary in-person hearing practice direction and related COVID survey and screening requirements described below.
- In response to the province's reopening plan, and the anticipated eventual return to in-person/hybrid hearings, the FST developed a Covid-19 Screening Survey and Attendance Day screening form which has been posted to the FST website. The Chair also sent a memorandum to members concerning COVID screening protocols (which included the Survey form) as a companion to FST's discretionary in-person hearing practice direction. The FST began holding hybrid hearings in the fall of 2021 on a case by case basis. This enabled the FST to continue to deliver on its mandate and meet the needs of stakeholders.

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 ensures that its 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, although its administrative functions and ability to receive new Requests for Hearing or Notices of Appeal would not be affected. The FST currently has a total of 12 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, 2022
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, 2022
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

All FST members are appointed by Lieutenant Governor in Council through an Order-in-Council. The Chair and Vice-Chair 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 Ministry FTEs Staff Provided to the Tribunal

	2022-2023	2023-2024	2024-2025
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 budget is funded through interim spending authority provided by the Government, until its costs are fully recovered from the regulated sectors through an annual assessment facilitated by FSRA.

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. 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.

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

Expense Type	2022-2023	2023-2024	2024-2025
Salaries and Wages	173.1	174.9	176.6
Employee Benefits	22.5	22.7	23.0
Services	641.2	409.1	398.4
Transportation and Communication	11.4	6.4	6.4
Supplies and Equipment	2.1	2.1	2.1
Total	850.30	615.20	606.50

Estimated expenses for 2022-23 are anticipated to be reflective of the first non-transitionary operating year, with limited impacts from COVID-19. In 2020-21 and 2021-22, the COVID-19 pandemic led to lower than anticipated case hearings, resulting in much lower than anticipated *per diem* payments to FST members. The FST anticipates that hearings and activities will return to pre-COVID levels in future years, thus resulting in increased per diem expenses for the FST members to ensure timely hearings and compliance with FST service standards.

Services expenditures in 2022-23 are expected to be higher than prior years as a result of modernization initiatives, including redesign of the FST's website. As the FST moves to conduct hybrid hearings and improve digital service offerings in alignment with the Province's Digital Delivery and Customer Service priorities, the website will be an integral part to conducting its business.

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 at <https://www.fstontario.ca/en/servicestandards.html>.

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

The FST's long-term objective is that its decisions 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 hearings before the FST, a Guide to Regulatory Proceedings, practice directions and conflict of interest guidelines, 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.