

The Capital Markets Tribunal

Grace Knakowski, Corporate Secretary & Director, Governance & Tribunal Secretariat

The Society of Ontario Adjudicators and Regulators 35th Annual Conference – The Administrative Forest: Pathways to Justice

November 2, 2023



ONTARIO
SECURITIES
COMMISSION



Capital Markets Modernization Taskforce – Tribunal Recommendations

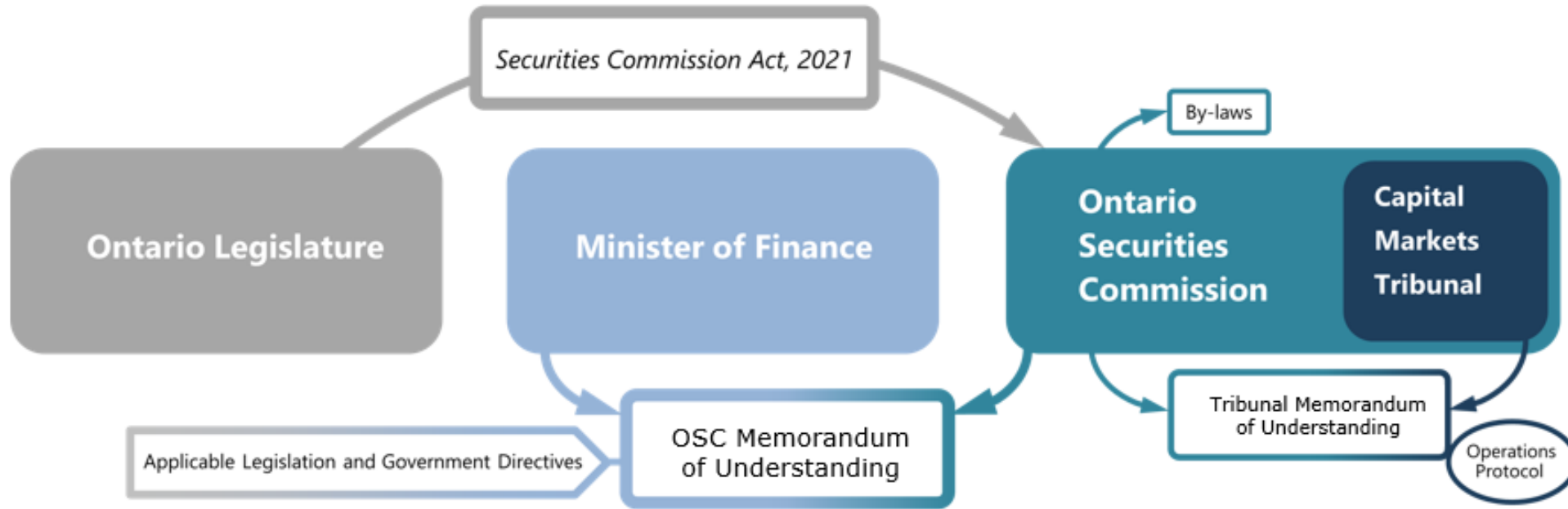
1. Separate adjudicative and regulatory functions

- New Chief Adjudicator position to lead the tribunal
- Adjudicators focus exclusively on adjudication function and do not serve as Board Directors
- Board Directors focus exclusively on regulatory and governance functions and do not serve as Adjudicators

2. Establish an independent tribunal within the OSC

- The Capital Markets Tribunal is an independent division of the Ontario Securities Commission established by the *Securities Commission Act, 2021*
- Staff of the Commission's Governance & Tribunal Secretariat administer the Tribunal and provide legal advisory and file management support
- the Commission provides administrative and organizational support services to the Tribunal

New OSC Governance Framework



Board Directors

Regulatory

- Policy and rule-making function
- Administration and enforcement of Ontario's *Securities Act* and *Commodity Futures Act* and certain provisions of Ontario's *Business Corporations Act*

Governance

- Organizational oversight and corporate governance function
- Board oversight of the OSC Memorandum of Understanding, the *Public Service Act of Ontario, 2006*, and the OSC Code of Conduct

Adjudicators

Capital Markets Tribunal

- Adjudication function
- Conduct hearings under the *Securities Act* and *Commodity Futures Act* and independently determine all questions of fact or law

Tribunal Independence

Pre-proclamation of the *Securities Commission Act, 2021*, the Court recognized steps taken by the OSC to ensure the independence of its adjudicative function when it has been challenged ([Norshield Asset Management \(Canda\) Ltd. 2009 ONSEC 4 at para 136](#))

Establishing the Capital Markets Tribunal further strengthens the Tribunal's independence:

- The Tribunal has full independence with respect to its adjudicative functions
- The Board's oversight excludes the Tribunal's adjudicative functions
- The Chief Adjudicator and Adjudicators hold no other position within the OSC
- The Tribunal does not share confidential information relating to proceedings with the Board
- Any joint orientation, education and training between the Tribunal and the Board shall not include, other than in a public forum, discussion of law or policy relating to the capital markets, or compliance or enforcement priorities or techniques

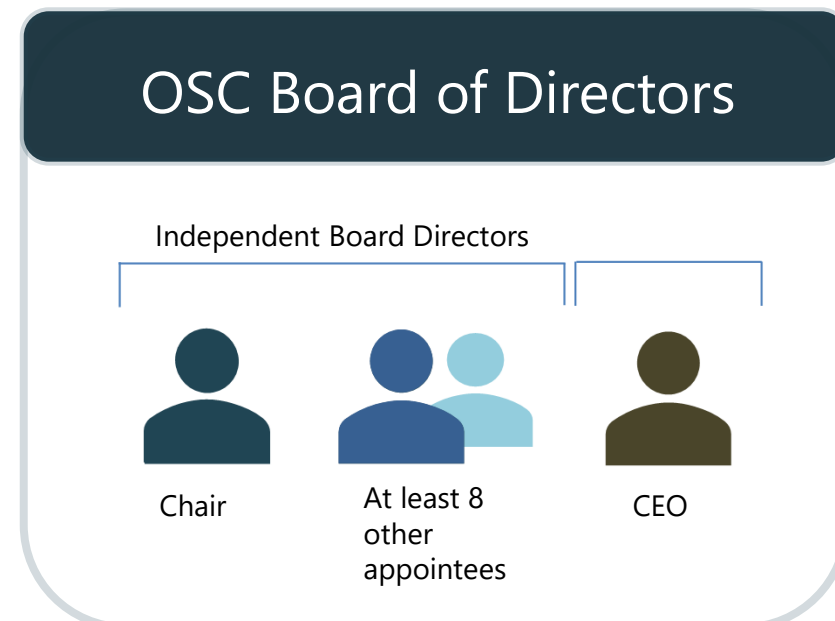
Adjudicative Functions

“Adjudicative functions” is a defined term in the Tribunal Memorandum of Understanding

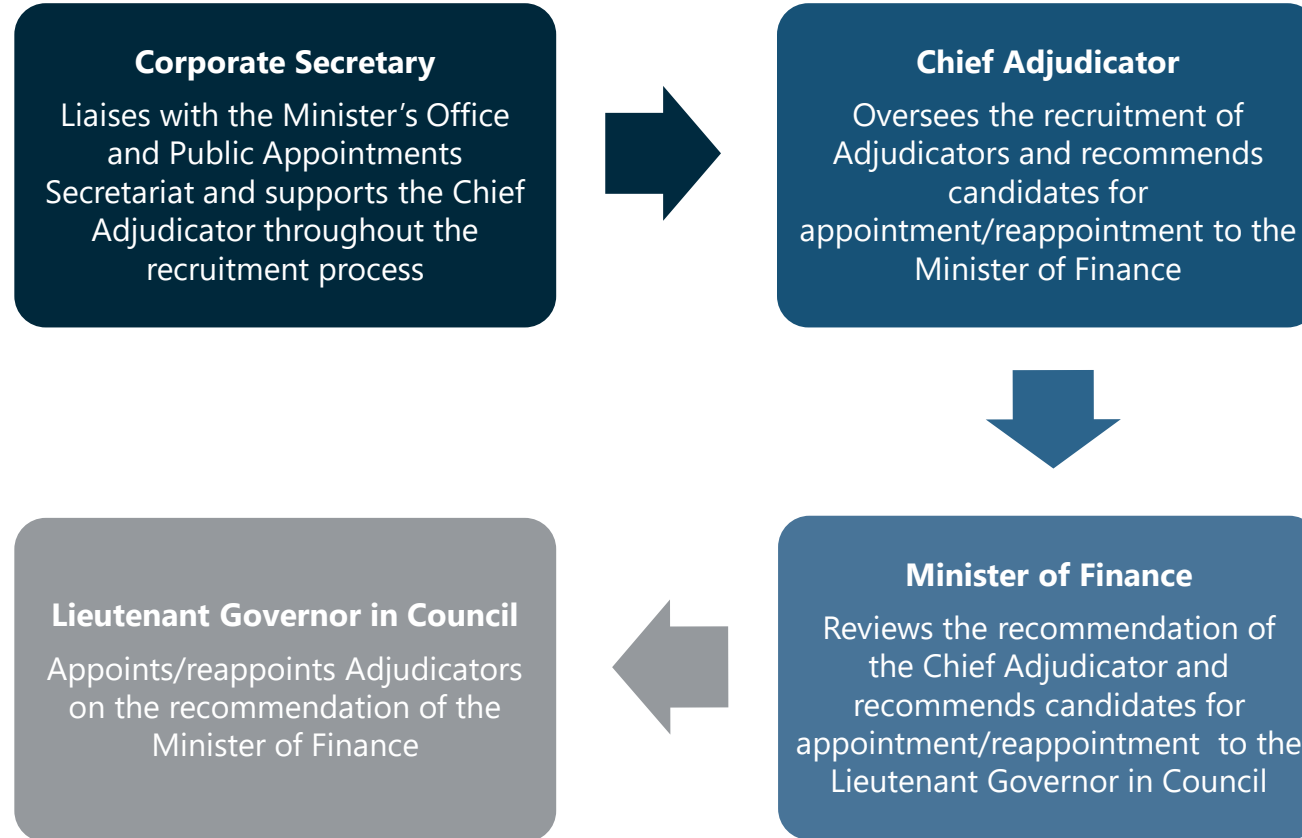
Adjudicative functions include presiding over, deciding, and issuing reasons and orders in Tribunal proceedings and the Chief Adjudicator’s related functions, that include:

- recruiting Adjudicators
- Adjudicator orientation, training and education
- assigning Adjudicators to hearings
- overseeing Adjudicators
- monitoring and evaluating the performance of Adjudicators
- setting service standards relating to Tribunal proceedings
- ensuring an appropriate orientation and training framework is in place for Governance & Tribunal Secretariat Staff who support the Tribunal

Separation of Adjudicative and Regulatory Functions



Adjudicator Appointments and Reappointments




New Tribunal Website

<https://www.capitalmarketstribunal.ca/en>

Contact the Capital Markets Tribunal

You can call 416-595-8916 or email

us: registrar@osc.gov.on.ca 

[Home](#) / [About us](#) / [Contact the Capital Markets Tribunal](#)

New Logo



CAPITAL
MARKETS
TRIBUNAL

Email

registrar@osc.gov.on.ca 

Telephone

416-595-8916

Hours of operation

8:30 am to 5:00 pm

Monday to Friday

Closed on Statutory Holidays

Mailing address

20 Queen Street West

20th Floor

Toronto ON, M5H 3S8

(Deliveries on the 22nd floor)


■ Tribunal Hearings

Capital Markets Tribunal hearings are open to the public unless ordered otherwise. The [Tribunal hearing schedule](#) provides information about the time and location of upcoming hearings. For further information about upcoming hearings contact the Registrar at 416-595-8916 or

registrar@osc.gov.on.ca 

If you are a party to a proceeding, please note that all communications with a Panel (the adjudicator(s) presiding over a hearing) or Panel member, other than in an oral hearing, must be sent to the Registrar and copied to all other parties.

■ Litigation Assistance Program and Duty Counsel Program

The Litigation Assistance Program and Duty Counsel Program are designed to provide [assistance to self-represented parties](#) who are involved in an enforcement proceeding or an application for hearing and review proceeding before the Tribunal. Contact lap@osc.gov.on.ca  for inquiries related to these programs.

■ Records

[Requests for access to adjudicative records](#) should be made to record@osc.gov.on.ca  or by contacting OSC Records at 416-593-3735, TTY: 1-866-827-1295.

■ Contact the Ontario Securities Commission

Visit the [Ontario Securities Commission](#)  for other support, including support for market participants, investors, media inquiries and doing business with the OSC.