
B. Ontario Securities Commission

B.1 Notices

B.1.1 Notice of Information Sharing and Confidentiality Agreement Between Ontario Securities Commission and South Dakota Division of Banking

**NOTICE OF INFORMATION SHARING AND
CONFIDENTIALITY AGREEMENT BETWEEN
ONTARIO SECURITIES COMMISSION
AND
SOUTH DAKOTA DIVISION OF BANKING**

May 2, 2024

The Ontario Securities Commission (“OSC”) has entered into an Information Sharing and Confidentiality Agreement (the “**Agreement**”) with the South Dakota Division of Banking to support both informal consultations and formal cooperation between the parties, as well as to facilitate the exchange of non-public information in accordance with applicable laws. The OSC entered into the Agreement on April 4, 2024.

The Agreement sets forth the understandings that will apply in order to preserve the confidential nature of information that is shared between the parties in the course of aiding each party in the discharge of their respective missions.

Questions may be referred to:

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INFORMATION SHARING AND CONFIDENTIALITY AGREEMENT

This Information Sharing and Confidentiality Agreement (“Agreement”) is entered into as of the 4th day of April, 2024, between the Ontario Securities Commission (the “OSC”) and the South Dakota Division of Banking (the “SD DOB”) to enhance the communication and exchanges of information between the OSC and the SD DOB to aid each party in the discharge of its respective missions.

To the extent permitted by applicable law, it is the intention of both parties that legal exemptions and privileges that establish or support the confidentiality of provided information will not be waived or compromised when information is shared between the parties. These assurances regarding the preservation of the confidential nature of shared information can serve to promote greater communication and coordination between the parties and thereby enhance their effectiveness and efficiency in carrying out their respective responsibilities.

It is not intended, however, that this Agreement will:

1. Limit or waive the discretion of either party to determine whether information in its possession will be provided to the other;
2. Modify or alter the respective legal authority of either party to fulfill its examination, enforcement, licensing, regulatory, or supervisory responsibilities;
3. Create any direct or indirect legally enforceable rights or binding obligations for any third party; or
4. Prevent either party from taking examination, enforcement, licensing, regulatory, or supervisory action against any person or company.

The OSC and the SD DOB hereby agree as follows:

1. For purposes of this Agreement, references to “disclosing party” shall mean each party in its capacity as a discloser of information and references to “receiving party” shall mean each party in its capacity as a recipient of information from the disclosing party.
2. The OSC and the SD DOB may, from time to time, provide confidential information to the other in a reasonable amount of time upon receiving a written request that specifies the information being requested and an explanation of need for the information.
3. The OSC and the SD DOB agree that any information exchanged under this Agreement shall be Confidential Information (“Confidential Information”). All Confidential Information provided under this Agreement belongs to and shall remain the property of the party from which it was originally obtained. Confidential information shall not include information that (a) was known to the receiving party before receipt from the disclosing party as evidenced by written records made prior to such receipt or disclosure; (b) is or becomes a matter of public knowledge through no fault of the receiving party; (c) is rightfully received by the receiving party from a third party that is not known to be bound by a confidentiality agreement; or (d) is approved for release in writing by an authorized representative of the disclosing party.
4. The OSC and the SD DOB each agree that it shall not release, disseminate or transfer, either verbally or by other means, to any third party (other than to the receiving party’s attorneys or auditors to assist such entity in the fulfillment of its duties) any Confidential Information provided to it under the terms of this Agreement without the prior written consent of the disclosing party.
5. The receiving party shall keep the Confidential Information confidential and secure and shall use at least the same standard of care to protect the Confidential Information as the receiving party employs for the protection of its own proprietary information, but in no case less than a reasonable standard of care. The receiving party shall promptly notify, to the extent permitted by law, the disclosing party in writing of any actual or suspected loss or unauthorized use, disclosure or access of the disclosing party’s Confidential Information of which it becomes aware, and shall take all steps reasonably requested by the disclosing party to limit, stop or otherwise prevent such loss or unauthorized use, disclosure or access.
6. The receiving party agrees that with respect to any Confidential Information it receives from the disclosing party hereunder, such Confidential Information may be produced to the extent that the receiving party is required by law, including by order of a competent judicial or regulatory or law enforcement authority to disclose any Confidential Information, but only after the receiving party provides timely written notice to the disclosing party so that the disclosing party may seek an appropriate protective order or other remedy.

B.1: Notices

7. This Agreement may be terminated with thirty (30) days advance written notice by the terminating party to the other party. The obligations of confidentiality accruing prior to termination as set forth herein shall survive termination of this Agreement until such time that all Confidential Information is returned to the disclosing party or destroyed by the receiving party.
8. Upon any termination of this Agreement in accordance with its terms, within a reasonable period of time following written request from the disclosing party, the receiving party will return all of the disclosing party's Confidential Information and all copies thereof, except for a single archival copy that may be retained by the receiving party's legal department solely for dispute resolution purposes. Notwithstanding anything to the contrary in this Agreement, a party shall not be obligated to erase Confidential Information that is contained in an archived computer system backup made in accordance with such party's security and/or disaster recovery procedures provided that such archived copy (i) will be irretrievably erased or destroyed eventually in the ordinary course of such party's data processing procedures and (ii) until such erasure or destruction will remain fully subject to the terms and conditions stated herein.
9. In all disputes related to disclosed information, this Agreement shall be governed in all respects by the internal laws of the disclosing party.
10. This Agreement shall be binding on and shall inure to the benefit of the parties hereto and may not be assigned in whole or part.
11. This Agreement may be executed in any number of counterparts, any one of which shall be considered an original, but all of which shall be binding upon each party by which any counterparts are executed. The individuals executing this Agreement on behalf of the OSC and the SD DOB do hereby represent and warrant that they are duly authorized to execute this Agreement on behalf of their respective principals.
12. As soon as practicable after execution of this Agreement, as set out in Appendix A, each party will advise the other of the name, title, and contact information, including email addresses and telephone numbers, for the appropriate official(s) to contact for purposes of notices and exchanges of information. This contact information will be updated as appropriate.

SOUTH DAKOTA DIVISION OF BANKING

By: "Bret Afdahl"
Its: Director
Printed Name: Bret Afdahl

ONTARIO SECURITIES COMMISSION

By: "D. Grant Vingoe"
Its: Chief Executive Officer
Printed Name: D. Grant Vingoe

Appendix A

Contact Details

ONTARIO SECURITIES COMMISSION

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