

MEMORANDUM OF UNDERSTANDING

Between the:

The Minister of Finance and Treasury Board (the “Minister”);

And

The Deputy Minister of Finance and Treasury Board (the “Deputy Minister”);

And

**The Financial and Consumer Services Commission (the “Commission”)
(Represented by the Chair and the Chief Executive Officer)**

(each a “Party”)

PREAMBLE

WHEREAS the Financial and Consumer Services Commission (the Commission) is a body corporate without share capital established under the *Financial and Consumer Services Commission Act* (the *Act*) and comprised of a Chair and members appointed by the Lieutenant-Governor in Council; and

WHEREAS the Commission is an agent of the Crown in right of New Brunswick (s.3(4) of the *Act*) and is listed as a Crown Corporation in Part IV of the *Public Service Labour Relations Act*; and

WHEREAS the Commission is responsible for the administration of the *Act* (s.49 of the *Act*) and is authorized to make rules under the *Act* (s.59 of the *Act*) and under certain financial and consumer services legislation; and

WHEREAS the Commission has the capacity, rights, powers, and privileges of a natural person for the purposes of carrying out its functions and duties under the *Act* (s.3(5) of the *Act*); and

WHEREAS pursuant to the *Act*, the Minister of Finance and Treasury Board is responsible for the Commission and accountable to the Legislative Assembly; and

WHEREAS the Commission Chair is the accountability link between the body corporate and the Minister; and

WHEREAS the Chief Executive Officer is responsible for the general direction, supervision and control of the business and affairs of the Commission and is accountable to the Commission; and

NOW THEREFORE the parties hereafter enter into this memorandum of understanding (MOU).

DEFINITIONS

In this Agreement, unless the context otherwise requires:

“Act” means the *Financial and Consumer Services Commission Act*;

“Agreement” means this Memorandum of Understanding and all preambles, recitals and schedules hereto, along with any amendments hereto and thereto;

“By-laws” means the by-laws of the Commission;

“Chair” means the Chair of the Commission as per the *Act*;

“Department” means the authorized agents and representatives of the Minister within the Department of Finance and Treasury Board;

“Chief Executive Officer” means the Chief Executive Officer of the Commission as per the *Act*;

“Finance and Treasury Board” means the Department of Finance and Treasury Board of New Brunswick;

“Minister” means the Minister of Finance and Treasury Board, who is responsible for the Commission;

“MOU” means this Memorandum of Understanding; and

“Province” means the Crown in right of the Province of New Brunswick.

PURPOSE

The purpose of this MOU is to provide a framework to enhance the parties’ abilities to meet their respective legislative and policy objectives in a collaborative and effective manner. It is further understood and agreed that the terms and conditions of this MOU are intended to clarify the parties’ roles and responsibilities and to ensure complete and full disclosure of information, all in support of this objective.

TERM

This MOU will be in effect for the period commencing on January 31, 2026, and shall be reviewed, renewed, amended, or replaced three years from the date on which it was implemented and every three years thereafter unless one of the parties advises the other that renegotiations are necessary.

The parties will begin negotiating a successor MOU not less than six (6) months prior to the expiry of the Term.

MANDATE

In addition to the *Act*, the Commission’s mandate is set out in the mandate letter provided to the Commission by the Government through the Minister. In the event of conflict arises between the *Act*, regulations and mandate letter, the *Act* and regulations shall prevail.

The Commission and the Minister agree that the Commission operates independently and at arm’s length from the Province in the delivery of the Commission’s services.

ACCOUNTABILITY RELATIONSHIPS

1. The Minister is accountable to the Legislative Assembly for the fulfillment of the statutory mandate of the Commission and for reporting to the Legislative Assembly on the affairs of the Commission.
2. The Commission, through the Chair, is accountable to the Province through the Minister.
3. The Chief Executive Officer is accountable to the Commission through the Chair.

ROLES AND RESPONSIBILITIES OF THE PARTIES

Minister

The Minister is responsible for the following:

- fulfilling all the assigned duties as established in the *Act*, as well as other applicable legislation;
- informing and advising the Commission of the government's strategic priorities, decisions and public policy that may impact the Commission, including those which may have operational consequences to the Commission;
- informing and advising the Commission of performance targets, objectives and expectations that may impact the Commission;
- monitoring the performance of the Commission to ensure that it can fulfill its mandate;
- reviewing and approving the business plan submitted in accordance with s.24 of the *Act* and providing such approval within 30 days to the extent possible;
- meeting with the Chair and/or the Chief Executive Officer as necessary to discuss progress, plans and issues relating to the effective discharge of the Commission's mandate and the need for services or support to be provided by the Department to the Commission;
- recommending to Executive Council the appointment or reappointment to the position of Commission Chair or Commission member an available individual who best meets the requirements laid out in the selection criteria and meets the requirements of the *Act*, the Commission's Conflict of Interest Rule and the Commission's policies; and
- promoting and assisting the Commission in administering the province's financial and consumer services legislation.

Deputy Minister

The Deputy Minister supports and acts as the designate of the Minister and is responsible for activities which have been delegated by the Minister under the *Act*.

The Commission

The Commission, through the Chair, is responsible for the governance of the Commission and overseeing the management of the Commission's business and affairs as prescribed by the *Act*. The Commission guides the strategic direction, evaluates the performance of the Chief Executive Officer, approves and monitors the Commission's business plan, operational plan and financial results, and is ultimately accountable to the Minister through the Chair.

The Commission is responsible for the following:

- administering the province's financial and consumer services legislation;
- ensuring the provision of high-quality regulatory services that protect the public interest and enhance public confidence in the regulated sectors; and
- complying with all legislation under which it has responsibilities.

The Chief Executive Officer

The Chief Executive Officer is, subject to the direction of the Commission, charged with the general direction, supervision and control of the business of the Commission and may exercise any other powers and duties conferred on the Chief Executive Officer by the by-laws of the Commission or by the *Act*.

The Chief Executive Officer is responsible for:

- leading the management of the Commission;
- keeping the Chair and members informed and up-to-date on program operations;
- preparing documents and reports as requested by the members including corporate plans and budgets, annual business plans and quarterly reports;
- maintaining documentation and proper controls to support expenditures and keep track of material variances between projected and actual expenditures; and
- providing briefings to the Minister, Deputy Minister and Department staff as requested to ensure they are properly informed of matters affecting or pertaining to the Commission.

Areas of shared responsibility

Cooperative Initiatives

The Province and the Commission will work together cooperatively on initiatives that maximize benefits for both parties. It is understood that these initiatives will be designed to work in harmony with the terms and conditions of this MOU. In the event of conflict between an initiative and a provision or provisions of this MOU, the MOU will prevail.

Human Resources

The Commission, through the Chair, is accountable to the Province through the Minister, and acknowledges that the Government of New Brunswick is seeking a harmonized approach to human resources management. The Commission will work cooperatively with the Department and both the Commission and the Department will share with each other such information regarding human resource data, policies and practices as may be required to comply with s.6 of the *Financial Administration Act*.

In general, Commission employee remuneration and benefit package align and are generally consistent with the Government of New Brunswick's own policies and directives regarding remuneration and benefits. However, the Commission and the Department recognize the specialized skillsets required of Commission staff and the competitive job market that the Commission operates in.

If requested by the Minister, the Commission will provide information regarding its workforce, including but not limited to, the number of permanent and temporary persons in its employ, and the expenditures on wages and benefits.

The Commission is self-financing (s. 22 of the *Act*), not unionized, and is a separate employer for the purposes of s. 6 of the *Financial Administration Act*. If the Commission becomes subject to collective bargaining under the *Public Service Labour Relations Act*, it shall act as the employer for bargaining purposes and consult in advance with the Department.

Pursuant to s. 62 of the *Public Service Labour Relations Act*, the Commission is required to obtain the approval of the Lieutenant-Governor in Council before entering into a collective agreement. In the event that negotiations become necessary, and in order to facilitate the approval of collective agreements, pursuant to section 62 of the *Public Service Labour Relations Act* and to avoid delays in the collective bargaining process, the Commission agrees to the following process:

1. The Department will provide the Commission with any bargaining parameters as soon as they are established. In the event that the Department has not issued bargaining parameters, the Commission will contact the Department prior to commencing a round of collective bargaining to obtain bargaining parameters;
2. The Commission shall clearly indicate to any relevant bargaining agent, prior to bargaining, that any eventual tentative agreement will require ratification by the Lieutenant-Governor in Council;
3. Once the Commission and union conclude a tentative agreement, but prior to ratification, the Commission will notify the Department and begin preparation of a joint Memorandum to Executive Council (MEC) asking for the Lieutenant-Governor in Council to ratify the tentative agreement and approve that they enter into the collective agreement; and
4. If an approved tentative agreement is also ratified by the union, a new collective agreement shall be entered into based upon the terms of the ratified tentative agreement and the provisions of s.62 of the *Public Service Labour Relations Act* will be considered to have been met.

As part of the public sector, it is important to government and New Brunswickers that the Commission's collective agreements and non-bargaining remuneration remain consistent with similar staff in Part I and Part IV of GNB where applicable (s. 6, *Financial Administration Act*).

Government recognizes that the negotiations process as well as the collective agreements must respect the language in which Commission is organized. *Procurement*

Procurement is an important tool for the provincial government to secure quality products and services at the best possible price. Procurement is also a lever for economic development by supporting local businesses in purchasing decisions, where possible. The Commission will work with Service New Brunswick, the Department of Transportation and Infrastructure and Finance and Treasury Board where appropriate to maximize economies of scale and ensure contracts consider the overall public interest.

Commitment to Effective Communication

The Commission and the Department commit to keeping each other informed on matters that aid, influence or interfere with their respective roles and responsibilities. They will communicate with one another in a timely fashion to address any issues that may arise. On matters of public communications, the Commission and the Department will consult and work collaboratively with the director of communications (or designate) assigned to the Department when required to address issues effectively. For clarity, the parties agree to keep each other informed of key communications issues and event planning in a timely manner and adequately in advance to ensure appropriate input when the planned actions by any one of the parties may impact, involve or reference the others. This includes proactive and reactive communications.

Description	Responsibility	
	The Commission	The Minister, the Deputy Minister and the Department (as the case may be)
Information requests made by the public	Will respond in a timely manner to information requests made by the public regarding its activities. Government will be copied on responses to information requests that were channelled through them, when appropriate, and otherwise keep Government apprised of progress of responses.	Will defer to the Commission on information requests made by the public.

Cabinet submissions – All issues	Drafts all Cabinet proposals (MECs), except for appointments in which instance the Commission makes recommendations to the Minister and the Executive Council Office prepares the MEC. Briefs the Deputy Minister and Minister, as required. Attends Officials meetings, as requested and Cabinet meetings, as required. Will provide in a reasonable time all information needed by Government to complete Cabinet submissions.	Will be the lead signatory in all Cabinet submissions. Coordinates approvals, signatures and submissions for Cabinet agenda. Reviews and analyzes all MEC's to ensure alignment with government priorities. Coordinates with the Commission as deemed appropriate. Coordinates translation of all Cabinet proposals and submissions.
Correspondence – On all subjects directed to the Minister or the Commission	Will respond in a timely manner to correspondence regarding its activities. Government will be copied on responses to correspondence that was channelled through them, when appropriate, and otherwise keep Government apprised of progress of responses.	Will respond in a timely manner to correspondence relating to high level government policies but will defer to the Commission correspondence relating to the specific activities of the Commission.
Briefing notes	Will provide advance briefings on potential or emerging issues to ensure that the Minister is able to speak to the Commission's plans and actions if called upon to answer publicly for them.	Will communicate to the Commission, when Briefing Notes are required, and for what purposes they are required (e.g. Legislative sitting, Minister or Premier meetings, etc.)
Legislative Assembly	Will ensure the Minister has any information required in order to answer questions or respond to issues raised in the Legislative Assembly on the Commission's mandate. Will prepare and appear before the Standing Committee on Public Accounts as required.	Will ensure the Commission is aware of any issues to be raised in the Legislature for matters under its mandate.
Issues management	Will raise pertinent issues in a timely manner to discuss and resolve.	Will raise pertinent issues in a timely manner to discuss and resolve.
Legislative Coordination	Will, through the Department, bring forth any issues that may impact the legislative calendar.	Will communicate to the Commission, any legislative matters that may impact them.

COMMISSION COMPOSITION AND APPOINTMENTS

The Commission composition is established in the *Act*. As per its Governance Policy, the Commission is responsible for:

- notifying the Minister of upcoming vacancies in order-in-council appointments to the Commission;
- preparing the selection criteria and identifying the skills required of new appointees;
- coordinating with the Executive Council Office the method of posting of vacancies;
- receiving applications and vetting candidates for Commission vacancies;
- identifying qualified applicants who best meet the requirements laid out in the selection criteria and meet the requirements of the Commission's Code of Conduct and Conflict of Interest Rule and policies; and
- providing the Minister with a recommendation on suitable candidates to fill Commission vacancies and providing all supporting information and documents obtained as part of the selection process.

The Department is responsible for ensuring the Commission's recommendations are submitted through the appropriate channels for the proper consideration of candidates who meet the required qualifications.

CORPORATE PLANNING AND REPORTING CYCLE

The Minister shall provide to the Commission a Mandate Letter in accordance with the *Accountability and Continuous Improvement Act* articulating the mandate objectives that will inform the business plan for the subsequent year(s).

Once every fiscal year, and as required by the Minister, the Commission will submit to the Minister for review and approval a business plan that includes a proposed budget and management objectives for the next three (3) fiscal years and any other information the Minister requests.

Prior to February 28 of each year, the Commission will submit to the Department for information a proposed budget containing the estimates of the amounts required for the operation of the Commission for the next fiscal year.

FINANCIAL ARRANGEMENTS

One of the principles of regulation is that industry, not the taxpayer, covers the cost of regulation. The Commission is self-financed, as required by the Act. Its operations are funded by revenues derived from various fees and assessments related to the sectors it administers. The Commission has the authority under paragraph 59(1)(a) of the Act to make rules prescribing the fees payable to the Commission, including but not limited to, fees for services provided by the Commission or an employee of the Commission or other fees in connection with the administration of financial and consumer services legislation. The Department will assist the Commission as needed with the steps needed for it to be able to implement its fee rules.

In setting the rates for these fees, charges, and assessments, the Commission shall ensure that the rates charged to market participants are fair and competitive with the rates charged in other jurisdictions and that the revenues of the Commission are adequate to fund the operations of the Commission.

In accordance with subsection 21(1) of the Act, the Commission must maintain in its own name one or more accounts for the purposes of subsection 17(1) of the *Financial Administration Act*. However, all money received by the Commission through the conduct of its operations or otherwise are to be deposited to the credit of the account(s) maintained under subsection 21(1) of the Act and shall be administered by the Commission exclusively for the purposes of financial and consumer services legislation (s.21(2)).

In accordance with subsection 21(7) of the Act, the Commission will pay into the Consolidated Fund such of its surplus funds subject to the approval of the Treasury Board. The Minister shall request payment of the contribution in writing subject to the cautionary language of subsection 21(8). This request may take the form of a standing request and should be made at least once every three years.

Amounts received by the Commission from administrative penalties under financial and consumer services legislation will be used only for endeavours or activities that, in the opinion of the Commission, enhance or may enhance the financial marketplace or consumer protection and not for the normal operating expenditures of the Commission.

AMENDMENTS

The parties may agree to amend the terms of this MOU from time to time as needed in response to legislative changes or judicial decisions that materially affect either party's responsibilities; or to maintain effective and efficient business practices for the Commission, in a fair and open manner with Government.

An amendment becomes part of this MOU when it has been recorded in writing, dated, signed by all parties, and attached to this MOU.

PUBLIC DOCUMENT

The parties agree that this MOU, including the schedules and appendices hereto, and any amendments, shall be made available to the public by either party upon request to that party by any member of the public and that each party will post the MOU, schedules and any amendments to that party's website within 30 days of the date of execution.

In accordance with subsection 7(1) of the *Accountability and Continuous Improvement Act*, a Crown entity "may refuse to disclose any information required to be disclosed under the Act that would reveal commercial, financial, labour relations, scientific or technical information the disclosure of which could reasonably be expected to (a) harm the competitive position of the Crown entity, or (b) interfere with contractual or other negotiations of the Crown entity."

Additionally, subsection 7(2) states that "if subsection (1) is inconsistent with or in conflict with a provision of the *Right to Information and Protection of Privacy Act*, subsection (1) prevails." In addition, Section 53 of the *Act* states "If a provision of this Act is inconsistent or in conflict with a provision of the *Right to Information and Protection of Privacy Act*, the provision of this Act prevails."

Date: 31 January 2026

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"original signed by"

"original signed by"

Hon. René Legacy
Minister
Finance and Treasury Board

Paul Van Iderstine
Chair
Financial and Consumer Services Commission

"original signed by"

"original signed by"

Travis Bergin
Deputy Minister
Finance and Treasury Board

Kevin Hoyt
Chief Executive Officer
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