

Litigation Task-line

Plan of Arrangement Approval (ON)

Topics Covered:

Motions and Applications | Corporate Litigation

A plan of arrangement is a flexible tool used to affect changes to a corporation's structure. Plans of arrangement may be used to implement either transactions or restructuring that could not practicably be implemented using other mechanisms.

A plan of arrangement must be approved by the court before it can be implemented. This approval process usually involves three steps:

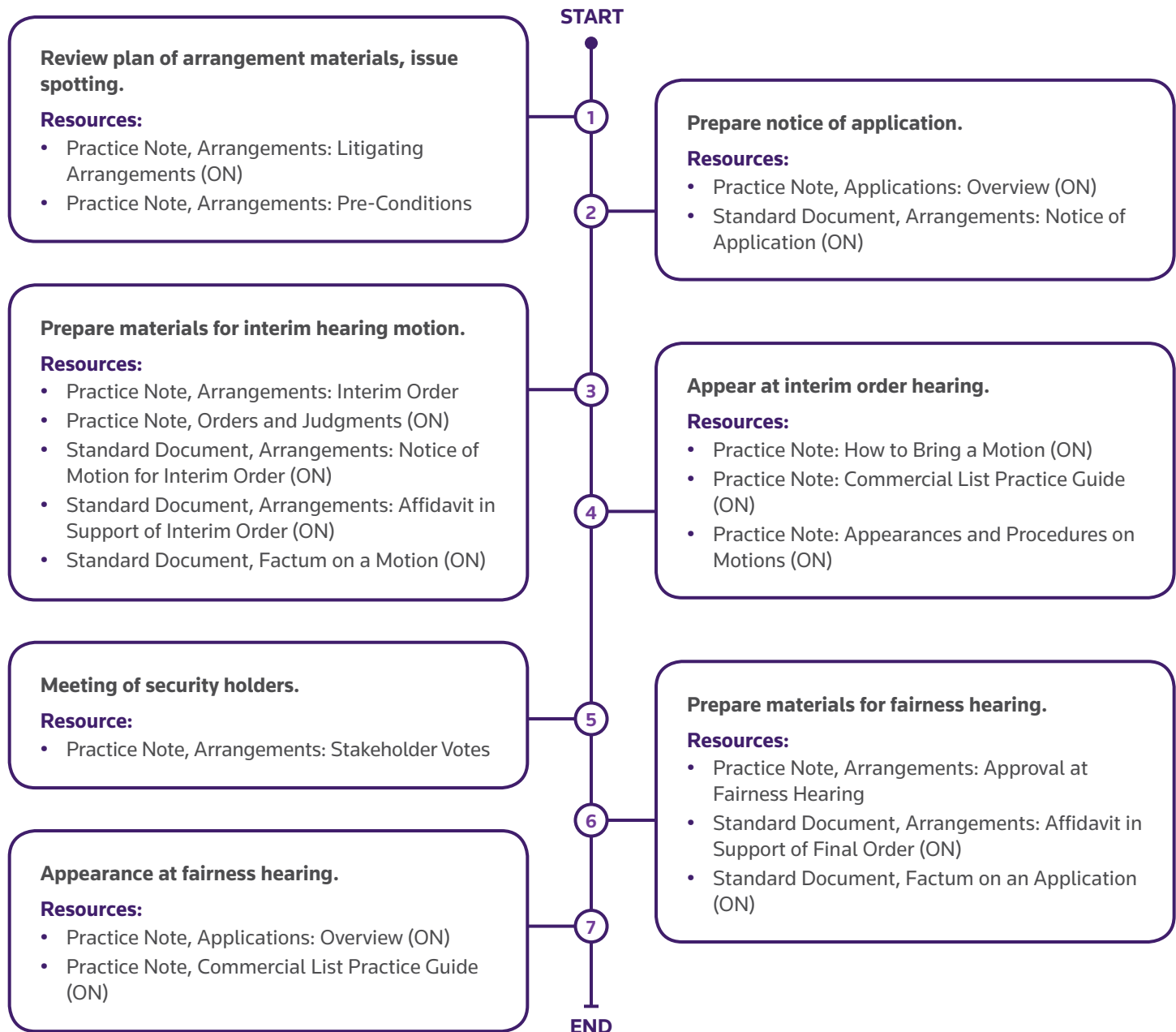
- Appearing before the court to obtain an interim order deal with a number of issues, including the conduct of meeting of security holders of the target to vote on the arrangement and the notice to be provided.
- Conducting the meeting to vote on the arrangement.
- Appearing before the court for a final order approving the arrangement (the "Fairness hearing").

While judicial policy favours arrangements, the court will only approve an arrangement where it is satisfied that the affected shareholders are being treated fairly.

Scenario: Plan of Arrangement

You have been called in to deal with the approval of a take-over being conducted under the arrangement provisions in section 192 of the *Canada Business Corporations Act*, R.S.C. 1985, c. C-44. Most of the deal points have been negotiated and the deal is about to be announced, with a planned closing date less than two months away. Within that narrow window of time, you will need to prepare for and attend two court hearings. You will have to ensure that enough time is built in for a meeting of shareholders to vote on the plan, and that the court has adequate time to review the motion and application materials.

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