

**Part Read: V to VIII P. C113 TO 1903**

Comments are as follows:

**General**

- (i) As layman, we are not sure whether the levels of fine presented ie level 3, 4, 5, 6, 7 etc are excessive or not, we would appreciate comparison and clarification.
- (ii) Legislators should also consider how much discretion, in name of public interest protection and speediness of action, be entrusted to SFC vs the possible abuses. It is suggested that supplementary guidelines be issued to clarify this point.

**Specifics**

Part V

PC1717.115.2( c ).

Please note the requirement to operate business with proper record keeping area. We should request clarifications guidelines.

C1719 4 (a).

The imposition of collateral/security should be a guided measure: uniform to all registered entities rather than on a case by case basis.

(5).

We would ask the legislature to judge on the wide discretion to be granted. Any guidelines/note in the exercise of the discretion? In the name of “public interest” could be too wide.

C1721 2 (d).

What is the purpose of the 24 months?

C1723(1) (A).

"Security." Please see C 1719 4 (a) above.

(B)ii.

Please define “at all times”. We cannot agree to 24 hours, 365 days a year. We should propose, “at least one responsible officer during working days available to

supervise and at least reachable by available communication means”

C1725 (2).

This panel should be a ready panel, not only limited to subsection (1)(b) but also other matters related to the exercise of the discretion of SFC. Members should be chosen also from the securities professional.

C1743 (2)(b)(iii).

The SFC shall be given the discretion to consider matters of the licensed person on basis of the link up between him and the other group companies, officers and substantial shareholders of the same group. This may have a wide implication on judging the fit & proper criteria of innocent person because of some loose unknown relationship for undefined purpose.

C145 130.

(1) Is there a definition of “substantial”

(2) Whereas a licensed person is part of the activities of a conglomerate, particularly as part of a listed entity, how an acquiring substantial shareholder be able to balance the approval application and the commercial aspects of negotiations & completion?

C1761 136.

Would it be better to ascertain the official title “Registered” (broker, advisor, dealer) etc, than to be so specific towards what the title should be. One example is, say at 136 (4), where a person can only be called “securities adviser”, “securities consultant”, and “stock adviser”, what if someone called himself another misleading title of “Stocks Consultant”?

C1773 4 (a).

Very vague requirement. Need supplementary guidelines.

C1777 143.

It is absolutely unfair to impose imprisonment when there is no public damage created.

C1779 (8).

The term “imprisoning a licensed corporation” could well be putting the employee in question as the subject. Do we mean the Executive Director? Or other employees

sharing the responsibility. We certainly would appreciate some guidelines there to eliminate the fear of any employees violating the law without knowledge but indicting imprisonment.

C1799 150 (1).

One business day is very short notice, especially the fine is at level 5. Does this section specifically refers only to the "removal of an auditor" before the expiry of its term?

(2).

We need to be clarified on the diligence levied on the licensed corporation, for the same subject of auditor removal, that any associated company is also the reporting responsibility of the licensed corporation. What is the definition of "associated entity"? What if the associated entity has different major shareholders and management?

C1807 (2).

It is not within the power of the licensed corporation to enforce the rules imposed on the auditors.

C1811 to C 1825.

Section 156 - 158 reappointment of auditors. We are not objecting to the necessity of appointing auditors at necessary time. However, we are extremely concerned to about the possible abuse that may arise from it.

Questions are:

(i) Licensed corporation should first make cash deposits to SFC for their costs of auditor. What is the amount in question? The deposit itself may already be a disruption/penalty to the normal course of business before the verdict. (C1813 (4)(5)(6)) There should be a limit to the amount, say up to 200K?

(ii) There is no recovery of expense by the LC should they come out clean after the audit. Why?

(iii) C1817 at 158 (1) (a) Auditors are not lawyers, nor securities professional. How could they be given power to examine on oath?

(iv) C1823 (3) allows the delegation of SFC's inquiring power to the auditors, we have strong reservation towards such transfer of authority. We do not even think the police department enjoys such power.

C 1825 159 (3) We need clarification on the drafting of this section. What exactly is meant by "it is proved...but ... in the absence of evidence to the contrary, be presumed to have done". Either the person is proved to have done, or he should be assumed innocent. Why is he "presumed"?

## Part VIII

C1855 onwards It is not entirely appropriate for the securities brokers to comment on behalf of listed corporate. However, something in general:

(i) There is a difference in the authority of SFC in enquiring into normal listed corporate ((1861), and an authorized Financial Institution (1863 (9)). Why?

(ii) C1877 (3) to (7) Given the wide power of enquiry, and testaments are to be made also in statutory declaration, Is it appropriate that this authority could be given to "any body"? (5)

C1899 181. Is this only a disclaimer? Need there be an acknowledgment by the police?