# G.N. 1410

# SECURITIES AND FUTURES OR

When considering whether to impose a fine under section 194(2) or 196(2) and the size of any fine, the SFC will consider all the circumstances of the particular case, including the Specific Considerations described below.

A fine should deter non-compliance with regulatory requirements so as to protect the public.

Although sections 194(2)(ii) and 196(2)(ii) state that one alternative maximum level of fine that can be imposed is three times the profit made or secured, or loss avoided or reduced, the SFC will not automatically link the fine imposed in any particular case with the profit made or secured, or loss avoided or reduced.

The more serious the conduct, the greater the likelihood that the SFC will impose a fine and that the size of the fine will be larger.

In determining the seriousness of conduct, in general, the SFC views some considerations as more important than others. The General Considerations set out below describe conduct that would be generally viewed as more or less serious. In any particular case, the General Considerations should be read together with the Specific Considerations in determining whether or not the

### The amount of profits accrued or loss avoided

a firm or individual and related parties should not benefit from the conduct

### Other circumstances of the firm or individual

a fine should not have the likely effect of putting a firm or individual in financial jeopardy. In considering this factor, the SFC will take into account the size and financial resources of the firm or individual. However, if a firm or individual takes deliberate steps to create the false appearance that a fine will place it, him or her in financial jeopardy, eg by transferring assets to third parties, this will be taken into account

whether a firm or individual brings its, his or her conduct to the SFC's attention in a timely manner. In reviewing this, the SFC will consider whether the firm or individual informs the SFC of all the conduct of which it, he or she is aware or only part, and the manner in which the disclosure is made and the reasons for the disclosure

the degree of cooperation with the SFC and other competent authorities any remedial steps taken since the conduct was identified, including any steps taken to identify whether clients or others have suffered loss and any steps taken to sufficiently compensate those clients or others, any disciplinary action taken by a firm against those involved and any steps taken to ensure that similar conduct does not occur in future

the previous disciplinary record of the firm or individual, including an individual or firm's previous similar conduct particularly that for which it, he or she has been disciplined before or previous good conduct

in relation to an individual, his or her experience in the industry and position within the firm that employed him or her

#### Other relevant factors, including

what action the SFC has taken in previous similar cases – in general similar cases should be treated consistently

any punishment imposed or regulatory action taken or likely to be taken by other competent authorities

result or likely result of any civil action taken or likely to be taken by third parties – successful or likely successful civil claims may reduce the part of a fine, if any, that is intended to stop a person benefiting from their conduct.