

**FUND MANAGEMENT REGULATIONS  
SECURITIES OFFENCES**

**OTHER OFFENCES**

**Destruction of Documents/Falsification of Records**

The CMSA contains a general penalty in relation to the falsification of records by directors, employees and agents and also a penalty for destroying, concealing or altering records or sending records of other property out of Malaysia in relation to accounts and audit, s. 47 and 48 of the SICDA, as well as the provision under the SCA, contain similar provisions.

**Failure to Co-operate with the Securities Commission**

A person who fails to co-operate with the SC in any of the instances listed below is guilty of an offence:

- (a) failure to appear before Investigating Officer or refusal to answer questions put by an Investigating Officer (s.134(5) SCA)
- (b) failure to produce records on request (s.53(6) SICDA)
- (c) failure to disclose information to SC as required (s.56 SICDA).

**Offences which Carry a Civil Penalty**

A licensed person is liable to a person who suffers loss or damage as a result of acting or refraining from acting in reliance on a recommendation of that licensed person (where it was reasonable in the circumstances to do so) and if the licensed person did not have a reasonable basis for making the recommendation. See s.92 of the CMSA.

Where a person makes improper use of confidential price-sensitive information, he or she will be liable to a person who suffers a loss in relation to a dealing in those securities. The amount of the loss will be the difference between the consideration paid or received by that person and the amount that would have been reasonable if the price-sensitive information had been generally known at the time of the dealing. (See s.201). See also s.200 and 211.

**Liability of Directors/Employers**

As we have noted above, directors, chief executives, officers and representatives of a company are deemed to have committed an offence if a corporation is charged with an offence unless they can prove that the offence was committed without their consent or connivance. They also need to establish that they had exercised all such diligence to prevent the commission of the offence as ought to have been exercised having regard to their position and functions and to all the circumstances.

See s.367(1) CMSA. Similarly, principals are liable for the conduct of their representatives. See s.367(3) CMSA.

