

British Virgin Islands Financial Services Commission

Amendments to the Guidelines and Operating Procedures of the Enforcement Committee

*(Issued Pursuant to Sections 17(1) and 41A of the
Financial Services Commission Act, 2001)*



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Introduction

These Guidelines are issued by the Financial Services Commission pursuant to sections 17 (1) and 41A of the Financial Services Commission Act, 2001 (N0. 12 of 2001) and amend the principal *Guidelines and Operating Procedures of the Enforcement Committee* (“the Guidelines”) issued by the Commission on 7th April, 2008. The amendments are in relation to the membership of the Enforcement Committee in accordance with section 15 (2) (c) which empowers the Board of the Commission to appoint to the Enforcement Committee such other senior officers of the Commission (as the Board considers appropriate) and follow the making of such appointments by the Board.

Paragraph 1.3 Amended

Paragraph 1.3 of the Guidelines is amended by inserting after sub-paragraph 1.3.1, the following new sub-paragraph:

“1.3.1A *Temporary Membership*


Pursuant to section 15 (2) (c) of the Financial Services Commission Act, 2001, the Board of the Commission is empowered to appoint other senior officers to the EC. While the present complement of EC membership is considered appropriate, the Board has identified the following senior officers for appointment to the EC on a temporary basis in circumstances where that is required to attain a quorum of the EC or where an issue of a conflict or potential conflict of interest arises or may arise in respect of a substantive member of the EC in respect of whose portfolio representation at the EC is considered necessary by the Managing Director or for any other good cause so determined by the Managing Director:

- (a) the Director appointed by the Managing Director to oversee the portfolio of regulation or corporate services, or both;
- (b) the Deputy Director of Legal;
- (c) the Deputy Director of Enforcement; and
- (d) the Deputy Director of Policy Research and Statistics.

The assumption of membership of the EC by any of these officers shall be effective during the absence of the substantive EC members with responsibility for the portfolios concerned or until the resolution of the conflict or potential conflict of interest or the resolution of other cause, although the Managing Director may shorten the period of membership where he or she considers that necessary. Accordingly, temporary membership is designed to ensure the continued performance of the functions of the EC and is not necessarily premised solely on the absence of a substantive member of the EC.

Any Director or Deputy Director that assumes membership of the EC on a temporary basis shall be treated as a full member during the period of his or her tenure and shall be counted towards a quorum and have voting rights under sub-paragraphs 1.6.3 and 1.6.4 respectively. The temporary assumption of office by a Director or Deputy Director shall, however, not preclude the presence in a meeting via electronic media (pursuant to sub-paragraph 1.6.2) of a substantive member of the EC if the Managing Director considers such an arrangement necessary to properly transact the business of EC. In such a situation, the voting right may be exercised either by the substantive member or the temporary member, but not by both.”

Issued by the Financial Services Commission this 25th day of February, 2015.



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