

COMMENTS AND RESPONSES

Securities and investment Funds Bill, 2021



Section	Comments/Recommendations	Responses
Section 1	In the definition of "document", you may want to move 'without limiting the generality of the forgoing, includes any court application, order and other legal process and any notice' to the following line so that it is clear that it applies to the whole definition of "document" (if that is what is intended) rather than just to (d);	Noted. This section has been reviewed.
Section 11 (8)	I'm not sure whether, as the provision is currently drafted, it captures the applicant itself as well its directors/shareholders/senior officers? Just to also flag that our equivalent legislation provides for 'any persons having a significant interest' instead of shareholders which I think is slightly wider (I'm not sure whether you want to keep it narrow but just an observation	It appears that the reference is unclear. Kindly review reference.
Section 11 (11)	A number of fines (an example being for carrying out securities investment business without a licence) seem very high (\$1,000,000 and then \$100,00 for each day that the offence continues, compared to our similar penalties (\$20,000 to \$75,000)). The general fine for non-compliance with the act (section 85(2)) also seems fairly high at \$1,000,000 for an entity;	Noted. These sections have been reviewed.
Section 14/15	I can see that there are multiple defences for section 15 but none for 14 – I assume this is intentional but again just an observation;	Noted. This section has been reviewed.
Section 88	I note that funds/fund administrators/managers etc. have 6 months to comply with the act. Are any provisions made for if they are still in the process of applying for a licence after the initial 6 month period has passed (i.e. it is still be processed by the Commission?) Apologies if this is covered and I have missed it but it might be useful to have something to provide for this, to soften the hard deadline a little.	Noted. This section has been reviewed.