

BY HAND

5 July 2001

The Convenor,
Bills Committee of the
Legislative Council,
Legco Building,
Hong Kong

Dear Sir,

Re: Securities and Futures Bills (the Bill)

On Behalf of the Institute I write to put before you our main concerns regarding the Bill for your consideration and action.

1. The Bill provides for banks which carries on securities and futures business to be granted exempt status by the Securities and Futures Commission (the Commission) and as a result Banks do not have to comply with registration requirements and their employees who deals in securities are likewise not required to be so registered. Other people who deal in securities have to be so registered.

This is unfair and is against the principle that everyone who carries on the same business has to comply with the same regulations and supervised by the same regulator. There is no justification for exemption. A bank which carries on securities and futures business can easily set up a wholly owned subsidiary to do so and it should not be treated differently. By making everyone to be treated equally and regulated by the same authority it will not only be fair but also cost effective in administration.

We therefore ask that the powers and provisions of granting exempt status to banks be deleted.

2. We are most concerned and take great objection to :-

Sections 193(1) and 245(1)(a), which allow information or material regardless of how they are obtained or come into the possession of the Commission/Tribunal to be used even if the material could not be admissible in evidence in civil or criminal proceedings in court of law (S.245.(1)(a)).

These wide and unreasonable powers must be taken away. They are totally against our legal system and contrary to our long established "Judges Rules" evolved to protect the rights of our citizens. These provisions must be deleted.

3. The Securities and Futures Appeals Tribunal to be established under Section 210:-
 - (1) Should have power to review all decisions of the Commission and not just specified ones.
 - (2) Market participants (stockbrokers) should be the majority in number of lay members. The simple reason is that stockbrokers are the persons who know the real life working of stock brokering, market practice and the professional standard a stockbroker is expected to maintain. Especially in disciplinary hearings the 2 lay members should be stockbrokers.

4. Where there is power to appeal, there should be provisions for granting a stay of execution until the Appeal has been heard otherwise a successful appeal will be of no use.
Also where good reasons are put forward there should be powers to extend time for doing an act.

If you have any questions, please feel free to contact the undersigned at 2537 2873.

Yours faithfully,
For and on behalf of
The Institute of Securities Dealers Ltd

CHEN Po Sum
Chairman

c.c. Mr. Henry K. C. Wu