

15 February 2005

The Hon. Audrey Eu Yuet-mee, SC, JP  
Chairman of the Bills Committee on  
Companies (Amendment) Bill 2004  
Legislative Council  
Legislative Council Building  
8 Jackson Road, Central  
Hong Kong

Dear Miss Eu,

**Bills Committee on Companies (Amendment) Bill 2004**  
**Proposed amendments to the definition of “subsidiary” (Your Ref. CB1/BC/3/04)**

With reference to the proposed amendments to the definition of “subsidiary”, ACI-The Financial Markets Association of Hong Kong (ACIHK) wishes to forward the following comments from its members to facilitate the deliberation of the Bills Committee. ACIHK is an affiliate of ACI – The Financial Markets Association – the global umbrella body of national financial markets associations. One of our key objectives is to promote the development of Hong Kong as a major international financial centre, comprising an integrated network of institutions and markets which provide a wide range of products and services to local and international customers and investors.

Hong Kong has witnessed the development of an increasingly vibrant local debt market in recent years. In particular, the promising growth of mortgage-backed securities and asset securitization programmes in the past couple of years evidenced that Hong Kong has the capability and potential to develop a sophisticated debt market, in terms of both depth and width.

However, we are concerned that under the proposed amendment in the Companies (Amendment) Bill 2004, issuers may be discouraged from issuing asset-backed securities, which is a financial innovation with manifold merits. This could have a severely negative impact on the development of asset securitization as well as the debt market in Hong Kong.

On the issuer’s side, asset securitization can change the risk profile and improve the issuer’s balance sheet. It can also diversify issuer’s sources of funding. For an investor, the portfolio diversification effect and the structure of asset securitization has provided a great choice of securities with different credit standing, risk profile and investment tenor. The fact that the HK\$20 billion worth of asset-backed securities issued in 2003 and 2004 were well received evidenced that asset-backed securities are much welcomed in the investment market.

The continued development of the asset securitization market has to be supported by a conducive legal and accounting environment. If issuers are no longer able to enjoy off-balance sheet treatment, it is very likely they will have much less incentive to issue asset-backed securities. While we acknowledge the rationale for the proposed amendment, the need for regulation and market development has to be balanced. It is against the spirit of promoting debt market



Hong Kong if the amendments discourage asset securitization and reduce the supply of quality paper in the local debt market.

In fact, we understand that the US has arrangements in place, including the concept of Qualifying Special Purpose Entities (QSPE), that once certain criteria are met, asset securitization can receive off-balance sheet treatment. On the other hand, some countries such as Australia are kicking off projects to review accounting treatment for asset securitization.

We hope the Bills Committee would consider the potential impact of the amendments to the asset securitization markets and consider arrangements for asset securitization such as the QSPE treatment in the US, with a view to sustaining the development of a vibrant debt market in Hong Kong.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Horace Fan', written over a light blue horizontal line.

Horace Fan  
President