

Hon Ronald ARCULLI, JP  
Chairman  
Bills Committee on  
Securities (Amendment) Bill 1999

Dear Chairman Ron,

We refer to the Securities (Amendment) Bill section 80C.

I have personally had a fairly long discussion with FSB on the issue of the strong reaction from the industry for criminalisation of an omission in procedures in performing a legitimate action of short selling order. The reasons are:

- (1) The consequence of offending this particular law has minimal effect to the market . It may slightly benefit the seller ( who is not the broker) in the price up tick rule but the broker definitely do not have any extra benefit as an incentive to break the law.  
Alternatively, it may be said to have distorted the published open short position in the market. But this figure have never really been able to reflect the truthfulness as we don't yet have to report any buy back position to set off the original short position.
- (2) Based on the above ,we feel that punishment on frequent offenders can still be imposed through Code of Conduct, Fit and Proper Criteria, Suspension of Licensing which are all for the purposes of regulating brokers.
- (3) This particular law will have a far reaching effect in the industry that brokers will try to protect themselves involved into unnecessary legal consequences by declining to act on any short selling business even though it is legal to do so. This is not the intention of the law which wants to promote Short Selling as one of the functions of a major regional financial centre.
- (4) We understand Government is sympathetic on the issue but only because of technical difficulties that they cannot make any change. We feel that the section should be taken off totally as it serves very little purpose .We agree to putting it into the Code of Conduct for all registered persons to follow.
- (5) It is always the policy of the Association to support Government on issues that have the effect of maintaining the integrity of the market and protection of investors. Although in this industry, Self Regulated is no longer the case, yet it is still the prudent professionals in the business know well enough to balance development and regulation such that business is not stifled.

Hope we will have your kindest consideration.

Paul Fan  
Chairman of Hong Kong Stockbrokers Association