FUND MANAGEMENT REGULATIONS
SECURITIES OFFENCES

SHORT SELLING

Short selling is the practice whereby the seller sells securities which, at the date of the agreement for sale, it does not own but intends to acquire before the delivery date. The seller that engages in short selling is relying on the market price of the securities falling between the date of the sale contract and the date for delivery under that contract, thus providing a profit. Naturally, short selling is more prevalent in a bear market where the odds of such a decline in price are considerably better than in a bull market.

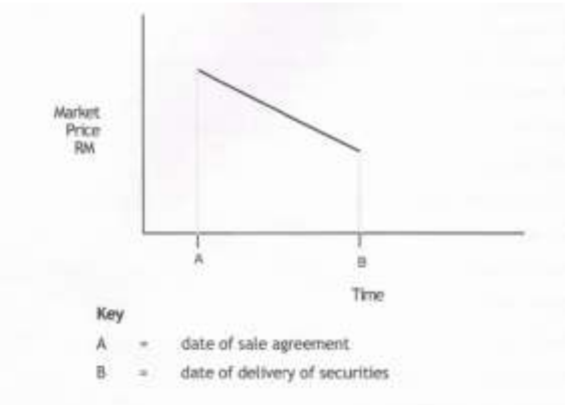

Figure 1: Short Selling

The danger of short selling, from the securities market point of view, is that the seller may be unable to purchase the securities in time for delivery and will therefore default on the contract.
Section 98 of the CMSA prohibits a person from selling securities to a purchaser unless at the time of the sale, the person (or their agent) has a presently exercisable and unconditional right to vest the securities in the purchaser.
The CMSA however, also sets out a limited number of circumstances in which short selling is permitted. Read s.98(4) and note these exceptions.

Penalty
The penalty for short selling is a fine up to RM5 million or imprisonment for up to ten years or both.

Case Examples
Mustapha Ibrahim
On 17 June 1993 a business consultant, Mustapha Ibrahim sold 10 lots of UPHB share, at RM5.65 through Apex Securities Sdn. Bhd. On 23 June 1993, the accused bought back five lots of UPHB shares from the market at RM6.20 per unit. On 9 July 1993, KLSE (now Bursa Malaysia Securities Berhad) instituted a buying-in for another five lots of UPHB at RM15.20. On 17 September 1993, Mustapha Ibrahim was charged under s. 41(1) of the SIA (now s.98(1) of the CMSA) for shortselling 10 tots of UPHB shares at the Sessions Court, Selangor. The accused pleaded guilty on 24 September 1993, and was convicted and fined a sum of RM90,000; in default nine months imprisonment. The accused paid the fine.

Yap Swee Yeow
On 25 June 1993, Yap Swee Yeow, an accounts clerk sold 20 lots of UPHB shares at RM7.50 per lot through K ü N Kenanga Sdn. Bhd. At that time, the UPHB counter had been designated, and delivery of the shares was on an immediate basis. When the accused failed to deliver the scrips on T + 1 days (i.e. on 28 June 1993), a buying-in was instituted at RM15.20 per lot on 9 July 1993. Yap Swee Yeow was charged on 21 September 1993 at the Sessions Court, KL and he pleaded guilty. He was fined a sum of RM100,000; in default six months imprisonment. The accused paid the fine.