A microscopic view of numerous blue-stained cells, likely bacteria or yeast, arranged in a dense, somewhat circular pattern. The cells are roughly spherical and have a textured, granular appearance. A red rectangular box is overlaid on the center of the image, containing white text. A small black mouse cursor is visible near the top center of the red box.

Ethics in Practice
**A Practical
Guide for
Bank Managers**



If you want to see through something, you use an x-ray. If you want to see behind-the-scene, you use your ethical mind.

As a bank manager, you have to look beyond money, and see the people who are dealing with it. Be ethical and you can see through monkey business.

This book is published by the co-organisers of Leadership Integrity Programme for Banking Industry



Hong Kong Institute of Bankers



Hong Kong Monetary Authority



Independent Commission Against Corruption, HKSAR

The DTC Association



The Hong Kong Association of Banks

March 2001

**Message
from
Commissioner,
Independent
Commission
Against
Corruption,
HKSAR**

Upholding the highest ethical standard in the banking industry is vital to maintaining Hong Kong's reputation as a leading international financial centre. Over the years, the ICAC has worked closely with the banking industry to ensure that Hong Kong has a corruption-free business environment.

In an effort to enhance business ethics and to heighten the awareness of corruption prevention practices, the ICAC has joined hands with the banking industry regulators, operators and associations to launch a two-year Leadership Integrity Programme.

As a part of the Programme, we produce this publication to provide guidance on how to put ethics into practice in the banking industry. I hope it will become a useful and handy reference for bank managers.



Alan N LAI
Commissioner
Independent Commission Against Corruption
HKSAR

**Message
from
Chief
Executive,
Hong Kong
Monetary
Authority**

Hong Kong's banks enjoy a strong reputation for honesty and integrity. This reputation - as much as their efficiency and strong business sense - is at the heart of Hong Kong's success as one of the world's great banking centres. The integrity of our banking system depends on effective supervision and corruption prevention. It draws strength from a business culture that stresses the rule of law and the importance of professional ethics. Above all, it depends on the personal integrity of those individuals engaged in the day-to-day management of banking business.

Reputations have to be earned, not taken for granted, and they are maintained through constant vigilance, re-inforcement and self-examination. This Guide is a useful and highly readable contribution to that process. It combines principles with practice to offer a very practical approach to promoting ethics and preventing corruption at work. I strongly recommend it to all those who work in the banking industry and to anyone with an interest in promoting ethical standards in business.



Joseph YAM
Chief Executive
Hong Kong Monetary Authority

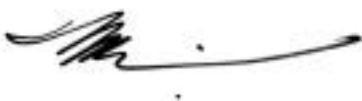
**Message
from
Chairman,
Working
Group of
Leadership
Integrity
Programme
for Banking
Industry**

Ethics is crucial to the Hong Kong business community which has a reputation for its strong commitment to fairness and honesty. It is especially vital to the banking industry that was established and has prospered on the community's wealth. As a main player in the commercial life in Hong Kong, and without exception, all bankers need to be ethical to keep their integrity as people's money managers. This is why the industry regulators and operators came together to launch a two-year Leadership Integrity Programme.

I am grateful for all the effort by different parties in contributing to the making of this publication, "Ethics in Practice - A Practical Guide for Bank Managers". This publication aims to assist bank managers as well as executive staff with steps to take in achieving ethical management and how to develop an honest workforce. It addresses the common ethical issues encountered by bankers and provides them with a comprehensive and handy reference on how to deal with ethical dilemmas. It is also an excellent resource booklet and reminder for them to foster ethical management in their workplace.

Special thanks must go to, in no particular order, the Independent Commission Against Corruption, Hong Kong Monetary Authority, The Hong Kong Association of Banks, The DTC Association and Hong Kong Institute of Bankers for their invaluable contributions to this publication. I would also like to express my gratitude to the industry practitioners who have given us useful comments at the drafting stage.

Maintaining high ethical standards in banks is neither a luxury nor an abstract ideal. It is a must in the increasingly competitive world. Putting ethics into practice is part of all bankers' duty. I am very pleased with this important publication and I recommend it to everyone in the banking industry.



Edwin LAU
Chairman
Working Group

**Working
Group
of Leadership
Integrity
Programme
for Banking
Industry**

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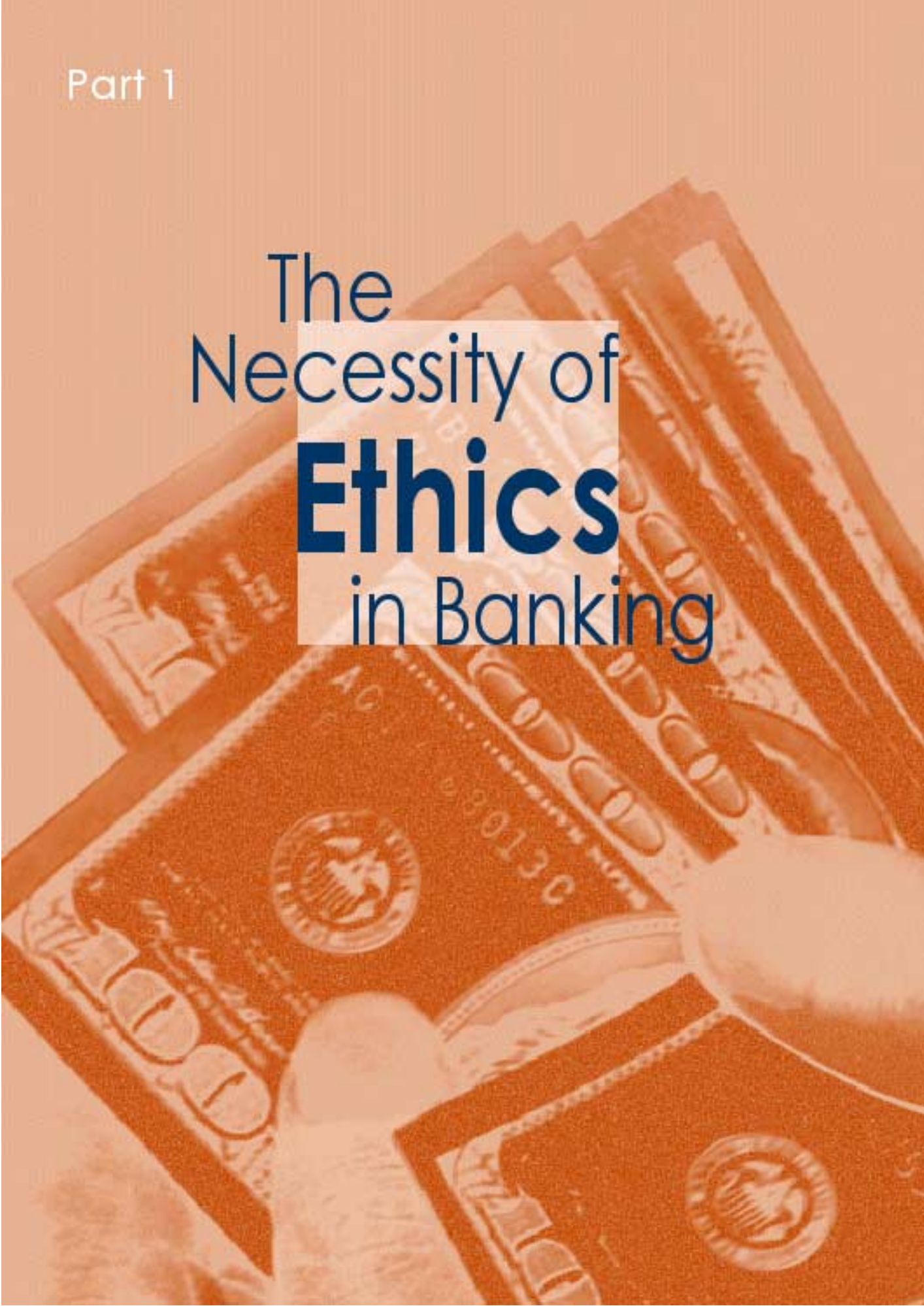
From the Editor

This book is written for all bank managers as well as executive staff of all authorised institutions under the Banking Ordinance, namely the licensed banks, restricted licence banks and deposit-taking companies. It examines the major ethical issues encountered by bank managers in their workplace and provides them with practical guidelines on how ethics can be applied.

This publication aims to provide general guidance only and does not purport to deal with all possible issues that may arise in any given situation. Explanations of legal requirements under Ordinances and Codes of Conduct are necessarily general and abbreviated and are not a substitute for the need to review relevant Ordinances and Codes of Conduct in detail and where appropriate to obtain specific legal advice on any issue arising. No responsibility for loss occasioned to any person acting or refraining from action as a result of any material in this publication can therefore be accepted by the Working Group.

Throughout this publication, the male pronoun is used to cover references to both the male and female. No gender preference is intended.

Part 1



The
Necessity of
Ethics
in Banking

1.1 Why is Business Ethics so Important to the Banking Sector?

The secure, reliable and efficient banking system is one of the pillars of Hong Kong's economic stability. Hong Kong enjoys one of the most concentrated representations of major banks in the world. It is also home to the seventh largest foreign exchange trading centre.⁽¹⁾ Upholding strict business ethics in line with the highest international standards is therefore critically important to maintaining Hong Kong as a leading international financial player in the Asia Pacific region.

Business ethics is defined as "the process of evaluating decisions, either before or after, with respect to the moral standards of society."⁽²⁾ Core ethical values include honesty, integrity, fairness, responsible citizenship and accountability. In short, business ethics means "choosing the good over the bad, the right over the wrong, the fair over the unfair, the truth over the lie".

Observing the law is one basic professional requirement for banks. They must also pay close attention to moral concerns in order to make the right ethical decisions on a day-to-day basis. The upholding of an ethical culture in banking is of critical interest to regulators, banks, employees and customers alike.

(a) A regulator's perspective

The regulator's primary concern is to promote stability within the banking system. Good and ethical banking practices help safeguard depositors' interests, maintain the stability of the system and preserve Hong Kong's reputation as a reliable and credible international financial centre.

(b) A bank's perspective

Prevention is always better than correction. Ensuring all bank staff adhere to the highest ethical standards expected by the regulatory authorities can prevent breaches of the laws and corrupt practices. This can in turn protect stakeholders' interests and enhance a bank's competitiveness and brand image.

(1) Quoting from "Annual Report 1999", Hong Kong Monetary Authority.

(2) Quoting from Fritzsche, D., "Business Ethics: A Global and Managerial Perspective", Singapore, McGraw-Hill, 1997, p42.

(c) A bank manager's perspective

The cultivation of strong moral values amongst employees can empower them to come up with suitable solutions when facing ethical dilemmas. Ethical business practices are essential ingredients of professionalism. It is also the prerequisite for effective staff management. A bank manager should therefore make every effort to ensure his staff conduct their business in accordance with extremely high ethical standards.

(d) A customer's perspective

Customers' interests can only be protected through trustworthy banking practices. Banks look after people's money and it is obvious that only persons of integrity should be entrusted with this responsibility. If banks were involved in unethical or illegal activities, or provided poor or unfair services, public confidence would quickly be eroded and the very stability of the banking system as a whole would be undermined.

1.2 New Challenges

The fact that money is its basic commodity makes banking a business full of temptations. It often demands the exercise of moral judgement to fight off the lure of additional wealth. The rapid development of personal banking services has generated keen competition amongst banks. Hence maintaining close customer relationships becomes paramount which in turn could lead to ethical dilemmas and conflicts of interest. Globalisation, innovation, diversification and electronic evolution have presented new industry-wide challenges and ethical issues on top of the traditional ones.

The Asian economic turmoil has for a few years drastically affected the Hong Kong economy. The banking sector was no exception. Striving for survival under increased competition puts bank managers under tremendous pressure, which could result in malpractices and illegalities.

All these challenges can only be met by improving all aspects of their business and by adopting the highest ethical standards.

Part 2

Legal Requirements and Standards of Behaviour



2.1 Corruption- related Risk Areas in Banks

Corruption facilitates and protects crimes in banks. Most of the corruption-related bank crimes involve staff conspiring with third parties. It is usually done by staff who solicits or accepts advantages as a reward for taking particular action or refraining from taking particular action without the employer's consent. As a manager, you should be fully aware of the following common corruption-related risk areas in banking operations. They are examples only and not exhaustive.

Credit Facilities

- Approving unqualified applications for bank loans and credit facilities
- Expediting the process of loan applications submitted by customers

Letters of Credit

- Approving applications involving bogus business transactions
- Speeding up approvals

Mortgages

- Accepting false documents and inflated valuation reports on loan collaterals
- Falsifying supporting documents
- Granting favourable repayment terms

Credit Cards

- Approving applications from ineligible customers
- Revealing confidential information of genuine credit card holders to outsiders, in particular counterfeit credit card syndicates

Money Laundering

- Conspiring to hide suspicious transactions from banks or law enforcement authorities
- Participating directly in money laundering operations
- Releasing internal confidential information on anti-money laundering measures

Administration

- Soliciting rebates from contractors or suppliers for allocating jobs
- Showing favour in placing orders, making excessive purchases and tolerating overcharging
- Disclosing confidential information of value such as tender prices, bidder's quotations, etc.

2.2 Legal Requirements

2.2.1 The Prevention of Bribery Ordinance (Cap. 201) (PBO) - Section 9

Corruption crime in the private sector is governed under this provision. It is an offence for an agent to solicit or accept an advantage as an inducement to, or a reward for, his doing or forbearing to do any act in relation to his principal's affairs without his principal's permission. Any person who offers an advantage under these circumstances is also guilty of an offence.

The main points of Section 9 of the PBO are listed on the next page for your easy reference. For the text of the Ordinance, you may refer to Appendix 1.



Prevention of Bribery Ordinance (Section 9)

The main points

1. **Principal** - A principal generally refers to an employer. For a bank staff, "employer" means the bank.
2. **Agent** - An agent is a person acting for, or employed by, the principal. When you work in a bank, irrespective of whether you are an employee or a director, you are the agent of the bank.
3. **Advantage** - Advantage refers to anything that is of value such as money, gift, employment, service or favour, etc., but does not include entertainment, which is defined as food or drink provided for immediate consumption on the occasion.
4. **Principal's permission** - It is lawful for an agent to accept an advantage in relation to his official duties with his principal's permission. The permission must be given by the recipient's principal, NOT the offerer's principal, before the advantage is offered, solicited or accepted. In any case where an advantage has been offered or accepted without prior permission, the agent must apply for his principal's approval as soon as reasonably possible.
5. **Custom constitutes no defence** - It shall not be a defence to claim that any advantage accepted or offered is customary in any profession, trade or festive season. The court shall make the judgement based on whether permission has been given by the recipient's principal.
6. **Verbal agreement counts** - The offerer and the recipient of a bribe are liable to prosecution if a verbal agreement of corruption is reached. Both parties will be guilty irrespective of whether or not the purpose of bribery has been carried out.
7. **Penalties** - A person convicted of an offence under Section 9 of the PBO is subject to a maximum penalty of seven years' imprisonment and a fine of HK\$500,000. He may also be prohibited from taking up a management post of any corporation or public body, or practising any profession for a period not exceeding seven years.

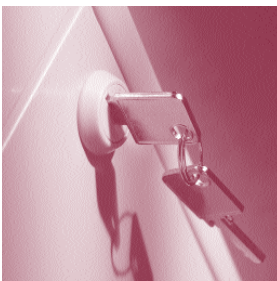
2.2.2 Banking Ordinance (Cap. 155)

Special attention should be given to relevant provisions in the Banking Ordinance. Under Section 124 of the Ordinance, it is an offence for any director or employee of a bank to ask for or accept advantages for his own personal benefit, or for that of his relatives, for showing favour to any person when approving loans or credit facilities from the bank. More importantly, there is no defence to a charge under this Section of the bank having agreed to the acceptance of the advantage concerned.

In addition, Section 123 of the Ordinance prohibits deliberate deception of a bank staff by making false entry of documentations of the bank's business. The texts of Sections 123 and 124 are in Appendix 2. You should also observe Section 83 of the Ordinance which contains restrictions on advances to directors and employees of banks, and other connected parties with them.

2.2.3 Other relevant ordinances

You should also keep a close eye on the legal requirements as stipulated in the relevant ordinances:



(a) Personal Data (Privacy) Ordinance (Cap. 486)

This protects privacy with respect to personal data based on principles for the fair collection, use, holding, rights of access and correction, and disclosure of personal data.

(b) Drug Trafficking (Recovery of Proceeds) Ordinance (DTROP) (Cap. 405) and the Organised and Serious Crimes Ordinance (OSCO) (Cap. 455)

Both the DTROP and OSCO provide a money laundering offence of dealing with any property, knowing or believing it, in whole or in part, directly or indirectly represents the proceeds of drug trafficking or an indictable offence. They are also relevant to your duty to report suspicious transactions.

(c) Securities (Insider Dealing) Ordinance (Cap. 395)

This prohibits the improper use of price sensitive information by a person when dealing with the securities of a listed company.

2.3 Standards of Behaviour

The expected standards of behaviour of banks and their staff are set out in the Banking (Code of Conduct) Guidelines 1986 ("Code of Conduct") developed by the then Banking Commission. This Code of Conduct is still in force and administered by the Hong Kong Monetary Authority. It incorporates the major conduct requirements and should be used as a comprehensive model for preparing codes of conduct and setting out standards that the management of the bank expects of its staff. Every bank should make its staff fully aware of the conduct requirements and that disciplinary action or criminal prosecution may be taken against them if they do not adhere to these standards.

2.3.1 Code of Conduct

The text of the Code of Conduct is in Appendix 3. As a bank manager, you should observe the following major conduct requirements listed in it:

(a) Conflict of interest

A staff member who finds his own interests are, or may be, in conflict with those of his bank should always seek the bank's advice.

(b) Loans

A staff member with lending authority should have specified limits commensurate with his rank. He should not grant credits or loans to himself, to members of his immediate family or relatives, or to companies in which he, his immediate family or relatives has a personal interest.

(c) Borrowings

A staff member, his immediate family or relatives should not make borrowings or receive credit from third parties on an abnormally favoured basis unless approved by his bank.

(d) Conduct when obtaining business

No member of staff should offer any bribe in order to obtain business. A staff member should comply strictly with the legal requirements and policies of his bank while offering any commissions, payments or favourable terms or other advantages to third parties to obtain business for the bank.

(e) Personal benefits

A staff member should observe the statutory provisions of Section 9 of the Prevention of Bribery Ordinance (Appendix 1) and Section 124 of the Banking Ordinance (Appendix 2), which contain criminal penalties for accepting advantages in prescribed circumstances. He should also actively discourage customers from offering personal benefits of all kinds to him.

(f) Use of information

A staff member should handle confidential information of customers or any knowledge gained in relation to his employment with great care. He should not release customer's information to a third party without the customer's consent in writing.

(g) Investments

A staff member should not deal in the shares or other securities of any company listed on The Stock Exchange of Hong Kong Limited when possessing information obtained as a result of his employment that is generally not available to the shareholders of that company and to the public.

(h) Outside employment

A staff member should obtain prior written approval from the bank before taking up any directorship, employment or part-time commercial duties (paid or unpaid) outside the bank.

2.3.2 Other relevant guidelines

Apart from the Code of Conduct, you should also be fully aware of other relevant guidelines issued by the regulator and industry associations.

(a) Hong Kong Monetary Authority (HKMA)

The HKMA formulates guidelines from time to time on various activities carried out by the banks in Hong Kong, including the Guideline on Prevention of Money Laundering and Guideline on Corporate Governance of Locally Incorporated Authorised Institutions.

(b) The Hong Kong Association of Banks (HKAB) and The DTC Association (DTCA)

The HKAB and DTCA have also jointly issued the Code of Banking Practice for their members in dealing with their daily operations with customers. It specifically covers banking services such as current accounts, savings and other deposit accounts, loans, overdrafts and card services. Due care should be taken when you are dealing with the collection, use and holding of customer's information to comply with the Code. Extracts of the Code dealing with this are in Appendix 4.

Part 3

Legal and
Ethical

Issues

Faced by Bank
Managers



There are various common legal and ethical issues faced by bank staff in the workplace. These can take the form of bribery, misuse of confidential information, conflict of interest and numerous other grey areas.

The following hypothetical scenarios provide an insight into many real life situations that are commonly encountered by bank staff during the course of business dealings. These are, however, by no means exhaustive. You should handle every single case with due care.

3.1 Bribery and Related Offences

A bank employee may face the opportunity of being offered advantages by his customers or people who have business dealings with the bank. The prime importance is whether the acceptance of advantages is in line with legal or other conduct requirements. As a rule of thumb, one should not compromise on the principles governing anti-corruption when working or doing business.

3.1.1 Case studies

Scenario 1

Offering and accepting an advantage both constitute an offence

Daniel, as a senior credit officer of a local bank, has the responsibility of verifying information submitted by customers regarding the application for credit facilities. One of his customers, Calvin, is the owner of a factory located in Dongguan, Guangdong.

When Calvin applies for hire purchase facilities of \$4.3 million to secure a set of new machines, Daniel and his supervisor, Michael, are assigned to conduct a site visit in Dongguan to verify the application information and inspect the new machines.

Upon the inspection, however, they find that the machines seem to have already been in use for several years. Suspecting a potentially bogus transaction, Daniel raises his concerns with Calvin, who, in the hope of encouraging them to turn a blind eye, presents both Daniel and Michael with an expensive watch. To help smooth Daniel's feathers, Calvin also points out that, technically speaking, they do not breach the anti-corruption laws in Hong Kong as the transaction is conducted outside the region.

Daniel still hesitates over Calvin's offer but is surprised to find

Michael accepting the watch graciously. Michael senses Daniel's discomfort at the situation and whispers to him that refusing such a token gift would merely cause embarrassment to all concerned. Hearing such assurances from his supervisor, Daniel finally accepts the watch.

Analysis:

If Daniel and Michael do not obtain their principal's permission to accept the advantage, both of them and Calvin are in breach of Section 9 of the PBO. It also constitutes a breach of Section 124 of the Banking Ordinance whether or not permission is obtained. In this case, Daniel should clarify with his bank as his principal rather than follow his supervisor's advice.

Although they execute the corrupt transaction outside Hong Kong, both of them still commit a corruption offence since the application of credit facilities is processed in Hong Kong. The location where the acceptance or offering of an advantage takes place is only one of the factors to be considered for prosecution.

They also violate the Code of Conduct by accepting personal benefits from a customer. They should have actively discouraged their customer from offering them personal benefits of any kind.

Scenario 2

Offering an advantage to obtain business

Ken is a branch manager who is always keen for promotion. Unfortunately, he has been stuck in the same position in the bank for nearly ten years while his peers have all been promoted to senior positions. Recently, a nearby private housing development is opened for sale and has prompted the branch to initiate a marketing plan to attract new buyers. Ken's brother-in-law, Philip, is a property agent who is also trying to find business opportunities here.

During a family gathering, Ken tells Philip that his boss is now considering his promotion and adds that it would be a great boost to his prospects if he was able to secure a substantial market share of the mortgage loans on the estate. Ken also emphasises how difficult such a task is in the face of intense competition with other banks. On hearing this, Philip agrees to help Ken by encouraging his potential clients to apply for mortgage loans in Ken's branch. As a token of thanks, Ken proposes to offer Philip commission out of his own pocket.

Analysis:

Philip must obtain the consent from his principal to accept the commission, otherwise both Philip and Ken are in breach of Section 9 of the PBO. Ken commits an offence of offering a bribe while Philip commits an offence of accepting.

Although at the end of the day Philip may not be able to complete the task and Ken may not reward him, the offerer and the recipient of a bribe are still liable to prosecution if a verbal agreement of corruption has been reached.

Ken also violates the Code of Conduct, which clearly states that no bank employee should offer any bribe or similar consideration to any person in order to obtain business.

Scenario 3

Unauthorised commission in custody of another person

Nelson is a branch manager of an overseas bank and is responsible for the day-to-day management including the granting of credit facilities to individual and corporate customers. Leo, a client of Nelson, is a director of a trading company. They maintain close ties and Leo always spends considerable sums of money entertaining Nelson by way of lunches, dinners and visits to ballrooms. On top of that, Nelson and his family are enjoying free accommodation in a flat owned by Leo's company.

In recent years, Leo's company has been facing difficulties in obtaining credit facilities due to the economic downturn. One day, Leo calls Nelson for dinner and discloses that he is now applying for some Letters of Credit (L/Cs) in Nelson's bank. In a hope to secure his applications, Leo tells that Nelson's assistance would be of great help. In return, Leo agrees to offer Nelson commission and deposit it into the account of Nelson's wife. Leo also invites Nelson and his family to spend the Chinese New Year holidays on a golf trip to Malaysia at his expense. Nelson thanks Leo and accepts.

Analysis:

Nelson and Leo breach Section 9 of the PBO as Nelson accepts advantages from Leo in the form of commission and free travel for providing assistance in approving Leo's L/C applications without the permission of the bank. It is also a violation of Section 124 of the Banking Ordinance for Nelson to accept the advantages. Nelson commits a corruption offence despite Leo

placing the commission into the account of Nelson's wife. Under the PBO, a person is considered to have accepted an advantage, even though another person acting on his behalf receives the advantage.

Nelson also cannot excuse himself by explaining that the acceptance of the Chinese New Year trip is a customary practice as custom is not a defence according to the PBO. Nelson further contravenes the Code of Conduct as it clearly stipulates that no bank employee should accept personal benefits from any customer doing or seeking to do business with the bank.

Entertainment is common in business practice and does not constitute an advantage under the PBO. The acceptance of free accommodation without requiring Nelson to do something at the early stage may not contravene Section 9 of the PBO at the outset. Nevertheless, Nelson should avoid accepting excessive levels of entertainment or advantages as it may affect his objectivity in dealing with Leo.

Scenario 4

An offence committed notwithstanding an incomplete corrupt deal

Terry has been a senior bank manager for five years. Unfortunately he bought a flat at its peak value just before the Asian economic crisis and the value of the flat has dropped by nearly \$3 million. He has to pay exceptionally high monthly installments on the mortgage loan.

Mark is Terry's customer and plans to apply for overdraft facilities of \$1 million from Terry's bank. According to the bank's policy, a branch manager is authorised to approve unsecured overdraft facilities of up to \$1.2 million to a customer. While Terry is dealing with the overdraft application, Mark requests him to expedite the process and favourably recommend his application.

Taking into consideration the upcoming mortgage repayment, Terry agrees and suggests that if Mark places \$50,000 into Terry's bank account in three days' time, he will approve the application the next day. Prior to the approval of the application, the abnormal payment into Terry's bank account is brought to light by the internal audit department and the case is reported to the ICAC. Terry's authority to deal with all banking matters including Mark's application is now suspended pending investigation.

Analysis:

Terry breaks Section 9 of the PBO as he abuses his official position as a bank manager by expeditiously approving an application of overdraft facilities and accepts an advantage in return without permission from his employer. Likewise, Mark breaches the PBO by offering an unlawful advantage to Terry. In this case, Terry also violates Section 124 of the Banking Ordinance.

Although the "under-the-table" deal has not been completed, Terry and Mark still commit an offence. Under the PBO, a person will be found guilty even though the purpose of bribery has not been carried out. Terry also violates the Code of Conduct by accepting personal benefits from a customer.

3.1.2 How to handle issues of offering and acceptance of advantages?

(a) Fully understand the laws and the Code of Conduct

The best solution is to understand and observe the PBO, the Banking Ordinance and the Code of Conduct to avoid accepting advantages or personal benefits that will lead to any loss of objectivity and integrity in business dealings.

(b) Follow the company policy

Every bank should have a written policy on issues of offering and accepting advantages by its employees. You should follow strictly the related company policy. In case of doubt, you should seek from your senior manager advice and clarification readily.

(c) Ensure the offering of advantages is legitimate

When you offer advantages to your clients, you should clarify with the recipients that they have obtained permission from their employers (or principals) to accept them. To protect yourself, you should provide the advantage to the recipient's company directly and avoid offering the advantage to the recipient personally.

3.2 Misuses and Leakage of Confidential Information

Confidentiality is a fundamental principle of operating a financial services business. Bank staff should comply with the bank's policy to preserve the confidentiality of proprietary information relating to all aspects of the bank's operations and should not, in any way, use the information so obtained for personal financial gain. You should be fully aware of the following areas and make every effort to prevent them from happening:

(a) Improper internal communication

A bank employee should adhere to the bank's policy of sharing of confidential or proprietary information amongst internal departments and prevent any illegitimate communication of such information within the bank, e.g. between the investment banking and the commercial banking sections. This is to ensure that the advice and activities of a particular department are not compromised or influenced by access to sensitive information that is in the possession of another department.

(b) Insider dealing

When a bank employee acquires unpublished price sensitive information obtained as a result of his position within the bank, he should not deal in the shares or other securities of the related listed companies. He is also regarded as an insider dealer if he trades the stocks based on privileged information given by an insider of a company. Although insider dealing is not a criminal offence, a person is subject to heavy penalties if he is found to be an insider dealer by the Insider Dealing Tribunal under the Securities (Insider Dealing) Ordinance.

(c) Leakage of information to outsiders

Information obtained from, or about, a customer should be treated with utmost confidentiality. Confidential information includes customers' personal particulars, account balances, transaction information, financial conditions, anticipated changes in management, business plans or projections, etc. Apart from customers' information, you should make every effort to preserve the confidentiality of the bank's restricted information as well.

Scenario 1

3.2.1 Case studies

Handling customers' data

Cindy works in a bank credit card centre and is responsible for verifying the personal particulars of credit card applicants. Recently she becomes engaged to her long-term boyfriend and, as part of their wedding plans, wishes to arrange a banquet befitting the grand occasion. With this in mind, Cindy and her fiancé borrow \$100,000 from a finance company but soon run into difficulties with regards to the loan repayments.

One day, Cindy's good friend, Fred, calls her and invites her to lunch. Fred happens to work for a debt collecting company and upon learning of her financial predicament offers her a "part-time job". It's a fairly undemanding job, he explains. He would provide her with a list of debtors' names every month and all Cindy needs to do is to check the names on the list with the personal information of the cardholders and sends the results to him. Fred offers Cindy a payment of \$300 for every verified set of information she can provide for him. As Cindy needs extra money, she readily accepts the offer.

Analysis:

Cindy violates the Code of Conduct because she releases her customers' information to a third party without their consent. Such a disclosure is also strictly prohibited in accordance with the Personal Data (Privacy) Ordinance as well as the Code of Banking Practice. She may break her bank's policy of the protection of customers' information, which requires the employees to treat their customers' banking affairs as private and confidential.

She also breaches Section 9 of the PBO by accepting an advantage, i.e. \$300 for a set of data as a reward for releasing information to Fred. Fred in turn commits an offence of offering a bribe.



Scenario 2

Confidential advice of value

Peter is a bank branch manager and a regular customer of a famous nightclub, but because of his extravagant lifestyle he soon finds himself running into financial difficulty. Peter becomes acquainted with Andy, the nightclub supervisor, who, one day, invites Peter to join him for a drink.

Whilst enjoying their drinks, Andy introduces Peter to another friend, Joe. It transpires that Joe is a money launderer from Eastern Europe who is planning to set up his operations in Hong Kong. As Joe is unfamiliar with the local controls over money laundering activities, he asks if Peter can provide him with information relating to his bank's money laundering deterrent measures and update him on new procedures from time to time.

Peter, who is in difficult financial situation at the moment, asks Joe for \$100,000 as a reward for his assistance. To avoid the detection from the bank, Joe launders his dirty money through numerous asset management accounts in Peter's branch and Peter helps by turning a blind eye to these activities.

Analysis:

Peter breaches the Organised and Serious Crimes Ordinance or the Drug Trafficking (Recovery of Proceeds) Ordinance and the Guideline on Prevention of Money Laundering issued by the HKMA because of his assistance and intended failure to make a disclosure of the money laundering activities in his bank.

Peter also commits a corruption offence under Section 9 of the PBO because he solicits from Joe an advantage as a reward for leaking confidential information from his bank. He also violates the Code of Conduct as he fails to preserve the confidentiality of the bank's internal information.

Scenario 3

Circulation of inside information within the institution without personal financial gains

As a senior credit officer in a bank, Kim is handling a loan application from an overseas investment company, which plans to buy a substantial amount of shares in a local telecommunications company. She knows that the bank is likely to support this project and is also aware that such a bulk purchase will boost the share price of the target company when the deal is announced. To make a mark for herself in the bank, she phones Angela, her former supervisor, who is now a trader in the bank's stock broking section.

She tells Angela about the proposed acquisition and her opinion that the bank would make a lot of money by buying the stock before the bid is made public. Subsequently, Angela buys a major block of shares for the bank. When the deal is announced, Angela is questioned by her compliance officer about why she purchased shares in the target company. It becomes clear that the purchase followed a "tip-off" and inside information.

Analysis:

Kim and Angela may have breached the Securities (Insider Dealing) Ordinance for disclosing and acting on unpublished price sensitive information. They may have also exposed the bank to legal liability since the bank has bought the shares as a result of inside information.

Kim may further violate the internal codes of conduct of her bank as she leaks customer's information to a third party, even though in this case the third party is also a member of her bank.



Scenario 4

Access to inside information for personal dealing

Aaron is a bank branch manager. During the years of economic downturn, he has lost almost two-thirds of his wealth by engaging in property and stock market speculations. Now he is interested in any new opportunities to make quick money.

Raymond, a machinery company's director, keeps his major accounts in Aaron's branch. One afternoon, Raymond visits Aaron's office to discuss an application for a business loan and during the meeting Aaron's interest is piqued upon learning that a well-known listed technology corporation is going to merge with Raymond's company.

Upon hearing Raymond's confidence and optimism for the future of the company, Aaron realises the opportunity that presents itself for making his own tidy profit. Aaron duly calls his brokerage agent and buys a large quantity of shares of the technology corporation in advance. He also tells his brother about this information. A few days later, when the announcement of the merger is made public, the share price rises considerably. Aaron subsequently sells the stocks and makes a substantial profit.

Analysis:

Aaron is an insider dealer under the Securities (Insider Dealing) Ordinance and also breaches the Code of Conduct by leaking customer's information to an outsider without his consent. Aaron occupies a position from which he has accessed sensitive information about his client's merger plan.

His subsequent action in abusing this information to deal in the stocks for personal gain has violated the Code of Conduct. Under the Code of Conduct, Aaron is not allowed to deal, whether directly or indirectly, in the shares or other securities of any company listed on The Stock Exchange of Hong Kong Limited when he possesses non-public inside information obtained as a result of his employment.

3.2.2 How to preserve confidentiality?

(a) Establish and comply with the "Chinese Walls" procedures

"Chinese Walls" is the name given to the strict division used to prevent the accidental communication of confidential information between different departments of the same organisation. You are encouraged to consult the compliance officer if you doubt whether a particular situation of communicating information to other departments is appropriate.

(b) Follow the "need-to-know" principles

Access rights to confidential information should only be granted to staff for legitimate business purposes on a need-to-know basis. You should adopt effective information security measures such as computer password controls and restricted access to certain operational areas to prevent unauthorised personnel from gaining access to confidential information.

(c) Implement monitoring procedures

To ensure all staff comply with established policies, you should set up a monitoring system to continuously track, identify and protect against any misuse of confidential information.

(d) Communicate with staff effectively

You should keep your subordinates informed of the company policy on the handling of confidential information and the serious consequences of leaking or abusing confidential information, including disciplinary action or dismissal.

3.3 Conflict of Interest

A conflict of interest arises when the personal interest of an employee conflicts with the employer's interest. The following are common conflict of interest situations:

- (a) Assessing loan applications from relatives
- (b) Having business partnerships with clients
- (c) Undertaking outside employment which may conflict with that of your employer
- (d) Advising clients to invest in a particular company in which you have a financial interest
- (e) Assessing bids, tenders or quotations submitted by your close friends or relatives

3.3.1 Case studies

Scenario 1

Receipt of credit on an abnormally favoured basis

Bryan is the manager of a bank's insurance department. His old classmate, Alan, operates a car rental company and has insured all his company's vehicles with Bryan's department. Since they both like motor racing, they become good friends and often spend their holidays driving in the countryside.

Alan invites Bryan to dinner and asks him if he is interested in buying his 'old' sports car that was bought only six months ago. Bryan is interested but unfortunately is short of cash. Alan suggests that Bryan may pay for it by monthly interest-free installments at a special price. Bryan feels uneasy about accepting the offer. However, he changes his mind as he thinks the offer does not create any obligation to Alan.

Analysis:

Bryan breaks the Code of Conduct by accepting an advantage from Alan, i.e. the abnormally low price and the favourable repayment terms. Bryan should decline such an offer or seek approval from the bank's management.

Although the advantage does not seem connected to Bryan's official duties at the time of the offer, it may put him in a position of obligation to reciprocate in future and place him in a compromising situation when he is asked to return a favour.

Scenario 2

Connected lending

Donald is a bank branch manager and becomes acquainted with a client who is working in an investment company. Donald learns from the client that there is a company proposing to issue new shares to the public next month. It is anticipated the share price will triple on the issuing date.

In order to purchase a larger block of shares, Donald has to obtain more cash for the speculative transaction. He asks his wife to apply for a personal loan from his bank. Donald subsequently approves the application to its maximum amount according to his wife's salary without disclosing the conflict of interest.

Scenario 3

Analysis:

Donald may breach Section 83 of the Banking Ordinance for approving loan to his wife. He also violates the Code of Conduct that clearly stipulates that no member of staff can grant credits or loans to himself, to members of his immediate family including spouse or to companies in which he or his immediate family is interested. Before processing the loan application submitted by his wife, Donald should observe the provisions of specific guidelines which his bank adopts in relation to transactions with connected parties and declare his relationship to the applicant to his bank.

Outside employment without authorisation

Both Laura and her husband work at the same bank. She is also a director of a small sanitary ware company that is owned by her secret boyfriend, Ricky. Ricky is her client, but she has never disclosed the directorship to her bank, reasoning that the company's business does not conflict with her work in the bank and she is rarely involved in the day-to-day operations of the company. More importantly, she wants to keep the issue of her extramarital affair away from the bank and, of course, her husband.

Ricky's company unfortunately faces financial difficulties and, because of this, he applies for a local documentary credit with Laura's bank to import a large quantity of leather shoes that seem irrelevant to his major business. Laura processes the application and approves it without declaring their relationship to her boss. After a month, the bank's internal auditor discovers that the supporting documents submitted by Ricky are false and the transaction is bogus. As a result, Laura is queried and investigated by the management.

Analysis:

Laura violates the Code of Conduct by taking up a directorship outside the bank without her employer's prior permission. On this issue, her directorship in Ricky's company gives rise to a conflict of interest with her official duties, so she breaches the Code of Conduct for approving facilities to the company in which she is interested. Moreover, she may commit an offence of conspiracy to defraud if she is aware of the fraud committed by Ricky and assists him in the approval process.

Scenario 4

Personal relationships taking a higher priority

Nancy is a bank administration manager. Her brother, Gordon, is the owner of an interior decoration company. Nancy's bank decides to renovate the conference room on the directors' floor and Nancy is assigned to appoint a contractor for this project. Due to the urgency of the project and that the amount involved is small, she places the order with Gordon without observing her company's policy on the selection of contractors. She never discloses their relationship to the bank.

Analysis:

Under the Code of Conduct, a bank employee should seek management's advice if he has any doubt about the propriety of any course of action, or if he finds his own interests may be in conflict with those of the bank. Nancy breaks the Code of Conduct as she awards the contract to her brother's company without disclosing their relationship to her employer. Even when Nancy is confident that the service provided by Gordon's company is as good as those of other firms, she should declare the interest to her employer.



Scenario 5

Exercising discretion over ethical dilemmas

Sam is a bank branch manager and has known George for over twenty years. George is a director of a karaoke lounge and, through Sam's recommendation, borrowed a loan of \$20 million from Sam's bank several years ago. Sam gave his application the green light, even though his business was rated a little risky according to the bank's loan policy.

George handles the repayments but when the economy worsens he finds it impossible to honour even the interest of the last three installments. Afterwards, Sam is instructed by the credit control department to examine George's financial position and make a recommendation to the bank. Sam finds that George's situation is really bad and the bank should call back the loan immediately. George begs Sam not to do so or he will face bankruptcy. Sam feels uneasy but agrees to help in the end.

Analysis:

Sam may breach his bank's internal policy on credit control by abusing his authority to make a favourable recommendation disregarding the real state of George's business. Sam should not allow his personal relationship with George to affect his judgement. Rather, he should declare the relationship to the senior management before making a recommendation. To safeguard his own interests, he should keep the management well informed of the matter and abide by their subsequent decisions.

3.3.2 How to prevent a conflict of interest?

(a) Declare a conflict of interest

You should declare to your bank any interest relating to your official position. To avoid allegations and misunderstandings, you should also fully disclose to customers any actual or potential conflict of interest that you may have.

(b) Follow the "doubt" principle

In normal circumstances, the mechanism for staff to declare their own interests is very much on a voluntary basis. Sometimes you may find the criteria in your bank's guidelines difficult to define a particular situation. To protect yourself, you should be ready to declare your interest whenever the extent of conflict is in doubt.

(c) Don't place yourself in a position of obligation

If you have been placed in a position of obligation to someone else, you may find yourself embarrassed when asked to return a favour. Hence, you should avoid this by not indulging in games of chance, e.g. mahjong or poker involving high financial stakes, or accept frequent, lavish and excessive entertainment from persons with whom you have business dealings.

3.4 Other Shades of Grey

The scenarios mentioned above are directly related to breaches of the applicable laws and/or codes. However, in daily operations you may encounter situations in which the offerer's motive is subtle.

Entertainment and gambling

- A customer treats you frequently and lavishly by free meals and entertainment
- You are invited to gamble and always win lots of money from your client and never lose, even though you are not at all a good player

Advantages in various forms

- Your client offers you "laises" and extravagant gifts during festive seasons
- You and your staff are invited to lychee-picking tours, golf trips and offered memberships of leisure clubs

Favours offered for your acquaintances

- Your son finds a good job in your client's company
- Your client invites your spouse to a profitable joint venture business



3.4.1 How to respond?

(a) Assess the nature of the benefit/favour offered

When a benefit or favour is being offered or presented, you should carefully assess if there is a motive behind and cross-check provisions of anti-corruption laws and the Banking Ordinance, which contain criminal penalties for accepting advantages in prescribed circumstances. You should also note the relevant provisions of the Code of Conduct and company's policy.

(b) Avoid accepting excessive and frequent entertainment or gambling

Although entertainment is an acceptable form of business practice and not considered an advantage under the PBO, you should turn down any invitations to meals or entertainment that are too frequent, excessive and lavish in nature. Care should also be taken to avoid engaging in frequent and excessive gambling of any kind with your clients.

(c) Avoid being "sweetened up"

Corruption does not always start with a direct bribe at the outset, but begins with the offering of benefits like free meals or small gifts. To prevent being "sweetened up", you should avoid accepting benefits or favours from any persons with official dealings if they are:

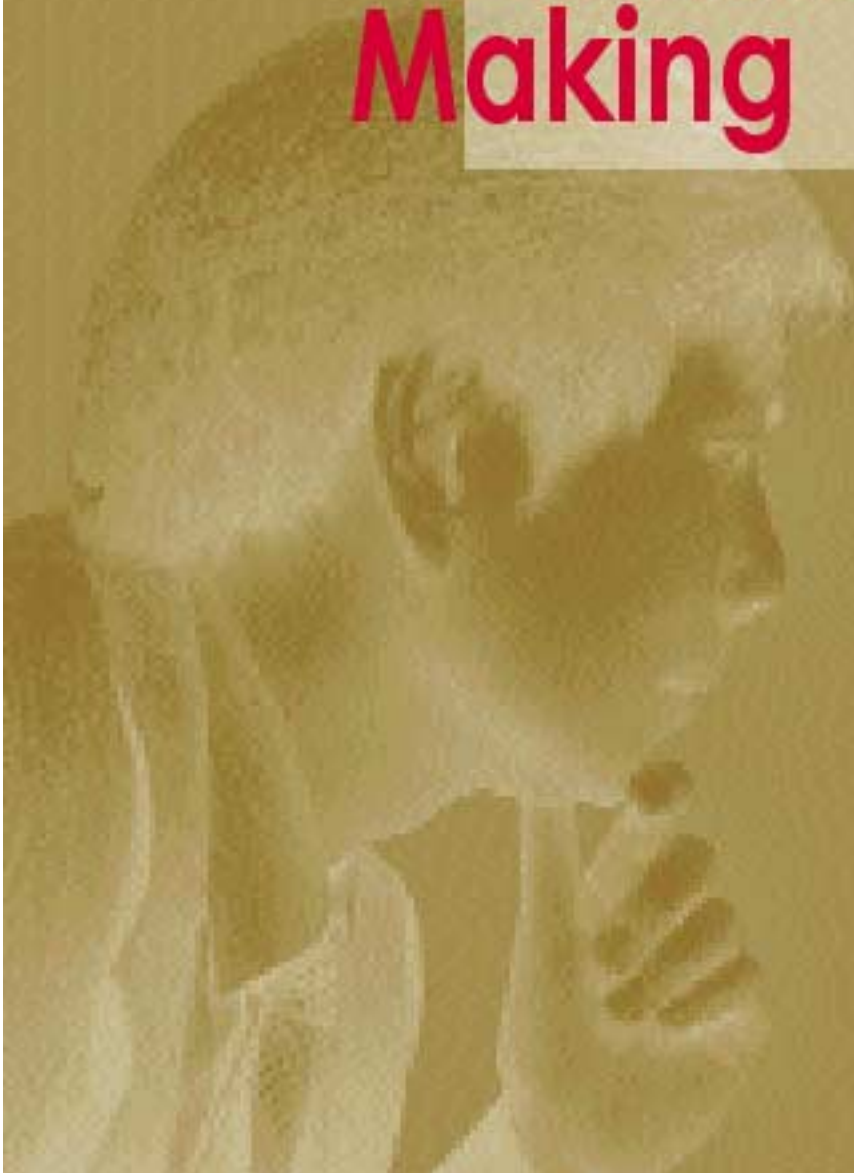
- Unreasonably generous, excessive or frequent
- Likely to cause you embarrassment in the discharge of your duties
- Likely to make you feel obliged to the offerer
- Likely to bring either you or your company into disrepute

(d) Report and seek management's approval

When you wish to accept a benefit or favour outside the circumstances prescribed, you should report to the management and seek approval as appropriate. If in doubt, you should always consult your management prior to acceptance.

Part 4

Ethical
Decision
Making



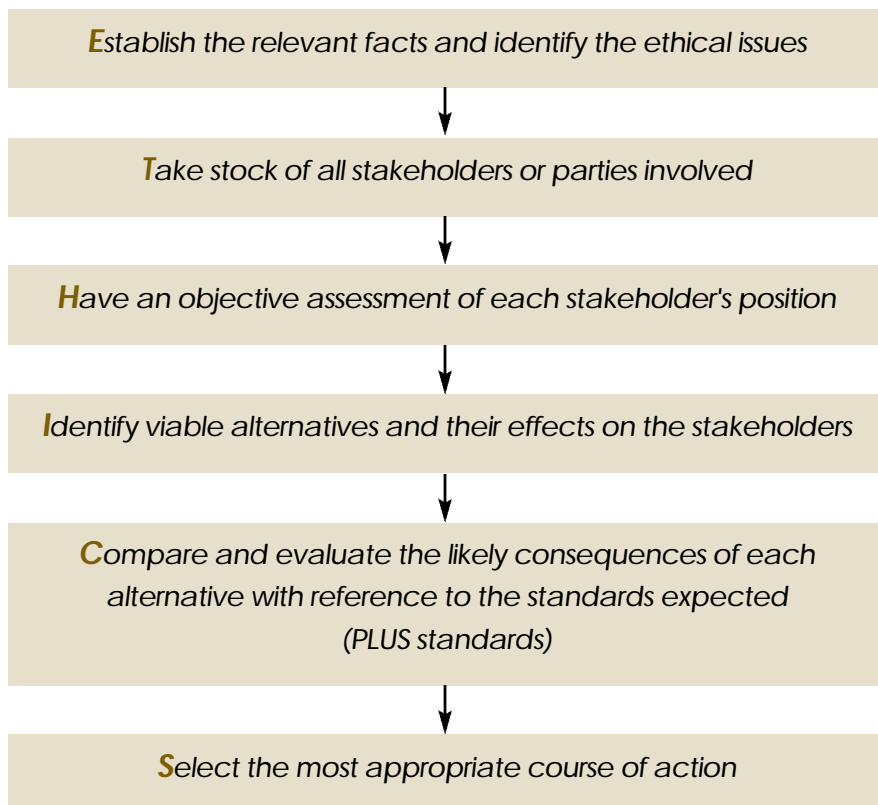
As a bank manager, you are always required to make decisions in the face of ethical dilemmas. How to make an ethical decision can sometimes be a difficult task. It is important to build up the necessary skills so that at work you can make sound judgements and handle ethical dilemmas properly.

4.1 ETHICS PLUS Decision Making Model

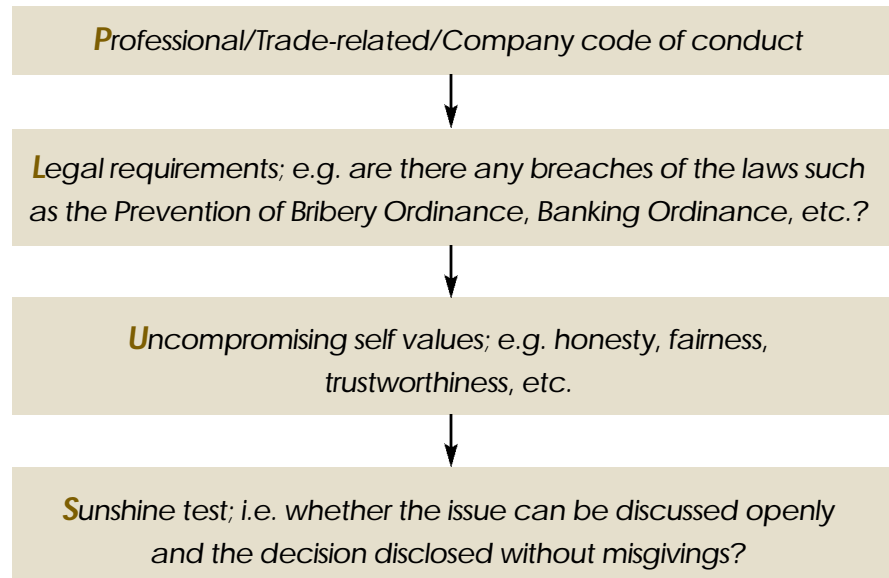
An ETHICS PLUS decision making model has been developed by the ICAC to help you resolve ethical issues. This is a thinking process that, when facing an ethical dilemma, helps you reach a chosen course of action or a sound decision in a structured and systematic way.

ETHICS PLUS decision making model

1. The ETHICS process - Six major steps to follow



2. The PLUS standards - Four key factors to consider



4.2 How to Apply the ETHICS PLUS Decision Making Model?

4.2.1 Case study - a conflict of interest

Edward joins a local bank as an internal auditor. His brother-in-law, Patrick, is a branch manager of the same bank.

One day, he receives an anonymous letter alleging a possible fraud within the bank. The letter explains that a senior officer of a branch has approved an application for a personal loan submitted by his immediate family member. As it transpires, Edward realises that the senior officer in question is, in fact Patrick, who has approved a loan request that has been submitted by his wife, Anna. He also discovers that some of the documentation is forged.

Deeply concerned, Edward meets up with his brother-in-law and Anna who then admit their wrongful acts. He tries to persuade them to 'come clean' to the management but instead Edward finds himself being urged by the couple to keep the whole situation secret. It's a tough decision for Edward who understands very well that with Anna expecting a baby, Patrick cannot afford to lose his job, future prospects and the financial security needed for his new family.

Should Edward disclose Patrick's malpractice?

By using the ETHICS PLUS decision-making model, the analysis is outlined below:

If I were Edward:

Step 1: Establish the facts and identify the ethical issue in question

Facts:

- Patrick, my brother-in-law, has granted a personal loan to his immediate family member
- Patrick falsifies the documents related to the application for personal loan
- Patrick and Anna ask for my assistance in turning a blind eye to their malpractice
- No one will know my findings because I am the only one to receive the complaint and subsequently conduct the investigation
- My duty is to audit the bank's operations and report any irregularities to senior management

Ethical Issue:

- Should I disclose Patrick's misconduct?

Step 2: Take stock of all the stakeholders involved (they usually include myself, my company, my clients and other parties involved)

In this case, stakeholders are:

- Myself
- Patrick
- Anna
- My bank

Step 3: Assess each stakeholder's position

Myself:

- If I keep the secret, I do not fulfil my fiduciary responsibility of protecting the bank's interests as the bank may suffer a financial loss

- If I cover up the matter, I fail to uphold my professional competence
- My reputation may be impaired if I am found to be disloyal to the bank
- My career prospects may be affected if the act of covering up the problem is exposed to the bank's management
- If I do not accede to the request, I may jeopardize my relationship with Patrick and my sister
- I may be suspected of conspiring with my relatives to defraud the bank if the management discovers my act of tolerance

Patrick and Anna:

- They may be liable to prosecution
- The bank may dismiss Patrick
- Patrick's reputation and career prospects may be impaired
- They cannot afford to lose the job and career prospects as a baby is expected
- They place trust on me and expect my help because of our close relationship

My bank:

- My bank's reputation may be tarnished if Patrick's act becomes known to the public
- My bank may suffer a financial loss
- My bank's corporate culture may be adversely affected if the head of a branch sets a bad example to his subordinates
- Tolerance to Patrick's act may lead to loss of customer trust and affect staff morale if it becomes known

Step 4: Identify alternatives and assess the effects on each stakeholder

- (a) Agree to veil the truth and do nothing
- (b) Keep the secret and urge Patrick to settle the outstanding balance of the loan immediately
- (c) Keep the secret and resign from the bank
- (d) Refuse Patrick's request and report the fraud to senior management
- (e) Any other alternatives

Step 5: Compare and evaluate each alternative with reference to the four PLUS standards

Professional codes of conduct imposed by the regulatory authorities/company rules:

- The Code of Conduct stipulates that an employee of a bank shall not grant credit or loans to himself, to members of his immediate family (spouse and children under the age of 21), or to companies in which he or his immediate family has a financial interest
- Are there any bank rules that can guide me on how to handle discovery of an internal fraud?
- Are there any bank rules requiring me, as an employee, to blow the whistle?
- Are there any professional conduct requirements imposed on auditors?

Legal requirements:

- This incident of connected lending involves a possible breach of Section 83 of the Banking Ordinance
- Patrick may have committed an offence of forgery
- I shall not be in breach of the Prevention of Bribery Ordinance if I do not receive an advantage from Patrick as a reward for covering up his misconduct
- I may commit an offence of conspiracy to defraud if I help him cover up the matter

Uncompromising self values:

- I have to ask myself whether a particular alternative is commensurate with my personal values, such as loyalty to my bank, honesty, fairness and professional competence in conducting my official duties and above all my personal integrity

Sunshine test:

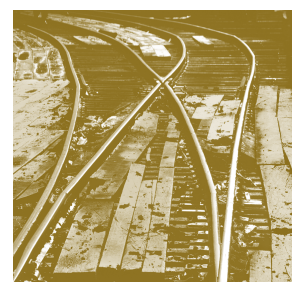
- Can I disclose my decision to any parties, including my bank, colleagues, friends and family members, without misgivings?

Step 6: Select the appropriate course of action

- After comparing and evaluating each alternative against the PLUS standards, select an appropriate course of action which can maximise the important values and the interests of all stakeholders
- Make a commitment to the choice and implement it

My Right Choice

After considering the above all, I should handle this case with great care and report it to senior management immediately. It is very clear that I am now in a conflict of interest situation as Patrick and Anna are my family members. I should also declare to the senior management my relationship with the people involved and every action I have taken after the incident is exposed to me.



Part 5

Ethics in
Management -
The **Basic
Solution**

$$12 \div 6 = 2$$

$$6 \times 2 = 12$$

$$2 \times 6$$

It is the responsibility of every bank manager to ensure the bank maintains high ethical standards and the presence of an adequate system of internal controls that guards against unethical practices and irregularities. Building an ethical culture is the basic solution.

A Lesson to Learn

Several years ago, a young junior officer of a bank's loans department earning \$9,000 a month was convicted for defrauding his bank and causing it to lose \$40 million. His method of cheating was simple.

According to the bank's practice, borrowers whose loan applications had been approved would be informed by phone or telex after the money had been credited to their accounts. In this junior officer's case, he called the customer and told him to ignore the confirmation by explaining that it was an error. The funds would then be transferred to his close friend's account. Ultimately, they pocketed a total of \$147 million in five forged transactions.

This young man lived like a tycoon before his illegal acts were uncovered. He bought several luxurious cars and a flat, even losing \$5 million in foreign exchange trading. His supervisor, unfortunately and surprisingly, was unaware of the sudden changes in his lifestyle.

Junior personnel can also cause major disruption to a bank. This case clearly illustrates that things can go very wrong when controls break down or are inadequate.

5.1 The Importance of an Ethical Culture

Culture is the core assumptions and beliefs of an organisation that will determine the way in which it behaves both internally and externally. A sound moral culture therefore forms the basis for staff to make business decisions.

If complying with regulations and observing high ethical standards are in the mindset of all levels of staff, they will always work legally regardless of the kinds of issues that emerge. A company-wide commitment to establish an ethical culture can be honoured through a formal ethics programme. It consists of the following three main components:

- Corporate code of conduct
- System of controls
- Management of staff integrity

5.2 Complying with a Corporate Code of Conduct

5.2.1 Why does a bank need its own code of conduct?

A code of conduct is a written statement of the standards of behaviour expected by a company of its management and employees. It includes a detailed set of operating principles and guidelines for staff to follow when they conduct business. Therefore, each bank should consider implementing its own code which specifically dovetails into its business needs and aspirations in view of their differences in structure, size and business operations.

5.2.2 How does a corporate code of conduct work?

Enforcing a corporate code of conduct requires understanding and active participation by everyone in the company. The following principles are usually adhered to:

(a) No double standards

Core values and principles embodied in the code should be consistently applied. Double standards will cause confusion to staff.

(b) Full management support

The values and attitudes held by the management exert the single greatest influence on the behaviour of the employees. The management should display their full support to the code and serve as role models for compliance.

(c) Strict compliance

All personnel should strictly comply with the code. The common approach is for functional or line managers to be made responsible for those staff under their supervision whilst a high ranking officer is also assigned the task of overall coordination and monitoring of its implementation.

(d) Fair and square

The code should be enforced under a transparent system of fair reward and punishment.

(e) Effective communication

The code should be communicated to all parties concerned, both within and outside the company. It is important to ensure the communication is an on-going process that regularly reminds all concerned about the requirements of the code.

(f) Constant review

The code should be reviewed regularly to keep abreast of changes in business environment and those imposed by the regulatory authorities.

5.3 Strengthening a System of Controls

5.3.1 Why is a system of controls so important?

Various systems of operation, from sales and marketing in the front-office to approvals, verifications, reconciliation, settlement and reviews in the back-office, are in place in most banks to allow business to be conducted in an orderly and efficient manner.

By imposing a tight control over these systems, an alarm mechanism is built up so that irregularities are detected at an early stage. This enables the management to take swift measures in dealing with malpractices and addressing violations.

5.3.2 What are the basic principles of a system of controls?

The following principles are essential inter-related elements that can be used by a bank manager to evaluate the adequacy and effectiveness of internal control measures:

(a) Clear work procedures

Clear work procedures spell out day-to-day operations within the bank, including the processes of dealing with clients and handling of their accounts, the procedures of determining customers' true identity, loan approval authorities, money laundering deterrent measures, the front and back-office functions and the maintenance of audit trails of business transactions.

These procedures should be documented in a complete and concise manner and should include, where appropriate, narrative description, flow-charts, copies of forms used and other pertinent information.

(b) Clear job responsibility

Job responsibilities at all levels are clearly defined and communicated to all members of the bank. The list of responsibilities should include reporting relationships, information on the structure of the bank, their respective roles, power and duties, and the procedures involved in seeking authorisations and approvals. It is also vital that the assignment of duties and power is commensurate with the employee's rank, experience and expertise.

(c) Segregation of duties and functions

There should be appropriate segregation of duties so that personnel are not assigned with conflicting responsibilities. Areas of potential conflict of interest are identified, minimised and subject to regular independent monitoring. A person should be, as far as possible, prevented from performing several duties and functions which combination may make them susceptible to abuses or may result in undetected errors. At the most basic level, it is essential to separate the responsibility of the front-office trading functions from the back-office settlement and to segregate each function of operations, compliance and internal audit.

(d) Effective staff supervision

To ensure that all rules and procedures are properly followed, a manager should prevent any cover-up of irregularities. Periodic

job rotation should also be implemented. If necessary, an employee may be required to take compulsory leave with necessary administrative arrangements such as tightening up supervision during the period. Field and documentary spot checks can also help detect any malpractices. Equally important is to take due care when recruiting staff, particularly those at supervisory level, by conducting background checks to ensure that they are honest and responsible.

(e) Adequate safeguards against tampering with sensitive information

Sensitive information should be properly classified and accurately maintained. To prevent unauthorised access, the information management system should be operated by qualified and experienced staff in a secure environment. All staff should also be alerted to the serious consequences of leaking or abusing information.

(f) Effective internal and external communication

Relevant personnel should be aware of and understand the bank's policies. Information about inappropriate activities is to be reported upward through organisational levels and communicated to senior management before problems become too severe. Communications between officers from compliance and security departments of different banks may result in detection of inter-bank frauds committed by outsiders. To facilitate early detection of potential corrupt practices, a bank should also appoint an officer as a point of contact with the law enforcement agencies.



(g) Independent and active audit function

The internal auditor should operate independently and report directly to senior management and the board of directors or audit committee so that potential criticisms of systems or transactions cannot be over-compromised by the line management concerned. It is vital that the internal audit function should have sufficient resources, status and independence within the bank for its findings to carry weight. Line managers and supervisors should lend full support to their recommendations by dealing with weaknesses promptly.

(h) Channels for complaints and views

Channels for complaints should be established and well publicised, providing easy and confidential access to employees, clients and other interested parties such as personal referees and guarantors. Complaints should be handled effectively and fairly with prompt remedial actions. Equally important is the provision of a forum within which ethical dilemmas can be addressed and resolved.

(i) Continuous monitoring and reviews

The overall effectiveness of the bank's internal controls must be monitored on an on-going basis. Monitoring of key operational risks as well as periodic evaluations through business lines, internal audit or other control personnel should be part of the daily activities of the bank.

A bank can minimise loopholes by regularly reviewing and improving key systems such as information management, record retention and authorisation. An effective system of internal controls should be consistent with the nature, complexity and risks of activities, and responsive to changes in the institution's structure, operations, environment and conditions.

5.4 Managing Staff Integrity

No matter how good a system is, dishonest staff can always find a way to get around it. Managerial staff would then be asked to account for the acts or omissions by their subordinates. If the acts are serious, repeated or widespread, then by reasonable diligence the managers should be able to uncover them. It is therefore important for you to detect the symptoms of corruption or malpractice.

5.4.1 How to detect corruption and malpractice?

Corruption opportunities are not self-contained areas of weaknesses. Any management and organisation deficiencies can produce opportunities for corruption although they are not often seen to be directly related. As a manager, you have to constantly pay special attention to your subordinates' behaviour as well as other symptoms of possible malpractices in various areas of work.

(a) Behavioural symptoms

You should be sensitive to the following common warning signals (particularly when they exist simultaneously) as they may indicate existence of corruption and other malpractices in a workplace:

- Reluctance to accept transfer or promotion, to change working hours, or to take holidays
- Unusual relationships with certain subordinates, clients or clients' staff
- Sudden change of lifestyles and spending patterns incommensurate with income and assets
- Late or incomplete reports and management information
- Documents presented for authorisation in large, unrelated batches at busy times or at times during which authorisation power has been delegated to others

Some of these symptoms may be the result of staff tardiness, incompetence or lack of self-discipline, but they are common in many ICAC investigated cases in which corrupt officers have tried to either cover up repeated malpractices or secretly arrange favours for customers who offer bribes.



(b) Symptoms of malpractices at areas of work

Managers and supervisors of a bank should constantly watch out for warning signs which include but are not limited to the following areas of business:

(i) Lending

- A vague, incomplete, or non-existent financial profile of the borrowers
- Appraisals, reports or feasibility studies from unknown sources or "experts" unfamiliar to the bank
- Borrowers who have reputations for extravagant lifestyles that do not seem commensurate with their income or assets

(ii) Trade transaction

- Customers who always want to meet at the bank and never at their own corporate premises
- Deals that do not make commercial sense with

- unrealistically priced goods, shipping dates or unusual transaction volumes for the types of product and customer
- Documentary credits sent directly to the trader

(iii) Account / cheque fraud

- Unrealistically high volumes of cash cheques or funds payable which are inconsistent with customers' business
- Large payments to new accounts or previously dormant accounts that are inconsistent with normal operations
- Frequent large payment instructions to pay third parties prior to long holidays in circumstances where an overdraft would be created and cover has not been arranged

(iv) Document examination

- Delivery from an unexpected or unknown country or origin
- Overly decorated documents with signatures that seem too formal or artificial
- Security documents with poor printing quality

Managers and their staff should be equipped with the skills to detect malpractices and develop measures to prevent them. Material warning signs should be reported in a timely manner to the appropriate management level.

5.5

Knowing Your Staff and Customers

5.5.1 Know your staff

It is the responsibility of a manager to observe the conduct of his staff in order to identify problems early. The following aspects of employees' conduct should warrant attention:

- Their relationship with subordinates, clients or other business associates
- Their attitude towards gifts and invitations, particularly those relating to entertainment offered by people having business dealings with the bank
- The way they handle their financial problems
- Their involvement in undesirable habits or lifestyles such as heavy gambling and overspending

5.6 Reporting Malpractices

5.5.2 Know your customers

Knowing your customers is just as important as exercising internal control. You should try your best to achieve this by:

- Maintaining regular contact with customers, particularly the longstanding and valued ones, either at the bank or sometimes their own business premises to confirm their existence and business nature
- Conducting regular background checks with due diligence
- Looking out for irregularities or changes in customers' usual transaction patterns
- Enhancing your own knowledge and awareness of their trades
- Using independent sources of information or third party references

5.6.1 Reporting channels

Staff should be encouraged to report malpractice to their compliance officers or senior management through the bank's internal complaint channels. Complaints should be dealt with quickly and disciplinary action should be taken if necessary. In cases of suspected corruption, fraud or other forms of criminality, bank management should report to the regulatory authorities or law enforcement agencies.

5.6.2 Tips on reporting malpractices

Below are some tips for you to consider when reporting any suspected malpractice:

- Verify your evidence. Is it sufficient?
- Check the bank's procedures for dealing with malpractice
- Find out any complaint channels both inside and outside the bank
- Document every action you take
- Keep the complaint confined to those who need to deal with it
- Understand the reality that you would become part of it if you do not report the malpractice

5.7 Organising Ethics Training for Staff

It is essential to build up an ethical culture within the organisation by developing a well-planned ethics training programme for your staff. Education and training are important to the ethical development of employees because:

- Staff's knowledge on legal and regulatory requirements can be enhanced
- Staff can better understand the bank's ethical standards and the management's determination to include ethics as an integral part of the business practice
- Staff's awareness of common ethical dilemmas encountered at work can be raised and they can be equipped with better skills when handling these problems
- Managerial staff will be trained with skills to detect early warning signs of malpractice and develop measures to prevent it

5.7.1 Training approach for staff at various levels

Staff should be made aware of the more specific ethical perimeters faced by each department in order to help recognise and report malpractice should it occur. In general, the approaches for all levels of staff should be similar but emphases may differ.

General staff should specifically be reminded of the temptations at work and the importance of making prudent choices. Staff at supervisory levels should be additionally alerted to corruption-prone areas in their workplaces, focusing on developing skills in preventing malpractices and in handling ethical dilemmas, placing importance on sound internal control and managing staff integrity.

Education is a long-term commitment. The management needs to regularly review training needs and organise ethics drills to maintain a high morality amongst staff members.

Part 6



Services
and
Assistance

6.1 Independent Commission Against Corruption

The law enforcement authorities, regulatory authorities and industry associations provide a wide range of services to assist bank managers in promoting and maintaining a high standard of professional ethics in the banking industry. Interested parties can contact the following organisations for details.

6.1.1 Developing ethics programmes

The ICAC is experienced in assisting individual banks to develop ethics programmes that cater for their specific needs. These include:

- Formulating or improving a corporate code of conduct and offering advice on how to implement the code effectively
- Strengthening a system of controls and work procedures to prevent corruption, fraud and other malpractices
- Providing training courses for various levels of staff. Courses range from explaining the legislation that governs corruption and fraud in Hong Kong to providing measures to manage staff integrity and skills to handle ethical dilemmas at work

The service of developing an ethics programme is provided free of charge and clients' information is kept confidential. Interested parties may contact any regional offices or the Hong Kong Ethics Development Centre under the ICAC's Community Relations Department for assistance.

6.1.2 Consultancy services on corruption and fraud prevention

The Advisory Services Group of the Corruption Prevention Department provides free corruption prevention advice to banks on how to tighten up controls in areas of weakness. It responds to any request within two working days. The bank has full discretion to decide upon the implementation of recommendations that are in strict confidence.





6.1.3 Corruption reporting and enquiry services

The Operations Department is the investigative arm of the ICAC. It handles corruption complaints and enquiries in strict confidence. Any party may lodge a complaint or make an enquiry with the ICAC through the following channels:

- **By phone:** 25 266 366 (24-hour service)
- **By mail:** G.P.O. Box 1000, Hong Kong
- **In person:** - ICAC Report Centre (24-hour service)
G/F, Murray Road Car Park Building
2 Murray Road, Central
Hong Kong
- ICAC Regional Offices

6.1.4 Addresses and telephone numbers of ICAC regional offices, Hong Kong Ethics Development Centre and Advisory Services Group

Name of Office	Address	Tel. No.
Hong Kong Island		
Regional Office (Hong Kong West/ Islands)	G/F, Harbour Commercial Building 124 Connaught Road Central Sheung Wan	2543 0000
Regional Office (Hong Kong East)	G/F, Tung Wah Mansion 201 Hennessy Road Wan Chai	2519 6555
Kowloon		
Regional Office (Kowloon West)	G/F, Nathan Commercial Building 434-436 Nathan Road Yau Ma Tei	2780 8080
Regional Office (Kowloon Central)	G/F, 21E Nga Tsin Wai Road Kowloon City	2382 2922
Regional Office (Kowloon East/ Sai Kung)	Shop No. 4, G/F Kai Tin Building 67 Kai Tin Road, Lam Tin	2756 3300

Name of Office	Address	Tel. No.
New Territories		
Regional Office (New Territories South West)	G/F, Foo Yue Building 271-275 Castle Peak Road Tsuen Wan	2493 7733
Regional Office (New Territories North West)	No. 4-5, G/F North Wing, Trend Plaza 2 Tuen Shun Street, Tuen Mun	2459 0459
Regional Office (New Territories East)	No. 119-122, Level 1 Citylink Plaza 1 Shatin Station Circuit, Sha Tin	2606 1144
Hong Kong Ethics Development Centre	1/F, Tung Wah Mansion 199-203 Hennessy Road Wan Chai	2587 9812
Advisory Services Group	24/F, Fairmont House 8 Cotton Tree Drive Central	2526 6363

Enquiries about this publication should be addressed to the ICAC Regional Office (Hong Kong West/Islands).

6.1.5 ICAC Website

You may also visit the ICAC Homepage at <http://www.icac.org.hk> for latest information or email the ICAC at general@icac.org.hk for enquiries. For security reasons, you are not advised to report your suspicions of corruption through electronic means.

6.2 Commercial Crime Bureau, Hong Kong Police Force

The Commercial Crime Bureau of the Hong Kong Police Force is responsible for investigating serious and complex commercial frauds. You may also approach the Duty Officer of the Bureau for assistance.

Address: 15/F, Arsenal House, West Wing
Police Headquarters, 1 Arsenal Street
Wan Chai
Hong Kong

Tel. No.: 2860 5012 or 2860 5013

6.3 Joint Financial Intelligence Unit

The Joint Financial Intelligence Unit (JFIU) is the reception point for reporting of suspicious money laundering activities under the Drug Trafficking (Recovery of Proceeds) Ordinance and the Organised and Serious Crimes Ordinance. The unit is operated by the Hong Kong Police Force and the Customs and Excise Department.

You are obliged to report any suspicions of a money laundering transaction to a designated officer or compliance officer in your bank who should be responsible for reporting to the JFIU.

Address: 16/F, Arsenal House, West Wing
Police Headquarters, 1 Arsenal Street
Wan Chai
Hong Kong

Tel. No.: 2860 3413 or 2866 3366

Website: <http://www.jfiuhk.com>

6.4 Hong Kong Monetary Authority

The Hong Kong Monetary Authority provides enquiry services to bank managers on the compliance of the relevant laws and guidelines. It also receives related complaints.

Address: 30/F, 3 Garden Road Central
Hong Kong

Tel. No.: 2878 8196

Website: <http://www.info.gov.hk/hkma>

6.5 Industry Associations

The industry associations also play an important role in the pursuit of professional excellence and endeavour to enhance ethical standards in business practice amongst members. These organisations include:

The Hong Kong Association of Banks

Address: Room 525, Prince's Building
Central
Hong Kong

Tel. No.: 2521 1160 or 2521 1169

Website: <http://www.hkab.org.hk>

The DTC Association

Address: Unit 2404, 24/F
Bonham Trade Centre
50 Bonham Strand East
Sheung Wan
Hong Kong

Tel. No.: 2526 4079

Website: <http://www.dtca.org.hk>

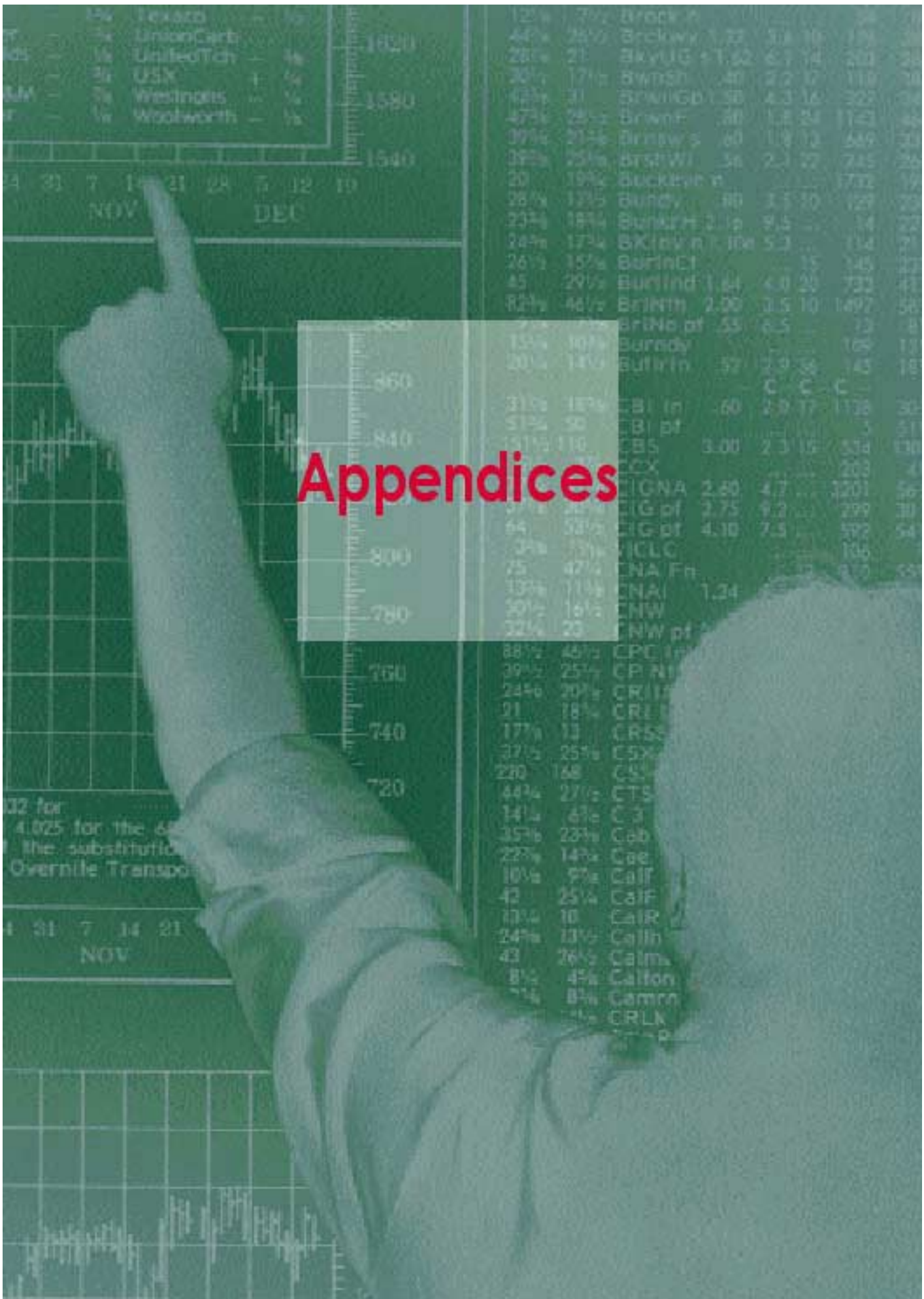
Hong Kong Institute of Bankers

Address: 3/F, Guangdong Investment Tower
148 Connaught Road Central
Hong Kong

Tel. No.: 2815 1552

Website: <http://www.hkib.org>

Appendices



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Appendix 1

Extracts of the Prevention of Bribery Ordinance (Cap. 201)

Section 9: Corrupt transactions with agents

- (1) Any agent who, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his-
 - (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
 - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,shall be guilty of an offence.

- (2) Any person who, without lawful authority or reasonable excuse, offers any advantage to any agent as an inducement to or reward for or otherwise on account of the agent's-
 - (a) doing or forbearing to do, or having done or forborne to do, any act in relation to his principal's affairs or business; or
 - (b) showing or forbearing to show, or having shown or forborne to show, favour or disfavour to any person in relation to his principal's affairs or business,shall be guilty of an offence.

- (3) Any agent who, with intent to deceive his principal, uses any receipt, account or other document-
 - (a) in respect of which the principal is interested; and
 - (b) which contains any statement which is false or erroneous or defective in any material particular; and
 - (c) which to his knowledge is intended to mislead the principal,shall be guilty of an offence.

- (4) If an agent solicits or accepts an advantage with the permission of his principal, being permission which complies with subsection (5), neither he nor the person who offered the advantage shall be guilty of an offence under subsection (1) or (2).

- (5) For the purposes of subsection (4) permission shall-
 - (a) be given before the advantage is offered, solicited or accepted; or
 - (b) in any case where an advantage has been offered or accepted without prior permission, be applied for and given as soon as reasonably possible after such offer or acceptance,

and for such permission to be effective for the purposes of subsection (4), the principal shall, before giving such permission, have regard to the circumstances in which it is sought.

Section 2: Interpretation

"Advantage" means-

- (a) any gift, loan, fee, reward or commission consisting of money or of any valuable security or of other property or interest in property of any description;
- (b) any office, employment or contract;
- (c) any payment, release, discharge or liquidation of any loan, obligation or other liability, whether in whole or in part;
- (d) any other service, or favour (other than entertainment), including protection from any penalty or disability incurred or apprehended or from any action or proceedings of a disciplinary, civil or criminal nature, whether or not already instituted;
- (e) the exercise or forbearance from the exercise of any right or any power or duty; and
- (f) any offer, undertaking or promise, whether conditional or unconditional, of any advantage within the meaning of any of the preceding paragraphs (a), (b), (c), (d) and (e),

but does not include an election donation within the meaning of the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554), particulars of which are included in an election in accordance with that Ordinance.

"Entertainment" means the provision of food or drink for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provisions.

Appendix 2

Extracts of the Banking Ordinance (Cap. 155)

Section 123: Offences by directors, managers, trustees, employees and agents

Any director, manager, trustee, employee or agent of any authorized institution who, with intent to deceive-

- (a) wilfully makes, or causes to be made, a false entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, condition, assets or accounts of the institution;
- (b) wilfully omits to make an entry in any book of record or in any report, slip, document or statement of the business, affairs, transactions, condition, assets or accounts of the institution, or wilfully causes any such entry to be omitted; or
- (c) wilfully alters, abstracts, conceals or destroys an entry in any book of record, or in any report, slip, document or statement of the business, affairs, transactions, condition, assets or accounts of the institution, or wilfully causes any such entry to be altered, abstracted, concealed or destroyed,

commits an offence and is liable-

- (i) on conviction upon indictment to a fine at tier 8 and to imprisonment for 5 years; or
- (ii) on summary conviction to a fine at tier 5 and to imprisonment for 2 years.

Section 124: Prohibition on receipt of commission by staff

Any director or employee of an authorized institution, who asks for or receives, consents or agrees to receive any gift, commission, emolument, service, gratuity, money, property or thing of value for his own personal benefit or advantage or for that of any of his relatives, for procuring or endeavouring to procure for any person any advance, loan, financial guarantee or credit facility from that institution or the purchase or discount of any draft, note, cheque, bill of exchange or other obligation by that institution, or for permitting any person to overdraw any account with that institution, commits an offence and is liable -

- (a) on conviction upon indictment to a fine at tier 6 and to imprisonment for 5 years; or
- (b) on summary conviction to a fine at tier 5 and to imprisonment for 2 years.

Appendix 3

Extracts of the Banking (Code of Conduct) Guidelines 1986

Part II Model Code of Conduct

1. **Introduction**

All staff of [insert the proper name of the authorized institution] are subject to this code of conduct. Any breach will give rise to disciplinary action and may, where applicable, give rise to criminal prosecution.

Any staff member who has any doubt about the propriety of any course of action or who finds that his own interests are or may be in conflict with those of the [insert "bank" or "company" as appropriate] should seek the advice of the [insert the name of the senior ranking officer or the post of the senior ranking officer as appropriate]. Any queries regarding the contents of this code of conduct should be directed to [insert the name or post of the senior ranking officer as appropriate, which need not be the same senior ranking officer or post as above].

Profitability of the [insert "bank" or "company" as appropriate] is enhanced by its good reputation to which all staff shall contribute. All staff (in particular but not limited to those with lending authority or involved in recommending loans of any kind) shall always look out for circumstances which are susceptible to fraud, forgery or corruption, in order to protect the [insert "bank" or "company" as appropriate] and its staff not just from actual malpractice, but also from allegations of malpractice.

2. **Loans**

All staff with lending authority shall have specified limits commensurate with their rank as laid down in the [insert title of bank's or company's document which sets out such limits]. No member of staff shall grant credit or loans to himself, to members of his immediate family (spouse and children under the age of 21), or to companies in which he or his immediate family is interested.

3. **Borrowings**

No member of staff (or his immediate family) shall make borrowings or receive credit from third parties on an abnormally favoured basis unless approved by [insert the name or post of the senior ranking officer as appropriate, which need not be the same senior ranking officer or post as elsewhere specified].

4. Conduct when obtaining business

No member of staff shall offer any bribe or similar consideration to any person or company in order to obtain business for the [insert the proper name of the authorized institution]. Any commissions paid or other payments made, or favourable terms conceded, or other advantages given, by any staff member in the conduct of the [insert "bank's" or "company's" as appropriate] business shall be in accordance with the [insert "bank's" or "company's" as appropriate] policies on such matters as notified from time to time and shall be promptly recorded in writing.

5. Personal benefits

All staff should note carefully the provisions of Section 124 of the Banking Ordinance 1986 and Section 9 of the Prevention of Bribery Ordinance which contain criminal penalties for accepting advantages in prescribed circumstances.

Members of staff should actively discourage customers of the [insert "bank" or "company" as appropriate] from offering personal benefits of all kinds (including every type of gift, favour, service, loan, fee or anything of monetary value).

No member of staff shall solicit, accept or retain personal benefits from any customer of the [insert "bank" or "company" as appropriate], or any individual or organization doing or seeking to do business with the [insert "bank" or "company" as appropriate]. However, provided that there is no reasonable likelihood of improper influence on the performance by them of their duties on behalf of the [insert "bank" or "company" as appropriate] and that the personal benefit concerned is not accepted in connexion with a banking function referred to in Section 124 of the Banking Ordinance 1986, all staff are permitted to accept from customers (but not solicit) -

- (a) any normal business entertainment (for example, a meal involving no more than ordinary amenities); or
- (b) any gift (including a laisee) given on festive occasions under customary practice, subject to a maximum limit of HKD 1,000 in value; or
- (c) any personal benefit arising from kinship or marriage; or
- (d) any personal benefit received from a close personal friend, where such friendship is entirely unrelated to the business of the [insert "bank" or "company" as appropriate], subject to a maximum limit of HKD 2,000 in value.

Where a staff member wishes to accept a personal benefit (which is not a personal benefit referred to in (a), (b), (c) or (d) above), he shall, within 3 working days of the personal benefit being offered or presented, send a written report to [insert the name or post of the senior ranking officer as appropriate, which need not be the same senior ranking officer or post as elsewhere specified] stating -

- (a) the name of the donor;
- (b) a description and an assessment of the value of the gift;
- (c) the business connexion (if any) between the donor and the [insert "bank" or "company" as appropriate]; and
- (d) the personal relationship between the staff member and the donor.

The staff member will then be advised whether the gift may be accepted or whether it should be returned to the donor or disposed of in some other way.

6. Use of information

No member of staff shall during, or after termination of, his employment with the [insert "bank" or "company" as appropriate] (except in the proper course of his duties or with the [insert "bank's" or "company's" as appropriate] written consent) divulge or make use of any secrets or of any correspondence, accounts, connexions or dealings of the [insert "bank" or "company" as appropriate] or its customers or of any knowledge gained in relation thereto during his employment. No staff member shall in any way use information so obtained for financial gain.

No member of staff shall release information concerning a customer of the [insert "bank" or "company" as appropriate] to a third party without the customer's consent in writing except in accordance with the [insert "bank's" or "company's" as appropriate] trade, credit and information arrangements, or like arrangements for the proper interchange of information between authorized institutions about credit risks, or where he is required to do so by law.

7. Investments

No member of staff shall deal (whether directly or indirectly) in the shares or other securities of any company listed on The Stock Exchange of Hong Kong Limited at any time when he is in

possession of information, obtained as a result of his employment by, or his connexion with, the [insert "bank" or "company" as appropriate] which is not generally available to the shareholders of that company and to the public and which, if it were so available, would be likely to bring about a material change in the market price of the shares or other securities of the company concerned. No such information shall be disclosed to any third party.

All members of staff shall immediately notify the [insert "bank" or "company" as appropriate] in writing, the details of any dealings in which they are (whether directly or indirectly) concerned in any such listed company.

It should be noted that, in particular instances, insider dealing may be the subject of enquiries under the Securities Ordinance by the Insider Dealing Tribunal whose reports are made public and would cover, amongst other things, findings as to whether or not the person or persons under enquiry were culpable in respect of insider dealing.

8. *Outside employment*

No member of staff shall take up any directorship or employment or part-time commercial duties (paid or unpaid) outside the [insert "bank" or "company" as appropriate] except with the prior written approval of [insert the name or post of the senior ranking officer as appropriate, which need not be the same senior ranking officer or post as elsewhere specified].

Approval will be given to take up other employment or part-time commercial duties only in circumstances where the interests of the [insert "bank" or "company" as appropriate] will not be prejudiced. Such approval will be given by the [insert name or post of senior ranking officer specified above] or by one of his delegates depending upon the rank of the member of staff seeking to take up such employment or commercial duties.

Appendix 4

Extracts of the Code of Banking Practice

7. Collection, Use and Holding of Customer Information

7.1 Institutions should treat their customers' (and former customers') banking affairs as private and confidential.

7.2 Institutions should at all times comply with the Personal Data (Privacy) Ordinance (PDPO) in the collection, use and holding of customer information. They should also comply with any relevant codes of practice issued or approved by the Privacy Commissioner for Personal Data giving practical guidance on compliance with the PDPO.

7.3 Institutions should be as specific as possible about the classes of person to whom they may wish to make disclosure of customer information and the purpose of such disclosure. Classes of person about which customers should be specifically notified include among others -

- (a) debt collection agencies;
- (b) computer firms to which the processing of personal information is to be, or may be, outsourced;
- (c) credit reference agencies; and
- (d) related companies within the same group to whom customers' names and addresses may be disclosed for marketing purposes.

7.4 Institutions should not, without the prescribed consent of their customers -

- (a) provide bankers' references in respect of a customer; or
- (b) disclose customers' names and addresses to companies which are not related companies within the same group for marketing purposes.

7.5 When a customer objects to the disclosure of the information referred to in paragraph 7.3(d) above or refuses to give the consent referred to in paragraph 7.4(b) above, the institution concerned should not refuse to provide that customer with basic banking services.

7.6 Where personal information is used by an institution for its own marketing purposes for the first time, the institution should inform the customer that the institution will, without charge to the customer, cease to so use the personal information if the customer so requests.

7.7 Institutions should remind customers at least once every three years or by including a standard notice in their marketing materials of the right to make the request referred to in paragraph 7.6 above.

7.8 Where personal information is transferred to a third party service provider, for example, as part of an outsourcing arrangement, institutions should satisfy themselves that such information will be treated as confidential and adequately safeguarded by that service provider. Institutions should remain accountable to customers for any complaints arising out of the handling of customer information by service providers and should not attempt to disclaim responsibility for any breach of customer confidentiality by service providers.

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<http://www.hkib.org>

Hong Kong Monetary Authority

<http://www.info.gov.hk/hkma>

Independent Commission Against Corruption

<http://www.icac.org.hk>

The DTC Association

<http://www.dtca.org.hk>

The Hong Kong Association of Banks

<http://www.hkab.org.hk>

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