

The section "Prevention of Corruption" is included in the IIQE Paper 1 (Principles and Practice of Insurance) and Paper 6 (Travel Insurance Agents).

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PREVENTION OF CORRUPTION

Corruption is an individual's act of abusing his authority for personal gain at the expense of other people.

Administered by the Independent Commission Against Corruption ('ICAC'), the Prevention of Bribery Ordinance helps the business sector maintain an environment that is conducive to efficiency and fair competition. It protects principals against agents' abuses of authority for personal gain. Under Section 9(1) of the Ordinance, an agent (normally an employee), when conducting his principal's business or affairs, should not seek or accept an advantage without the permission of his principal. The offeror of advantage commits an offence under Section 9(2) of the Ordinance. Section 9(3) of the Ordinance provides that any agent who, with intent to deceive his principal, uses any receipt, account or other document which is false or erroneous commits an offence. Each of the offenders is subject to a maximum penalty of imprisonment for 7 years and a fine of \$500,000.

The ICAC offers free and confidential corruption prevention services to organisations. For example, Best Practice Packages covering a wide range of topics have been developed to provide both public corporations and private sector companies with user-friendly guidelines on plugging corruption loopholes. The ICAC also provides free, confidential corruption prevention advice to individual organisations.

To make insurance intermediaries better understand the importance of anti-corruption and ethics management, the ICAC offers a large variety of anti-corruption training courses and activities to the insurance industry. It has issued a booklet named the 'Practical Guide on Professional Ethics for Life Insurance Intermediaries' in collaboration with the Insurance Authority, the self-regulatory bodies of the insurance industry and various professional associations of insurance. The objectives are to enhance the vigilance of the life insurance industry against potential corruption and fraud, and to strengthen insurance companies' ability to manage the ethical conduct of their staff, so that the risks of violations of laws and regulations are reduced, contributing to long-term success.

Insurance intermediaries are encouraged to get familiar with the substance of the Ordinance, the best practices suggested by the ICAC (including the module on Verification of Insurance Claims), and the Practical Guide on Professional Ethics for Life Insurance Intermediaries, with a view to preventing corrupt conduct both within and outside their organisations. Other services of the ICAC should also be used as much as is necessary. In dealing with clients or other third parties, insurance intermediaries should guard against violating the Ordinance. Corruption cases should be reported to the ICAC in person, by phone or by letter.

PREVENTION OF CORRUPTION

Corruption is generally defined as the abuse of entrusted power for personal gain. Enforced by [the Independent Commission Against Corruption \(“ICAC”\)](#), the [Prevention of Bribery Ordinance \(POBO\)](#) helps maintain a corruption-free environment that is conducive to efficiency and fair competition. It safeguards the interests of different stakeholders and protects principals against agents’ abuses of authority for personal gain. Insurance practitioners are subject to the [POBO](#) and should comply with the law when transacting insurance business.

1. Major Provisions of the POBO

a) Offences and Penalty

- (i) Under **Section 9(1)** of the [POBO](#), when conducting his/her principal's business or affairs, an agent should not solicit or accept an advantage without the permission of his/her principal. For example, an individual insurance agent accepted an advantage from a client for assisting the latter to conceal his pre-existing illness when applying for life insurance would be liable to the offence.
- (ii) According to [POBO](#), both offering and accepting an advantage constitute an offence. Therefore, the offeror of advantage as stated in (i) commits an offence under **Section 9(2)** of the [POBO](#). In the above example, the client who offered the advantage to the insurance agent would be liable to this offence.
- (iii) **Section 9(3)** of the [POBO](#) provides that any agent who, with intent to deceive his/her principal, uses any receipt, account or other document which is false or erroneous commits an offence. For example, an individual insurance agent used bogus insurance applications to deceive insurance company of commissions would be liable to the offence.
- (iv) The maximum penalty for committing any of the above offences is imprisonment for 7 years and a fine of \$500,000.

b) Elaborations on Key Elements

- (i) **Principal and Agent relationship:** In the context of the [POBO](#), an “agent” includes any person employed by or acting for his/her “principal”. Generally speaking, a licensed individual insurance agent appointed by an insurer, a licensed technical

representative (agent) appointed by a licensed insurance agency, a licensed technical representative (broker) appointed by a licensed insurance broker company, or any employee employed by a company is an “agent” of their respective “principals” and owe his/her principal contractual and fiduciary obligations¹. Insurance intermediaries or employees should obtain permission from respective principals for accepting any advantages in relation to the principals’ affairs.

- (ii) **Advantage:** The term “advantage” is broadly defined to include money, gift, loan, reward, commission, office, employment, contract, service, favour, the exercise of a duty, and forbearance from the exercise of a duty, etc. Even tips, “red packet money” and “tea money” are included irrespective of amounts. However, entertainment (i.e. food and drink consumed on the spot) is excluded.
- (iii) **No defence for corruption:** Under Section 19 of the [POBO](#), customs in any profession, trade, vocation or calling do not constitute a defence for bribery. It is also not a defence for the recipient to claim that “the act requested to be done was not actually carried out” as stated in Section 11 of the [POBO](#). The offeror and the recipient of a bribe will commit an offence irrespective of whether or not the act of bribery has actually been carried out.
- (iv) **Indirect bribery via third party:** Accepting or offering bribes indirectly through a third party is also against the law. As long as the purpose of offering the advantage is for inducing or rewarding the agent to do an act in relation to his principal’s business, both the offeror and the recipient would commit an offence under the [POBO](#).
- (v) **Dealing with public servants:** Even with no corruption intention, insurance intermediaries should not offer any advantage to public servants while having business dealing with their organisations, as it would be an offence under **Section 8** of the [POBO](#). And if the offering of advantage to a public servant aims for a reciprocal act in abusing his/her official authority, it would be an offence under **Section 4** of the [POBO](#). Public servants include government officers and employees of public bodies.
- (vi) **Cross-boundary bribery:** If any part of the act of bribery, including offering, soliciting or accepting a bribe and agreeing on or processing the illegal deal, can be

¹ According to the Insurance Ordinance (Cap. 41), a licensed insurance agency is granted a licence to carry on regulated activities as an agent of its authorized insurer; whereas a licensed insurance broker company is granted a licence to carry on regulated activities as an agent of its policy holder or potential policy holder.

proved to have taken place in Hong Kong, both the offeror and recipient may be pursued under Section 9 of the [POBO](#).

2. Report Corruption

In dealing with clients or other third parties, insurance intermediaries should uphold integrity, say no to corruption and guard against violating the [POBO](#) or other crimes. When encountering corruption, intermediaries are encouraged to report them to the [ICAC](#) so as to protect the company's and their own interests. [ICAC's](#) 24-hour report hotline: 25 266 366. All complaints will be handled in strict confidence.

3. Assistance from the ICAC

The [ICAC](#) has all along been working together with the insurance industry actively to prevent corruption and to uphold a high ethical standard amongst insurance intermediaries. The following resources and services are readily available for use by intermediaries and insurance companies:

- a) **Anti-corruption and Ethics Training:** The [ICAC](#) jointly arranges recognised Continuing Professional Development (CPD) training courses with various professional bodies where participants will be entitled to qualified CPD hours on completing the training. It also assists insurance companies with their anti-corruption activities for staff.
- b) **Dedicated Resources for Insurance Industry:** With a view to preventing corrupt conduct and promoting ethical practices, the [Hong Kong Business Ethics Development Centre](#) of the [ICAC](#) has produced a range of useful resources for the insurance industry, including the "[Online Learning Course for New Practitioners of Insurance Industry](#)" dedicated for the candidates of the Qualifying Examination and insurance practitioners who are new to the industry. The resources are available on the Centre's dedicated website for the insurance industry (<https://hkbedc.icac.hk/insurance>).