



Ethics in Practice  
A Practical  
Guide for  
Bank Managers

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

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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

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 one of the largest foreign exchange trading centres. 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.

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

Business ethics is defined as "the process of evaluating decisions, either before or after, with respect to the moral standards of society."<sup>(1)</sup> 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 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.

Economic downturn 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 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) at 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 a 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 it.

**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.