Anti-Corruption Strategies in Private Sector Adopted by Hong Kong, China

Submitted by: Hong Kong, China
Anti-corruption Strategies in Private Sector adopted by Hong Kong, China

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Background of existing anti-corruption strategies in private sector adopted by Hong Kong, China

- Three pillars:
  - Legislations
  - Regulatory requirements
  - Support and services rendered by the Independent Commission Against Corruption (the ICAC)
Background of the ICAC

• Established on 15 February 1974 pursuant to the ICAC Ordinance

• Commissioner not subject to the direction or control of any person other than the Chief Executive of the Hong Kong, China

• Independence guaranteed by the Basic Law Article 57
Organization Structure

Commissioner

- Community Relations Department
- Operations Department
- Corruption Prevention Department
Duties of Commissioner of the ICAC

Prevention

• Examine the practices and procedures of government departments and public bodies to prevent corruption

Education

• Educate the public against the evils of corruption and enlist public support in combatting corruption
Duties of Commissioner

**Enforcement**

- Receive and consider complaints alleging corrupt practices
- Investigate mainly:
  - Corruption offences
  - Election offences involving corrupt and illegal conduct
  - Blackmail by civil servants
Organization Structure

Commissioner

- Community Relations Department
- Operations Department
- Corruption Prevention Department
Pillar One: Legislations
Provisions governing corruption in the Private Sector in Hong Kong, China

Corruption offence of offering advantage(s) to an agent:

Any person offer advantage to an agent as reward for / inducement to / on account of Agent’s doing or not doing something relating to principal’s affairs without lawful authority or reasonable excuse

Full Provision
Provisions governing corruption in the Private Sector in Hong Kong, China

Corruption offence of agent accepting / soliciting advantage(s):-

Any agent + Solicit or accept + advantage

as reward for / inducement to / on account of

Agent’s doing or not doing something relating to principal’s affairs

without lawful authority or reasonable excuse
Provisions governing corruption in the Private Sector in Hong Kong, China

Offence of agent using document to deceive principal:

Any agent with intent to deceive principal uses document

That
(a) the principal is interested;
(b) contains false statement in any material particular; and
(c) to that agent's knowledge is intended to mislead the principal

Examples: False invoice for claiming payments, false declaration of interests form etc.
Corporate Liability

S.3 of the Interpretation and General Clauses Ordinance

A person includes any public body and any body of persons, corporate or unincorporate, and this definition shall apply notwithstanding that the word “person” occurs in a provision creating or relating to an offence or for the recovery of any fine or compensation;

S.115 of the Companies Ordinance - Company’s capacity

A company has the capacity, rights, powers and privileges of a natural person of full age.

Complementary to corruption offences enforced by the ICAC.
Pillar Two: Regulatory Requirements
Existing Regulatory Requirements imposed on Listed Companies by the Hong Kong Stock Exchange

- **Strategy of “To comply or explain”:**
  - Disclosure of anti-corruption policy
  - Compliance with relevant laws and regulations relating to corruption and money laundering
- **Annual review of risk management and internal control systems**
Existing Regulatory Requirements imposed on Financial Sector by Financial Regulators

Monetary Authority

Insurance Authority

Mandatory Provident Fund
Schemes Authority

Securities and Futures
Commission

Commit their regulatees to ethical practices through licensing conditions, administrative rules, codes of practice etc.
Pillar Three:

Support and services rendered by the ICAC
Corruption Prevention Advisory Service

- Advisory services for private organisations:
  - Meeting / written advice on Code of Conduct and procedures
  - Corruption prevention training

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Main features

- Best Practice Checklists
- Training materials
- Case Studies
- Quick Tips
- Red Flags, etc.
Extra Regulatory Requirements on Listed Companies recommended by CPAS

Areas of Recommendations

• Disclosure of number and results of concluded legal cases regarding corrupt practices against the issuer or its employees

• Disclosure of preventive and whistle-blowing procedures

• Disclosure of anti-corruption training provided to directors and staff
### Permeability of CPAS

<table>
<thead>
<tr>
<th>From January 2017 to December 2018</th>
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<tr>
<td><strong>118,000</strong> visits of CPAS</td>
</tr>
<tr>
<td><strong>55,000</strong> times of downloading the corruption prevention resources</td>
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<tr>
<td><strong>9,900</strong> subscribers of CPAS</td>
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Hong Kong Business Ethics Development Centre (HKBEDC)

- To promote a level-playing field for businesses
- To foster an ethical corporate culture
- To foster liaison with and implement ethical programmes for the business sector
Ethics Promotion Programme for Listed Companies between 2015 and 2018 by HKBEDC

- About **1,000** anti-corruption trainings conducted
- Over **2,200** listed companies approached by HKBEDC
- Over **36,000** business executives receiving trainings
Initiatives for other Business Corporations by HKBEDC

- Tailor-made initiatives and activities for
  - Implementing corporate ethics programme
  - Arranging compliance and ethics training
  - Formulating and reviewing Codes of Conduct

- Provision of reference materials that ensure staff complying with legal and regulatory policies
Thank You

www.icac.org.hk