

HKMA Administration Circular No. 1/2016

Code of Conduct

(This circular supersedes HKMA Administration Circular No. 4/2014 issued on 17 December 2014)

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Code of Conduct

Introduction

This Code provides guidelines and advice on the main issues that may have a bearing on the integrity of the HKMA and of the staff who work for it. Advice and regulations on other aspects of staff conduct (e.g. attendance at work, use of HKMA property) may be found in the Staff Handbook.

Integrity

2. The HKMA is committed to maintaining the highest degree of integrity among its staff and to applying the highest ethical standards in all its dealings. To maintain and safeguard the trust and confidence of the public in the HKMA, all staff are expected at all times to observe an exemplary standard of personal conduct and integrity and to act in the best interests of the HKMA.

3. Staff must always be on guard against any possible conflict of interest. Staff who have any doubt about the propriety of any course of action or who find that their private interests¹ are or may be in conflict with the interests of the HKMA should immediately report the case and seek advice from their supervisors at Division Head level or above. Any such reports and action taken should be properly recorded and filed by the supervisors.

4. Any staff member who fails to comply with any of the principles laid down in this Code or who commits breach of rules or official instructions, whether oral or written, and who by his or her action brings the HKMA into disrepute is liable to disciplinary action including dismissal. It is neither practical nor possible to specify every type of potential act or behaviour expected of HKMA staff or acts that may bring the HKMA into disrepute. Where the circumstances are not prescribed, it is the responsibility of the staff to judge, in accordance with the principles set out in this Code, how best to act in order to uphold the highest standards.

5. Internal investigation will be conducted into all allegations of misconduct referred by the ICAC, the Police, and other law enforcing bodies with a view to deciding whether or not follow-up disciplinary or management actions for the staff concerned are warranted. In making the decision, the HKMA will take into account the staff's complete record of service including rank and the positions held. Staff should be aware that in cases where a staff member is found not guilty of criminal charges, disciplinary or other management actions may still be initiated after considering all relevant circumstances of the case, particularly if the acquittal has not undermined the Court's acceptance of the evidence and the facts of the case have led to a loss of confidence in the officer.

¹ Private interests include the financial and other interests of the officer himself and those of his family and other relations, his personal friends, clubs and societies to which he belongs, and any person to whom he owes a favour or is obliged in any way.

Acceptance of Advantages

6. All HKMA staff are subject to the provisions of the Prevention of Bribery Ordinance (PBO). Staff should, in particular, familiarise themselves with Sections 3, 4 and 10 of the Ordinance, which are at **Annex A**.

7. The summaries of the statutory provisions set out in the Code are for reference only. Staff should ensure that they understand their obligations under the relevant provisions.

Advantages received in private capacity

8. Under Section 3 of the PBO, it is an offence for staff to solicit or accept any advantage not in accordance with the general or special permission under the Acceptance of Advantages (Chief Executive's Permission) Notice (AAN). (A copy can be found in the **Annex B**.)

9. The AAN lists those advantages that may be solicited or accepted without committing an offence under Section 3 of the PBO. Under the Notice, permission is given for staff to solicit/accept advantages without restrictions except for the following "restricted advantages":

- (a) gifts, both of money and in kind;
- (b) discounts;
- (c) loans of money; and
- (d) air, sea and overland passages,

which can be solicited/accepted only under certain circumstances having regard to the relationship with the offeror, the occasion the advantage is offered, and the value of the advantage. The circumstances are detailed in paragraphs 3-9 of the AAN, a reference chart of which is shown in **Appendix to Annex B** to serve as a checklist only. Please note that in many of these circumstances, the general permission is subject to the condition that the donor has no official dealings with the staff member or the department in which he works, and in the case of advantages from tradesmen etc., the advantage is equally available on equal terms to persons who are not prescribed officers (please refer to Annex A for the definition of prescribed officers).

10. Staff who wish to accept any "restricted advantage" in a private capacity other than in the circumstances specified are required to seek permission, using the electronic form on Lotus Notes, from the following approving authority prior to or as soon as reasonably possible after accepting any restricted advantage:

Acceptance of	Rank	Authority
Gifts, discounts and loans	CE	FS
	DCEs/SED and EDs	CE
	DHs and SMs	ED(CS)
	Ms and below	H(HR)
Passages	CE	FS
	DCEs/SED, EDs & DHs	SCS
	SMs and below	CE

Advantages received in official capacity

Gifts

11. Under Section 4 of the PBO, it is an offence for staff to solicit or accept any advantage in **Hong Kong or elsewhere** which is offered on account of their official duties or position.

12. Staff may retain souvenirs or gifts from official contacts with an estimated value of \$400 or below subject to an entry on HR's record vide the electronic form on Lotus Notes. These might include plaques presented to them as officiating guests, souvenir items received as a seminar participant, seasonal gifts (e.g. desk diaries or calendars) from work contacts. These items are often inscribed with the names or logos of the donor organisation or with the name of the staff member, and normally are of limited commercial value. While the acceptance of gifts from work contacts are not prohibited, as a general rule staff should not accept such gifts, regardless of their estimated value, from institutions regulated or overseen by the HKMA or companies/individuals from whom the HKMA may procure goods or services unless exceptional approval has been obtained from the relevant approving authority (as specified in para.10 above).

13. For any other gift presented to staff in their official capacity, staff should:

- (a) return the gift to the donor with an explanation so as not to cause offence or embarrassment. A sample letter is at **Annex C** for reference; or
- (b) if returning the gift is considered not appropriate, pass the gift to HR Division and complete the electronic form accordingly. The gift will be disposed of in a way as deemed appropriate by the relevant approving authority (as specified in para. 10 above), which may include donation to the HKMA social functions for lucky draw; donation to a charitable organisation; display at the HKMA office; passing to the Government for disposal; or sharing among colleagues (for perishable food and drinks).

14. Complimentary tickets to functions and performances (e.g. trade fair, exhibition, concert, opera, movie, show, or sports event) are gifts. When they are offered to staff members by virtue of their official position, they should be handled in accordance with the guidelines outlined in paragraphs 12 and 13 above. For the avoidance of doubt, free admission to

conferences, seminars, workshops or similar events that are relevant to the staff members' official duties are not considered as a gift.

Entertainment

15. Entertainment is defined in section 2 of the PBO to mean “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 provision”. Entertainment in itself is not considered to be an advantage for the purposes of the PBO. But the acceptance of free food, drinks, shows etc. may, by reason of its nature and the circumstances in which it is given, go beyond just being a favour and becomes an advantage if it falls within one of the categories specified in section 2 of the PBO (for example, if such acceptance constitutes “a discharge of an obligation to pay”). In other words, the acceptance of free food, drinks, shows, etc. is capable of becoming an advantage which renders the officer liable to prosecution under the PBO.

16. Staff may accept entertainment offered to them in their official capacity. They should, however, turn down offers of entertainment that are regarded as -

- (a) *excessive* – taking into account its value, substance, frequency and nature;
- (b) *inappropriate* – taking into account the relationship between the officer and the donor (e.g. whether they have any direct official dealings); or
- (c) *undesirable* – taking into account factors such as the character of the host, or
- (d) any entertainment that is likely to put the staff in an obligatory position or lead to the embarrassment of the staff in the discharge of his or her functions, or bring the staff or the HKMA into disrepute, or lead to any real or apparent conflict of interest.

17. The number of HKMA representatives accepting any offer of entertainment should be kept to the minimum. All staff are advised, as far as possible, not to take part in any games of chance on these occasions, especially those involving high stakes.

Examples

18. **Annex D** sets out some examples to show how the advantages received from persons with whom staff members have official dealings are to be dealt with. These examples are for illustration purpose only. The circumstances of each case may be different and hence each case will have to be determined on its own merit.

Sponsored visits and training

19. Staff may accept visits and training sponsored or co-sponsored by multilateral institutions, central banks and cognate organisations (including course fee, passage,

accommodation and related expenses) where no conflict of interest is involved. Any questions on this subject should be addressed to ED(CS) via H(HR).

20. For visits or training organised by private institutions, staff may accept sponsorship of the course fee (but not passages, hotel accommodation or related expenses) if

- (a) the institution concerned is obliged to provide knowledge transfer to HKMA staff, for example, investment-related courses organised by an appointed external managers; or
- (b) the course is offered on equal terms to other participants who are not HKMA staff,

provided that the relevant approving authority is satisfied that the conditions above are met and the staff can be released for the course. Staff should inform the organiser of the HKMA policies on sponsored training. In case the organiser advises that payment of certain fees cannot be arranged for administrative reasons (e.g. accommodation cost cannot be appropriately apportioned to the HKMA participant), exceptional approval should be sought from CE via SM(HR)2.

Conflict of Interest

21. Conflict of interest may arise when the private interests of a staff member compete or conflict with the interests of the HKMA and the public. “Private interests” include the financial and other interests of the staff member and those of the following:

- (a) family and other relations;
- (b) personal friends;
- (c) the clubs and societies to which he or she belongs; and
- (d) any person to whom he or she owes a favour or is obligated in any way.

22. It is the responsibility of every staff member to be alert to and avoid engaging in situations that may lead to an actual or perceived conflict of interest. The staff member should report to his or her supervisor any conflict and either withdraw from dealing with the matter in any way or follow the directions of the supervisor. It is normally adequate for the supervisor to relieve the staff member concerned from performing or getting involved in performing the work which may give rise to a conflict of interest. Transfer to another post should only be considered if all other courses of action are not appropriate. Any such reports and action taken should be properly recorded and filed by the supervisor.

Investment

23. Staff are required to uphold the integrity and credibility of the HKMA and observe an exemplary standard of personal integrity in making private investments. They should ensure at all times that there is no conflict of interest between their official duties and private investments. All staff should observe the general principles and reporting requirements detailed in **Annex E**.

Misuse of Official Position

24. Staff should act impartially and responsibly and should not give preferential treatment to any private organisations or individuals. They should avoid participating in activities that would invite a reasonable person with knowledge of the relevant facts to question their impartiality.

25. Staff should not use their position within the HKMA for personal gain or for the benefit of any relatives, friends or other persons. They should not provide assistance, information or advice to relatives or friends in order to give them an unfair advantage over other people in their dealings with the HKMA. They should not ask or direct any subordinate staff to perform any act or provide any service other than those legitimately required of them in the performance of official duties.

Misuse of Proprietary Information

26. Staff who have access to or are in control of proprietary information should provide adequate safeguards to prevent its abuse or misuse. They should not use any such information made available to them in the course of their duties in return for monetary rewards or personal interest or to disclose such information which is not in the interest of the public or the HKMA. Disclosing proprietary information without authority may constitute a criminal offence or disciplinary case.

27. Staff should also be mindful in handling information containing personal data. Unauthorised disclosure of such data may result in a breach of the provisions of the Personal Data (Privacy) Ordinance.

Outside Work

28. The HKMA has a prior call at all times on the service of staff members. Staff should apply for permission to take up outside work in accordance with the Staff Handbook in Lotus Notes. It is important that outside work should not affect staff's performance or give rise to actual or perceived conflict of interests.

Declaration of Close Family Members' Employment

29. Staff are required to make a declaration if any of their close family members (i.e. spouse, parents, children and siblings) is employed, whether it is a permanent, contract, short-term, internship or training-related job, with an institution regulated or overseen by the HKMA.² A declaration should be submitted, where practicable, within 30 days of the commencement of the employment or any subsequent changes. It will enable the Management to assess whether

² Such institutions include (i) Authorized Institutions, approved money brokers, and foreign banks with approved local representative offices in Hong Kong under the Banking Ordinance; and (ii) system operators and settlement institutions of designated clearing and settlement systems and designated retail payment systems, and stored value facilities licensees under the Payment Systems and Stored Value Facilities Ordinance.

there may be any conflict of interests in relation to the performance of a staff member's duties and, if so, what measures are required. The submission of the declaration does not limit the generality of the provisions in the HKMA's Code of Conduct relating to the avoidance of conflict of interests.

Insolvency and Bankruptcy

30. Staff in financial difficulties likely to lead to insolvency or bankruptcy are advised to report their cases to the HR Division. If proceedings are taken against a staff member with a view to bankruptcy, he or she must notify the HR Division immediately.

Involvement in Criminal Proceedings

31. It is incumbent upon staff to report to the HR Division immediately if he or she is subject to criminal proceedings, irrespective of whether such proceedings would lead to criminal conviction. The reporting requirement is however not applicable to those cases such as minor non-duty related traffic offences, where a staff member issued with a fixed penalty notice for an offence discharges fully his or her criminal liabilities by the timely payment of the fixed penalty.

Personal Use of Social Media

32. Staff should note that, while they are free to express their personal views or post materials on social media platforms, they are personally responsible for the content they publish in their private capacity on these platforms. Staff should also be mindful that notwithstanding their intention to act in their personal capacity, they may still be identified as the HKMA staff and the content they publish will have potential implications on the HKMA. They should therefore bear in mind the integrity requirements, in particular paragraphs 2 and 3, of this Code in the use of social media.

Enquiries

33. This Code and the electronic forms can be found in HKMA News on Lotus Notes or in the Intranet. Enquiries on this Code should be addressed to SM(HR)2 or M(HR)2C.



(Loretta Wong)
for Chief Executive
Hong Kong Monetary Authority

Summary of selected provisions in the Prevention of Bribery Ordinance (PBO)

Section 2	“Advantage” means almost anything which is of value, except entertainment which will be covered under a separate heading. Common examples include any gift (both money and in kind), loan, fee, reward, commission, office, employment, contract, service and favour, etc. “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 provision. “Prescribed officer” – please refer to the full provisions attached.
Section 3	It is an offence for a prescribed officer to solicit or accept any advantage without the general or special permission of the Chief Executive (HKSAR).
Section 4	It is an offence for a public servant to solicit or accept any advantage in Hong Kong or elsewhere as an inducement to or reward for him to abuse his official position or power in a number of ways as set out in the PBO.
Section 10	It is an offence for a prescribed officer to maintain a standard of living or possess or control assets which are not commensurate with his official emoluments without any satisfactory explanation to the court.
Section 12(2)	Any person guilty of an offence under Section 3 shall be liable on conviction to a fine of \$100,000 and to imprisonment for 1 year, and shall be ordered to pay to the Government in such manner as the court directs the amount or value of the advantage received by him or such part thereof as the court may specify.

Extract of selected provisions from the Prevention of Bribery Ordinance

Section 2 - Interpretation

In this Ordinance, unless the context otherwise requires-

"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 return 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.

"Prescribed officers" means-

- (a) any person holding an office of emolument, whether permanent or temporary, under the Government; and
- (b) the following persons (to the extent that they are not persons included in paragraph (a))-
 - (i) any principal official of the Government appointed in accordance with the Basic Law;
 - (ii) the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Cap 66) and any person appointed under section 5A(3) of that Ordinance;
 - (iii) Chairman of the Public Service Commission;
 - (iv) any member of the staff of the Independent Commission Against Corruption;
 - (v) any judicial officer holding a judicial office specified in Schedule 1 to the Judicial Officers Recommendation Commission Ordinance (Cap 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary; (Added 14 of 2003 s.13)

Section 3 - Soliciting or accepting an advantage

Any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence.

Section 4 - Bribery

(1) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to a public servant as an inducement to or reward for or otherwise on account of that public servant's- (Amended 28 of 1980 s. 3)

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by that public servant or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2) Any public servant who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his- (Amended 28 of 1980 s. 3)

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as a public servant;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by himself or by any other public servant in his or that other public servant's capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence.

(2A) Any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to the Chief Executive as an inducement to or reward for or otherwise on account of the Chief Executive's-

- (a) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by

- the Chief Executive in his capacity as the Chief Executive or by any public servant in his capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

shall be guilty of an offence. (Added 22 of 2008 s. 2)

(2B) If the Chief Executive, whether in Hong Kong or elsewhere, 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) performing or abstaining from performing, or having performed or abstained from performing, any act in his capacity as the Chief Executive;
- (b) expediting, delaying, hindering or preventing, or having expedited, delayed, hindered or prevented, the performance of an act, whether by the Chief Executive in his capacity as the Chief Executive or by any public servant in his capacity as a public servant; or
- (c) assisting, favouring, hindering or delaying, or having assisted, favoured, hindered or delayed, any person in the transaction of any business with a public body,

he shall be guilty of an offence. (Added 22 of 2008 s. 2)

(3) If a public servant other than a prescribed officer solicits or accepts an advantage with the permission of the public body of which he is an employee being permission which complies with subsection (4), neither he nor the person who offered the advantage shall be guilty of an offence under this section. (Added 28 of 1980 s. 3. Amended 14 of 2003 s. 15)

- (4) For the purposes of subsection (3) permission shall be in writing and-
- (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 (3), the public body shall, before giving such permission, have regard to the circumstances in which it is sought. (Added 28 of 1980 s. 3)

Section 10 - Possession of unexplained property

- (1) Any person who, being or having been a prescribed officer- (Amended 14 of 2003 s. 17)
- (a) maintains a standard of living above that which is commensurate with his present or past official emoluments; or
- (b) is in control of pecuniary resources or property disproportionate to his present or past official emoluments,

shall, unless he gives a satisfactory explanation to the court as to how he was able to maintain such a standard of living or how such pecuniary resources or property came under his control, be guilty of an offence.

- (2) Where a court is satisfied in proceedings for an offence under subsection (1)(b) that, having regard to the closeness of his relationship to the accused and to other circumstances, there is reason to believe that any person was holding pecuniary resources or property in trust for or otherwise on behalf of the accused or acquired such resources or property as a gift from the accused, such resources or property shall, in the absence of evidence to the contrary, be presumed to have been in the control of the accused. (Added 9 of 1974 s. 3. Amended 48 of 1996 s. 3)
- (3)-(4) (Repealed 56 of 1973 s. 2)
- (5) In this section, "official emoluments" includes a pension or gratuity payable under the Pensions Ordinance (Cap 89), the Pension Benefits Ordinance (Cap 99) or the Pension Benefits (Judicial Officers) Ordinance (Cap 401). (Amended 36 of 1987 s. 44; 85 of 1988 s. 51)

Section 12 - Penalty for offences

- (2) Any person guilty of an offence under section 3 shall be liable on conviction to a fine of \$100,000 and to imprisonment for 1 year, and shall be ordered to pay to the Government in such manner as the court directs the amount or value of the advantage received by him or such part thereof as the court may specify.

PREVENTION OF BRIBERY ORDINANCE

(Chapter 201, Laws of Hong Kong)

**ACCEPTANCE OF ADVANTAGES (CHIEF EXECUTIVE'S PERMISSION)
NOTICE 2010**

Given by the Chief Executive for the purposes of
section 3 of the Prevention of Bribery Ordinance

[Commencement : 9 April 2010]

Interpretation 1. In this notice, unless the context otherwise requires, "approving authority" means :-

- (a) in relation to a prescribed officer who is a member of the Executive Council or the Chief Justice or the Director of the Chief Executive's Office or the Commissioner of the Independent Commission Against Corruption or the Director of Audit or an Under Secretary or a Political Assistant, the Chief Executive;
- (b) in relation to a prescribed officer who is the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Chapter 66), the Financial Secretary;
- (c) in relation to a prescribed officer who is a Permanent Secretary or the Head of a Department or holds a post of equivalent status as the Head of a Department other than those in (a) and (b) above, the Secretary for the Civil Service;
- (d) in relation to a prescribed officer who is a judicial officer other than the Chief Justice, the Chief Justice;
- (e) in relation to any other prescribed officer, the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organisation in which that prescribed officer is employed at the time when the advantage is offered to or solicited or accepted by the prescribed officer.

"discount" includes vouchers or coupons expressed to have a monetary value in exchange for which goods to that value may be obtained and also includes goods so obtained.

General and
special
permission
of the Chief
Executive

2. For the purposes of section 3 of the Prevention of Bribery Ordinance (Chapter 201), by this notice :-

- (a) the general permission of the Chief Executive is given to all prescribed officers in respect of any advantage, other than gifts, discounts, loans of money or passages not permitted by sections 3 to 7;
- (b) the special permission of the Chief Executive is given to any prescribed officer in respect of any advantage for the solicitation or acceptance of which that prescribed officer has been given the permission of the approving authority under section 8 or 9.

Advantages
from relations

3. (1) A prescribed officer is permitted to solicit or accept from a relation any gift (whether of money or otherwise), any discount, any loan of money or any air, sea or overland passage.

(2) In sub-section (1) "relation" means :-

- (a) spouse (including a concubine);
- (b) any person with whom the prescribed officer is living in a regular union as if man and wife;
- (c) fiancé, fiancée;
- (d) parent, step-parent, lawful guardian;
- (e) spouse's parent, spouse's step-parent, spouse's lawful guardian;
- (f) grandparent, great-grandparent;
- (g) child, ward of court;
- (h) spouse's child, spouse's ward of court;
- (i) grandchild;
- (j) child's spouse;
- (k) brother, sister;
- (l) spouse's brother, spouse's sister;

- (m) half-brother, half-sister;
- (n) step-brother, step-sister;
- (o) brother's spouse, sister's spouse;
- (p) brother's child, sister's child;
- (q) parent's brother, parent's sister;
- (r) parent's brother's spouse, parent's sister's spouse;
- (s) parent's brother's child, parent's sister's child.

Advantages
from
tradesmen,
etc.

4. (1) Subject to sub-section (2) a prescribed officer is permitted to solicit or accept any gift (whether of money or otherwise), any discount, any loan of money or any air, sea or overland passage given to or made available to a prescribed officer in his private capacity by a tradesman, firm, company, organisation or association :-

- (a) by virtue of the terms on which the prescribed officer's spouse, parent or child, is employed; or
- (b) by virtue of the membership of any organisation or association of the prescribed officer or the prescribed officer's spouse, parent or child; or
- (c) by virtue of the prescribed officer or the prescribed officer's spouse, parent or child being a regular customer; or
- (d) in the course of normal business.

(2) The permission given under sub-section (1) shall only apply where :-

- (a) the advantage is equally available on equal terms to persons who are not prescribed officers; and
- (b) the donor of the advantage has no official dealings with the prescribed officer.

Advantages
from close
personal
friends

5. (1) Subject to sub-section (2) a prescribed officer is permitted to :-

- (a) solicit or accept a loan of money from a close personal friend so long as the loan does not exceed \$3,000 on any

one occasion and is repaid within 30 days;

- (b) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from a close personal friend given on an occasion such as the prescribed officer's birthday, wedding, wedding anniversary, engagement, baptism, retirement or on any other occasion when gifts are traditionally given or exchanged, so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$3,000 from any one person on any one occasion;
- (c) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from a close personal friend on any occasion other than one referred to in sub-sub-section (b), so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$500 from any one person on any one occasion.

(2) The permission under sub-section (1) shall only apply so long as :-

- (a) the close personal friend has no official dealings with the department or organisation in which the prescribed officer works;
- (b) in the case of a close personal friend working in the same department or organisation as the prescribed officer, the close personal friend is not subordinate to the prescribed officer;
- (c) in the case of a gift or passage to which sub-sub-section (b) or (c) of sub-section (1) applies, the prescribed officer does not attend the occasion on which the gift or passage is given in his official capacity or by virtue of the official position he holds at the time he attends the occasion.

Advantages
from other
persons

6. (1) A prescribed officer is permitted to :-

- (a) solicit or accept a loan of money from any person (not being a loan to which section 4 or 5 applies) so long as the loan does not exceed \$1,500 on any one occasion and is repaid within 30 days;
- (b) accept, but not solicit, a gift or gifts (whether of money

or otherwise) or any air, sea or overland passage from any person (not being a gift or passage to which section 4 or 5 applies) given on an occasion such as the prescribed officer's birthday, wedding, wedding anniversary, engagement, baptism, retirement or on any other occasion when gifts are traditionally given or exchanged, so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$1,500 from any one person on any one occasion.

- (c) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from any person (not being a gift or passage to which section 4 or 5 applies) on any occasion other than one referred to in sub-sub-section (b), so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$250 from any one person on any one occasion.

(2) The permission under sub-section (1) shall apply so long as :-

- (a) the person offering the loan, gift or passage has no official dealings with the department or organisation in which the prescribed officer works;
- (b) in the case of such a person working in the same department or organisation as the prescribed officer, that person is not subordinate to the prescribed officer;
- (c) in the case of a gift or passage to which sub-sub-section (b) or (c) of sub-section (1) applies, the prescribed officer does not attend the occasion on which the gift or passage is given in his official capacity or by virtue of the official position he holds at the time he attends the occasion.

Advantages
from the
Government

7. A prescribed officer is permitted to :-

- (a) accept, but not solicit, a gift (other than a gift of money) or an air, sea or overland passage given on the prescribed officer's retirement, or on other occasions, which the prescribed officer has been permitted to accept under any Government regulations or permitted to accept in accordance with the prescribed officer's terms and conditions of employment or appointment;
- (b) solicit or accept any gift of money or loan of money or other allowance or advance made or given out of any Government

staff welfare fund or permitted by the Government under any Government regulations or permitted in accordance with the prescribed officer's terms and conditions of employment or appointment;

- (c) solicit or accept any air, sea or overland passage provided in accordance with any Government regulations or provided in accordance with the prescribed officer's terms and conditions of employment or appointment.

Permission in
respect of
advantages
other than
passages

- 8. (1)(a) If a prescribed officer wishes to accept any gift (whether of money or otherwise), discount or loan of money which he does not have permission to accept under sections 3 to 7, he must, before or as soon as is reasonably possible after being offered or presented with the gift, discount, or loan of money, seek the permission of the approving authority to accept it.

- (b) If a prescribed officer wishes to solicit any gift (whether of money or otherwise), discount or loan of money which he does not have permission to solicit under sections 3 to 7, he must, before soliciting the gift, discount or loan of money, seek the permission of the approving authority to solicit it.

- (2) In the case of gifts other than money, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept the gift either unconditionally or subject to such conditions as the approving authority may specify; or

- (b) refuse him permission to solicit or accept the gift and, if the gift is already in his possession,

- (i) require him to return it to the donor; or

- (ii) require the gift to be handed to a charitable organisation nominated by the prescribed officer and approved by the approving authority; or

- (iii) require him to dispose of the gift in such other manner as the approving authority may direct.

- (3) In the case of discounts, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept or take the benefit of the discount either unconditionally or subject to such conditions as the approving authority may specify; or

- (b) refuse him permission to solicit or accept or take the benefit of the discount and, if he has already accepted or taken the benefit of the discount, require him to pay to the donor of the discount an amount equal to the value of the discount.

(4) In the case of gifts of money or loans of money, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept the gift of money or loan of money either unconditionally or subject to such conditions as the approving authority may specify; or
- (b) refuse him permission to solicit or accept the money and, if the money is already in his possession,
 - (i) require him to return the money to the donor or lender; or
 - (ii) require him to dispose of the money in such other manner as the approving authority may direct.

(5) The prescribed officer may, if he has complied with sub-section (1)(a), retain the gift or loan in his possession or take the benefit of the discount until a decision under sub-sections (2), (3) or (4) has been notified to him.

Permission in
respect of
passages

9. (1)(a) If a prescribed officer wishes to accept any air, sea or overland passage which he does not have permission to accept under sections 3 to 7, he must, before or as soon as is reasonably possible after being offered the passage or presented with the tickets or vouchers to which the passage relates, seek the permission of :-
- (i) the Chief Executive; or
 - (ii) the Financial Secretary; or
 - (iii) the Secretary for the Civil Service; or
 - (iv) the Chief Justice; or
 - (v) the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organisation in which that prescribed officer is employed at the time to accept the passage.

(b) If a prescribed officer wishes to solicit any air, sea or overland passage which he does not have permission to solicit under sections 3 to 7, he must, before soliciting the passage, seek the permission of :-

- (i) the Chief Executive; or
- (ii) the Financial Secretary; or
- (iii) the Secretary for the Civil Service; or
- (iv) the Chief Justice; or
- (v) the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organisation in which that prescribed officer is employed at the time to solicit the passage.

(2) The approving authority referred to in sub-section (4) below may :-

- (a) permit the prescribed officer to solicit or accept the passage either unconditionally or subject to such conditions as he may specify;
- (b) refuse him permission to solicit or accept the passage, and if the tickets or vouchers to which the passage relates are already in his possession, require him to dispose of the passage in such other manner as he may direct.

(3) Where a prescribed officer has sought the permission of the approving authority referred to in sub-section (4) below to solicit or accept a passage and the decision has not been notified to him, he shall not solicit or make the passage or use the tickets or vouchers to which the passage relates.

(4) The approving authority for the purpose of section 9 means :-

- (a) in relation to a prescribed officer who is a member of the Executive Council or the Chief Justice or the Director of the Chief Executive's Office or the Commissioner of the Independent Commission Against Corruption or the Director of Audit or an Under Secretary or a Political Assistant, the Chief Executive;

- (b) in relation to a prescribed officer who is the Monetary Authority appointed under section 5A of the Exchange Fund Ordinance (Chapter 66), the Financial Secretary;
- (c) in relation to a prescribed officer other than those in (a) above who is at the directorate level, the Secretary for the Civil Service;
- (d) in relation to a prescribed officer who is a judicial officer other than the Chief Justice, the Chief Justice;
- (e) in relation to any other prescribed officer, the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organisation in which that prescribed officer is employed at the time when the passage is solicited or accepted by the prescribed officer.

Revocation

10. The Acceptance of Advantages (Chief Executive's Permission) Notice 2007 which was promulgated on 16 February 2007 is hereby cancelled.

Circumstances under which restricted advantages can be accepted

Gift/Discounts/Passages

<u>Donor</u>	Relations #	Close personal friends	Other persons	Tradesmen / company etc.
<u>Permissible value</u>	may solicit and accept any gift / discount / passage of any value	may accept, but not solicit, a gift / passage of a value up to \$3,000 per person on special occasion and up to \$500 on any occasion.	may accept but not solicit a gift / passage of a value up to \$1,500 per person on special occasion may accept but not solicit a gift / passage of a value up to \$250 per person on other occasion	may accept or solicit any gift / discount / passage of any value • by virtue of the terms on which the officer's spouse, parent or child is employed; or • by virtue of the membership of any organisation or association of the officer or his spouse, parent or child; or • by virtue of the officer or his spouse, parent or child being a regular customer; or • in the course of normal business.
<u>Other conditions</u>	Nil	• donor not a subordinate of the officer • donor has no official dealings with the HKMA • advantage offered to the officer in his private capacity		• advantage offered to the officer in his private capacity • donor has no official dealings with the officer • the offer is available on equal terms to other persons who are not prescribed officers

Loans of Money

<u>Lender</u>	Relations #	Close personal friends	Other persons	Tradesmen / company etc.
<u>Permissible value</u>	may solicit and accept loan of any amount	may solicit and accept a loan up to \$3,000 per person per occasion	may solicit and accept a loan up to \$1,500 per person per occasion	may solicit or accept any loan of money – • by virtue of the terms on which the officer's spouse, parent or child is employed; or • by virtue of the membership of any organisation or association of the officer or his spouse, parent or child; or • by virtue of the officer or his spouse, parent or child being a regular customer; or • in the course of normal business.
<u>Other conditions</u>	Nil	• repaid within 30 days • lender not a subordinate of the officer • lender has no official dealings with the HKMA		• loan offered to the officer in his private capacity • lender has no official dealings with the officer • loan conditions available on equal terms to other persons who are not prescribed officers

Note

The definition of "relation" includes spouse (including a concubine); any person with whom the prescribed officer is living in a regular union as if man and wife; fiancé/fiancée; parent, step-parent, lawful guardian; spouse's parent/step-parent/lawful guardian; grandparent, great-grandparent; child, ward of court; spouse's child/ward of court; grandchild; child's spouse; brother/sister; spouse's brother/sister; half-brother/sister; step-brother/sister; brother/sister's spouse; brother/sister's child; parent's brother/sister; parent's brother's/sister's spouse; parent's brother's/sister's child.

SAMPLE LETTER FOR THE RETURNING OF GIFTS

Dear

Thank you so much for the present you [sent / gave] me on [the occasion / date]. It is indeed very thoughtful of you. Although I would very much like to retain the present, I am afraid that, under existing regulations applicable to public officers, this is not permitted. The present has therefore to be returned to you and is now attached with this letter.

My apologies for the inconvenience that this may have caused you, but I am ever grateful for your kind thought behind it.

With warmest regards,

(Name)

發出退回饋贈的信件樣本

XXX 先生／小姐／女士：

您 XX 月 XX 日所饋贈的禮物已經收到。本人非常感謝您的好意，但鑑於公職人員現行規例禁止接受任何饋贈，唯有將禮物隨函退回。

不便之處，謹此致歉，並再次感謝您的厚意。

香港金融管理局

Some pointers on specific occasions

- (a) Complimentary Tickets to functions and performances – If the event is provided in connection with a lunch/dinner reception, such entertainment falls within the definition of section 2 of PBO and is not considered to be an advantage for the purpose of PBO. However, in accepting the offer, staff members will have to be satisfied that it will not give rise to concerns as in (i) to (v) below. Otherwise, the invitation should be declined.
- (i) the value of the offer (e.g. value of the ticket and number of tickets);
 - (ii) whether the acceptance will affect the image of the HKMA or attract public criticism;
 - (iii) whether there is any conflict of interest or the extent of official dealings, if any, between the donor and the staff member;
 - (iv) whether the acceptance will place the staff member in an obligatory position towards the donor and compromise the staff member's position in his dealings with the donor; and
 - (v) the frequency of similar permission being sought by the staff member.
- (b) Raffle tickets and participation in lucky draws – Staff member should decline to accept free raffle tickets or to participate in free lucky draws when attending social or festive functions in their official capacity. If participation cannot be avoided, prizes won should be returned to the organiser for a re-draw. If this may cause embarrassment, the staff member should take the prize back to the HKMA for a decision by the approving authority* on its disposal.

On occasions where staff members are invited to buy raffle tickets during such official functions, they may accept the prize won without having to seek permission. They should however be mindful to avoid taking part in dubious luck draws which could compromise their integrity (e.g. where one only needs to pay a small sum of money for the tickets but expensive prizes were given to all participants.)

If an officer in his private capacity wins a raffle prize, and has paid for the ticket, general permission has been given for him to accept the prize. However, permission is required if the officer has official dealings with the company which offers the prize.

- (c) Invitation to sports games or social activities – Participation in sports games or social activities provides good opportunity for socialising with external contacts. However, staff member may be invited to golf games at private golf clubs where the bills are credited to club members only. Under such circumstances, staff members may, as an alternative, invite the external contacts to occasions where they are allowed to pay for the cost themselves. In case it is considered inappropriate to decline such an invitation, prior

approval should be sought from the approving authority*. In considering the application, the principles as stated in (a) (i) to (v) above will be taken into consideration.

- (d) Seasonal gifts – Official contacts may offer seasonal gifts like moon cakes for the Mid-Autumn Festival, food hampers for Christmas and New Year, calendars and diaries for the new year and Lai-See packets for the Chinese New Year. While acceptance of such gifts are not prohibited, as a general rule staff should not accept such gifts from AIs or companies/individuals from whom the HKMA may procure goods or services.
- (e) Gifts given on special occasions – Examples are gifts given at engagement, wedding, anniversary, birthday or baptism. Although these are private occasions where gifts are exchanged or given under customary practice, staff members will have to seek permission from the approving authority* for acceptance of such gifts from colleagues in the HKMA in their private capacity if the value of the gift exceeds \$1,500 or the donor is the subordinate of the staff member. If the donor is an external contact having official dealings with the staff member, permission from the approving authority* has to be sought for acceptance of the gift irrespective of the value involved.

* Please refer to approving authority in paragraph 10 of the circular.

HKMA Administration Circular No. 3/2020
Rules on Restrictions and Declarations on Investments and Loan Facilities
by HKMA Staff (“the Rules”)

This circular contains the HKMA’s rules on restrictions and declarations on investments and loan facilities applicable to all staff of the HKMA. It supersedes the HKMA Administration Circular No. 2/2012, which was issued on 23 November 2012.

General Principles

2. The HKMA is committed to maintaining the highest degree of integrity among its staff. It also wishes to minimize the possibility that this integrity, and the wider credibility of the HKMA, might be brought into question. Since the HKMA has supervisory responsibilities over authorized institutions (“AIs”) and other specified institutions (“SIs”)¹, and since some staff may have access to market-sensitive information, restrictions are necessary on certain investments made or loan facilities secured by staff in their private capacities. These restrictions are intended to prevent:

- (a) conflicts of interest between a staff member’s personal investments or loan facilities and his/her official duties;
- (b) misuse of privileged information obtained by staff in the course of their official duties, e.g. for financial gain;
- (c) dubious investment activities or loan facilities that may bring the HKMA into disrepute; and
- (d) questions or doubts among the general public about the integrity of the HKMA’s staff, whether collectively or as individuals.

3. While staff of the HKMA are otherwise free to engage in investment activities as they deem appropriate, they are advised to refrain from overly active trading which may affect the proper discharge of their daily duties, and to avoid taking excessive risks or holding positions beyond their financial means. All staff should uphold the integrity and credibility of the HKMA and observe an exemplary standard of personal integrity when making private investments and/or arranging loan facilities. Serious pecuniary embarrassment arising from imprudent investment activities or loan facilities or other causes may lead to disciplinary action, since it adversely reflects

¹ Specified institutions (“SIs”) refer to institutions, other than AIs, that are regulated or overseen by the HKMA. They include :

- i) system operators and settlement institutions of designated clearing and settlement systems (“CSS”);
- ii) system operators and settlement institutions of designated retail payment systems (“RPS”); and
- iii) stored value facility licensees (“SVF”)

under the Payment Systems and Stored Value Facilities Ordinance.

on the integrity, efficiency and judgement of the staff concerned. All staff are therefore required to report their investments and loan facilities according to the Rules set out below, and new appointees within 7 calendar days of their appointment. Investment transactions carried out and loan facilities taken out after the promulgation of these Rules should be reported in the manner specified in these Rules. Adherence to the reporting requirements detailed below does not necessarily connote, or absolve staff from their responsibilities to engage in, prudent investment activities or loan facilities. All staff should therefore observe the spirit as well as the letter of the restrictions and are urged to be alert and vigilant with respect to any investment activities or loan facilities that may involve possible conflict of interest.

Definition of Investment

4. In the context of this circular, the term “investments” for the purposes of declaration and reporting include any investment, shareholding, company directorship or direct or indirect interest in any company or undertaking, and any interest in land or buildings (including self-occupied property) in Hong Kong and/or in places outside Hong Kong. They include but are not limited to:

- (a) securities listed on the Hong Kong Stock Exchange or exchanges outside Hong Kong;
- (b) unit trusts, mutual funds, insurance funds, Hong Kong equities index funds, pension funds, annuities and debt securities issued by the Exchange Fund, government sponsored agencies, or corporations, of HK\$100,000 (or its equivalent in foreign currencies) or more;
- (c) futures and options contracts and other products traded over the counter or on the Hong Kong Futures Exchange or exchanges outside Hong Kong;
- (d) structured products traded in or outside Hong Kong; and
- (e) any investments listed above which are held other than in the name of a staff member (whether by an individual, corporate or otherwise) but are actually acquired, wholly or partly, on his or her account or in which he or she has a beneficial interest.

For the avoidance of doubt, the term “investments” exclude: –

- (i) bank deposits (irrespective of currencies);
- (ii) multilateral agency debt instruments; and
- (iii) any investment held by an officer as a trustee or for charitable purposes where the officer has no beneficiary interest.

Restrictions

5. It is neither practicable nor possible to provide an exhaustive list of the kinds of investments that may give rise to a conflict of interest, involve the misuse of privileged information, or bring the HKMA into disrepute. All staff are strongly reminded that they should at all times make a conscious effort to avoid or declare as appropriate any conflict that may arise or has arisen in respect of their investments or loan facilities, and that the onus for reporting any such conflict of interest rests with individual officers. The declaration should be made to their supervisors at Division Head (DH) level or above who will decide whether there is a conflict of interest and, where necessary, make appropriate arrangements. In case of doubt, the staff should consult their supervisors, SM(HR)2 or M(HR)2C.

6. The following restrictions are, however, intended to minimize the circumstances in which these problems might arise:

A. General requirements applicable to all staff:

- (a) Foreign currency - The purchase or sale of foreign currency against the Hong Kong dollar involving HK\$100,000 or more in any one day must be reported.² Staff engaging in foreign currency transactions using information obtained through their official capacity in the HKMA will be subject to disciplinary action, regardless of the amount involved.
- (b) Shares or warrants - The purchase and sale of shares or warrants in any company (including the Tracker Fund of Hong Kong, the Link Real Estate Investment Trust and any exchange-traded funds) or undertaking in and outside Hong Kong, regardless of the amount involved, must be reported. This reporting requirement also applies to transactions of shares or warrants acquired through monthly investment plans.³
- (c) Unit trusts, funds or debt securities - The purchase and sale of unit trusts, mutual funds, insurance funds, Hong Kong equities index funds, pension funds, annuities and debt securities issued by the Exchange Fund, government sponsored agencies, or corporations, of HK\$100,000 (or its equivalent in foreign currencies) or more in any one day must be reported.⁴ Investment by staff in the Banking Departments⁵, Specified Departments/Divisions/Teams⁶ and designated staff in debt securities

² See para. 12 on the reporting channel.

³ Reporting of monthly investment plans is only required when the plan is agreed or arranged in the first place. Subsequent investment in the plan on a monthly basis does not need to be reported, unless there is any change to the terms and conditions (e.g. change of monthly contribution amount or underlying assets) of the first report, or as and when the plan is terminated.

⁴ Early redemption of funds initiated by the issuers or redemption of funds upon maturity is exempted. Switching of funds under the HKMA Provident Fund and the Mandatory Provident Fund Scheme is also exempted. However, any voluntary contribution to the HKMA Mandatory Provident Fund Scheme of HK\$100,000 or more is still subject to the reporting requirement.

⁵ See footnote 8 for the definition of Banking Departments.

⁶ See para. 6 B(b)(II) for the definition of Specified Departments/Divisions/Teams.

issued by AIs or SIs in any amount must be reported - see para. 6 B(b)(I)(i)(2) and 6 B(b)(II)(i)(2) below.

- (d) Structured products - Staff are strongly advised to consider carefully before investing in any structured products, the investment returns of which are linked to the performance of the underlying assets of such products, as the risks pertaining to such products are usually high and the structures involved are usually complicated. Any purchase or sale of structured products should be reported.
- (e) Options or leveraged trading - Staff are strongly advised not to engage in the trading of options or in leveraged trading in futures or currency in view of the potential downside risk of these types of trading. However, should staff have a legitimate need to engage in such transactions, the details of each transaction should be reported. Similarly, writing of embedded options such as FX/equity linked deposits should be reported.

B. Additional requirements applicable to specific groups of staff :

(a) Land and buildings

- (i) For staff involved in the formulation and development of macroprudential measures regarding property mortgage loans and designated staff - Prior permission should be sought from the approving authority for the purchase and sale of any interest in land and buildings in Hong Kong;
- (ii) For Executive Directors (EDs) not covered by sub-paragraph (i) above - They should inform the approving authority if they have the intention to buy or sell land or property in Hong Kong. The approving authority will advise the EDs concerned should there be any issue;
- (iii) For Senior Managers or above and designated staff - Details of purchase and sale of any interest in land and buildings in or outside Hong Kong should be reported within 7 calendar days upon the signing of the provisional sale and purchase agreement.

(b) Investment products of AIs and SIs

- (I) *AI-related investment products (these rules also apply to the holding company of an AI)*⁷

⁷ These rules also apply to the holding company of an AI if its AI-related business represents 20% or more of its asset size. While the purchase and sale of shares or warrants of a holding company of an AI is allowed if such AI-related business represents less than 20% of the asset size of the holding company, staff are required to report such transactions irrespective of the amount involved.

(i) For staff in the Banking Departments⁸ and designated staff having access to data on AIs⁹:

- (1) AI-related shares or warrants – Further purchase of shares or warrants of **any** AI is not allowed. This restriction also applies to shares or warrants purchased under monthly investment plans.

Staff in this group already in possession of shares or warrants of AIs before they take up their post in the Banking Departments or become designated staff should report such investments immediately, and handle these investments according to the following procedures:

- a. Staff in the Banking Supervision Department (BSD) directly supervising the AIs concerned - If the shares or warrants belong to the AIs which fall within their direct responsibilities, they should divest the holdings;
- b. Other BSD staff¹⁰, staff in other Banking Departments and designated staff - They may be allowed to retain their existing holdings of AI shares or warrants on the condition that there shall be no further dealing in these shares or warrants, unless prior permission from the approving authority is sought in exceptional circumstances. If staff are assigned duties related to the AIs of which shares or warrants are held, they should report their interest to their supervisors at DH level or above who will decide whether there is a conflict of interest for the staff to continue working on the AI-related task and, where necessary, make appropriate arrangements.

(2) AI-related debt securities

- a. BSD staff – The purchase and sale of debt securities issued by AIs should be restricted to the plain vanilla¹¹ debt securities of AIs that are not within their direct responsibilities. Reporting of such transactions is required irrespective of the amount

⁸ Banking Departments refer to the Banking Supervision Department, the Banking Conduct Department, the Banking Policy Department, the Enforcement and AML Department and the Resolution Office. For all staff in Resolution Office and the staff in BSD responsible for recovery planning, they are defined as staff in BSD with direct supervisory responsibilities over **all** AIs.

⁹ Including designated staff in the Research Department, the Financial Stability Surveillance Division and the Information Technology Division.

¹⁰ For the purpose of these investment rules regarding AI-related investment products, staff in AML Division are considered as other BSD staff.

¹¹ Plain vanilla: a debt instrument with an interest rate that is either i) a fixed rate or ii) determined by reference to a single, simple floating interest rate index (e.g. LIBOR or HIBOR). Principal repayment is not variable and is fixed at the face amount of the instrument in the same currency as the initial investment, and the debt has a fixed maturity.

involved. For BSD staff who hold debt securities prior to taking up the current post:

- i. BSD staff directly supervising the AIs concerned - They are required to divest their existing holdings of AI debt securities (save where they are plain vanilla types for which no further transactions may be made) unless prior permission is obtained from the approving authority in exceptional circumstances;
 - ii. Other BSD staff - They may retain their existing holdings but there should be no further transactions of these debt securities unless prior permission is obtained from the approving authority in exceptional circumstances.
 - b. Staff in other Banking Departments and designated staff - The purchase and sale of any debt securities issued by AIs is allowed on the condition that the reporting of such transactions is made irrespective of the amount involved.
- (3) AI share options - There are cases where staff may be granted share options by their former AI employers allowing them to buy certain AIs' shares at a future date, or their spouses working in AIs may be granted share options in the course of their employment:
- a. BSD staff directly supervising the AIs concerned – They should divest or forfeit any share options granted by their former AI employers;
 - b. Other BSD staff, staff in other Banking Departments and designated staff - They should report their holding or acceptance of the offer, and indicate within 7 calendar days whether they will forfeit or retain the options. They are required to seek prior permission from the approving authority if they intend to exercise the options or dispose of the shares so acquired at a future date. The above requirement applies to any AI share options held by the spouses of all the aforementioned staff.
- (ii) For EDs or above in non-Banking Departments and designated staff - Prior permission should be sought from the approving authority for any purchase and sale of AI-related investment products, except for plain vanilla debt securities.

(II) **SI-related investment products (these rules also apply to the holding company of an SI)**¹²

Under the Payment Systems and Stored Value Facilities Ordinance, **the Financial Market Infrastructures Oversight (FMIO) team(s) of the Banking Conduct Division 3, the Retail Payment Oversight Division (RPO), and the Enforcement & AML Department (EA)** (collectively defined as “Specified Departments/Divisions/Teams”) are responsible for the supervision or oversight of different SIs as detailed in the table below:

Dept/Div/Team	Relevant SIs under supervision/oversight		
	CSS	RPS	SVF
FMIO	✓		
RPO		✓	✓
ENF	✓	✓	✓
AML			✓

Staff in these Specified Departments/Divisions/Teams are subject to the following investment restrictions as the relevant SIs are under their supervision/oversight.

(i) **Staff in Specified Departments/Divisions/Teams and designated staff having access to data on the relevant SIs:**

- (1) **SI-related shares or warrants** – Further purchase of shares or warrants of the relevant SIs under their supervision/oversight is not allowed. This restriction also applies to shares or warrants purchased under monthly investment plans.

Staff in this group already in possession of shares or warrants of the relevant SIs under their supervision/oversight before they take up their post in the Specified Departments/Divisions/Teams or become designated staff should report such investments immediately, and handle these investments according to the following procedures:

- a. **Staff in the Specified Departments/Divisions/Teams directly supervising the relevant SIs concerned** - If the shares or warrants belong to the SIs which fall within their direct responsibilities, they should divest the holdings;

¹² These rules also apply to the holding company of a SI if its SI-related business represents 20% or more of its asset size. While the purchase and sale of shares or warrants of a holding company of a SI is allowed if such SI-related business represents less than 20% of the asset size of the holding company, staff are required to report such transactions irrespective of the amount involved.

- b. Other staff in the Specified Departments/Divisions/Teams and designated staff - They may be allowed to retain their existing holdings of the relevant SI shares or warrants on the condition that there shall be no further dealing in these shares or warrants, unless prior permission from the approving authority is sought in exceptional circumstances. If staff are assigned duties related to the SIs of which shares or warrants are held, they should report their interest to their supervisors at DH level or above who will decide whether there is a conflict of interest for the staff to continue working on the SI-related task and, where necessary, make appropriate arrangements.

(2) SI-related debt securities

- a. Staff in FMIO, RPO and AML – The purchase and sale of debt securities issued by the relevant SIs under their supervision/oversight should be restricted to the plain vanilla debt securities of SIs that are not within their direct responsibilities. Reporting of such transactions is required irrespective of the amount involved. For those staff who hold debt securities of the relevant SIs under their supervision/oversight prior to taking up the current post:
 - i. Staff in FMIO and RPO directly supervising the relevant SIs concerned - They are required to divest their existing holdings of SI debt securities (save where they are plain vanilla types for which no further transactions may be made) unless prior permission is obtained from the approving authority in exceptional circumstances;
 - ii. Other staff in FMIO and RPO and all staff in AML - They may retain their existing holdings but there should be no further transactions of these debt securities unless prior permission is obtained from the approving authority in exceptional circumstances.
- b. Staff in ENF and designated staff – The purchase and sale of any debt securities issued by the relevant SIs under their supervision/oversight is allowed on the condition that the reporting of such transaction is made irrespective of the amount involved.

- (3) SI share options - There may be cases where staff are granted share options by their former SI employers allowing them to buy certain SIs' shares at a future date, or their spouses working in the relevant SIs may be granted share options in the course of their employment:

- a. Staff in the Specified Departments/Divisions/Teams directly supervising the relevant SIs concerned – They should divest or forfeit any share options granted by their former relevant SI employers;
 - b. Other staff in the Specified Departments/Divisions/Teams and designated staff - They should report their holding or acceptance of the offer, and indicate within 7 calendar days whether they will forfeit or retain the options. They are required to seek prior permission from the approving authority if they intend to exercise the options or dispose of the shares so acquired at a future date. The above requirement applies to any SI share options held by the spouses of all the aforementioned staff.
- (ii) For EDs or above not overseeing the Specified Departments/Divisions/Teams and designated staff - Prior permission should be sought from the approving authority for any purchase and sale of SI-related investment products, except for plain vanilla debt securities.

(c) Products or activities in which staff have involvement

For staff involved in the development of any investment products or activities involving the HKMA directly or otherwise, they are not allowed to acquire or engage in the subsequent buying, selling or trading of the products or engage in related investment activities in which they have had involvement unless specific permission from the approving authority is obtained. Please refer to the **Annex** for the supplementary restriction(s) which are in force and the specific permission(s) granted by the approving authority.

7. The restrictions (including the reporting requirements) set out in this circular are also applicable to the spouse [exceptional arrangements in relation to share option in para. 6 B(b)(I)(i)(3) and 6 B(b)(II)(i)(3)] and dependants of a staff member. For investments held other than in the name of a staff member (whether by an individual, corporate or otherwise) but are actually acquired, wholly or partly, on his or her account or in which he or she has a beneficial interest, they should also be declared.

Loan Facilities

8. As regulator of all AIs in Hong Kong, it is essential that staff of the HKMA are not involved in any situations or activities which, though innocent, may be perceived by the public to constitute malpractice or conflict of interest. Staff are therefore required to be mindful of any conflict of interest in their private dealings with the AIs supervised by, or having a business

relationship with the HKMA. In securing a bank loan (including an overdraft facility “OD”¹³), they should refrain from soliciting or receiving terms more favourable than would otherwise be available under normal market practices for other clients of the AIs of similar standing and refrain from soliciting or receiving loans with any AI with which they have official dealings, unless they have obtained the written approval from the approving authority to do so. In this context, for staff in the Banking Departments, if they have the intention to solicit or accept loan facilities from AIs, they are required to seek prior permission from the following approving authority:

Acceptance of loan facilities	Rank	Authority
	CE	FS
	DCEs/SEDs and EDs	CE
	DHs and SMs	ED(CS)
	Ms and below	H(HR)

For staff in non-Banking Departments, they should also exercise due care in arranging loan facilities with AIs to avoid any conflict of interest.

9. As a safeguard on the credibility of the HKMA, all staff are required to report all the loan facilities that they have obtained from, or arranged through, AIs, where each of such facilities amount to HK\$100,000 or more (or its equivalent in foreign currencies). This should cover all existing loan facilities, whether or not they have been drawn. For the avoidance of doubt, the reportable loan facilities include OD but do not include credit facilities of credit card accounts. Relevant changes¹⁴ subsequent to the first report should be made within 7 calendar days of the occurrence of such change.¹⁵ In the event that the loan facilities with preferential terms are arranged through their spouses working in AIs and are granted as staff benefit by virtue of their employment, such information and the relevant details should be provided in the submissions.

Annual Declarations

10. Every member of staff at the level of DH or above, or occupying any other post specifically designated by the Chief Executive of the HKMA (CE/MA), must, on first appointment and thereafter annually in the second week of January each year, make full declarations of the following:

- (a) investments in and outside Hong Kong as specified in para. 4 above;
- (b) proprietorships, partnerships or directorship of companies in or outside Hong Kong;
- (c) shareholdings of 1% or more of the issued share capital in any public or private companies in or outside Hong Kong, and in the case of private companies: (i) the

¹³ OD refers to any standing or revolving credit line facilities but excludes OD for cheque clearance.

¹⁴ For example, as in the case of a mortgage loan, increase in the loan amount or change of other mortgage terms, or upon its full repayment.

¹⁵ For OD, reporting is only required when the OD is agreed with, or arranged through AIs in the first place. Each subsequent triggering of the OD does not need to be reported, unless there is any change to the terms and conditions of the first report.

nature of the business of the private company, (ii) whether the company has active business activities, (iii) whether the officer has actively participated in the business of the company, and (iv) the names of other shareholders;

- (d) the name, occupation, place and nature of work of his/her spouse; and
- (e) loan facilities obtained from or arranged through AIs with outstanding balance of HK\$100,000 or more (or its equivalent in foreign currencies). In the report, the name of the AI and the type of loan should be provided.

Reporting Procedure

11. All declarations and reporting as required under this circular should be made within **7 calendar days** of the transaction in question. For discretionary portfolios or offshore-managed funds, the report should be made within 7 calendar days when staff are notified of the transaction. After receiving any of the reports made by a staff member, CE/MA may, if he considers that a conflict of interest exists, direct the staff member concerned to divest himself/herself of such holdings.

12. All reporting and submissions will be routed according to the following reporting channel:

- (a) Deputy Chief Executives (DCEs), Senior Executive Directors (SEDs), EDs, Head (Internal Audit), Head (Resolution Office) and Administrative Assistant/CE – Reports to be made direct to CE/MA;
- (b) Others – Reports to CE/MA to be routed via their respective EDs and DCEs/SED (except for Annual Declarations by DHs or above). However, for
 - Departments/offices with no overseeing DCE/SED, reports are to be made to CE/MA via respective EDs; and
 - Divisions/offices with no overseeing DCE/SED/ED, reports are to be made to CE/MA via respective DHs;
- (c) Annual Declarations by DHs or above to be submitted to CE/MA directly; and
- (d) Declarations by CE/MA to be made to FS.

Staff should use the following prescribed HKMA Forms through the electronic Investment Declaration Database on Notes to report their respective investments or seek special permission from the approving authority:

<i>Reporting of</i>	<i>Form</i>
Investments held (for new appointees)	HKMA389A
Investments (acquisitions and disposals)	HKMA389B
Land and buildings	HKMA389C
Annual declarations	HKMA389D
Loan facilities	HKMA389E
Special permission to accept loan facilities (for staff in the Banking Departments)	HKMA389F

The approving authority in the context of the Rules refers to CE/MA, unless designated otherwise. Staff will be notified in advance if they are to be considered as designated staff for the purposes of compliance with the Rules. The reports and submissions will be reviewed by CE/MA or his designated officer(s). They are also accessible by designated officers in HR who assist in the implementation of the Rules. They will be filed and kept until five years after the officer has left the HKMA.

Disciplinary Proceedings

13. A serious view will be taken of officers failing to report their investments within the specified period. Failure to comply with the restrictions or requirements set out above may lead to disciplinary action against the staff member concerned. Where the gravity of the breach so warrants, the employment of the staff member may be terminated in accordance with the relevant disciplinary procedures.

Enquiries

14. This circular and the attached forms can be found in HKMA News on Notes. Enquiries on this circular should be addressed to SM(HR)2 or M(HR)2C .



(Loretta Wong)
for Chief Executive of
the Hong Kong Monetary Authority

Supplementary restriction(s) or specific permission(s) granted by the approving authority

- (a) Staff involved in the development of the ABF Hong Kong Bond Index Fund and the ABF Pan Asia Bond Index Fund (the “Trusts”) are allowed to purchase or sell units in the Trusts. However, any amount of such investments should be reported within 7 calendar days of the transaction. For discretionary portfolios or offshore-managed funds, the report should be made within 7 calendar days when staff are notified of the transaction.
- (b) All staff under the investment function of the Exchange Fund Investment Office (“EFIO”) and any staff outside of EFIO who have been involved in the planning and execution of acquisition of the shares of the Hong Kong Exchanges and Clearing Limited (“HKEx”) (in the exercise of increasing the HKSAR Government’s shareholding in HKEx to beyond 5% of the share issue of the HKEx in September 2007) are not allowed to trade in the shares of HKEx.
- (c) Staff involved in the preparation and development of the Government Bond Programme (“GBP”) are not allowed to invest in the government bonds (i.e. iBonds).
- (d) Staff with advance access to the monthly Composite Consumer Price Index (“CPI”) compiled by the Census and Statistics Department should refrain from carrying out any transaction of iBond, irrespective of amount, in the preceding 7 calendar days from the date of public announcement of the monthly CPI.
- (e) Staff involved in the Government investment in Cathay Pacific Airways are not allowed to acquire or engage in the subsequent buying, selling or trading of the related investment products.