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Commission Standing Orders (Part I)

Chapter : 09

Title : Conduct and Discipline

Internal Reference : 09-03

Section : 03

Heading : Acceptance of Advantages

Version Date : 30/06/2010

Definition of 'advantage'

1. 'Advantage' is defined in section 2 of the Prevention of Bribery Ordinance (POBO) (Cap. 201) to mean almost anything which is of value, except entertainment which will be covered under CSO (I) 09-04. Common examples include any gift (both of money and in kind), loan, fee, reward, commission, sponsorship, office, employment, contract, service, favour, etc.

2. It may constitute an offence under section 3 of the POBO (Cap. 201) if an officer solicits or accepts any advantage not in accordance with the general or special permission given under the Acceptance of Advantages Notice (AAN).

Restricted advantages

3. The AAN lists the advantages that a government officer may solicit or accept without committing an offence under section 3 of the POBO (Cap. 201). Under this Notice, the Chief Executive has given general permission to an officer to solicit or accept advantages without restrictions (including favours and loans of objects) except for four types specified as 'restricted advantages' which may only be solicited or accepted under certain circumstances having regard to the relationship with the offeror, the occasion the advantage is offered and the value of the advantage. The 'restricted advantages' under the AAN are –

- (a) gifts (both of money and in kind);
- (b) discounts;

*委員會秘書附註：本文件只備英文本。

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- (c) loans of money; and
- (d) air, sea and overland passages.

4. An officer should read **Annex 9-A2 'Circumstances for Accepting Restricted Advantages'** to familiarise himself with the limited circumstances under which general permission is given under the AAN for him to solicit or accept any 'restricted advantage'. In case of doubt, he should seek clarification from his supervising officer at the SCACO level or above.

Special permission

5. In circumstances not covered by the general permission under the AAN, an officer should apply to his Head of Department for special permission (using the sample form at **Annex 9-A3 'Application for Special Permission to Accept Restricted Advantages'** prior to or as soon as reasonably possible after accepting any 'restricted advantage' in accordance with paragraphs 8 and 9 of the AAN.

Conflict of interest

6. An officer may be prosecuted for an offence if he solicits or accepts any advantage (even one otherwise permitted under the AAN) if the solicitation or acceptance relates to his official duties or the business or affairs of the Commission in circumstances prohibited by section 4 or section 9 of the POBO (Cap. 201). If an officer misuses his public office to further his private interests, he may also be prosecuted for the common law offence of misconduct in public office. If the Department of Justice considers that the circumstances of such conduct do not warrant prosecution, either under the POBO (Cap. 201) or the common law, the officer may nevertheless be liable to disciplinary action. (See also CSO (I) 09-05.)

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Acceptance of advantages presented in one's official capacity

7. An officer is discouraged from accepting advantages presented to him in his official capacity.

Acceptance of gifts

8. The policy of the Commission is to limit to the minimum the exchange of gifts on official occasions. Where an exchange of gifts is unavoidable on a particular occasion, the exchange should be made from organisation to organisation. Although it may be difficult formally to ask visitors not to offer any gift, it would be desirable to disclose the Commission's policy on this matter to other organisations wherever possible in advance. Where gifts are presented to an officer in his official capacity, including prizes won through free lucky draws or free raffle tickets during official functions, they are to be regarded as gifts to the Commission, which the officer receives on its behalf. Where it can be done without causing offence or embarrassment, the gift should be returned to the donor with a carefully worded explanation that Commission policy restricts the acceptance of gifts and a polite word of gratitude for the thought behind the gifts. A gift should only be accepted in circumstances where it is considered that its acceptance cannot be declined. Special attention should be paid to avoid conflict of interest and other situations which may constitute an offence under section 4 of the POBO (Cap. 201).

Report of acceptance of gifts

9. As soon as possible after gifts are presented and accepted, an officer should make a report to his Head of Department in the format shown in Annex 9-A4 'Report on Acceptance of Gift Presented to an Officer in His Official Capacity'. Staff are not required to seek permission for accepting gifts which are

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of no commercial or resale value, e.g. plaques, banners, pennants, printed calendars, laisee envelopes, which are marked with inscriptions and names of organisations. However, they are required to make reports to their supervisors at SCACO level or above who will decide on how these gifts should be disposed of. Where an officer wishes to retain the gift personally, he should seek prior approval from his Head of Department or the designated directorate officer.

Guidelines for disposal of official gifts

10. The Commission's guidelines for the disposal of official gifts are set out at **Annex 9-A5 'Guidelines for the Disposal of Gifts Presented to an Officer in his Official Capacity'**. Directorate officers wishing to retain gifts received on official occasions must seek permission from the Commissioner.

11. If an officer has any doubt about the disposal of gifts he has received on an official occasion, he should consult his Head of Department.

Acceptance of honorarium

12. Notwithstanding Civil Service Regulation 550(j), ICAC officers are not allowed to receive honorarium for talks delivered on behalf of the Commission. Should it be considered offensive or difficult to reject a fee, the officer should make a report to the AD/A who will arrange for the fee to be paid to the General Revenue via the Treasury.

Flight awards from duty travel, overseas posting and training

13. Air passages for duty travel, overseas posting and training are normally booked through the Supplies Office of the Administration Branch. Any mileage awards will be credited to the Commission's corporate accounts, if applicable.

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14. Where the airline offers awards to personal accounts only, an officer may claim and accept the flight awards (see also paragraph 16). However, the first call on the use of such awards must be for official purposes. This may include upgrading of passages or providing a passage for a spouse to travel with the officer where there is justification but where normal rules or funding would not permit public funds to be used.

15. If an award is not expected to be used for subsequent official travel before the expiry date of the award, prior approval must be sought from AD/A in the case of a non-directorate or Commissioner for a directorate officer via S/MA2 who will check among other things, whether the award has been duly reported and whether it is expected to be used for official purposes before its expiry date.

16. The Commission does not oblige officers on duty travel to claim flight awards from such passages. However, if and when such awards are claimed and credited to an officer's personal mileage account, the officer should report the awards to his Head of Department and S/MA2 using the forms, 'Statement of Account for Overseas Duty for *Investigation/Non-investigation Purpose' or 'Statement of Account for Training Outside Hong Kong' to facilitate planning for the possible use of the awards for subsequent official travel. The officer must report to his Head of Department should there be a conflict of interest between the acceptance of the travel award and the officer's official duties.

Flight awards from other government passages

17. Officers may accept flight awards earned from other government passages, including leave and leave-cum-duty passages. General permission has already been given under paragraph 4 of the AAN for them to accept such awards. Approval is also given under Civil Service Bureau Circular No. 4/2007 for officers

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to accept flight awards earned from government passages mentioned in paragraph 13 above, subject to the conditions stipulated in paragraphs 13 to 16 above.

18. An officer should report to his Head of Department if there is a conflict of interest between the acceptance of the flight award and his official duties.

Courier passages

19. All officers are **NOT** allowed to undertake courier duties and to accept the free or discounted passages offered.

Acceptance of free service

20. Although free service is regarded as an 'unrestricted advantage' under the AAN for the purpose of section 3 of the POBO (Cap. 201), an officer should ensure that he has no official dealings with the service providers before accepting the service so that he will not be obligated to arbitrarily favour the service providers in their official dealings with the Commission. In case of doubt, an officer should consult his supervisor.

21. If an official relationship between the officer and the service provider arises after acceptance of the service, the officer should report the acceptance to his Head of Department so as to avoid a perceived conflict of interest.

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Annex 9-A2

Circumstances for Accepting Restricted Advantages

Gifts / Discounts / Passages

Status of Offeror	Relations*	Close Personal Friends	Other Persons	Tradesmen/ Commercial Establishments/ Associations
Restriction: Limit of Monetary Value	may solicit or accept any gift/discount/passage of any value	may only accept a gift/passage of a value not exceeding HK\$3,000 (on special occasion, e.g. birthday, retirement and wedding) and HK\$500 (on any other occasion)	may only accept a gift/passage of a value not exceeding HK\$1,500 (on special occasion)	may solicit or accept any gift/discount/passage of any value
Other Conditions	<ul style="list-style-type: none"> no other condition 	<ul style="list-style-type: none"> offeror not a subordinate of the government officer concerned offeror has no official dealings with the department in which the government officer works advantage offered to the government officer in his private capacity 	<ul style="list-style-type: none"> the offer is equally available to other persons offeror has no official dealings with the government officer concerned advantage offered to the government officer in his private capacity 	

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Annex 9-A2 (cont.)

Loans of Money

Status of Offeror or Lender	Relations*	Close Personal Friends	Other Persons	Tradesmen/ Commercial Establishments/ Associations
Restriction: Limit of Loans	no limit	maximum HK\$3,000 per person per occasion	maximum HK\$1,500 per person per occasion	no limit
Other Conditions	<ul style="list-style-type: none"> • no other condition 	<ul style="list-style-type: none"> • repaid within 30 days • lender not a subordinate of the government officer concerned • lender has no official dealings with the department in which the government officer works 	<ul style="list-style-type: none"> • loan conditions offered similar to other persons • in the course of normal business of the lender • lender has no official dealings with the government officer concerned • loan offered to the government officer in his private capacity 	

* "Relations" means :

- | | |
|---|---|
| <ul style="list-style-type: none"> - spouse (including a concubine) - any person with whom the government officer is living in a regular union as if man and wife - fiancé, fiancée - parent, step-parent, lawful guardian - spouse's parent, spouse's step-parent, spouse's lawful guardian - grandparent, great-grandparent - child, ward of court - spouse's child, spouse's ward of court - grandchild | <ul style="list-style-type: none"> - child's spouse - brother, sister - spouse's brother, spouse's sister - half-brother, half-sister - step-brother, step-sister - brother's spouse, sister's spouse - brother's child, sister's child - parent's brother, parent's sister - parent's brother's spouse, parent's sister's spouse - parent's brother's child, parent's sister's child |
|---|---|

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Annex 9-A3

SAMPLE

To : _____ (*Recommending Officer*)
via _____

Application for Special Permission to Accept Restricted Advantages

(*Note : Please read CSO Chapter 9 for reference.*)

Part I (To be completed by applicant)

I wish to apply for special permission to solicit and / or accept in my private capacity restricted advantage(s) under AAN 2010 as detailed below –

Description of the advantage(s) and its(their) estimated value(s) :

<i>Type of advantage</i>	<i>Description</i>	<i>Estimated cost (HK\$)</i>	<i>Occasion</i>

Relationship between the offeror and me –

- Close personal friend
The offeror * is/is not my subordinate.
- Other person
The offeror * is/is not my subordinate.
- Tradesman / company name : _____)
The advantage(s) *is(are)/is(are) not equally available on equal terms to persons who are not government officers.

The reason(s) for accepting the above advantage(s) is/are as follows –

- I *have/have no official dealings with the offeror. (Please specify the official dealings with the offeror if any.) _____
- The advantage is also available on equal terms to member of the public.
- I have close relationship with the offeror (please specify _____)
- Additional information (*if any*) : _____

Name of applicant : _____ Rank/Post : _____
Signature of applicant : _____ Date : _____

Note

* Please delete whichever is inapplicable.

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Part II (To be completed by Recommending Officer)

To : _____ (*Authorizing Officer*)

I confirm that the applicant *has/has no official dealings with the offeror and the offeror
*is/is not the subordinate of the applicant.

I *support/do not support the application.

Recommending Officer
(_____)
Date / /

Part III (To be completed by the officer with approving authority)

To : _____ (*Recommending Officer*)

This application *is / is not approved. Please notify the applicant of my decision.

Authorizing Officer
(_____)
Date / /

Part IV (To be completed by the officer who will take action)

To : _____ (*DAO*)

Please take follow-up action.

Recommending Officer
(_____)
Date / /

Note

* Please delete whichever is inapplicable.

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Note :

- (1) The information provided will be used for the processing of application for acceptance of restricted advantage(s) and other related purposes. It may be disclosed to government bureaux/departments and other organizations for the purposes mentioned.
- (2) The provision of personal data in this form is voluntary. However, we may not be able to process the application if sufficient information is not provided.
- (3) Applicant has the right to request access to or correction of personal data provided on this form in accordance with the provisions of the Personal Data (Privacy) Ordinance. Such requests should be made by letter or on the Data Access Request Form and sent to the Departmental Data Protection Officer for processing.
- (4) Applicant should read and understand CSB Circular No. 3/2007 before completing Part I.
- (5) Please delete if not applicable.
- (6) Please tick the appropriate box(es) .

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Annex 9-A4

SAMPLE

To : _____
(At least in the rank of SCACO. Directorate officer is required if personal retention is recommended.)

**Report on Acceptance of
Gift Presented to an Officer in his Official Capacity**

Part I : (To be completed by the recipient)

I wish to report the following gift(s) which was (were) presented to me in my official capacity during my attendance at the event/training or on other occasion specified below –

Brief description of the occasion on which the gift(s) was (were) presented with date :

Details of gift(s) presented :

	Gift	Estimated value (\$)	Offeror
(a)	_____	_____	_____
(b)	_____	_____	_____
(c)	_____	_____	_____
(d)	_____	_____	_____
(e)	_____	_____	_____

Additional information (if any) :

Name : _____

Rank/Post : _____

Signature : _____

Date : _____

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Part II (To be completed by the designated officer dealing with disposal of gifts)

To : XX

I recommend that approval be given for *all of the gifts/gift(s) of item no. _____ to be disposed of in the following way(s) :

- Gift item(s) _____ to be retained by the recipient.
- Gift item(s) _____ to be shared among the *recipient's office
or _____.
- Gift item(s) _____ to be donated to the department as lucky draw prize.
- Gift item(s) _____ to be displayed in the *recipient's office
or _____.
- Gift item(s) _____ to be donated to an outside organization.
(name : _____)
- Gift item(s) _____ to be sent to the Treasury.

(Date / /)

Part III (To be completed by the officer with approving authority)

To : XX

This recommendation *is / is not approved. Please notify the recipient of my decision.

(Date / /)

Part IV (To be completed by the officer who will take action)

To : XX

Please take follow-up action.

(Date / /)

Note

* Please delete whichever is inapplicable.

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Chapter : 09	Title : Conduct and Discipline	Internal Reference : 09-A5
Section : A5	Heading : Annex 5 - Guidelines for the Disposal of Gifts Presented to an Officer in his Official Capacity	Version Date : 20/07/2010

Annex 9-A5

Guidelines for the disposal of gifts presented to an officer in his official capacity

1. If the gift is of perishable food or drink, it should be shared among the office or section where the recipient works.
2. If the gift is a useful item, it should be sent to a charitable organisation, or if of historical or other interest, it should be sent to the Commission's or department's information centre, to a school, library or museum.
3. If the gift is suitable for display (e.g. a painting, vase, etc.) or suitable for retention as a souvenir in the office, it may be retained in the office of the officer to whom it was presented or elsewhere in the department. Such items should be included in the departmental inventory record.
4. If the gift is a small sum of cash given to all those attending a social function (e.g. laisee at Lunar New Year), it should be sent to the Treasury.
5. If the gift is of low value (not exceeding \$500) and is a personal item (e.g. necktie or scarf) or is personally inscribed to a particular officer (e.g. a salver), the gift may be given back to the officer to whom it was presented for his personal retention.

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6. If the gift is of low value (not exceeding \$500) and none of the above methods of disposal is appropriate, it may be donated to the Commission's social function as lucky draw prize.

《廉政公署常規》第 (I) 部第 09 章第 03 條
關於接受利益事宜的主要修訂

日期	條／段	主要修訂內容
2002 年 1 月 18 日	-	公布《廉政公署常規》第 (I) 部第 09 章第 03 條。
2007 年 3 月 14 日	第 17 段	繼公務員事務局局長於 2007 年 2 月 16 日發出《公務員事務局通告》第 4/2007 號後，相應更新《公務員事務局通告》的編號。
2007 年 3 月 23 日	附件 9-A2	根據《2007 年接受利益（行政長官許可）公告》，相應修訂受限制利益的價值限額。
2010 年 6 月 30 日	第 13 至 16 段	加入一份標準表格，以記錄因公幹、到外地工作和受訓期間賺取的飛行獎賞。
2010 年 7 月 20 日	附件 9-A4 第 5 及 6 段	將禮品價值由「500 元以下」修訂為「不超過 500 元」。