

LEGISLATIVE COUNCIL BRIEF

Prevention of Bribery Ordinance
(Chapter 201)

Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2021

INTRODUCTION

At the meeting of the Executive Council on 5 January 2021, the Council **ADVISED** and the Chief Executive **ORDERED** that, under section 35 of the Prevention of Bribery Ordinance (Cap. 201) (“the Ordinance”), the Prevention of Bribery Ordinance (Amendment of Schedule 1) Order 2021 (“the Order”) at **Annex** should be made, so as to subject two subsidiaries of the Hong Kong Mortgage Corporation Limited (“HKMC”), namely the HKMC Annuity Limited (“HKMCA”) and the HKMC Insurance Limited (“HKMCI”), to the relevant control against bribery and malpractice under the Ordinance.

JUSTIFICATIONS

2. The Ordinance and its subsidiary legislation provide a legislative framework to make provisions for prevention of bribery and for purposes necessary thereto or connected therewith. The Ordinance has specific provisions governing public bodies which under section 2(1) of the Ordinance mean, among others, “any board, commission, committee or other body specified in Schedule 1”. Section 35 of the Ordinance stipulates that the Chief Executive in Council may by order published in the Gazette amend the Schedules to the Ordinance.

3. Under the Ordinance, public bodies are subject to more stringent anti-corruption control than private organisations. Members and employees of a public body specified in Schedule 1 to the Ordinance will become public servants, who are subject to various control under the Ordinance, including prohibition from soliciting or accepting any advantage relating to their work in the public body concerned. Furthermore, persons having dealing with a public body are subject to the relevant sections of the Ordinance which make bribery and corrupt dealings in connection with public bodies and public servants under various circumstances an offence.

4. Established in 1997, the HKMC is wholly owned by the Government of the Hong Kong Special Administrative Region through the Exchange Fund, with the missions to promote stability of the banking sector, wider home ownership, and the development of the local debt and retirement planning markets. As these are matters of major public interest, since 1998 the HKMC has been specified in Schedule 1 to the Ordinance as a public body for the purposes of the Ordinance, and subject to the relevant control against bribery and malpractice thereunder.

5. In 2017, the HKMC underwent a business re-organisation, with the HKMCA and the HKMCI established as wholly-owned subsidiaries to carry on annuity business and mortgage insurance and loan guarantee business respectively. Considering that the HKMCA and the HKMCI serve the important function of furthering the HKMC's missions as stated above, on the advice of the Independent Commission Against Corruption ("ICAC"), it is recommended that both subsidiaries be specified as public bodies in Schedule 1 to the Ordinance, such that they will be subject to the relevant control against bribery and malpractice under the Ordinance.

OTHER OPTIONS

6. The Order is necessary to subject the HKMCA and the HKMCI to the relevant control under the Ordinance which cannot be achieved through administrative means. There is no other option.

THE ORDER

7. The Order to make the necessary amendments to Schedule 1 to the Ordinance is at **Annex**.

LEGISLATIVE TIMETABLE

8. The Order will be published in the Gazette on 15 January 2021 and tabled before the Legislative Council (“LegCo”) at its sitting of 20 January 2021. Subject to negative vetting by LegCo, the Order will come into operation on 1 April 2021.

IMPLICATIONS OF THE PROPOSAL

9. The Order is in conformity with the Basic Law, including the provisions concerning human rights. The amendments will not affect the current binding effect of the Ordinance.

10. On economic implications, the proposal would provide safeguard against possible corruption, abuse and malpractice in the management and operations of the HKMCA and the HKMCI, thereby achieving a more efficient use of public resources. It has no financial, civil service, productivity, environmental, sustainability, family, or gender implications. The ICAC has also confirmed that no significant resource implications would be involved for extending its oversight of public bodies to include the two newly specified ones.

PUBLIC CONSULTATION

11. The LegCo Panel on Financial Affairs was briefed on the legislative proposal on 2 November 2020. The HKMCA and the HKMCI have also been consulted, and they agree with the proposal.

PUBLICITY

12. We will issue a press release upon the gazettal of the Order and arrange a spokesperson to answer enquiries.

ENQUIRIES

13. For enquiries, please contact Ms Eureka Cheung, Principal Assistant Secretary for Financial Services and the Treasury (Financial Services), at 2810 2067.

Financial Services and the Treasury Bureau
13 January 2021

**Prevention of Bribery Ordinance (Amendment of
Schedule 1) Order 2021**

(Made by the Chief Executive in Council under section 35 of the Prevention
of Bribery Ordinance (Cap. 201))

1. Commencement

This Order comes into operation on 1 April 2021.

2. Prevention of Bribery Ordinance amended

The Prevention of Bribery Ordinance (Cap. 201) is amended as set
out in section 3.

3. Schedule 1 amended (public bodies)

Schedule 1—

Add

“136. HKMC Annuity Limited.

137. HKMC Insurance Limited.”.



Clerk to the Executive Council

COUNCIL CHAMBER

5 January 2021

Explanatory Note

This Order amends Schedule 1 to the Prevention of Bribery Ordinance (Cap. 201) to specify “HKMC Annuity Limited” and “HKMC Insurance Limited” as public bodies for the purposes of the Ordinance.