



ICAC helps cross-boundary businesses



Assistant Director of Community Relations,
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Due to its geographical and cultural proximity, Hong Kong is well positioned to benefit from the opening up of the vast Mainland market. In the past decade, Hong Kong has doubled its direct investment in the Mainland to the tune of US\$300 billion in 2007.

Opportunities come with challenges. One of the challenges arises from the differences in the legal systems of the two places. With this in mind, the ICAC and the Guangdong Provincial People's Procuratorate have jointly produced a corruption prevention guidebook tailor-made for cross-boundary investors. ICAC's Assistant Director of Community Relations, Ms Julie Mu Fee-man, expounds on this initiative:

Why do we need this guidebook? Is it because cross-boundary corruption is rampant?

Each year, we receive on average about 50 to 60 reports alleging cross-boundary corruption - less than two per cent of all corruption reports. The situation is quite stable despite increased economic integration with the Mainland.

However, rapid economic and social developments over the border do bring new challenges to our businessmen. Once across the border, they are facing a different set of rules and laws, which have continuously evolved over the years. This guidebook aims to address such concerns.

The guidebook is geared more to the interest of small and medium-sized enterprises (SMEs). Why?

We have right now tens of thousands of Hong Kong SMEs engaged in a diverse array of businesses in the Mainland, especially in Guangdong.

With limited resources, these SMEs may encounter difficulties in setting up effective risk control systems. That is why we have paid more attention to their concerns.

This guidebook is in fact useful to any companies engaged in cross-boundary business. Apart from detailed information on anti-corruption laws in both jurisdictions, the guidebook also illustrates pitfalls and problems with case studies and recommends preventive measures.

If Hong Kong businessmen have committed corrupt acts across the border, can the ICAC go after them?

No matter where you are doing business, you must abide by the laws there. In the Mainland, corruption and bribery are considered very serious offences which may incur heavy sentences.

Under Hong Kong's Prevention of Bribery Ordinance, the ICAC is empowered to investigate corrupt acts in the private sector, which or any part of which have taken place in Hong Kong. Under the Mutual Case Assistance Scheme, the ICAC can interview witnesses across the border with the assistance of the Mainland's procuratorates. But if the whole corrupt act occurs in the Mainland, it will fall outside Hong Kong's jurisdiction.



Mainland's assistance exposes merchandising scam



A manageress had cheated over one million Hong Kong dollars (US\$147,000) when sourcing merchandises on behalf of her employer based in the United States.

The ICAC commenced an investigation after receiving a corruption complaint. With the assistance of the Supreme People's Procuratorate and the Guangdong Provincial People's Procuratorate, ICAC investigators had interviewed a number of witnesses on the Mainland and gathered evidence for prosecuting the culprit.

During the trial held in Hong Kong, five Mainland witnesses had come to Hong Kong to testify against the manageress who was subsequently convicted of defrauding her employer through inflating the invoices of merchandises.

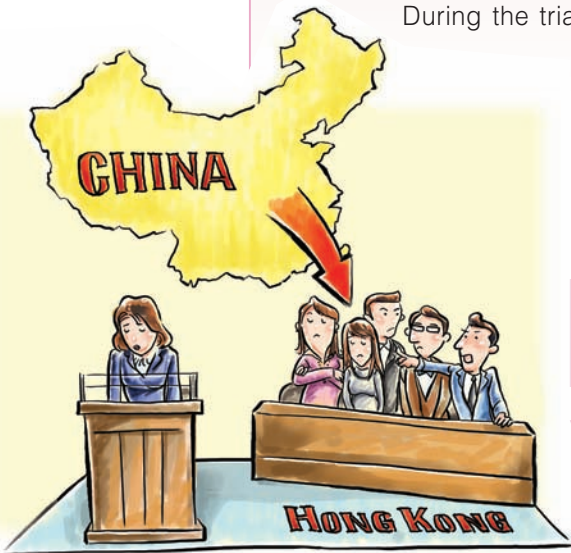
The judge reprimanded her for a serious breach of trust, and sent her to jail for 34 months.

The manageress placed orders for handbags with three factories in Zhongshan, Guangdong Province.

The factories issued invoices to the manageress, charging a total payment of US\$865,000, but she inflated them by US\$106,000.

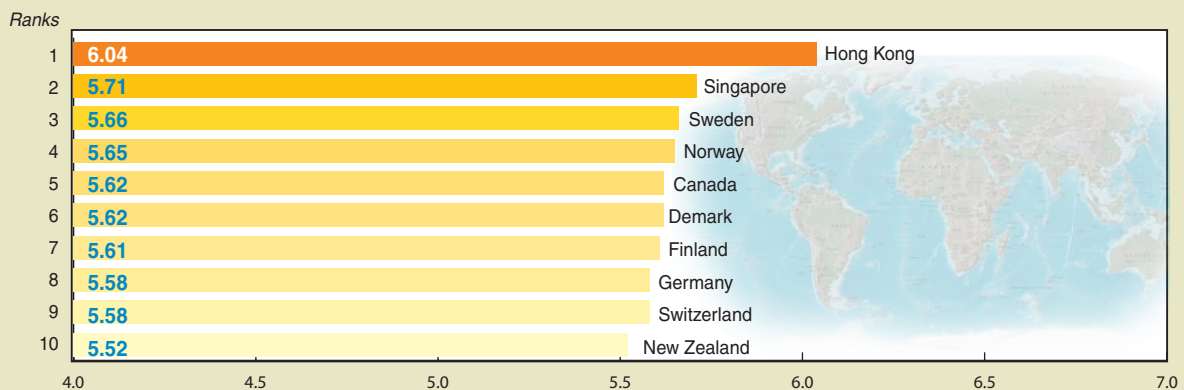
On another occasion, the manageress purchased large quantities of pens valued at US\$67,000 from a trading company in Ningbo, Zhejiang Province, and inflated the bill by US\$41,000.

The manageress pocketed the inflated sum of US\$147,000 in total through remittance into her personal bank account.



Global Enabling Trade Report 2008

by World Economic Forum, Geneva, Switzerland



Hong Kong ranks first among 118 economies in terms of their trade facilitating measures, including tariffs and non-tariff barriers, efficiency of customs administration, and transparency of border administration. Under the "transparency of border administration", Hong Kong ranks 12nd and 13rd respectively in regard to "irregular payments in exports and imports" and the "Corruption Perceptions Index" of the Transparency International.

Tips on doing business in the Mainland and HK

It is not uncommon for companies to offer rebates or commissions to staff or business partners as incentives. But the rebates and commissions must be legal, or you may face criminal liabilities and sanction.

In Hong Kong, an employee soliciting or accepting advantages in relation to his or her work without the employer's consent will breach the [Prevention of Bribery Ordinance](#). The advantages can be in the form of money, gifts, loans, rewards, and commissions etc. Anyone who offers advantages under such circumstances is also liable to committing a bribery offence.

In the Mainland, employees of the government and private companies are prohibited from taking advantage of their positions in extorting money or property, or accepting rebates or service charges and taking them into their own possession. Anyone who offers such money, property, rebates or service charges which can be measured in terms of value or amount in order to secure illegitimate benefits is also liable to bribery offences.

If you want more tips about doing business in the Mainland and Hong Kong, the "Corruption Prevention Guide for SME Entrepreneurs Investing in Hong Kong and Guangdong" jointly produced by the ICAC and the Guangdong Provincial People's Procuratorate is your useful tool.



Features of the guidebook

- ☞ *Concept and legal framework of the **anti-graft laws** in Hong Kong and the Mainland with illustrative cases*
- ☞ ***Case studies** to illustrate the internal management problems of SMEs and corruption prevention guidelines*
- ☞ ***"Dos and Don'ts"** to reduce risks in corruption-prone areas*
- ☞ *Sample **code of conduct** and documents on declaring conflict of interest situations*
- ☞ *Principles of drawing up **contracts** and settling business **disputes** through legal means*
- ☞ *Procedures for applications and approval of **business licences** from government departments*
- ☞ ***Information** on relevant government bodies and agencies*

Companies interested in getting the guidebook or other preventive services can contact the ICAC: (Tel) 2587 9812 or (email) hkedc@crd.icac.org.hk

