



Red Flag

- ❗ Only copies (but not the original) of cheques received are provided to supervisors for checking, which are conducive to the cover-up of fraudulent activities (e.g. false payee information on clients' cheques)
- ❗ Payments/receipts of client funds do not match with the service performed or without clients' instructions
- ❗ Law firm is instructed to transfer the client funds to a third party not directly involved in the transaction (e.g. a person other than the vendor) without a good reason
- ❗ The books of client accounts are loosely maintained and not able to be reconciled with the bank records
- ❗ Staff fail to provide the corresponding deposit slips after depositing the cheques to a bank issued by the law firm (especially those made payable to a bank or to "the Government of HKSAR")

13. Properly handle clients' funds in accordance with the Solicitors' Accounts Rules (Cap.159F) and the Practice Direction P issued by LSHK.
14. Ensure the law firm personnel responsible for maintaining the books of client accounts have sufficient knowledge on the relevant accounting rules and requirements.
15. Segregate important duties in the financial control processes as far as practicable (e.g. assign different personnel to collect/bank-in cheques and prepare accounting records).
16. Receive payments by cheques, cashier's orders or electronic means as far as practicable.
17. Make enquiries on unusual transactions (e.g. funds received in cash or without clients' instructions, transfer of funds to unrelated companies/persons) and take follow-up actions (e.g. return/withhold the fund transfer).
18. Require supervisors to sight the original of all cheques received, and verify the payee and the amount on the cheques to be issued, to ensure their accuracy and they match with the service being performed.
19. Devise measures to ensure the cheques issued are deposited for their intended purposes (e.g. including the relevant payment information, such as the bank account numbers, the charge numbers of the stamp duty, payer's name on the back of the cheques, requiring supervisors to verify the corresponding deposit slips after depositing the cheques) to prevent embezzlement of funds by the handling staff to settle personal bills owed to the same cheque payees (i.e. the bank or the Government).
20. Put in place proper controls on the use of cheques (e.g. locking up cheque books when not in use, prohibiting pre-signing of blank cheques, properly certifying any cancelled cheques).
21. Maintain proper records on the books of client accounts, prepare bank reconciliations on a regular basis for supervisors' checking, and take follow-up actions on any discrepancies identified.

CORRUPTION PREVENTION GOOD PRACTICES ON

Conveyancing and Related Transactions for Law Firms

Introduction

This set of corruption prevention good practices, compiled by the Corruption Prevention Department (CPD) of the ICAC with the support of the Law Society of Hong Kong (LSHK), aims to provide a quick guide to enhance the internal control of law firms engaging in conveyancing and related transactions. While law firms are in general well aware of the risks associated with these transactions and have put in place some control measures to tackle the risks, this leaflet aims to highlight some red flags in handling conveyancing and related transactions, in particular client engagement and handling of title deeds and clients' money, and provides some handy references on related internal control measures that are geared towards mitigating the risks of corruption or related malpractice.

While solicitors' professional conduct and practices are subject to statutory requirements, circulars/directions and related guidance issued by LSHK, law firms, as corporate entities, are encouraged to go beyond the minimum to proactively adopt and implement good governance practices, procedures and controls, including those governing the conduct of the firms' personnel (including solicitors and employees) so as to prevent corruption and related malpractice against the firms and their clients.

In determining suitable control measures, individual law firms may make reference to these good practices or explore other equally effective measures, having regard to their unique organisational structure, resource capability, and operational needs. While these good practices provide valuable guidance, they are by no means exhaustive, and do not override any statutory requirements, circulars/directions and related guidance issued by LSHK, which should always be complied with as appropriate. CPD stands ready to assist individual law firms in integrating good practices to their specific situations. Please feel free to contact CPD via email at cpd@icac.org.hk for free and confidential corruption prevention services.

Major Corruption Risks on Conveyancing and Related Transactions

There are risks of corruption or malpractice associated with breach of trust by law firm personnel in handling conveyancing and related transactions, with the major ones highlighted below –



- 💣 Misuse of clients' title deeds, or clients' information (e.g. information of clients' properties and in clients' identification documents)
- 💣 Misappropriation of clients' money
- 💣 Conspiracy by compromised law firm personnel with others (e.g. clients, property agents, or other culprits impersonating the property owner) to condone or even participate in suspected money-laundering activities
- 💣 Collusion in business referrals (e.g. referring potential business to financial institutions for illegal rebate, offering illegal rebate to financial institutions / estate agents for business referral)

Governance and Internal Control



Integrity Management

1. Lay down a Code of Conduct governing the firm's standard of integrity and conduct expected of all law firm personnel, which should cover key probity requirements –
 - Prohibition of solicitation, offering or acceptance of advantages when conducting the law firm's business (e.g. not to accept/offer illegal rebates for business referrals);
 - Not to misuse the assets and information of the firm or its clients for personal purpose/gain; and
 - Avoidance and proper management of conflict of interest.
2. Require all law firm personnel to stay vigilant against any professional misconducts, corruption cases, money-laundering activities or other crimes, and set out the reporting requirements for any suspected cases (e.g. reporting to the firm's senior management, LSHK, ICAC, or the Police, and/or alert the client or targeted victim, as appropriate).

Sample Code of Conduct



Individual law firms are advised to make reference to the Sample Code of Conduct issued by CPD

Operational Guidelines

3. Lay down and make known to all personnel the operational guidelines on conveyancing and related transactions with –
 - Clear roles and responsibilities of each level of personnel, approving authorities and lines of reporting; and
 - Adequate internal control measures built in (e.g. sufficient segregation of duties, effective supervision, adequate checks and balances, proper documentation).

Communication

4. Communicate the firm's integrity and operational requirements/guidelines to all law firm personnel to ensure they are conversant with the requirements and understand their importance (e.g. through promulgation of the Code of Conduct, conduct of periodic trainings, circulation of newsletters with relevant case studies, launching of e-learning module).

Supervision, Compliance and Audit

5. Ensure effective oversight including day-to-day supervision, regular risk assessments and compliance management, and periodic internal/external audits.

Information Security

6. Build in security safeguards to ensure the safe custody and storage of physical files (e.g. clients' identification documents) and electronic data (e.g. clients' particulars) to prevent unauthorised access, destruction or tampering (e.g. restricted access on a need-to-know basis, use of audit trail to detect unauthorised alterations to electronic data).
7. Put in place a computer system with security controls to process and handle case information and financial records, or digitalise the related work process where resources permit.

Record Keeping

8. Ensure all law firm personnel to be conversant and in compliance with the record keeping requirements set out in the relevant rules and regulations, and devise a proper filing and indexing system to facilitate subsequent retrieval or audit.

Engaging Clients



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- 🚩 Clients refuse to conduct face-to-face meetings, use a power of attorney or trust, or employ a nominee company as the registered owner of a property without valid reasons; or purchase consideration is settled by cash, without mortgage loans, or by funds provided from an unrelated third party, or the client could not provide a good proof on the source of funding

9. Monitor and ensure staff's compliance with the anti-money laundering requirements set out in statutory requirements, circulars/directions and related guidance issued by LSHK, and other relevant rules and regulations.

Handling Title Deeds



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- 🚩 Title deeds are accessible by all law firm personnel of the law firm's office not related to property transaction business

10. Ensure the safe custody of title deeds (both original and certified), and keep the number of certified copies to a minimum.
11. Promptly arrange to release/return title deeds to the relevant parties upon completing the transaction to prevent misuse.
12. Maintain in/out record for accessing the title deeds, and conduct regular stocktaking on the deeds where applicable.