

Banking Industry Integrity Focus #1 May 2025

Mortgage Services

Introduction

Mortgage services are one of the key operations of a bank, involving client due diligence, application assessment and approval, and ongoing monitoring. Apart from directly approaching a bank for mortgage applications, a home buyer may engage a mortgage referral agency to compare mortgage plans of different banks and financial institutions and enjoy rebates from the referral agency. Regardless of the means of mortgage application, banks put their trust in banking staff. To this end, preventing corruption/malpractices in mortgage services cannot only minimise financial loss to banks and maintain the integrity of banking operations, but also gain the trust of the public in the banking services. This alert aims to highlight the key corruption risks associated with mortgage services and corresponding essential corruption preventive measures, among others.



Case Study

Scenario 1

Bank Staff Collude with Mortgage Referral Agency

- 1 To attract business, it is common for banks to run mortgage loan referral programme through engaging mortgage referral agency. Under the programme, banks release agency referral fees in the amount of a certain percentage of the mortgage loans to the banks' appointed mortgage referral agencies for successful residential mortgage applications.



2 Agency A is one of the mortgage referral agencies of various banks. Knowing that Bank B does not have any supervisory and independent checking on the source of business, a staff member of Agency A offers referral commission to a bank staff of Bank B as a reward for referring the bank's walk-in home buyers to the former for arranging mortgage loan applications via Agency A.

3 With intent to deceive the bank, the bank staff either includes referral application forms in documents prepared for mortgage loan applicants for walk-in home buyers' signing, or forges their signatures on the referral application forms, and submits the signed referral forms to Bank B. Having believed that the information provided on the referral forms is true and upon successful applications, Bank B grants referral fees to Agency A. Agency A then pays the bank staff the referral commission without the knowledge of the walk-in home buyers.

Case Analysis



The bank staff is an agent of Bank B. The staff member of Agency A offers an advantage (i.e. referral commission) to the bank staff as a reward for referring the bank's walk-in home buyers to the former for arranging mortgage loan applications, in relation to the bank's business. The bank staff might contravene Section 9(1) of the Prevention of Bribery Ordinance, Cap. 201 (POBO), if he, without the approval of his principal (i.e. Bank B), accepts the advantage. The staff member of Agency A who offers the advantage to the bank staff may contravene Section 9(2) of POBO.

Scenario 2

Failure to Declare Conflict of Interest in relation to Mortgage Referral Business

1 Knowing that Bank B does not have any supervisory and independent checking on the source of business, a couple, who are both bank staff members of Bank B, set up a company engaging in mortgage referral business.

2 Bank B requires its staff to submit a declaration form on conflict of interest annually. The couple, without declaring their personal interests in mortgage referral business in the annual declaration, which conflict with their official positions in the bank, have deceived the bank with the modus operandi described in scenario 1. The bank grants referral fees to the couple's mortgage referral business company upon successful applications of mortgage.



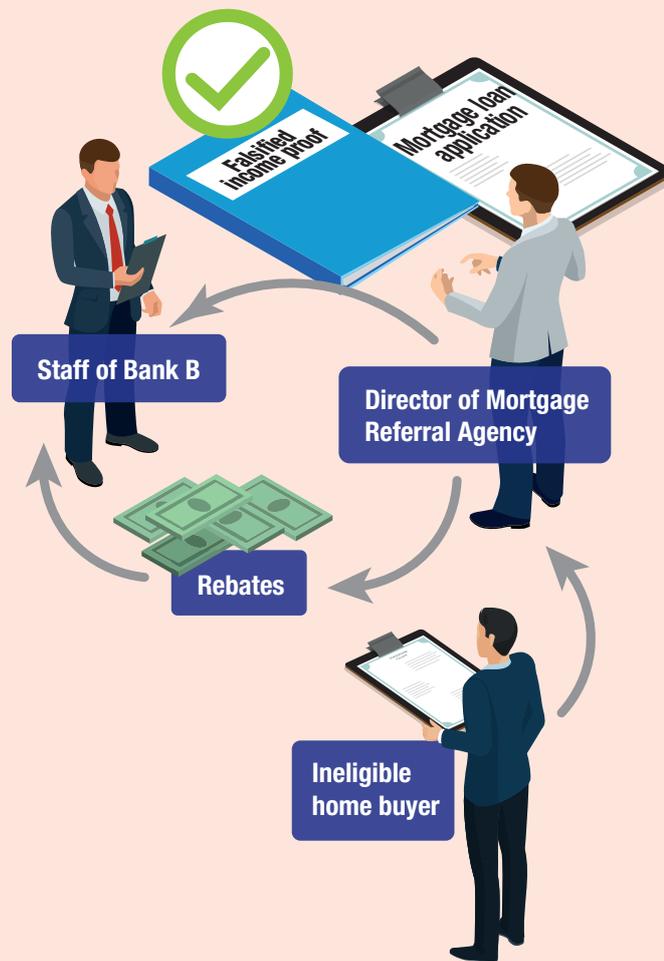


The couple, who conceal the conflict of interest dishonestly, with an intent to deceive his principal (i.e. the bank), use any receipt, account or other documents (e.g. declaration form of conflict of interest) which contain any statement which is misleading, false or defective in any material particular in respect of which the principal is interested, might contravene Section 9(3) of POBO.

Scenario 3

Conniving at Falsified Income Proof

- 1 To facilitate the mortgage loan applications, the director of Agency A offers rebates to the bank staff of Bank B, for processing those ineligible home buyers' mortgage loan applications.
- 2 In addition, a walk-in home buyer, who does not have a job with income proof, approaches a bank staff for assistance to submit an ineligible mortgage loan application. The bank staff refers the walk-in home buyer to the director of Agency A who is able to arrange falsified income proof to facilitate the walk-in home buyer's mortgage loan application with bank. In this regard, the walk-in home buyer pays service fee to the director of Agency A who then shares the fee with the bank staff.
- 3 Noting that Bank B does not conduct any checking on supporting documents and is lack of control measures to detect fraudulent practices, the bank staff of Bank B turns a blind eye at the falsified income proof documents provided by Agency A and recommends the walk-in home buyer's mortgage application for approval, with an intent to deceive Bank B to grant mortgage to the ineligible applicant. Having believed that the supporting documents are genuine, Bank B grants the mortgage loan to the walk-in home buyer.



The bank staff is an agent of Bank B. The director of Agency A and the walk-in home buyer offer advantages (i.e. rebates and service fee respectively) to the bank staff as a reward for turning a blind eye at the falsified income proof documents provided, in relation to the bank's business. The director of Agency A and the walk-in home buyer might contravene Section 9(2) of POBO or conspiracy to defraud of the common law. The bank staff might contravene Section 9(1) of POBO.

Major Integrity Risks and Malpractices



- Colluded bank staff solicit/accept advantages from the mortgage referral agency for falsifying the mortgage referral application forms attached to clients' loan applications without their consent/notice.
- Dishonest bank staff submit loan application documents which contain false information (e.g. falsified income proof) to deceive the banks for meeting performance target, or solicit/accept advantages from the mortgage referral agency/applicants as a reward for conniving at false information/supporting documents provided by them.
- Dishonest bank staff fail to declare their conflict of interest with the mortgage referral agencies (e.g. close relative, shareholding in the company) with a view to favouring them in the business dealings or obtaining personal gain.
- Unscrupulous bank staff solicit/accept advantages in return for approving ineligible mortgage loan applications/unqualified loans.



Corruption Prevention Safeguards

Engagement of Mortgage Referral Agency -

- Conduct due diligence checks (e.g. track records / experience in the field, staff's financial interest) on mortgage referral agencies before engagement to ensure their business integrity.
- Include the necessary probity clauses (e.g. prohibiting the solicitation/acceptance of advantages) in the service agreement with mortgage referral agencies to ensure their staff and agents' prudent provision of services to banks. Specify the consequences if mortgage referral agencies fail to comply with probity clauses. Require mortgage referral agencies to declare any potential/perceived conflict of interest with the bank staff.
- Require mortgage referral agencies to adopt practices to ensure business integrity (e.g. code of conduct for staff members and agents) and compliance with regulatory requirements, if any.
- Conduct performance appraisals of mortgage referral agencies periodically to monitor their services and integrity standards, and where practicable/legitimate, share/obtain the relevant information with other banks which are engaging such business counterparts.

Processing of Mortgage Applications -

- Require home buyers to declare and sign on the loan application form as to whether they are referred by mortgage referral agencies and if so, names of the mortgage referral agencies.
- Issue alert periodically to remind bank staff not to request or advise home buyers to sign on blank/incomplete mortgage application documents and reiterate that random supervisory checks / independent assurance review on documents will be conducted.
- Remind home buyers not to sign on blank/incomplete mortgage application documents via other means as appropriate (e.g. audio-message, pop-up message in Mobile App).
- Require home buyers to submit supporting documents (e.g. IRD tax return, MPF contribution summary) that enable banks to conduct independent checks on the authenticity of income proofs against reliable and independent databases / sources.
- State clearly in the Facility Offer Letter whether the application is referred by the mortgage referral agency. If so, include the name of the mortgage referral agency and a statement regarding the issuance of referral commission in the Facility Offer Letter for verification and acknowledgement by the home buyer.
- Digitalise mortgage application process, such as developing digital application forms for submitting loan applications to ensure home buyers could not sign a blank form.
- Conduct random supervisory checks (e.g. call-backs to customers) / independent assurance review on applications with risk indicators / red flags using digital means (e.g. a bank staff member has constantly been processing referrals submitted by the same financial intermediary / mortgage referral agencies for a considerable period of time).
- For any suspected fraudulent applications/supporting documents, remind staff to report to relevant authorities in the bank (e.g. compliance department), refer any suspected fraudulent applications and suspected collusion involving bank staff in fraudulent applications to law enforcement agencies / regulators for criminal investigation / follow up actions as appropriate.

Governance and Integrity Building -

- Lay down clear policies and guidelines for bank's mortgage loan application processes such as handling of customers' and their accounts' information, and loan approval for staff compliance and implementation. Appropriate control measures including segregation of duties, approving authorities, documentation, supervisory checks and monitoring of mortgage loan applications, and digitalisation of the handling processes should be built into the policies, procedures and guidelines.

- Stipulate the roles and responsibilities of each level of staff or post and the authorities for decision-making in handling mortgage loan applications, with clear lines of reporting and requirements of accountability.
- Ensure the adequacy of the checker function in identifying any use of falsified documents as well as communicate with the relevant makers and checkers to make sure they are fully aware of the channel and mechanism for reporting any suspicious malpractices identified in the course of handling mortgage loan applications.
- Ensure the bank’s guidelines including the Code of Conduct, are transparent and well understood by directors and staff at all levels through issuing circular, arranging briefing or thematic training. Anti-bribery knowledge (e.g. POBO, key corruption risk indicators, common corruption risks and safeguards as well as integrity challenges the bank needs to handle) should be included in the circular, briefing or thematic training as appropriate.

The above are by no means exhaustive. For further controls on the overall corporate governance, banks may refer to the publication “**Corruption Prevention Guide for Banks**” developed by the Corruption Prevention Department of ICAC, which aims at assisting banks in establishing and strengthening their corruption prevention capabilities by providing them with practical guidance on the anti-bribery legislation, elements of good corporate governance and effective anti-corruption controls, as well as corruption risks and corresponding safeguards in their core operations.



ENG



繁



簡



Corruption Prevention Advisory Service

Please subscribe to our e-news and visit our webpage for the latest training resources, news and activities.

Hotline: 2526 6363 (Mon-Fri 9am-6pm) (except public holidays)

Email: cpas@cpd.icac.org.hk

