



**Asia-Pacific  
Economic Cooperation**

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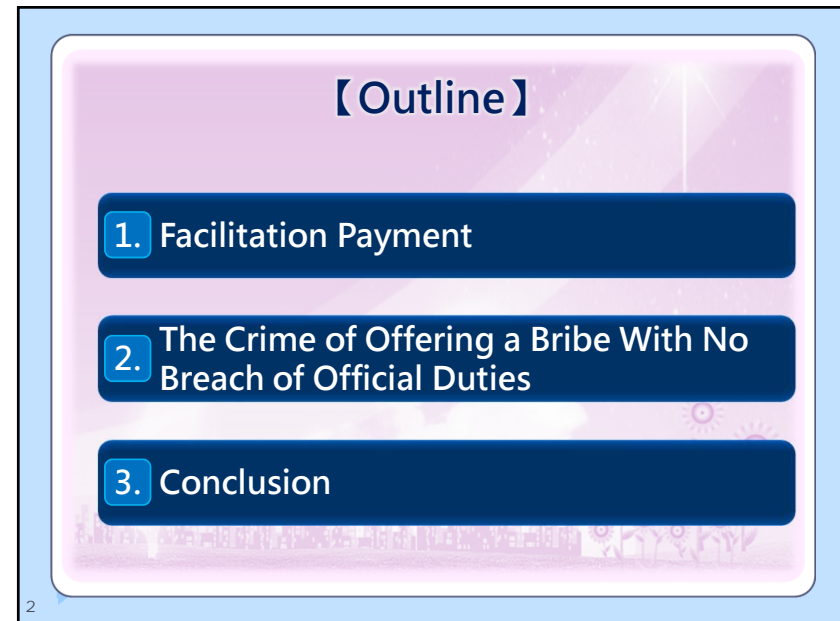
**2013/SOM3/ACT/WKSP/017**

## **Facilitation Payment and the Crime of Offering a Bribe with No Breach of Official Duties in Chinese Taipei**

Submitted by: Chinese Taipei



**Workshop on Strengthening Integrity Through  
Public-Private Partnership: Preventing  
Facilitation Payment and Managing Gift Rules  
Medan, Indonesia  
24 June 2013**



## 1. Facilitation Payment

Facilitation Payment = Grease Payment

- ▶ “a **small amount of payment** made by enterprises to secure or facilitate services in their **routine business activities**.”

Two Regulations



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## 1. Facilitation Payment

### Regulation 1:

Ethical Corporate Management Best Practice Principles for TWSE/GTSM-Listed Companies

- ★ According to the Article 12 of UNCAC.
  - ★ Referring to the “Partnering Against Corruption — Principles for Countering Bribery” by WEF and the “Business Principles for Countering Bribery” by TI.
- ➔ the facilitation payment is also **another form of bribery**, and is **illegal** in nearly all countries

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## 1. Facilitation Payment

### Regulation 1:

#### Ethical Corporate Management Best Practice Principles for TWSE/GTSM-Listed Companies

- ★ Therefore, the Principles indicate that when conducting business, the "Substantial Controllers" shall **NOT** directly or indirectly
  - (1) offer, promise to offer, request or accept any improper benefits, including rebates, commissions, grease payments, or offer or accept improper benefits in other ways to or from clients, agents, contractors, suppliers, public servants, or other interested parties
  - (2) offer or accept any unreasonable presents, hospitality or other improper benefits to establish business relationship or influence commercial transactions

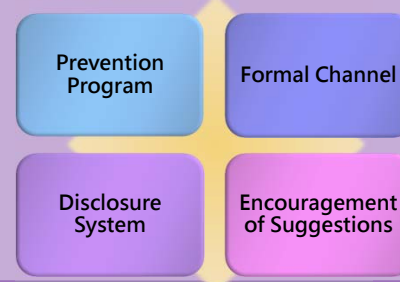
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## 1. Facilitation Payment

### Regulation 1:

#### Ethical Corporate Management Best Practice Principles for TWSE/GTSM-Listed Companies

- ★ In addition, TWSE/GTSM-listed companies are advised to establish their own



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## 1. Facilitation Payment

Regulation 2:

The Handbook of Business Principles of Integrity for Small and Medium Enterprise

★ More than 90% of enterprises are SMEs.

"Business Principles for Countering Bribery Small and Medium Enterprise (SME) Edition" had been translated to Chinese version

The "Handbook of Business Principles of Integrity for Small and Medium Enterprise" had been edited and published

Co-publishing the Handbook



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## 1. Facilitation Payment

Regulation 2:

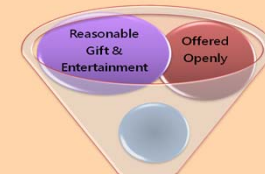
The Handbook of Business Principles of Integrity for Small and Medium Enterprise

★ The "Key Bribery Issue" of the "Business Principles for Countering Bribery Small and Medium Enterprise (SME) Edition" stipulates these two issues.

(I) Gift and Entertainment



Bribery



Not Bribery

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## 1. Facilitation Payment

Regulation 2:

The Handbook of Business Principles of Integrity for Small and Medium Enterprise

- ★ The “Key Bribery Issue” of the “Business Principles for Countering Bribery Small and Medium Enterprise (SME) Edition” stipulates these issues.

### (2) Facilitation Payment

small amounts + to secure or facilitate services to which you are entitled  
or  
to speed up the granting of services and permits

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## 1. Facilitation Payment

Regulation 2:

The Handbook of Business Principles of Integrity for Small and Medium Enterprise

- ★ The “Key Bribery Issue” of the “Business Principles for Countering Bribery Small and Medium Enterprise (SME) Edition” stipulates these issues.

### (2) Facilitation Payment

- ✳ They are unfortunately so common in many countries that they are seen as “normal” or “unavoidable” .
- ✳ However, **they are in fact illegal and shall be avoided.**

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## 2. The Crime of Offering a Bribe With No Breach of Official Duties

### 花錢買罪受

有事就花錢？ 花錢就有事！



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## 2. The Crime of Offering a Bribe With No Breach of Official Duties

★ According to Paragraph 2 of Article 11 of Anti-Corruption Act

offering bribes of money or other improper benefits to civil servants, either by responding to demands, or by giving the bribes when or after service is rendered

no breach of his/ her official duties

Bribers

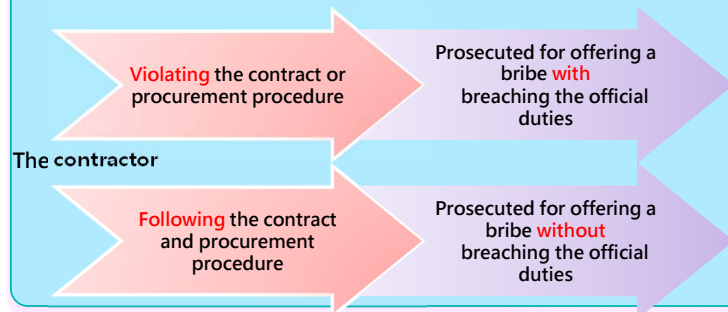
Civil Servants

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## 2. The Crime of Offering a Bribe With No Breach of Official Duties

### Case 1:

One contractor won the bid for the engineering project of the government, and he/ she offered money or entertainment to the civil servant



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## 2. The Crime of Offering a Bribe With No Breach of Official Duties

### Case 2:

One civil servant of the City Mortuary demanded the funeral industry or people to offer "red envelope" to ensure that cremation business run smoothly

- ★ The civil servant was prosecuted of Anti-Corruption Act
- ★ As for the funerary proceedings providers or people,
  - ✦ It would become a case of bribery without having the civil servant breach his duties
  - ✦ Without mens rea, they wouldn't constitute a corruption crime

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### 3. Conclusion



Breaking the Undesirable Traditional Culture

Creating a Clean and Honest Government



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## ***Thank You For Your Attention***



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