



# Links Client Alert - Anti-Corruption

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Shanghai · Beijing · Hong Kong · London

**LINKS**  
Law Offices  
通力律师事务所

## I. Highlights

The Insurance Regulatory Commission Issued *Regulations on the Supervision of Insurance Agents (Draft for comments)* to Solicit Public Opinion

Zhou (Deputy-Bureau-Level), Former Secretary of Party Committee and Chairman of a Shipbuilding Industry and Material Company, Was Sentenced in Prison for the Crime of Accepting Bribes and Misappropriating

A Bank Customer Manager Was Convicted of Defrauding Loans, and Sentenced to 1 year in Prison with a Fine of RMB 500,000

SEC Charges a Former Executive of a Financial Services Company with FCPA Violations

Jinmailang Company Held an Annual Anti-Corruption Conference Sharing Corruption Cases

## II. Legislation

- 1. The Supreme Court will issue several judicial interpretations on criminal laws by the end of this year.** The General Office of the Supreme People's Court issued *Judicial Interpretation Project in 2020* on March 19, 2020. The Supreme Court plans to initiate 49 judicial interpretations in 2020, including several criminal judicial interpretations relating to commercial bribery. For example, the *Interpretation on Several Issues concerning the Application of Law in the Handling of Civil and Criminal Overlapping Cases*, the *Interpretation on Several Issues concerning the Application of Law in the Trial of Business Secret Infringement Dispute Cases*, the *Interpretation on Several Issues concerning the Specific Application of Law in the Handling of Criminal Cases Including Loan Fraud*, and the *Interpretation of on Several Issues concerning the Application of Law in the Handling of Corruption, Bribery and Other Criminal Cases*. Visit the link below for more information (available in Chinese only): [http://www.pkulaw.cn/fulltext\\_form.aspx?Db=chl&Gid=afb0d3628e8406bfbdffb&keyword=%e6%9c%80%e9%ab%98%e4%ba%ba%e6%b0%91%e6%b3%95%e9%99%a22020%e5%b9%b4](http://www.pkulaw.cn/fulltext_form.aspx?Db=chl&Gid=afb0d3628e8406bfbdffb&keyword=%e6%9c%80%e9%ab%98%e4%ba%ba%e6%b0%91%e6%b3%95%e9%99%a22020%e5%b9%b4)

[%e5%ba%a6%e5%8f%b8%e6%b3%95%e8%a7%a3%e9%87%8a%e7%ab%8b%e9%a1%b9%e8%ae%a1%e5%88%92&EncodingName=&Search Mode=accurate&Search IsTitle=0](#)

2. **The Insurance Regulatory Commission issued *Regulations on the Supervision of Insurance Agents (Draft for comments)* to solicit public opinion.** If the senior managers of the insurance professional agency (including the manager of provincial branch, the general manager and deputy general manager of the insurance professional agency company, and other personnel who exercise important functions and powers on the company's operation and management) or other branches' managers are sentenced in prison due to corruption, bribery, misappropriation, undermining the order of the socialist market economy, or deprived of political rights and interests, and a five-year period has not elapsed since the expiration of the execution, the professional insurance agency shall remove the position of the above-mention personnel who have been appointed; if the qualification is approved, the qualification will automatically become invalid. An insurance company, professional insurance agency or sideline insurance agent shall not employ or entrust persons mentioned above. Visit the link below for more information (available in Chinese only): <http://bxjg.circ.gov.cn/web/site0/tab5174/info4113311.htm>
  
3. **Yunnan Province promulgated the *Circular on Further Reform and Improvement of Drug Supply Guarantee Measures (the "Circular")*.** The pharmaceutical production (distribution) enterprises that give kickbacks to medical personnel shall be recorded in untrustworthy credit records. The supply qualification in Yunnan public medical institutions shall be cancelled. Certificates of medical personnel who accept bribes (kickbacks), shall be suspended or revoked depending on the seriousness of the case, and the medical insurance shall not be settled for the illicit expenses of the medical institution. Where the leadership or medical personnel of a medical institution is subject to criminal liability due to accepting bribes (kickbacks) and the impact is adverse, the liability of the main leadership shall be pursued. Visit the link below for more information (available in Chinese only): <http://www.pbh.yn.gov.cn/wjwWebsite/web/doc/UU158702109742292852>

### III. Domestic bribery cases

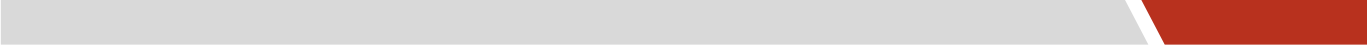
#### (I.) Acceptance of bribes

1. **[Trade] Zhou (Deputy-Bureau-Level), Former Secretary of Party Committee and Chairman of a Shipbuilding Industry and Material Company, Was Sentenced to 11 Years in Prison for the Crime of Accepting Bribes and Misappropriating, Deprived of Political Rights for 2 Years with a Fine of RMB 800,000**

From 2007 to 2012, Zhou took advantage of his position as an assistant to the general manager, a director of the financial department and a deputy general manager of a shipbuilding equipment and materials company and a shipbuilding industry equipment and material company, to help relevant units and individuals in financing and borrowing by means of false trade, and illegally received more than RMB 6.72 million. From 2009 to 2011, Zhou misappropriated RMB 5.63 million of public funds for personal use, which has not been repaid or has carried out profit-making activities for more than three months. Shanghai No. 2 Intermediate People's Court convicted Zhou of accepting bribes and misappropriation. Zhou was sentenced in prison for 11 years, and deprived of political rights for 2 years with a fine of RMB 800,000. All illegal gains shall be confiscated and turned over to the State Treasury.

2. **[Construction] He Was Sentenced to 5 Years and 3 Months in Prison for Accepting Bribes from Non-State Functionaries**

According to (2020) Zhe 0803 Xing Chu No.27 Criminal Judgment issued on April 23, 2020, a Zhejiang construction company won the right to use state-owned construction land in Quzhou at a price of RMB 331 million. On June 30, 2017, the Zhejiang construction company and two companies controlled by He established Lvyun Real Estate Company, with He as the chairman. Subsequently, Fang, who is in charge of Xinshi Company, sought help from He several times in order to make the actual builder Wang to affiliated to Xinshi Company, and promised to give He 20% of the management fees. Following He's proposal and other shareholders' consent, Xinshi Company and Lvyun Company entered



into a construction contract on November 15, 2017. From December 29, 2017 to March 26, 2019, Lvyun Company paid RMB 324 million in total to Xinshi Company, and He signed the approval document. In order to thank He, Fang has transferred a total of RMB 1.07 million to the personal account provided by He 16 times. He was sentenced to 5 years and 3 months in prison for accepting bribes from non-state functionaries, with illicit income RMB 1.07 million confiscated.

## **(II.) Offering Bribes**

### **[Medical] Wang Was Sentenced to 8 Months, Suspended for 1 Year, for Offering Bribes**

According to the (2020) Qing 02 Xing Zhong No. 10 Criminal Ruling issued on April 21, 2020, Wang was a salesman of a Yangzhou medical device company, and sold medical devices under the general authorization of the company. In 2014, a Haidong hospital planned to purchase hospital beds and other medical equipment. Wang actively sought help from the president Zhang of the hospital, and participated in the bid negotiation of the hospital. Then Wang participated in the bidding on behalf of the Yangzhou medical device company and won the bid at the provided price, and concluded the contract. Wang bribed Zhang RMB 200,000 for Zhang' s help. Wang was sentenced to 8 months in prison, suspended for 1 year, for offering bribes.

## **(III.) Misappropriation**

### **[Technology] Wang Was Sentenced to 2 Years and 2 Months in Prison for Misappropriation**

From 2016 to January 2019, Wang worked in a science and technology company, taking advantage of his position as a salesperson to privately receive the payment and then paid less to the company to misappropriate RMB 437,570.5. Wang was sentenced to 2 years and 2 months in prison for misappropriation, and must refund and compensate the company's loss of RMB 437570.5.

## **(IV.) Defrauding Loans**

### **[Finance] A Bank Customer Manager Was Convicted of Defrauding Loans, and Sentenced to 1 Year in Prison with a Fine of RMB 500,000**

According to Yue 0113 Xing Chu Criminal judgment, from 2010 to 2015, a bank customer manager Chen colluded with Kong, defrauded the bank of paying more than RMB10 million as loans several times. The money was actually used for the repayment of the estate, usury and personal expenses. Chen was convicted of defrauding loans, and sentenced to 1 year in prison with a fine of RMB 500,000 by Fanyu District Court in Guangzhou.

## **IV. Foreign Anti-Corruption Cases**

### **1. SEC Charged a Former Executive of a Financial Services Company with FCPA Violations**

On April 13, 2020, The SEC' s complaint alleged that a former executive of a foreign-based subsidiary of a U.S. bank holding company, arranged for his firm' s client, a Turkish energy company, to funnel at least \$2.5 million to a Ghana-based intermediary to pay illicit bribes to Ghanaian government officials in order to gain their approval of an electrical power plant project. According to the complaint, the former executive took deliberate measures to prevent his employer from detecting his bribery scheme, including misleading his employer' s compliance personnel. SEC did not punish compliance personnel due to taking effective measures to prevent bribery.

### **2. SFO Confirmed End of Deferred Prosecution Agreement with a Large Retail Enterprise**

A large retail enterprise entered into a Deferred Prosecution Agreement (DPA) with the Serious Fraud Office (SFO) in 2017, agreed to pay a 129 million pound fine and 3 million pound investigation costs, as well as implementing a 3-year ongoing compliance program. SFO has confirmed to the courts in April, 2020 that the enterprise has fulfilled the terms of its DPA, bringing an end to the SFO' s case. The SFO is satisfied that the enterprise has fully complied with the terms of the DPA.



## V. Others

### 1. Baidu Professional Ethics Committee Reported a Corruption Case

On April 21, 2020, Baidu Professional Ethics Committee reported that the former vice president of Baidu Group Wei was found corruption after investigation by the company. The cases is currently transferred to public security organs. According to the Report, Wei violated disinterested enterprise culture, professional ethics of Baidu and laws and regulations.

### 2. Himalaya Dismissed its Former Vice president of Marketing Department for Accepting Bribes

On April 10, 2020, Himalaya Company issued an internal letter saying that the vice president of marketing department took advantage of his position to accept bribes from suppliers; an employee of marketing department introduced the company under his control as an agent to seek improper interests. The two people has been dismissed currently.

### 3. Jinmailang Company Held an Annual Anti-Corruption Conference Sharing Corruption Cases

On April 17, 2020, Jinmailang Company held an annual anti-corruption conference and shared corruption cases with large amount, as well as recent bribery cases relating to its procurement, quality control, equipment, and engineering departments. The total amount of bribes was millions of yuan, involving more than 80 people. Jinmailang Company dismissed 27 people directly and transferred serious cases to public security organs.



## About Llinks' s Anti-Corruption Compliance Services

To meet clients' ever-growing needs in anti-corruption compliance, Llinks assembled a team consisting of experienced anti-corruption compliance experts. The anti-corruption compliance team is comprised of former general counsels and compliance heads of fortune 500 companies and other leading Chinese companies, former administrative officers, as well as lawyers specialized in drugs and health, automobiles and auto parts, consumer products, energy and chemicals, and finance and insurance, and professional lawyers specialized in labor law and company law.

It is necessary to have a deep insight and accurate grasp of laws and policies to provide professional services. It is further required to be familiar with the law enforcement procedures and recognition standards of the regulatory authorities, as well as the corporate culture, organizational structure and workflow with different national backgrounds, to provide customers with operational opinions. Llinks team is capable of utilizing its profound knowledge and experience in serving all kinds of anti-corruption compliance needs of clients, assisting clients to establish internal anti-corruption compliance system, coordinating the investigation from the supervision department, dealing with the fraud and illegal behavior of internal staff, and successfully maintaining the enterprise reputation and reducing the economic loss for the enterprise.



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