

Letter to Hong Kong
By Emily Lau of The Frontier in Hong Kong
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Earlier this month, the government published the Executive Council members' declarations of interests. This comes more than one month after the accountability system for principal officials was put in place at the beginning of July.

Under the new system proposed by the Chief Executive, Mr C.H. Tung, the Executive Council is his cabinet. It consists of 14 principal officials and five non official members. In this new arrangement, a number of principal officials are drawn from the private sector and some of them have substantial business and property interests.

Since the principal officials and Exco members have access to government top secrets and highly sensitive commercial information, the public expects a system to be put in place to ensure that when these people discharge their official duties, there is no conflict of interest.

To provide for this, a Code for Principal Officials was gazetted in June. The declarations made by Exco members earlier this month were done in compliance with the Code.

After examining the declarations, I have discovered a number of problems. One of them is whether a principal official should continue to be director of a company. The requirement of the Code is very straight forward. A principal official should not be engaged as a director or shadow director without the written consent of the Chief Executive, and such consent is only likely if the principal official is appointed as director of his private family estate.

In spite of this stipulation, two principal officials have declared they are directors of companies. The Financial Secretary, Mr Antony Leung, declared he has shareholdings in six companies and is director of five of them. The Secretary for Education and Manpower, Mr Arthur Li, has shareholdings in five companies of which he is also director.

Some principal officials have declared their shareholdings but not their directorships, since this is not required by the Code. They include the Secretary for Financial Services and the Treasury, Mr Frederick Ma, who has shareholdings in four companies. The Secretary for Health, Welfare and Food, Mr E.K. Yeoh, has shareholdings in five companies. The Secretary for Environment, Transport and Works, Ms Sarah Liao, has shareholdings in three companies while the Secretary for Security, Mrs Regina Ip, has shareholdings in two companies.

Another shortcoming of the Code is that it does not require principal officials and non official Exco members to provide details about the nature of their companies, thus it would be difficult if not impossible for the Chief Executive to issue instructions to prevent conflict of interest because he does not know what activities the companies are engaged in.

Although the Code stipulates that principal officials shall not engage as directors without the Chief Executive's written consent, no written consent has been published. This begs the question of whether the principal officials concerned have sought Mr Tung's consent.

Under the circumstances, the administration should explain which of the principal officials' companies can be classified as part of their "private family estate" and whether the Chief Executive has given his written consent for them to engage as directors.

Another issue of concern is the principal officials' financial interests and investments. According to the Code, the Chief Executive may require a principal official to place his investments or interests in a "blind" trust if he thinks there is a conflict of interest between the official's investment and his official duties.

In the case of Mr Fred Ma, he has put his financial assets in a family trust, and said he has no involvement in the daily administration of the trust and has no control over investment decision.

The Secretary for Commerce, Industry and Technology, Mr Henry Tang, has transferred his shares in the family companies

to a trust of which his father is the trustee. Like Mr Ma, Mr Tang said he has no right to give instructions to the trust or its trustee.

The family trusts set up by Mr Ma and Mr Tang are very different from the “blind” trusts laid down in the Code, and I question whether such arrangements can serve the purpose of preventing conflict of interest.

According to the Code for Ministers in the British Government, ministers must resign any directorships they hold when they take up office. As for disposal of investments, the UK code said ministers may place their investments in a “blind” trust which is managed by external advisers and not family members. The code said once a trust has been established, the minister should not be involved or advised of decisions on acquisition or disposal relating to the portfolio.

The Chief Executive should examine this issue urgently and require all principal officials to put their investments and interests in a “blind” trust in order to prevent conflict of interests and maintain public trust and confidence.

In addition to shareholdings and company directorships, many Exco members and principal officials have interests in real estate. The biggest property owner is the Secretary for Education and Manpower. He owns 70 properties in Hong Kong and three in the United Kingdom. The Financial Secretary has nine properties, two in Hong Kong and three in Mainland China.

The Secretary for Financial Services and the Treasury has eight properties -- one in Hong Kong and two in Mainland China. The Secretary for Environment, Transport and Works owns seven properties -- four in Hong Kong and one in the mainland.

Some non official Exco members also have substantial business and real estate interests. Mr James Tien, legislator and leader of the Liberal Party, has 27 properties and shareholdings in over 40 companies. Mr C.Y. Leung has six properties and shareholdings in 13 companies.

Under the current registration system, Exco members and principal officials are only required to declare the number of

properties they own and whether they are in Hong Kong or other places. They do not have to declare whether these are residential, commercial or industrial properties and how the properties are being managed.

Such declaration is clearly not enough to prevent conflict of interest. If Exco were to discuss town planning, rezoning of a district or urban renewal, Exco members and principal officials who hold properties in that area will have a conflict of interest. They must not be allowed to take part in those sensitive discussions.

Given the very substantial business and property interests of many principal officials and Executive Councillors, a comprehensive system for preventing conflict of interest must be put in place urgently to enhance maximum transparency and accountability. Anything less is unacceptable.

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