

For information on
29 January 2008

LEGISLATIVE COUNCIL PANEL ON FINANCIAL AFFAIRS

Guidelines and arrangements to safeguard against conflict of interests of civil servants

Purpose

The paper informs Members of the guidelines and arrangements that have been put in place to safeguard against conflict of interest of civil servants, with particular reference to the obtaining of mortgage for acquisition of property.

Avoidance of conflict of interest

2. The Administration is committed to maintaining a high standard of integrity and conduct in the civil service. A fundamental rule underlying civil service integrity is the need for civil servants to avoid any actual or potential conflict of interest. Through the issue of circulars and guidelines which are updated from time to time and circulated to all civil servants, civil servants are reminded to make a conscious effort at all times to avoid conflict of interest, and declare to the relevant authorities any such conflict that may arise.

3. In the above-mentioned circulars, it is expressly stated that civil servants must avoid situations which might compromise (or be seen to compromise) their personal judgement or integrity at work or lead to conflict of interest. A civil servant must not subordinate his official duty to his private interests. He must not put himself in a position where his official duty and private interest conflict. He must not use his official position to further his private interests or those of his family, friends or associates; and must not put himself in a position which gives rise to suspicion that he has done so.

4. Civil servants are required to declare to their supervisors all relevant interests which may, or may be seen to, conflict with their official duties. They are also required to make declarations to their

supervisor when called upon to take part in the deliberation, decision-making, investigation or enforcement process over matters in which they have a private interest. Upon receiving such declarations, the supervisors concerned will decide the appropriate follow up actions to take.

5. Failure to take the necessary steps to avoid or declare a conflict of interest situation may constitute misconduct and render the civil servants concerned liable to disciplinary action.

Declaration of investment by civil servants

6. In line with the requirements set out in paragraphs 2 to 5 above, civil servants should not acquire any investment which may lead to a conflict of interest with their official duties. Since 1995, certain civil servants, depending on their posts, have been required to declare private investments in and outside Hong Kong to the Government on an annual or bi-annual basis, and any single investment transaction in and outside Hong Kong equivalent to or exceeding HK\$200,000 or three months' salary in value - whichever is the less - within seven days of the transaction. Accordingly, if such a civil servant acquires (or disposes of) an investment in Hong Kong in the form of a property whose value is at or above the specified monetary thresholds, he needs to declare the transaction to the Government within the stipulated period of time. However, there has been no requirement for such a civil servant to declare the mortgage details relating to the acquisition of a property.

7. The above-mentioned reporting system places the onus on civil servants. The system facilitates management actions in identifying and - where necessary - taking appropriate safeguards against conflict of interest situations at the earliest possible opportunity. A civil servant who fails to observe the requirements on declaration of investment, including failure to report investments that are in conflict of interest with his official position, is liable to disciplinary action.

Obtaining loans by civil servants

8. Civil servants, like members of the public, may secure loans from banks or financial institutions. Under section 3 of the Prevention of Bribery Ordinance (Chapter 201 of the laws of Hong Kong, hereinafter referred to as "POBO"), prescribed officers (civil servants included) who,

without the general or special permission of the Chief Executive (the Governor before 1997), solicits or accepts any advantage is guilty of an offence. Pursuant to section 3 of POBO, the Chief Executive has issued the Acceptance of Advantages (Chief Executive's Permission) Notice ("AAN"). Under the previous AANs and the latest one issued in 2007, prescribed officers have been given general permission to solicit or accept a loan of money made available to them in their private capacity by a tradesman or company provided that –

- (i) the loan is equally available on equal terms to persons who are not prescribed officers; and
- (ii) the offeror of the loan has no official dealings with the prescribed officers.

9. In accordance with the AAN, if either one of the above two conditions is not met, a civil servant is required to apply for special permission from the relevant authority in the Government before soliciting or accepting a loan of money, and only when permission has been given may he solicit or accept the loan. When an application for special permission is received, it will be processed by the relevant authority according to established procedure. In deciding whether or not to approve such an application, one of the key considerations is whether the case would give rise to a conflict of interest.

Concluding remarks

10. We attach great importance to maintaining a high standard of integrity and probity in the civil service. We consider that adequate and effective measures have been put in place to forestall possible conflict of interest situations, and to strike a proper balance between civil servants' right to private investment and privacy on the one hand and upholding civil servants' integrity on the other. We will continue to spare no efforts in this regard.