

For Information

Subcommittee on Prevention of Bribery Ordinance (Amendment of Schedules 1 and 2) Order 2012

Administration's Response to Issues Raised by Members

Purpose

At the third meeting of the Sub-committee held on 25 April 2012, Members asked whether it is legally untenable to make companies public servants under the Prevention of Bribery Ordinance (POBO) and whether there is any remedy if a member of the Hong Kong Internet Registration Corporation Limited (HKIRC) accepts advantages in electing directors to the Board. This paper sets out the Administration's response.

Whether Companies can be Public Servants

2. We have consulted the Department of Justice on whether companies could be public servants under POBO. We are advised that there has not been any case in Hong Kong in which a company was prosecuted as a public servant under POBO, and there is uncertainty as to how a company could be prosecuted as a public servant under POBO.

HKIRC Director Election

3. Subject to the facts of different cases, if an HKIRC member accepts advantages for election of directors to the Board, he/she could have committed offences under POBO or common law, such as conspiracy to defraud, or other statutory offences, such as fraud under section 16A of the Theft Ordinance (Cap. 210). However, it is difficult to list out all possible applicable offences for different hypothetical situations.

**Commerce and Economic Development Bureau
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