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## INFORMATION NOTE

### Declaration of interest arrangement by the Chief Executive

#### 1. Background

1.1 Recently, there have been media reports about the Chief Executive ("CE") and his wife accepting the hospitality to travel on private yachts and private jets during their overseas trips, as well as renting a property in Shenzhen from Wong Cho-bau, a shareholder of the Digital Broadcasting Corporation Hong Kong Limited. This has given rise to widespread public concerns about the CE's possible involvement in the issues of conflict of interests.

1.2 In response to the recent public concerns, the CE announced on 26 February 2012 to establish the Independent Review Committee for the Prevention and Handling of Potential Conflicts of Interests. The Committee aims to review the existing regulatory frameworks and procedures for the prevention of conflict of interests concerning the CE, Non-Official Members of the Executive Council ("ExCo"), and officials under the Political Appointment System respectively. The areas of review cover the arrangements for declaration of investments/interests and acceptance of advantages/entertainment/hospitality. In light of the review findings, the Committee will make recommendations on the improvement of the existing frameworks and procedures, including changes and revisions where appropriate.

1.3 The Committee is headed by former Chief Justice Andrew Li Kwok-nang and comprises four other members from the social welfare, media, academic and business sectors respectively, namely Stephen Yau, Lawrence Fung, Professor Liu Pak-wai and Thomas Brian Stevenson. It is expected that the Committee will submit a report with recommendations to the CE in about three months' time.

1.4 This information note examines the arrangement for declaration of interests by the CE, and sets out the corresponding arrangements for Principal Officials<sup>1</sup> and civil servants for comparison. It will make reference to statutory requirements, provisions under common law and administrative provisions for the study of the relevant arrangements governing the above three categories of persons. Paragraph 4.1 on pages 15-16 summarizes the major observations from the study.

## 2. The Chief Executive

### Statutory requirements

2.1 Under Article 47 of the *Basic Law*, "[t]he Chief Executive of the Hong Kong Special Administrative Region must be a person of integrity, dedicated to his or her duties. The Chief Executive, on assuming office, shall declare his or her assets to the Chief Justice of the Court of Final Appeal of the Hong Kong Special Administrative Region. This declaration shall be put on record". As the term "assets" is not specifically defined under the *Basic Law*, the types of assets to be disclosed should follow the ordinary meaning of "assets". However, while the CE's declaration is required to be made only to the Chief Justice, the Administration is not in a position to advise on the types of assets to be disclosed in such declaration.<sup>2</sup> In addition, the *Basic Law* does not provide for a system of declaration of interests by the CE, while an impeachment mechanism is available under Article 73(9) of the *Basic Law* to handle charges of serious breach of law or dereliction of duty by the CE.<sup>3</sup>

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<sup>1</sup> "Principal Officials" refer to principal officials under the Political Appointment System, i.e. all the Secretaries of Departments and Directors of Bureaux.

<sup>2</sup> See LC Paper No. CB(2)244/09-10(04).

<sup>3</sup> According to Article 73(9) of the *Basic Law*, "[i]f a motion initiated jointly by one-fourth of all the members of the Legislative Council charges the Chief Executive with serious breach of law or dereliction of duty and if he or she refuses to resign, the Council may, after passing a motion for investigation, give a mandate to the Chief Justice of the Court of Final Appeal to form and chair an independent investigation committee. The committee shall be responsible for carrying out the investigation and reporting its findings to the Council. If the committee considers the evidence sufficient to substantiate such charges, the Council may pass a motion of impeachment by a two-thirds majority of all its members and report it to the Central People's Government for decision".

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2.2 The *Prevention of Bribery (Amendment) Bill 2007* passed by LegCo on 25 June 2008 aims to extend sections 4, 5 and 10 of the *Prevention of Bribery Ordinance* (Cap. 201) ("POBO"), which were applicable only to Principal Officials and civil servants, to include the CE in their application:

- (a) Section 4(2A) stipulates that any person who, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, offers any advantage to the CE as an inducement to or reward for or otherwise on account of his or her acting in his or her capacity as the CE, shall be guilty of an offence;
- (b) Section 4(2B) stipulates that if the CE, whether in Hong Kong or elsewhere, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his or her acting in his or her capacity as the CE, shall be guilty of an offence;
- (c) Section 5(3) stipulates that any person who, without lawful authority or reasonable excuse, offers any advantage to the CE as an inducement to or reward for or otherwise on account of the CE's giving assistance or using influence in the promotion, execution or procuring of any contract with a public body, shall be guilty of an offence;
- (d) Section 5(4) stipulates that if the CE, without lawful authority or reasonable excuse, solicits or accepts any advantage as an inducement to or reward for or otherwise on account of his or her giving assistance or using influence in the promotion, execution or procuring of any contract with a public body, shall be guilty of an offence; and
- (e) Section 10 stipulates that CE or a former CE will be subject to the offence of maintaining a standard of living or controlling property disproportionate to his or her emoluments. The CE or former CE shall, unless giving a satisfactory explanation to the court as to how he or she was able to maintain such a standard of living or how such property came under his or her control, be guilty of an offence. If a person being or having been the CE is accused of having committed a section 10 offence, the court, in determining whether the CE has given a satisfactory explanation, shall take into account assets that he or she declared to the Chief Justice pursuant to Article 47 of the *Basic Law*.

2.3 Under Section 31AA of POBO, upon investigation by the Independent Commission Against Corruption ("ICAC"), where the Commissioner of ICAC has reason to suspect that the CE may have committed an offence under POBO, the ICAC Commissioner may refer the matter to the Secretary for Justice. As a result of such a referral, where the Secretary for Justice has reason to suspect that the CE may have committed an offence under POBO, he or she may refer the matter to LegCo for it to consider whether to take any action under the impeachment mechanism set out by Article 73(9) of the *Basic Law*.

2.4 Any person guilty of an offence under section 4 of POBO shall be liable on conviction to a maximum fine of HK\$500,000 and imprisonment for seven years. Meanwhile, any person convicted of an offence under section 5 of POBO shall be subject to a maximum fine of HK\$500,000 and imprisonment for 10 years. Furthermore, the maximum penalty for an offence under section 10 of POBO is a fine of HK\$1,000,000 and imprisonment for up to 10 years.

2.5 During the scrutiny of the *Prevention of Bribery (Amendment) Bill 2007*, some members suggested that the scope of sections 3 and 8 of POBO should be extended to include the CE in their application. However, the Administration did not adopt members' suggestion. Sections 3 and 8 of POBO, which are applicable to Principal Officials and civil servants, do not cover the CE as a result. Section 3 of POBO prohibits prescribed officers<sup>4</sup> from soliciting or accepting any advantage without the general or special permission of the CE. Any person guilty of an offence under section 3 shall be liable on conviction to a maximum fine of HK\$100,000 and imprisonment for one year. Section 8 prohibits any person, without lawful authority or reasonable excuse, while having dealings of any kind with the Government or a public body, from offering any advantage to any prescribed officer of the Government or any public servant<sup>5</sup> employed by that public body. Any person convicted of an offence under section 8 shall be subject to a maximum fine of HK\$500,000 and imprisonment for seven years.

2.6 In addition, any person guilty of an offence under POBO shall be ordered to pay, to the Government or such person or public body and in such manner as the court directs, the amount of any advantage received by him or her, or such part thereof as the court may specify.

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<sup>4</sup> Under POBO, prescribed officers include Principal Officials, judicial officers and civil servants.

<sup>5</sup> Under POBO, public servants include prescribed officers and employees of public bodies.

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## Provisions under common law

2.7 The CE is also subject to the provisions under common law offence of bribery and misconduct in public office. Under section 101I(1) of the *Criminal Procedure Ordinance* (Cap. 221), the penalty for the relevant common law offence is imprisonment for up to seven years and a fine. According to common law, bribery means "the receiving or offering of any undue reward by or to any person whatsoever, in a public office, in order to influence his or her behaviour in office, and incline him or her to act contrary to the known rules of honesty and integrity".<sup>6</sup> According to the Administration, any public officer who accepts a bribe and any person who bribes a public officer commit a common law offence. The Administration has further explained that, according to legal advice, the CE may fall within the meaning of "public officer" under common law.

2.8 In addition, according to the judgment delivered in May 2005 by the Court of Final Appeal in *Sin Kam-wah & Lam Chuen-ip v HKSAR*<sup>7</sup>, the elements of the offence of misconduct in public office include:

- (a) a public official;
- (b) in the course of or in relation to his or her public office;
- (c) wilfully misconducts himself or herself; by act or omission, for example, by wilfully neglecting or failing to perform his or her duty;
- (d) without reasonable excuse or justification; and
- (e) where such misconduct is serious, not trivial, having regard to the responsibilities of the office and the officeholder, the importance of the public objects which they serve and the nature and extent of the departure from those responsibilities.

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<sup>6</sup> See LC Paper No. CB(2)1448/00-01(02).

<sup>7</sup> For the judgment, please refer to [http://legalref.judiciary.gov.hk/lrs/common/ju/ju\\_frame.jsp?DIS=45273&currpage=T](http://legalref.judiciary.gov.hk/lrs/common/ju/ju_frame.jsp?DIS=45273&currpage=T).

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## Administrative provisions

2.9 The CE is the President of ExCo. According to the Administration, there is no requirement for the CE to disclose his or her assets in his or her capacity as the President of ExCo. Nevertheless, the CE, similar to other ExCo Members, declares his interests in "the Annual Declaration of Registrable Interests of Members of the Executive Council".<sup>8</sup> The relevant declaration by the CE is available for public inspection<sup>9</sup> (see **Appendix I**). The types of interests to be declared include:

- (a) remunerated directorships in any public or private company;
- (b) remunerated employments, offices, trades, profession etc.;
- (c) names of clients if any of the registrable interests mentioned in (a) or (b) above includes provision to clients of personal services which arise out of or relate in any manner to the Member's position as a Member of ExCo;
- (d) land and property owned by ExCo Members in Hong Kong or outside Hong Kong; land or property which are held in the name of Members' spouses, children or other persons or companies, but are actually owned by Members; or land or property which are not owned by Members, but in which Members have a beneficial interest;
- (e) names of companies or other bodies in which the ExCo Member has, either himself or herself or with or on behalf of his or her spouse or children, a beneficial interest in shareholdings of a nominal value greater than 1% of the issued share capital; and
- (f) membership of boards, committees and other organizations which might be construed by members of the public as a declaratory interest.

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<sup>8</sup> The CE admitted that he did not declare to the ExCo his renting of a Shenzhen property from Wong Cho-bau, a shareholder of the Digital Broadcasting Corporation Hong Kong Limited.

<sup>9</sup> The public can access the information via ExCo's website at <http://www.ceo.gov.hk/exco/>.

2.10 ExCo Members are required to notify the Clerk to ExCo of changes to any items of interests declared within 14 days of the changes. ExCo Members are also required to declare within 14 days the acceptance by them or their spouses of any financial sponsorships, sponsored overseas visits or gifts worth HK\$2,000 or more in relation to their ExCo membership, by filling out the "Declaration of Acceptance of Sponsorships and Gifts".<sup>10</sup> Such information should also be made available for public inspection.

2.11 In addition, the CE's Office has established a Register of Gifts to record the gifts received by the CE in his official capacity since 1997. The register is updated once every month and made available for public inspection.<sup>11</sup> All gifts of an estimated value exceeding HK\$400 received by the CE in his official capacity are recorded in the register.<sup>12</sup> The register has two parts listing out the items passed to the Government for disposal and the items retained by the CE for personal use respectively. If the CE would like to retain any gifts recorded in the register, the CE's Office would request valuations from the Government Logistics Department, and the CE would then purchase the gifts based on those valuations.

### **3. Principal Officials and Civil Servants**

#### Statutory requirements

3.1 Principal Officials and civil servants are subject to the relevant provisions on accepting or soliciting advantages under POBO. Furthermore, the *Independent Commission Against Corruption Ordinance* (Cap. 204) empowers the ICAC to investigate any suspected or alleged offence of blackmail committed by a prescribed officer by or through the misuse of his or her office.

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<sup>10</sup> The declaration form is enclosed as **Appendix II**.

<sup>11</sup> The public can access the register through CE's website at <http://www.ceo.gov.hk/>.

<sup>12</sup> The January 2012 Register of Gifts (of perceived value above HK\$400) presented to the CE is shown at **Appendix III**.

3.2 Section 3 of POBO prohibits any prescribed officer from soliciting or accepting any advantage without the general or special permission of the CE. To execute such provisions, the CE issues a notice specifying the conditions under which a prescribed officer may solicit or accept advantages. The *Acceptance of Advantages (Chief Executive's Permission) Notice 2010*, gazetted on 9 April 2010, is the latest version of such notice. Under the "general permission" rule, the advantages to be solicited or accepted by a prescribed officer depend on the status of the person who offers the advantage, the occasion on which the advantage is offered, and the value of the advantage. The **Table** below sets out the restrictions on soliciting or accepting advantages by a prescribed officer under "general permission".

**Table – Restrictions on soliciting or accepting gifts/discounts/air, sea, overland passages by a prescribed officer under "general permission"**

	Status of the offeror			
	Relations	Tradesmen/commercial establishments/associations	Close personal friends	Other persons
Limit of value of the advantage solicited or accepted	May solicit or accept any gift/discount/passage of any value.	May solicit or accept any gift/discount/passage of any value.	May only accept (but not solicit) a gift/air, sea or overland passage of value not exceeding HK\$3,000 on special occasion (e.g. birthday), or HK\$500 on any other occasion.	May only accept (but not solicit) a gift/air, sea or overland passage of value not exceeding HK\$1,500 on special occasion (e.g. birthday), or HK\$250 on any other occasion.
Other conditions	No other conditions.	<ul style="list-style-type: none"> <li>The offer is equally available to persons who are not prescribed officers.</li> <li>Offeror has no official dealings with the prescribed officer concerned.</li> <li>Advantage is offered to the prescribed officer in his or her private capacity.</li> </ul>	<ul style="list-style-type: none"> <li>Offeror is not a subordinate of the prescribed officer concerned.</li> <li>Offeror has no official dealings with the department in which the prescribed officer works.</li> <li>Advantage is offered to the prescribed officer in his or her private capacity.</li> </ul>	

Sources: ICAC (2008) and the *Acceptance of Advantages (Chief Executive's Permission) Notice 2010*.

3.3 A prescribed officer must seek "special permission" from the authorities if he or she wishes to solicit or accept an advantage in circumstances other than those specified under "general permission". Such permission has to be sought prior to, or as soon as reasonably possible after, soliciting or accepting the advantage. In addition, according to the *Civil Service Bureau Circular No. 4/2007* on "advantages/entertainment offered to an officer in his official capacity and gifts and donations to a department for the benefit of staff"<sup>13</sup>, no permission is given under the *Acceptance of Advantages (Chief Executive's Permission) Notice 2010* for the acceptance of advantages presented to a prescribed officer in his or her official capacity.

3.4 A prescribed officer who solicits or accepts advantages according to the *Acceptance of Advantages (Chief Executive's Permission) Notice 2010* will not violate section 3 of POBO. However, he or she may be liable to disciplinary action if he or she solicits or accepts any advantage which has led, or could have led, to a conflict between his or her private interests and his or her official duties, irrespective of whether the soliciting or acceptance of the advantage is permitted under the said Notice.

#### Provisions under common law

3.5 The provisions under common law offence of bribery and misconduct in public office discussed in paragraphs 2.7-2.8 above are also applicable to Principal Officials and civil servants.

#### Administrative provisions governing Principal Officials

3.6 The System of Accountability for Principal Officials was implemented on 1 July 2002. The *Code for Principal Officials under the Accountability System*, gazetted on 28 June 2002, sets out the basic principles and specific requirements which Principal Officials should follow in the performance of their duties. Although the *Code* does not have any legislative effect and has not been tabled in LegCo, every Principal Official receives the *Code* upon assuming office. All of them are required to read the *Code* carefully and sign the document to indicate that he or she understands the relevant content. The terms of appointment of such officials also stipulate that they must abide by the *Code*, and therefore Principal Officials have the legal responsibility to comply with the provisions of the *Code*.

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<sup>13</sup> An extract of the Circular is at **Appendix IV**.

3.7 According to the Administration, the *Code for Principal Officials under the Accountability System* contains no provision on sanctions against the violation of the *Code*. Nevertheless, in case of such violation, the Government would take actions depending on the circumstances. The Government may, for example, terminate the employment of the official concerned, or commence legal proceedings for damages or for an injunction for the restraints of breaches.

3.8 The Administration later published the "Report on Further Development of the Political Appointment System" on 17 October 2007. Due to the creation of additional layers of political appointees, the *Code for Principal Officials under the Accountability System* was adapted as the *Code for Officials under the Political Appointment System* to reflect the broader coverage of officials governed by the *Code*. Certain changes were also made to the declaration system.<sup>14</sup>

3.9 Chapter 5 of the current *Code for Officials under the Political Appointment System*<sup>15</sup> contains basic principles for prevention of conflict of interests. It also stipulates the specific requirements for Principal Officials regarding their acceptance of advantages/hospitality, sponsored visits, and keeping a register of gifts and other advantages, thereby ensuring that no actual or potential conflict of interests shall arise between their public duties and personal interests. According to the Administration, the system of declaration of interests for Principal Officials is largely adopted from the relevant system applicable to senior civil servants ranked at D8 on the Directorate Pay Scale.

#### *Basic principles for prevention of conflict of interests*

3.10 Principal Officials shall observe the principles of fairness and impartiality in discharging their duties. They shall report to the CE any private interests that might influence, or appear to influence, their judgement in the performance of their duties. They shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interests. They shall also refrain from handling cases with actual or potential conflict of interests.

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<sup>14</sup> The changes include: (a) requiring Principal Officials to complete the relevant declarations within 14 days upon taking up office and the subsequent annual declarations within 14 days from 1 July; (b) requiring Principal Officials to declare additional information in respect of land or buildings held by them for public inspection; and (c) requiring Principal Officials to declare the nature of business of the company for public inspection where they have an interest in a local or offshore private company, which may only be held with the CE approval.

<sup>15</sup> Chapter 5 of the *Code for Officials under the Political Appointment System: Prevention of Conflict of Interest* is enclosed as **Appendix V**.

3.11 Principal Officials shall not, without the CE's consent in writing, engage or be concerned either directly or indirectly as principal, agent, director or shadow director, employee or otherwise in any other trade, business, occupation, firm, company (private or public), chamber of commerce or similar bodies, public body or private professional practice.

3.12 The consent of the CE is likely to be given where the Principal Official is appointed to the relevant board of directors in his or her official capacity or in connection with his or her private family estate. Principal Officials may retain or accept honorary posts in non-profit making organizations or charitable bodies. In all such cases, the Principal Official shall ensure that there is no actual or apparent conflict of interests between his or her interests in such organizations or bodies and his or her official duties, and that his or her interests in such organizations or bodies would not cause embarrassment to the Government, the CE or other politically appointed officials of the Government.

#### *Acceptance of advantages/hospitality*

3.13 Principal Officials shall, if necessary, seek guidance from the CE as to the acceptance and retention of gifts, advantages or other benefits. Principal Officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgement or place them under an improper obligation.

3.14 Although the acceptance of hospitality or free service is not prohibited, Principal Officials shall take note of the relevant provisions in law and the following before accepting any such offer:

- (a) whether the acceptance of the hospitality or free service will lead to a conflict of interests with their official duties or place them in a position of obligation to the donor;
- (b) whether the acceptance of the hospitality or free service will lead to embarrassment in the discharge of their functions; and
- (c) whether the acceptance of the hospitality or free service will bring them or the public service into disrepute.

3.15 Principal Official shall not accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the Principal Official and the other person, or of the character of that person, to lead to embarrassment of the Principal Official in the discharge of his or her functions, or to bring the Principal Official or the public service into disrepute.

#### *Sponsored visits*

3.16 Principal Official may receive an invitation from a foreign government or an outside organization to make a sponsored visit in his or her official capacity. If Principal Official wishes to accept the sponsorship in relation to the visit, he or she shall seek permission from the CE. If Principal Official wishes to accept a sponsored visit for his or her spouse, he or she shall also seek permission from the CE.

#### *Register of gifts and other advantages*

3.17 Principal Officials are required to keep a register of gift, advantage, payment, sponsorship (including financial sponsorships and sponsored visits) or material benefit received by them or their spouses from any organization, person or government other than the Government which in any way relates to their office as Principal Officials. The register will be made available in the bureau or office served by the official concerned for public inspection on request.

3.18 Principal Officials who serve as ExCo Members shall, like other ExCo Members, declare their interests annually by "the Annual Declaration of Registrable Interests of Members of the Executive Council" for public inspection.

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### Administrative provisions governing civil servants

3.19 All civil servants shall observe the *Civil Service Regulations*, which set out the authority of the Secretary for the Civil Service and Heads of Department/Grade on day-to-day management of the civil service, the terms of appointment and conditions of service for civil servants, as well as the standards of conduct and performance expected of them. The Regulations are supplemented and elaborated by Circulars and Circular Memoranda issued by the Civil Service Bureau. These Regulations, Circulars and Circular Memoranda, together with the *Civil Service Code*<sup>16</sup> published by the Civil Service Bureau in September 2009, govern the civil servants in respect of the prevention of conflict of interests and the acceptance of advantages/ hospitality.

#### *Prevention of conflict of interest*

3.20 A civil servant must avoid situations which might compromise his or her personal judgement or integrity at work or lead to conflict of interest; must not subordinate his or her official duty to his or her private interests; must not put himself or herself in a position where his or her official duty and private interest conflict; must not use his or her official position to further his or her private interests or those of his or her family, friends or persons to whom his or her owes a favour or is obligated in any way. A civil servant also must not put himself or herself in a position which gives rise to suspicion that he or she is dishonest or has used this official position to further his or her private interests or those of his or her family or friends. In addition, similar to the basic principles in the *Code for Officials under the Political Appointment System*, civil servants are required to declare to their supervisors all relevant interests which may conflict with their official duties.

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<sup>16</sup> An extract of the *Civil Service Code* is enclosed as **Appendix VI**.

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*Acceptance of advantages*

3.21 *Civil Service Bureau Circular* No. 4/2007<sup>17</sup> requires that civil servants should as far as possible decline to accept gifts offered/presented to them by virtue of their official position. If this cannot be done owing to protocol reasons or the need to avoid causing great offence or embarrassment (such as where a gift is offered/presented to an officer when attending a social/ceremonial occasion in his or her official capacity), he or she should take it back to his or her bureau/department and report to the authorities for a decision on how to dispose of the gift. In each case, the decision should be put on record as required.

3.22 The authorities should first determine if it is in the public interest to accept the gifts, taking the following factors into consideration:

- (a) whether it is appropriate to decline the offer and return the gifts to the donor;
- (b) the nature and the value of the gifts;
- (c) the status and reputation of the donor;
- (d) whether there is any conflict of interests or the extent of official dealings, if any, between the donor and the officer concerned;
- (e) whether the acceptance of the gifts will place the officer, the department or the Government in an obligatory position towards the donor or cause embarrassment to them or invite criticism;
- (f) whether it is inappropriate to accept the gifts in view of prevailing Government policy (e.g. tobacco and products from endangered species);
- (g) whether the offer is also available on equal terms to persons who are not government officers on the same occasion;
- (h) the number of occasions that gifts/advantages has been offered by the same donor previously;

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<sup>17</sup> An extract of the *Circular* is enclosed as **Appendix IV**.

- (i) whether the officer has regulatory responsibility over the offeror (e.g. contractors) and whether such gifts should be disposed of in ways other than personal retention by the officer to avoid actual or perceived conflict of interests; and
- (j) the public perception angle.

### *Acceptance of entertainment*

3.23 *Civil Service Regulations* 431-435<sup>18</sup> stipulate that an officer may not, without the permission of his or her Head of Department, accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the officer and the other person, or of the character of that person, to lead to the embarrassment of the officer in the discharge of his/her functions, or to bring the officer or the public service into disrepute.

## **4. Observations from this study**

4.1 The observations obtained from this study are provided below for reference:

- (a) POBO (including sections 3 and 8<sup>19</sup>) is applicable to Principal Officials and civil servants. Although POBO as amended in 2008 prohibits the CE from engaging in such behaviours as soliciting or accepting advantages, sections 3 and 8 of POBO are not applicable to the CE;
- (b) The CE, Principal Officials and civil servants are subject to the provisions of common law offence of bribery and misconduct in public office;

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<sup>18</sup> *Civil Service Regulations* 431-435 are shown in **Appendix VII**. Please also refer to the extract from *Civil Service Bureau Circular* No. 3/2007 enclosed in **Appendix VIII**.

<sup>19</sup> As mentioned in paragraph 2.5, Section 3 of POBO prohibits any prescribed officer from soliciting or accepting any advantage without the CE's general or special permission. Section 8 of POBO prohibits any person without lawful authority or reasonable excuse, while having dealings of any kind with the Government or a public body, from offering any advantage to any prescribed officer of the Government or any public servant employed by that public body.

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- (c) Regarding administrative provisions, the *Code for Officials under the Political Appointment System* and a series of regulations governing the civil servants including the *Civil Service Regulations*, *Civil Service Bureau Circulars*, *Circular Memoranda* and the *Civil Service Code*, have set out clear rules governing the prevention and handling of conflict of interests for Principal Officials and civil servants. At present, there appears to be a lack of information in the public domain indicating that the CE is subject to similar administrative provisions; and
- (d) The *Code for Officials under the Political Appointment System* and a series of regulations governing the civil service also provide guidance for Principal Officials and civil servants on areas that merit attention when accepting advantages/hospitality. Currently, there seems to be no public information show that the CE is subject to similar administrative provisions.

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2 April 2012  
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**Appendix I**

"The Annual Declaration of Registrable Interests of  
Members of the Executive Council" submitted by the Chief Executive  
**Annual Declaration of Registrable Interests of**  
**Members of the Executive Council**

Name of Member : **Donald Tsang**

Registrable Interests	Contents
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- |  |     |
|--|-----|
| 1. Remunerated directorships in any public or private company, | Nil |
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[Notes:

- (a) "Remunerated directorships" include all directorships for which a fee, honorarium, allowance or other material benefit is payable.
- (b) Please give the name of the company, briefly stating the nature of the business of the company in each case.
- (c) Remunerated directorships of both Hong Kong companies and those outside Hong Kong are registrable.
- (d) Remunerated directorships through corporate directors are also registrable.
- (e) Where you are a remunerated director of a company, all subsidiary or associated directorships which you hold within the same group, whether remunerated or not, should also be registered.]

\* Please provide information on separate sheets if necessary. Please sign on every such separate sheet.

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**Appendix I (cont'd)**

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**Registrable Interests****Contents**

- |   |  |
|---|--|
| 2. Remunerated Employments, Offices, Trades, Profession, etc. | Chief Executive, Hong Kong Special Administrative Region |
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[Notes:

- (a) Indicate the name of the employment, office, trade, or profession.
  - (b) An employment, office, trade or profession is “remunerated” where a salary, honorarium, allowance or other material benefit is payable.
  - (c) “Remunerated offices” should include all “remunerated” public offices.
  - (d) Members who have paid posts as consultants or advisers should indicate the nature of the consultancy in the register; for example, “management consultant”, “legal adviser”, etc.
  - (e) All remunerated employments in Hong Kong and outside Hong Kong are registrable.]
3. Please indicate the names of clients if any of the above registrable interests includes provision to clients of personal services which arise out of or relate in any manner to your position as a Member of the Executive Council.

## Appendix I (cont'd)

- 3 -

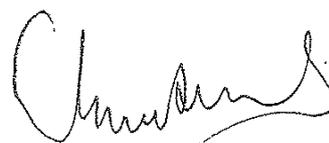
## Registrable Interests

## Contents

4. Land and property owned in Hong Kong or outside Hong Kong, including those for self-occupation. Land or property which are held in the name of Members' spouses, children or other persons or companies, but are actually owned by Members; or land or property which are not owned by Members, but in which Members have a beneficial interest (e.g. rental income), are all registrable. It is not necessary to provide detailed addresses of the land or property.
5. Names of companies (both listed and unlisted ones) or other bodies in which the Member has, to his knowledge, either himself or with or on behalf of his spouse or children, a beneficial interest in shareholdings of a nominal value greater than 1% of the issued share capital.
6. Membership of Boards, Committees and other organisations which might be construed by members of the public as a declaratory interest - e.g. Hong Kong General Chamber of Commerce, Real Estate Developers Association, etc.
- Residential flat (currently for lease) in Central & Western District, Hong Kong, owned by my wife, my two sons and me under the name of Ace Regent Development Limited of which I am a director.
- Ace Regent Development Limited  
(see 4 above)
- See attached list

Date : 15.7.2011

Signature : \_\_\_\_\_



## Appendix I (cont'd)

行政長官擔任贊助人及會員列表  
CE's Patronage and Membership

	組織 Organisation	名銜 Title	Date of acceptance / joining	任期/會籍始自
1	香港足球會 Hong Kong Football Club	<基本會員> (繳費會員) Full Member (Paid Membership)	1985	1985年
2	香港管理專業協會 Hong Kong Management Association	會士 (繳費會員) Fellow Member (Paid Membership)	1997	1997年
3	香港賽馬會 Hong Kong Jockey Club	遴選會員 Voting Member	1997	1997年
4	僑港南海同鄉會 <Nam Hoi Residents' Association, Hong Kong>	永遠榮譽會長 <Permanent Honorary President>	January 2001	2001年1月
5	旅港南海九江商會 Kow Kong Commercial Association, Hong Kong	名譽會長 <Honorary Chairman>	May 2001	2001年5月
6	旅港南海商會有限公司 Nam Hoi Traders' Association Ltd	名譽會長 <Honorary Chairman>	May 2001	2001年5月
7	又一村花園俱樂部 Yau Yat Chuen Garden City Club	名譽會員 Honorary Member	May 2001	2001年5月
8	<芝加哥行政人員會> Executives' Club of Chicago	<國際顧問委員會委員> International Advisory Council Member	10 August 2001	2001年8月10日
9	香港癌症基金會 Hong Kong Cancer Fund	贊助人 Patron	11 July 2005	2005年7月11日
10	香港聖約翰救護機構 Hong Kong St. John Ambulance	會長 President	15 July 2005	2005年7月15日
11	香港防癆心臟及胸病協會 Hong Kong Tuberculosis, Chest and Heart Diseases Association	贊助人 Patron	20 July 2005	2005年7月20日
12	香港童軍總會 Scout Association of Hong Kong	香港總領袖 Chief Scout of Hong Kong	20 July 2005	2005年7月20日
13	香港中樂團 Hong Kong Chinese Orchestra	名譽贊助人 Honorary Patron	21 July 2005	2005年7月21日
14	香港賽馬會 Hong Kong Jockey Club	名譽會長 Patron	21 July 2005	2005年7月21日
15	香港鄉村俱樂部 Hong Kong Country Club	<贊助人> Patron	22 July 2005	2005年7月22日
16	香港董事學會 HK Institute of Directors	贊助人 Patron	22 July 2005	2005年7月22日
17	香港青年獎勵計劃 Hong Kong Award for Young People	贊助人 Patron	26 July 2005	2005年7月26日
18	香港管弦樂團 Hong Kong Philharmonic Society	名譽贊助人 Honorary Patron	29 July 2005	2005年7月29日
19	港泰商會 HK-Thailand Business Council	贊助人 Patron	2 August 2005	2005年8月2日
20	香港交通安全會 Hong Kong Road Safety Association	贊助人 Patron	2 August 2005	2005年8月2日
21	香港聾人福利促進會 Hong Kong Society for the Deaf	贊助人 Patron	2 August 2005	2005年8月2日
22	環球香港商業協會聯盟 Federation of HK Businesses Association Worldwide	榮譽贊助人 Honorary Patron	2 August 2005	2005年8月2日
23	香港市場學會 Hong Kong Institute of Marketing	名譽贊助人 Patron	2 August 2005	2005年8月2日
24	香港防癌會 Hong Kong Anti-Cancer Society	贊助人 Patron	2 August 2005	2005年8月2日
25	香港紅十字會 Hong Kong Red Cross	贊助人 Patron	2 August 2005	2005年8月2日
26	香港工程師學會 Hong Kong Institution of Engineers	贊助人 Patron	3 August 2005	2005年8月3日

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## Appendix I (cont'd)

行政長官擔任贊助人及會員列表  
CE's Patronage and Membership

	組織 Organisation	名銜 Title	Date of acceptance / joining	任期/會籍始自
27	程思遠(中國·國際)肝炎研究基金 Cheng Si-yuan (China · International) Hepatitis Research Foundation	贊助人 Patron	4 August 2005	2005年8月4日
28	香港建築師學會 HK Institute of Architects	贊助人 Patron	5 August 2005	2005年8月5日
29	香港青年協會 Hong Kong Federation of Youth Groups	贊助人 Patron	8 August 2005	2005年8月8日
30	生活教育活動計劃 Life Education Activity Programme	贊助人 Patron	10 August 2005	2005年8月10日
31	扶康會 Fu Hong Society	贊助人 Patron	12 August 2005	2005年8月12日
32	香港會所 Hong Kong Club	<卓越會員> Distinguished Member	12 August 2005	2005年8月12日
33	香港女童群益會 Boys' and Girls' Clubs Association of Hong Kong	贊助人 Patron	15 August 2005	2005年8月15日
34	香港盲人輔導會 Hong Kong Society for the Blind	贊助人 Patron	15 August 2005	2005年8月15日
35	傑出青年協會 Outstanding Young Persons' Association	贊助人 Patron	15 August 2005	2005年8月15日
36	香港愛滋病基金會 Hong Kong AIDS Foundation	贊助人 Patron	15 August 2005	2005年8月15日
37	上海總會 Shanghai Fraternity Association Hong Kong	榮譽贊助人 <Honorary Patron>	15 August 2005	2005年8月15日
38	香港復康會 Hong Kong Society for Rehabilitation	贊助人 Patron	15 August 2005	2005年8月15日
39	香港公益金 The Community Chest	名譽會長 Patron	15 August 2005	2005年8月15日
40	香港家庭福利會 Hong Kong Family Welfare Society	贊助人 Patron	15 August 2005	2005年8月15日
41	香港救助兒童會 Save the Children Hong Kong	贊助人 Patron	15 August 2005	2005年8月15日
42	香港藝術節協會 Hong Kong Arts Festival Society Ltd	贊助人 Patron	15 August 2005	2005年8月15日
43	香港李寶椿聯合世界書院 Li Po Chun United World College of HK	贊助人 Patron	17 August 2005	2005年8月17日
44	世界自然基金會香港分會 World Wide Fund for Nature Hong Kong	贊助人 Patron	23 August 2005	2005年8月23日
45	香港前高級公務員協會 Hong Kong Former Senior Civil Servants Association Ltd.	<榮譽>贊助人 Honorary Patron	30 August 2005	2005年8月30日
46	香港保護兒童會 Hong Kong Society for the Protection of Children	贊助人 Patron	5 September 2005	2005年9月5日
47	郊野公園之友會 Friends of the Country Parks	贊助人 Patron	14 September 2005	2005年9月14日
48	香港國際教育學院 Hong Kong International Institute of Educational Leadership	贊助人 Patron	14 September 2005	2005年9月14日
49	香港社會服務聯會 Hong Kong Council of Social Service	贊助人 Patron	7 October 2005	2005年10月7日
50	香港醫學組織聯會 Federation of Medical Societies of Hong Kong	<贊助人> Patron	7 October 2005	2005年10月7日
51	健康快車香港基金 Lifeline Express Hong Kong Foundation	贊助人 Patron	7 October 2005	2005年10月7日
52	香港遊樂場協會 Hong Kong Playground Association	贊助人 Patron	28 October 2005	2005年10月28日
53	香港羽毛球總會 Hong Kong Badminton Association	贊助人 Patron	9 November 2005	2005年11月9日
54	紀利華木球會 Craigenpower Cricket Club	榮譽會長 Patron	17 November 2005	2005年11月17日

## Appendix I (cont'd)

行政長官擔任贊助人及會員列表  
CE's Patronage and Membership

	組織 Organisation	名銜 Title	Date of acceptance / joining	任期/會籍始自
55	<石澳鄉村俱樂部> Shek O Development Co Ltd (The Shek O Country Club)	<榮譽會員> Honorary Member	17 November 2005	2005年11月17日
56	中國香港體育協會暨奧林匹克委員會 Sports Federation and Olympic Committee of Hong Kong, China	贊助人 Patron	23 November 2005	2005年11月23日
57	亞洲青年管弦樂團 Asian Youth Orchestra	名譽贊助人 Honorary Patron	24 November 2005	2005年11月24日
58	香港基督少年軍 Boys' Brigade, Hong Kong	贊助人 Patron	24 November 2005	2005年11月24日
59	皇朝 Dynasty Club	名譽贊助人 Patron	24 November 2005	2005年11月24日
60	文匯報未來之星(未來之星同學會) Wen Wei Po Future Star (Future Star Federation of Students)	榮譽贊助人 Honorary Patron	24 November 2005	2005年11月24日
61	海峽兩岸青少年交流基金會 The Cross Straits Youths Exchange Foundation	贊助人 Patron	30 November 2005	2005年11月30日
62	香港中華基督教青年會 Chinese YMCA of Hong Kong	贊助人	7 December 2005	2005年12月7日
63	香港中華遊樂會 Chinese Recreation Club, Hong Kong	名譽會長 Honorary President	10 January 2006	2006年1月10日
64	香港青年旅舍協會 Hong Kong Youth Hostels Association	贊助人 Patron	19 January 2006	2006年1月19日
65	香港學校音樂及朗誦協會 Hong Kong Schools Music and Speech Association	贊助人 Patron	24 January 2006	2006年1月24日
66	香港戒毒會 The Society for the Aid and Rehabilitation of Drug Abusers	贊助人 Patron	24 January 2006	2006年1月24日
67	成長希望基金會(前稱香港救助兒童會,詳見第41項) Changing Young Lives Foundation (formerly Save the Children Hong Kong, please see Item 41 for details)	贊助人 Patron	14 February 2006	2006年2月14日
68	香港理工大學 - 香港孔子學院 Confucius Institute of Hong Kong, The Hong Kong Polytechnic University	贊助人 Patron	2 March 2006	2006年3月2日
69	何弢基金 TaoHo Foundation	贊助人 Patron	11 May 2006	2006年5月11日
70	香港蘇浙同鄉會 Kiangsu and Chekiang Residents (HK) Association	榮譽贊助人 <Honorary Patron>	18 May 2006	2006年5月18日
71	港台交流基金 Hong Kong-Taiwan Exchange Foundation	榮譽贊助人 Honorary Patron	29 June 2006	2006年6月29日
72	香港消防處長官會 Hong Kong Fire Services Officers' Mess	贊助人及榮譽會員 Patron and Honorary Member	3 August 2006	2006年8月3日
73	香港專業及資深行政人員協會 Hong Kong Professionals and Senior Executives Association	榮譽贊助人 Honorary Patron	4 August 2006	2006年8月4日
74	香港藝術中心 Hong Kong Arts Centre	名譽贊助人 Honorary Patron	10 October 2006	2006年10月10日
75	國家行政學院香港同學會 National School of Administration Hong Kong Alumni Association	名譽贊助人 <Honorary Patron>	7 December 2006	2006年12月7日

## Appendix I (cont'd)

行政長官擔任贊助人及會員列表  
CE's Patronage and Membership

	組織 Organisation	名銜 Title	Date of acceptance / joining	任期/會籍始自
76	香港建築中心 Hong Kong Architecture Centre	贊助人 Patron	1 February 2007	2007年2月1日
77	無止橋慈善基金會 Wu Zhi Qiao (Bridge to China) Charitable Foundation	榮譽贊助人 Honorary Patron	2 March 2007	2007年3月2日
78	中國會 The China Club	名譽會員 Honorary Member	25 May 2007	2007年5月25日
79	斯比安利 Cipriani Hong Kong	<名譽會員> Honorary Member	25 May 2007	2007年5月25日
80	香港青少年發展聯會 Hong Kong Association of Youth Development	贊助人 Patron	26 June 2007	2007年6月26日
81	香港青年聯會 Hong Kong United Youth Association	名譽贊助人 Honorary Patron	23 August 2007	2007年8月23日
82	香港哥爾夫球會 The Hong Kong Golf Club	<名譽會員> Honorary Member	27 August 2007	2007年8月27日
83	華仁一家基金 Wah Yan One Family Foundation	榮譽贊助人 Honorary Patron	4 September 2007	2007年9月4日
84	香港耆康老人福利會 Hong Kong Society for the Aged	贊助人 Patron	19 September 2007	2007年9月19日
85	香港學界體育聯會 Hong Kong Schools Sports Federation	贊助人 Patron	5 December 2007	2007年12月5日
86	香港科技大學高等研究院董事會 Institute for Advanced Study Board of Trustees of the Hong Kong University of Science and Technology	榮譽主席 Honorary Chairman	11 July 2008	2008年7月11日
87	香港藝術發展局 - 香港藝術發展公益基金 Hong Kong Arts Development Council - Hong Kong Arts Community Fund	榮譽贊助人 Honorary Patron	24 October 2008	2008年10月24日
88	香港廣東社團總會 Federation of Hong Kong Guangdong Community Organisations	首席榮譽贊助人 <Principal Honorary Patron>	10 June 2009	2009年6月10日
89	香港日本人俱樂部 The Hongkong Japanese Club	名譽會員 Honorary Member	16 June 2009	2009年6月16日
90	香港足球總會 The Hong Kong Football Association	贊助人 (2009-2011球季) Patron (the 2009-2011 Season)	24 August 2009	2009年8月24日
91	香港福建社團聯會 Hong Kong Federation of Fujian Associations	首席榮譽贊助人 <Principal Honorary Patron>	28 August 2009	2009年8月28日
92	香港中國商會 Hong Kong China Chamber of Commerce	榮譽贊助人 Honorary Patron	7 January 2010	2010年1月7日
93	新家園協會 New Home Association	榮譽贊助人 Honorary Patron	2 June 2010	2010年6月2日
94	領賢慈善基金 First Initiative Foundation	榮譽贊助人 Honorary Patron	5 November 2010	2010年11月5日
95	香港同胞慶祝國慶常設委員會 (62週年國慶籌委會) The Association of Compatriots in Hong Kong for Celebration of the National Day of the People's Republic of China (Organising Committee on the 62nd Anniversary of the National Day)	主席團名譽主席 <Honorary Chairman of the Chairman's Group>	15 June 2011	2011年6月15日

## Appendix I (cont'd)

行政長官擔任贊助人及會員列表  
CE's Patronage and Membership

	組織 Organisation	名銜 Title	Date of acceptance / joining	任期/會籍始自
96	「香港傑出學生會」 Hong Kong Federation of Outstanding Students	榮譽贊助人 Honorary Patron	1 August 2011	2011年8月1日

<括號內譯名只作參考 Translation in brackets is for reference only>

• 行政會議秘書處按曾先生的通知，於二零一一年八月九日加入此項目。

## Appendix II

### **The "Declaration of Acceptance of Sponsorships and Gifts" to be filled in by the Executive Council Members**

To: Clerk to the Executive Council

#### Declaration of Acceptance of Sponsorships and Gifts

- (A) Financial Sponsorships and Overseas Sponsored Visits
- (1) Have you or your spouse received any sponsorship, payment, or any material benefit or advantage from any person or organization which in any way relates to your membership of the Council? If so, please give details such as the name and nature of the organization.
  - (2) Have you or your spouse made any overseas visits relating to or in any way arising out of your membership of the Council where the cost of the visit was not wholly borne by yourself or by public funds of Hong Kong? If so, please give details such as the purpose of the visit, the name of sponsors and the nature of interest received.
  - (3) Have you or your spouse received any payments, or material benefits or advantages from or on behalf of any government outside Hong Kong, organization or person which in any way relates to your membership of the Council? If so, please give details.

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**Appendix II (cont'd)**

(B) Gifts (See notes below)

Gifts worth over HK\$2,000 received by you should be declared as follows –

1. Item (Please specify the brand name)
2. Date received
3. Description of occasion  
(e.g. an academic seminar, a prize giving ceremony)
4. Capacity  
(e.g. officiating guest)
5. Treatment  
(e.g. retained as souvenir, donated to a charity)

Signature : \_\_\_\_\_

Name of Member : \_\_\_\_\_

Date : \_\_\_\_\_

Note 1. Gifts received from a relative or received on a special occasion; or advantages which are available on equal terms to persons who are not ExCo Members need not be declared. "Relative" includes the spouse, fiancé or fiancée, parent, step-parent, lawful guardian, in-laws, grandparent, great-grandparent, nephew, niece, uncle, aunt, cousin and spouse's siblings. "Special occasions" include birthday, wedding, anniversary, engagement, baptism or functions hosted by ExCo Members.

2. The source of the gift received by you should be reported on the attached confidential sheet in the interests of privacy.

## Appendix III

## Register of Gifts Presented to the Chief Executive

行政長官獲贈公務禮物名冊(估值高於港幣 400 元)

Register of official gifts (of perceived value above HK\$400) presented to the Chief Executive

2012 年 1 月

January 2012

甲部：行政長官保留自用的禮物

**Part A: Items retained by the CE for personal use**

編號 S/N	名稱 Descriptions	日期 Date Received
	無 Nil	

乙部：其他由政府處理的禮物

**Part B: Items passed to the Government for disposal**

編號 S/N	名稱 Descriptions	日期 Date Received
	一個禮籃	1 月 4 日
1	A hamper	4 January
	兩盆植物	1 月 13 日
2	Two potted plants	13 January
	一個禮籃	1 月 13 日
3	A hamper	13 January
	兩枚紀念幣	1 月 13 日
4	Two commemorative coins	13 January
	一件擺設	1 月 13 日
5	A display item	13 January
	一盆植物	1 月 15 日
6	A potted plant	15 January
	一個禮籃	1 月 16 日
7	A hamper	16 January
	一支筆	1 月 16 日
8	A pen	16 January
	一盆植物	1 月 16 日
9	A potted plant	16 January
	一個禮籃	1 月 17 日
10	A hamper	17 January
	兩盆植物	1 月 17 日
11	Two potted plants	17 January
	兩盒食品	1 月 17 日
12	Two boxes of food	17 January
	一盆植物	1 月 18 日
13	A potted plant	18 January
	一個禮籃	1 月 18 日
14	A hamper	18 January
	一個禮籃	1 月 19 日
15	A hamper	19 January
	一個禮籃	1 月 19 日
16	A hamper	19 January
	一個禮籃	1 月 20 日
17	A hamper	20 January
	兩盆植物	1 月 19 日
18	Two potted plants	19 January
	兩盆植物	1 月 19 日
19	Two potted plants	19 January

註：估值為港幣400元或以下的公務禮物不作註示。

Remarks: Official gifts of perceived value of HK\$400 or below will not be registered.

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## Appendix IV

### **Advantages/entertainment offered to an officer in his official capacity and gifts and donations to a department for the benefit of staff**

*(extracted from the Civil Service Bureau Circular No. 4/2007)*

#### ***Introduction***

This circular gives guidance to officers and bureaux/departments on how the following should be handled –

- (a) advantages offered to an officer in his official capacity, including gifts presented on social/ceremonial/other occasions, complimentary tickets and free raffle tickets;
- (b) entertainment offered to an officer in his official capacity; and
- (c) gifts and donations offered to a department for the benefit of staff.

...

#### ***The Acceptance of Advantages (Chief Executive's Permission) Notice***

3. Under section 3 of the *Prevention of Bribery Ordinance*, Cap. 201 (“POBO”), any prescribed officer<sup>1</sup> who, without the general or special permission of the Chief Executive, solicits or accepts any advantage shall be guilty of an offence. The *Acceptance of Advantages (Chief Executive's Permission) Notice* (“AAN”) sets out the circumstances under which general permission has been given for prescribed officers to solicit or accept certain advantages in their private capacity. Outside of these prescribed circumstances, they have to seek special permission for their solicitation/acceptance of the advantage. Relevant guidelines are set out in Civil Service Bureau Circular No. 3/2007 on “Acceptance of advantages offered to an officer in his private capacity”.

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<sup>1</sup> As defined in section 2 of the POBO, a “prescribed officer” includes any person holding an office of emolument, whether permanent or temporary, under the Government. All Government officers, including civil servants and those employed on non-civil service terms in the Government, are prescribed officers.

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**Appendix IV (cont'd)*****Gifts/Advantages offered/presented to an officer in his official capacity***

4. Officers should note that under CSR 444(2), advantages offered to an officer and/or the officer's spouse by virtue of the officer's official position or on an occasion attended in the officer's official capacity (including those offered/presented by another government department), whether in Hong Kong or elsewhere, are regarded as advantages to the bureau/department in which the officer works. They should be disposed of in accordance with the guidelines set out hereunder.

***Official capacity***

5. An occasion which an officer attends in his official capacity would usually be considered to be one that the officer attends on duty, whether within or out of working hours, and as a result of the duties of his office or an instruction by his superior officers. An occasion which an officer attends by virtue of his official position would usually be considered to be one to which he would not have been invited had he not held the post that he held in the Government at the time.

***General principle***

6. Officers should as far as possible decline to accept gifts offered/presented to them by virtue of their official position. Where this cannot be done owing to protocol reasons or the need to avoid causing great offence or embarrassment, such as where a gift is offered/presented to an officer when attending a social/ceremonial occasion in his official capacity, he should take it back to his bureau/department and report to the approving authority for a decision on how to dispose of the gift. A sample form for seeking approval to dispose of the gift is at **Annex I**.

**Appendix IV (cont'd)*****Approving authority***

7. Gifts offered/presented to an officer in his official capacity should be dealt with in accordance with paragraphs 9 to 13 below. Permanent Secretaries/Heads of Department have been given the authority to decide how gifts offered/presented to other officers in their bureaux/departments should be dealt with. In the case of gifts that are presented to Permanent Secretaries/Heads of Department personally, they may also decide on the method for disposing of the gifts, other than approving personal retention of the gifts by themselves. The authority to approve personal retention of such gifts by a Head of Department has been delegated to the respective Permanent Secretary, whereas the authority to approve personal retention of gifts by a Permanent Secretary remains with the Secretary for the Civil Service.

8. The approving authority (as shown in **Annex II**) may authorise officers in his bureau/department to deal with such applications on his behalf. Such authorisation is subject to the conditions set out in paragraph 2 of Civil Service Bureau Circular No. 11/94 on “Delegations Relating to Conduct Matters”, except that the authority should not be exercised by officers below the rank of Chief Executive Officer or equivalent.

***Factors for consideration***

9. The approving authority should first determine if it is in the public interest to accept the gifts. In so doing, he may take the following factors into consideration –

- (a) whether it is appropriate to decline the offer and return the gifts to the donor;
- (b) the nature and the value of the gifts;
- (c) the status and reputation of the donor;
- (d) whether there is any conflict of interest or the extent of official dealings, if any, between the donor and the officer concerned;

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**Appendix IV (cont'd)**

- (e) whether the acceptance of the gifts will place the officer, the department or the Government in an obligatory position towards the donor or cause embarrassment to them or invite criticism;
- (f) whether it is inappropriate to accept the gifts in view of prevailing Government policy (e.g. tobacco and product from endangered species);
- (g) whether the offer is also available on equal terms to persons who are not government officers on the same occasion;
- (h) the number of occasions that gifts/advantages have been offered by the same donor previously;
- (i) whether the officer has regulatory responsibility over the offeror (e.g. contractors) and whether such gifts should be disposed of in ways other than personal retention by the officer to avoid actual or perceived conflict of interest; and
- (j) the public perception angle.

***Methods of disposal***

10. At the discretion of the approving authority and where this can be done without causing great offence or embarrassment, the gift should be returned to the donor with a carefully worded explanation that Government regulations do not permit the acceptance of gifts and a polite word of gratitude for the thought behind the gift.

11. In circumstances where it is not considered that the gift should be returned, then the following alternatives may be adopted –

- (a) if the gift falls into one of the categories described in paragraph 13 below, and subject to compliance with the conditions set out in the table therein, it may be retained by the officer;

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**Appendix IV (cont'd)**

- (b) if the gift is of perishable nature, e.g. food, drink or flower, it may be shared among the office or displayed in the office where the recipient works or donated to charity;
- (c) if the gift is a useful item, it may be sent to a charitable organization, or, if of historical or other interest, to a school, library or museum. It may also be retained for use in the office;
- (d) if the gift is suitable for display (e.g. a painting or a vase), it may be retained for display in the office of the recipient or elsewhere in the department; or
- (e) if it is suitable and the value of the gift does not exceed \$1,000, the gift may be donated to the department's social functions as a lucky draw prize.

12. In each case, the decision should be recorded on the form at **Annex I**. Separately, all gifts that are retained for use or display in the office are the property of the office and must be placed on the office's inventory record.

***Personal retention of gifts***

13. Officers may be presented with souvenir plaques, shields, banners or other gift items when attending official functions as an officiating guest or the principal representative of their bureau/department at the event. Some of these items may be personally inscribed. At some official events such as conferences and seminars, officers may receive souvenir items which are widely distributed to participants. Sometimes, officers may also receive by virtue of their official position seasonal gifts sent to them by working contacts. Examples of such gift/souvenir items include ball pen, memo pad, calendar, desk diary, etc. These items may also be inscribed with the names of the organization/donor and may be of limited commercial value. In the interest of administrative convenience, blanket permission is given by the Secretary for the Civil Service for Permanent Secretaries to personally retain items in categories (a) and (b)(i) of the table below and subject to a report by the officer (a sample form for the purpose is at **Annex III**) -

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**Appendix IV (cont'd)**

<b>Category</b>	<b>Value of the item</b>	<b>Arrangement</b>
(a)	Not exceeding \$50 or 0.1% of substantive salary, whichever is the higher	Blanket permission is given for personal retention*.
(b)	Above \$50 or 0.1% of substantive salary, whichever is the higher, to \$400	(i) Blanket permission is given for personal retention* of a gift/souvenir that is personally inscribed with the officer's name or received by the officer at official functions as the Guest of Honour or an officiating guest. (ii) Special permission is required for personal retention of a gift/souvenir other than that at (i) above. Permission may be given having regard to the factors listed in paragraph 9.
(c)	Above \$400 to \$1,000	Special permission is required for personal retention. Permission may be given if the gift/souvenir is personally inscribed with the officer's name or received by the officer at official functions as the Guest of Honour or an officiating guest, and having regard to the factors listed in paragraph 9.
(d)	Above \$1,000	No personal retention should be permitted unless in very exceptional circumstances.

*\*Despite the blanket permission, the officer is still required to report the retention of the gift(s)/souvenir(s) by using the form at **Annex III**.*

Bearing in mind that gifts/souvenirs from official contacts may be received by staff from junior level to very senior level, the setting of a specified amount as the threshold for personal retention of such gifts/souvenirs is considered too rigid. To balance the risks of officers being "sweetened" by such gifts/souvenirs and the administrative workload, the threshold for blanket permission for gift item under category (a) of the table above is set at \$50 or 0.1% of the officer's substantive salary, whichever is the higher. The financial limits for gift/souvenir items in other categories are determined having regard to policy objective and operational experience over the years. Permanent Secretaries and Head of Departments may consider giving similar blanket permission for officers under them to personally retain such items, but the overall regime should strictly adhere to the table above.

**Appendix IV (cont'd)**

14. By virtue of CSR 444(2) read in conjunction with section 7(a) of the AAN, an officer may personally retain a gift/souvenir received in his official capacity in accordance with the directive issued by the Secretary for the Civil Service as in the context of this circular. Under section 7(a) of the AAN, a prescribed officer may accept a gift/souvenir that he is permitted to accept under any Government regulations.

***Acceptance of complimentary tickets***

15. Complimentary tickets to functions and performances (e.g. movie, show, sports event, conference, seminar, etc.) are gifts. Where they are offered to an officer by virtue of his official position, they should be handled in accordance with the guidelines outlined in paragraphs 9 to 12 above. Only where it is in the interest of the bureau/department or serves an operational need for an officer to attend the function/performance, the approving authority may approve acceptance of the complimentary tickets by the officer concerned.

16. Invitations to entertainment extended to an officer by virtue of his official position should be dealt with in accordance with CSRs 431 – 435 (see paragraphs 20 – 29 below).

***Acceptance of raffle tickets and participation in lucky draws***

17. Officers may be presented with free raffle tickets or invited to take part in free lucky draws when attending social or festive functions in their official capacity. They should decline to accept such tickets or to participate in such free lucky draws. If participation cannot be avoided, prizes won should be returned to the organiser for a re-draw. If this may cause great offence or embarrassment, the officer should take the prize back to his bureau/department for a decision by the Permanent Secretary/Head of Department on its disposal in accordance with paragraphs 4 to 13 above, as prizes won under such circumstances are gifts to the bureau/department.

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**Appendix IV (cont'd)**

18. On occasions where officers are invited to buy raffle tickets during such official functions, they may accept the prize won, if any, without having to seek special permission. Nevertheless, they should be mindful to avoid taking part in dubious lucky draws which could compromise their integrity (e.g. where one only needs to pay a small sum of money for the raffle tickets but expensive prizes are given to all participants).

***Sponsored visits***

19. Sponsored visits undertaken by an officer in his official capacity as a representative of a department are not regarded as an advantage to the officer and should be dealt with in accordance with CSB Circular No. 7/94 on “Sponsored Visits”.

***Acceptance of entertainment***

20. Entertainment when offered by way of a favour is not of itself an advantage as defined in section 2 of the POBO. However, the acceptance of free food, drink, show, etc. may, by reason of its nature and the circumstances in which it is given, go beyond just being a favour (i.e. a gratuitous service or courtesy, free of obligation to, or by, both the giver and the receiver) and becomes an advantage if it falls within one of the other categories that make up the definition of advantage in section 2 of the POBO, such as “a discharge of an obligation to pay”. In other words, the acceptance of free food, drink, show, etc. is capable of becoming an advantage the acceptance of which renders the officer liable to prosecution under the POBO.

21. Officers who have doubts about accepting an offer of entertainment are strongly advised to seek guidance from their Permanent Secretaries/Heads of Department before they accept the entertainment.

22. Officers should not accept lavish, or unreasonably generous or frequent entertainment, or indeed any entertainment that is likely to –

- (a) put the officers in an obligatory position in the discharge of their duties;
- (b) bring the officers or the public service into disrepute; or

**Appendix IV (cont'd)**

- (c) give rise to any potential or real conflict of interest.

23. Accepting free meal, drink or other related entertainment may in some circumstances give negative connotations such as creating a sense of obligation or a perception that an officer's impartiality has been compromised. When offered entertainment, an officer should consider carefully, in the light of the guidelines mentioned above, whether the entertainment offered could be regarded as –

- (a) excessive – taking into account its value, substance, frequency and nature;
- (b) inappropriate – taking into account the relationship between the officer and the donor (e.g. whether they have any direct official dealings); or
- (c) undesirable – taking into account the character of the host, etc.

24. An officer who accepts entertainment other than in accordance with CSRs 431 – 435 or any relevant departmental guidelines issued by his Permanent Secretary/Head of Department (see paragraph 28 below) renders himself liable to disciplinary action. The opportunity is taken to bring the content of CSRs 431 – 435 up-to-date. An up-dated version of the relevant CSRs is at **Annex IV** in the form of amendment sheets. They replace the relevant pages of the *Civil Service Regulations* with effect from the date of this circular.

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**Appendix IV (cont'd)*****Departmental instructions on entertainment***

25. In dealing with cases of entertainment, Permanent Secretaries/Heads of Department should have regard to the circumstances surrounding its provision, the value, substance, frequency and nature of the entertainment offered (whether it gives the officer something which he might not have access to or be able to afford), the relationship between the officer and the donor, and whether or not an obligation or conflict of interest might be created, etc.

26. Where it is considered not appropriate to decline an invitation to entertainment which may contravene the guidelines in paragraphs 22 and 23 above for reasons of courtesy or special circumstances, the officer should seek prior approval from his Permanent Secretary/Head of Department as necessary. If it is impractical for prior approval to be obtained (e.g. where an official contact paid the bill for a meal for an officer or his family or friends without informing the officer in advance), the officer should make an effort to effect the repayment. If this is unsuccessful, he should seek covering approval to accept the entertainment.

27. In circumstances where acceptance of entertainment in an official capacity is considered necessary in the interest of the bureau/department (e.g. for liaison, information gathering and public relations purposes), the number of representatives from the bureau/department should be kept to the minimum.

28. Permanent Secretaries/Heads of Department are reminded that under CSR 435, they may issue directions to their staff to supplement the rules in CSR 434. They are strongly advised to do so where their staff, because of their job nature, are often invited to meals or entertainment by their working contacts or the public. The supplementary guidelines may provide guidance, with illustrative examples where practicable, on –

- (a) the types of entertainment officers are prohibited from accepting or from accepting without permission;
- (b) how to avoid and handle offers of entertainment which are inappropriate (e.g. from persons with whom they have direct official dealings) or undesirable (e.g. taking into account the character of the host); and

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**Appendix IV (cont'd)**

- (c) the departmental procedures for approving acceptance of entertainment.

29. Where operational circumstances so warrant, a Permanent Secretary/ Head of Department may consider encouraging/requiring his staff to report acceptance of entertainment/hospitality offered to them in their official capacities. This will be conducive to embedding a culture of probity within the bureau/department.

***Gifts and donations to a department as a whole for the benefit of staff***

30. Gifts and donations which are offered or presented to a bureau/department as a whole for the benefit of staff, rather than presented to an individual officer, should not be accepted without the proper approval.

31. Permanent Secretaries have been delegated with the authority to approve the acceptance of such donations by a department under their respective schedule, where –

- (a) for a donation from one single person or organization on any one occasion, the value does not exceed \$10,000; and
- (b) for donations to one single social or recreation function, the cumulative value does not exceed \$30,000.

32. Approval may be given subject to the following criteria being met –

- (a) the circumstances leading to the donation should be above board and not open to misconstruction;
- (b) acceptance of the donation must not embarrass the bureau/department or Government (e.g. donations from a tobacco company should be avoided in view of the anti-smoking policy) or cause a conflict of interest or put the bureau/department or Government in an obligatory position towards the donor;
- (c) the donation must be voluntary and not solicited and there is no undue pressure or compulsion whatsoever on the donor by the bureau/department;

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**Appendix IV (cont'd)**

- (d) neither the bureau/department nor the Government is involved in advertising or promoting the donor or any commercial products;
- (e) acceptance of the donation will not bring into question the impartiality of the bureau/department or Government and there is no undue publicity associated with the acceptance;
- (f) the value of the donation should not be excessive or disproportionately high;
- (g) for departmental social or recreation functions, donations should preferably be accepted in kind;
- (h) where gifts are donated, departments should record the estimated value of the items;
- (i) where recurrent costs (e.g. in fuel or maintenance) are involved, the advice of the Secretary for Financial Services and the Treasury should be sought before acceptance; and
- (j) the officer authorised to take day-to-day decision on behalf of the Permanent Secretary should be at directorate level.

33. The approval of the Secretary for the Civil Service must be sought in the following cases –

- (a) acceptance of donations by bureaux for the benefit of staff; and
- (b) acceptance of such donations offered to departments of values exceeding the limits as specified in paragraph 31 above.

Departments should also seek the support from their policy bureau when submitting such cases to the Secretary for the Civil Service for consideration.

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**Appendix IV (cont'd)*****Submission of half-yearly returns on donations accepted***

34. To enable the Civil Service Bureau to monitor the overall situation, bureaux/departments are requested to make half-yearly returns (ending June and December) to the Civil Service Bureau showing gifts and donations for the benefit of staff accepted, on or before the 15th of January and July. A sample proforma is attached at **Annex V**.

***Acceptance of donations to staff welfare funds***

35. Cases involving acceptance of donations to staff welfare funds should be processed in accordance with CSB Circular No. 11/2003.

***The Prevention of Bribery Ordinance***

36. All officers should familiarize themselves with the main provisions in the POBO which are applicable to the acceptance of advantages in their official capacity –

- (a) Section 3 : it is an offence for a prescribed officer to solicit or accept any advantage without the Chief Executive's general or special permission; and
- (b) Section 4 : it is an offence for a public servant to solicit or accept any advantage in Hong Kong or elsewhere as an inducement to or reward for or otherwise on account of his performing or abstaining from performing any act in his capacity as a public servant.

An extract of sections 3 and 4 of the POBO and the AAN (with particular attention drawn to sections 2 and 7 therein) are at **Annex VI**.

37. **Officer should note that** they will be guilty of an offence under section 4 of the POBO if they solicit or accept any advantage (even one permitted under the AAN) for abusing his official power or position.

***Distribution***

38. Bureaux/departments are requested to provide a copy of this circular to all newly appointed officers as soon as possible after appointment and to re-circulate this circular to their staff every six months.

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**Appendix IV (cont'd)**
**Annex II**

**Approving authority for handling gifts  
offered/presented to an officer in his official capacity**

	<b>Gifts received by Permanent Secretaries</b>	<b>Gifts received by Heads of Department</b>	<b>Gifts received by other officers in bureaux/departments</b>
(a) for personal retention	Secretary for the Civil Service	Permanent Secretaries	Permanent Secretaries/ Heads of Department respectively
(b) for other disposal ways (as specified in para. 11(b) to (e) of CSB Circular No. 4/2007)	Permanent Secretaries	Heads of Department	Permanent Secretaries/ Heads of Department respectively

(The extracted parts do not include Annexes I, III, IV, V and VI)

**Appendix V*****Code for Officials under the Political Appointment System*****Chapter 5: Prevention of conflict of interest**

5.1. Politically appointed officials shall avoid putting themselves in a position where they might arouse any suspicion of dishonesty, unfairness or conflict of interest.

5.2. Politically appointed officials shall observe the principles of fairness and impartiality in discharging their duties and in their dealings with members of the public and with their staff.

5.3. Politically appointed officials shall refrain from handling cases with actual or potential conflict of interest.

5.4. Politically appointed officials shall report to the Chief Executive any private interests that might influence, or appear to influence, their judgement in the performance of their duties.

5.5. During the term of office, politically appointed officials shall not, without the consent in writing of the Chief Executive, engage or be concerned either directly or indirectly as principal, agent, director or shadow director, employee or otherwise in any other trade, business, occupation, firm, company (private or public), chamber of commerce or similar bodies, public body or private professional practice. The consent of the Chief Executive is likely to be given where the official is appointed to the relevant board of directors in his official capacity or in connection with his private family estate. A politically appointed official may retain or accept honorary posts in non-profit making organizations or charitable bodies. In all these cases, the official shall ensure that there is no actual or apparent conflict of interest between his interests in such organizations or bodies and his official duties and that his interests in such organizations or bodies would not cause embarrassment to the Government, the Chief Executive or other politically appointed officials of the Government.

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**Appendix V (cont'd)****Declaration and handling of investments/interests**

5.6. Given that the politically appointed officials will have access to highly sensitive information including commercially sensitive information, they shall declare their investments and interests for the purpose of securing public trust and confidence. The declaration will be made available in a place designated by the Chief Executive's Office for public inspection on request.

5.7. If it appears to the Chief Executive at any time that there is or may be a conflict of interest between a politically appointed official's investments or interests and his official duties, the Chief Executive may require the official to take any one or more of the following measures:

- (a) to divest himself or herself of all or any of the investments or interests;
- (b) to refrain from acquiring or disposing of the investments or interests;
- (c) to freeze any investment transaction for a specified period;
- (d) to place the investments or interests in a "blind trust";
- (e) to refrain from handling cases with actual or potential conflict of interest; and
- (f) to take other actions as directed by the Chief Executive.

**Acceptance of advantages**

5.8. Politically appointed officials shall note that as public servants employed by the Government, they are subject to the relevant provisions in the *Prevention of Bribery Ordinance* (Chapter 201 of the Laws of Hong Kong) and the *Independent Commission Against Corruption Ordinance* (Chapter 204 of the Laws of Hong Kong), and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits.

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**Appendix V (cont'd)**

5.9. As a general rule, politically appointed officials shall avoid accepting any gift or hospitality which might or might reasonably appear to compromise their judgement or place them under an improper obligation. Although the acceptance of hospitality or free service is not prohibited, politically appointed officials shall take note of the relevant provisions in law and the following before accepting any such offer:

- (a) whether the acceptance of the hospitality or free service will lead to a conflict of interest with their official duties or place them in a position of obligation to the donor;
- (b) whether the acceptance of the hospitality or free service will lead to embarrassment in the discharge of their functions; and
- (c) whether the acceptance of the hospitality or free service will bring them or the public service into disrepute.

5.10. A politically appointed official shall not accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature, or of the relationship between the official and the other person, or of the character of that person:

- (a) to lead to embarrassment of the politically appointed official in the discharge of his functions; or
- (b) to bring the politically appointed official or the public service into disrepute.

**Sponsored visits**

5.11. A politically appointed official may receive an invitation from a foreign government to make a sponsored visit in his official capacity. If the official wishes to accept the sponsorship in relation to the visit, he shall seek permission from the Chief Executive.

5.12. A politically appointed official may receive an invitation from an outside organization to make a sponsored visit in his official capacity. If the official wishes to accept the sponsorship in relation to the visit, he shall seek permission from the Chief Executive.

**Appendix V (cont'd)**

5.13. If a politically appointed official wishes to accept a sponsored visit for his spouse, he shall seek permission from the Chief Executive.

**Register of gifts etc.**

5.14. Politically appointed officials shall note that they are subject to the provisions of the *Prevention of Bribery Ordinance* (Chapter 201 of the Laws of Hong Kong) and shall if necessary seek guidance from the Chief Executive as to the acceptance and retention of gifts, advantages or other benefits. In addition, politically appointed officials are required to keep a register of gift, advantage, payment, sponsorship (including financial sponsorships and sponsored visits) or material benefit received by them or their spouses from any organization, person or government other than the Government which in any way relates to their office as politically appointed officials. The register will be made available in the bureau/office served by the official concerned for public inspection on request.

**On stepping down from office**

5.15. Within one year after stepping down from office, politically appointed officials shall seek the advice of a committee appointed for this purpose by the Chief Executive before commencing any employment, becoming a director or a partner in any business or profession or starting any business or profession on his own account or with others. The proceedings of the committee shall be kept confidential but the advice given shall be made public.

5.16. Within one year after stepping down from office, politically appointed officials shall not represent any person in connection with any claim, action, demand, proceedings, transaction or negotiation against or with the Government.

5.17. Within one year after stepping down from office, politically appointed officials shall not engage in any lobbying activities on matters relating to the Government.

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**Appendix VI****Extract of the *Civil Service Code*****1 Introduction**

1.3 Civil servants are appointed, managed and promoted on the basis of merit and in accordance with the principles of openness and fairness and with the prevailing rules and regulations applicable to the Civil Service. They are subject to the prevailing disciplinary system for the Civil Service, under which allegations of misconduct against individual civil servants are determined through an impartial process based on consideration of factual evidence. The independent and statutory Public Service Commission advises the Chief Executive on the appointment, promotion, conduct and discipline of civil servants under the *Public Service Commission Ordinance* (Chapter 93 of the Laws of Hong Kong).

1.4 The *Civil Service Code* sets forth the core values and standards of conduct of civil servants. It also sets out the general duties and responsibilities of civil servants in relation to officials under the political appointment system (hereafter referred to as “politically appointed officials”). Civil servants should familiarize themselves with the contents of the *Code* and comply with it.

...

**2 Core Values**

2.1 The Civil Service is a permanent, honest, meritocratic, professional and politically neutral institution. The core values set out below are central to the integrity and probity of the Civil Service. They underpin good governance and help the Civil Service gain and retain the respect and confidence of the public.

2.2 Civil servants are required to uphold the following core values, which are of equal importance –

- (a) commitment to the rule of law;
- (b) honesty and integrity;
- (c) objectivity and impartiality;
- (d) political neutrality;
- (e) accountability for decisions and actions; and
- (f) dedication, professionalism and diligence.

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**Appendix VI (cont'd)****3 Standards of Conduct**

3.1 Based on the above core values, civil servants are required to follow the standards of conduct set out below.

3.2 **Commitment to the rule of law:** Civil servants shall uphold the rule of law and the administration of justice. They shall exercise executive powers in compliance with the *Basic Law* and the Laws of Hong Kong. When making decisions, they shall act within the scope of the power or discretion conferred on them, and within their delegated authority as relevant. They shall always observe due process. They shall report promptly, either directly or through their bureaux/departments as appropriate, to the Independent Commission Against Corruption any suspected corrupt act or to the Police other criminal act encountered in discharging their duties.

3.3 **Honesty:** Civil servants shall set out facts and relevant issues truthfully, and correct any errors as soon as possible. They shall use public resources only for the authorised purposes for which the resources are provided.

3.4 **Integrity:** Civil servants shall ensure that no actual, perceived or potential conflict of interest shall arise between their official duties and private interests. Where an actual, perceived or potential conflict of interest arises, they shall declare it to their supervisors so that the latter can determine how best to proceed or escalate the matter for a determination as necessary. They shall not use their official position to further personal interests or the private interests of others. They shall not solicit or accept, directly or indirectly, any advantage or gift which would, or might reasonably be seen to, compromise their integrity or judgment or influence the discharge or non-discharge of their duties and responsibilities. They shall not place themselves under any financial or other obligation to outside individuals or organizations that might seek to influence them in the performance of their official duties. They shall ensure that the views they express will not compromise their capacity to fulfil their official duties professionally, effectively and impartially. They shall use information gained by virtue of their official position for authorised purposes only. They shall not disclose documents, information or knowledge received in confidence from others in the course of their duties or by virtue of their official position.

**Appendix VI (cont'd)**

3.5 **Objectivity:** Civil servants shall provide information and advice on the basis of evidence, and accurately present the options and facts. They shall base decisions on rigorous analysis of the facts and the merits of the case. They shall take due account of expert and professional advice. They shall not ignore inconvenient facts or relevant considerations when providing advice or making decisions.

3.6 **Impartiality:** Civil servants shall carry out their duties and responsibilities in accordance with the policies and decisions of the Government of the day and in a way that is fair, just and equitable. They shall act according to the merits of the case.

...

3.12 **Dedication, professionalism and diligence:** Civil servants shall act with a spirit of service to the community and in a professional manner. They shall conduct themselves in a way that instils and retains the confidence of all those whom they have official dealings with. They shall fulfil their duties and obligations responsibly. They shall deal with the public and their affairs fairly, efficiently, promptly, effectively and sensibly, to the best of their ability. Where necessary, the Government has a prior call at all times on the abilities, energies and attention of civil servants.

**Appendix VI (cont'd)****4 Authority for the Management of the Civil Service**

4.1 The Secretary for the Civil Service is responsible to the Chief Executive for policies and management of the Civil Service. One of the Secretary's major tasks is to safeguard the core values and define the standards of conduct of the Civil Service. In the performance of this role, the Secretary may issue regulations, rules and guidelines governing, among other subjects, avoidance of conflict of interest by civil servants, acceptance of advantages and entertainment, declaration of private investments, participation in political party or group activities, use of information obtained in a civil servant's official capacity, and outside work during service and for a specified period after leaving service. The Secretary may also revise existing regulations, rules and guidelines from time to time in the light of changing circumstances and needs. Civil servants are required to adhere to these regulations, rules and guidelines. Attached at the **Annex** is a list of the currently in force *Civil Service Regulations*, Civil Service Bureau's circulars and circular memoranda that are relevant to the core values and standards of conduct of the Civil Service. Civil servants are also required to comply with all the Laws of Hong Kong, including the *Prevention of Bribery Ordinance* (Chapter 201 of the Laws of Hong Kong) and the *Official Secrets Ordinance* (Chapter 521 of the Laws of Hong Kong).

4.2 Individual heads of policy bureaux, departments and agencies may issue their own mission and value statements provided they are in conformity with the *Civil Service Code*. Concerned civil servants are required to uphold and comply with these supplementary statements and guidelines as well.



**Appendix VII (cont'd)**

- Feb 2007      **434** (1) An officer may not, without the permission of his Permanent Secretary/Head of Department, accept entertainment from any person if the entertainment is likely, for example by reason of its excessive nature or of the relationship between the officer and the other person or of the character of that person –
- (a) to lead to the embarrassment of the officer in the discharge of his functions; or
- (b) to bring the officer or the public service into disrepute.
- (2) In this regulation, reference to the Head of a Department means –
- (a) in relation to a person who is himself the Permanent Secretary/Head of Department, the Secretary for the Civil Service;
- (b) in relation to any other officer –
- (i) the Permanent Secretary/Head of Department of the bureau/department in which that officer is serving at the time when the entertainment is offered to the officer;
- (ii) any other officer of that bureau/department authorised in writing by the Permanent Secretary/Head of Department to act on his behalf for the purposes of this regulation.
- Feb 2007      **435** (1) A Permanent Secretary/Head of Department may, with the approval of the Secretary for the Civil Service, issue directions to the officers serving in that bureau/department.
- Feb 2007      (2) Such directions may prohibit an officer serving in that bureau/department from accepting, or from accepting without the permission of the Permanent Secretary/Head of Department or another officer of the bureau/department authorised by the Permanent Secretary/Head of Department for this purpose, any entertainment which such officer would, but for such prohibition, be permitted to accept, or to accept with permission.
- (3) An officer who contravenes any direction applicable to him issued under this regulation shall be deemed to have accepted entertainment other than in accordance with these regulations.
- Dec 92      (4) Any directions issued under this regulation shall be supplementary to Regulation 434.

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**Appendix VIII**

**Acceptance of advantages offered to  
an officer in his private capacity**  
*(extracted from the Civil Service Bureau Circular No. 3/2007)*

**Introduction**

This circular serves to remind all officers of the provisions in the *Prevention of Bribery Ordinance* (Cap. 201) (“POBO”) against the acceptance of advantages without permission. It gives a digest of the provisions in the *Acceptance of Advantages (Chief Executive’s Permission) Notice* (“AAN”) which are applicable to the acceptance of advantages offered to an officer in his private capacity. For advantages/entertainment offered to an officer in his official capacity, and gifts and donations to a department for the benefit of staff, guidelines on how these should be handled are given in CSB Circular No. 4/2007. In reading these two circulars, officers should, where necessary, refer to CSB Circular No. 2/2004 on “Conflict of Interest”. This circular supersedes CSB Circular No. 15/2002.

***The Prevention of Bribery Ordinance***

2. All officers should familiarise themselves with the main provisions in the POBO which are summarised below. The POBO distinguishes between prescribed officers (as defined at **Annex I**) and public servants<sup>1</sup>. Government officers, including those employed on non-civil service terms, fall into both of these classes.

- (a) Section 2(2): A person solicits an advantage if he, or any other person acting on his behalf, directly or indirectly demands, invites, asks for or indicates willingness to receive, any advantage, whether for himself or for any other person; and a person accepts an advantage if he, or any other person acting on his behalf, directly or indirectly takes, receives or obtains, or agrees to take, receive or obtain any advantage, whether for himself or for any other person;

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<sup>1</sup> Public servants include prescribed officers and employees of public bodies.

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**Appendix VIII (cont'd)**

- (b) Section 3: it is an offence for a prescribed officer to solicit or accept any advantage without the Chief Executive's general or special permission;
- (c) Section 4 : it is an offence for a public servant to solicit or accept any advantage in Hong Kong or elsewhere as an inducement to or reward for or otherwise on account of his performing or abstaining from performing any act in his capacity as a public servant; and
- (d) Section 10: it is an offence for a prescribed officer to maintain a standard of living not commensurate with, or to be in control of pecuniary resources or property disproportionate to, his official emoluments in the absence of a satisfactory explanation being made to the court.

An extract of the relevant parts of sections 2(2), 3, 4 and 10 of the POBO is at **Annex II**.

***The Acceptance of Advantages (Chief Executive's Permission) Notice***

3. Under section 3 of the POBO, any prescribed officer who, without the general or special permission of the Chief Executive, solicits or accepts any advantage is guilty of an offence. Section 3 does not require that the advantage be solicited or accepted for a corrupt purpose. The spirit behind section 3 is to prevent prescribed officers from falling into the "sweetening or softening up process" by accepting advantages and thereby rendering themselves vulnerable to later corrupt approaches.

4. Section 3 is necessary to uphold a high standard of probity within the civil service. To help cushion the impact of section 3 on the private lives of prescribed officers as ordinary citizens, the AAN has been put in place. Except for four specified types of "restricted" advantages, general permission is given under the AAN for an officer to solicit or accept, without restrictions, all the other forms of advantage that are defined in the POBO (including free services and loans of objects) offered to him in his private capacity. The advantages which fall within the "restricted" category, as listed below, may only be solicited or accepted under certain circumstances having regard to the officer's relationship with the person/party offering the advantage; the occasion on which the advantage is offered; and the value of the advantage –

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**Appendix VIII (cont'd)**

- (a) gifts, both of money and in kind;
- (b) discounts;
- (c) loans of money; and
- (d) air, sea and overland passages.

The circumstances under which these “restricted” advantages may be solicited or accepted are summarised in paragraphs 6 to 12 below which should be read in conjunction with the relevant sections of the AAN.

5. The AAN has been updated to take account of inflation and operational experience over the years, and to further improve its clarity and enforceability. The changes introduced are shown at Appendix A. The amended Notice, now known as the 2007 Notice, has been endorsed by the Chief Executive and gazetted on 16 February 2007 (**Annex III**). It takes effect on the date of gazettal. CSB Circular Memorandum No. 3/2004 promulgating the 2004 Notice is hereby cancelled.

***Advantages from relations***

6. Under section 3 of the AAN, an officer may solicit or accept any advantage from a relation. The definition of “relation” is provided in the same section.

***Advantages from tradesmen, companies, etc.***

7. Under section 4 of the AAN, an officer may solicit or accept any “restricted” advantage offered to him in his private capacity by a tradesman, firm, company, organization or association in the circumstances set out in sub-section (1)(a) – (d) therein, provided that –

- (a) the advantage is equally available on equal terms to persons who are not prescribed officers; and
- (b) the donor has no official dealings with the officer.

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**Appendix VIII (cont'd)*****Advantages from close personal friends***

8. Under section 5 of the AAN, an officer may –
- (a) solicit or accept a short-term loan (to be repaid within 30 days) of up to \$3,000;
  - (b) accept, but not solicit, a gift or passage of up to \$3,000 in value on a special occasion (such as the officer's wedding, birthday, retirement or any other occasion when gifts are traditionally given or exchanged); and
  - (c) accept, but not solicit, a gift or passage of up to \$500 in value on other occasions, from a close personal friend.
9. However, this general permission is conditional upon –
- (a) the donor having no official dealings with the department in which the officer works;
  - (b) the donor not being a subordinate of the officer; and
  - (c) the occasion on which the gift or passage is presented not being one which the officer attends in his official capacity or by virtue of the official position he holds at the time.

***Advantages from other persons***

10. Section 6 of the AAN deals with the solicitation and acceptance of gifts, loans and passages from persons other than those mentioned in sections 4 and 5 of the AAN, that is, from persons other than a close personal friend or a tradesman or company, etc. Under this section, an officer may –

- (a) solicit or accept a short-term loan (to be repaid within 30 days) of up to \$1,500 from a person other than a close personal friend or a tradesman, company, etc.;

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**Appendix VIII (cont'd)**

- (b) accept, but not solicit, a gift or passage of up to \$1,500 in value on a special occasion from a person other than a close personal friend or a tradesman, company, etc.; and
- (c) accept, but not solicit, a gift or passage of up to \$250 in value on other occasions, from a person other than a close personal friend or a tradesman, company, etc.

However, this permission is subject to the same conditions as those specified under paragraph 9 above.

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***Advantages from the Government***

12. Section 7 of the AAN deals with gifts, loans and passages made available by the Government. Gifts and passages which may be accepted (but not solicited) under section 7(a) of the AAN include those accepted in accordance with CSR or other Government regulations. Examples include CSR 444 (gifts offered/presented to an officer in his official capacity, which the approving authority deems fit to give back to the officer for personal retention) and CSR 448 (gifts on retirement). Gifts and loans of money which may be solicited or accepted under section 7(b) of the AAN include those permitted under CSR 440 (a departmental or grade collection made for the relief of an officer or of his/her family), CSR 477 (legal assistance to government officers) and CSRs 615 to 639 (advance of salary), as well as loans and grants from staff welfare and relief funds, etc.

**“Restricted” and “unrestricted” advantages**

13. “Restricted” advantages are those set out in paragraph 4, namely gifts, loans of money, discounts and passages, and may only be solicited or accepted in the circumstances set out in sections 3 to 7 of the AAN (see paragraphs 6 to 12 of this circular). Otherwise, special permission (see paragraph 17) is required for an officer to solicit or accept such advantages.

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**Appendix VIII (cont'd)**

14. “Unrestricted” advantage means any advantage other than a “restricted” advantage. Examples of “unrestricted” advantages include loans of objects (but not money); free service (such as legal services, provision of professional advice); cash rewards including Good Citizen Awards; rewards for outstanding academic achievement; and prizes/awards from open competition (e.g. an essay competition or a sports event, etc.).

15. While general permission has been given under the AAN for the solicitation or acceptance of “unrestricted” advantages, officers must ensure that the solicitation or acceptance of such advantages would not give rise to a conflict of interest with their official duties or bring the Government into disrepute. In particular, before accepting a free service, an officer should ensure that he has no official dealings with the provider or his business and that his acceptance of the free service would not place him in an obligatory position towards the provider. An officer should declare to his Permanent Secretary/Head of Department if official dealings with the provider of the free service or his business arise in future. The Permanent Secretary/Head of Department should then consider whether it is still appropriate for the officer to handle a particular work, or whether another officer should take over the work instead.

***Official dealings***

16. One of the conditions for granting general permission under sections 4 to 6 of the AAN (i.e. acceptance of advantages from tradesmen/companies, close personal friends and other persons) is that there should be no “official dealings” between the donor and the officer or the department in which the officer works. “Official dealings” are not considered to include routine contact with a government department in making use of the regular services provided by the Government (e.g. the postal, medical, fire and ambulance services, etc.) or in making regular payment of tax, rent, rates, etc. Neither do they mean to include dealings between or within bureaux/departments which do not have investigative, control or supervisory functions over each other. Clearly, a situation may arise where an officer has solicited or accepted in good faith an advantage from a person who has such routine contact with his department but the officer had no knowledge of such contact. The provisions in sections 5(2)(a) and 6(2)(a) of the AAN are not designed to catch such cases.

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**Appendix VIII (cont'd)*****Special permission***

17. Officers who wish to solicit or accept any gifts, discounts, loans of money and passages in circumstances not covered by the general permission that has been given in sections 3 to 7 of the AAN must seek special permission to do so under section 8 or 9 of the AAN. A sample application form is provided at **Appendix C**. The authority to approve such applications rests with the Permanent Secretary/Head of Department or the Secretary for the Civil Service, depending on the rank or position held by the applicant (see sections 1, 8 and 9 of the AAN at Annex III and the summary table at **Appendix D**).

18. The approving authority may authorise officers in his bureau/department to deal with applications for special permission on his behalf. Such authorisation is subject to the conditions set out in paragraph 2 of CSB Circular No. 11/94 on “Delegations Relating to Conduct Matters”, except that the authority should not be exercised by officers below the rank of Chief Executive Officer or equivalent.

19. To assist subject officers in processing applications for special permission under the AAN, Permanent Secretaries/Heads of Department may lay down rules for the grant of special permission in the light of the special circumstances of their bureaux/departments. The authority to approve exceptions to such rules should be exercised by the Permanent Secretary/Head of Department personally. In considering the applications, the following factors should be taken into account:

- (a) whether the officer accepts the advantage in his private capacity (acceptance of the advantage in his official capacity should be dealt with in accordance with the guidelines in CSB Circular No. 4/2007);
- (b) the value of the advantage;
- (c) the reputation and status of the donor, and his relationship with the officer;
- (d) whether the donor of the advantage has any official dealings with the officer;

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**Appendix VIII (cont'd)**

- (e) whether the officer's acceptance of the advantage in his private capacity will adversely affect the image of the bureau/department or the Government or invite public criticism or give rise to a conflict of interest;
- (f) whether the acceptance of the advantage would place the officer in an obligatory position towards the donor and would therefore compromise the officer's position in his official dealings with the donor;
- (g) whether the advantage is also available on equal terms to persons who are not Government servants;
- (h) the frequency of similar permission being sought by the same officer; and
- (i) the status, rank and post of the officer.

***Solicitation and Acceptance of Advantages on behalf of Staff Associations or Other Organizations***

20. Officers soliciting or accepting advantages on behalf of their staff associations or clubs<sup>2</sup> in their capacity as members or office-bearers of the staff associations or clubs are required to ensure that they have the necessary permission (either general or special permission) to do so in accordance with the AAN in a similar way as if they are soliciting or accepting the advantages for their own benefit. The same applies if the office-bearers hire an outsider to solicit or accept advantages for their staff associations or clubs. They may solicit or accept advantages such as sponsorship for social events and discounts, etc. provided that the provisions in sections 4 to 7, 8(1) or 9(1) of the AAN are observed as appropriate.

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<sup>2</sup> By staff association or club, we mean all associations, clubs, societies, trade unions or other staff bodies whose majority membership comprises serving civil servants, and quasi-official bodies such as sports and recreation clubs.

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**Appendix VIII (cont'd)**

21. Officers, as members of a staff association or club, soliciting or accepting a “restricted” advantage from a tradesman or company provided to the staff association or club are not required to seek special permission in accordance with section 4 of the AAN, provided that the advantage is available on equal terms to non-prescribed officers (e.g. retired civil servants) of the same association or other organizations (e.g. staff clubs of other private companies), and they do not have official dealings with the entity offering the advantage. Likewise, officers soliciting or accepting a “restricted” advantage from a tradesman or company for other non-civil service associations or clubs, e.g. professional institutions, golf clubs, etc., are not required to seek special permission provided that the same conditions are fulfilled.

22. When considering whether special permission should be granted for an officer to solicit or accept an advantage on behalf of his staff association or club, the approving authority should take the following factors into account, in addition to those provided in paragraph 19:

- (a) the advantage (e.g. donation) is offered voluntarily and not as a result of pressure or compulsion from the staff association/club; and
- (b) acceptance of the advantage will not bring into question the impartiality of the Government or there should be no undue publicity associated with the acceptance.

***Acceptance of Sponsored Visits offered to an Officer in his Private Capacity***

23. Where an officer is offered sponsorship to make a visit in his private capacity, he requires special or general permission under the AAN to accept the passages, hotel vouchers, etc. provided. By private visit, it means that –

- (a) it would be undertaken by the individual even if he were not a Hong Kong SAR Government officer;
- (b) the officer is in no way perceived as “representing” the Hong Kong SAR Government; and

**Appendix VIII (cont'd)**

- (c) the officer undertakes the visit while on leave or during his non-duty days.

Sponsored visits offered on the basis of an officer's personal involvement or professional expertise in a particular field would normally fall within this category.

24. As a general rule, officers should ensure that their conduct and activities during their private visits would not bring them or the civil service into disrepute or lead to any actual or perceived conflict of interest. In particular, they should ensure that their private visits are separate from their official duties and avoid putting themselves in an obligatory position through acceptance of advantages or hospitality normally applicable to official purposes.

**Acceptance of Entertainment offered to an Officer in his Private Capacity**

25. Entertainment is defined in the POBO to mean "the provision of food or drink, for consumption on the occasion when it is provided, and of any other entertainment connected with, or provided at the same time as, such provision". For detailed guidelines on acceptance of entertainment, officers should refer to CSRs 431 to 435 and paragraphs 20 to 29 of CSB Circular No. 4/2007 for guidance. Whilst an officer may accept entertainment offered to him in his private capacity without restrictions, he may be liable to disciplinary action or even criminal sanction if he accepts entertainment offered to him in his official capacity without observing CSRs 431 to 435.

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**Appendix VIII (cont'd)****Annex I****Extract of section 2(1) of the *Prevention of Bribery Ordinance*, Cap. 201**

“prescribed officer” (訂明人員) means –

- (a) any person holding an office of emolument, whether permanent or temporary, under the Government; and
- (b) the following persons (to the extent that they are not persons included in paragraph (a)) –
  - (i) any principal official of the Government appointed in accordance with the *Basic Law*;
  - (ii) the Monetary Authority appointed under section 5A of the *Exchange Fund Ordinance* (Cap. 66) and any person appointed under section 5A(3) of that Ordinance;
  - (iii) Chairman of the Public Service Commission;
  - (iv) any member of the staff of the Independent Commission Against Corruption;
  - (v) any judicial officer holding a judicial office specified in Schedule 1 to the *Judicial Officers Recommendation Commission Ordinance* (Cap. 92) and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary;

**Appendix VIII (cont'd)****Annex III*****PREVENTION OF BRIBERY ORDINANCE***

(Chapter 201, Laws of Hong Kong)

***ACCEPTANCE OF ADVANTAGES (CHIEF EXECUTIVE'S PERMISSION)  
NOTICE 2010***

Given by the Chief Executive for the purposes of section 3  
of the *Prevention of Bribery Ordinance*

[Commencement: 9 April 2010]

## Interpretation

1. In this notice, unless the context otherwise requires, “approving authority” means :—

- (a) in relation to a prescribed officer who is a member of the Executive Council or the Chief Justice or the Director of the Chief Executive's Office or the Commissioner of the Independent Commission Against Corruption or the Director of Audit or an Under Secretary or a Political Assistant, the Chief Executive;
- (b) in relation to a prescribed officer who is the Monetary Authority appointed under section 5A of the *Exchange Fund Ordinance* (Chapter 66), the Financial Secretary;
- (c) in relation to a prescribed officer who is a Permanent Secretary or the Head of a Department or holds a post of equivalent status as the Head of a Department other than those in (a) and (b) above, the Secretary for the Civil Service;
- (d) in relation to a prescribed officer who is a judicial officer other than the Chief Justice, the Chief Justice;
- (e) in relation to any other prescribed officer, the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organization in which that prescribed officer is employed at the time when the advantage is offered to or solicited or accepted by the prescribed officer.

“discount” includes vouchers or coupons expressed to have a monetary value in exchange for which goods to that value may be obtained and also includes goods so obtained.

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## Appendix VIII (cont'd)

General and special permission of the Chief Executive 2. For the purposes of section 3 of the *Prevention of Bribery Ordinance* (Chapter 201), by this notice –

- (a) the general permission of the Chief Executive is given to all prescribed officers in respect of any advantage, other than gifts, discounts, loans of money or passages not permitted by sections 3 to 7;
- (b) the special permission of the Chief Executive is given to any prescribed officer in respect of any advantage for the solicitation or acceptance of which that prescribed officer has been given the permission of the approving authority under section 8 or 9.

Advantages from relations 3.(1) A prescribed officer is permitted to solicit or accept from a relation any gift (whether of money or otherwise), any discount, any loan of money or any air, sea or overland passage.

- (2) In sub-section (1) “relation” means –
  - (a) spouse (including a concubine);
  - (b) any person with whom the prescribed officer is living in a regular union as if man and wife;
  - (c) fiancé, fiancée;
  - (d) parent, step-parent, lawful guardian;
  - (e) spouse’s parent, spouse’s step-parent, spouse’s lawful guardian;
  - (f) grandparent, great-grandparent;
  - (g) child, ward of court;
  - (h) spouse’s child, spouse’s ward of court;
  - (i) grandchild;
  - (j) child’s spouse;
  - (k) brother, sister;
  - (l) spouse’s brother, spouse’s sister;
  - (m) half-brother, half-sister;
  - (n) step-brother, step-sister;
  - (o) brother’s spouse, sister’s spouse;
  - (p) brother’s child, sister’s child;
  - (q) parent’s brother, parent’s sister;
  - (r) parent’s brother’s spouse, parent’s sister’s spouse;
  - (s) parent’s brother’s child, parent’s sister’s child.

**Appendix VIII (cont'd)**

Advantages from 4.(1) Subject to sub-section (2) a prescribed officer is tradesmen, etc. permitted to solicit or accept any gift (whether of money or otherwise), any discount, any loan of money or any air, sea or overland passage given to or made available to a prescribed officer in his private capacity by a tradesman, firm, company, organization or association –

- (a) by virtue of the terms on which the prescribed officer's spouse, parent or child, is employed; or
- (b) by virtue of the membership of any organization or association of the prescribed officer or the prescribed officer's spouse, parent or child; or
- (c) by virtue of the prescribed officer or the prescribed officer's spouse, parent or child being a regular customer; or
- (d) in the course of normal business.

(2) The permission given under sub-section (1) shall only apply where –

- (a) the advantage is equally available on equal terms to persons who are not prescribed officers; and
- (b) the donor of the advantage has no official dealings with the prescribed officer.

Advantages from 5.(1) Subject to sub-section (2) a prescribed officer is close personal friends permitted to –

- (a) solicit or accept a loan of money from a close personal friend so long as the loan does not exceed \$3,000 on any one occasion and is repaid within 30 days;
- (b) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from a close personal friend given on an occasion such as the prescribed officer's birthday, wedding, wedding anniversary, engagement, baptism, retirement or on any other occasion when gifts are traditionally given or exchanged, so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$3,000 from any one person on any one occasion;

**Appendix VIII (cont'd)**

(c) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from a close personal friend on any occasion other than one referred to in sub-sub-section (b), so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$500 from any one person on any one occasion.

(2) The permission under sub-section (1) shall only apply so long as –

(a) the close personal friend has no official dealings with the department or organization in which the prescribed officer works;

(b) in the case of a close personal friend working in the same department or organization as the prescribed officer, the close personal friend is not subordinate to the prescribed officer;

(c) in the case of a gift or passage to which sub-sub-section (b) or (c) of sub-section (1) applies, the prescribed officer does not attend the occasion on which the gift or passage is given in his official capacity or by virtue of the official position he holds at the time he attends the occasion.

Advantages from 6.(1) A prescribed officer is permitted to –  
other persons

(a) solicit or accept a loan of money from any person (not being a loan to which section 4 or 5 applies) so long as the loan does not exceed \$1,500 on any one occasion and is repaid within 30 days;

(b) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from any person (not being a gift or passage to which section 4 or 5 applies) given on an occasion such as the prescribed officer's birthday, wedding, wedding anniversary, engagement, baptism, retirement or on any other occasion when gifts are traditionally given or exchanged, so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$1,500 from any one person on any one occasion.

**Appendix VIII (cont'd)**

- (c) accept, but not solicit, a gift or gifts (whether of money or otherwise) or any air, sea or overland passage from any person (not being a gift or passage to which section 4 or 5 applies) on any occasion other than one referred to in sub-sub-section (b), so long as the value or apparent value in total of the gift, gifts and/or passage does not exceed \$250 from any one person on any one occasion.
- (2) The permission under sub-section (1) shall apply so long as –
- (a) the person offering the loan, gift or passage has no official dealings with the department or organization in which the prescribed officer works;
  - (b) in the case of such a person working in the same department or organization as the prescribed officer, that person is not subordinate to the prescribed officer;
  - (c) in the case of a gift or passage to which sub-sub-section (b) or (c) of sub-section (1) applies, the prescribed officer does not attend the occasion on which the gift or passage is given in his official capacity or by virtue of the official position he holds at the time he attends the occasion.

Advantages from the Government 7.

A prescribed officer is permitted to –

- (a) accept, but not solicit, a gift (other than a gift of money) or an air, sea or overland passage given on the prescribed officer's retirement, or on other occasions, which the prescribed officer has been permitted to accept under any Government regulations or permitted to accept in accordance with the prescribed officer's terms and conditions of employment or appointment;
- (b) solicit or accept any gift of money or loan of money or other allowance or advance made or given out of any Government staff welfare fund or permitted by the Government under any Government regulations or permitted in accordance with the prescribed officer's terms and conditions of employment or appointment;
- (c) solicit or accept any air, sea or overland passage provided in accordance with any Government regulations or provided in accordance with the prescribed officer's terms and conditions of employment or appointment.

**Appendix VIII (cont'd)**

Permission in respect of advantages other than passages

- 8.(1)(a) If a prescribed officer wishes to accept any gift (whether of money or otherwise), discount or loan of money which he does not have permission to accept under sections 3 to 7, he must, before or as soon as is reasonably possible after being offered or presented with the gift, discount, or loan of money, seek the permission of the approving authority to accept it.
- (b) If a prescribed officer wishes to solicit any gift (whether of money or otherwise), discount or loan of money which he does not have permission to solicit under sections 3 to 7, he must, before soliciting the gift, discount or loan of money, seek the permission of the approving authority to solicit it.

(2) In the case of gifts other than money, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept the gift either unconditionally or subject to such conditions as the approving authority may specify; or
- (b) refuse him permission to solicit or accept the gift and, if the gift is already in his possession,
- (i) require him to return it to the donor; or
- (ii) require the gift to be handed to a charitable organization nominated by the prescribed officer and approved by the approving authority; or
- (iii) require him to dispose of the gift in such other manner as the approving authority may direct.

(3) In the case of discounts, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept or take the benefit of the discount either unconditionally or subject to such conditions as the approving authority may specify; or
- (b) refuse him permission to solicit or accept or take the benefit of the discount and, if he has already accepted or taken the benefit of the discount, require him to pay to the donor of the discount an amount equal to the value of the discount.

(4) In the case of gifts of money or loans of money, the approving authority may :-

- (a) permit the prescribed officer to solicit or accept the gift of money or loan of money either unconditionally or subject to such conditions as the approving authority may specify; or

**Appendix VIII (cont'd)**

- (b) refuse him permission to solicit or accept the money and, if the money is already in his possession,
- (i) require him to return the money to the donor or lender; or
  - (ii) require him to dispose of the money in such other manner as the approving authority may direct.

(5) The prescribed officer may, if he has complied with sub-section (1)(a), retain the gift or loan in his possession or take the benefit of the discount until a decision under sub-sections (2), (3) or (4) has been notified to him.

Permission in respect of passages

9.(1)(a) If a prescribed officer wishes to accept any air, sea or overland passage which he does not have permission to accept under sections 3 to 7, he must, before or as soon as is reasonably possible after being offered the passage or presented with the tickets or vouchers to which the passage relates, seek the permission of :-

- (i) the Chief Executive; or
- (ii) the Financial Secretary; or
- (iii) the Secretary for the Civil Service; or
- (iv) the Chief Justice; or
- (v) the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organization in which that prescribed officer is employed at the time to accept the passage.

(b) If a prescribed officer wishes to solicit any air, sea or overland passage which he does not have permission to solicit under sections 3 to 7, he must, before soliciting the passage, seek the permission of :-

- (i) the Chief Executive; or
- (ii) the Financial Secretary; or
- (iii) the Secretary for the Civil Service; or
- (iv) the Chief Justice; or
- (v) the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organization in which that prescribed officer is employed at the time to solicit the passage.

**Appendix VIII (cont'd)**

(2) The approving authority referred to in sub-section (4) below may :-

- (a) permit the prescribed officer to solicit or accept the passage either unconditionally or subject to such conditions as he may specify;
- (b) refuse him permission to solicit or accept the passage, and if the tickets or vouchers to which the passage relates are already in his possession, require him to dispose of the passage in such other manner as he may direct.

(3) Where a prescribed officer has sought the permission of the approving authority referred to in sub-section (4) below to solicit or accept a passage and the decision has not been notified to him, he shall not solicit or make the passage or use the tickets or vouchers to which the passage relates.

(4) The approving authority for the purpose of section 9 means :-

- (a) in relation to a prescribed officer who is a member of the Executive Council or the Chief Justice or the Director of the Chief Executive's Office or the Commissioner of the Independent Commission Against Corruption or the Director of Audit or an Under Secretary or a Political Assistant, the Chief Executive;
- (b) in relation to a prescribed officer who is the Monetary Authority appointed under section 5A of the *Exchange Fund Ordinance* (Chapter 66), the Financial Secretary;
- (c) in relation to a prescribed officer other than those in (a) above who is at the directorate level, the Secretary for the Civil Service;
- (d) in relation to a prescribed officer who is a judicial officer other than the Chief Justice, the Chief Justice;
- (e) in relation to any other prescribed officer, the relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organization in which that prescribed officer is employed at the time when the passage is solicited or accepted by the prescribed officer.

## Revocation

10. *The Acceptance of Advantages (Chief Executive's Permission) Notice 2007* which was promulgated on 16 February 2007 is hereby cancelled.

## Appendix VIII (cont'd)

## Appendix A

**Changes to the Acceptance of Advantages  
(Chief Executive's Permission) Notice**

- (a) Changes to the **permissible values of advantages from close personal friends and other persons** under sections 5(1) and 6(1) as follows:

	<u>Previous level</u>	<u>Existing level</u>
<u>From close personal friend</u>		
(i) gifts on special occasions when gifts are traditionally given or exchanged	\$2,000	<b>\$3,000</b>
(ii) gifts on other occasions	\$400	<b>\$500</b>
(iii) loans of money	\$2,000	<b>\$3,000</b>
<u>From other persons</u>		
(iv) gifts on special occasions when gifts are traditionally given or exchanged	\$1,000	<b>\$1,500</b>
(v) of money	\$1,000	<b>\$1,500</b>

- (b) Extension of the general permission to cover acceptance of **gifts of value not exceeding \$250 from other persons on other occasions** by adding a new section 6(1)(c);
- (c) Extension of the **repayment periods of loans** (from the previous 14 days to **the existing 30 days**) from close personal friends and other persons under sections 5(1) and 6(1);
- (d) Specifying **“Retirement” as a special occasion** for the purpose of the general permission covered under sections 5(1) and 6(1);
- (e) Replacement of all references to *“Civil Service Regulations”* with **“Government regulations”** under section 7.

**Appendix VIII (cont'd)****Appendix D****Authority for giving special permission  
for prescribed officers to solicit or accept advantages**

<b>Categories of prescribed officers</b>	<b>Approving authority</b>
(a) Principal Officials under the accountability system, the Chief Justice, the Director of the Chief Executive's Office, the Commissioner of the Independent Commission Against Corruption, the Director of Audit, Under Secretaries and Political Assistants	Chief Executive
(b) The Monetary Authority	Financial Secretary
(c) Permanent Secretaries/ Heads of Departments/ Prescribed officers other than those in (a) and (b) above who holds a post of equivalent status as the Head of a Department	Secretary for the Civil Service
(d) Judicial Officers other than the Chief Justice	Chief Justice
(e) Prescribed officers other than those in (a) to (d) above *	The relevant Permanent Secretary of the Bureau or the Head of the Department or a person who holds a post of equivalent status as the Head of a Department in an organization in which the prescribed officer is employed at the time

\* There is one exception to this. For prescribed officers under (e) who are at the directorate level, they require special permission from the Secretary for the Civil Service to accept passages offered to them in their private capacity, as set out in section 9 of the *Acceptance of Advantages (Chief Executive's Permission) Notice*.

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(The extracted parts do not include Annex II, and Appendices B and C)

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