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Government Secretariat
Hong Kong

18 September 1998

CIVIL SERVICE BUREAU CIRCULAR NO. 8/98

Declaration of Investments by Civil Servants

TO: Bureau Secretaries c.c. Judiciary Administrator
Heads of Department Secretary, Public Service
Commission

*(Note: Distribution of this Circular is **Scale A**, i.e. it should be read by all officers. A Chinese version is attached.)*

This circular announces revised guidelines for civil servants to declare private investments in and outside Hong Kong.

Background

2. Government policy on civil servants' disclosure of their private investments is to ensure a proper balance between civil servants' right to private investment and privacy on the one hand, and upholding civil service impartiality and accountability on the other. Civil Service Regulations 461-466 impose requirements on civil servants to avoid making investments which may lead to a real or apparent conflict of interest with their official duties. Guidelines on declaration of investments in Hong Kong and outside Hong Kong are set out in CSB Circular Nos. 6/95 and 4/96 respectively.

3. A comprehensive review of the existing declaration systems has been undertaken. A revised amalgamated system and a number of amendments to relevant CSRs are introduced to rationalise the existing arrangements and to clarify related rules. This circular supersedes CSB Circular Nos. 6/95, 4/96 and CSB Circular Memorandum No. 18/95, which are hereby cancelled.

Amalgamated Declaration of Investment System

4. Given the globalisation in investment opportunities and the ease with which local investments may be made through an investment medium registered outside Hong Kong, it is considered appropriate to make investments in and outside Hong Kong declarable interest. Under the new declaration system, civil service posts requiring declaration will be classified into two Tiers. The designation and declaration requirements are detailed in the ensuing paragraphs.

Tier I Posts

5. Tier I posts are centrally designated. They consist of 25 key posts of the Government of Hong Kong Special Administrative Region -

- (a) Chief Secretary for Administration, Financial Secretary, Secretary for Justice, Directors of Bureaux, Commissioner of Police, Commissioner/Independent Commission Against Corruption, Director of Immigration, Commissioner of Customs and Excise and Director of Audit (23 Principal Official posts); and
- (b) Head, Central Policy Unit and Director, Hong Kong Special Administrative Region Beijing Office (2 posts).

6. Officers holding Tier I posts are subject to the following requirements on appointment and annually -

- (a) declaration of their investments in and outside Hong Kong as specified in the revised CSR 463(1)(para. 19 below);
- (b) declaration of the occupation of their spouses; and
- (c) reporting of any single investment transaction (including currency transaction) equivalent to or exceeding HK\$200,000, within seven days of the transaction between the annual declarations.

An officer appointed to act in a Tier I post for administrative convenience should already be in a Tier II post and therefore subject to the declaration requirements in para. 11 below.

7. In addition, officers filling Tier I posts (except on an acting basis for administrative convenience) are required to register annually the following financial interests, in and outside Hong Kong, for public inspection on request -

- (a) land and buildings (including self-occupied property);
- (b) proprietorships, partnerships or directorships of companies; and
- (c) shareholdings of 1% or more of the issued share capital in any listed, public or private company.

8. The Civil Service Bureau will regularly review the need for other posts to be included in Tier I. It will also be responsible for seeking, examining and keeping declaration and report forms of officers in Tier I posts and keeping the register of financial interests for public inspection.

Tier II Posts

9. Tier II posts include the following -

- (a) administrative assistants and personal secretaries in support of the Tier I posts above;
- (b) all directorate posts, other than those in Tier I; and
- (c) non-directorate posts which are designated by Bureau Secretaries/Heads of Department for declaration of investments, on the basis of their high risk of exposure to potential conflict of interest situations.

10. In the designation of posts for declaration of investments, Bureau Secretaries/Heads of Department should refer to the CSB Circular No. 19/92 on "Conflict of Interest", and the guidelines at Annex I. It should be noted that the situations of potential conflict of interest described in the circular and the annex are by no means exhaustive, Bureau Secretaries/Heads of Department are urged to critically assess the risk of exposure to potential conflict of interest having regard to the operational circumstances of their bureaux/departments.

11. Officers holding Tier II posts (except on an acting for administrative convenience basis not exceeding 30 days) are required to declare the following on appointment and biennially -

- (a) their investments in and outside Hong Kong, as specified in revised CSR 463(1)(para. 19 below);
- (b) occupation of their spouses; and
- (c) any single investment transaction (including currency transaction) equivalent to or exceeding HK\$200,000 or three months' salary, whichever is the less, within seven days of the transaction, between the biennial declarations.

12. Bureau Secretaries/Heads of Department may, in the light of operational requirements, require officers acting for administrative convenience in Tier II posts for a period less than 30 days to be subject to the declaration requirements in para. 11 above. For officers who have to act for administrative convenience in Tier II posts more than once in a biennial reporting cycle, they are required to complete a new declaration or to declare no changes in investments since their declaration of the last acting appointment.

Other Civil Service Posts

13. Posts which are not designated under the two Tiers above will not be subject to any requirement for regular declaration of investments. Notwithstanding that, all civil servants shall continue to be responsible for avoiding at all times any conflict of interest between their investments and official duties and for reporting any investments which may give rise to such conflict. Any officer found bringing the Government service into disrepute by investments or involvement in business in and/or outside Hong Kong will be liable to disciplinary action. Bureau Secretaries/Heads of Department may consider, in the light of their operational needs, drawing up additional investment guidelines, including requiring staff to avoid or declare certain specified investment activities because of apparent conflict of interest. In case of doubt, officers should report on the investments and seek the advice of their Bureau Secretaries or Heads of Department.

Administering the Declarations

14. CSB is responsible for seeking, examining and keeping declarations for officers in Tier I posts and keeping the register of their financial interests for public inspection. Bureau Secretaries/Heads of Department are responsible for designating, seeking, examining and keeping declarations of officers in Tier II posts in their Bureaux/Departments. Declarations of Heads of Department will be made to their Bureau Secretaries. Given that the declaration forms contain sensitive personal information of officers, Bureau Secretaries/Heads of Department should ensure proper procedures are set up to keep safe custody of the forms and these forms are seen and processed by designated officers of appropriate seniority only.

15. If it appears that there is or may be a conflict of interest between an officer's investments and official duties, Bureau Secretaries/Heads of Department may require the officer to divest himself/herself of any or some of the investments, refrain from acquiring or disposing of the investments or place the investments in a blind trust. In case of doubt, the advice of the Secretary for the Civil Service may be sought. [**N.B.** A blind trust is one in which the trustee makes all the investment decisions concerning the arrangement of the trust assets with no direct control from the person (officer) who has placed the assets in the trust. No information is provided to that person except information which is required by law to be filed.]

16. To maintain an overall view on the operation of the revised declaration system, the CSB will seek regular returns from Bureau Secretaries/Heads of Department on the number of their designated Tier II posts and whether any additional guidelines have been prescribed.

17. The investment declarations made by all Tier II officers will be forwarded, on their transfer, to the new Bureau Secretary/Head of Department. In case the officer concerned no longer occupies a Tier II post in the new Bureau/Department, the Bureau Secretary/Head of Department should ensure that the declarations transferred are properly kept for record, are seen on a need basis and subsequently passed on to the concerned Bureau/Department as the officer next moves.

18. All declarations will be retained until five years after the officers concerned have left the service in order to facilitate investigation of any conflict of interest with official duties during the service but which came to light afterwards.

Definition of Investments

19. To clarify the scope of investments to be declared, the existing CSR 463(1) and (2) are revised as below -

463 (1) In the context of these regulations, the "investments" for declaration and reporting -

- (a) include any investment, shareholding or direct or indirect interest in any company or undertaking, and any interest in land or buildings (including self-occupied property) in Hong Kong and/or in places outside Hong Kong;
- (b) include but not limited to -
 - (i) securities listed on the Stock Exchange of Hong Kong;
 - (ii) futures and options contracts and other products traded on the Hong Kong Futures Exchange; and
 - (iii) any investment listed above which belongs to an officer but is held in the name of his/her spouse or of any other person or agent or company acting on his/her behalf,
- (c) but, subject to CSR 464(a), exclude -
 - (i) unit trusts, mutual funds and life insurance policies;
 - (ii) bank deposits (irrespective of currencies);
 - (iii) government bills and notes and multilateral agency debt instruments; and

(iv) any investment held by an officer as a trustee or for charitable purposes where the officer has no beneficiary interest.

(2) For investments not specified above, an officer should consult his/her Bureau Secretary/Head of Department on whether such investments should be declared.

Amendments to Civil Service Regulations

20. To give effect to the revised rules for declaration of investments and to remind civil servants of the need to report in the event of their entering into business activities with members of any other public or private bodies, including the SARG Legislative Council, Municipal Councils and District Boards, which they have official dealings, CSRs 461-466 are revised. Amendment Sheets Nos. 8(a)/98, 8(b)/98 and 8(c)/98 containing the revised CSRs are attached at Annex II. They should replace the relevant pages of the Civil Service Regulations immediately.

Sample Declaration Forms

21. Sample declaration and report forms are attached at Annex III. Pending supply by the Government Printer, Bureau Secretaries/Heads of Department are requested to make copies of the forms for immediate use.

Effective Date

22. The new arrangements should be put in hand immediately and all officers should furnish their declarations by 31 October 1998. The reporting cycle for subsequent annual/biennial declarations should also end on 31 October of subsequent years.

Enquiries

23. Officers with enquiries in relation to this circular should approach their Departmental Secretaries who, if in doubt, should contact MS Joyce TAM, Principal Assistant Secretary for the Civil Service (4) at 2810 3153 or Mr Wilfred WU, Chief Executive Officer (4)1 at 2810 3195.

MS Anissa WONG
for Secretary for the Civil Service

**Guidelines in Designation of Posts
for Declaration of Investments**

An officer is required to uphold the honesty and impartiality of the civil service and to observe an exemplary standard of personal integrity in making his/her private investments. He/She must ensure at all times that there is no conflict of interest between his/her official duties and private investments. He/She is required to report any such possible conflict of interest. **The onus for reporting such conflict of interest rests with individual officers.**

2. Examples of situations which could create a conflict of interest are:-

- (a) an officer in trade negotiations with another country having direct investments in a commercial concern trading with that country;
- (b) an officer responsible for border control work investing in a transportation company which is engaged in the movement of goods or passengers across Hong Kong's border;
- (c) an officer investing in a company which provides goods or services for which he has regulatory and enforcement responsibilities;
- (d) an officer responsible for appointments and promotions investing in an executive search firm seeking to recruit people;
- (e) an officer dealing with a specialist subject like land administration investing in a company advising its clients on that subject; and
- (f) an officer investing, or having control of investments, in business(es) connected with members of the SARG Legislative Council, Municipal Councils and District Boards or with members of other bodies with whom he/she may have official dealings.

3. Bureau Secretaries/Heads of Department may, in the light of their operational experience, require officers in designated posts which are exposed to a high risk of potential conflict of interest between the officers' official duties and their private investments to declare their investments in and outside Hong Kong.

4. Care will have to be exercised to ensure that the designation is reasonable and proportionate having regard to the duties and/or functions of the posts concerned. The following are broad guidelines on the designation of posts:-

- (a) all directorate posts should be designated as officers at the level are in a position to influence and shape Government policies and are better informed of intended changes in policy or key decisions of the Government;
- (b) posts which have access to sensitive information which can affect the price of land and buildings, stocks and securities, currencies, futures and options contracts traded in and outside Hong Kong should be designated. Examples include those which are involved in the drafting, production, translation and printing of sensitive policy documents related to the financial and economic areas; posts which have access to major confidential developments or layout plans in Hong Kong and/or across the boundary;
- (c) senior posts which involve the incumbents to exercise discretion in taking enforcement, regulatory or other decisions which may be leading to financial or economic benefits of the recipients should be considered for designation. Examples of these posts include senior positions in various licensing authorities, border control, commercial crime investigation and those which have the authority to decide on the conduct and award of contracts; and
- (d) any other posts which are particularly exposed to a high risk of potential conflict of interest situations.

5. The above serves only as broad guidelines and Bureau Secretaries and Heads of Department should proceed with designation of posts with good sense and responsibility.

CHAPTER III - CONDUCT AND DISCIPLINE

may an officer who is bankrupt or insolvent continue to be employed on duties involving the handling of public money. Shroffs and other officers entrusted with the handling of public money are liable to disciplinary proceedings on disclosure of bankruptcy or insolvency.

Mar 94 459 The Official Receiver will report to the Civil Service Branch every case of a public officer against whom any proceedings are taken in bankruptcy.

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INVESTMENTS

General Principles

- 461 (1) An officer is free to make any private investments subject to the provisions of these regulations. He/She must take due care to avoid taking investment risks beyond his/her financial means.
- (2) An officer is required to uphold the honesty and impartiality of the civil service and to observe an exemplary standard of personal integrity in making private investments.
- (3) An officer must not use confidential or unpublished information obtained in his/her official capacity to profit financially. He/She must not disclose to anyone who does not have an official need to know such information from which he/she and others can profit financially.

Conflict of Interest with Private Investments

- 462 (1) An officer should consider carefully before making any investment whether this could lead to a real or apparent conflict of interest with his/her official duties.
- (2) It will be deemed a conflict of interest between an officer's official duties and his/her investments, including acquisitions and disposals, if he/she could profit financially as a result of the information obtained in his/her official capacity. In case of doubt, an officer should consult his/her Bureau Secretary or Head of Department.
- (3) An officer must report to his/her Bureau Secretary or Head of Department if he/she is called upon to deal with any matter which affects his/her investments or those of his/her spouse or those of any dependent person or those of an individual or company acting on his/her behalf. Another officer will normally be assigned to deal with the matter.

CHAPTER III - CONDUCT AND DISCIPLINE

- (4) An officer should report to his/her Bureau Secretary or Head of Department if he/she makes any investment or undertakes business activity with members of public or private bodies, including SARG Legislative Council, Municipal Councils or District Boards, with which he/she has official dealings.

Declaration of Investments

463 (1) In the context of these regulations, the "investments" for declaration and reporting:-

- (a) include any investment, shareholding or direct or indirect interest in any company or undertaking, and any interest in land or buildings (including self-occupied property) in Hong Kong and/or in places outside Hong Kong;
 - (b) include but not limited to -
 - (i) securities listed on the Stock Exchange of Hong Kong;
 - (ii) futures and options contracts and other products traded on the Hong Kong Futures Exchange; and
 - (iii) any investment listed above which belongs to an officer but is held in the name of his/her spouse or of any other person or agent or company acting on his/her behalf,
 - (c) but, subject to CSR 464(a), exclude,
 - (i) unit trusts, mutual funds and life insurance policies;
 - (ii) bank deposits (irrespective of currencies);
 - (iii) government bills and notes and multilateral agency debt instruments; and
 - (iv) any investment held by an officer as a trustee or for charitable purposes where the officer has no beneficiary interest.
- (2) For investments not specified above, an officer should consult his/her Bureau Secretary/Head of Department on whether such investments should be declared.

Amendment No. 8(b)/98

CHAPTER III - CONDUCT AND DISCIPLINE

- (3) If it appears that there is or may be a conflict of interest between an officer's investments and official duties, the Bureau Secretary or Head of Department concerned should consider whether the officer should be required to divest himself/herself of any or some of the investments, refrain from acquiring or disposing of the investments or place the investments in a blind trust. In case of doubt, the advice of the Secretary for the Civil Service may be sought.

464 An officer may be required during a posting to -

- (a) declare his/her investments under CSR 463(1)(a) and (b), and other investments to be specified from a current date and thereafter on a regular basis;
- (b) comply with additional instructions relating to his/her investments in Hong Kong and/or in places outside Hong Kong by the Chief Secretary for Administration, the Secretary for the Civil Service or his/her Bureau Secretary/Head of Department;
- (c) divest himself/herself of any or some of his/her investments, or place the investments in a blind trust;
- (d) refrain from acquiring or disposing of any or some of his/her investments; and
- (e) report all investment transactions (acquisitions and disposals) involving a certain value per transaction.

Classification of Civil Service Posts

465 For the purpose of CSR 464, civil service posts requiring declaration will be classified into two Tiers according to their risk of exposure to potential conflict of interest situations.

Disciplinary Action

466 An officer who fails to observe any of the regulations on Investments renders himself/herself liable to disciplinary proceedings, and may in addition be required to divest himself/herself of any or some of the investments, refrain from acquiring or disposing of the investments or place the investments in a blind trust.

CONFIDENTIAL

DECLARATION OF INVESTMENTS BY CIVIL SERVANTS

To: _____

*SCS/Bureau Secretary/Head of Department**

Personal Particulars

Tier I/II* Officer

Name _____ (English) _____

(Chinese)

(First name) (Last name)

HKID No. _____

Appointed to Tier I/II* post on _____

Present post and date of posting _____

Name of spouse _____ (English) _____

(Chinese)

(First name) (Last name)

HKID No. of spouse _____

Occupation of spouse _____

Declaration

In accordance with CSR 464(a), I report my investments held as at _____ *(date)*/ investment transactions on form GF 389(B)/GF 389(C)* attached.

I hereby declare that the particulars entered in the attached form(s) are accurate and complete.

Signature _____ Date _____

*Delete as appropriate

*Notes attached to
Investment Declaration Form [GF 389(A)]*

- Note:
- (1) The information provided in this Declaration [GF 389(A)] and attached Report Form [GF 389(B)/GF 389(C)] will be used by SCS/Bureau Secretary/Head of Department or his/her designated officer(s) as appropriate to assess whether there is any conflict of interest between the private investments (in and/or outside Hong Kong) declared by the officer and his/her official duties or any non-compliance of relevant CSRs and/or whether any action, including disciplinary proceedings, should be taken as appropriate.
 - (2) Under CSR 464(a), an officer may be required during a posting to declare his/her investments under CSR 463(1)(a) and (b) and other investments to be specified from a current date and thereafter on a regular basis.
 - (3) Under CSR 466, an officer who fails to observe any of the regulations on Investments renders himself/herself liable to disciplinary proceedings, and may in addition be required to divest himself/herself of any or more of the investments, refrain from acquiring or disposing of the investments or place the investments in a blind trust.
 - (4) Officer making this Declaration and reporting his/her investments in the attached Form will have a right to request access to and to request the correction of the information provided herewith and such requests can be made in writing to SCS/Bureau Secretary/Head of Department [Attn: (name and title of responsible officer) at (officer's address) if possible] as appropriate.

CONFIDENTIAL
Details of Investments and Interests Held
(for annual/biennial *declaration)

Serial No.	Particulars of Investments/ Interests (see note)	(a) Date of Acquisition (dd/mm/yy)	(b) Quantity/ Units Acquired	(c) Value of Acquisition [HK \$ as at (a)]

*Delete as appropriate

Signature: _____ Date: _____ Page No.: _____

Note for G.F. 389(B)

(1) The investments for declaration and reporting **include** any investment, shareholding or direct or indirect interest in any company or undertaking, and any interest in land or buildings (including self-occupied property) in Hong Kong and/or in places outside Hong Kong. They **include** but are not limited to -

- (a) securities listed on the Stock Exchange of Hong Kong;
- (b) futures and options contracts and other products traded on the Hong Kong Futures Exchange; and
- (c) any investment listed above which belongs to an officer but is held in the name of his/her spouse or of any other person or agent or company acting on his/her behalf,

but, subject to CSR 464(a), **exclude** -

- (a) unit trusts, mutual funds and life insurance policies;
- (b) bank deposits (irrespective of currencies);
- (c) government bills and notes and multilateral agency debt instruments; and
- (d) any investment held by an officer as a trustee or for charitable purposes where the officer has no beneficiary interest.

[N.B.] Under CSR 464(a), an officer may be required during a posting to declare his/her investments under CSR 463(1)(a) and (b) and other investments to be specified from a current date and thereafter on a regular basis.]

(2) If interests in a private company are included, a brief indication of the following should be given -

- (a) the nature of its business;
- (b) whether the company has active business activities;
- (c) whether the officer has actively participated in the business(es) of the company; and
- (d) the officer's shareholding and names of other shareholders.

CONFIDENTIAL
Report on Investment Transactions
(Acquisitions and Disposals)

Serial No.	Particulars of Transactions (see note)	(a) Date of Acquisition/ Disposal (dd/mm/yy)	(b) Quantity/ Units Acquired/D isposed	(c) Value of Acquisition/ Disposal [HK \$ as at (a)]

Signature: _____ Date: _____ Page No.: _____

Note for G.F. 389(C)

- (1) To report within seven days each single investment transaction (including currency transaction) equivalent to or exceeding HK\$200,000 or three months' salary, whichever is the less.
- (2) If interests in a private company are included, a brief indication of the following should be given -
 - (a) the nature of its business;
 - (b) whether the company has active business activities;
 - (c) whether the officer has actively participated in the business(es) of the company; and
 - (d) the officer's shareholding and names of other shareholders.