

**Legislative Council Panel on Public Service
Meeting on 20 March 2000**

Declaration of Investments by Civil Servants

Purpose

The purpose of this paper is to brief Members of —

- (a) the research findings on systems of declaration of investments/interests in overseas governments; and
- (b) the review of our system of declaration of investments by civil servants introduced in 1998.

Background

2. At the meeting of the LegCo Panel on Public Service on 20 August 1999, we undertook to provide Members with information on systems of declaration of investments/interests in overseas governments, in particular on whether random checking is conducted. We also informed Members that we would review the declaration system introduced in September 1998 and consider introducing improvements to the system, in the light of operational experience.

Overseas Practices

3. We have researched into the declaration of investments/interests systems adopted in the US, Canada, UK, Australia and Singapore. The US, Canada, Australia and Singapore have a regular declaration of investment/interest system for civil servants/public office holders. While the regular declaration requirements apply to all civil servants in Singapore, those in US, Canada and Australia apply to senior government employees and presidential/ministerial appointees. Both the US and Canada run a two-tier system imposing additional requirements for the top tier of senior employees and appointees to report investments for public disclosure. The UK, Australia and Singapore systems however do not have any specific requirement on public disclosure.

4. The scope of investments/interests for declaration in overseas countries varies from one to another. The declaration systems in the US, Canada and Australia require declaration of assets, liabilities, outside positions, gifts and hospitality and other income sources. The Singapore system is similar to our system in that it is investment-based. There are also requirements for the declaration of investments/interests of spouse and dependent children in the systems under research, but there are no provisions for the reporting of occupation of spouse. Most of the systems under research require annual reporting, without any specific requirements on transaction reporting.

5. Our research does not reveal any random checks being carried out to investigate into the accuracy and completeness of the declaration returns. Declarations are generally accepted, unless there is obvious omission and ambiguity. It is noted that there are measures in place to verify the information provided in their returns through interviewing with the officer or requests for further details. If there are deliberate omissions, they will be referred to the appropriate authorities for disciplinary action or criminal investigation (in case the laws are violated). In the US and Canada, there are independent statutory bodies responsible for administering declaration systems including calling for and reviewing returns received. Dedicated officers are appointed to examine and review the declaration returns. In Australia and Singapore, the monitoring and review functions are undertaken by the administration itself.

The Present System

Central Declaration Rules

6. Our central declaration of investment system has the following features —

- (a) posts requiring declaration are classified into two tiers. Tier I consists of key government posts, mainly posts of principal officials; and Tier II of all directorate posts and posts designated by Bureau Secretaries/Heads of Department with high risk of exposure to conflict of interest situations. As at March 2000, 27 Tier I posts and 2,939 Tier II posts have been designated to be subject to the regular declaration requirements;

- (b) Tiers I and II officers are required to report their global investments annually and biennially respectively. They should also report any investment transaction exceeding HK\$200,000 for Tier I posts and that exceeding HK\$200,000 or 3 months' salary, whichever the less, for Tier II posts;
- (c) Tier I officers are additionally required to register their financial interests annually for public inspection. All Tier I and II officers have to declare occupation of their spouse;
- (d) posts not designated are not required to make regular declaration though all civil servants shall continue to be responsible for avoidance of conflict of interest situations and to report on individual case as and when necessary; and
- (e) investments requiring declaration include mainly securities, shareholding and interest in companies and interest in land and property. Reporting of other interests, including gifts, sponsorship and outside work, is governed by separate rules under the Acceptance of Advantages Notice and various Civil Service Regulations which require approvals whenever these situations arise.

Supplementary Departmental Requirements

7. To supplement the central declaration rules, 25 bureaux/departments have issued their own departmental guidelines imposing varying additional reporting requirements based on operational needs. These guidelines include —

- (a) more frequent declarations;
- (b) reporting of investments on appointment to the office regardless of whether holding designated posts;
- (c) reporting of every investment transaction in specified business areas related to the official duties, irrespective of the amount and regardless of whether holding designated posts; and

- (d) restrictions on making investments in specified business areas which are related to the work of the bureaux/departments; and
- (e) reporting of investments/occupation of spouse/dependent children/relatives which are related to the work of the bureaux/departments.

These additional departmental guidelines cover approximately 49,500 posts in various bureaux/departments.

The Review

8. Government's policy on civil servants' disclosure of their private investments is to ensure a proper balance between individual right to private investment and privacy on the one hand, and upholding civil service impartiality and accountability on the other. The current system of prescribing general investment guidelines for reporting under the central system while allowing individual bureau/department to supplement additional specific guidelines on account of operational considerations strikes the right balance. We consider that the current system has largely been operating satisfactorily. However, we would consider introducing measures to further enhance its effectiveness.

Strengthening Monitoring Measures

9. At present, designated officers in the Civil Service Bureau and individual bureaux/departments are responsible for seeking, examining and keeping declaration returns in respect of Tier I and Tier II officers respectively. However, ways and means to examine and review the declaration returns are not standardised. To improve the effectiveness of the declaration system, we see room for strengthening our monitoring measures. We would consider issuing additional guidelines to assist bureaux/departments to review the declaration returns submitted. Broadly, these guidelines would cover the following:

- (a) a review checklist to be adopted by Bureau Secretaries/Heads of Department or their designated officers in vetting and reviewing the declaration returns;

- (b) guidelines on how assessments on the reported investments against potential conflict of interest should be conducted and under what circumstances and how further enquiries, clarification and review interviews should be made/conducted; and
- (c) advice to the management on what action to take if a conflict of interest exists, such as divestment of investments or putting the investments in a blind trust.

10. We do not see justifiable reasons to introduce random checks to investigate into the declaration returns submitted. Our system has all along been based on self-reporting and guarded by disciplinary sanctions for non-compliance. Our research also does not reveal any random checks (of investigative nature) being carried out in other countries.

Reinforcing the Requirement on Spouse/Family Members/Relatives

11. Under existing declaration rules, officers are required to declare regularly any investment which belongs to them but is held in the name of their spouse or any other person. Besides, officers are required to report any investment of spouse/family members/relatives whenever such investment would likely give rise to a conflict of interest with their official duties.

12. We see the need to further enhancing the awareness of officers over possible conflict of interest between investments of spouse/family members/relatives and the need for reporting such conflicts. We will issue circular to raise such awareness and to remind the need for reporting.

13. At present, 8 bureaux/departments have laid down, having considered their unique operational needs, additional investment guidelines requiring officers to report investments of their spouse/family members/relatives in specified business areas vulnerable to potential conflict of interest. We will encourage more bureaux and departments to draw up departmental guidelines requiring the reporting of investments of spouse/family members/relatives on considerations of operational need.

Way Forward

14. We will draw up details of the above proposals in consultation with the ICAC, Department of Justice and the staff sides before promulgating for implementation.

Civil Service Bureau
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