INFORMATION NOTE

Mechanisms governing sponsored visits/travel in Hong Kong and selected overseas places

1. Introduction

1.1 There are public concerns over the propriety of the acceptance of sponsored visits by Members of the Legislative Council ("LegCo") and the lack of detailed specific guidelines governing these visits. To facilitate the deliberations of the Committee on Members' Interests over issues relating to sponsored visits, this information note summarizes the main features of the mechanisms governing (a) sponsored visits undertaken by LegCo Members, Members of the Executive Council ("ExCo") and politically appointed officials ("PAOs") of the Hong Kong Special Administrative Region (see **Table 1** for details), and (b) sponsored travel¹ undertaken by Members of the House of Commons in the United Kingdom ("UK") and Canada, and the House of Representatives in Australia, New Zealand and the United States ("US") (see **Table 2** for details). Based on the information in Tables 1 and 2, the following observations are highlighted for Members' reference:

Hong Kong

1.2 Both LegCo and ExCo Members are required to register all their sponsored visits within 14 days after the trip. They have to provide basic trip information, such as dates and purposes of visits, for the registration. There are procedures governing investigation of complaints against LegCo/ExCo Members' non-compliance with the reporting requirements for their sponsored visits. Non-compliant LegCo/ExCo Members may be sanctioned.

Sponsored visits are known as sponsored travel in the overseas places studied.

1.3 PAOs are required to seek permission from the Chief Executive ("CE") before they accept any sponsorship in relation to visits outside Hong Kong. When seeking permission from CE, PAOs have to provide basic trip information as well as reasons for accepting an invitation for the sponsored visit. There are also procedures governing investigation of complaints against PAOs' non-compliance with the reporting requirements for their sponsored visits. Non-compliant PAOs may be sanctioned.

Selected overseas places

1.4 In the UK, Canada, Australia and New Zealand, sponsored travel is regarded as a registrable interest subject to the relevant provisions governing the registration of Members' interests. The UK, Canada and Australia require their Members to register their sponsored travel when the cost of travel exceeds a certain monetary sum. They are also required to do so within one to two months after the end of the trip. In New Zealand, Members are required to register all sponsored overseas travel² and submit annual returns on their sponsored travel made in the previous 12 months. The legislatures in the UK, Canada, Australia and New Zealand all require their Members to provide basic trip information for the sponsored travel undertaken. They also put in place procedures governing investigation of complaints against Members' non-compliance with the reporting requirements for their sponsored travel, and non-compliant Members may be sanctioned.

1.5 The mechanism adopted for the US is distinct from the other overseas places studied in that the House of Representatives has put in place specific rules – the Travel Regulations – to govern Members' acceptance of sponsored travel. The House of Representatives amended the gift rule (i.e. Clause 5 of Rule XXV of the House Rules) on 1 March 2007 after earlier investigations and prosecutions of a number of Members, congressional staff, and executive branch officials for illegally accepting high-priced gifts and travel provided by lobbyists.³ Under the amended House Rules, the Committee on Ethics⁴ is empowered to enact regulations and establish a process for approving Members' requests for undertaking sponsored travel.

² Members in New Zealand are required to register their sponsored domestic travel if the cost of travel exceeds a certain monetary sum.

³ See U.S. House of Representatives (2008), page 29.

⁴ The Committee on Ethics is the only standing committee of the House of Representatives with its membership divided evenly between the parties. It provides guidance on what behaviour is considered ethical and provides advice to Members on how to avoid ethical culpability. The Committee is empowered to conduct investigations into whether Members have violated the ethical standards and make recommendations to the whole House on what action, if any, should be taken as a result of the investigations.

1.6 The US mechanism also features the requirement for Members to seek pre-approval for their sponsored travel from the Committee on Ethics at least 30 days before departure, as well as to complete and submit post-travel disclosure forms to the Clerk of the House within 15 days after returning from the trip.⁵ When seeking pre-approval for sponsored travel, Members are required to provide basic trip information and explain why participation in the trip is connected with their official or representational duties⁶. Sponsors are also required to complete the "Trip Sponsor Form" to provide basic trip information and a detailed programme of activities to be attended by Members during the trip.⁷ The Committee on Ethics will evaluate and approve or deny any request from Members to participate in a sponsored travel.⁸ It will consider, among other things, whether the sponsored travel relates to the duties of Members and complies with the restrictions on duration and location of the trip. While it is the responsibility of a Member to decide whether a trip is connected to his or her duties,⁹ the decision to approve rests with the Committee on Ethics.

1.7 It is also worth noting that in the US, Members who have participated in trips without receiving pre-approval from the Committee on Ethics will be required to repay the sponsors all expenses incurred due to their participation in the trips.¹⁰ There are also other procedures governing investigations of Members' non-compliance with the reporting requirements for their sponsored travel. Non-compliant Members may be sanctioned.

⁵ See U.S. House of Representatives (2012), §501.1 and §601.

⁶ See U.S. House of Representatives (2012), §301.

⁷ Sponsors are required to provide a completed "Trip Sponsor Form" to each Member gone on the trip, who will then send the form to the Committee on Ethics no less than 30 days before departure.

⁸ See U.S. House of Representatives (2012), §504.

⁹ See U.S. House of Representatives (2012), §301.1.

¹⁰ See U.S. House of Representatives (2012), §505(a).

Table 1 – Mechanisms	governing sponsored	l overseas visits in Hong Kong

	Legislative Council	Executive Council	Politically appointed officials
Relevant codes/rules	• Under the Rules of Procedure ("RoP") ¹¹ , Members are required to furnish the Clerk to LegCo with particulars of registrable interests, which include sponsored visits.	of Interests by Members of the Executive Council, Members	Political Appointment System ("Code").
Scope of sponsored visits covered	 Overseas visit that: (a) is made by the Member or his or her spouse relating to or in any way arising out of the Member's membership of LegCo; and (b) the cost is not wholly borne by the Member or public funds. 	or her spouse relating to or in any way arising out of the	 Overseas visit that is made by PAO in his or her official capacity and invited by a government outside Hong Kong/an outside organization. The spouse of PAO may also be invited to join the visit. If PAO wishes to accept a sponsored visit for his or her spouse, he or she shall seek permission from CE.

See Rules 73, 83 and 85 of RoP and the Registration Form on Members' Interests. See Chief Executive's Office (2012b), paragraphs 4-6 and Annex B. See Chief Executive's Office (2012a), paragraphs 5.18 - 5.19. 11

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Table 1 – Mechanisms governing sponsored overseas visits in Hong Kong (cont'd)

	Legislative Council	Executive Council	Politically appointed officials
Information required for disclosure	 Information required: (a) dates of visit and countries visited; (b) purpose of visit; (c) name(s) of sponsor(s); and (d) nature of interest received: passage, accommodation, and/or subsistence allowance. 	 Information required includes: (a) purpose of visit; (b) name(s) of sponsor(s); and (c) nature of interest received. 	 Information required includes: (a) destination, date and length of visit; (b) name(s) of sponsor(s); and (c) reasons for accepting the invitation for sponsored visit.¹⁴
Reporting of sponsored visits	• Members shall register within 14 days of the conclusion of the sponsored visit. ¹⁵		1
Public access to information disclosed	• The Register of Members' Interests is available for inspection in the LegCo Library and online on the LegCo website.	Interests is available for	• Information is contained in a disclosure summary, which is available on the website of the bureau/office served by the PAO concerned or for inspection upon request.

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Telephone reply from the Chief Executive's Office on 16 October 2013. See Rule 83 of RoP and Note (d) of the section "Overseas Visits" in the Registration Form on Members' Interests. 15

¹⁶ See Chief Executive's Office (2012b), paragraph 6.

Table 1 – Mechanisms governing sponsored overseas visits in Hong Kong (cont'd)

	Legislative Council	Executive Council	Politically appointed officials
Complaints about non-compliance with rules	• Handled by the Committee on Members' Interests.	• The ExCo Secretariat will conduct an initial enquiry to ascertain the facts. Where necessary, CE may direct the Chief Executive's Office and the ExCo Secretariat to conduct a full investigation. ¹⁷	5 8
Actions taken in relation to non-compliance with rules	• A Member who fails to comply with the registration requirements may be admonished, reprimanded or suspended by the Council on a motion to that effect. ¹⁹	declaration system, CE may issue	• If PAO is in breach of duty or provisions set out in the Code, CE may impose a sanction on him or her. Applicable sanctions include warning, public reprimand, suspension or dismissal. ²¹

See Chief Executive's Office (2012b), paragraph 15. See Chief Executive's Office (2012a), paragraph 7.9. 17

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¹⁹ See Rule 85 of RoP.

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See Chief Executive's Office (2012b), paragraph 14. See Chief Executive's Office (2012a), paragraph 7.9. 21

	House of Commons of the United Kingdom	House of Commons of Canada	House of Representatives of Australia	House of Representatives of New Zealand	House of Representatives of the United States
Relevant codes/rules/ regulations	 The Code of Conduct together with The Guide to the Rules relating to the Conduct of Members. According to the Code of Conduct, Members shall register with the Registrar of Members' Financial Interests. 	The Conflict of Interest Code for Members of the House of Commons, under which Members shall register with the Conflict of Interest and Ethics Commissioner.	 Resolutions of the House (1984, 1986, 1988, 1994, 2003 and 2008) collectively appended to the Standing Orders of the House of Representatives. According to the Standing Orders, Members shall register with the Registrar of Members' Interests. 	 Representatives. According to the Standing Orders, Members must register with the Registrar of Pecuniary and 	 Rule XXV of House Rule), the House Ethics Manual, and the Travel Regulations. According to the Travel Regulations, Members must submit pre-travel disclosure forms to the Committee on Ethics for approval of their sponsored travel before departure. The committee considers, among

	House of Commons of the United Kingdom	House of Commons of Canada	House of Representatives of Australia	House of Representatives of New Zealand	House of Representatives of the United States
Scope of sponsored travel covered	 Domestic travel that: (a) is undertaken by the Member or his or her spouse/partner which in any way relates to membership of the House or to a Member's political activity; (b) exceeds 1% of the current parliamentary 	 Sponsored travel that: (a) is undertaken by the Member and his or her guests which arises from or relates to a Member's position; (b) exceeds CAN\$500²³ (HK\$3,682); and 	 Sponsored travel that: (a) is free or concessional and undertaken by the Member, his or her spouse/partner or dependent children; (b) exceeds AUS\$300²⁴ (HK\$2,080); and (c) is sponsored wholly or partly by any person, organization, businesses or interest group, or foreign 	 Domestic travel²⁶ that is paid by any person, trust, or company which exceeds NZ\$500 ²⁷ (HK\$3,229). Overseas travel²⁸ that is <u>not</u> paid by the following or any combination of the following: (a) the Member or his or her spouse/ domestic partner; (b) any parent, child, stepchild, foster- 	 Domestic/overseas travel that: (a) is undertaken by the Member on his or her own, or with one accompanying relative ²⁹, that relates to the Member's official duties; (b) exceeds US\$350³⁰ (HK\$2,724); and (c) is paid by
	salary (i.e. £664 ²² or HK\$8,397); and		government or its representative. ²⁵	child, or grandchild of the Member;	permissible sponsors. ^{31 & 32}

Table 2 – Mechanisms	governing sponsored	l travel in selected	places (cont'd)

²² The current parliamentary salary of a Member of the UK House of Commons is £66,396 (HK\$839,710) per year.

²³ The current parliamentary salary of a Member of the House of Commons of Canada is CAN\$160,200 (HK\$1.2 million) per year.

²⁴ The current parliamentary salary of a Member of the House of Representatives of Australia is AUS\$185,000 (HK\$1.4 million) per year.

²⁵ See Parliament of Australia (2013a), Section (2)(l).

²⁶ In New Zealand, sponsored domestic travel valued at more than NZ\$500 (HK\$3,229) is considered a registrable interest, subject to the provisions governing the registration of gifts.

²⁷ The current parliamentary salary of a Member of the House of Representatives of New Zealand is NZ\$144,600 (HK\$942,470) per year.

²⁸ See New Zealand Parliament (2012), Sections 8(1)(a), (1)(b), (2) and (3)(a).

²⁹ Relative is defined as an individual of at least 18 years of age who is related to the Member as spouse, parent, child or stepchild, grandchild, sibling or half-sibling, father-in-law or mother-in-law.

³⁰ The current parliamentary salary of a Member of the US House of Representatives is US\$174,000 (HK\$1.4 million) per year.

³¹ See U.S. House of Representatives (2013), Clause 5 of Rule 25 and U.S. House of Representatives (2012), § 201.1.

³² In the US, under no circumstances may any of the following entities be accepted as a trip sponsor: (a) an individual who is registered as a federal lobbyist or a foreign agent, (b) a lobbying firm, and (c) an entity that employs individuals who are registered as foreign agents to represent entities other than itself.

	House of Commons of the United Kingdom	House of Commons of Canada	House of Representatives of Australia	House of Representatives of New Zealand	House of Representatives of the United States
Scope of sponsored travel covered (cont'd)	 (c) is paid by any company, organization or person within the UK.³³ Overseas travel that: (a) is made by the Member or his or her spouse/partner relating to or in any way arising out of membership of the House; (b) exceeds 1% of the current parliamentary salary (i.e. £664 or HK\$8,397); and (c) is not wholly borne by the Member or public funds.³⁴ 	(c) is not wholly or substantially paid from the Consolidated Revenue Fund ³⁵ or by the Member personally, his or her political party or any interparliamentary association or friendship group recognized by the House. ³⁶		 Overseas travel that is <u>not</u> paid by the following or any combination of the following (cont'd): (c) the Crown; or (d) any government, parliament, or international parliamentary organization, if the primary purpose of the travel is in connection with an official parliamentary visit. 	

³³ See House of Commons of the United Kingdom Parliament (2012), pages 18-19.

³⁴ See House of Commons of the United Kingdom Parliament (2012), pages 19-20.

³⁵ The Consolidated Revenue Fund is the account into which the Canadian government deposits taxes, tariffs, excises and other revenues, once collected, and from which it withdraws the money it requires to cover its expenditures.

³⁶ See Parliament of Canada (2011), Sections 15 (0.1) and 15 (1).

	House of Commons of the United Kingdom	House of Commons of Canada	House of Representatives of Australia	House of Representatives of New Zealand	House of Representatives of the United States
Information required for disclosure	 For domestic travel, information required includes: (a) name and address of the donor; (b) amount of donation; (c) date of receipt of the donation; (d) date of acceptance of the donation; and (e) donor status. For overseas travel, information required includes: (a) name and address of the donor; (b) amount of the donation; and (c) destination, date, and purpose of visit. 	 Information required includes: (a) name of the person or organization paying the travel costs; (b) the name of any person accompanying the Member; (c) destination, purpose, date and length of the trip; and (d) nature of the benefits and the value, including supporting documents for transportation and accommodation. 	 Information required includes details of travel/hospitality. 	 For domestic travel, information required includes name of sponsor and description of each gift received (including hospitality and donation in cash or kind). For overseas travel, information disclosed includes: (a) name of the country visited; (b) purpose of travelling to that country; and (c) name of each person who contributed to the costs of travel and the accommodation costs. 	 Information required includes: (a) name of the sponsor; (b) destination, date and length of the trip³⁷; (c) reasons for the Member concerned to undertake the sponsored travel³⁸; (d) meetings and events attended during the trip³⁹; (e) length of stay at Member's personal expense; and (f) name of accompanying relative and his or her relationship to the Member.

³⁷ Sponsors who do not employ or retain a federally-registered lobbyist or foreign agent may sponsor trips up to 4 days for domestic travel or 7 days for overseas travel. Sponsors who employ or retain a lobbyist or foreign agent may sponsor only one-day trips.

 $[\]frac{38}{99}$ When applying for the pre-travel approval, the invited Member has to explain why the participation in the trip is connected with his or her individual official or representational duties.

³⁹ After the end of the trip, the invited Member has to indicate the meetings and events attended in the post-travel disclosure form.

	House of Commons of the United Kingdom	House of Commons of Canada	House of Representatives of Australia	House of Representatives of New Zealand	House of Representatives of the United States
Information required for disclosure (cont'd)					• Sponsors are required to submit disclosure forms which set out detailed information and programme of the trip, including the mode and class of transport for the Member invited, location of the trip and choice of hotel, breakdown of meal, hotel and transport expenses, and the reasons for inviting the Member concerned.
Reporting of sponsored travel	• Members shall register within four weeks of any change to their registrable interests (including sponsored travel).	• Members shall register within 60 days after the end of the trip.	within 28 days of any	 Members must submit an annual return in each year as at 31 January to declare specified financial, business and personal interests in the previous 12 months. 	the trip starts.

	House of Commons of the United Kingdom	House of Commons of Canada	House of Representatives of Australia	House of Representatives of New Zealand	House of Representatives of the United States
Public access to information disclosed	• All information is contained in the Register of Members' Financial Interests, which is available for inspection on the parliamentary website.	• Information is contained in a disclosure summary prepared by the Conflict of Interest and Ethics Commissioner, which is available for inspection on the parliamentary website.	• Information is available for inspection on the parliamentary website.	• The Registrar of Pecuniary and Other Specified Interests of Members of Parliament prepares a disclosure summary based on the annual returns submitted by Members. The summary is available for inspection on the parliamentary website.	 The Clerk of the House prepares a disclosure summary based on the post-travel disclosure forms submitted by Members. The summary is updated on an annual basis and available for inspection on the website of the Office of the Clerk of the House. Detailed information is available upon request from the Committee on Ethics office.

	House of Commons of the United Kingdom	House of Commons of Canada	House of Representatives of Australia	House of Representatives of New Zealand	House of Representatives of the United States
Complaints about non-compliance with rules	 The Parliamentary Commissioner for Standards will consider complaints, whether from Members or from members of the public, alleging that a Member has breached the Code of Conduct and associated rules. The Commissioner decides whether the case has some substance to merit further inquiry. If so, he or she will report the findings to the Committee on Standards after investigation. If the Commissioner has concluded that there has been a breach of the rule in the report, the Committee on Standards may make recommendations to the House on whether further action is required. 	 the Conflict of Interest Code for Members of the House of Commons may request the Conflict of Interest and Ethics Commissioner to conduct an inquiry into the matter. The House may, by way of resolution, direct the Commissioner to 	 A Member fails to fulfil the registration requirements shall constitute a contempt of the House. Complaints of contempt of the House may only be raised formally by Members to the Committee of Privileges and Members' Interests. The Committee will report the case to the House for consideration. 	 A Member who has reasonable grounds to believe that another Member has not complied with his or her obligation to register the interest may request the Registrar of Pecuniary and Other Specified Interests of Members of Parliament to conduct an inquiry into the matter. After the inquiry, the case will be reported to the House and then referred to the Privileges Committee. 	 The Committee on Ethics may initiate an investigation on its own. Alternatively, an investigation may be initiated pursuant to information offered as a complaint filed with the committee by a Member. A complaint may also be filed by a non-Member if the complaint is accompanied by a certification from a Member that the information is submitted in good faith and warrants committee consideration.

	House of Commons of the United Kingdom	House of Commons of Canada	House of Representatives of Australia	House of Representatives of New Zealand	House of Representatives of the United States
Actions taken in relation to non-compliance with rules	 The Commissioner may decide to solve the case through rectification procedure. Rectification may include a belated entry in the current Register in the case of non-registration and an apology to the House by means of a point of order in the case of non-declaration.⁴⁰ If after the enquiry, the Commissioner finds that the complaint raises issue of wider importance, he or she will refer the case to the Committee on Standards for further action. If so, possible sanctions can be as severe as expulsion, but the more severe sanctions are usually reserved for offences which go beyond failure to register. 	Commissioner concludes that a Member has not complied with an obligation under the Conflict of Interest Code for Members of the House of Commons, he or she shall so state in the report submitted to the Speaker and may recommend	 Members whom the House determines have committed contempt may be punished by reprimand or suspension from the service of the House for a period of time. In some cases, an apology by the Member concerned may forestall further action.⁴² 	the House for any Member knowingly to fail to make a return of pecuniary interests by the due date or knowingly to provide false or misleading information in such a return. ⁴³	 in a trip without receiving pre-approval from the Committee on Ethics will be required to repay to the sponsor all expenses incurred due to their participation in the trip. The Committee on Ethics

⁴⁰ See House of Commons of the United Kingdom Parliament (2012), page 41.

⁴¹ See Parliament of Canada (2011), Section (6).

⁴² See Wright (2012), page 742.

⁴³ See McGee (2005), page 42.

See Office of the Clerk of House of Representatives (2013), page 16. See Committee on Ethics (2013b), pages 43-44. 44

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Prepared by YU Chun-ho 21 October 2013 Tel: 2871 2305

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