

**Legislative Council Panel on Constitutional Affairs**

**System of Declaration of Interests by  
Members of the Executive Council**

**Purpose**

This paper provides information on the system of declaration of interests by Members of the Executive Council (ExCo).

**System of Declaration of Interests by ExCo Members**

2. To ensure that ExCo Members offer unbiased and impartial advice to the Chief Executive, ExCo has adopted a rigorous system of declaration of interests. The system mainly comprises two parts.

(A) Regular Declarations

3. On first appointment and annually thereafter, each ExCo Member should declare their personal interests by completing the "Annual Declaration of Registrable Interests of Members of the Executive Council" ("the Register") (copy at Annex A). Registrable interests include the following -

- (a) remunerated directorships in any public or private company;
- (b) remunerated employments, offices, trades, profession, etc;
- (c) if the interests at (a) or (b) above include provision to clients of personal services which arise out of or relate in any manner to Members' position as ExCo Members, the names of clients;
- (d) land and property owned by Members in or outside Hong Kong, including those which are held in the name of Members' spouses, children or other persons or companies but are actually owned by Members; or those which are not

owned by Members but in which Members have a beneficial interest;

- (e) names of companies or bodies in which Members have, either themselves or with or on behalf of their spouses 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 or other organizations.

4. Declared interests of each ExCo Member will be uploaded to the ExCo website for public inspection. ExCo Members should notify the Clerk to ExCo of changes to any items of interest declared within 14 days of their occurrence.

5. In addition, on first appointment and annually thereafter, ExCo Members should declare to the Chief Executive on a confidential basis and in greater detail their financial interests, including shareholdings (irrespective of the amount) in companies as well as futures and options contracts, held by themselves or jointly with their spouses, children or other close relatives. Any changes to the interests declared as well as any currency transactions involving the Hong Kong Dollar amounting to more than HK\$200,000 should be notified to the Clerk to ExCo within two trading days after their occurrence.

6. ExCo Members should declare within 14 days the acceptance by them (or their spouses) of any financial sponsorship, sponsored overseas visits, or gifts worth HK\$2,000 or more in relation to their ExCo membership, by completing the "Declaration of Acceptance of Sponsorships and Gifts" (copy at Annex B). The declarations are also uploaded to the ExCo website for public inspection.

(B) Declarations in respect of Individual Items Discussed by ExCo

7. It is the personal responsibility of ExCo Members to examine whether they have an interest in any item discussed by ExCo, and declare it before the ExCo discussion. Based on the interest declared, the Chief Executive will assess whether ExCo Members may have a potential or real conflict of interests in the item considered by ExCo. The Chief Executive

will decide whether Members should participate in or withdraw from the discussion of that item.

### **Other Related Issues**

8. Responses to the issues raised in Hon Emily Lau's letter of 29 October 2010 to the Clerk to the Panel on Constitutional Affairs are set out below -

- (1) The Administration does not consider it appropriate for individual incidents involving declaration of interests by ExCo Members to be specifically discussed at the Legislative Council (LegCo). Therefore, the sequence of events in the case of Hon Lau Wong-fat could not be provided.
- (2) The statement issued by the Chief Executive's Office on 30 September 2010 (copy at Annex C) had explained the Chief Executive's stance and views on the case of Hon Lau Wong-fat's failure to declare his interests. Since the incident was reported by the press, the ExCo Secretariat and the Chief Executive's Office had examined and analysed the property interests which Hon Lau had not declared, the items discussed by ExCo in the relevant period, the declarations made by Hon Lau at the relevant ExCo meetings as well as Hon Lau's explanation of his failure to declare those interests. A report was then submitted to the Chief Executive. Having examined the report, the Chief Executive considered that Hon Lau had not deliberately concealed his interests or breached the declaration requirements.
- (3) Hon Lau Wong-fat had provided supplementary declarations on his company shareholdings and land and property interests to the ExCo Secretariat on 2 and 8 October 2010. The ExCo Secretariat and the Chief Executive's Office had obtained further information in respect of the interests which Hon Lau had not declared, and had conducted a detailed examination and analysis of such interests as well as all the items and related papers involving land or property discussed by ExCo since Hon Lau's appointment as an ExCo Member. The analysis has indicated that the land and property interests which Hon Lau omitted to declare did not constitute direct conflict of interests

in the items discussed by ExCo (that is to say, Hon Lau could participate in the discussion on the items, and there was no need for him to withdraw from the relevant ExCo meetings.) There is also no evidence to suggest that Hon Lau had used ExCo's confidential information for his personal benefits. Having examined the analysis, the Chief Executive considers that Hon Lau has not deliberately concealed his interests or breached the declaration requirements.

- (4) The possibility of considering the addition of the criterion "in the case of land or property held through a company, the interest is registrable where the Member has control of the company or has more than 50% shareholding in it" had taken reference from Note 3 of the registration form for land and property interests of LegCo Members. As complex issues are involved, which should be handled carefully and in consultation with ExCo Members, an internal assessment of the suggested addition is being carried out. A finalized option has not yet been formulated.
- (5) The requirement for ExCo Members to declare shareholdings of a nominal value greater than 1% of the issued share capital of companies or other bodies is set out in section 5 of the Register. This is the same as the corresponding requirement of LegCo. We will not change the requirement.
- (6) As explained in paragraph 4 above, ExCo Members should notify the Clerk to ExCo of changes to any items of interest declared within 14 days of their occurrence. Whether a change of property ownership right occurs upon signing of the provisional sale and purchase contract, or the formal sale and purchase contract, or the assignment deed, will be dependent on the terms of individual sale and purchase agreements. There is no standard rule. Imposing a mandatory requirement may not be able to take account of different circumstances of changes of ownership rights. Nevertheless, the general principle is that ExCo Members should declare their investments as soon as possible.

- (7) ExCo Members are appointed by the Chief Executive. If any Member deliberately contravenes the declaration system, the Chief Executive will handle the case without the need for any express provisions.
- (8) The ExCo system of declaration of interests will be reviewed from time to time in the light of changing circumstances.
- (9) The Register has stipulated the coverage and requirements of declaration. The overarching principle is to adopt a cautious and rigorous approach when making declarations. ExCo Members having any questions on the declaration requirements may approach the Clerk to ExCo.

The Chief Executive's Office  
November 2010

**Annual Declaration of Registrable Interests of  
Members of the Executive Council**

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

**Registrable Interests**

**Contents**

1. Remunerated directorships in any public or private company

[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.

## Registrable Interests

## Contents

### 2. Remunerated Employments, Offices, Trades, Profession, etc.

[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.

**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.

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

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



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 organisation which in any way relates to your membership of the Council? If so, please give details such as the name and nature of the organisation.
  
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, organisation or person which in any way relates to your membership of the Council? If so, please give details.

**(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<sup>1</sup> 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.

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

## Press Releases

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Statement by the Chief Executive's Office  
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Following is a statement issued by the Chief Executive's Office today (September 30) relating to the declaration of interests by Executive Council (ExCo) Member, Mr Lau Wong-fat:

"To ensure that advice given to the Chief Executive by Members of ExCo is as unbiased and objective as possible, Members have a duty to declare any interest they may have in matters considered by ExCo. Members should fill out the "Annual Declaration of Registrable Interests of Members of ExCo" (the "Register") to register their interests.

The Hon. Lau Wong-fat has indicated under "company held" in the Register that he holds "Carofaith Investment Ltd" for investment purpose. Nevertheless, he has not indicated in parallel under "land and property" in the Register that the company purchased 16 uncompleted flats in Yoho MidTown, Yuen Long in February and three properties in Palm Springs in April this year. Neither did he inform the ExCo Secretariat within 14 days after the purchases as required.

In this regard, while Members are required to declare under the "land and property" section in the Register any land or property which is owned through a company, the Register does not specify that where a Member has declared his or her shareholding of a company under the "company held" section, he or she is still required to declare the land or property owned through the company under "land and property", regardless of the amount of shares he or she holds.

After examining the above-mentioned situation, the Chief Executive, Mr Donald Tsang, considers that the declaration requirements should be interpreted in a strict manner, and that Mr Lau should have informed the ExCo Secretariat of the above-mentioned property transactions to update his declaration of interests. That said, Mr Tsang agrees that there is room to improve the Register in terms of clarity and that Mr Lau did not deliberately cover up or violate the concerned requirements. In fact, Mr Lau has indicated clearly in the Register that he has a shareholding interest in the company that holds the above-mentioned properties. He also declared his interests in companies engaged in land and property investments at ExCo meetings when matters on land and housing were discussed. The Chief Executive, therefore, does not consider that Mr Lau has made use of privileged information available to ExCo Members to his own advantage. Mr Tsang also notes that Mr Lau has apologised to the public for the above-mentioned omissions in declaration.

"With the benefit of hindsight, Mr Lau should have been more cautious in declaring his interests. Enquiries can always be made with the ExCo Secretariat. Meanwhile, I have instructed the ExCo Secretariat to make the stipulation under "land and property" in the Register clearer in order to help Members declare their interests accurately to safeguard the interest of the public," Mr Tsang said.

Currently, the Register requires Members to declare:

"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."

The ExCo Secretariat has proposed to add to the Register that:

"If the land or property is held through a company, it is registrable should Members hold a controlling interest or more than 50% of its shares."

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