

## **Legislative Council Finance Committee**

### **Follow-up questions at the meeting on 4 May 2018**

At the Legislative Council (“LegCo”) Finance Committee meeting held on 4 May 2018, some Members requested the Government to provide information regarding some individuals, who did not run in the 2018 LegCo By-election, being notified by the Registration and Electoral Office (“REO”) to submit election returns to the Chief Electoral Officer (“CEO”) as “candidates” of the said by-election in accordance with the Elections (Corrupt and Illegal Conduct) Ordinance (Cap. 554) (“the Ordinance”). Although the matter is not related to the proposed creation of one permanent post of Principal Executive Officer in the REO, the REO sets out the relevant information below for Members’ reference.

2. In accordance with section 37 of the Ordinance, a candidate at an election must lodge with the appropriate authority (in the case of a LegCo election, the appropriate authority would be the CEO) an election return by the statutory deadline, unless the deadline has been extended by the Court under section 40 of the Ordinance. According to section 2 of the Ordinance, “candidate” is defined as “a person who stands nominated as a candidate at an election”, and also “a person who, at any time before the close of nominations for an election, has publicly declared an intention to stand as a candidate at the election”.

3. The meaning of “publicly declared an intention to stand as a candidate at the election” under the Ordinance should be based on the facts and the circumstances of each case. If a person participates in an internal selection exercise for a particular election conducted by his/her political party or affiliated organisation, whether the person should be regarded as a “candidate” at the election depends on whether he/she has publicly declared an intention to stand as a candidate at that election during the internal selection exercise. One cannot generally conclude whether a person should be regarded as a “candidate” as defined under the Ordinance simply because that person has participated in an internal selection exercise. In addition, if a person makes a public declaration to run in an election through a media which is accessible by the public (such

as newspaper or social media on the internet) before the close of nominations for that election, even though he/she has not been formally nominated, the person has become a “candidate” in accordance with the definition of the Ordinance.

4. Any person who has become a “candidate” at an election must comply with the requirement applicable to a “candidate” as defined under the Ordinance. Even if the person concerned did not submit a nomination form in the end, he/she being a “candidate” is still required to submit to the CEO an election return setting out the election expenses and all election donations received by the statutory deadline as stipulated in the Ordinance. Even if the “candidate” did not incur any election expenses or receive any election donations, he/she is still required to submit the election return by the statutory deadline. The REO will seek legal advice on whether the person concerned should be regarded as a “candidate” as defined under the Ordinance. If a person should be regarded as a “candidate” at an election based on legal advice, the REO will issue a letter to remind him/her of the requirement of submitting to the CEO an election return in accordance with the Ordinance.

5. We would be glad to listen to the comments and answer any questions by Members on the above matter, if any, at the LegCo Panel on Constitutional Affairs.

## **Registration and Electoral Office**

**May 2018**