

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

BRIEFING NOTE: SINGAPORE

I. Jurisdiction Overview:

Singapore is a city-state jurisdiction with a unicameral parliament representing several constituencies. Under its parliamentary democracy the elected president appoints the Prime Minister and Cabinet from among the Members of Parliament. The Prime Minister and Cabinet are responsible for all government policies and the administration of the affairs of state. Ministers, Ministers of State and Parliamentary Secretaries must abide by a *Code of Conduct for Ministers* that has been in place since 1954 (hereinafter referred to as the “Code”). The Code is not exhaustive and in 2005 it was revised when Singapore became a signatory to the United Nations *Convention Against Corruption*. While the Code does not have the force of law, Ministers are still expected to abide by its “rules of obligation”. Moreover, there is also a *Prevention of Corruption Act* which applies to all public officials.

II. Scope of Coverage of Conflict of Interest Provisions:

The *Prevention of Corruption Act* (hereinafter referred to as the “Act”) was originally enacted in 1960 to prevent corruption at both the public and private levels. The Act gives the Corrupt Practices Investigation Bureau (hereinafter referred to as the “Bureau”) the power to investigate and arrest corrupt public officials. The *Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act*, empowers the courts to confiscate properties from convicted corrupt public officials that are benefits of corruption offences. The Bureau also investigates corruption in the private sector, thereby making any member of the public accountable to any form of corruption. All Singapore residents are liable for any corruption offences committed outside of Singapore.

The Code details how Ministers should act and arrange their personal affairs. The Code expects all Ministers to perform their public duties to the “highest standards of probity, accountability, honesty, integrity and diligence”. Ministers are expected to use the Code to conduct themselves accordingly in their everyday activities.

III. Prohibited Activities:

A. General Prohibition on Conflicts of Interest

Singapore’s main regulatory focus is the effect of gratification and corruption on public officials (both terms are defined below). Members of Parliament are also subject to regulations requiring them to avoid conflicts of interest between their office and their own private financial interests.

The Code states that “conflicts of interest” for a Minister can arise:

- a. from the exercise of powers or influence in a way that benefits or may be seen to benefit a private interest held; or

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

- b. from using special knowledge acquired in the course of his activities as minister to bring benefit or avoid loss (or could arouse reasonable suspicion of this) in relation to his private financial interests.

Ministers cannot enter into any transactions where a conflict could occur between their financial interest and their public duty. If a Minister wishes to use their influence to support a project or scheme in which they have a private interest, the Minister must first obtain permission to do so from the Prime Minister. The Prime Minister must believe that giving permission is in the national interest, and the Prime Minister's permission must be published in the Singapore Government Gazette.

Ministers must not use any information which is received in the course of their employment to profit themselves, family members or associates. Ministers may not take advantage of early or confidential information to make speculative investments.

For all public officials, the Government of Singapore defines *corruption* as “the solicitation, receiving or agreeing to receive, giving, promising or offering any gratification as an inducement or reward to a person to do or forbear to do any act, with a corrupt intention”.

The *Prevention of Corruption Act* defines *gratification* to include the following:

- a. money or any gift, loan, fee, reward, commission or other property of any description, movable or immovable;
- b. any office, employment, or contract;
- c. any payment, release, discharge or liquidation of any loan, obligation or other liability;
- d. any other service, favour or advantage of any description; and
- e. any offer, undertaking or promise of any gratification within the meaning of paragraphs (a) to (d).

The same standards regarding corruption and gratification apply to all public officials, a category which includes civil servants and Members of Parliament.

B. Gifts

Public officials are not permitted to accept any gift, whether in money or in kind, from any person with whom they have official dealings. If they are presented with a gift, they must reject it, unless it is not practical for them to do so (as in the case of the presentation of a souvenir from a visiting dignitary). Public officials are also not permitted to accept any entertainment that will place them under any obligation to the gifting party.

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

Ministers are held to a higher standard than public officers. They, along with their spouses or dependants that live with them, are not to accept gifts from anyone, such that it would, or would appear to, put them in a conflict with their public duty.

Ministers and members of their family are allowed to accept personal gifts from family or personal friends, gifts unconnected with their ministerial office and gifts that would not be regarded to normally influence his/her in the performance of their duty (i.e. calendars, personal diaries, modest conventional hospitality).

C. Travel

Public Officers are not permitted to accept overseas trips from contractors under the pretext that they are training or checking on products that are to be supplied.

D. Contracts with Government

The Bureau prohibits public officers from investing or accepting any share in any business that they have official dealings with. Public officers are also not permitted to sub-contract from them.

E. Relations with Civil Servants

Ministers may not use their influence to support the hiring of any individual to the Singapore Civil Service, but may provide written letters of reference in support of candidates. Additionally, Ministers may not use their influence to support an individual's promotion within the service, but may, if requested, render a performance appraisal.

Ministers may not unduly influence a civil servant to perform any function that would conflict with the public servant's duty to remain incorrupt, and must respect the duty of civil servants to remain politically neutral.

F. Outside Interests

Public Officers are prohibited from undertaking any paid part-time employment or commercial enterprise without prior approval from the authorities at the Bureau

When dealing with contractors, public officials are very limited in the form of contact they are allowed to partake in. The Bureau requires that public officials:

- do not accept remuneration or compensation from a contractor for working overtime;
- do not accept any commission or kickbacks;
- do not conduct official meetings or negotiations with contractors at their office or in a public place (unless there are valid reasons to do so);
- do not visit the home or office of contractors;

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

- do not obtain any loan from contractors;
- do not accept any offer of employment from contractors while they are supervising their projects;
- do not allow contractors to pay personal bills or installments; and
- do not do anything to the detriment of the Government, such as advising contractors to exploit loopholes in a contract.

Public officers are prohibited from fraternizing with anyone that they have official dealings with and are not permitted to extend invitations to attend functions that they have organized.

Ministers who are partners in a professional firm or other business are prohibited from receiving remuneration or managing the firm's affairs once they take office. Ministers are permitted, however, to take the necessary steps to ensure that their professional registration or certification does not lapse.

A Minister may not receive payment, be an advisor or be formally involved with any commercial undertaking and may not hold any paid or unpaid directorship in any public or private company unless the Prime Minister believes it is in the national interest for the Minister to do so.

A Minister may accept directorships or other positions in any philanthropic organization or in any private company created to hold private family assets. Ministers may also hold a position in a company established for personal tax amelioration or estate planning. These positions may only be held provided there is no conflict of duty or interest.

G. Holding of Certain Assets

All public officials must declare their properties and investment in companies on an annual basis, including those held by their spouse or dependent children. Public officers may be requested to divest themselves of shares in a private company to prevent a conflict of interest.

When public duty and private interests conflict, or are perceived to be conflicting, Ministers must dispose of the financial interests that are the source of the conflict.

H. Journalism

A minister is not to engage in any form of journalism that is incompatible with his governmental duties or that is against the principle of collective Ministerial responsibility.

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

IV. Affirmative Requirements:

A. Duty of Recusal

The Bureau requires that public officials declare their interest in the business of a company and disqualify themselves from supervising any projects involved with that company.

B. Duty of Disclosure

1. Confidential Report

Upon being appointed to office, Ministers must disclose confidentially, to the President (through the Prime Minister), the following:

- a. all sources of income not relating to his position as Minister;
- b. all financial assets, real property, interests in companies or professional practices, and any other substantial personal assets; and
- c. all financial liabilities (i.e. mortgages and borrowings).

2. Disclosure of Gifts

If a public official is presented with a gift, they must reject it outright. If they are presented with a gift from a visiting dignitary, they are to accept the gift and then surrender it to the head of their department. The value of the gift will be assessed and the official may pay for it if they wish to keep it.

Ministers are also required to refuse and return all gifts. If it is believed that returning the gift will cause an offense to the donor, then the Minister is required to turn the gift over to the Permanent Secretary of the Minister's Ministry for disposal. If the Minister wishes to purchase the gift, an evaluation of it must be performed, after which the Minister may purchase it at its cash value, or if the value of it is under \$50, he/she may keep the gift without payment. If the Permanent Secretary believes that the gift is of interest to the government, then the gift may be displayed or used officially in the Minister's premises.

The same rules apply for when gifts are exchanged during official visits. If the Minister or his/her spouse or child receives a gift they may have it evaluated or may have it displayed in his/her premises. If the Minister wishes to reciprocate with a gift, the Minister may purchase one at the Government's expense.

The evaluator of all gifts, whether for civil servants or Members of Parliament, is the Accountant-General of Singapore.

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

3. Disclosure and Public Declaration of Recusal

Along with a public officer's duty to declare annually his and his spouse's and any dependent children's holdings in companies, he must also declare any acquisition of non-HDB (Housing and Development Board) private properties within a week of the purchase. A public officer may also be requested to divest ownership of shares in private companies to prevent a conflict of interest.

4. Disclosure and Public Declaration re Financial Matters

Public officers must declare once a year that they are free from pecuniary embarrassment, i.e. that they do not owe a significant amount of money or are insolvent, bankrupt, etc.

The President, Prime Minister, Ministers and all other members of the parliament will be forced to step down if they file for insolvency or bankruptcy.

V. Enforcement

The Bureau is responsible for the enforcement of the Act and the Code. The *Act* empowers the Bureau to investigate and arrest corrupt offenders. Bureau special investigators are given the power to arrest, with or without a warrant:

- any individual who has been involved in any offence listed under the Act;
- any individual whom against a reasonable complaint has been made;
- any individual against whom credible information has been received; and
- any individual whom against there is reasonable suspicion.

The special investigators may search, with or without a warrant, such people and seize and detain all articles, documents and property documents that are believed to be a result or attempt of the crime in question.

The *Corruption, Drug Trafficking and Other Serious Crimes (Confiscation of Benefits) Act* allows the court to confiscate properties from corrupt public officers.

Any person employed by or acting for another (agent) is also subject to the enforcement laws. The burden of proof is on the corrupt offender to prove to the Court that the gratification involved has not been given or received corruptly.

The Code has no force of law. Any issues resulting from non-compliance with the Code are not subject to review by any court or tribunal. Ministers are personally responsible for complying with the Code. As public officers, however, Ministers' conduct would be subject to the Bureau's oversight.

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

VI. Sanctions

Under the *Act*, anyone found guilty of a corruption offence will be subjected to a fine not exceeding \$100 000 and/or to imprisonment for a term of no more than 5 years.

An individual who:

- refuses access to an officer authorized to enter or search any place;
- assaults, obstructs, hinders or delays an officer's entrance;
- fails to comply with any lawful demands of the officer; or
- refuses or neglects to give any information that is reasonably required of him or is in his power to give,

will be guilty of an offence, and liable to conviction and subject to a fine up to \$10 000 and/or a prison term of up to one year.

When an individual is convicted of corruption the court will order them to pay a penalty equal to the monetary amount of all bribes that were received. If properties of the offender are found to be a benefit of a corruption offence, then the court will confiscate the properties.

Any Member of Parliament who solicits or accepts gratification for doing or forbearing to do any act in their capacity, will be guilty of an offence and liable to a fine up to \$100 000 and/or imprisonment for a term up to 7 years. The same repercussions will hold for a member who solicits or accepts gratification to affect his or anybody else's vote, the granting of a contract or involvement in any official act.

Public officers have no absolute rights to compensation for benefits, including compensation for past services, pensions, gratuities or allowances. If a member has been found to be guilty of negligence, irregularity or misconduct, they can lose their job and the government's award officer can choose to withhold altogether any benefit that the member would have been eligible for.

If there is insufficient evidence for court prosecution, a public officer will still undergo departmental disciplinary action. Punishments may include dismissal from service, a reduction in rank, a stoppage or deferment of raises, a fine, a reprimand or forced retirement.

VII. Post-Employment Prohibitions

There are no restrictions on public officials' activities after they leave the civil service or Parliament.

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

VII. Preventative Measures

The government of Singapore has recognized the importance of preventative measures and education in the reduction corruption and wrongdoing by public officers. Measures that have been taken include the following:

- replacing seconded police officers with permanent civilian investigators
- removing opportunity for corruption
- streamlining administrative procedures
- reducing the amount of “red tape”
- reviewing public officers' salaries to ensure that they are paid adequately
- reminding government contractors at the time of signing that bribing public officers administering the contract can lead to termination of contract

Efficiency in administration is the main theory behind the government’s work to date. The Government of Singapore believes that if loopholes exist, then corruption will grow unnoticed and unchecked. They believe that an efficient administration involves employees who are content, fulfilled, dedicated, satisfied and uncorrupt and that if workers have self-respect and are financially stable, they will look upon corruption as beneath them and be less likely to be influenced.

VIII. Educational Programs

Part of the Singapore’s governmental effort to prevent corruption involves regular educational talks on the negative aspects of corruption. These talks are aimed especially at those public officers in law enforcement agencies and those officers whose work makes them exposed to bribery and corruption. Advice is given on how to avoid getting involved in corruption and Government Instruction Manuals are published and distributed to all public officers making them aware of the relevant provisions of the *Prevention of Corruption Act*. Included in these preventative measures are Learning Journey briefings which are conducted by the Bureau for students from Junior Colleges.

IX. References:

online: Corrupt Practices Investigation Bureau
<<http://app.cpiib.gov.sg/newcpiib/user/default.aspx?pgID=21>>.

Code of Conduct for Ministers, online: National Archives of Singapore
<<http://stars.nhb.gov.sg/stars/public/viewDocx.jsp?std=31646&lochref=viewPDF-body.jsp?pdfno=20050803-Code%20of%20Conduct%20for%20Ministers.pdf&keyword=code>>.

CONFLICTS OF INTEREST AND ETHICS IN GOVERNMENT

Prevention of Corruption Act (Chapter 241), online: Singapore Statutes Online <http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=REVED-241&doctitle=PREVENTION%20OF%20CORRUPTION%20ACT%0a&date=latest&method=part>.

online: SINGOV Government Information <<http://www.gov.sg/>>.

Constitution of the Republic of Singapore, online: Singapore Statutes Online <http://statutes.agc.gov.sg/non_version/cgi-bin/cgi_retrieve.pl?actno=REVED-CONST&doctitle=CONSTITUTION%20OF%20THE%20REPUBLIC%20OF%20SINGAPORE%0A&date=latest&method=part>.