

## **Press release**

### **LCQ4: Appointment of Director of Audit**

Wednesday, July 11, 2012

Following is a question by the Hon Alan Leong and a reply by the Secretary for Financial Services and the Treasury, Professor K C Chan, in the Legislative Council today (July 11):

#### **Question:**

The principal officials in the Government of the new term have assumed office, and it has been reported that among such officials, a person who has close relationship with the Chief Executive has been appointed the Director of Audit (the Director), and this arrangement differs from the previous arrangement of appointing experienced civil servants or promoting officials in the Audit Commission (the Commission) to take up the post of the Director. It has also been reported that the incumbent Director, after assuming office as the Chairman and Managing Partner of Ernst & Young (EY) Far East Area and Greater China in late 2005, had been involved in two audit negligence cases (including a report issued by EY in 2006 indicating that the aggregate amount of potential bad loans of commercial banks in China had reached US\$900 billion, of which the People's Bank of China severely refuted, and EY subsequently withdrew the report. In addition, EY was drawn into an incident relating to the liquidation of Akai Holdings (Akai) in 2009, in which Akai filed an accusation of default and negligence and lodged a substantial amount of claim against EY, alleging the accountant's failure to discharge its responsibility as a professional accountant to issue early warnings against the problems in the company's accounts, and the Director even took part in the auditing work on Akai at that time). In this connection, will the Government inform this Council:

(a) given that the Director is the external auditor of the accounts of the Government with wide powers under the Audit Ordinance, the Director has to be familiar with the Government's operation and maintain political neutrality, and the previous two Directors after the reunification were either an experienced official in the Commission or an experienced civil servant, of the justifications for the Government to appoint a person not from the Government to take up the office of the Director at present; whether it has assessed the impact of the appointment on the work of the Commission in the future; if it has, of the details; if not, the reasons for that;

(b) as the incumbent Director had been involved in two incidents of audit negligence during his employment with EY, of the result of the Government's integrity checking on the Director; whether the Government has assessed if his appointment will undermine the Commission's credibility; if it has, of the details; if not, the reason for that; and

(c) given that it has been reported that the two Commissioners of Audit in Macao after the reunification were both officials who had joined the local government for years, the incumbent and the previous two Auditor-Generals in Taiwan have served in the National Audit Office for years, the Comptroller General of the United States (U.S.) of the U.S. Government Accountability Office currently responsible for national auditing work has also served in the Office for years, and these examples from other places illustrated that heads of audit departments are rarely persons without government experience "parachuted" from the commercial sector, whether the Government has studied the relevant appointment arrangements in other places before the appointment of the incumbent Director; if it has, of the details; if not, the reasons for that?

Reply:

President,

Article 58 of the Basic Law stipulates that "a Commission of Audit shall be established in the Hong Kong Special Administrative Region. It shall function independently and be accountable to the Chief Executive." Section 9 of the Audit Ordinance (Chapter 122) further stipulates that "in the performance of his duties and the exercise of his powers under this Ordinance the Director shall not be subject to the direction or control of any other person or authority". These show that the independence of the Audit Commission (the Commission) is protected by the law.

Having considered the statutory functions of the Commission as well as the professional qualification, management ability and integrity required of the Director of Audit, the Chief Executive (CE) considers Mr David Sun Tak-kei a suitable candidate for the appointment. The Central People's Government, based on the nomination of CE, has appointed Mr David Sun Tak-kei as the Director of Audit of the fourth term of the Special Administrative Region Government. Like other principal officials, Mr Sun has gone through and passed the extended checking before assuming the post.

The Director of Audit must comply with all relevant legislation, including the Audit Ordinance, the Prevention of Bribery Ordinance (Chapter 201) and the Official Secrets Ordinance (Chapter 521), during his term of office and when he discharges his duties. Section 4 of the Audit Ordinance, in particular, clearly stipulates that "a person who is appointed as the Director of Audit shall hold that office during good behavior", failing which he may be dismissed or be required to retire from that office.

While the incumbent Director of Audit is appointed on non-civil service terms, the contract clearly stipulates that the appointed person must comply with the Civil Service Regulations, uphold the rule of law, keep honesty and integrity above private interests, maintain political neutrality and impartiality in the execution of public functions and show dedication in serving the community. On matters such as avoidance of conflict of interests, acceptance of advantages and entertainment and declaration of private investment, the incumbent Director of Audit must also comply with the Civil Service Regulations and the guidelines stipulated in the relevant circulars.

The Commission has also laid down a detailed internal Audit Manual which prescribes the professional and ethical standards of its staff, including the Director himself. The Director and his staff are required to uphold a high standard of integrity and conduct in discharging their duties and firmly adhere to a set of core values including professionalism, probity, objectivity and independence.

Besides, the Commission's work is subject to the monitoring of the Legislative Council (LegCo) and the public. Each year the Commission regularly submits its audit report on government accounts and value-for-money study reports to LegCo. The Director will attend relevant LegCo meetings in person to assist Members in considering the reports. These reports allow Members of LegCo and the public to directly monitor the work of the Commission, thereby ensuring its neutrality in operation and impartiality in monitoring the work of the Government.

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