

## Further hearing set for Hontex

15 Jun 2011

The Court of First Instance today adjourned the proceedings commenced by the Securities and Futures Commission (SFC) against Hontex International Holdings Company Limited (Hontex) pending a hearing on 22 July 2011 to determine whether the Court has jurisdiction to make findings that the contraventions alleged by the SFC have occurred (Note 1 & 2).

At today's hearing, the Hon Mr Justice Harris indicated that in the SFC's proceedings against Tiger Asia Management LLC (Tiger Asia), he has found that the Court of First Instance does not have jurisdiction to make a finding in proceedings under section 213 of the Securities and Futures Ordinance (SFO) that the contravention alleged by the SFC has occurred. The Hon Mr Justice Harris has not yet published reasons for this decision (Note 3).

The Hon Mr Justice Harris considered the same issue about the jurisdiction of the Court of First Instance arises in the Hontex case. However, the Hontex proceedings involve allegations that different provisions of the SFO have been contravened and also include allegations that certain section of the Companies Ordinance has been contravened (Note 4).

Given the Hon Mr Justice Harris' view in relation to the Tiger Asia proceedings, the question of jurisdiction must also be determined in relation to the Hontex proceedings.

The SFC considers the Court of First Instance has jurisdiction under section 213 of the SFO to determine whether a contravention has occurred. This will be the SFC's position in the Hontex case when it returns to Court on 22 July 2011.

The SFC will also review the forthcoming judgment in the Tiger Asia case for the purposes of an appeal.

The SFC looks forward to the matter being clarified.

End

Notes:

1. Hontex was listed on the Stock Exchange of Hong Kong on 24 December 2009. The four wholly owned subsidiaries of Hontex which are also parties to the proceedings are Easy Venture International Limited, Star Guide Investments Limited, Prosper Advance International Limited and First Heritage Limited.
2. The proceedings were commenced under section 213 of the SFO. The SFC made the original application on 29 March 2010 and obtained an interim injunction ex parte on the same day freezing up to \$997.4 million held by Hontex and its four subsidiaries. The SFC subsequently located \$832 million held in bank accounts of Hontex and its four subsidiaries in Hong Kong. Please see SFC's press releases dated [8 April 2010](#), [7 September 2010](#), [12 November 2010](#) and [19 May 2011](#).
3. The Hon Mr Justice Harris indicated today that he considered the Court of First Instance does not have jurisdiction to find there has been a contravention under section 213 of the SFO where the relevant provisions of the SFC's allegations are contained in both Part XIII (market misconduct proceedings before the Market Misconduct Tribunal) and Part XIV (criminal offences relating to dealings in securities and futures contracts, etc) of the SFO. Please also see SFC's press releases in relation to the Tiger Asia proceedings dated [20 August 2009](#) and [26 April 2010](#).
4. The SFC is seeking various orders under section 213 of the SFO including orders requiring Hontex to take steps to restore the public shareholders of Hontex to the positions in which they were before their subscriptions or purchases of Hontex shares. The SFC alleges Hontex disclosed materially false or misleading information in its IPO prospectus dated 14 December 2009 which was likely to have induced investors to subscribe for and purchase Hontex shares contrary to section 298 of the SFO; Hontex's financial position, as disclosed in its IPO prospectus, was materially overstated; Hontex authorized the issue of its IPO prospectus which included untrue statements contrary to section 342F of the Companies Ordinance; Hontex provided false or misleading information to the Stock Exchange of Hong Kong contrary to section 384 of the SFO; and Hontex employed a fraudulent or deceptive scheme in relation to its listing in Hong Kong contrary to section 300 of the SFO.

Page last updated : 1 Aug 2012