

## Court orders EY to produce accounting records to SFC

23 May 2014

The Court of First Instance today ordered EY must produce specified accounting records relating to its work as the reporting accountant and auditor for Standard Water Limited (Standard Water) to the Securities and Futures Commission (SFC) (Note 1).

The SFC brought proceedings against EY in 2012 to compel the production of these documents after EY failed to provide them as part of an SFC investigation into the proposed listing of Standard Water. EY claimed it was not in possession of the papers and that they could not be produced because of restrictions under PRC law (Note 2).

In the judgment handed down today, the Court of First Instance rejected these arguments and ordered EY to produce the required material to the SFC finding that EY had "deliberately withheld from SFC information in its knowledge".

The Hon Mr Justice Ng also said the objection by EY to produce the audit working papers based on state secrets is "a complete red herring".

Mr Ashley Alder, the SFC's Chief Executive Officer, said, "This case is primarily about the obligations of an accounting firm in Hong Kong to comply with requirements under Hong Kong law. The case is not about PRC law. Auditors should not withhold information that is in their possession and sought by the SFC in connection with suspected misconduct in Hong Kong's markets."

The court also orders EY to pay the SFC's costs on an indemnity basis.

End

Notes:

1. Under section 183 of the Securities and Futures Ordinance (SFO), the SFC is empowered to request information from persons whom it believes may have information relevant to an investigation. If a person fails to comply with such a request without a reasonable excuse, the SFC can bring proceedings under section 185 of the SFO which empowers the Court of First Instance to inquire into the circumstances of non-compliance. The court can order the person to comply with the SFC's request if it is satisfied that the person does not have any reasonable excuse for not complying. This case concerned EY's failure to comply with a total of five notices issued under section 183 of the SFO.
2. Standard Water applied for listing to the Stock Exchange of Hong Kong (SEHK) on 9 November 2009. In March 2010, EY suddenly informed the SEHK of its resignation as reporting accountants and auditors of Standard Water upon discovery of certain inconsistencies in documentation provided by the company. Shortly afterwards, Standard Water also withdrew its listing application.
3. Please see the SFC's press releases dated [27 August 2012](#), [7 September 2012](#), [20 September 2012](#) and [12 October 2012](#).

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