

## Directors of Pearl Oriental disqualified over failure of timely disclosure of information

24 May 2011

The Securities and Futures Commission (SFC) has today obtained orders in the High Court to disqualify Mr Li Xinggui and Mr Zheng Yingsheng, both former executive directors of Pearl Oriental Innovation Ltd (Pearl Oriental), and Mr Zhou Li Yang, current executive director of the company, for failing to disclose material information to the company's shareholders (Notes 1 and 2).

The Honourable Mr Justice Au granted the orders to disqualify Li, Zheng and Zhou from being a director or being involved in the management of any corporation, without the leave of court, for one year.

The SFC alleged that Li, Zheng and Zhou were involved in the misuse of about RMB64.5 million, representing about 25% of the Pearl Oriental's total assets, in August and September 2005.

An SFC investigation found evidence that a fourth director of the company paid out RMB64.5 million without any approval by the board in August 2005, and that a month later, Li, Zheng and Zhou purported to ratify the payment by reference to an acquisition of a logistics business in the Mainland.

Despite the size of the transaction, the suspicions that should have been raised by the use of 25% of the company's assets without board approval and the materiality of the amount involved, neither Li, Zheng, nor Zhou took any reasonable steps to verify information about the proposed acquisition or inform the market.

In the end, the transaction to buy the logistics business never proceeded and the company eventually incurred a substantial impairment loss of the RMB64.5 million.

The SFC alleges the RMB64.5 million had been paid to two companies in the Mainland connected to the fourth director who initially organised the unauthorized payment. Moreover, the SFC alleges when the company demanded a return of the money, the repayment was funded by Pearl Oriental by way of a round robin.

The allegations about the use of the money and the round robin are part of separate, yet to be heard proceedings against the fourth director.

SFC's Executive Director of Enforcement, Mr Mark Steward said, "These directors went along with a transaction that by any standards was very odd and suspicious. They should have asked questions. They should have stopped it. This case again demonstrates the high cost caused to the investing public through the misconduct of some listed company directors. The SFC will continue to bring these cases before the court to ensure the investing public is protected."

End

Notes:

1. The company was known as China Merchants DiChain (Asia) Limited at the material times. It listed on the main board of the Stock Exchange of Hong Kong Limited in April 1993. The company was principally engaged in provision of logistics services in the Mainland at the material times.
2. Under section 214 of the Securities and Futures Ordinance, the court may make orders disqualifying a person from being a company director or being involved, directly or indirectly, in the management of any corporation for up to 15 years, if the person is found to be wholly or partly responsible for the company's affairs having been conducted in a manner involving defalcation, fraud or other misconduct.
3. A [summary](#) of the material events and the allegations is posted on the SFC website ([www.sfc.hk](http://www.sfc.hk)).

## 東方明珠董事未有及時披露資料被取消董事資格

2011年5月24日

證券及期貨事務監察委員會（證監會）今天獲高等法院頒令，取消東方明珠創業有限公司（東方明珠）兩名前執行董事李興貴（男）及鄭英生（男）以及現任執行董事周里洋（男）擔任任何公司董事的資格，原因是三人沒有向股東披露若干重要資料（註1及2）。

區慶祥法官頒令，未經法院許可，李、鄭及周不得擔任任何公司董事或參與管理任何公司，為期一年。

證監會指李、鄭及周牽涉在2005年8月及9月一宗不當使用東方明珠總值約人民幣6,450萬元的事件中，而該筆款項約相當於東方明珠總資產值的25%。

證監會的調查發現，有證據顯示該公司另一名董事（第四名董事）曾於2005年8月，在未經董事會同意的情況下作出人民幣6,450萬元的付款，李、鄭及周則據稱依據一項收購內地一家物流公司的計劃，在一個月後追認該筆付款。

雖然上述收購交易規模較大且涉及龐大金額，而有關董事未經董事會同意便動用相當於該公司25%資產值的款項，理應引起懷疑，但李、鄭及周均沒有採取任何合理步驟核實有關建議交易的資料，亦沒有向市場作出公布。

最後，有關方面並沒有完成該宗收購物流業務公司的交易，而該公司最終須就所涉及的款項（人民幣6,450萬元）承擔重大的減值虧損。

證監會指，第四名董事在未經授權下事先作出安排，向與該董事有關連的兩家中國內地公司支付該筆人民幣6,450萬元款項。此外，當該公司要求退款時，還款資金由東方明珠以循環現金流形式提供。

至於有關不當運用資金及循環現金流的指控，法院將在針對該第四名董事的法律訴訟中另行聆訊。

證監會法規執行部執行董事施衛民先生（Mr Mark Steward）表示：“這些董事所批准進行的交易，按照任何標準來說，都是極不尋常及可疑的交易。他們理應對有關交易提出質疑，並應加以制止。這宗個案再次證明，上市公司董事的失當行為會為投資大眾帶來沉重代價。證監會必定會繼續將這類個案的違規者繩之於法，確保投資者獲得應有的保障。”

完

備註：

1. 東方明珠在本案的關鍵時間稱為招商迪辰（亞洲）有限公司。該公司於1993年4月在香港聯合交易所有限公司主板上市，在本案的關鍵時間主要在內地提供物流服務。
2. 根據《證券及期貨條例》第214條，若法庭認為某上市公司的事務曾以涉及作出虧空、欺詐或其他失當行為的方式處理，而某人須為此負全部或部分責任的話，法庭可作出命令，取消該人擔任公司董事的資格，或飭令該人不得直接或間接參與任何法團的管理，最長為期15年。
3. 證監會網站 ([www.sfc.hk](http://www.sfc.hk)) 載有上述重要事件的撮要及證監會所作出的指控。

最後更新日期：2012年8月1日