

Tiger Asia Admits Insider Trading in U.S. Criminal and Civil Proceedings

Tiger Asia Management LLC ("Tiger Asia"), the international hedge fund which specialises in Asian-traded equities, has, through its founder and manager, S.K. "Bill" Hwang (Hwang), admitted to illegally using inside information to trade on Chinese bank stocks and has agreed to settle separate civil proceedings filed by the U.S. Securities and Exchange Commission ("SEC") on December 13th 2012 in a federal court in New Jersey, USA. The alleged insider trading took place in Hong Kong. Disgorgement and pre-judgment interest penalties of more than US\$60 million were agreed to be paid to U.S. federal authorities to settle the charges, comprising US\$44 million to be paid by Tiger Asia, Hwang, Tiger Asia Partners LLC and Raymond Y.H. Park ("Park"), former head trader of Tiger Asia Fund and the Tiger Overseas Fund, as well as forfeiture of \$16 million by Tiger Asia. Tiger Asia was also placed on probation for a year.

U.S. regulators had alleged that between December 2008 and January 2009, Tiger Asia had committed insider trading by short-selling Chinese bank stocks of Bank of China and China Construction Bank based on confidential, non-public information received in private placement offerings about companies, driving down stock prices and increasing management fees. Despite wall-crossing agreements, to keep the information confidential and refrain from trading until the transactions took place, Hwang and his advisory firms including Tiger Asia traded ahead of the private placements, covered those short positions by purchasing shares at a significant discount, and collected fees earned from his attempted manipulation scheme allegedly making \$16.2 million profit.

In 2010, the SEC began investigating Tiger Asia's and related defendants ("Tiger Asia parties") alleged insider trading activities in Hong Kong. Hong Kong's Securities and Futures Commission ("SFC") had taken enforcement action against Tiger Asia parties in Hong Kong in relation to the same conduct alleging that they had engaged in market misconduct offences (insider trading and false trading). In February 2012, Hong Kong's Court of Appeal ruled that the Court of First Instance does have jurisdiction to determine whether the Tiger Asia parties have contravened the insider dealing and market manipulation provisions of the Securities and Futures Ordinance ("SFO") in proceedings brought by the SFC to make final remedial orders and injunctions against Tiger Asia's assets. [Please click here to read our earlier briefings on Tiger Asia.](#)

Key issues

- Tiger Asia pleads guilty to criminal charge in U.S.A.
- Tiger Asia settles US civil charges and agrees to pay US\$60 million to regulators

A U.S. director of SEC's Enforcement division said of yesterday's U.S. proceedings that "Hwang learned today the painful lesson that illegal offshore trading is not off-limits from U.S. law enforcement, and tomorrow's would-be securities law violators would be well-advised to heed this warning".

Despite Hong Kong's Court of Appeal having granted leave to Tiger Asia and three of its officers (Hwang, Park, and William Tomita) to argue their case against the SFC in Hong Kong's Court of Final Appeal in 2013, it is difficult to see how the Tiger Asia parties can proceed with their appeal in Hong Kong in light of the outcome of the U.S. proceedings.

Contacts

[Donna Wacker](#)

+852 2826 3478

[Lisa Chen](#)

+852 2826 2438

[Edward Johnson](#)

+852 2826 3427

This publication does not necessarily deal with every important topic or cover every aspect of the topics with which it deals. It is not designed to provide legal or other advice.

Clifford Chance, 28th Floor, Jardine House, One Connaught Place, Hong Kong

© Clifford Chance 2012

Clifford Chance

www.cliffordchance.com

Abu Dhabi ■ Amsterdam ■ Bangkok ■ Barcelona ■ Beijing ■ Brussels ■ Bucharest ■ Casablanca ■ Doha ■ Dubai ■ Düsseldorf ■ Frankfurt ■ Hong Kong ■ Istanbul ■ Kyiv ■ London ■ Luxembourg ■ Madrid ■ Milan ■ Moscow ■ Munich ■ New York ■ Paris ■ Perth ■ Prague ■ Riyadh* ■ Rome ■ São Paulo ■ Seoul ■ Shanghai ■ Singapore ■ Sydney ■ Tokyo ■ Warsaw ■ Washington, D.C.

*Clifford Chance has a co-operation agreement with Al-Jadaan & Partners Law Firm in Riyadh.