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Market Misconduct Tribunal bans Tiger Asia and Bill Hwang from trading securities in Hong Kong

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The Market Misconduct Tribunal (MMT) has determined that Tiger Asia Management LLC (Tiger Asia) and two of its senior officers, Mr Bill Sung Kook Hwang and Mr Raymond Park engaged in market misconduct in Hong Kong (Notes 1 & 2).

The MMT has ordered that Tiger Asia and Hwang be banned from trading securities in Hong Kong for a period of four years (the maximum period is five years) without leave of the court. The MMT has also issued cease and desist orders against both Tiger Asia and Hwang (Note 3).

This was the first case directly presented to the MMT by the Securities and Futures Commission (SFC) (Note 4).

Tiger Asia and Hwang had argued no orders should be made against them by the MMT.

Tiger Asia, Hwang and Park admitted they contravened Hong Kong's laws prohibiting insider dealing when dealing in the shares of Bank of China Limited (BOC) and of China Construction Bank Corporation (CCB) in December 2008 and January 2009 and manipulated the price of CCB shares in January 2009 (Note 5).

In its decision, the MMT found that Hwang's conduct constituted "serious misconduct" and show that "little trust can be placed in Bill Hwang's integrity".

In determining a banning period of four years, the MMT warned that "this heralds a sterner approach in respect of protective measures provided under our law. We are, however, unanimously of the view that the protection of our market is a matter of such public importance, and cold shoulder orders so central to providing that protection, that market operators who, by their actions, show they cannot be trusted must from now on expect orders that exclude them from the market for more lengthy periods of time." (Note 6)

The SFC's Executive Director of Enforcement, Mr Mark Steward, said: "Tiger Asia and Hwang abused the trust of the Hong Kong market, flouted Hong Kong's laws and damaged the financial interests of thousands of investors who had no means of protecting themselves from such misconduct. They were wrong if they thought this could be done with impunity because they were situated beyond Hong Kong."

"The SFC will track down and take action against wrongdoers wherever in the world they may lurk. In this case, we have recovered their illegal profits (around \$45 million) for the benefit of the victims; the wrongdoers have been dealt with under US law and the MMT has rightly banned them from Hong Kong's markets for four years," Mr Steward added (Note 7).

Although the MMT found that Park had engaged in market misconduct, they decided to make no order in relation to him given the evidence that he has suffered an incurable and seriously debilitating brain injury and is in no position to pose any threat to the integrity of the Hong Kong market.

End

Notes:

1. The Market Misconduct Tribunal was chaired by The Honourable Mr Justice Michael Hartmann with two members namely, Ms Florence YS Chan and Mr Gary KL Cheung.
2. Tiger Asia was founded in 2001 and is a New York-based asset management company that specialises in equity investments in China, Japan and Korea. All of its employees are located in New York. Tiger Asia has no physical presence in Hong Kong. Since August 2012, Tiger Asia has become a "family office" of Hwang and renamed as "Archegos Capital Management LLC" serving as the investment manager for Archegos Fund LP and Archegos Fund Ltd in Hwang's family office. The SFC accepts that Mr William Tomita, one of the specified persons in the proceedings in the MMT, was a junior member of staff responsible for

supporting Tiger Asia's trading activities, consistently acting on the instructions of Hwang and Park and not knowingly involved in the market misconduct.

3. Under section 257 (1)(b) of the Securities and Futures Ordinance (SFO), a cold shoulder order is an order that the person shall not, without the leave of the Court of First Instance, in Hong Kong, directly or indirectly, in any way acquire, dispose of or otherwise deal in any securities, futures contract or leveraged foreign exchange contract, or an interest in any securities, futures contract, leveraged foreign exchange contract or collective investment scheme for the period (not exceeding five years) specified in the order.

Under section 257(1)(c) of the SFO, a cease and desist order is an order that the person shall not again perpetrate any conduct which constitutes such market misconduct.

4. Under section 252A of the SFO, which was introduced in 2012, the SFC was given direct access to the MMT. Formerly only the Financial Secretary could initiate proceedings in the MMT.
5. The admissions made by Tiger Asia, Hwang and Park cover all the allegations made against them by the SFC when it commenced these proceedings in 2009. In respect of trading in BOC shares, the SFC alleged and Tiger Asia, Hwang and Park admitted that: (a) Tiger Asia was given advance notice and was invited to participate in two placements of BOC shares by UBS AG and Royal Bank of Scotland Group PLC on 31 December 2008 and 13 January 2009 respectively; (b) Tiger Asia was provided with details of both placements after being told and agreeing the information was confidential and price sensitive; (c) Tiger Asia also agreed not to deal in BOC shares after receiving the information; (d) Tiger Asia short sold 104 million BOC shares before the placement by UBS AG on 31 December 2008 making a notional profit of around \$9 million; and (e) Tiger Asia short sold 256 million BOC shares before the placement by Royal Bank of Scotland Group PLC on 13 January 2009 making a notional loss of around \$10 million.

In respect of trading in CCB shares, the SFC alleged and Tiger Asia, Hwang and Park admitted that: (a) on 6 January 2009, before the market opened, a placing agent in Hong Kong invited Tiger Asia to participate in a proposed placement of CCB shares in Hong Kong by the Bank of America Corporation; (b) the placing agent told Tiger Asia about the size and the discount range of the proposed placement; (c) this information was confidential and price sensitive and the Tiger Asia parties knew this; (d) Tiger Asia then short sold 93 million CCB shares on 6 January 2009 before the news of the CCB placement was made public making a notional profit of around \$32 million; (e) Tiger Asia covered its short sales with the placement shares that it bought on 7 January 2009 at a discount to the prevailing market price; and (f) the SFC also alleged and the Tiger Asia parties admit manipulation of the CCB share price by Tiger Asia during the closing auction session on 6 January 2009.

6. Please see paragraph 130-131 of MMT's decision, which will be available on the MMT website after 5:00 pm on 10 October 2014 (www.mmt.gov.hk).
7. As at 7 October 2014, around \$43.3 million, equivalent to 96% of the \$45 million illegal profits, have been paid to the affected investors.
8. Please see the SFC's press releases dated [20 August 2009](#), [26 April 2010](#), [21 June 2011](#), [14 July 2011](#), [9 September 2011](#), [23 February 2012](#), [18 April 2012](#), [30 April 2013](#), [10 May 2013](#), [15 July 2013](#), [6 September 2013](#) and [20 December 2013](#).