

Court of Final Appeal to hear Tiger Asia case

18 Apr 2012

The Court of Appeal today granted leave to Tiger Asia Management LLC (Tiger Asia) and three of its officers, Mr Bill Sung Kook Hwang, Mr Raymond Park and Mr William Tomita (collectively the Tiger Asia parties) to take their case to the Court of Final Appeal (Note 1).

The issue for the Court of Final Appeal is whether the Court of First Instance has jurisdiction to determine whether the Tiger Asia parties have contravened section 291 and section 295 of the Securities and Futures Ordinance (SFO) in proceedings brought by the Securities and Futures Commission (SFC) under section 213 of the SFO and make final orders or whether a contravention must be determined either by the Market Misconduct Tribunal or a criminal court (Note 2).

On 23 February 2012, the Court of Appeal ruled that the court does have jurisdiction to determine whether the Tiger Asia parties have contravened the insider dealing and market manipulation provisions of the SFO in the SFC's proceedings (Note 3).

In these proceedings, the SFC is seeking remedial orders and injunctions in relation to allegations that the Tiger Asia parties contravened Hong Kong's insider dealing and market manipulation laws in dealing in shares of Bank of China Limited and China Construction Bank Corporation Limited during 2009.

Today's decision means the question of jurisdiction will be considered by the Court of Final Appeal.

The SFC will apply to the Court of Final Appeal for an expedited hearing.

End

Notes:

1. 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. Tiger Asia has no physical presence in Hong Kong.
2. Section 213 of the SFO provides that where a person has contravened any relevant provision of the SFO, the Court of First Instance has power to make a number of orders, including injunctions and orders requiring the person to take such steps as the Court directs to restore the parties to any transaction to the position in which they were before the transaction was entered into. This provision gives the Court jurisdiction to make remedial orders, amongst other orders, where contraventions have been committed. Please see SFC's press releases dated [20 August 2009](#) and [26 April 2010](#).
3. Please see SFC's press release dated [23 February 2012](#).

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