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## Tiger Asia admits insider dealing and ordered to pay investors \$45 million

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The Court of First Instance today ordered Tiger Asia Management LLC (Tiger Asia) and two of its senior officers, Mr Bill Sung Kook Hwang and Mr Raymond Park (collectively the Tiger Asia parties), to pay \$45,266,610 to investors affected by their insider dealing involving two Hong Kong-listed banking stocks (Note 1).

The court orders followed admissions by the Tiger Asia parties in a statement of agreed and admitted facts filed in the Court of First Instance by the Securities and Futures Commission (SFC) in its proceedings under section 213 of the Securities and Futures Ordinance (SFO) that 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 (Notes 2 & 3).

The Tiger Asia parties have also made the same admissions of insider dealing and manipulation in proceedings commenced by the SFC in the Market Misconduct Tribunal (MMT). The SFC has indicated to the MMT that it will be seeking a cease and desist order as well as an order prohibiting the Tiger Asia parties from dealing in Hong Kong without leave of the court for up to five years (Note 4).

The SFC's Executive Director of Enforcement, Mr Mark Steward, said: "Tiger Asia's admissions of insider dealing and manipulation vindicate the SFC's allegations made at the outset of these proceedings. Investors are unable to detect, or avoid transacting with, wrongdoers in the market and so they are highly vulnerable to this kind of misconduct. It is right and fair that these transactions should be rescinded so that the 1,800 innocent investors may be put back, as closely as possible, to the positions they were in before the transactions took place."

Today's court orders, which were made by consent by the Honourable Mr Justice Harris under section 213(2)(b) of the SFO, will return a total of \$45,266,610 (the restoration amount) to around 1,800 investors in Hong Kong and overseas who traded with Tiger Asia in the insider dealing transactions. To facilitate the return of money to the affected investors, the Tiger Asia parties have already paid \$45,266,610 into court.

The restoration amount represents the difference between the actual price of BOC and CCB shares sold by Tiger Asia and the value of those shares taking into account the inside information known to Tiger Asia (as assessed by expert evidence) (Note 5).

The orders include the appointment of Mr John Robert Lees and Mr Kok Wing Chong of JLA Asia as independent administrators to take charge of the distribution of the restoration amount to the counterparties to Tiger Asia's insider dealing.

At a directions hearing held yesterday, the MMT fixed three days starting on 7 May 2014 to hear submissions as to what orders, if any, ought to be made against the Tiger Asia parties.

"The SFC looks forward to making further submissions to the MMT on appropriate orders to deter misconduct and to protect the integrity of Hong Kong's market," Mr Steward added.

The SFC appreciates the assistance of the UK Financial Conduct Authority and the US Securities and Exchange Commission in this case.

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. All of its employees are located in New York. Tiger Asia has no physical presence in Hong Kong.

The SFC accepts that Mr William Tomita, one of the defendants in the proceedings under section 213 of

the Securities and Futures Ordinance and in the Market Misconduct Tribunal, 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 insider dealing and manipulation.

2. The admissions made by the Tiger Asia parties cover all the allegations made by the SFC when it commenced these proceedings in 2009, other than the allegations made against Tomita. In respect of trading in BOC shares, the SFC alleged and the Tiger Asia parties admit 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 the information was confidential and price sensitive; (c) Tiger Asia 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 the Tiger Asia parties admit 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.

3. 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](#) and [10 May 2013](#).
4. In those proceedings, if the MMT finds there has been market misconduct, it is empowered to make a range of orders, including orders prohibiting a person from acquiring or disposing of or otherwise dealing in securities, futures contracts or leveraged foreign exchange contracts in Hong Kong without leave of the court for a period of up to five years. Please also see the SFC's press releases dated [15 July 2013](#) and [6 September 2013](#).
5. Under section 213(2)(b) of the SFO, where a person has contravened a provision of the SFO, the court is able to make orders requiring a person to take steps as directed by the court, including steps to restore the parties to a transaction to the position they were in before the transaction was entered into. In this case, it is impossible to return the counterparties to the exact position they were in. However, they can be restored to a substantially similar position by being paid the difference between the actual price of the transactions and the value of the shares, taking into account the inside information possessed by Tiger Asia, at the time.