

14 July 2011

## SFC to appeal Court's dismissal of Tiger Asia proceedings

The Court of First Instance today struck out proceedings commenced by the Securities and Futures Commission (SFC) against Tiger Asia Management LLC (Tiger Asia) and three of its officers (collectively the Tiger Asia parties) seeking orders in relation to their alleged contraventions of Hong Kong's insider dealing and market manipulation laws (Note 1 & 2).

The Court ordered that the SFC's proceedings against the Tiger Asia parties be struck out following an earlier decision on 21 June 2011 that the Court did not have jurisdiction under section 213 of the Securities and Futures Ordinance (SFO) to find contraventions of the insider dealing and market manipulation laws. This meant that the Court did not have power to make orders the SFC sought under section 213 of the SFO premised on a contravention of the insider dealing or market manipulation laws absent a prior finding of the Market Misconduct Tribunal (MMT) or a criminal court.

The SFC has previously indicated its intention to appeal the Court's June decision on the scope of section 213.

The SFC will also appeal today's decision to strike out the whole of the proceedings against the Tiger Asia parties.

The SFC argued that despite the Court's June decision, the Court could still make the order sought by the SFC under section 213 of the SFO to ban the Tiger Asia parties from dealing in Hong Kong listed securities and their derivatives on the basis that it appeared to the SFC that the Tiger Asia parties had breached these laws or been involved in breaches or may do so in the future.

The SFC argued that the order on the trading ban did not require the Court to find a contravention and that this part of the SFC's case should not be struck out.

The Court considered that the SFC had not argued this in the earlier hearing and held that it did not have jurisdiction to make orders like this on the basis of prima facie evidence of a contravention.

End

Notes:

1. Please see the SFC's press releases dated [20 August 2009](#), [26 April 2010](#) and [21 June 2011](#).
2. The Court's ruling will be available on the Judiciary's website ([www.judiciary.gov.hk](http://www.judiciary.gov.hk)).

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