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CLIENT ALERT

SEC Charges Traders in China over Stock Manipulation

OCTOBER 30, 2019

The Securities and Exchange Commission of the United States ("SEC") took action against 18 traders, who are preliminarily based in China, including asset-freeze relief and criminal charges. It is alleged that those traders engaged in a scheme to manipulate more than 3,000 U.S.-listed securities which generated over US$31 million in illicit profits, which lasted for at least six years.

Manipulation of stock price mainly entails creating a false appearance of trading interest and activity in thinly traded securities (which are securities with a low trading volume that are volatile and highly responsive to buying/selling activity), thereby enabling the perpetrators to reap illicit profits by artificially boosting or depressing stock prices. According to the SEC's complaint, the traders in this case used multiple accounts to place several small sell orders to drive down a stock's price before using a different set of accounts to buy larger amounts of the stock at the artificially low prices. After accumulating their position, the traders then flipped the script and placed several small buy orders to push up prices so they could then sell their stock at artificially high prices.

- Assets freeze – On October 16, 2019, the SEC has filed an emergency action and obtained an asset freeze relief against 18 traders.
- Penalties and disgorgement – Along with asset freeze, the SEC is seeking disgorgement of ill-gotten gains plus interest, penalties, and other injunctive relief against the traders accused of violating U.S. securities law.
- Criminal charges – the U.S. Attorney's Office for the District of Massachusetts announced criminal charges against two of the traders, Chinese citizens Xiaosong Wang and Jiali Wang, for their role in the alleged stock price spoofing scheme. The SEC detailed several similar schemes manipulating the prices of other securities, including Pharmaceutical Inc. and gold investor Global X Gold Explorers ETF.

The maximum criminal sentence that could be imposed on these defendants is five years' imprisonment at the federal prison, plus a fine of up to twice the gross amount of the illicit profit made.

Broadly speaking, given the lack of an extradition treaty between the U.S. and China, it would be difficult for the SEC or other U.S. law enforcement authorities to bring any China-based traders or defendants before U.S. courts.

In this case, likely because Xiaosong Wang and Jiali Wang reside in China and also have residences in Massachusetts, U.S., they are named defendants to the criminal proceedings. There are in fact some alleged co-conspirators in connection with this criminal matter who are not charged (presumably by reason of their lack of physical residence in the U.S.), but to the extent that they have assets located in the U.S., those assets were frozen by the U.S. authorities.

This is another good example of SEC's robust approach to combat market misconduct committed by overseas defendants regardless of the lack of extradition treaty arrangements.
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