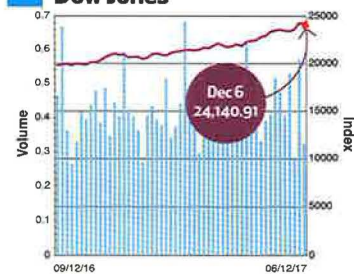


## Dow Jones



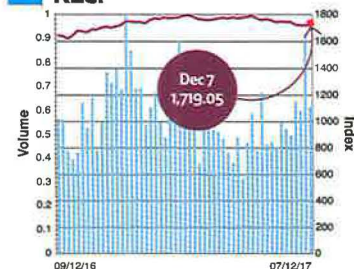
## Hang Seng



## Nikkei



## KLCI



## Asian markets mixed

MAJOR Asian markets closed mixed on Dec 7 with some benchmark indices recouping the previous day's losses.

Japan's Nikkei 225 jumped 320.99 points to 22,498.03 after plunging almost 2% in the previous session while Hong Kong's Hang Seng index inched up 78.39 points to 28,303.19.

However, China's Shanghai Composite shed 0.67% or 21.91 points to 3,272.05 while South Korea's Kospi Index slipped 0.5% or 12.39 points to 2,461.98.

Elsewhere, Australia's ASX/S&P 200 closed 0.54% or 32.02 points higher at 5,977.72.

On Wall Street, the Dow Jones Industrial Average and the S&P 500 ended slightly lower at 24,140.91 (down 39.73 points) and 2,629.27 (down 0.3 point) respectively.

Brent crude oil prices were hovering above US\$61.50 (RM249.69) per barrel level during Asian trading hours from the previous day's close of S\$61.22. However, the ringgit weakened slightly against the greenback to 4.087 from 4.0763.

The FBM KLCI closed flat at 1,719.05, up 0.72 of a point. Volume rose to 1.81 billion shares worth RM2.51 bil from Dec 6's 1.58 billion shares worth RM2.26 bil. **FocusM**

# SC in overdrive mode

- **Aggressive** drive to combat insider trading activities

- **Directors** must uphold boardroom confidentiality



by **Cheah Chor Soi**

**T**HE Securities Commission (SC) has revved up enforcement action to clamp down on market manipulators.

The market regulator recently closed a landmark case with the conviction of APL Industries Bhd's former CEO Datuk Seri Stanley Thai Kim Sim and former remisier Tiong Kiong Choon for insider trading offences.

In what is reputed to be the

first insider trading criminal case to complete full trial, Thai was on Nov 24 sentenced to a five-year jail term and a RM5 mil fine, while Tiong was sentenced to five years' jail and a RM10 mil fine.

This is also the first time where a custodial sentence has been applied for an insider trading offence. The other severe case but without custodial sentence was in June 2001 when Kim Hin Industry Bhd managing director (now executive chairman) Chua Seng Huat was slapped with a fine of RM1.2 mil (in default 12 months imprisonment).

Insider trading offences under section 188 of the Capital Markets and Services Act 2007 (CMSA) carry a mandatory punishment of imprisonment not exceeding 10 years and a fine of not less than RM1 mil.

Thai was convicted for communicating non-public information between Oct 26 and 29, 2007 to Tiong who was convicted for two counts of disposing a total of 6.21 million APLI shares while in possession of the same non-public information via accounts belonging to his mother-in-law and his mother.

**Minority Shareholder Watchdog Group (MSWG) general manager Lya Rahman describes a deterrent sentence – including a custodial sentence – as necessary to curb insider trading and any form of market manipulation activities.**

**"In the interest of good governance, insider trading is a sickness which has to be eradicated," she tells FocusM. "This is even more relevant and compelling where insider trading offences involve the honchos and company directors who not only have fiduciary duties to carry out but are in a privileged position, often having possession of material market sensitive information."**

**They can ill-afford to abuse their positions by leveraging such information to their advantage at the expense of**



**Chan says that a lack of clear board governance policy is a weak defence at best**

**investors who might incur enormous losses from their action, she adds.**

## Upholding confidentiality

Depending on the degree of evidence made available, the SC tends to initiate either criminal or civil action on offenders of insider trading which currently tops the list of market manipulation activity.

The market regulator will resort to criminal action should there be high standard of proof (beyond reasonable doubt), a legal process that would lead to imprisonment and fines. On the other hand, it will resort to civil action on normal standard of proof (balance of probability) which leads to disgorgement, director removal and injunction orders, among others.

The decision to try an offender either under criminal or civil action often hinges on the intended outcome, level of evidence and strategic manoeuvres (ie to recover the lost money versus barring the offender from the capital market).

A recent successful civil suit filed by the SC was that against three defendants for insider trading involving the shares of Axis Incorporation Bhd.

**Continues P.38**

## What constitutes insider trading

**I**NSIDER trading is one of the most commonly known forms of securities fraud. This illegal practice occurs when individuals who possess confidential information about a company take advantage of that knowledge by buying or selling stocks to reap profits or avoid losses.

Notably, such practice can directly harm other investors who buy or sell stocks without the advantage of "inside" information.

### The usual culprits are often:

- ▶ Corporate officers, directors, and employees who traded their company's securities – either using their personal account/s or those of third parties – after discovering important and confidential corporate developments;
- ▶ Friends, family members, and other "tippees" of company officers, directors, and employees who traded specific stocks after receiving material and non-public information;
- ▶ Employees of law, banking, brokerage and printing firms who were privy to confidential information;
- ▶ Government employees who learned of such information because of their position; and
- ▶ Other individuals who took advantage of confidential information about securities.

## Regulatory settlements with the SC (2015 till year-to-date)

DATE	NAME	SETTLEMENT
June 30, 2017	Lee Tian Wah @ Lim Siew Wah	Paid RM215,890 for insider trading in the shares of APL Industries Bhd (APLI).
June 30, 2017	Lim Lee Kuan	Paid RM323,835 for communicating inside information to his father who then traded in APLI shares (see above).
May 11, 2017	Yeoh Soo Ann	Paid RM78,000.00 for communicating inside information to one Chua Choon Chai who then traded in the shares of GW Plastics Holding Bhd.
March 15, 2016	Teng Choon Kwang and Tan Boon Hwa	Paid RM293,502 for insider trading in the shares of Inti Universal Holdings Bhd.
Dec 15, 2015	Chan Chee Beng	Paid RM1.94 mil for communicating inside information to his late wife who then traded in the call warrants of Maxis Communications Bhd.
March 23, 2015	Pang Soo Ling	Paid RM71,224.50 for insider trading in the shares of Putrajaya Perdana Bhd.
March 23, 2015	Sip Way Keong	Paid RM71,224.50 for communicating inside information to his wife who then traded in the shares of Putrajaya Perdana.
Feb 16, 2015	Puan Chan Cheong	Paid RM475,531.92 for insider trading in the shares of Inti Universal.
Feb 16, 2015	Puan Chan Cheong and Loo Poh Keng	Paid RM302,727 for insider trading in the shares of Inti Universal.
Feb 16, 2015	Puan Kam Fook	Paid RM218,520 for insider trading in the shares of Inti Universal.

Source: SC's website