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Hedge Fund ALERT

‘Fair Fund’ Plan Prompts Legal Debate

Industry lawyers are keeping a close eye on an unusual initiative by the **SEC** to distribute the proceeds of an insider-trading settlement with **SAC Capital** to investors who lost money on two stocks the firm traded in 2008.

The SEC is awaiting court approval to use $602 million SAC paid for illegally trading shares of drugmakers **Elan** and **Wyeth** to establish a “fair fund” under provisions of the Sarbanes-Oxley Act. The law provides a mechanism for regulators to compensate victims of investment fraud — something the SEC has rarely tried in an insider-trading case.

“This would be the largest fair-fund distribution in an insider-trading case,” said **David Miller,** a former assistant U.S. attorney who now works in the white-collar investigations and securities-enforcement group at law firm **Morgan Lewis.**

Legal experts initially were surprised that the **SEC** would even attempt such a move, given the challenges of establishing a causal link between what SAC did — dumping huge blocks of the pharmaceutical stocks, then shorting them — and losses suffered by individual investors. Indeed, two of the SEC’s own commissioners, Republicans **Daniel Gallagher** and **Michael Piwowar,** disapproved of the action.

“The notion that the money should be used to provide relief to investors is pretty novel,” said hedge fund lawyer **George Mazin,** a partner at **Dechert.**

Added **Paul Marino,** of law firm **Marino Partners:** “It is tantamount to the government deciding who wins and who loses and how much those people should be compensated.”

Still, the consensus now is that **U.S. District Judge Victor Marrero,** sitting in New York, most likely will sign off on the SEC’s proposal. There’s no word on when the judge might rule.

The question then boils down to this: Which investors are victims, and how much did they lose as a result of SAC’s actions. “In an insider-trading case, it can be more difficult to trace a victim’s losses,” Miller said. “It will be particularly interesting to see how the award is divided up.”

The SAC settlement was part of a broader insider-trading case the SEC and **U.S. Justice Department** brought against the Stamford, Conn., firm, which has since converted into a family office for founder **Steve Cohen.** It now goes by the name **Point72 Asset Management.**

Matthew Martoma, a portfolio manager in SAC’s **CR Intrinsic** unit, placed a big bet on Elan and Wyeth because the companies were developing a promising treatment for Alzheimer’s disease. But then the firm abruptly liquidated the position and put on a massive short — based on non-public information Martoma received about disappointing clinical-trial results. He’s now serving a nine-year sentence in federal prison for insider trading, though the case is under appeal. ❖

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THE GRAPEVINE

Maulin Shah rejoined **Perry Capital** this month as a managing director running a portfolio of special-situations equity investments. Shah had left Perry in February 2013 to join Chicago-based **Balyasny Asset Management,** where he ran an event-driven portfolio. Led by renowned investor **Richard Perry,** Perry Capital was running $11.7 billion of regulatory assets at the end of last February.

Brian Cunningham left his post as chief investment officer and president of **361 Capital** on Nov. 29. His plans are unknown. Replacing him as chief investment officer is **Clifford Stanton,** who joined the Denver fund operator in August as head of research and product management. Stanton previously headed research and strategy at **Envestnet.** Before joining 361 Capital, Cunningham led **Innovest Portfolio Solutions.** Chief executive **Tom Florence** has absorbed his

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Scout Co-Founder Re-Emerges With New Firm

Adam Weiss’ retirement from the asset-management industry has proved short-lived.

A year ago, Weiss and partner **James Crichton** unwound their $6.7 billion **Scout Capital** amid declarations that Weiss wanted to stop running money for clients. But he’s now planning his return via a newly formed operation called **Stillwater Investment.**

The Palo Alto, Calif., firm’s investment strategy would reflect Weiss’ history as a stock picker, albeit with some quantitative component.

Stillwater appears to be in the early planning stages, with one source saying it likely won’t launch until late in the second quarter at the soonest. But others have heard that Weiss already has lined up some $1 billion for the firm’s first hedge fund. There also is word that he eventually plans to start a long-only fund that could run some $10 billion.

Whether any of the capital would come from former Scout backers remains

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Long-Awaited Teza Fund Gets Off the Ground

Teza Technologies, a high-frequency trading operation run by former **Citadel** executive **Mikhail “Misha” Malyshev,** has finally launched a hedge fund.

The Chicago firm, acting via a newly formed management company called **Teza Capital,** began trading Teza Fund last month with $27 million from Malyshev and his partners. It took in additional capital from friends and family on Jan. 1, ahead of a broader marketing effort that’s expected to get under way shortly.

There has been talk of a fund launch from Teza ever since Malyshev left Citadel in 2009 after generating huge profits for **Ken Griffin’s** firm. In 2008 alone, Malyshev’s portfolio reportedly earned $1 billion — even as Citadel’s flagship funds lost more than 50% amid a meltdown of financial markets globally.

But legal troubles proved a distraction for Teza early on. First, Citadel sued Malyshev for violating a non-compete agreement. Then, a former **Goldman Sachs** programmer

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Quant Manager Misses Managed-Futures Rally

Short-term futures trader **Quantitative Investment Management** suffered a sharp loss in its main fund last year, extending a streak of weak performance and declining assets that goes back to 2010.

The firm’s flagship Quantitative Global Program fell 3.9% in December, for a full-year loss of 12.3% — its worst showing since launching in 2003. Following a slight loss in 2013, the vehicle is now down 16.5% from its high, marking its worst-ever drawdown. The program manages $1.1 billion, including leverage.

The Charlottesville, Va., firm also offers a version of its flagship vehicle with three-times leverage. Predictably, the Quantitative Global Fund 3X fared even worse, plummeting 34.2% in 2014. The only bright spot was a long/short equity vehicle dubbed Quantitative Tactical Aggressive Fund, but its 3% gain fell well short of the stock market and also lagged the HFRI Fund Weighted Composite Index, which rose 3.6%.

Including 2014, QIM reports annualized returns of 8.3% for its main fund and

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