



welcome

The Fine Line of Insider Trading

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

www.morganlewis.com

Webinar
Wednesday, July 10, 2013

www.100womeninhedgefunds.org

"Insider trading" may be the two most-feared words in the markets. This webinar will address the legal and regulatory fundamentals of insider trading-related issues, including best practices for traders, service providers, expert networks, corporate executives, and political intelligence firms that handle sensitive and proprietary information and explore some of the jurisdictional nuances of these laws in the United States, European Union, and Asia.

welcome



Peter J. Henning
Moderator

Professor at Wayne State University Law School and author of “White Collar Watch” on the *New York Times DealBook*



Michele A. Coffey

Partner, New York Morgan, Lewis & Bockius LLP



Lauren H. Cohen

Associate Professor of Business Administration
Martin Bower Fellow,
Harvard Business School

Mohan Datwani

Director of Technical and Research
The Hong Kong Institute of Chartered Secretaries



Michael W. Mayhew

Founder and Global Director of Research Integrity Research Associates



Jennifer H. Arlen

Professor of Law
New York University School of Law

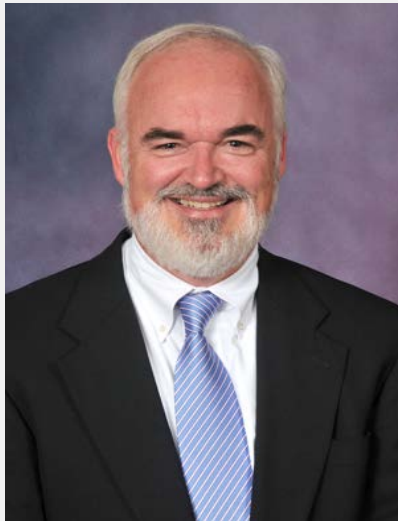


Pierre-Henri Conac

Professor of Commercial and Company Law
University of Luxembourg



welcome



The Fine Line of Insider Trading: Trading by Corporate Insiders

Peter J. Henning
Professor of Law
Wayne State University Law School

Wednesday, July 10, 2013

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

Regulation of Insider Trading

- It is not clear whether there is such a thing as “legal” insider trading,” or if it is just “not illegal” insider trading.
- No federal law specifically prohibits trading securities on inside information, unlike a number of other countries, including members of the European Union.
- Insider trading is a form of **securities fraud**, which the Supreme Court has said requires proof of a breach of a **fiduciary duty or other “duty of trust and confidence”** when confidential information is misused in trading (“on the basis of”).
- The classic form of insider trading is when a corporate executive or employee uses information learned while working for the company to trade in its securities for personal gain (or tips others who trade). This turns out to be a fairly small portion of the insider trading cases pursued by the Department of Justice and Securities & Exchange Commission.

Trading by Insiders: § 16

- Corporate insiders, defined as a publicly-traded company's officers and directors, and any beneficial owners of more than 10 percent of a class of the its equity securities, must file with the SEC a statement of ownership regarding those securities.
- Form 3 must be filed with the SEC showing the ownership of shares within 10 days of coming within the reporting requirement. Form 4 must be filed within **2 business days** of any change in ownership.
- **Restriction on Trading:** § 16(b) allows the company to recover any profits realized by a covered insider from either purchasing and selling, or selling and purchasing, equity securities within any six-month period.
- There is a private right of action to sue the insider on the company's behalf for violating § 16's restriction on transactions within a 6-month period.

Persons who seek to file this statement pursuant to Section 16, Form 4 or Form 5 obligations may continue. See Instruction 1(b).

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP

Estimated average burden
hours per
response: 0.5

Filed pursuant to Section 16(a) of the Securities Exchange Act of 1934
or Section 30(h) of the Investment Company Act of 1940

1. Name and Address of Reporting Person* <u>BERKSHIRE HATHAWAY INC</u> (Last) (First) (Middle) <u>3555 FARNAM STREET</u> (Street) <u>OMAHA NE 68131</u> (City) (State) (Zip)	2. Issuer Name and Ticker or Trading Symbol <u>MOODYS CORP /DE/ [MCO]</u>	5. Relationship of Reporting Person(s) to Issuer (Check all applicable) Director <input checked="" type="checkbox"/> 10% Owner Officer (give title below) Other (specify below)
	3. Date of Earliest Transaction (Month/Day/Year) <u>05/07/2013</u>	
	4. If Amendment, Date of Original Filed (Month/Day/Year)	6. Individual or Joint/Group Filing (Check Applicable Line) <input type="checkbox"/> Form filed by One Reporting Person <input checked="" type="checkbox"/> Form filed by More than One Reporting Person

Table I - Non-Derivative Securities Acquired, Disposed of, or Beneficially Owned

1. Title of Security (Instr. 3)	2. Transaction Date (Month/Day/Year)	2A. Deemed Execution Date, If any (Month/Day/Year)	3. Transaction Code (Instr. 8)		4. Securities Acquired (A) or Disposed Of (D) (Instr. 3, 4 and 5)			5. Amount of Securities Beneficially Owned Following Reported Transaction(s) (Instr. 3 and 4)	6. Ownership Form: Direct (D) or Indirect (I) (Instr. 4)	7. Nature of Indirect Beneficial Ownership (Instr. 4)
			Code	V	Amount	(A) or (D)	Price			
Common Stock	05/07/2013		S		149,411	D	\$64.0325 (1)	25,144,128	I	See footnotes 4 and 5. (4) (5)
							\$61.1667			See footnotes

Rule 10b5-1 Trading Plans

- SEC adopted Rule 10b5-1 in 2000 to help define what constitutes trading “**on the basis of**” inside information.
- The Rule provides a **defense** to a corporate executive that a transaction was on the basis of material nonpublic information if the transaction was part of a prearranged plan for future stock trades.
- The SEC requires the executive to show that the plan must be entered **into in good faith at a time when the executive did not not have inside information** about the company, such as its earnings or an impending transaction.
- The *Wall Street Journal* published articles, based on Professor Cohen’s research, showing that some transactions under these plans are very well timed.
- The Council of Institutional Investors has petitioned the SEC to change Rule 10b5-1, and the Commission’s Enforcement Division is investigating whether any trading pursuant to these plans may have violated the antifraud provision of the federal securities laws.

welcome



The Fine Line of Insider Trading: Decoding Inside Information

Professor Lauren Cohen
Harvard Business School

Wednesday, July 10, 2013

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

Motivation

- Corporate insiders have, by definition, considerably more information about their companies than what is publically available.
- Their trades are closely followed by investors and the general public, who hope to glean from them new information about an insider's company and its future share price.
 - But are all insider trades equal in their informational content?

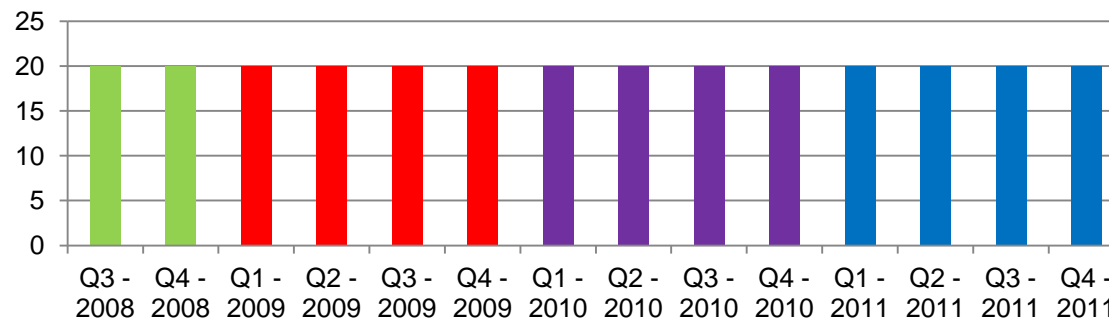
Motivating Example

- For example, suppose that you learned that Bill Gates – a savvy and undoubtedly well informed insider – sold 20 million shares of Microsoft in the third quarter of 2008.
- How would you interpret this bit of data?
 - Did Gates anticipate the brewing crisis and sell his shares ahead of it?
 - Or did he have some privileged information about Microsoft's future?
 - Crucially, could one systematically make money by replicating his trades?

Motivating Example (cont.)

- Whatever is your prior on Gates' motives, your evaluation of his actions would probably change when you found out that he sold another 20 million shares in the last quarter of 2008. And another 20 million in the first quarter of 2009.
- In fact, Bill Gates routinely sold 20 million shares in each subsequent quarter:

Gates' shares sold in MSFT each quarter
(in millions)



State of the Literature

- The Gates example serves well to illustrate a common view of insider trading.
- It has been well documented that while insider buys help predict future stock prices, there is little evidence of any price changes following insider sales.
- The usual explanation of such evidence is that insider buys are indeed motivated by information, but that sales are made for other reasons.
 - For instance, Insiders (such as Bill Gates) often have substantial stock holdings in their companies, and thus may want to sell some shares to diversify their overall portfolio.
 - Moreover, insiders may sell their shares because of a specific liquidity need, e.g., they may be buying a house. Since such sells are not based on any firm-specific information, they should not be expected to predict future returns.

State of the Understanding

- This binary view of insider trading (informative buys, uninformative sells) holds on average, but likely masks interesting variation.
- After all, some of the best-known examples of insider trading feature insiders selling on information:
 - Enron executives liquidating their holdings ahead of their firm's bankruptcy, the selling of ImClone stock that ultimately led to the imprisonment of Samuel Waksal and Martha Stewart, etc.
 - This means that at least *some* insider sells may be informative.
- Conversely, some insider purchases may *not* be based on new information. For example, some companies have stock purchase programs that allow insiders to purchase their company stock at a discount.
 - Insiders who have money to invest (e.g., if they have just received their annual bonus) may want to participate in such programs even though they have no specific private information that would otherwise justify a trade.

Our Approach

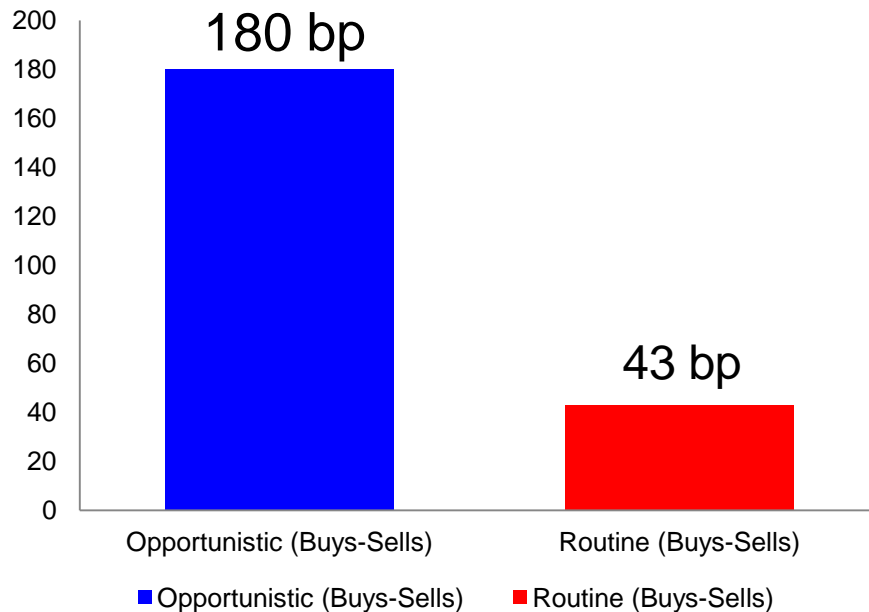
- The key question, of course, is how to distinguish trades that are likely to be based on information from trades motivated by other considerations.
 - We propose a simple way to divide trades into “routine,” or less likely to be information-based, and “opportunistic,” or more likely to carry new information.
 - We show that our classification scheme works well in predicting company returns and news.
 - Interestingly, we also find evidence that insiders limit their opportunistic trading following waves of SEC insider trading enforcement.

Our Approach (cont.)

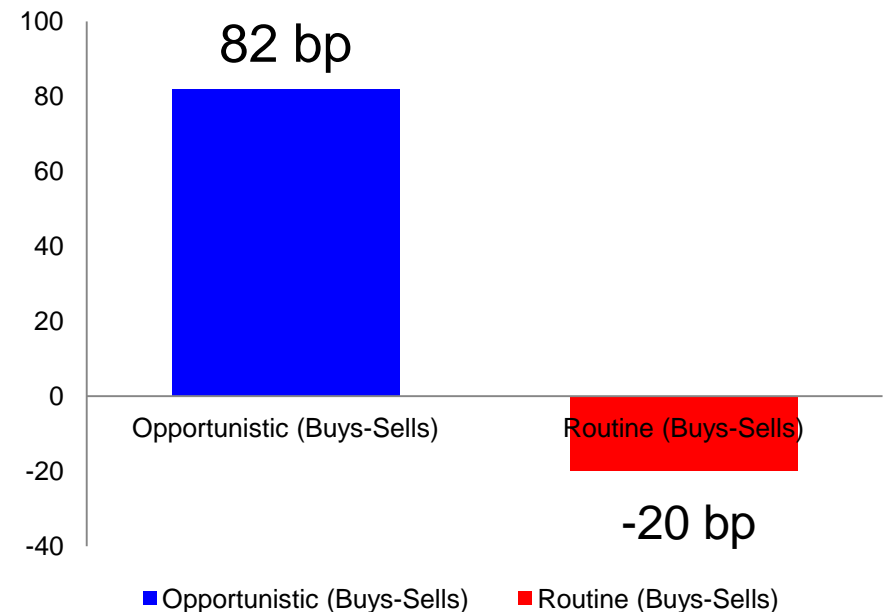
- We base our identification of opportunistic and routine insiders on the idea that trades based on private information are unlikely to follow predictable calendar patterns (e.g., Bill Gates' trades): new information is unlikely to be generated in a regular calendar cycle.
- So, insiders who trade on information are likely to trade in a more irregular fashion.
- Insiders who trade in the same month year-after-year are termed **“Routine” insiders** while those who trade erratically are termed **“Opportunistic” insiders**
 - Is this separation into Routine vs. Opportunistic a meaningful one?

Returns to Portfolios Following Opportunistic vs. Routine Insiders

Equal-weight monthly abnormal returns



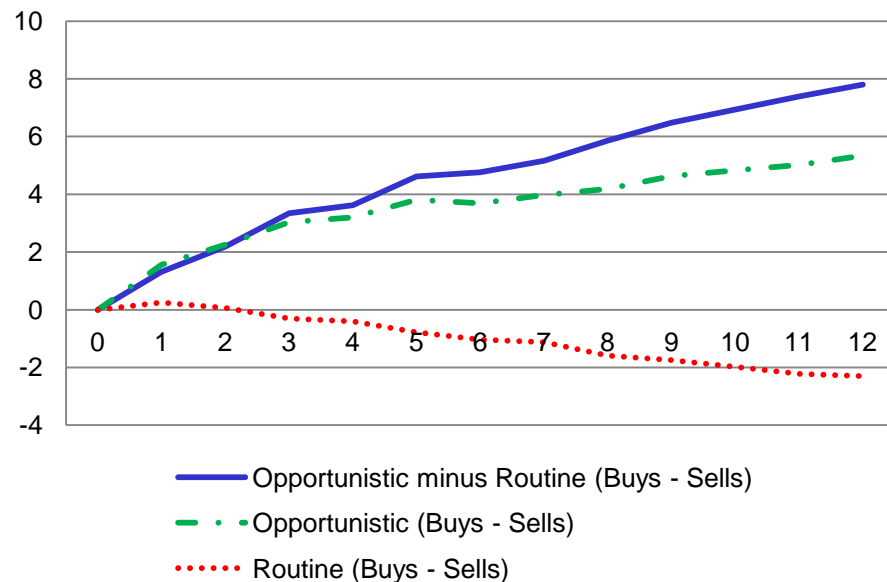
Value-weight monthly abnormal returns



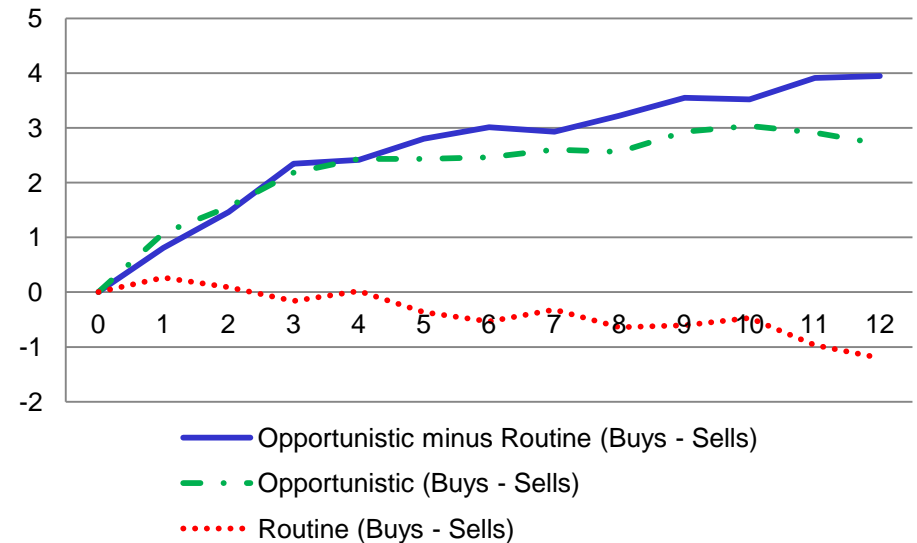
→ These translate into **21.96% per year (EW)** and **9.84% per year (VW)** risk-adjusted returns from following opportunistic insider trades in the month after their trading

Longer-Term Performance of Opportunistic and Routine Trades (Event-Time Returns)

Equal-weight portfolios



Value-weight portfolios



→ The returns continue to accrue following Opportunistic Trades, and importantly never reverse.

Who are these opportunistic insiders?

- The most informed Opportunistic insiders tend to be local insiders in non-senior positions at the firm.
- On average, their profile can be described as:
 - a) Experienced traders
 - b) From more geographically concentrated firms
 - c) From poorly governed firms
 - d) From firms that make more new products (where there is likely more inside info to trade on)

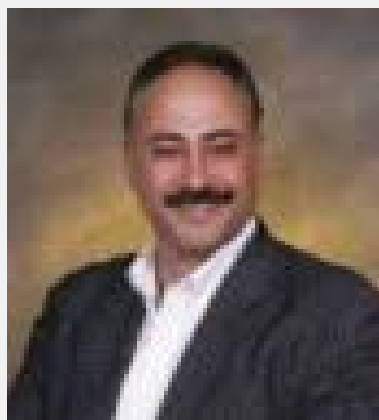
Summary and Extensions

- The Routine-Opportunistic classification we have proposed is simple and intuitive.
- It is also easily extended. One could, for example, use a more complicated pattern in trades to define “routines” or perhaps use additional data to improve the classification.
- The approach we propose also lends itself to applications in other contexts, such as routine rebalancing trades that might be done by institutional or pension managers each quarter.

Summary and Extensions (cont.)

- Our work has attracted interest from policymakers,
 - e.g., the SEC and the Ontario Securities Commission.
- It is also useful for market participants.
 - For instance, Alliance Bernstein Research (2012) has produced a report that discusses, replicates, and confirms our results along with offering a number of extensions of ways that they may be useful in investment practice.

welcome



The Fine Line of Insider Trading: Political Intelligence and Insider Trading

Michael Mayhew

Wednesday, July 10, 2013

with Introduction by Peter J. Henning

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

The STOCK Act

- “Stop Trading On Congressional Knowledge” (STOCK) Act signed by President Obama on April 4, 2012. The legislation had languished for about 5 years until a “60 Minutes” segment highlighting profitable trades by Representatives and Senator that stirred Congress into action.
- The law provides that “each Member of Congress or employee of Congress **owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States** with respect to material, nonpublic information derived from such person's position as a Member of Congress or employee of Congress or gained from the performance of such person's official responsibilities.”
- The law affirms that “Members of Congress and employees of Congress are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder.” Whether they were before the STOCK Act, they clearly are now.
- A provision requiring senior Executive Branch employees to report their stock ownership and trading has been shelved for the time being.
- **Problem:** What is inside information that relates to governmental or congressional action?

Definition of Political Intelligence

- According to the STOCK Act “political Intelligence” means information that is —
 - 1) derived by a person from direct communications with an executive branch employee, a Member of Congress, or an employee of Congress; and
 - 2) provided in exchange for financial compensation to a client who intends, and who is known to intend, to use the information to inform investment decisions.
- Based on this definition, “political intelligence” **IS NOT** a type of firm (lobbyist or boutique policy research firm) but rather the **information obtained as a result of a specific activity.**

Definition of Political Intelligence (cont.)

- This opens up a huge universe of people who are currently engaged in the activity of collecting “political intelligence”, including:
 - Boutique policy research firms
 - Macro-economic research firms
 - Sell-side investment banks
 - Lobbyists
 - Law firms
 - Media firms

Overview of the Political Intelligence Industry

- **Policy Research:** Firms that assist investors by publishing research with opinions and analysis of governmental and legislative actions and their impact on the financial markets. Policy research firms include:
 - Legislative / Regulatory,
 - Monetary Policy,
 - Political Risk,
 - Other.

Overview of the Political Intelligence Industry (cont.)

- **Specialist Providers:** Firms which, as a sideline to their primary businesses, provide information to investors on legislative or regulatory developments. Unlike policy research firms, political intelligence firms tend not to provide written analysis, focusing instead on answering specific questions from investors. Political intelligence firms include:
 - Lobbyists,
 - Law firms,
 - Consulting firms.

Overview of the Political Intelligence Industry (cont.)

- **Macro-Economic Research:** Firms which publish research and forecasts of economic activity. This type of research often includes analysis of the Treasury and Federal Reserve and how their actions might impact interest rates, employment and economic growth.

Overview of the Political Intelligence Industry (cont.)

- **Sell-Side Investment Banks:** Analysts at investment banks also collect “political intelligence”, either as a specialized service, or as part of their regular analysis on an industry (e.g. healthcare analysts and the recent CMS decision). Many sell-side investment banks also set up one-on-one or group meetings between investors and political insiders.

Overview of the Political Intelligence Industry (cont.)

- **Media Firms:** A growing number of media firms have developed subscription products which provide political intelligence specifically to analysts and portfolio managers at hedge funds, mutual funds, pension funds, and family offices. Some of these firms include:
 - Bloomberg Government,
 - Politico Pro, and
 - CQ Presses First Street.

Overview of the Political Intelligence Industry (cont.)

- **Buy-Side Analysts:** Analysts at many large hedge funds and mutual funds speak with political insiders to collect information to inform their firm's investment decisions. However, it is **UNCLEAR** whether this meets the STOCK Act's definition of information "provided in exchange for financial compensation to a client who intends, and who is known to intend, to use the information to inform investment decisions."

Examples of how investors use Political Intelligence

“What hedge funds look for are inefficiencies in the market, and Washington is the world's greatest creator of market inefficiencies.” – Hedge Fund Manager

REAL LIFE EXAMPLES

- In the 1980s, Ivan Boesky hired lobbyists to see if Congress would block Standard Oil Co.'s takeover of Gulf Corp. Boesky made money on trades after learning the merger was approved.
- From 2004 to 2006, Congress considered creating a trust fund to cover medical costs and resolve asbestos lawsuits. Hedge funds hired lobbyists to understand the changing prospects for the bill. This impacted stocks like USG Corp., W.R. Grace & Co. and Crown Holdings.

Examples of how investors use Political Intelligence (cont.)

“What hedge funds look for are inefficiencies in the market, and Washington is the world's greatest creator of market inefficiencies.” – Hedge Fund Manager

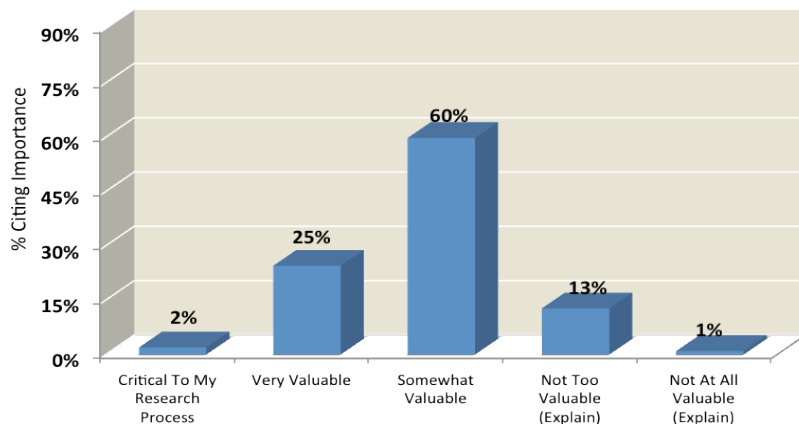
REAL LIFE EXAMPLES

- In 2011, Newt Gingrich's consultancy, the Center for Health Transformation, organized private meetings between Credit Suisse analysts and senior Republican health-care policy aides. CS analysts used the insight from the meetings to make stock recommendations to investor clients.

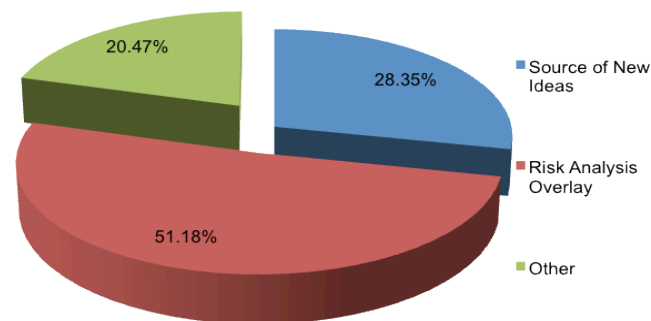
Importance of Political Intelligence / Policy Research

- A little over a quarter of hedge funds and mutual funds who use policy research (27%) believe it is either critical to, or a very valuable part of, their overall research process, while 14% do not see it as very valuable.
- Over one quarter of all hedge funds and mutual funds who use policy research (28%) use it to generate new investment ideas, while over half of all users (51%) use it to determine the risk of investment ideas they independently developed.

Importance of Policy Research to Overall Research Process



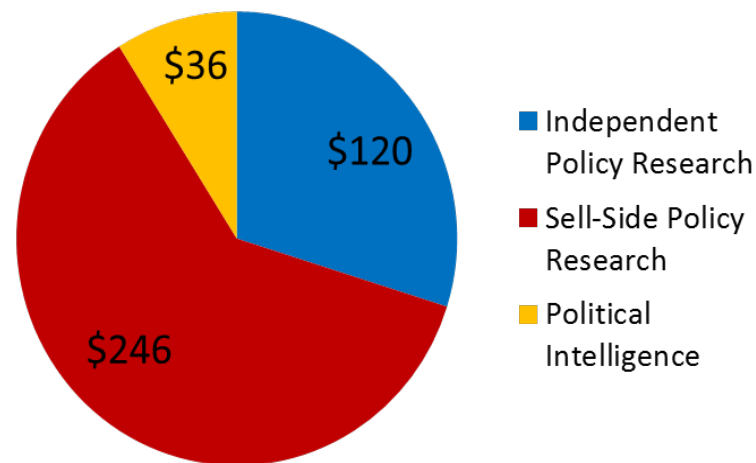
How Policy Research is Used



Size of Policy Research / Political Intelligence Industry

- We conservatively estimate the global market for policy research and political intelligence services totaled approximately \$402 million in 2009.
- Our projections put the global independent policy research market at \$120 million in revenue in 2009.
- Integrity estimates that investment banks that produce macro-economic and policy research received an estimated \$246 million in equity commissions globally from institutional customers for this type of research in 2009.
- We estimate that lobbyists, law firms, and others that offer political intelligence services generated approximately \$36 million annually from investors for this information in 2009.
- This estimate DOES NOT include independent macro-economic research providers or media firms.

Policy Research / Political Intelligence (mln \$)



Insider Trading Risk and Political Intelligence

- On April 1st, 2013 Height Securities' senior healthcare analyst was contacting sources in Washington DC to determine if rumors that CMS would change its prior decision to cut Medicare Advantage payments were true. For weeks, speculation was that CMS would reverse its decision after senior Democrats and Republicans spoke out against the proposed cuts, and the insurance lobby had mounted a vigorous campaign opposing them as well.
- At 3:12 p.m. that afternoon, a Greenberg Traurig lobbyist working for health-insurance firm Humana Inc., e-mailed the Height analyst saying his "intel is that a deal was already hatched," to restore the Medicare Advantage payments. Height responded by forwarding the lobbyist's e-mail to numerous sources in an effort to confirm the claim.

Insider Trading Risk and Political Intelligence (cont.)

- At 3:42 p.m., Height sent out an e-mail note to its Wall Street clients notifying them that they believed CMS would reverse its prior decision to cut Medicare Advantage payments.
- The Height report caught the attention of a number of large hedge-funds, including SAC Capital Advisors and Viking Global Investors, causing shares of several health-care companies, including Humana, to climb sharply before the market close.
- Forty-two minutes later, at 4:24 p.m., CMS made a public announcement that it had decided to reverse its decision to cut Medicare Advantage payments.
- Senator Chuck Grassley has since been investigating the case in an effort to inform potential legislation requiring everyone engaged in political intelligence to register much like lobbyists.

Insider Trading Risk and Political Intelligence (cont.)

- With the passage of the STOCK Act, a growing number of asset managers have understandably been confused about whether trading on information obtained from lobbyists, congressional staffers, or other government employees could constitute “insider trading”.
- Is it material?
 - Will it have a direct effect on the market price of a public security?
 - The announcement of CMS’ policy decision reversal regarding payment... clearly had an impact on the share price of a number of healthcare stocks.
 - However, materiality alone does not make the information an insider trading risk.

Insider Trading Risk and Political Intelligence (cont.)

- Is It Non-Public?
 - Information is non-public when it has not been distributed in a way where it has been made available to investors generally. Can be accomplished via traditional media or even the internet.
 - The argument that a few dozen staffers or lobbyists knew about a development DOES NOT make that information “public”, thereby reducing the risk that the information is MNPI. In the CMS case, the number of people who knew about the change in decision BEFORE it was announced was over 400.
- Is It a Breach of Duty?
 - In the past, it was not clear that a member of Congress, a staffer, or another government employee had a duty to keep the information they obtained as a part of their job confidential.

Insider Trading Risk and Political Intelligence (cont.)

- Is It a Breach of Duty?
 - While it depends on who provides the information, the STOCK ACT clearly creates a duty of trust and confidence which did not exist before.
 - “Each member of Congress or employee of Congress owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, non-public information derived from such person’s position as a Member of Congress or employee of Congress or gained from the performance of such person’s official responsibilities.”
 - While we don’t know who originally leaked the CMS information, it is quite possible that that source passed on MNPI in breach of a duty of confidence.

Insider Trading Risk and Political Intelligence (cont.)

- How Should Investors Respond?
 - Information collected from “political insiders” (political intelligence) that also meets all three criteria discussed above should be considered extremely risky.
 - A buy-side investor should treat this type of information with **THE SAME CARE** that they treat any risky information obtained from corporate insiders, consultants, experts, etc.

welcome



The Fine Line of Insider Trading: Criminal Insider Trading in the US

Jennifer H. Arlen

Wednesday, July 10, 2013

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

Wave of Insider Trading Actions

- SEC Actions
 - More Insider Trading Enforcement Actions than ever before
 - SEC: 2010-12: 180 IT enforcement actions
 - *430 individuals and entities*
 - 2012 up 11% from 2011
- Criminal Actions
 - 2012: criminal charges against 31 people
 - 2009-now: 73 people convicted of IT (NY times)
 - *37 Cooperated*
 - *10 went to trial (all found guilty)*

Hedge Funds in the Cross Hairs

- Galleon
 - Insider Rajat Gupta (Dir. Goldman Sachs) gives MNPI to Rajaratnam (hedge fund founder)
- Level Global
 - Anthony Chiasson (co-founder LG) trades on tips from company insiders
- KPMG
 - Scott London gives tips concerning clients for cash
- SAC Capital/Steve Cohen
 - Accused of trading pharmaceutical stocks using nonpublic information from Drs. about clinical trials

Penalties: Individuals

- Criminal
 - Prison: Up to 20 years per violation
 - *Rajaratnam got 11 years*
 - Criminal forfeiture plus
 - Fines up to \$5 million or twice gain
 - *April 13 2012: Guidelines for Insider Trading enhanced*
- SEC Penalties
 - Disgorgement of Profits plus penalty < \$1 mill or 3X profit
 - *Rajaratnam paid \$1.45 mill to SEC*
- Private liability to contemporaneous traders

What is Illegal?

When Is Trading on Nonpublic Information Illegal?

- Tender Offers: Always Illegal!
 - Rule 14e-3: Illegal to trade on material nonpublic information about a tender offer if you have reason to know information comes directly or indirectly from target or acquirer
- Key features of 14e-3
 - Need a tender offer (or pending)
 - Possession of information is sufficient
 - Not need to show breach of duty
 - *Good info. will always be from target or acquirer*
- => *If information is valuable, it's illegal to trade*

What Is Illegal?: Liability for Tips Concerning Material Nonpublic Info. About Other Matters (Rule 10b-5)

- Element #1: Person giving you information has a duty to keep it confidential (and not to trade/tip)
 - **Person owes duty to the firm**
 - *Corporate Insider (officer, directors, employee)*
 - *“Constructive insider”*: receives information from firm with understanding he would keep it confidential
 - Lawyer; accountant; investment banker
 - **Person Owes Duty to Third Party**
 - *Journalist , doctor doing drug trials, printers, priest, psychiatrist, spouse*

What Is Illegal?: Element 2

- Tipper breached duty in sharing information
 - Legal to tip if share information to serve a legitimate purpose of owner of the information
 - E.g. executive gives info. to accountant
 - Breach duty: Tip for personal benefit
 - Money
 - Receive information from others
 - Own share in the hedge fund

Element 3: Scinter (SEC) (Obus, 2nd cir)

- Tipper (e.g., director of Goldman Sachs)
 - Tipper must know or recklessly disregard that
 1. *Information material & nonpublic*
 2. *He had a duty to source information*
 3. *Breach duty if disseminate*
 - know tippee likely to trade or disseminate improperly
 - Not need to know illegal to tip
- Tippee (Hedge fund)
 - Tippee knew or ***had reason to know*** that the information was obtained & transmitted improperly
 - Tippee intentionally/recklessly traded while possessing info.

Scope of Liability?

Firm-Level Liability for Insider Trading

- Hedge Fund Cases: first to implicate wide-spread firm-level liability for Insider Trading
- Classic Insider Trading: Firms not Liable
 - Respondeat Superior: Firms liable for all crimes by all employees done in the scope of employee with any intent to benefit the firm
 - Classic IT: D acted for personal benefit (Martha)
 - => *firm is not liable*
- Hedge fund cases: employees obtained information to increase performance of firm => firm is liable

De Facto Corporate Liability

SEC/DOJ Policies on Corporate Leniency

Seaboard/Holder Memo

- DOJ Policy (Holder/Thompson Memos)
 - Goal Criminal (in theory): Individual convictions
 - DOJ Policy: Firms can avoid conviction if self-report and cooperate
 - *Firms often subject to Deferred Prosecution Agreement under which the firm pays a penalty & adopt compliance program but is not convicted*
- SEC “Seaboard”
 - Allow firms to avoid formal enforcement action if agree to cooperate against individual and disgorge all profits (and implement a compliance program)

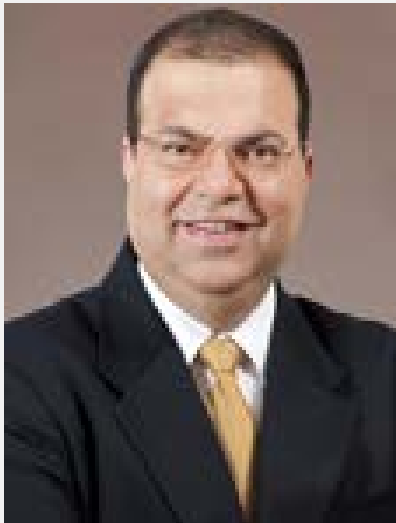
Challenge for Hedge Funds

- Publicly held firms can easily cooperate even cooperating implicates the CEO
 - CEO rarely a controlling shareholder
 - Outside directors in charge when wrong detected
- Hedge funds: controlling founder
 - Resist cooperation if implicated (SAC/Cohen)
 - SEC allowed firm to settle w/o cooperating
 - *Huge penalty*
 - *Targeting indiv for leniency/cooperation => Wires*
 - DOJ: Not give DPA/NPA w/o cooperating
 - *Must produce evidence against wrongdoers*
 - *SAC will be a test case*

What Can Hedge Funds Do?

- Deter Insider Trading
 - Compensation Structure
 - *High powered incentives increase crime*
 - People will cheat if only way to make their numbers
 - Compliance program
 - *Comp Off should report to indep. Directors*
 - Internal Whistleblowing Rewards
- Put Independent Directors in charge of Compliance and Responding to Red Flags
 - Get experienced, new outside counsel with expertise at first hint of trouble

welcome



The Fine Line of Insider Trading: Insider Dealing Securities and Futures Commission's Wide Powers

**Mr. Mohan Datwani LLB LLM MBA
(with Distinction) (Iowa) (高朗先生)**

Solicitor & Accredited Mediator

Director, Technical and Research

The Hong Kong Institute of Chartered Secretaries

Wednesday, July 10, 2013

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

Background

- Former partner of US international firm and dealt with market misconduct, compliance and fraud cases
- Former senior management of listed issuers and dealt with legal and compliance and business strategy
- Largest Insider Dealing (ID) case arose when client's financial controller got a date wrong in routine enquiries by SFC

Securities and Futures Commission Hong Kong

- The Securities and Futures Commission (SFC) was established in 1989. The concept of market misconduct (MM) was introduced in 2005 under the Securities and Futures Ordinance (SFO)
- The six MMs are ID; false trading; price rigging; disclosure of information about prohibited transaction; disclosure of false or misleading information including transactions; and stock market manipulation

Civil Case (Part XIII of SFO)

- The SFC can institute a civil case (balance of probabilities) with the Market Misconduct Tribunal (MMT) (Section 252 of SFO)
- The MMT has power to order: disqualification (up to 5 years); cold shoulder (up to 5 years); cease and desist; disgorgement (of profits made or loss avoided); with back-up orders for fines of up to 2 years imprisonment and HK\$1 million, costs and discipline recommendations (Section 257 of SFO)

Criminal Case (Part XIV of SFO)

- The SFC can work with the Department of Justice (DOJ) to prosecute a criminal case (beyond reasonable doubts) with the Court (section 291 of SFO)
- The fine could be up to 10 years' imprisonment and a fine of HK\$10 million and other sanctions as with MMT except for disgorgement

Insider Dealing Details

- Insider dealing occurs where a person “connected with a listed corporation”, has information which he knows is “relevant information” (*information*) deals in securities or their derivatives or counsels or procures another to deal (act) knowing or having reasonable cause do believe he would do so (*knowledge*)
- There are certain exceptions or safe harbours

Tiger Asia Case

- Tiger Asia (a New York hedge fund) took a placement and shorted stocks being placed to it, expecting the placement to depress the market price of the stock. This was clear ID
- SFC instead of the traditional mutually exclusive civil and criminal regimes went a third route, section 213 of the SFO

Tiger Asia Case (cont.)

- Section 213 states that where a person has “contravened” any relevant provisions [which include ID related provisions], the High Court on application of the SFC could make various orders
- The orders include injunctions, orders requiring transactions to be undone, orders declaring contracts to be void and so on which will not unfairly prejudice any person

Tiger Asia Case (cont.)

- Without going through the MMT or the Court, the SFC asserted that there was a “contravention” of ID provisions by Tiger Asia
- The High Court disagreed the SFC can do this, but the Court of Appeal and Court of Final Appeal (CFA) accepted the SFC’s position
- The CFA made it clear that the SFC was not seeking interim powers where there appears to be a breach but to “*prove Tiger Asia actually engaged in insider dealing*”

Tiger Asia Case (cont.)

- The CFA held that the SFC can do so because *“in these proceedings the SFC acts not as a prosecutor in the general public interest but as protector of the collective interests of the persons dealing in the market who have been injured by market misconduct”*
- Also, *“proceedings under s 213 are the public law analogue of actions for damages by individuals under s 305 rather than a substitute for a criminal prosecution or proceedings before the MMT”*

Tiger Asia Case (cont.)

- The CFA observed “*The Court of First Instance may find a contravention under s 213 but the criminal court, or even the MMC, might find no such contravention proved. That is true. These things happen. A jury acquitted O J Simpson of the murder of his girl friend but he was found liable in civil proceedings for wrongfully causing her death. Inconsistency is always a possibility...*”
- The CFA has thus confirmed the SFC’s significant powers under Section 213 of the SFO
- The SFC is or has made senior hires to enforce Sections 213 and 214 of the SFO and more enforcement is expected

welcome



The Fine Line of Insider Trading: Insider trading in the European Union

Pierre-Henri Conac
University of Luxembourg

Wednesday, July 10, 2013

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

The European legal framework: major reform initiated in 2011

- Market Abuse Directive (MAD) adopted in 2003 and four implementing (Level 2) directives and regulations
 - General and specific definitions (commodity derivatives, execution of orders)
 - Limited case law of the European Court of Justice (ECJ) but clear trend in favor of making prosecution easier for national authorities
- Revision of the Market Abuse Directive initiated in 2011
 - Market Abuse Regulation (MAR): Proposal for a Directive on insider dealing and market manipulation (market abuse), Brussels, 20.10.2011
 - Market Abuse Directive (MAD): Proposal for Directive on criminal sanctions for insider dealing and market manipulation, Brussels, 20.10.2011
 - Expected adoption (end 2013) and implementation in Member States 24 months later (end 2015 because Level 2 provisions and national legislation)

The European legal framework: definition of inside information

- Information of a «precise nature»
 - Probability of realization (reasonable expectation test) : no requirement of a high probability of realization of circumstances/event (CJUE, 28 June 2012, Daimler)
 - Information must be sufficiently precise (specificity test) for a conclusion to be taken on the possible effect on the price
- Information which « has not been made public» (non public) and «relating (...) to one or more issuers of financial instruments or (...) financial instruments »
- Price sensitive: information which «would be likely to have a significant effect on the prices of those financial instruments or on the price of related derivative financial instruments»
 - Reasonable investor test: information a reasonable investor would be likely to use as part of the basis of his investment decisions

ECJ, 28 June 2012, Daimler AG: information of a « precise nature »

- Facts
 - CEO of Daimler informs the chairman of the Supervisory Board that he wants to resign (May 2005) ; other members of the board are informed (June-July 2005) ; decision is taken by the board to accept the resignation (28 July 2005); Investor sells his shares before the announcement
- Applicable provision (Art. 1, Directive 2003/124/EC)
 - “information shall be deemed to be of a **precise nature** if it indicates a **set of circumstances** which exists or may reasonably be expected to come into existence or an **event** which has occurred or may reasonably be expected to do so and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of financial instruments”

ECJ, 28 June 2012, Daimler AG: information of a «precise nature»

- Information relating to an **intermediate step which is part of a protracted process** may be precise information.
- Include steps which **may reasonably be expected** to come into existence or occur
- “may reasonably be expected” **does not mean a high probability** of the circumstances or events in question coming into existence or occurring
- Probability of the event cannot be deducted from magnitude of the effect

ECJ, 23 Dec. 2009, Spector: «use» of inside information

- Applicable provision (Art. 2 of MAD)
 - “Member States shall prohibit any person (...) who possesses inside information from **using** that information by acquiring or disposing of, or by trying to acquire or dispose of, for his own account or for the account of a third party, either directly or indirectly, financial instruments to which that information relates”
 - Dealing on the basis (UK approach) or dealing while knowing (French approach)?
- Holding
 - **Rebuttable presumption** of intention to “use” an inside information when a person deals while in possession of inside information (*low mental element*)
 - Legal if the “use” does not violate the purpose of the Directive which is to protect the integrity of the financial markets; enhance investor confidence; and provide investors with the assurance that they are on an equal footing to all other investors

National approaches (UK): Decision Notice to David Einhorn, Jan. 12, 2012

- Precise information can result of interpretation of comments as a whole: company discloses that it is at an advanced stage of a process towards the issuance of a significant amount of new equity, probably within a timescale of within a week
- Greenlight' fund immediately sales shares and the FSA issues a financial penalty on the fund manager himself, David Einhorn, of £ 3,638,000
- No protection by refusing to sign a nondisclosure agreement (*no wall crossing*) and by communicating a desire to avoid receiving inside information
- Experienced trader and portfolio manager is **aggravating circumstance** as he should be held to the highest standards of conduct and levels of accountability

National approaches (France): ECHR, *Soros v. France*, Oct. 6, 2011

- Facts

- Georges Soros is invited to participate in a raid on the French bank *Société Générale* (1988)
- Georges Soros declines to participate but buy shares and is criminally fined

- Holding

- ECHR finds no violation of Article 7 of the ECHR (*no punishment without law*) on account of alleged **lack of foreseeability** of French law, despite definition of «insider» under French law not being precise, lack of previous case law on similar situation, and disagreement on interpretation of insider by virtue of having received the information «in the exercise of their profession or duties»
- Status as **professional investor** and **experience** warranted increased cautiousness

Proposed Market Abuse Regulation (MAR): broader scope and definition of inside information

- Extension to MTF (Multilateral Trading Facility) and OTF (Organised Trading Facility) as well as to any related financial instruments traded OTC which can have an effect on the covered underlying market.
- Spot commodity contracts related to derivatives on commodities
- Emission allowance or auctioned products based thereon
- *Relevant information not generally available* (RINGA): non precise information
 - «information (...) relating to one or more issuers of financial instruments or to one or more financial instruments, which is not generally available to the public, but which, **if it were available to a reasonable investor**, who regularly deals on the market and in the financial instrument or a related spot commodity contract concerned, would be regarded by that person as relevant when deciding the terms on which transactions in the financial instrument or a related spot commodity contract should be effected ».

Proposed Market Abuse Regulation (MAR): alignment on European competition law

- Higher administrative pecuniary sanctions (fines) : up to €5m for natural persons (*Parliament : unlimited*) and up to 10% of annual turnover for legal persons (*Parliament : 20 %*) ; fines must exceed profit gained or loss avoided and up to twice this amount
- A temporary (*Parliament : permanent*) ban against any member of an investment firm's body or any other natural person, who is held responsible, to exercise functions in investment firms
- Publication of administrative sanctions as a rule (*naming and shaming*)
- Investigatory tools: search and seize powers (subject to judicial ex-ante authorization), request existing telephone and data traffic records (*Parliament : also wiretaping*), sanction by the national regulator itself for failure to cooperate in an investigation
- Whistleblowers: not compulsory, but protection and possibility of financial incentives

Proposed Market Abuse Directive

- Covers insider dealing and market manipulation
- Covers inciting, aiding and abetting, and attempt
- Covers natural and legal persons
- Level of sanctions left to each Member States, but Report in the European Parliament requests a maximum term of imprisonment of at least 5 years
- Issue of double jeopardy being considered by the EU Parliament
- Opt-out for UK and Denmark

Conclusion

- More severity in Europe in legislation and in the exercise of sanction powers
 - Influence of the crisis and of public opinion on politicians and regulators
 - Intra-european (United-Kingdom) and extra-european influence (IMF)
 - Probable increased supervisory convergence and role of ESMA
- However, persistence of different legal and cultural tradition among Member States

welcome



The Fine Line of Insider Trading: Recommendations for Supervision & Compliance

Michele A. Coffey

Wednesday, July 10, 2013

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

www.morganlewis.com

www.100womeninhedgefunds.org

Insider Trading In The U.S.

Court Decisions, Legal Strategies, Common Defenses and Best Practices for Compliance

Cases, Strategies and Common Defenses

Public v. Non-Public Information

- Whether information is “*public*” generally depends on how it is disseminated and by whom:
 - Easier case: Form 8-K, press releases, quarterly or annual filings = public
 - Harder case: Rumors, leaks, anonymous postings
- Information is “*public*” when:
 - Disclosed “in a manner sufficient to insure its availability to the investing public”
 - The information has been “fully impounded into the price of the particular stock” – even where it has not been publicly announced or is not widely known

Cases, Strategies and Common Defenses

Challenging the “Non-Public” Designation

- Was information in the public domain prior to trading?
 - Information can make its way into the public domain through traditional means and new(er) channels of communication
- To what extent was the information available to the public?
 - Information may be public, even though not publicly disseminated

Cases, Strategies and Common Defenses

Materiality

- A fact is material if there is a substantial likelihood that, under all the circumstances, the fact “would have assumed actual significance in the deliberations of a reasonable investor”
 - “Vague” information may be material (e.g., *SEC v. Meyhew*, 121 F.3d 44 (2d Cir. 1997))
- Although materiality is an objective standard, the SEC often focuses on the subjective behavior of the person trading on the information

Cases, Strategies and Common Defenses

Materiality – the Mosaic Theory

- **THE MOSAIC THEORY** of investing (and defense)
 - A skilled analyst with knowledge of a company and an industry may piece together seemingly immaterial data and publicly available information into a mosaic that reveals material non-public information
 - May include public information; non-public information that is not material; and investor's own analysis and evaluation
 - *May not* include MNPI and may not be obtained in breach of another's confidentiality duty
- Implications of *SEC v. Richard Bruce Moore*, No. 13-cv-2514 HB (S.D.N.Y. Apr. 16, 2013) (misappropriation case)

Cases, Strategies and Common Defenses

Awareness

- Rule 10b-5 requires proof that trading was “on the basis of ” MNPI
 - With limited exceptions, a purchase or sale of a security is “on the basis of ” MNPI if the person was aware of the MNPI when making the purchase or sale
- Rule 10b5-1 provides narrow affirmative defenses in specific circumstances where a person can demonstrate that MNPI was not a factor in the trading decision
- The enumerated defenses are the only ones permitted under the Rule

Cases, Strategies and Common Defenses

Awareness – 10b5-1 Plans

- A security purchase or sale is deemed not to be “on the basis of ” MNPI if, before becoming aware of MNPI, the person:
 - Entered into a binding contract to purchase or sell the security;
 - Instructed another person to sell the security for the instructing person’s account; or
 - Adopted a written plan for trading securities.
- The transaction will not be deemed to have been made pursuant to the contract, instruction or plan if the person “altered or deviated from the contract, instruction or plan”

Cases, Strategies and Common Defenses

Awareness – Information Barriers

- A transaction by an entity is not “on the basis of ” MNPI if:
 - The natural person who made the investment decision for the entity was not aware of the MNPI when that person made the decision to trade; and
 - The entity implemented reasonable policies and procedures to ensure persons making investment decisions would not violate insider trading laws, including by establishing effective information barriers
- Rule 10b5-1 defenses are not available unless the action taken to establish the defense was “in good faith” and not part of a plan or scheme to evade the law

Cases, Strategies and Common Defenses

Duty

- Rule 10b-5 requires proof that person traded in violation of a fiduciary duty or other relationship of trust and confidence
- Whether person violated duty depends on theory of liability
 - Cases premised on “classical” and “tipper/tippee” theories assert a breach of fiduciary duty owed by corporate insiders/temporary insiders
 - *SEC v. Obus*, 693 F.3d 276 (2d Cir. 2012) may expand tipper/tippee liability

Cases, Strategies and Common Defenses

Duty – Rule 10b5-2

- The “misappropriation” theory hinges on breach of a fiduciary duty or ‘relationship of trust and confidence’
- In Rule 10b5-2 lists relationships that establish a duty of trust or confidence under the misappropriation theory and provides that a duty arises where:
 - The recipient agrees to maintain MNPI in confidence;
 - There is a “history, pattern, or practice of sharing confidences such that the recipient knows or reasonably should know that the person providing MNPI expects the recipient to keep it confidential; and
 - MNPI comes from certain close family members

Cases, Strategies and Common Defenses

Duty – Challenges to Rule 10b5-2

- In *SEC v. Cuban*, 634 F.Supp.2d 713 (N.D. Tex. 2009), the district court dismissed insider trading charges against Mark Cuban, holding that the SEC exceeded its authority under Section 10(b) by predicating liability under Rule 10b5-2 solely on Cuban's agreement to keep information confidential (without a concomitant agreement not to trade on the information)
- The appellate court reversed and remanded without ruling on the constitutional issue, finding that the SEC had alleged facts sufficient to suggest that Cuban had agreed not to trade on the confidential information

Cases, Strategies and Common Defenses

Cooperation

- All cooperating witnesses in the Galleon-related insider trading cases avoided prison sentences
- Cooperating defendants received an average prison term of 6 months – versus average terms of 22 months for non-cooperators who accepted plea deals and 56 months for defendants who went to trial
- Cooperating defendants received an average sentence equal to about 12% of the minimum recommended by the Federal Sentencing Guidelines – versus 73% of the minimum for non-cooperators who accepted plea bargains and 62% for those who went to trial

Cases, Strategies and Common Defenses

Cooperation

- In SEC cases, penalties may be avoided or reduced for cooperators
 - But cooperators are still required to disgorge ill-gotten gains or avoided losses
 - Cooperators may not be able to avoid fraud injunctions, reputational consequences and harm to business

Best Practices for Compliance Awareness and Training

- Awareness and Training
 - Regular circulation of general policy statement that emphasizes
 - *Confidential nature of internal investment activity*
 - *Difficulty if defining in general terms what is and is not confidential (and need to consult with appropriate persons)*
 - *Importance of limiting confidential information and MNPI to “need to know” group*
 - Maintain adequate training and education programs
 - Require and maintain signed employee attestations of knowledge and compliance

—

Best Practices for Compliance Control Receipt of MNPI

- Control receipt of MNPI of third-parties
 - Require written confidentiality agreements
 - Use disclaimers to prevent tacit or implied confidentiality agreements
 - *Routinely and frequently inform potential sources that information should not be provided except under specified circumstances*
 - *Obtain written acknowledgement*
 - Direct communications about possible investment opportunities to person walled off from trading decisions
 - Adopt relationship policy

Best Practices for Compliance

Controlling MNPI – Expert Networks

- Pre-clearance procedures for consultant agreements
 - Certifications describing their confidentiality restrictions and undertaking not to provide MNPI
 - Obtain network's policies and procedures
 - Require that network agree in writing to perform diligence on consultants, prohibit disclosure of confidential information of MNPI and require consultant certifications of compliance
- Require more than one person sit in on communications with consultants
- Monitor for excessive compensation/over-dependence

Best Practices for Compliance

Information Barriers

- Should be formal, organized and incorporated in policies and procedures
- Restrict access to “need to know” by establishing defined teams of those whose access to specific categories of MNPI is necessary
 - Require prior approval with clearly defined limits for communications with persons outside need to know group
- Consider physical segregation of persons with access to MNPI and implementation of technology barriers
- Designate control group to monitor flow of information and facilitate wall crossing

Best Practices for Compliance 10b5-1 Plans

- Pre-approval process for insider's entry into 10b5-1 trading plans
- Establish guidelines and pre-approval process for modification, amendment or cancellation/suspension of existing plans
 - Consider minimum duration period for trading plans, subject to limited exceptions for exigent circumstances
- Institute a waiting period from date of adoption or modification of plan
- Consider limitations such as restricting use of plans only during company-adopted trading windows, or prohibiting executives from having multiple or overlapping plans

welcome



The Fine Line of Insider Trading: Recommendations for Supervision and Compliance

Michael Mayhew

Wednesday, July 10, 2013

Please note that any advice contained in this communication is not intended or written to be used, and should not be used, as legal advice.

Sources of Insider Trading Risk with 3rd Party Research

- Research Process of the Provider
 - What type of research does the provider do? Some types of research have an inherently higher insider trading risk than others (e.g. Expert Networks, Channel Check providers, Industry Consultants, Political Intelligence firms, etc.).
 - Critical to note that many firms provide a wide range services. For example, many investment banks that produce fundamental research also provide access to experts, conduct channel checks, and arrangement for meetings with political insiders.
 - Most importantly, what type of sources are used to inform their research (e.g. company employees, consultants, doctors involved in clinical trials, government employees, etc.).

Sources of Insider Trading Risk with 3rd Party Research (cont.)

- Compliance Controls of the Provider
 - All 3rd party research firms (whether regulated or unregulated) should have established compliance controls in place to mitigate any of the risk associated with their research process.
 - A few of these controls should be standard, including compliance management, written compliance policies and procedures, compliance training for all employees, insider trading policies, etc.
 - Most of these controls should be specific to their research process risk. Expert Networks should have different controls than channel check providers, fundamental research firms, or political intelligence firms.

Best Practices to Address Risks of Using 3rd Party Research

- Over the past 18 months, Integrity Research has spoken with GCs or CCOs of more than 60 US asset managers. The following “best practices” are being used when it comes to mitigating the risk of using third party research firms.
 - **Legal Controls**
 - *Signed Agreements with all research providers prohibiting the provision of MNPI;*
 - *Require research firms to execute agreements with all their sources indicating they will not breach confidentiality obligations and will not disseminate MNPI;*
 - *If signing these agreements is not practical, then require that the research firm regularly inform sources that MNPI or confidential information should not be provided;*
 - *Require that all consultants have written certifications from their employer that they may consult with your firm.*

Best Practices to Address Risks of Using 3rd Party Research

– Research Provider Due Diligence

- *Most asset managers are conducting some form of compliance related due diligence on the 3rd party research firms they use. The best firms are conducting this diligence on ALL their firms, not just expert networks.*
- *This includes requiring all firms they use to fill out Due Diligence Questionnaires to better understand a firm's research process risk and the strength of their compliance oversight.*
- *Additional aspects to this due diligence process include document requests / reviews and follow up calls / meetings. Some firms focus their follow ups on their high risk providers, while a few asset managers follow up with ALL of their providers.*
- *The most progressive firms regularly monitor corporate actions and regulatory developments involving their external research providers to determine whether they should reevaluate them.*

Best Practices to Address Risks of Using 3rd Party Research

– Research Provider Due Diligence (cont.)

- *This due diligence process is conducted on an ongoing periodic basis. Some firms withhold payments if RPs refuse to undergo due diligence process.*
- *Some asset managers are employing software systems to automate the management of their due diligence process.*

Best Practices to Address Risks of Using 3rd Party Research

– Implementing Due Diligence Findings

- *The next step for many asset managers is to take action based on the information collected during their due diligence process. They realize that having a due diligence process is meaningless if no actions result from it.*
- *After conducting due diligence, the most progressive asset managers evaluate their external research providers based on four key factors: 1) the value of the research provider to the firm, 2) the risk of the provider's research process, 3) the compliance policies of the research firm, and 4) the compliance practices and culture of the research provider.*
- *In some cases this risk assessment has led the asset manager to either require additional contractual protections or new compliance controls. In other cases, asset managers have discontinued their use of some research firms or specific services offered by the firm, such as access to third-party experts, that look to be too risky.*

Integrity's Findings

- Over the past two years, Integrity Research has conducted compliance audits on close to 70 regulated and unregulated research firms of all types used by asset managers. From these audits we have learned the following:
 - A very small percentage of research providers had what we would deem to be adequate research compliance controls after we completed our initial audit.
 - The majority of research firms are willing to enhance their compliance programs if asked to by their clients. Unfortunately, most are unaware of what they need to do.

Integrity's Findings (cont.)

- Some of the major areas of deficiency that we have found in auditing unregulated research providers include:
 - *No clearly designated or consistently active compliance officer;*
 - *No regular compliance training;*
 - *Insufficient escalation procedures for confidential or material information;*
 - *No escalation log;*
 - *Sources not consistently or expressly warned that MNPI or confidential info is not desired;*
 - *Inadequate information barriers between consulting practices or lobbying activities and related research offerings.*

Integrity's Findings (cont.)

- Some of the deficiency areas we have found in auditing regulated research providers include:
 - *Inadequate supervision of channel checks and surveys conducted by research analysts;*
 - *Poor controls on use of external experts including expert networks;*
 - *Insufficient training on inside information obtained from third-party sources;*
 - *Lack of escalation practices involving material, confidential, or non-public information received from third-party sources;*
 - *Significant issues involving research dissemination (ability of some salespeople to gain access and disseminate ratings changes prior to public release).*

Anyone interested in receiving a copy of a FREE article originally published in the *HedgeFund Law Report* written by the team at Integrity Research called “**Best Practices for Due Diligence by Hedge Fund Managers on Research Providers**” please contact me at Michael.Mayhew@integrity-research.com.

This material is provided as a general informational service to clients and friends of Morgan, Lewis & Bockius LLP. It does not constitute, and should not be construed as, legal advice on any specific matter, nor does it create an attorney-client relationship. You should not act or refrain from acting on the basis of this information. This material may be considered Attorney Advertising in some states. Any prior results discussed in the material do not guarantee similar outcomes. Links provided from outside sources are subject to expiration or change.

© 2013 Morgan, Lewis & Bockius LLP. All Rights Reserved.