KOBRE & KIM | DISPUTES AND INVESTIGATIONS

SEPTEMBER 16, 2026

Navigating Growing U.S. Enforcement Risks for China-Linked Trading

Recent U.S. scrutiny of trading activity involving U.S.-listed Chinese securities highlights the growing willingness of regulators and private litigants to pursue allegations involving market-moving information originating in China. As U.S. authorities expand cross-border enforcement efforts, Chinese companies, investors and financial institutions may wish to assess controls, exposure, prepare for parallel proceedings, and respond strategically to challenges.

Recent reports that the U.S. Department of Justice (DOJ), the Securities and Exchange Commission (SEC), and the Commodity Futures Trading Commission (CFTC) are examining alleged insider trading connected to trading activity in U.S.-listed Chinese securities highlight a broader trend: U.S. authorities are increasingly willing to investigate conduct involving Chinese companies, investors and information sources when the activity affects U.S. markets.

The scrutiny extends beyond traditional corporate insider trading cases. Authorities are increasingly focused on instances where market-moving information—whether arising from regulatory actions, enforcement decisions, licensing developments or other non-public events in China—allegedly reaches traders before becoming public. At the same time, private litigants are increasingly seeking account freezes, subpoenas and disclosure orders to identify traders and recover losses, creating exposure that can extend well beyond government investigations.

As the DOJ, SEC and CFTC devote greater resources to cross-border trading surveillance and enforcement, Chinese companies, investors, financial institutions and market intermediaries may wish to consider whether they are prepared to respond to parallel regulatory, civil and reputational challenges.

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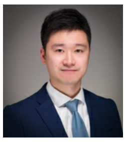

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- **Assess information-access risks.** Companies should identify individuals with access to market-moving regulatory, licensing, enforcement or commercial information that could potentially be price-sensitive. As U.S. authorities increasingly scrutinize trading activity ahead of significant announcements, stakeholders may wish to evaluate whether existing controls are sufficient to demonstrate how sensitive information is handled, shared and protected.
- **Evaluate cross-border trading exposure.** Investors and firms trading U.S.-listed securities should understand that activity occurring entirely outside the U.S. , including in Hong Kong and Chinese Mainland, may nevertheless attract scrutiny when U.S. securities markets are implicated. Information originating abroad, combined with trading in U.S.-listed stocks, ADRs, options or other financial instruments, can create investigative risks that extend well beyond the jurisdiction where the underlying information arose.
- **Prepare for parallel proceedings.** Alleged misuse of market-moving information can trigger scrutiny from multiple authorities with overlapping interests, as well as brokerages, counterparties and private litigants. Depending on the nature of the trading activity and instruments involved, stakeholders may face inquiries from criminal prosecutors, securities regulators, derivatives regulators and foreign authorities simultaneously. For Hong Kong-based financial institutions and licensed market participants, the same allegations may also attract attention from the Hong Kong Securities and Futures Commission (SFC), creating exposure across multiple jurisdictions.
- **Anticipate aggressive information-gathering efforts.** Regulators and private litigants are increasingly leveraging trading surveillance tools, brokerage records, subpoenas and account-freeze applications to identify individuals behind suspicious trading activity. Stakeholders should be prepared for efforts to obtain account information, communications records and other evidence through multiple channels and across multiple jurisdictions.
- **Respond strategically at the first sign of scrutiny.** Insider trading allegations can quickly evolve into broader regulatory, civil, reputational and even criminal challenges. Early coordination of legal, communications and stakeholder-management strategies may help organizations and individuals manage competing pressures before investigative narratives become entrenched. Planning for potential media inquiries, including from major international financial publications, can also reduce the risk of reputational harm during sensitive investigations.

For Chinese companies, investors and financial institutions operating across borders, recent developments underscore the increasingly international nature of market misconduct investigations. As regulators, law enforcement agencies and private parties devote greater resources to identifying and pursuing suspicious trading activity, stakeholders may benefit from proactively assessing potential exposure and preparing for regulatory, civil and reputational challenges before they arise.