

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 102001 / December 19, 2024

ADMINISTRATIVE PROCEEDING
File No. 3-22372

In the Matter of

**SNOW LAKE CAPITAL
(HK) LIMITED,**

Respondent.

**ORDER INSTITUTING CEASE-
AND-DESIST PROCEEDINGS
PURSUANT TO SECTION 21C OF
THE SECURITIES EXCHANGE
ACT OF 1934, MAKING
FINDINGS, AND IMPOSING A
CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”), against Snow Lake Capital (HK) Limited (“Snow Lake” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent has submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent’s Offer, the Commission finds¹ that:

¹ The findings herein are made pursuant to Respondent’s Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

Summary

1. These proceedings concern five violations of Rule 105 of Regulation M [17 C.F.R. § 242.105] (“Rule 105”) under the Exchange Act by Snow Lake, an investment adviser based in Hong Kong SAR China. Between December 2020 and April 2021, Snow Lake purchased, on behalf of its advisory clients’ accounts, American Depositary Shares (“ADSs”) in five offerings by public companies, after effecting short sales in the ADSs of the same issuers on behalf of one or more of its advisory client accounts during the applicable Rule 105 restricted periods, without meeting the conditions of an exception. As a result of Snow Lake’s conduct, its advisory clients received approximately \$14 million in ill-gotten gains, and Snow Lake received \$1,693,582 in performance fees.

2. Rule 105 makes it unlawful for any person to purchase equity securities from an underwriter, broker, or dealer participating in a covered public offering if that person sold short the security that is the subject of the offering during the restricted period as defined in Rule 105, absent meeting the conditions of an exception. 17 C.F.R. § 242.105; *see Short Selling in Connection with a Public Offering*, Rel. No. 34-56206, 72 Fed. Reg. 45094 (Aug. 10, 2007) (effective Oct. 9, 2007). The Rule 105 restricted period is the shorter of the period: (1) beginning five business days before the pricing of the offered securities and ending with such pricing; or (2) beginning with the initial filing of a registration statement or notification on Form 1-A or Form 1-E and ending with the pricing. 17 C.F.R. §§ 242.105(a)(1) and (a)(2).

3. The Commission adopted Rule 105 “to foster secondary and follow-on offering prices that are determined by independent market dynamics and not by potentially manipulative activity.” 72 Fed. Reg. 45094. Rule 105 is prophylactic and prohibits the conduct irrespective of the short seller’s intent. *Id.*

Respondent

4. Snow Lake, a limited liability company organized under the laws of Hong Kong SAR China, had its principal place of business in Hong Kong SAR China and reported to the Commission as an exempt reporting adviser at the time of its violations. Snow Lake is currently in the process of winding down and filed its final Form ADV with the Commission in March 2023. Snow Lake’s advisory clients included private funds and separately managed accounts.

Facts

5. On December 7, 2020, during the Rule 105 restricted period, Snow Lake sold short, on behalf of three of its advisory clients, 700,000 ADSs of Xpeng Inc. (“XPEV”) at an average price of \$48.2631 per ADS. Prior to the open of the market on December 9, 2020, a follow-on offering of XPEV was priced at \$45 per ADS. Snow Lake purchased a combined total of 2,000,000 ADSs in the offering on behalf of the three advisory clients. The follow-on offering was priced at a discount from the prior day’s closing price and thus below the prevailing market price on the day of the purchase. The difference between the advisory clients’ proceeds from the restricted period short sales of XPEV ADSs and the amount Snow Lake paid for the equivalent number of ADSs purchased on their behalf in the offering was \$2,284,170. Snow Lake’s advisory clients obtained an additional improper benefit of \$1,312,610 as a result of Snow Lake

purchasing, on their behalf, the remaining 1,300,000 ADSs received in the offering at a discount from XPEV's market price. Snow Lake's advisory clients received total ill-gotten gains of \$3,596,780 as a result of Snow Lake's participation in the XPEV offering.

6. On December 11, 2020, during the Rule 105 restricted period, Snow Lake sold short, on behalf of one of its advisory clients, 1,000,000 ADSs of Nio Inc. ("NIO") at an average price of \$42.2056 per ADS. Prior to the open of the market on December 14, 2020, a follow-on offering of NIO was priced at \$39 per ADS. Snow Lake purchased a combined total of 3,000,000 ADSs in the offering on behalf of the same advisory client. The follow-on offering was priced at a discount from the prior day's closing price and thus below the prevailing market price on the day of the purchase. The difference between the advisory client's proceeds from the restricted period short sales of NIO ADSs and the amount Snow Lake paid for the equivalent number of ADSs purchased on its behalf in the offering was \$3,205,600. Snow Lake's advisory client received an additional improper benefit of \$2,948,800 as a result of Snow Lake purchasing, on its behalf, the remaining 2,000,000 ADSs received in the offering at a discount from NIO's market price. Snow Lake's advisory client received total ill-gotten gains of \$6,154,400 as a result of Snow Lake's participation in the NIO offering.

7. On December 16, 2020, during the Rule 105 restricted period, Snow Lake sold short, on behalf of one of its advisory clients, 2,000,000 ADSs of iQIYI Inc. ("IQ") at an average price of \$18.7235 per ADS. Prior to the open of the market the next day, a follow-on offering of IQ was priced at \$17.50 per ADS. Snow Lake purchased a combined total of 4,500,000 shares in the offering on behalf of three advisory clients. The follow-on offering was priced at a discount from the prior day's closing price and thus below the prevailing market price on the day of the purchase. The difference between the advisory client's proceeds from the restricted period short sales of IQ ADSs and the amount Snow Lake paid for the equivalent number of shares purchased on its behalf in the offering was \$2,447,000. Snow Lake's other two advisory clients received an additional improper benefit of \$340,750 as a result of Snow Lake purchasing, on their behalf, the remaining 2,500,000 ADSs received in the offering at a discount from IQ's market price. Snow Lake's advisory clients received total ill-gotten gains of \$2,787,750 as a result of Snow Lake's participation in the IQ offering.

8. On February 10, 2021, during the Rule 105 restricted period, Snow Lake sold short, on behalf of one of its advisory clients, 304,767 ADSs of YouDao Inc. ("DAO") at an average price of \$35.3675 per ADS. Prior to the open of the market the next day, a follow-on offering of DAO was priced at \$34 per ADS. Snow Lake purchased 600,000 ADSs in the offering on behalf of the same advisory client. The difference between the advisory client's proceeds from the restricted period short sales of DAO ADSs and the amount Snow Lake paid for the equivalent number of ADSs purchased on its behalf in the offering was \$416,768.87. Because the offering price was greater than the market price on the day of the offering, Snow Lake's advisory client did not profit as a result of Snow Lake purchasing, on its behalf, the remaining 295,233 ADSs received in the offering. Snow Lake's advisory client received total ill-gotten gains of \$416,768.87 as a result of Snow Lake's participation in the DAO offering.

9. On April 20, 2021, during the Rule 105 restricted period, Snow Lake sold short, on behalf of one advisory client, 100,000 ADSs of Futu Holdings Ltd. ("FUTU") at an average price of \$140.2746 per ADS. Prior to the open of the market the next day, a follow-on offering of

FUTU was priced at \$130 per ADS. Snow Lake purchased 150,000 ADSs in the offering on behalf of the same advisory client. The follow-on offering was priced at a discount from the prior day's closing price and thus below the prevailing market price on the day of the purchase. The difference between the advisory client's proceeds from the restricted period short sales of FUTU ADSs and the amount Snow Lake paid for the equivalent number of ADSs purchased on its behalf in the offering was \$1,027,460. Snow Lake's advisory client received an additional benefit of \$113,065 as a result of Snow Lake purchasing, on its behalf, the remaining 50,000 ADSs received in the offering at a discount from FUTU's market price. Snow Lake's advisory client received total ill-gotten gains of \$1,140,525 as a result of Snow Lake's participation in the FUTU offering.

10. In total, Snow Lake's violations of Rule 105 resulted in ill-gotten gains to its advisory clients of \$14,096,223.87. Snow Lake's advisory clients who received these gains were a single entity with two separately managed accounts, and two private funds. Snow Lake distributed the gains from the violative trades to the entity, with whom it no longer has an advisory relationship, and the two private funds. One of the funds has completely wound down, and both funds have distributed all of their liquid assets, including gains from the violative trades, to investors. The owner of Snow Lake was an investor in the two private funds and received approximately \$150,000 in ill-gotten gains from the violative trades in that role. He has returned these profits to Snow Lake. Snow Lake is no longer in possession of the ill-gotten gains from the violative trading, except for the \$150,000 returned to it by its owner.

11. Snow Lake's agreements with its advisory clients provided that, at the end of each year, if the clients' investments had gained value, Snow Lake would receive a percentage of the gain in value as a performance fee. In 2020, as a result of the violative trading, Snow Lake received \$1,693,582 in performance fees. In 2021, Snow Lake did not receive performance fees.

Violations

12. As a result of the conduct described above, Snow Lake violated Rule 105 of Regulation M under the Exchange Act.

Disgorgement and Civil Penalties

13. The disgorgement and prejudgment interest ordered in Section IV.B is consistent with equitable principles, does not exceed Respondent's net profits from its violations, and returning the money to Respondent would be inconsistent with equitable principles. Therefore, in these circumstances, distributing disgorged funds to the U.S. Treasury is the most equitable alternative. The disgorgement and prejudgment interest ordered in Section IV.B shall be transferred to the general fund of the U.S. Treasury, subject to Section 21F(g)(3) of the Exchange Act.

Snow Lake's Cooperation

14. In determining to accept the Offer, the Commission considered the cooperation afforded by Snow Lake to the Commission staff. After the Commission staff began its investigation, Snow Lake self-reported three of the five violative sets of trades described above.

IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in Respondent Snow Lake's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 21C of the Exchange Act, Respondent Snow Lake cease and desist from committing or causing any violations and any future violations of Rule 105 of Regulation M under the Exchange Act.

B. Respondent shall pay disgorgement of \$1,843,582, prejudgment interest of \$391,858, and a civil money penalty of \$525,000, to the Securities and Exchange Commission. Payment shall be made in the following installments: \$1,380,220 shall be paid within 15 days of the date of this Order; three payments of \$345,055 each shall be made within 90, 180, and 270 days of the date of this Order; and the final payment of the remainder of the money owed shall be made within 360 days of the date of this Order. Payments shall be applied first to post order interest, which accrues pursuant to SEC Rule of Practice 600 and/or pursuant to 31 U.S.C. § 3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Snow Lake Capital (HK) Limited as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Jason H. Lee, Associate Regional Director, Division of Enforcement, Securities and Exchange

Commission, 44 Montgomery St., Ste 700, San Francisco, CA 94104.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondent agrees that in any Related Investor Action, it shall not argue that it is entitled to, nor shall it benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondent's payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondent agrees that it shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor Action" means a private damages action brought against Respondent by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

D. Respondent acknowledges that the Commission is not imposing a civil penalty in excess of \$525,000 based upon its cooperation in a Commission investigation and related enforcement action. If at any time following the entry of the Order, the Division of Enforcement ("Division") obtains information indicating that Respondent knowingly provided materially false or misleading information or materials to the Commission, or in a related proceeding, the Division may, at its sole discretion and with prior notice to the Respondent, petition the Commission to reopen this matter and seek an order directing that the Respondent pay an additional civil penalty. Respondent may contest by way of defense in any resulting administrative proceeding whether it knowingly provided materially false or misleading information, but may not: (1) contest the findings in the Order; or (2) assert any defense to liability or remedy, including, but not limited to, any statute of limitations defense.

By the Commission.

Vanessa A. Countryman
Secretary