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Never-ending game of hide and seek

The prospect of making big money fast means there will always be people out to manipulate markets. And they are always trying new tactics to escape the notice of the authorities

BEATING market manipulators is never an easy task – the Securities Commission (SC) and Bursa Malaysia (Bursa) will tell you that.

But while cracking down on market manipulation on the local bourse by the authorities has been relatively successful, the problem can never be completely stamped out. With millions of ringgit to be made, new market manipulators are likely to hatch ever more complex plans using the social media and foreign accomplices. In short, it is a cat-and-mouse game between the manipulators and the authorities.

The experts say comprehensive market surveillance by the SC and Bursa, coupled with their demonstrated zeal to pursue and charge suspects in criminal and civil courts even if it takes years, have done wonders to discourage market manipulation on the local bourse. However, as is the case worldwide, greed and the prospect of making big money fast means there will always be people attempting to manipulate markets.

One relatively new tactic was when manipulators in early January this year managed to get hold of investors' contact details. According to an industry source, unknown parties had managed to obtain confidential Central Depository System (CDS) account information and the personal contact details of many investors.

These investors subsequently received repeated calls from people offering "hot" stock tips and assurances of profits. Bursa found out about the incident only several weeks later, says the source, when it was informed by remisers and investors that unknown parties had been calling them up complete with their personal information and shareholdings. According to SC chairman Datuk Ranjit Ajit Singh, the capital markets regulator requested Bursa to launch an immediate investigation, but the outcome was that "Bursa informed SC that there is no credible evidence".

By definition, market manipulation refers to any activity that deliberately



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By RAJESH PAL SINGH

PHOTOS BY SHARIL AHMAD, ABDUL RAHIM & DD HOE

interferes with the free and fair operation of the market to create a misleading appearance as to the price and trading volume of a stock, commodity or currency. While Malaysians are more familiar with manipulation attempts to drive up the price of a targeted stock, the reverse can also apply, in that some manipulators may intend to drive down the stock's price so that they can later accumulate the shares at a cheaper price.

Market manipulation in Malaysia tends to focus almost exclusively on shares and warrants with the targeted victims being retail investors, notes Datuk Dr PHS Lim, president of the Malaysian Investors Association. This is because retail investors frequently trade in rumours and luck, and thus are much easier to manipulate, while institutional investors rely on detailed analyses and would do all they can to steer clear of a suspected manipulated stock.

Manipulation in non-equity markets

Manipulation can also occur in non-equity markets, such as in bonds, commodities and forex. While such cases do occur in developed countries, the nature of non-equity markets in Malaysia and the institutional or professional nature of the investors in these markets make it improbable for such manipulation to take place in Malaysia.

"The minimum trade size in the bond market is RM5 mil and the traders are professionals attached to banks and institutions. While it is theoretically possible to conduct manipulation of bonds, it would require a syndicate of these traders and a massive amount of capital to get it started, and even then the regulators will spot it almost immediately," opines Mohd Shaharul Zain, chief business officer at Bond Pricing Agency Malaysia Sdn Bhd.

Fred Tam, a well-known financial author and technical analysis expert and



trainer, whose current focus is on gold, silver and forex trading, agrees that market manipulation on non-equity markets frequently does take place in developed countries, but very rarely in Malaysia.

He notes that only brokers registered with Bursa Malaysia Derivatives Exchange are officially allowed to deal in gold and silver, and that any potential manipulator would literally need billions of US dollars in capital to even think of manipulation. "Malaysian manipulators do not have the clout or firepower (to influence commodity and forex markets). Even if they do have the clout, the SC's tight rein would deter any manipulation attempt," says Tam, who has six finance-and-investment books to his name.

One of Tam's books, entitled *Profitability of Market Analysis: A challenge to Market Efficiency*, published in 2006, has a chapter examining in detail the prevalence and practice of market manipulation on Bursa. Tam stresses that technical analysis provides an avenue for investors to evaluate whether a stock is being manipulated or not, and it can also provide an indication of when the manipulated stock will reverse its fortunes.

The methods used by manipulators have remained largely consistent over the decades – they include the use of insider information, the spread of false news to influence other investors and the churning of trading volumes – but with tactics modified to suit the circumstances of the day and also the ability of regulators to detect such practices.

"I think Bursa's monitoring system is quite good and I believe it can spot most of the manipulation in the market," says Alex Lu, a remiser with Kenanga Investment Bank and host of Nextrade, a well-followed blog on stock investing. Other people who spoke to **FocusM** for this story had the same opinion.

Ranjit says the SC expends much

effort on enforcement activities so as to nab market manipulators, but that its primary strategy and focus is to closely supervise the activities and systems of market intermediaries, so that it can identify and close off any potential loopholes that may facilitate market manipulation attempts.

He tells **FocusM** the SC's goal to get hold of a comprehensive and vibrant capital markets industry in Malaysia – including a plan to introduce "Asean-level" asset classes and products – as well as its efforts to position the country as an international investment and capital-raising destination, may also open new opportunities for market manipulators.

"That's why the SC has to always be very vigilant," stresses Ranjit, who was appointed SC chairman in April 2012.

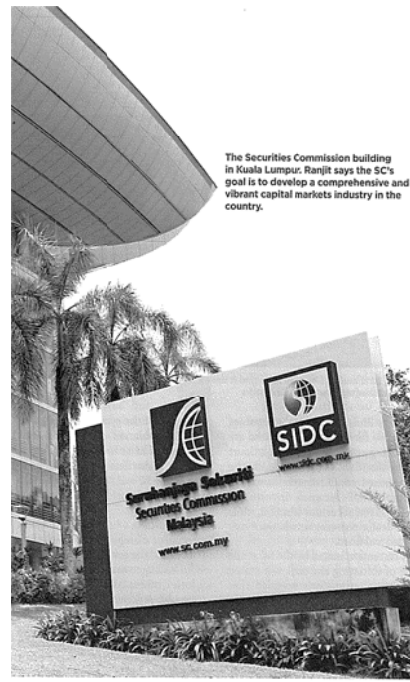
Besides the SC, Bursa Malaysia too is involved in regulating the market as a frontline regulator. It can impose fines, issue suspensions and query brokers and remisers on unusual market action.

Its chief executive Datuk Tajuddin Atan, who assumed office on April 1, 2011, is an ex-banker from RHB Group and CIMB. He is a non-nonsense regulator and his experience as a banker means he understands the market all too well. "We believe we have maintained the right balance through the approaches that we have taken in regulating the market," he has been quoted as saying.

Manipulators' new tactics

In the high-stakes cat-and-mouse game against regulators, potential manipulators are likely to have studied the mistakes that led to their counterparts being busted by the SC and Bursa in a bid to understand the regulators' systems and their functioning, and also by using new tactics not familiar to the regulators.

"Nowadays, even the conman has to upgrade his skills and he has become a



The Securities Commission building in Kuala Lumpur. Ranjit says the SC's goal is to develop a comprehensive and vibrant capital markets industry in the country.

lot smarter," notes experienced investor Chong Kong Hui, who operates a personal finance blog at askchong.com.

As a matter of interest, there are numerous blogs operated by Malaysian investors where the issue of market manipulation on Bursa is widely discussed. Investors seeking more information on the topic would do well to check out some of these no-holds-barred blogs.

The new manipulation tactics likely to make their presence felt in Malaysia include getting accomplices to set up multiple Twitter, Facebook and blog accounts to first highlight their stock market knowledge and gain a following. Once they have established some level of trust with their readers, these accomplices begin to disseminate misinformation on the targeted stock.

Another new tactic, after having been successfully used in recent years in the US and believed to have been tried earlier this year in Malaysia with the suspected breach of CDS data, is

to get hold of the contact details of investors and then use telemarketers to aggressively promote the targeted stock to them.

While these tactics are being applied, the manipulators begin to slowly and steadily accumulate or dispose of the targeted stock, depending on what they intend to achieve. The keywords are "slowly and steadily" as a rapid increase in price and volume would trigger off a red flag in Bursa's market surveillance system, which will soon be followed by an unusual market activity (UMA) query to the company whose shares are suspected of being manipulated. When this occurs, the wider investing public becomes aware that something not kosher is taking place with the company's shares.

However, as several experts pointed out to **FocusM**, knowing that the company has been issued with an UMA might actually tempt more retail investors to take a gamble on the shares, in

the hope they get the timing right and make some money before the shares crash.

"Manipulators always tap into the human psychology – greed and fear. Instead of running away, many investors will be greedy for more or fear that they will lose a chance to make money, and this leads them to venture into the stock even when they know it is being manipulated," notes Chong.

The aim of manipulators is to encourage as many investors as possible to start trading the stock in order to boost trading volume. At the end of the day, it becomes harder for the regulators to prove that market manipulation is taking place when hundreds or thousands of investors are at the forefront trading the stock.

"There lies the problem for the enforcement agency and the investing public – how to tell the difference between a manipulation or a genuine rally when there may be thousands of people actively trading the stock," opines Lu.

To be sure, many categories of market manipulators are present in Malaysia, ranging from company employees trading on insider information for their own benefit, to company shareholders spreading false news like securing a big project or an imminent tie-up with foreign parties, to dealer representatives and remisers misusing client accounts to trade in stocks, to full-blown coordinated syndicates that utilise foreign proxies and offshore bank accounts to complicate the paper and money trail (see list of top manipulation tactics below).

The experts believe that SC's and Bursa's well-developed market surveillance system and their continuous efforts to improve their capabilities, imply that it will be much harder for lower-level manipulators to trick the market and get away with it. Nonetheless, human nature being what it is and greed a powerful motivator, there will always be some "small-timers" who will try.

International syndicates

Of bigger concern are the big syndicates, as they have the resources to co-opt local and foreign accomplices as well as having better knowledge on how to implement their plans without being undetected or to escape prosecution. Some of the people who spoke to **FocusM** also might actually tempt more retail investors to take a gamble on the shares, in

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Common terms used to describe manipulation

Wash trades and Churning	Wash trade refers to repeatedly selling and buying a company's securities for the purpose of generating trading volume and price increase. Churning occurs when a person places both buy and sell orders at about the same price.
Deer raid	Attempting to push the price of a stock down by heavy selling or short selling.
Action-based manipulation	Company A hires company B to undertake certain projects. Company A then short-sells shares of company B and subsequently cancels the contract with company B, causing the share price of company B to drop.
Pairing the tape	An analyst or broker issues a false report for immediate publication to give an impression of activity or active trading in a stock.
Marking the close	A remiser or dealer places orders at the close of trading day at a price higher than prior trades. Simultaneously, orders at prices which are higher than the previous bid or lower than the previous offer are entered, and withdrawn before they could be executed, in order to give a misleading impression that there was demand for or supply of the shares at that price.
Front running	A remiser or dealer handling accounts of several big institutional or retail clients gets an order for a big transaction. He then executes trades for his individual clients or accounts of friends before executing the trades of the big clients.
Scalping	The person trading is also responsible for issuing buy or sell recommendations. He will purchase a stock before recommending it to others, and then will unload the stock at a profit when other investors come in based on his recommendation.
Spoofting	A person submits a large order that raises the bid price of a stock and/or greatly increases the quoted size at or around the current best bid price. The large order causes other market participants to match or better the price of the order. The person then cancels the large order and enters (virtually at the same time) a sell order that matches the buy order of other investors at a higher price. By temporarily manipulating the bid price upward, and causing other bids and trading interest at that level, the person receives a better price for his shares.
Pump and dump	A person takes a long position in a stock and disseminates misleading information about company to inflate its share price. He then disposes of his shares at the higher price.
Trash and cash	A person takes a short position in a stock and disseminates misleading negative information about the company to depress its share price. He then buys the shares at the lower price.

Source: Bursa Malaysia and HK Stock Exchange websites

Dirty dozen tactics used by manipulators

MARKET crooks will stop at nothing to make a quick buck at the expense of gullible investors. Over the years they have become quite creative in their modus operandi. We present a dozen of their dirty tactics.

1. A new tactic, especially in the US, is to get hold of the contact details of investors and then use telemarketers to aggressively promote the targeted stock to them.
2. Submission of "overly optimistic" financial statements prior to listing and post-listing, giving the illusion that the company has much better prospects than it actually does.

Announcing that a foreign party is buying a stake in the company and will open up new markets for the company, and the share price increases in anticipation, but later the foreign company sells its stake in the open market.

3. Using multiple CDS accounts under multiple names and nominees. The manipulation is done over a period of time, so the price increase is gradual with the price even falling on some days to give the illusion the stock is market-driven. It may not be flagged by Bursa's system.

4. Using foreign funds and foreign nominees and offshore bank accounts. Make it much harder for the Securities Commission (SC) and Bursa to follow the paper and money trails.
5. Using online media and social networking and blogs to strongly promote a stock. The company can deny any involvement.
6. Company leaks plans for share buybacks or higher dividends, etc, and investors buy into the company in anticipation, but later the plans don't materialise. The company can deny any knowledge.
7. Companies misuse employee

8. share grants or options to give large amounts of shares to preferred employees and directors, diluting the stake of minorities. They are then able to influence the share price.
9. Broking firms can use their day traders to manipulate the price of a stock.
10. Faking corporate deals with third parties in the hope that the market will react to the news, pushing up the price.
11. Controlling shareholders work with syndicates to push up the price of an IPO on the first day of trading.
12. Controlling shareholder of listed company tells

13. staff and associates to buy shares and "guarantees" the downside price, meaning he will compensate for any shortfall should the price fall. The sudden purchase by staff pushes up the price and the controlling shareholder unloads his shares. The money he makes can easily be used to compensate the staff for any shortfall.
14. Controlling shareholders appoint well-connected personalities as directors hoping to move up the share price. Rumours that huge contracts should be forthcoming.

Securities Commission (SC) investigation, prosecution and civil enforcement activities in 2012

Ongoing criminal trials at the Sessions Court	15
Ongoing appeals at the High Court and Court of Appeal	17
Ongoing civil trials at the High Court	3
Number of witnesses called to give evidence during trials	114
Number of active investigation cases	61
Number of witnesses interviewed for investigation	315

Source: SC Annual Report 2012

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Securities Commission vs Bursa Malaysia Roles

Securities Commission

- I. A self-funding statutory body with investigative and enforcement powers.
- II. Under the jurisdiction of the Ministry of Finance with its accounts tabled in Parliament annually.
- III. Governed by the Securities Commission Act 1993.
- IV. SC's regulatory functions include:
 - a. Supervising exchanges, clearing houses and central depositories;
 - b. Registering authority for prospectuses of corporations other than unlisted recreational clubs;
 - c. Approving authority for corporate bond issues;
 - d. Regulating all matters relating to securities and futures contracts;
 - e. Regulating the take-over and mergers of companies
 - f. Regulating all matters relating to unit trust schemes;
 - g. Licensing and supervising all licensed persons;
 - h. Encouraging self-regulation; and
 - i. Ensuring proper conduct of market institutions and licensed persons.

Bursa Malaysia

- I. Bursa Malaysia is an exchange holding company which operates a fully-integrated exchange.
- II. A front-line regulator governing the local stock market with the objective of maintaining an efficient and secure trading market.
- III. It is answerable to the Securities Commission and accordingly is overseen by the Ministry of Finance.
- IV. Governed and approved under Section 15 of the Capital Markets and Services Act 2007.
- V. It operates a complete range of exchange-related services including trading, clearing, settlement and depository services.
- VI. The capital market – operated by Bursa Malaysia – is governed by the following:
 - a. Capital Markets and Services Act 2007
 - b. Securities Industry (Central Depositories Act) 1991
 - c. Securities Commission Act 1993
 - d. Companies Act 1965
 - e. Offshore Companies Act 1990
 - f. Labuan Financial Services and Securities Act 2010
- VII. Bursa Malaysia has the following Regulatory Committees in its organisation:
 - a. Listing Committee: To decide on all major enforcement action undertaken for or on listed entities.
 - b. Market Participants Committee: To decide on all matters related to registration of market participants.
 - c. Compensation Committee: To make a determination on all claims related matters.
 - d. Appeals Committee: Is responsible for hearing and deciding on appeals against first instance decisions of the Listing Committee, Market Participants Committee or Compensation Committee.

Compiled by Dinesh Immanuel

Modus operandi of big syndicates

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implied that these “big fish” have links with well-placed powerful individuals as an additional shield against the risk of prosecution. In any case, several big names have in recent years been charged and convicted.

The SC's latest annual report reveals that it took a wide range of enforcement actions in 2012 against suspected market manipulators. The SC filed a total of seven criminal charges for insider trading, while a company director was convicted on four charges of furnishing false information relating to the company's unaudited financial results. In addition, eight administrative sanctions were imposed against licensed intermediaries for misconduct and improper business practices, while an investment bank was reprimanded for failure to carry out proper due diligence in a corporate exercise.

In reply to a question on how these big syndicates operate, the experts referred *FocusM* to the case of Iris Corp Bhd, which is believed to have been a victim of manipulation in 2005. Starting in September 2005 to May 2006, the share price of Iris multiplied 17 times, from eight sen a share to a high of RM1.36 with an average of 200 million shares traded each day.

An exhaustive investigation by the SC and Bursa over the following two years subsequently fingered the syndicate members. They include two local businessmen, one of them Low Thiam Hock, widely and popularly known as “Repc Low” for his involvement in an earlier case of manipulation in Repco



The SC's 2012 annual report reveals that it took a wide range of enforcement actions against suspected market manipulators

Holdings Bhd, five foreign companies and three foreigners. All of them are now facing a civil suit in the High Court filed by the SC in 2008. Additionally, the SC imposed administrative sanctions against MIDF Amanah Investment Bank and PM Securities Sdn Bhd, while three dealer representatives were suspended and fined.

A statement issued by the SC at the time of initiating the civil suit stated that its investigations revealed that the manipulation attempt utilised a complex layering of the origination of trading orders routed through foreign intermediaries in several countries, and that the syndicate had also used numerous trading accounts. The SC was able to unravel the syndicate through a painstaking analysis of trading data from more than 100 trading accounts at 15 local and 16 foreign brokers, analysis of communication records including more than 200,000 email messages, and from statements recorded from local and foreign witnesses.

If the opinion of most people who spoke to *FocusM* is correct, the size and

complexity of the syndicate implicated in the manipulation of Iris shares are a harbinger of what to expect further in Malaysia. It also illustrates the difficulty faced by the SC and Bursa to investigate and prosecute such an international syndicate.

Paradoxically, while everyone agrees that market manipulation is damaging to Bursa and the companies affected, as well as leading to many investors suffering losses, others opined that some level of speculative activity may be beneficial to maintaining retail interest in the local bourse. It can help drive trading volumes and give retail investors a chance to make good profits even in a lacklustre market.

“SC and Bursa have done a good job (in minimising market manipulation), but maybe it's even too good a job in the sense that trading activity has become more subdued and there is less retail participation in the market. In the long run, however, what the regulators are doing is very good for the market,” opines the head of research at a major investment bank. *FocusM*