SEC Imposes Sanctions Against China-Based Members of Big Four Accounting Networks for Refusing to Produce Documents

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Washington D.C., Feb. 6, 2015 — The Securities and Exchange Commission today imposed sanctions against four China-based accounting firms that had refused to turn over documents related to investigations of potential fraud. The China-based firms are members of large international networks associated with the “Big Four” accounting firms and registered with the Public Company Accounting Oversight Board (PCAOB).

As part of the settlement, the Commission censures the firms, which eventually began providing the documents, and requires them to perform specific steps to satisfy SEC requests for similar materials over the next four years. Under the settlement, the firms each agreed to pay $500,000 and admit that they did not produce documents before the proceedings were instituted against them in 2012. They agreed to the settlement without admitting or denying other findings in the order.

“As we repeatedly have stated throughout this litigation, obtaining an audit firm’s workpapers is critical to enforcement staff’s ability adequately to protect investors from the dangers of accounting fraud,” said Andrew Ceresney, Director of the SEC’s Enforcement Division. “This settlement recognizes the SEC’s substantial recent progress in obtaining those documents from registered firms in China. The settlement also holds four of the firms accountable for previously violating U.S. rules, and makes clear that should production of documents cease, the SEC can restart the administrative proceeding.”

In January 2014, after a 12-day hearing the previous summer, an administrative law judge issued an initial decision finding that the four firms – Deloitte Touche Tohmatsu Certified Public Accountants Limited, Ernst & Young Hua Ming LLP, KPMG Huazhen (Special General Partnership), and PricewaterhouseCoopers Zhong Tian CPAs Limited Company – willfully refused to provide the SEC with workpapers and related documents in connection with their audit work for nine China-based companies that had securities registered in the U.S. The initial decision found that the firms willfully violated Section 106 of the Sarbanes-Oxley Act, which requires foreign public accounting firms to provide such workpapers to the SEC upon request.

After the hearing, the SEC received multiple productions of workpapers from the firms through assistance provided by the China Securities Regulatory Commission (CSRC). As these productions were being made, the four firms petitioned the Commission to review the January 2014 initial decision. The SEC’s Enforcement Division also sought review of aspects of that decision.

“The settlement is an important milestone in the SEC’s ability to obtain documents from China. Of course, we hope that it is an enduring milestone,” said Antonia Chion, Associate Director of the Enforcement Division. “The settlement provides a path forward for obtaining productions and enhanced future cooperation from the Big Four firms.”

Under the settlement, if future document productions fail to meet specified criteria, the Commission retains authority to impose a variety of additional remedial measures on the firms depending on the nature of the failure. Remedies for any future noncompliance could include, as appropriate, an
automatic six-month bar on a single firm’s performance of certain audit work, commencement of a new proceeding against a firm, or the resumption of the current proceeding against all four firms.

The proceeding continues against a fifth China-based accounting firm, Dahua CPA Ltd.

The Enforcement Division’s litigation has been led by David Mendel and assisted by Jan Folena, Amy Friedman, Marc E. Johnson, and Douglas Gordimer. The litigation has been supervised by Matthew Solomon, Antonia Chion, and Kara Brockmeyer.

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