

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No. 74217 / February 6, 2014**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No. 3627 / February 6, 2015**

**ADMINISTRATIVE PROCEEDING**  
**File Nos. 3-14872, 3-15116**

**In the Matter of**

**BDO China Dahua CPA Co., Ltd.;**  
**Deloitte Touche Tohmatsu Certified**  
**Public Accountants Ltd.;**  
**Ernst & Young Hua Ming LLP;**  
**KPMG Huazhen (Special General**  
**Partnership);**  
**PricewaterhouseCoopers Zhong Tian**  
**CPAs Limited**

**Respondents.**

**ORDER ON THE BASIS OF OFFERS**  
**OF SETTLEMENT OF CERTAIN**  
**RESPONDENTS IMPLEMENTING**  
**SETTLEMENT**

**I.**

The Securities and Exchange Commission (“SEC” or “Commission”) instituted public administrative proceedings pursuant to Rule 102(e)(1)(iii) of the Commission’s Rules of Practice against Deloitte Touche Tohmatsu Certified Public Accountants Ltd. (“DTTC”) on May 9, 2012.<sup>1</sup>

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<sup>1</sup> Rule 102(e)(1)(iii) provides, in pertinent part, that: “The Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person

The Commission also instituted public administrative proceedings pursuant to Rule 102(e)(1)(iii) against BDO China Dahua CPA Co., Ltd. (“Dahua”); DTTC; Ernst & Young Hua Ming LLP (“EYHM”); KPMG Huazhen (Special General Partnership) (“KPMG Huazhen”); and PricewaterhouseCoopers Zhong Tian CPAs Limited Company (“PwC Shanghai”) on December 3, 2012. The two proceedings were consolidated on December 20, 2012, pursuant to Commission Rule 201(a), and constitute the current proceeding (“Current Proceeding”). On May 9, 2014, we granted the respective petitions for review of four of the five respondents, DTTC, EYHM, KPMG Huazhen, and PwC Shanghai (collectively the “Settling Respondents”), and the Division of Enforcement (“Division”) of the initial decision of the Administrative Law Judge (“ALJ”) issued on January 22, 2014 (“Initial Decision”).<sup>2</sup>

## II.

The Settling Respondents have submitted Offers of Settlement (the “Offers”), which the Commission has determined to accept. The Settling Respondents admit only the facts set forth in Annex A attached hereto; and admit the Commission’s jurisdiction over them in, and over the subject matter of, the Current Proceeding, any proceeding to enforce or that seeks to challenge this Order, and any proceeding contemplated by Section III.J.3 or III.J.4 of this Order. In addition, without admitting or denying the findings herein the Settling Respondents consent to the entry of this Order on the Basis of Offers of Settlement of Certain Respondents Implementing Settlement (“Order”) containing the following findings, undertakings to make payments as part of the Offers, procedures and undertakings as to future requests and possible additional proceedings and remedies, as set forth below, and a stay of the Current Proceeding as to the Settling Respondents (defined herein).

## III.

On the basis of this Order and the Settling Respondents’ Offers, and the facts contained in Annex A, the Commission finds<sup>3</sup> that:

### A. SUMMARY

1. The Settling Respondents are foreign public accounting firms, as defined by Section 106 of the Sarbanes-Oxley Act of 2002 (“Sarbanes-Oxley” or “the Act”), 15 U.S.C. § 7216(b), all based in the People’s Republic of China (“China” or “PRC”). They registered with the Public Company Accounting Oversight Board (“PCAOB” or “Board”) in 2004. Each Settling Respondent performed audit work for one or more clients identified in these proceedings with the

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who is found . . . [t]o have willfully violated . . . any provision of the Federal securities laws or the rules and regulations thereunder.” 17 C.F.R. § 201.102(e)(1)(iii).

<sup>2</sup> The remaining respondent, Dahua, did not file a petition for review.

<sup>3</sup> The findings herein are made pursuant to the Settling Respondents’ Offers and are not binding on any other person or entity in this or any other proceeding.

letter designations DTTC Client A and Client B through I. The Division opened accounting fraud investigations related to each of these nine clients.

2. Pursuant to Section 106 of Sarbanes-Oxley, as amended by Section 929J of the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) (“Section 106”), the Division served requests for audit workpapers and related documents pertaining to the nine clients on the Settling Respondents, through their designated agents, at various times between March 11, 2011, and April 26, 2012. The Settling Respondents responded to these requests, stating that PRC laws prevented them from producing responsive documents directly to the Division. The Settling Respondents have not produced any responsive audit workpapers and related documents directly to the Division, nor did the Division receive any of the requested workpapers and related documents through any other channel before commencement of the Current Proceeding. Because of the lack of direct production, the Commission issued the above-referenced orders instituting proceedings under Commission Rule of Practice 102(e) against the Settling Respondents based on willful violations of Section 106 (the “OIPs”). The Administrative Law Judge issued the Initial Decision in the Current Proceeding finding that DTTC, EYHM, KPMG Huazhen, and PwC Shanghai each willfully violated Sarbanes-Oxley Section 106 by willfully refusing to comply with at least one SEC request under that provision.

3. As set forth below, this Order (i) finds, for purposes of this Order, that the Settling Respondents willfully violated Section 106, (ii) censures the Settling Respondents, and (iii) memorializes certain undertakings by them, including a payment by each of them in the amount of \$500,000 to the United States Treasury. This Order also stays the Current Proceeding as to the Settling Respondents for a period of four years. During this time, the Settling Respondents will perform specified undertakings in response to any future requests for documents covered by Section 106 of Sarbanes-Oxley. Moreover, this Order provides at least three additional forms of relief in the event the Division is unsatisfied by the productions of documents that it receives in response to future requests.

- First, if a Settling Respondent fails to attest that it has produced documents as required by the undertakings, that Settling Respondent is subject to automatic issuance of a Commission order that partially denies that Settling Respondent the privilege of appearing or practicing before it for a period of six months (an “Automatic Bar”).
- Second, if the Division believes that a production from a Settling Respondent is deficient in certain ways as set forth in the undertakings, the Commission, on the basis of the Division’s allegations, may institute a separate, expedited administrative proceeding against that Settling Respondent (a “Summary Proceeding”).
- Third, if two or more productions from the Settling Respondents are substantially delayed, are deficient in certain ways, or lack substantial volumes of requested documents (or portions of documents) in violation of, or without justification under,

U.S. law, including, but not limited to, Section 106 of Sarbanes-Oxley, the Division may request that the Commission terminate the stay and resume the Current Proceeding (“Restart”).

Under the Restart scenario, the Commission may resolve all issues as to liability and remedies raised by the OIPs, including all defenses previously raised by the Settling Respondents, consistent with the Commission’s May 9, 2014 order granting the parties’ petitions for review in the Current Proceeding.<sup>4</sup> Absent a Restart within the four-year undertaking period, this Current Proceeding will be deemed dismissed. However, such dismissal will not affect any admissions, findings, or remedies ordered in this Order, which are, and will be, deemed final upon the dismissal of the Current Proceeding.

## **B. SETTling RESPONDENTS**

4. DTTC (or “Deloitte”) is a special general partnership providing audit and professional services in the PRC. DTTC is located in Shanghai, China, and is a member firm of Deloitte Touche Tohmatsu Limited (“DTT Global”), a UK private company limited by guarantee. DTTC is a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

5. EYHM (or “Ernst”) is a special general partnership providing audit and professional services in the PRC. EYHM is headquartered in Beijing, China, and is a member firm of Ernst & Young Global Limited (“EY Global”), a UK private company limited by guarantee. EYHM is a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

6. KPMG Huazhen (or “KPMG”) is a special general partnership providing audit and professional services in the PRC. KPMG Huazhen is located in Beijing, China, and is a member firm of KPMG International Cooperative (“KPMG International”), a Swiss entity. KPMG Huazhen is a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

7. PwC Shanghai (or “Pricewaterhouse”) is a special general partnership providing audit and professional services in the PRC. PwC Shanghai is headquartered in Shanghai, China, and is a member firm of PricewaterhouseCoopers International Limited (“PwCIL”), a UK private company limited by guarantee. PwC Shanghai is a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

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<sup>4</sup> In the event of a Restart, as set forth more fully in Section III.I of this Order, this Order and the findings herein shall be without prejudice to any claims, arguments, or defenses that a Settling Respondent or the Division may assert in connection with the petitions for review or in any other proceeding that does not arise under paragraph 3 or paragraph 4 of Section III.J of this Order, except that the facts set forth in Annex A shall remain admitted by the Settling Respondents for all purposes. In the event of a Restart, the findings in Sections III.F and III.G of this Order shall be vacated as to any Settling Respondent for whom the Current Proceeding is restarted. In no event, however, may any Settling Respondent recover any payment made under Section III.H of this Order.

### C. OTHER RELEVANT ENTITIES

8. DTTC Client A (“DTTC Client A”) is a public company the securities of which are registered with the SEC under Section 12(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and listed on NASDAQ. DTTC Client A is incorporated in the Province of Ontario, Canada and has its principal operations and principal place of business in the PRC. DTTC Client A designs and manufactures solar products.

9. EYHM Client B (“Client B”) is a Delaware corporation with its principal operations and principal place of business in the PRC. Client B’s securities were previously registered with the SEC under Section 12(g) of the Exchange Act and listed on NASDAQ. Client B purports to be a leading developer, manufacturer and distributor of organic compound fertilizers in China.

10. EYHM Client C (“Client C”) is a Cayman Islands corporation with its primary operations in Beijing, PRC. Client C’s securities were previously registered with the SEC pursuant to Section 12(g) of the Exchange Act and listed on NASDAQ. Client C purports to provide enhanced recovery services for oil and gas exploration.

11. KPMG Huazhen Client D (“Client D”) is a Delaware corporation with its primary operations in Xi’an, PRC. Client D’s securities were previously registered with the SEC pursuant to Section 12(g) of the Exchange Act and listed on NASDAQ. Client D purports to engage in the wholesale distribution of finished oil and heavy oil products, the production and sale of biodiesel, and the operation of retail gas stations.

12. KPMG Huazhen Client E (“Client E”) is a Nevada corporation with its primary operations in Ningbo, PRC. Client E’s securities are registered with the SEC pursuant to Section 12(g) of the Exchange Act and were previously listed on NASDAQ. Client E purports to manufacture and supply various petrochemical products in China.

13. KPMG Huazhen Client F (“Client F”) is a Nevada corporation, with its primary operations in Shanghai, PRC. Client F’s securities were previously registered with the SEC pursuant to Section 12(b) of the Exchange Act and listed on NASDAQ. Client F purports to manufacture chemical additives used in the production of consumer and industrial products.

14. DTTC Client G (“Client G”) is a Wyoming corporation with its primary operations in Beijing, PRC. Client G’s securities were previously registered with the SEC pursuant to Section 12(g) of the Exchange Act and listed on NYSE. Client G purports to design, manufacture, and sell offset printing equipment.

15. PwC Shanghai Client H (“Client H”) is a Cayman Islands corporation with its principal operations in the PRC. Client H’s securities are registered with the SEC under Section 12(g) of the Exchange Act and were previously listed on NASDAQ. Client H purports to own and operate a commercial vehicle financing and service centers network.

16. PwC Shanghai Client I (“Client I”) is a Nevada corporation with its primary operations in Beijing, PRC. Client I’s securities were previously registered with the SEC under Section 12(g) of the Exchange Act and listed on NASDAQ. Client I purports to manufacture automotive electrical parts in China.

## **D. FACTS CONCERNING COMMISSION REQUESTS TO THE SETTLING RESPONDENTS UNDER SARBANES-OXLEY**

### **1. Regulatory Background**

17. Section 106 of the Sarbanes-Oxley Act of 2002, before it was amended by Dodd-Frank in 2010, stated, in relevant part, that “If a foreign public accounting firm issues an opinion or otherwise performs material services upon which a registered public accounting firm relies in issuing all or part of any audit report or any opinion contained in an audit report, that foreign public accounting firm shall be deemed to have consented . . . to produce its audit workpapers for the Board or the Commission in connection with any investigation by either body with respect to that audit report . . .” Sarbanes-Oxley Act of 2002 (Public Company Accounting Reform and Investor Protection Act), Pub. L. No. 107-204 § 106(b).

18. In 2004, the Board posted Frequently Asked Questions to its website which stated, in part: “A registered firm’s failure to cooperate with Board requests [for production of documents under Sarbanes-Oxley Section 106] may subject the firm to disciplinary sanctions, including substantial civil money penalties and revocation of the firm’s registration. In the staff’s view, if a firm fails to cooperate with the Board, the fact that the firm has not obtained a client consent that might be necessary (under non-U.S. law) to allow the firm to cooperate is not a defense to a disciplinary action for failure to cooperate.”

19. Section 106(b)(1) of Sarbanes-Oxley, as amended by Dodd-Frank, states that: “[i]f a foreign public accounting firm performs material services upon which a registered public accounting firm relies in the conduct of an audit or interim review, issues an audit report, performs audit work, or conducts interim reviews, the foreign public accounting firm shall . . . produce the audit workpapers of the foreign public accounting firm and all other documents of the firm related to any such audit work or interim review to the Commission or the Board, upon request of the Commission or the Board . . .”

### **2. Requests To DTTC**

20. On or around April 16, 2004, DTTC<sup>5</sup> applied for registration with the PCAOB as required by Sarbanes-Oxley, 15 U.S.C. § 7212. The Board confirmed DTTC’s registration as a foreign public accounting firm in a letter dated June 4, 2004. DTTC has remained registered with the Board since that time.

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<sup>5</sup> On January 1, 2013, Deloitte Touche Tohmatsu Certified Public Accountants LLP filed with the PCAOB a notification on Form 4 that Deloitte Touche Tohmatsu Certified Public Accountants LLP had succeeded to the registration status of its predecessor, Deloitte Touche Tohmatsu CPA Ltd.

21. DTTC knew when it registered with the PCAOB that the PCAOB or the SEC could request documents under Section 106, as originally enacted as part of Sarbanes-Oxley.

22. DTTC knew when it registered with the PCAOB that there were possible conflicts between its obligations under U.S. and Chinese law. DTTC described possible conflicts of law in its April 16, 2004 PCAOB registration filing that included a legal opinion.

23. The Board's June 4, 2004 letter confirming DTTC's registration stated that, although DTTC had not provided with its application a "Consent to Cooperate" with Board inspections and requests for documents, "the Board's approval of Deloitte's registration . . . does not relieve Deloitte of the obligation to cooperate in and comply with Board demands (including for documents or testimony) and to enforce such cooperation and compliance by Deloitte associated persons. If Deloitte prepares or issues, or plays a substantial role in preparing or issuing, an audit report with respect to any issuer . . . U.S. law and the Board's rules impose cooperation and compliance requirements that apply to Deloitte despite the absence of a consent."

24. In June 2011, pursuant to Sarbanes-Oxley Section 106(d), as amended by Dodd-Frank, DTTC designated Deloitte & Touche LLP ("DTT US"), the United States member firm of DTT Global, as its agent for receiving service of document requests under Section 106. In so doing, DTTC confirmed its understanding that the PCAOB or the SEC could request documents under Section 106.

25. DTTC knew at all relevant times that it was possible that it could not, consistent with Chinese law, produce documents directly to the SEC in response to requests for documents under Sarbanes-Oxley Section 106. DTTC also knew, no later than upon the enactment of Dodd-Frank, in 2010, and at all times subsequent, that the Commission retained power to deny DTTC the privilege of appearing or practicing before the Commission to the extent DTTC willfully refused to comply with requests for documents under Sarbanes-Oxley Section 106.

26. In the PCAOB reporting years 2010, 2011, 2012, and 2013, DTTC issued audit reports for thirty-two (32), forty-five (45), forty-five (45), and thirty-nine (39) U.S. issuers, respectively.

27. DTTC audited DTTC Client A's financial statements for the fiscal years ended December 31, 2008, 2009, and 2010. DTTC Client A remained DTTC's client as of April 2013.

28. Before April 9, 2010, the Division commenced an investigation into potential accounting fraud involving DTTC Client A, which Client A disclosed in a Form 6-K and accompanying press release filed with the Commission on June 1, 2010. In the press release, DTTC Client A announced that it was postponing the release of its full financial results for the quarter ended March 31, 2010 and its quarterly conference call, scheduled for June 2, as a result of the commencement of an investigation by the Audit Committee of DTTC Client A's Board of Directors. DTTC Client A disclosed that "the investigation was launched after the Company received a subpoena from the [Commission] requesting documents from [DTTC Client A] relating to, among other things, certain sales transactions in 2009."

29. On March 11, 2011, the Division properly served on DTTC a Commission request under Section 106 for the production of “[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [DTTC Client A] for the fiscal year ending December 31, 2009” (the “Client A Request”).

30. By letter dated April 29, 2011, DTTC, through its U.S. counsel, responded to the Client A Request. DTTC stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. DTTC did not include any of the requested audit workpapers or related documents with its response.

31. In July 2011, the Division issued to DTTC a Wells notice that the Division intended to recommend institution of proceedings against DTTC because, in the Division’s view, DTTC had willfully refused to comply with the Client A Request.

32. DTTC was engaged to audit the financial statements of Client G for the fiscal year ended June 30, 2010. In the course of this engagement, DTTC performed audit work on behalf of Client G related to the fiscal year ended June 30, 2010. DTTC did not issue any audit report with respect to Client G.

33. In 2010, Division staff opened an investigation involving Client G, which related to matters reported in a Form 8-K filed by Client G on September 13, 2010. Specifically, Client G reported that:

- a. Client G had terminated DTTC’s engagement as independent auditor effective September 6, 2010;
- b. During the course of DTTC’s audit of Client G for the fiscal year ended June 30, 2010, Client G had denied DTTC’s request for permission to access original bank statements to verify the identity of certain individuals and entities;
- c. Several “reportable events,” as defined in Item 304(a)(1)(v) of Regulation S-K, occurred during DTTC’s audit of Client G; and
- d. Between September 6 and September 8, 2010, Client G’s CEO, CFO, and several directors, including the Chair of its Audit Committee, all resigned their positions.

34. On February 14, 2012, the Division properly served on DTTC a Commission request under Section 106 for the production of “[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client G] for the fiscal year ended June 30, 2010” (the “Client G Request”).

35. By letter dated April 17, 2012, DTTC, through its U.S. counsel, responded to the Client G Request. DTTC stated in the letter that the laws and regulations of the PRC prohibited



the firm from providing the SEC directly with the requested audit workpapers and related documents. DTTC did not include any of the requested audit workpapers or related documents with its response.

36. In April 2012, the Division issued to DTTC a Wells notice that the Division intended to recommend institution of proceedings against DTTC because, in the Division's view, DTTC had willfully refused to comply with the Client G Request.

37. On May 9, 2012 and December 3, 2012, the Commission instituted these proceedings against DTTC under Rule 102(e) based on DTTC's conduct with respect to the Client A Request and the Client G Request, respectively. DTTC did not produce audit workpapers and related documents responsive to either request to the Commission before the December 3, 2012 OIP.

38. In 2013, DTTC provided documents related to DTTC Client A to the China Securities Regulatory Commission ("CSRC"), in response to a request that DTTC had received from the CSRC. In November 2013, DTTC audit workpapers concerning DTTC Client A were provided by the CSRC to the SEC.

39. In 2013, DTTC provided documents related to Client G to the CSRC, in response to a request that DTTC had received from the CSRC. In October 2013, DTTC audit workpapers and related documents concerning Client G were provided by the CSRC to the SEC.

### **3. Requests To EYHM**

40. On or around May 25, 2004, EYHM<sup>6</sup> applied for registration with the PCAOB as required by Sarbanes-Oxley, 15 U.S.C. § 7212. The PCAOB confirmed EYHM's registration as a foreign public accounting firm in a letter dated July 8, 2004. EYHM has remained registered with the PCAOB since that time.

41. EYHM knew when it registered with the PCAOB that the PCAOB or the SEC could request documents under Section 106, as originally enacted as part of Sarbanes-Oxley.

42. EYHM knew when it registered with the PCAOB that there were possible conflicts between its obligations under U.S. and Chinese law. EYHM described possible conflicts of law in its May 25, 2004 PCAOB registration filing that included a legal opinion.

43. The Board's July 8, 2004 letter confirming EYHM's registration stated that, although EYHM had not provided with its application a "Consent to Cooperate" with Board inspections and requests for documents, "the Board's approval of Ernst's registration . . . does not relieve Ernst of the obligation to cooperate in and comply with Board demands (including for

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<sup>6</sup> On September 3, 2012, Ernst & Young Hua Ming LLP filed with the Public Company Accounting Oversight Board a notification on Form 4 that Ernst & Young Hua Ming LLP had succeeded to the registration status of its predecessor, Ernst & Young Hua Ming Certified Public Accountants.

documents or testimony) and to enforce such cooperation and compliance by Ernst's associated persons. If Ernst prepares or issues, or plays a substantial role in preparing or issuing, an audit report with respect to any issuer . . . U.S. law and the Board's rules impose cooperation and compliance requirements that apply to Ernst despite the absence of a consent."

44. In March 2011, pursuant to Sarbanes-Oxley Section 106(d), as amended by Dodd-Frank, EYHM designated Ernst & Young LLP ("EY US"), the United States member firm of EY Global, as its agent for receiving service of document requests under Section 106. In so doing, EYHM confirmed its understanding that the PCAOB or the SEC could request documents under Section 106.

45. EYHM knew at all relevant times that it was possible that it could not, consistent with Chinese law, produce documents directly to the SEC in response to requests for documents under Sarbanes-Oxley Section 106. EYHM also knew, no later than upon the enactment of Dodd-Frank, in 2010, and at all times subsequent, that the Commission retained the power to deny EYHM the privilege of appearing or practicing before the Commission to the extent EYHM willfully refused to comply with requests for documents under Sarbanes-Oxley Section 106.

46. In the PCAOB reporting years 2010, 2011, 2012, and 2013, EYHM issued audit reports for eleven (11), twenty-four (24), twenty-one (21), and twenty (20) U.S. issuers, respectively.

47. EYHM was engaged to audit the financial statements of Client B for the fiscal year ended December 31, 2010. In the course of this engagement, EYHM performed audit work on behalf of Client B related to the fiscal year ended December 31, 2010. EYHM did not issue an audit report on Client B's financial statements for the fiscal year ended December 31, 2010.

48. In March 2011, the Division opened an investigation into Client B. The investigation related to, among other things, public allegations of potential accounting fraud and misleading disclosures by Client B, including overstated revenues, falsified assets and customer relationships, and failure to disclose certain related party transactions.

49. On April 26, 2012, the Division properly served on EYHM a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client B] for the fiscal year ending December 31, 2010" (the "Client B Request").

50. By letter dated May 25, 2012, EYHM, through its U.S. counsel, responded to the Client B Request. EYHM stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. EYHM did not include any of the requested audit workpapers or related documents with its response.

51. In June 2012, the Division issued to EYHM a Wells notice that the Division intended to recommend institution of proceedings against EYHM because, in the Division's view, EYHM had willfully refused to comply with the Client B Request.

52. EYHM audited Client C's financial statements for the fiscal year ended September 30, 2010.

53. By September 2011, Division staff opened an investigation involving potential financial and accounting fraud at Client C. The investigation stemmed from a short seller report regarding Client C, and from a letter that EYHM submitted to the Commission, pursuant to Section 10A of the Exchange Act, upon its resignation as Client C's auditor in September 2011. The two primary subjects of the investigation were possible accounting fraud related to asset valuation, and embezzlement by Client C's chairman.

54. On February 2, 2012, the Division properly served on EYHM a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client C] for the fiscal year ending September 30, 2010 and subsequent periods" (the "Client C Request").

55. By letter dated April 4, 2012, EYHM, through its U.S. counsel, responded to the Client C Request. EYHM stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. EYHM did not include any of the requested audit workpapers or related documents with its response.

56. In April 2012, the Division issued to EYHM a Wells notice that the Division intended to recommend institution of proceedings against EYHM because, in the Division's view, EYHM had willfully refused to comply with the Client C Request.

57. On December 3, 2012, the Commission instituted these proceedings against EYHM under Rule 102(e) based on EYHM's conduct with respect to the Client B Request and the Client C Request. EYHM did not produce any documents responsive to either request to the Commission before the December 3, 2012 OIP.

58. In November 2013, EYHM audit workpapers and related documents concerning Client C were received by the Commission from the CSRC. In March 2014, EYHM audit workpapers and related documents concerning Client B were provided to the Commission by the CSRC.

#### **4. Requests To KPMG Huazhen**

59. On or around April 26, 2004, KPMG Huazhen<sup>7</sup> applied for registration with the PCAOB as required by Sarbanes-Oxley, 15 U.S.C. § 7212. The Board confirmed KPMG Huazhen's registration as a foreign public accounting firm in a letter dated July 13, 2004. KPMG Huazhen has remained registered with the Board since that time.

60. KPMG Huazhen knew when it registered with the PCAOB that the PCAOB or the SEC could request documents under Section 106, as originally enacted as part of Sarbanes-Oxley.

61. KPMG Huazhen knew when it registered with the PCAOB that there were possible conflicts between its obligations under U.S. and Chinese law. KPMG Huazhen described possible conflicts of law in its April 26, 2004 PCAOB registration filing that included a legal opinion.

62. The Board's July 13, 2004 letter confirming KPMG Huazhen's registration stated that, although KPMG Huazhen had not provided with its application a "Consent to Cooperate" with Board inspections and requests for documents, "the Board's approval of KPMG's registration . . . does not relieve KPMG of the obligation to cooperate in and comply with Board demands (including for documents or testimony) and to enforce such cooperation and compliance by KPMG's associated persons. If KPMG prepares or issues, or plays a substantial role in preparing or issuing, an audit report with respect to any issuer . . . U.S. law and the Board's rules impose cooperation and compliance requirements that apply to KPMG despite the absence of a consent."

63. In March 2011, pursuant to Sarbanes-Oxley Section 106(d), as amended by Dodd-Frank, KPMG Huazhen designated KPMG LLP ("KPMG US"), the United States member firm of KPMG International, as its agent for receiving service of document requests under Section 106. In so doing, KPMG Huazhen confirmed its understanding that the PCAOB or the SEC could request documents under Section 106.

64. KPMG Huazhen knew at all relevant times that it was possible that it could not, consistent with Chinese law, produce documents directly to the SEC in response to requests for documents under Sarbanes-Oxley Section 106. KPMG Huazhen also knew, no later than upon the enactment of Dodd-Frank, in 2010, and at all times subsequent, that the Commission retained the power to deny KPMG Huazhen the privilege of appearing or practicing before the Commission to the extent KPMG Huazhen willfully refused to comply with requests for documents under Sarbanes-Oxley Section 106.

65. In the PCAOB reporting years 2010, 2011, 2012, and 2013, KPMG Huazhen played a substantial role in the preparation or furnishing of audit reports filed with the SEC (as

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<sup>7</sup> On August 14, 2012, KPMG Huazhen (Special General Partnership) filed with the Public Company Accounting Oversight Board a notification on Form 4 that KPMG Huazhen (Special General Partnership) had succeeded to the registration status of its predecessor, KPMG Huazhen.

defined by PCAOB Rule 1001(p)(ii)<sup>8</sup> for twenty-four (24), twenty-three (23), twenty-five (25), and twenty-one (21) U.S. issuers, respectively.

66. KPMG Huazhen was engaged as a component auditor for Client D for the fiscal year ended December 31, 2010. In the course of this engagement, KPMG Huazhen played a substantial role with respect to the audit of Client D related to the fiscal year ended December 31, 2010.

67. By April 2011, the Division opened an investigation into potential accounting fraud at Client D. The investigation concerned allegations made in two short seller reports issued in March 2011, which claimed that Client D's financial statements reported false cash balances, overstated revenues, and failed to disclose a material related party transaction.

68. On February 6, 2012, the Division properly served on KPMG Huazhen a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client D] for the fiscal year ending December 31, 2010" (the "Client D Request").

69. KPMG Huazhen was engaged as a component auditor for Client E for the fiscal year ended December 31, 2010. In the course of this engagement, KPMG Huazhen played a substantial role with respect to the audit of Client E related to the fiscal year ended December 31, 2010, but did not complete the engagement.

70. By April 2011, Division staff opened an investigation into potential financial and accounting fraud at Client E. The investigation concerned issues raised in a Form 8-K that Client E filed in April 2011, which stated that Client E would be unable to file its Form 10-K on time because Client E's principal auditor had identified "unexplained issues regarding certain cash transactions and recorded sales."

71. On February 9, 2012, the Division properly served on KPMG Huazhen a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client E] for the fiscal year ending December 31, 2010" (the "Client E Request").

72. KPMG Huazhen was engaged as a component auditor for Client F for the fiscal years ended December 31, 2008, and December 31, 2009. In the course of this engagement, KPMG Huazhen played a substantial role with respect to the audit reports Client F filed with the Commission related to the fiscal years ended December 31, 2008 and 2009.

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<sup>8</sup> PCAOB Rule 1001(p)(ii) defines "Play a Substantial Role in the Preparation or Furnishing of an Audit Report" to mean: "(1) to perform material services that a public accounting firm uses or relies on in issuing all or part of its audit report with respect to any issuer, or (2) to perform the majority of the audit procedures with respect to a subsidiary or component of any issuer the assets or revenues of which constitute 20% or more of the consolidated assets or revenues of such issuer necessary for the principal accountant to issue an audit report on the issuer."

73. Before February 2012, Division staff opened an investigation involving potential financial and accounting fraud at Client F. The investigation related to issues raised in a pair of disclosures made by Client F in early 2011:

- a. In March 2011, Client F disclosed that it was conducting an internal investigation into “potentially serious discrepancies” in its financial statements for the year ended December 31, 2010, and
- b. In May 2011, Client F disclosed that its principal auditor had resigned after identifying what they considered “potentially serious discrepancies and/or unexplained issues relating to [Client F]’s financial records,” in response to which Client F failed to take adequate remedial action.

74. On February 3, 2012, the Division properly served on KPMG Huazhen a Commission request under Section 106 for the production of “[a]ll audit work papers and all other documents related to any audit reports issued, audit work performed, or interim reviews conducted for [Client F] from January 1, 2008 to the present” (the “Client F Request”).

75. By letter dated March 27, 2012, KPMG Huazhen, through its U.S. counsel, responded to the Client D Request, the Client E Request, and the Client F Request. KPMG Huazhen stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with any of the requested audit workpapers and related documents. KPMG Huazhen did not include any of the requested audit workpapers or related documents with its March 27 response.

76. In May 2012, the Division issued to KPMG Huazhen a Wells notice that the Division intended to recommend institution of proceedings against KPMG Huazhen because, in the Division’s view, KPMG Huazhen had willfully refused to comply with the Client D Request, the Client E Request, and the Client F Request.

77. On December 3, 2012, the Commission instituted these proceedings against KPMG Huazhen under Rule 102(e) based on KPMG Huazhen’s conduct with respect to the Client D Request, the Client E Request, and the Client F Request. KPMG Huazhen did not produce audit workpapers or related documents responsive to any of the requests to the Commission before the December 3, 2012 OIP.

## **5. Requests To PwC Shanghai**

78. On or around April 26, 2004, PwC Shanghai<sup>9</sup> applied for registration with the PCAOB as required by Sarbanes-Oxley, 15 U.S.C. § 7212. The PCAOB confirmed PwC

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<sup>9</sup> On July 8, 2013, PricewaterhouseCoopers Zhong Tian LLP filed with the Public Company Accounting Oversight Board a notification on Form 4 that PricewaterhouseCoopers Zhong Tian LLP had succeeded to the registration status of its predecessor, PricewaterhouseCoopers Zhong Tian CPAs Limited Company.

Shanghai's registration as a foreign public accounting firm in a letter dated July 13, 2004. PwC Shanghai has remained registered with the Board since that time.

79. PwC Shanghai knew when it registered with the PCAOB that the PCAOB or the SEC could request documents under Section 106, as originally enacted as part of Sarbanes-Oxley.

80. PwC Shanghai knew when it registered with the PCAOB that there were possible conflicts between its obligations under U.S. and Chinese law. PwC Shanghai described possible conflicts of law in its April 26, 2004 PCAOB registration filing that included a legal opinion.

81. The Board's July 13, 2004 letter confirming PwC Shanghai's registration stated that, although PwC Shanghai had not provided with its application a "Consent to Cooperate" with Board inspections and requests for documents, "the Board's approval of Pricewaterhouse's registration . . . does not relieve Pricewaterhouse of the obligation to cooperate in and comply with Board demands (including for documents or testimony) and to enforce such cooperation and compliance by Pricewaterhouse's associated persons. If Pricewaterhouse prepares or issues, or plays a substantial role in preparing or issuing, an audit report with respect to any issuer . . . U.S. law and the Board's rules impose cooperation and compliance requirements that apply to Pricewaterhouse despite the absence of a consent."

82. In March 2011, pursuant to Sarbanes-Oxley Section 106(d), as amended by Dodd-Frank, PwC Shanghai designated PricewaterhouseCoopers LLP ("PwC US"), the United States member firm of PwCIL, as its agent for receiving service of document requests under Section 106. In so doing, PwC Shanghai confirmed its understanding that the PCAOB or the SEC could request documents under Section 106.

83. PwC Shanghai knew at all relevant times it was possible that it could not, consistent with Chinese law, produce documents directly to the SEC in response to requests for documents under Sarbanes-Oxley Section 106. PwC Shanghai also knew, no later than upon the enactment of Dodd-Frank, in 2010, and at all times subsequent, that the Commission retained the power to deny PwC Shanghai the privilege of appearing or practicing before the Commission to the extent PwC Shanghai willfully refused to comply with requests for documents under Sarbanes-Oxley Section 106.

84. In the PCAOB reporting years 2010, 2011, 2012, and 2013, PwC Shanghai issued audit reports for seventeen (17), twenty-seven (27), thirty-one (31), and twenty-three (23) U.S. issuers, respectively.

85. PwC Shanghai was engaged to audit the financial statements of Client H for the fiscal year ended December 31, 2010. In the course of this engagement, PwC Shanghai performed audit work on behalf of Client H related to the fiscal year ended December 31, 2010. PwC Shanghai did not issue any audit report with respect to Client H.

86. By March 2011, the Division opened an investigation into potential accounting fraud at Client H. The investigation concerned public allegations of accounting fraud and market

manipulation at Client H. Certain internet reports alleged, among other things, that Client H overstated revenue and earnings by accounting for lease revenues upfront instead of recognizing this revenue over the duration of the leases, and that there were discrepancies between Client H's cash flow and reported net income.

87. On February 8, 2012, the Division properly served on PwC Shanghai a Commission request under Section 106 for the production of “[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client H] for the fiscal year ending December 31, 2010” (the “Client H Request”).

88. By letter dated April 12, 2012, PwC Shanghai, through its U.S. counsel, responded to the Client H Request. PwC Shanghai stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. PwC Shanghai did not include any of the requested audit workpapers or related documents with its response.

89. In April 2012, the Division issued to PwC Shanghai a Wells notice that the Division intended to recommend institution of proceedings against PwC Shanghai because, in the Division's view, PwC Shanghai had willfully refused to comply with the Client H Request.

90. PwC Shanghai was engaged to audit the financial statements of Client I for the fiscal year ended December 31, 2010. In the course of this engagement, PwC Shanghai performed audit work on behalf of Client I related to the fiscal year ended December 31, 2010. PwC Shanghai did not issue any audit report with respect to Client I.

91. By March 2011, Division staff opened an investigation involving potential financial and accounting fraud at Client I. The investigation focused on potential accounting irregularities, undisclosed related party transactions, misappropriation of corporate assets, and market manipulation.

92. On March 22, 2012, the Division properly served on PwC Shanghai a Commission request under Section 106 for the production of “[a]ll audit work papers and all other documents related to any audit work performed for [Client I] for the fiscal year ending December 31, 2010” (the “Client I Request”).

93. By letter dated April 12, 2012, PwC Shanghai, through its U.S. counsel, responded to the Client I Request. PwC Shanghai stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. PwC Shanghai did not include any of the requested audit workpapers or related documents with its response.

94. In April 2012, the Division issued to PwC Shanghai a Wells notice that the Division intended to recommend institution of proceedings against PwC Shanghai because, in the Division's view, PwC Shanghai had willfully refused to comply with the Client I Request.



95. On December 3, 2012, the Commission instituted these proceedings against PwC Shanghai under Rule 102(e) based on PwC Shanghai's conduct with respect to the Client H Request and the Client I Request. PwC Shanghai did not produce audit workpapers and related documents responsive to either request to the Commission before the December 3, 2012 OIP.

96. In November 2013, PwC Shanghai produced audit workpapers and related documents concerning Client I to the CSRC, in response to a request that PwC Shanghai had received from the CSRC. In March 2014, PwC Shanghai audit workpapers and related documents concerning Client I were provided by the CSRC to the SEC.

#### **E. FACTS CONCERNING COMMISSION REQUESTS FOR ASSISTANCE UNDER INTERNATIONAL SHARING PROTOCOLS**

97. Before the December 3, 2012 OIP, in connection with Division investigations, the SEC's Office of International Affairs sent a number of requests for assistance to the CSRC pursuant to the International Organization of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding ("MMOU"), seeking DTTC's audit workpapers and related documents concerning certain of the firm's clients. The SEC did not receive any of the requested documents before the December 3, 2012 OIP. Meanwhile, the SEC issued the nine requests under Section 106 of Sarbanes-Oxley to the Settling Respondents, as described above in Section III.D, among other Section 106 requests.

98. In July 2013, after the start of the hearing in this proceeding, the CSRC produced to the SEC a set of DTTC's audit workpapers concerning a firm client that is unrelated to Clients A through I listed above. The SEC had requested these workpapers from the CSRC before the December 3, 2012 OIP. The July 2013 production was the first time that the CSRC provided audit workpapers to the SEC under any international sharing protocols.<sup>10</sup>

99. After the July 2013 production, the SEC received productions from the CSRC for DTTC Clients A and G, in response to requests that the SEC had made under the IOSCO MMOU before the May 9, 2012 OIP. Also after the July 2013 production, the SEC sought and received productions from the CSRC for EYHM Clients B and C, and PwC Shanghai Client I, as described above in Section III.D. To date, the SEC has not sought the assistance of the CSRC in obtaining audit workpapers and related documents for KPMG Huazhen's Client D, Client E, and Client F, or for PwC Shanghai Client H.

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<sup>10</sup> The audit workpapers produced by the CSRC in July 2013, concerning DTTC client Longtop Financial Technologies Limited ("Longtop"), were also the subject of a subpoena enforcement action brought by the SEC against DTTC in federal district court, *SEC v. DTTC*, 1:11mc00512-GK (D.D.C.). That action was dismissed without prejudice following supplemental productions of DTTC documents received by the SEC from the CSRC in January 2014. DTTC's non-production of the Longtop documents directly to the SEC is not the basis of any Division claim against DTTC in this proceeding.

## F. VIOLATIONS

100. As noted, Rule 102(e)(1)(iii) of the Commission’s Rules of Practice provides that “[t]he Commission may censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way to any person who is found . . . [t]o have willfully violated . . . any provision of the Federal securities laws or the rules and regulations thereunder.” 17 C.F.R. § 201.102(e)(1)(iii).<sup>11</sup> Rule 102(e) “provides the Commission with a means to ensure that the professionals on whom it relies ‘perform their tasks diligently.’” *Marrie v. SEC*, 374 F.3d 1196, 1200 (D.C. Cir. 2004) (quoting *Touche Ross & Co. v. SEC*, 609 F.2d 570, 582 (2d Cir. 1979)). The rule “is directed at protecting the integrity of the Commission’s own processes, as well as the confidence of the investing public in the integrity of the financial reporting process.” *Marrie*, 374 F.3d at 1200.

101. Section 106(b) of Sarbanes-Oxley provides that a foreign public accounting firm that “performs audit work . . . shall . . . produce the audit work papers of the foreign public accounting firm and all other documents of the firm related to any such audit work . . . to the Commission . . . upon request of the Commission.” 15 U.S.C. § 7216(b)(1). A foreign public accounting firm that willfully violates Section 106(b) is subject to sanction under Rule 102(e).<sup>12</sup>

102. Sarbanes-Oxley Section 106(e) identifies certain conduct that must be considered a violation under Section 106. Specifically, Section 106(e) states that “[a] willful refusal to comply, in whole or in part, with any request by the Commission . . . under this section, shall be deemed a violation of this Act.” 15 U.S.C. § 7216(e). Thus, Rule 102(e)(1)(iii) and Section 106(e), considered together, provide that the Commission may censure, or deny, temporarily or permanently, the privilege of appearing or practicing before it in any way, a foreign public accounting firm that is found to have willfully refused to comply with a Commission request for documents covered by Section 106(b).<sup>13</sup>

103. During the relevant time period, each Settling Respondent was a foreign public accounting firm. In addition, the Commission properly served each Settling Respondent with at least two requests under Section 106(b) pertaining to clients or former clients as to which that Settling Respondent had “perform[ed] audit work.” In response to these requests, the Settling

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<sup>11</sup> Similarly, Section 4C of the Exchange Act provides, “The Commission may censure any person, or deny temporarily or permanently, to any person the privilege of appearing or practicing before the Commission in any way, if that person is found . . . to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations issued thereunder.” 15 U.S.C. § 78d-3(a)(3).

<sup>12</sup> Furthermore, under Section 3(b) of Sarbanes-Oxley, a violation of Section 106 is to be treated as a violation of the Exchange Act. *See* 15 U.S.C. § 7202(b)(1) (“A violation . . . of this Act . . . shall be treated for all purposes in the same manner as a violation of the Securities Exchange Act of 1934 . . .”).

<sup>13</sup> *See Gearhart & Otis, Inc. v. SEC*, 348 F.2d 798, 803 (D.C. Cir. 1965) (discussing meaning of “willfully” under Section 15(b) of the Exchange Act); *Wonsover v. SEC*, 205 F.3d 408, 414-415 (D.C. Cir. 2000).

Respondents informed the Division in writing that they could not, consistent with Chinese law, produce documents directly to the Division. The Division did not receive any of the requested audit workpapers or related documents before this Current Proceeding was instituted.

## **G. FINDINGS**

104. Based on the foregoing and for the purposes of this Order, the Commission finds that each Settling Respondent willfully refused to comply with the requests that were issued to it under Section 106, and each Settling Respondent willfully violated Section 106 of the Sarbanes-Oxley Act.

## **H. UNDERTAKINGS TO MAKE PAYMENTS**

105. Pursuant to the Offers, each Settling Respondent has undertaken to pay \$500,000. The Settling Respondents will make their respective payments within thirty (30) days of the issuance of this Order. If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717. Payment shall be made in one of the following ways:

- (1) The Settling Respondent may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) The Settling 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) The Settling 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 the Settling Respondent as a Respondent in this proceeding, and the file numbers of this proceeding; a copy of the cover letter and check or money order must be sent by overnight commercial mail service to David Mendel, Assistant Chief Litigation Counsel, Division of Enforcement, Securities and Exchange Commission, 100 F Street N.E., Mail Stop 5971, Washington, DC 20549-5971. The Commission shall remit the funds paid pursuant to this paragraph to the United States Treasury. In determining whether to accept the Offers, the Commission has considered this undertaking by Settling Respondents.

## I. STAY OF THIS PROCEEDING

106. In light of the Procedures and Undertakings as to Future Requests, And Possible Additional Proceedings and Remedies set forth below in Section III.J of this Order, this proceeding (the “**Current Proceeding**”) is stayed as follows:

- a. The stay applies to the Settling Respondents’ petition seeking review of the Initial Decision of the Administrative Law Judge, dated January 22, 2014 (the “Initial Decision”), and to the Division’s petition for review of the Initial Decision’s handling of remedies as to the Settling Respondents, and to any federal court appeal from the result of either such petition for review.
- b. The stay is conditioned on the Current Proceeding not being restarted pursuant to paragraph 5 of Section III.J of this Order.
- c. In the event the Current Proceeding is restarted, the Commission may resolve all issues as to liability and remedies raised by the OIPs in this proceeding, including all defenses previously raised by the Settling Respondents, consistent with the Commission’s May 9, 2014 order granting the parties’ petitions for review in the Current Proceeding. Under the Restart scenario, the Commission may resolve, among other issues, whether the OIP in the Current Proceeding was properly served on the Settling Respondents, whether the conduct of the Settling Respondents constitutes a willful violation of Section 106, and whether any or all of the Settling Respondents should be censured or denied the privilege of appearing and practicing before the Commission pursuant to Section 106 of Sarbanes-Oxley and Rule 102(e). Accordingly, in the event of a Restart, this Order and the findings herein shall be without prejudice to any claims, arguments, or defenses that a Settling Respondent or the Division may assert in connection with the petitions for review or in any other proceeding that does not arise under paragraph 3 or paragraph 4 of Section III.J of this Order, except that the facts set forth in Annex A (which are repeated in Section III, Sub-Sections B, C, and D of this Order) shall remain admitted by the Settling Respondents for all purposes. Upon the Division’s filing of a notice that the Current Proceeding is restarted in accordance with paragraph 5 of Section III.J of this Order, the Current Proceeding will resume from its current status and the Commission will re-set a briefing schedule for consideration of the parties’ respective petitions for review, as appropriate.
- d. Nothing in this Order, the Offers, or the undertakings shall derogate from the Settling Respondents’ rights to appeal any decision of the Commission in the Current Proceeding to the Federal Courts, and in any proceedings before the Commission or the Federal Courts to make all such arguments as are currently available to them. Except for the facts that the Settling Respondents expressly

agree to and admit in Annex A, which are repeated in Section III, Sub-Sections B, C, and D of this Order, nothing in this Order or the discussions leading to it may be used as an admission in the Current Proceeding in the event it is restarted.

**J. PROCEDURES AND UNDERTAKINGS AS TO FUTURE REQUESTS, AND POSSIBLE ADDITIONAL PROCEEDINGS AND REMEDIES**

1. The Settling Respondents and the Division will abide by the procedures set forth in this Section III.J of this Order with respect to future requests for documents covered by Section 106(b) of Sarbanes-Oxley (“**Procedures**”), during the four-year period prescribed by paragraph III.J.7 of this Order. Nothing in the Procedures reflects a determination by the Division or Commission as to the scope of obligations of any foreign public accounting firm under Section 106 of Sarbanes-Oxley, or the steps the Division should or must take in connection with a foreign public accounting firm’s satisfaction of its obligations under Section 106. Requests for documents under these Procedures are deemed “covered by Section 106(b) of Sarbanes-Oxley” without regard to whether the relevant Settling Respondent prepared, furnished, or issued any audit report concerning the client for which the documents are sought, and without prejudice to any arguments a Settling Respondent may have with respect to the application of Section 106 in a Restart of the Current Proceeding or any future proceeding based on Section 106 that does not arise under paragraph 3 or paragraph 4 of Section III.J of this Order. All references to “paragraphs” in Section III.J of this Order are references to the numbered paragraphs 1 through 8 that appear in Section III.J of this Order, unless expressly indicated otherwise.
2. The following Procedures will apply to future SEC requests for production of documents covered by Section 106(b) of Sarbanes-Oxley from the Settling Respondents:
  - i. The Division agrees that, on its own or through other SEC staff (such as the SEC’s Office of International Affairs), it will in the first instance issue a request for assistance to the CSRC in respect of such documents under international sharing mechanisms (including, to the extent available, the IOSCO MMOU). On or about the date on which such a request for assistance is sent, the SEC or the Division will do one or both of the following:
    - A. Issue a new Section 106 request (mirroring the request made to the CSRC) to the relevant Settling Respondent through its designated U.S. agent. Unless the Division has already provided notice that it is terminating the stay pursuant to paragraph 5 below, the new Section 106 request shall expressly state that, pursuant to Section 106(f), the Division agrees to accept production of documents in accordance with these Procedures; and/or
    - B. Provide the relevant Settling Respondent with notice of the request for assistance that was sent to the CSRC, specifying the documents sought by the Division.

References in Section III.J of this Order to the CSRC mean the CSRC and/or such other Chinese authority/ies as may be charged from time to time by the Chinese government with liaising with the SEC on matters of cross-border information-sharing and cooperation.

For the purpose of maximizing efficiency between the CSRC and the SEC in the handling of any request, to the extent practicable the Division will make reasonable efforts (1) to discuss the content of the request with outside counsel for the relevant Settling Respondent in the United States before the request is issued in connection with the Division's investigation; and (2) to consolidate follow-up inquiries with the CSRC in a minimal number of communications after the Division receives a production, and to set forth reasonable periods for responses to such inquiries. However, nothing in this sub-paragraph affects the Settling Respondents' undertakings under paragraph 2(ii) below, the potential remedies available in paragraphs 3 and 4 below, or the Division's ability to restart the Current Proceeding under paragraph 5 below.

ii. The Settling Respondents undertake as follows:

- A. Within ninety (90) days of receipt of a request under paragraph 2(i)(A) or (B) above, or within forty-five (45) days from the date the relevant Settling Respondent receives the first corresponding request from the CSRC ("**corresponding request**"), whichever is later, the relevant Settling Respondent will provide the Division with an initial declaration ("**initial declaration**") which states that the relevant Settling Respondent has produced all responsive documents to the CSRC for production to the SEC, subject to the following:
  1. If the Settling Respondent has determined to withhold documents (or portions of documents) under a claim of U.S. privilege, the declaration must attest that the Settling Respondent has described all such information on a privilege log in accordance with U.S. custom and practice ("**privilege log**");
  2. If the Settling Respondent has determined (subject to the CSRC's review) that documents (or portions of documents) should be withheld under Chinese law governing state sensitive information or state secrets, or for any other reason under Chinese law, including applicable privilege(s) under Chinese law, the declaration must attest that the Settling Respondent has described all such information on a withholding log ("**withholding log**"). The withholding log must (to the extent permissible under Chinese law) include the date on which the document was created; the document's author(s); all recipients of the document; the document's general subject matter; the reason for proposing the withholding; a description sufficient to identify where the document is located (or would have been located) in the

production; and a unique identifying number (i.e., a bates number) for each page containing withheld information.

3. The Division, in its sole discretion, may authorize one or more extensions of the 90-day deadline (referenced in paragraph 2(ii)(A) above) if the relevant Settling Respondent, in writing, requests and demonstrates good cause for such an extension before the expiration of such deadline.
  4. If the relevant Settling Respondent determines not to provide the initial declaration within the 90-day deadline because the Settling Respondent is allowed additional time by virtue of the date on which it receives the first corresponding request from the CSRC in accordance with paragraph 2(ii)(A) above, the Settling Respondent will notify the Division in writing of this determination before the 90-day deadline expires. In addition, upon such notification by the Settling Respondent, or within five days of the Settling Respondent's receipt of the first corresponding request from the CSRC, whichever is later, the Settling Respondent will inform the Division in writing of the date on which it received the first corresponding request.
- B. The Settling Respondents will inform the CSRC in writing when they have completed preparation for production to the CSRC of all responsive documents, privilege logs and withholding logs in response to corresponding requests. The Settling Respondents will use all reasonable efforts to facilitate the SEC's receipt of all responsive documents, privilege logs, and withholding logs (finalized in accordance with the CSRC's directions) in as expeditious a manner as possible.
- C. Within ten (10) days of the SEC notifying the relevant Settling Respondent that production from the CSRC to the SEC has occurred, the relevant Settling Respondent will provide the Division directly with a certification that it has provided to the CSRC all documents responsive to the CSRC's corresponding request except information set forth on a privilege log, and, where applicable, that it has proposed (subject to the CSRC's review) that documents (or portions of documents) set forth on the withholding log should be withheld under Chinese law governing state sensitive information or state secrets, or for any other reason under Chinese law ("**certification of completeness**"). The certification of completeness must append all corresponding requests received by the Settling Respondent from the CSRC, and certified English translations thereof, and describe the Settling Respondent's search for the documents, and (to the extent permissible under Chinese law) the process by which it was determined that information included on the withholding log, if any, should be withheld.

3. Remedy in the form of an Automatic Bar. If the relevant Settling Respondent does not provide the initial declaration as required by paragraph 2(ii)(A) above **or** if the relevant Settling Respondent does not provide the certification of completeness as required by paragraph 2(ii)(C) above, the Division shall notify the relevant Settling Respondent of the failure and give the Settling Respondent twenty (20) days to cure the failure. If, within twenty (20) days of the request for cure by the Division, the relevant Settling Respondent does not provide the initial declaration as required by paragraph 2(ii)(A) above **or** the relevant Settling Respondent does not provide the certification of completeness as required by paragraph 2(ii)(C) above, the Commission, in its sole discretion, and without regard to the procedures set forth in Rule 5(c) of SEC's Informal and Other Procedures, 17 C.F.R. § 202.5(c), may determine that the relevant Settling Respondent has not complied with its obligations under this Order and thereupon enter, without further notice, an order of the Commission pursuant to Rule 102(e) in an agreed-upon form (attached as Annex B to this Order), that partially denies the Settling Respondent the privilege of practicing or appearing before the Commission, for a period of six (6) months, according to the terms set forth below (collectively the "**Partial Bar**").<sup>14</sup>
- i. A Partial Bar is defined as follows:
- A. The Settling Respondent is prohibited from issuing an audit report, or otherwise serving as a principal auditor, for any issuer (as defined in Section 2(a)(7) of Sarbanes-Oxley); and
  - B. The Settling Respondent is prohibited from playing a 50% or greater role in the preparation or furnishing of an audit report for any issuer, meaning the Settling Respondent is prohibited from performing:
    - 1. Audit work that a public accounting firm uses or relies on in issuing all or part of its audit report with respect to any issuer, where the engagement hours or fees for such services constitute 50% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report with respect to any issuer; and
    - 2. The majority of audit work with respect to a subsidiary or component of any issuer, the assets or revenues of which constitute 50% or more of the consolidated assets or revenues of the issuer.
- ii. If two or more orders imposing a Partial Bar are issued under this paragraph 3 for a particular Settling Respondent (where each such remedy arises from a separate

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<sup>14</sup> If an order in the form of Annex B is entered under this paragraph 3 of Section III.J of this Order, the information contained in brackets (“[ . . . ]”) in Annex B will be replaced by the relevant Settling Respondent’s name and the other pertinent details indicated within those brackets.



investigation), the Partial Bars shall be imposed so that each Partial Bar runs its full six-month course in a non-concurrent fashion.

- iii. An Order imposing the remedy of a Partial Bar shall be final. There shall be no review by any federal court.
4. Remedy in the form of a Summary Proceeding. If the relevant Settling Respondent provides the initial declaration under paragraph 2(ii)(A) above **and/or** the certification of completeness under paragraph 2(ii)(C) above, but the Division believes that either or both of the documents so provided is inadequate or that the production which the Settling Respondent has made to the CSRC and in respect of which it has given a certificate of completeness is not materially complete (as defined below), the Division shall notify the relevant Settling Respondent of the inadequacy or material non-completeness which it asserts and give the Settling Respondent at least twenty (20) days to cure them or otherwise satisfy the Division. If after twenty (20) days the relevant Settling Respondent has not resolved the matter to the Division's satisfaction, the Commission, upon recommendation by the Division and without regard to the procedures set forth in Rule 5(c) of SEC's Informal and Other Procedures, 17 C.F.R. § 202.5(c), may issue an order instituting a summary administrative proceeding ("**Summary Proceeding**"). If the Commission decides to issue an OIP, a Summary Proceeding will commence as follows:
- i. The purpose of the Summary Proceeding is to determine whether, in response to a request under the Procedures, the privilege log, withholding log, initial declaration, and/or certification of completeness is or are inadequate; whether U.S. privilege justifies the withholding of any responsive information; and whether the production to the CSRC is otherwise materially complete. These are the sole issues to be determined in a Summary Proceeding. A finding that is adverse to the Settling Respondent on one or more of these issues shall collectively constitute an "offense."
  - ii. The Summary Proceeding will be adjudicated by an assigned ALJ, who will issue a decision no later than either 180 days from the beginning of the proceeding or an extended date approved by the Commission. The relevant Settling Respondent will be afforded a reasonable opportunity to submit responses and briefs responding to any OIP instituting a Summary Proceeding in accordance with the SEC Rules of Practice. The Rules of Practice will govern the Summary Proceeding, except to the extent inconsistent with the terms of this Order.
  - iii. A Summary Proceeding may impose, for a first offense, a Partial Bar for a period of up to six (6) months. If, in the same Summary Proceeding or other Summary Proceedings, there is a finding of one or more additional offenses (each arising from a different investigation), the Summary Proceeding may impose a complete bar on appearing or practicing before the Commission for a period up to six (6) months per additional offense. Practice bars imposed for multiple offenses in a single Summary Proceeding may run consecutively. Additionally, whether or not a practice bar is imposed, the

Summary Proceeding may impose a censure on the relevant Settling Respondent and/or a monetary penalty up to U.S. \$750,000 per offense.

- iv. The Summary Proceeding decision shall be subject to Commission review in accordance with the SEC Rules of Practice. The Commission decision that resolves a petition for review of the ALJ's initial decision shall be final. There shall be no review by any federal court.
  - v. A "materially complete" production is one concerning which a reasonably diligent search has been conducted by the relevant Settling Respondent to identify responsive documents and where all of the documents identified in such search have been collected by the relevant Settling Respondent and provided to the CSRC, together with an index as required by the CSRC, in accordance with Chinese law protocols. A Summary Proceeding shall not be commenced to determine whether a production is deficient because of documents that are described on a Withholding Log and withheld under a claim that they contain state secrets or state sensitive information. However, neither the definition of "materially complete" nor any limitation on the subject matter of a Summary Proceeding, set forth herein, reflects a determination by the Division or the Commission of the Settling Respondent's full production obligation under Section 106 of Sarbanes-Oxley. Additionally, the Division expressly reserves its rights to restart the Current Proceeding under the circumstances described in paragraph 5 below, including, but not limited to, where the Division has concerns about the nature or scope of withholdings in response to a certain number of requests under the Procedures.
5. Restarting of the Current Proceeding. If any Settling Respondent does not comply with its undertaking to make the payment specified in Section III.H of this Order **or** if the Division in its sole discretion at any time decides that, with respect to two or more requests made collectively to the Settling Respondents under the Procedures, (i) in the Division's view, it has not received a materially complete production and/or an adequate privilege log, withholding log, initial declaration, and/or certification of completeness, as described in paragraph 2(ii) above, and the Division has not commenced a Summary Proceeding based on the request; (ii) in the Division's view a substantial number of documents (or portions of documents) have been withheld from the production in violation of, or without justification under, U.S. law, including, but not limited to, Section 106 of Sarbanes-Oxley; or (iii) in the Division's view its receipt of a production has been substantially delayed (or not received at all) under the Procedures, the Division may recommend to the Commission that the stay referred to in Section III.I of this Order be terminated, and, after receiving approval by the Commission of its recommendation, provide notice to all of the Settling Respondents that the stay has been terminated.

Before deciding that a request forms the basis (or part of the basis) for restarting the Current Proceeding, the Division (on its own or through other SEC staff) will notify the CSRC of the alleged inadequacy and/or make reasonable inquiry of the CSRC of the likely duration of any delay or non-production. A production will not be deemed "substantially delayed" within the meaning of paragraph 5(iii) above if the production is received by the SEC within 225 days

of the date of the request made under paragraph 2(i) above (or within any period of time as specifically agreed between the SEC and the CSRC for a particular request) and, in the Division's view, the production is materially complete and accompanied by an adequate privilege log, withholding log, and certification of completeness as described in paragraph 2(ii) above. If a production is received by the Division more than 225 days after the date of the request under paragraph 2(i) above, the Division, in its sole discretion, will determine whether the production is "substantially delayed" within the meaning of paragraph 5(iii) above. In making this determination, the Division will not automatically conclude that a production is "substantially delayed" because it is received more than 225 days after the date of the request, but will consider the particular circumstances of the case, including the SEC staff's communications with the CSRC regarding the timing of production.

To the extent noncompliance with Section III.H of this Order or the matters under (i), (ii) and/or (iii) above in this paragraph 5 relate to fewer than all of the Settling Respondents, the Division, in its discretion, may request of the Settling Respondents that the stay be lifted only as to the relevant Settling Respondent(s) and, if all four of the Settling Respondents agree to lift the stay only as to the relevant Settling Respondent(s), the stay will be lifted only as to the relevant Settling Respondent(s). If not, the stay will be lifted as to all of the Settling Respondents. The Current Proceeding will then resume as to all or some of the Settling Respondents, and those parties' rights will be determined by the Commission or the Federal Courts (should the identified Settling Respondents appeal). The Division's "notice" under this agreement may be by any method reasonably calculated to provide such notice, including, but not limited to, by delivering (under any method set forth in Rule 150(c) of the SEC's Rules of Practice) a copy of such notice to the Settling Respondents' outside counsel in the United States or to the respective domestic registered public accounting firms or other United States agents that the Settling Respondents have designated for service under Section 106(d) of Sarbanes-Oxley, 15 U.S.C. § 7216(d). Except with respect to paragraph 5(i) above, the Division's prerogatives under this paragraph are entirely separate from any remedy it may seek under paragraph 4 above.

6. In the event the Commission approves the Division's recommendation to lift the stay in the Current Proceeding, the following terms will apply:
  - i. The Division may serve new Section 106 requests on the Settling Respondents, via their designated agents, without reference to the Procedures as required under paragraph 2(i)(A) above. This means that the SEC may exercise its full statutory rights under Section 106.
  - ii. With respect to requests under paragraph 2(i) above that predate the lifting of the stay and do not form the basis for restarting the Current Proceeding under paragraph 5(i) above, the Division may initiate or continue to prosecute a Summary Proceeding under paragraph 4 above.
  - iii. The Division may not seek to sanction non-compliance by a Settling Respondent with any Section 106 request made after the lifting of the stay ("new Section 106 request"),

including through an administrative proceeding under Rule 102(e) of the Commission's Rules of Practice, until there is a Final Commission Order in the Current Proceeding. A "Final Commission Order" means a final order issued by the Commission with respect to the pending petitions for review in the Current Proceeding, without regard to whether any Settling Respondent (or any other party or non-party) seeks federal court review of the order or a stay in connection with such review.

- iv. The SEC or Division may not seek to enforce any Section 106 request against a Settling Respondent in federal district court under Section 106(b)(1)(B) of Sarbanes-Oxley until there is a Final Commission Order.
  - v. Nothing in paragraph 5 above or this paragraph 6 precludes the parties, in the Current Proceeding, in accordance with the Commission's Rules of Practice, from seeking leave to adduce additional evidence that relates to any request made by the Division under the Procedures or Section 106.
7. The provisions of paragraphs 2, 3, 4, 5, and 6 above will be in effect for four (4) years following the date of this Order. The day after this four-year period, these same provisions will expire, except that (i) any remedies ordered under these provisions shall run their full course; and (ii) any Summary Proceeding already instituted under paragraph 4 above and the Current Proceeding, if already restarted by the Division under paragraph 5 above, shall continue until final resolution. Upon expiration of the four-year period, unless the Division has restarted the Current Proceeding, all claims against any of the Settling Respondents in the Current Proceeding will be deemed to be dismissed, except such dismissal will not affect any admissions, findings, or remedies ordered in this Order, which are, and will be, deemed final upon the dismissal of the Current Proceeding.
  8. For purposes of the Commission's consideration of any Division recommendation under paragraph 4 or 5 above, or in connection with a remedy or potential remedy under paragraph 3 above, each of the Settling Respondents waives: (i) such provisions of the Commission's Rules of Practice or other requirements of law as may be construed to prevent any member of the Commission's staff from participating in the preparation of, or advising the Commission as to, any order, opinion, finding of fact, or conclusion of law to be entered in connection with the Division's recommendation, any resulting Summary Proceeding, or the Current Proceeding; and (ii) any right to claim bias or prejudice by the Commission, in any such order, opinion, finding of fact, or conclusion of law entered in connection with the Division's recommendation, in any Summary Proceeding, or in the Current Proceeding.

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose the sanctions agreed to in the Settling Respondents' Offers.

Accordingly, pursuant to Rules 100(c)<sup>15</sup> and 102(e) of the Commission's Rules of Practice, it is hereby ORDERED that:

- A. DTTC, EYHM, KPMG Huazhen, and PwC Shanghai each is censured for its willful violations of the securities laws.
- B. The Current Proceeding is hereby stayed in accordance with Section III.I of this Order.
- C. DTTC, EYHM, KPMG Huazhen, and PwC Shanghai each shall comply with the Procedures and Undertakings as to Future Requests, and Possible Additional Proceedings and Remedies, set forth above in Section III.J of this Order.
- D. The Commission may institute additional proceedings and/or impose additional remedies, as appropriate, in accordance with Section III.J of this Order.

By the Commission.

Brent Fields  
Secretary

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<sup>15</sup> Rule 100(c) of the Rules of Practice states: "The Commission, upon its determination that to do so would serve the interests of justice and not result in prejudice to the parties to the proceeding, may by order direct, in a particular proceeding, that an alternative procedure shall apply or that compliance with an otherwise applicable rule is unnecessary."

**UNITED STATES OF AMERICA**  
**Before the**  
**SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**  
**Release No.**

**ACCOUNTING AND AUDITING ENFORCEMENT**  
**Release No.**

**ADMINISTRATIVE PROCEEDING**  
**File Nos. 3-14872, 3-15116**

**In the Matter of**

**BDO China Dahua CPA Co., Ltd.;**  
**Deloitte Touche Tohmatsu Certified**  
**Public Accountants Ltd.;**  
**Ernst & Young Hua Ming LLP;**  
**KPMG Huazhen (Special General**  
**Partnership);**  
**PricewaterhouseCoopers Zhong Tian**  
**CPAs Limited**

**Respondents.**

**ANNEX A TO ORDER ON THE**  
**BASIS OF OFFERS OF**  
**SETTLEMENT OF CERTAIN**  
**RESPONDENTS IMPLEMENTING**  
**SETTLEMENT**

**ANNEX A**

Respondents Deloitte Touche Tohmatsu Certified Public Accountants Ltd. (“DTTC”), Ernst & Young Hua Ming LLP (“EYHM”), KPMG Huazhen (Special General Partnership) (“KPMG Huazhen”), and PricewaterhouseCoopers Zhong Tian CPAs Limited Company (“PwC Shanghai”) (collectively the “Settling Respondents”) admit the facts set forth below (the “Admissions”):

## **RESPONDENTS**

1. DTTC (or “Deloitte”) is a special general partnership providing audit and professional services in the PRC. DTTC is located in Shanghai, China, and is a member firm of Deloitte Touche Tohmatsu Limited (“DTT Global”), a UK private company limited by guarantee. DTTC is a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

2. EYHM (or “Ernst”) is a special general partnership providing audit and professional services in the PRC. EYHM is headquartered in Beijing, China, and is a member firm of Ernst & Young Global Limited (“EY Global”), a UK private company limited by guarantee. EYHM is a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

3. KPMG Huazhen (or “KPMG”) is a special general partnership providing audit and professional services in the PRC. KPMG Huazhen is located in Beijing, China, and is a member firm of KPMG International Cooperative (“KPMG International”), a Swiss entity. KPMG Huazhen is a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

4. PwC Shanghai (or “Pricewaterhouse”) is a special general partnership providing audit and professional services in the PRC. PwC Shanghai is headquartered in Shanghai, China, and is a member firm of PricewaterhouseCoopers International Limited (“PwCIL”), a UK private company limited by guarantee. PwC Shanghai is a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

## **OTHER RELEVANT ENTITIES**

5. DTTC Client A (“DTTC Client A”) is a public company the securities of which are registered with the SEC under Section 12(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and listed on NASDAQ. DTTC Client A is incorporated in the Province of Ontario, Canada and has its principal operations and principal place of business in the PRC. DTTC Client A designs and manufactures solar products.

6. EYHM Client B (“Client B”) is a Delaware corporation with its principal operations and principal place of business in the PRC. Client B’s securities were previously registered with the SEC under Section 12(g) of the Exchange Act and listed on NASDAQ. Client B purports to be a leading developer, manufacturer and distributor of organic compound fertilizers in China.

7. EYHM Client C (“Client C”) is a Cayman Islands corporation with its primary operations in Beijing, PRC. Client C’s securities were previously registered with the SEC pursuant to Section 12(g) of the Exchange Act and listed on NASDAQ. Client C purports to provide enhanced recovery services for oil and gas exploration.

8. KPMG Huazhen Client D (“Client D”) is a Delaware corporation with its primary operations in Xi’an, PRC. Client D’s securities were previously registered with the SEC pursuant

to Section 12(g) of the Exchange Act and listed on NASDAQ. Client D purports to engage in the wholesale distribution of finished oil and heavy oil products, the production and sale of biodiesel, and the operation of retail gas stations.

9. KPMG Huazhen Client E (“Client E”) is a Nevada corporation with its primary operations in Ningbo, PRC. Client E’s securities are registered with the SEC pursuant to Section 12(g) of the Exchange Act and were previously listed on NASDAQ. Client E purports to manufacture and supply various petrochemical products in China.

10. KPMG Huazhen Client F (“Client F”) is a Nevada corporation, with its primary operations in Shanghai, PRC. Client F’s securities were previously registered with the SEC pursuant to Section 12(b) of the Exchange Act and listed on NASDAQ. Client F purports to manufacture chemical additives used in the production of consumer and industrial products.

11. DTTC Client G (“Client G”) is a Wyoming corporation with its primary operations in Beijing, PRC. Client G’s securities were previously registered with the SEC pursuant to Section 12(g) of the Exchange Act and listed on NYSE. Client G purports to design, manufacture, and sell offset printing equipment.

12. PwC Shanghai Client H (“Client H”) is a Cayman Islands corporation with its principal operations in the PRC. Client H’s securities are registered with the SEC under Section 12(g) of the Exchange Act and were previously listed on NASDAQ. Client H purports to own and operate a commercial vehicle financing and service centers network.

13. PwC Shanghai Client I (“Client I”) is a Nevada corporation with its primary operations in Beijing, PRC. Client I’s securities were previously registered with the SEC under Section 12(g) of the Exchange Act and listed on NASDAQ. Client I purports to manufacture automotive electrical parts in China.

**FACTS CONCERNING COMMISSION REQUESTS TO THE SETTLING  
RESPONDENTS UNDER SARBANES-OXLEY**

**1. Regulatory Background**

14. Section 106 of the Sarbanes-Oxley Act of 2002 (“Sarbanes-Oxley” or the “Act”), before it was amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank”) in 2010, stated, in relevant part, that “If a foreign public accounting firm issues an opinion or otherwise performs material services upon which a registered public accounting firm relies in issuing all or part of any audit report or any opinion contained in an audit report, that foreign public accounting firm shall be deemed to have consented . . . to produce its audit workpapers for the Board or the Commission in connection with any investigation by either body with respect to that audit report . . . .” Sarbanes-Oxley Act of 2002 (Public Company Accounting Reform and Investor Protection Act), Pub. L. No. 107-204 § 106(b).



15. In 2004, the Board posted Frequently Asked Questions to its website which stated, in part: “A registered firm’s failure to cooperate with Board requests [for production of documents under Sarbanes-Oxley Section 106] may subject the firm to disciplinary sanctions, including substantial civil money penalties and revocation of the firm’s registration. In the staff’s view, if a firm fails to cooperate with the Board, the fact that the firm has not obtained a client consent that might be necessary (under non-U.S. law) to allow the firm to cooperate is not a defense to a disciplinary action for failure to cooperate.”

16. Section 106(b)(1) of Sarbanes-Oxley, as amended by Dodd-Frank, states that: “[i]f a foreign public accounting firm performs material services upon which a registered public accounting firm relies in the conduct of an audit or interim review, issues an audit report, performs audit work, or conducts interim reviews, the foreign public accounting firm shall . . . produce the audit workpapers of the foreign public accounting firm and all other documents of the firm related to any such audit work or interim review to the Commission or the Board, upon request of the Commission or the Board . . . .”

## **2. Requests To DTTC**

17. On or around April 16, 2004, DTTC<sup>1</sup> applied for registration with the Public Company Accounting Oversight Board (the “PCAOB” or “Board”) as required by the Sarbanes-Oxley Act (“Sarbanes-Oxley”), 15 U.S.C. § 7212. The Board confirmed DTTC’s registration as a foreign public accounting firm in a letter dated June 4, 2004. DTTC has remained registered with the Board since that time.

18. DTTC knew when it registered with the PCAOB that the PCAOB or the SEC could request documents under Section 106, as originally enacted as part of Sarbanes-Oxley.

19. DTTC knew when it registered with the PCAOB that there were possible conflicts between its obligations under U.S. and Chinese law. DTTC described possible conflicts of law in its April 16, 2004 PCAOB registration filing that included a legal opinion.

20. The Board’s June 4, 2004 letter confirming DTTC’s registration stated that, although DTTC had not provided with its application a “Consent to Cooperate” with Board inspections and requests for documents, “the Board’s approval of Deloitte’s registration . . . does not relieve Deloitte of the obligation to cooperate in and comply with Board demands (including for documents or testimony) and to enforce such cooperation and compliance by Deloitte associated persons. If Deloitte prepares or issues, or plays a substantial role in preparing or issuing, an audit report with respect to any issuer . . . U.S. law and the Board’s rules impose cooperation and compliance requirements that apply to Deloitte despite the absence of a consent.”

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<sup>1</sup> On January 1, 2013, Deloitte Touche Tohmatsu Certified Public Accountants LLP filed with the Public Company Accounting Oversight Board a notification on Form 4 that Deloitte Touche Tohmatsu Certified Public Accountants LLP had succeeded to the registration status of its predecessor, Deloitte Touche Tohmatsu CPA Ltd.

21. In June 2011, pursuant to Sarbanes-Oxley Section 106(d), as amended by Dodd-Frank, DTTC designated Deloitte & Touche LLP (“DTT US”), the United States member firm of DTT Global, as its agent for receiving service of document requests under Section 106. In so doing, DTTC confirmed its understanding that the PCAOB or the SEC could request documents under Section 106.

22. DTTC knew at all relevant times that it was possible that it could not, consistent with Chinese law, produce documents directly to the SEC in response to requests for documents under Sarbanes-Oxley Section 106. DTTC also knew, no later than upon the enactment of Dodd-Frank, in 2010, and at all times subsequent, that the Commission retained power to deny DTTC the privilege of appearing or practicing before the Commission to the extent DTTC willfully refused to comply with requests for documents under Sarbanes-Oxley Section 106.

23. In the PCAOB reporting years 2010, 2011, 2012, and 2013, DTTC issued audit reports for thirty-two (32), forty-five (45), forty-five (45), and thirty-nine (39) U.S. issuers, respectively.

24. DTTC audited DTTC Client A’s financial statements for the fiscal years ended December 31, 2008, 2009, and 2010. DTTC Client A remained DTTC’s client as of April 2013.

25. Before April 9, 2010, the Division commenced an investigation into potential accounting fraud involving DTTC Client A, which Client A disclosed in a Form 6-K and accompanying press release filed with the Commission on June 1, 2010. In the press release, DTTC Client A announced that it was postponing the release of its full financial results for the quarter ended March 31, 2010 and its quarterly conference call, scheduled for June 2, as a result of the commencement of an investigation by the Audit Committee of DTTC Client A’s Board of Directors. DTTC Client A disclosed that “the investigation was launched after the Company received a subpoena from the [Commission] requesting documents from [DTTC Client A] relating to, among other things, certain sales transactions in 2009.”

26. On March 11, 2011, the Division properly served on DTTC a Commission request under Section 106 for the production of “[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [DTTC Client A] for the fiscal year ending December 31, 2009” (the “Client A Request”).

27. By letter dated April 29, 2011, DTTC, through its U.S. counsel, responded to the Client A Request. DTTC stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. DTTC did not include any of the requested audit workpapers or related documents with its response.

28. In July 2011, the Division issued to DTTC a Wells notice that the Division intended to recommend institution of proceedings against DTTC because, in the Division’s view, DTTC had willfully refused to comply with the Client A Request.

29. DTTC was engaged to audit the financial statements of Client G for the fiscal year ended June 30, 2010. In the course of this engagement, DTTC performed audit work on behalf of Client G related to the fiscal year ended June 30, 2010. DTTC did not issue any audit report with respect to Client G.

30. In 2010, Division staff opened an investigation involving Client G, which related to matters reported in a Form 8-K filed by Client G on September 13, 2010. Specifically, Client G reported that:

- a. Client G had terminated DTTC's engagement as independent auditor effective September 6, 2010;
- b. During the course of DTTC's audit of Client G for the fiscal year ended June 30, 2010, Client G had denied DTTC's request for permission to access original bank statements to verify the identity of certain individuals and entities;
- c. Several "reportable events," as defined in Item 304(a)(1)(v) of Regulation S-K, occurred during DTTC's audit of Client G; and
- d. Between September 6 and September 8, 2010, Client G's CEO, CFO, and several directors, including the Chair of its Audit Committee, all resigned their positions.

31. On February 14, 2012, the Division properly served on DTTC a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client G] for the fiscal year ended June 30, 2010" (the "Client G Request").

32. By letter dated April 17, 2012, DTTC, through its U.S. counsel, responded to the Client G Request. DTTC stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. DTTC did not include any of the requested audit workpapers or related documents with its response.

33. In April 2012, the Division issued to DTTC a Wells notice that the Division intended to recommend institution of proceedings against DTTC because, in the Division's view, DTTC had willfully refused to comply with the Client G Request.

34. On May 9, 2012 and December 3, 2012, the Commission instituted these proceedings against DTTC under Rule 102(e) based on DTTC's conduct with respect to the Client A Request and the Client G Request, respectively. DTTC did not produce audit workpapers and related documents responsive to either request to the Commission before the December 3, 2012 OIP.

35. In 2013, DTTC provided documents related to DTTC Client A to the China Securities Regulatory Commission (“CSRC”), in response to a request that DTTC had received from the CSRC. In November 2013, DTTC audit workpapers concerning DTTC Client A were provided by the CSRC to the SEC.

36. In 2013, DTTC provided documents related to Client G to the CSRC, in response to a request that DTTC had received from the CSRC. In October 2013, DTTC audit workpapers and related documents concerning Client G were provided by the CSRC to the SEC.

### **3. Requests To EYHM**

37. On or around May 25, 2004, EYHM<sup>2</sup> applied for registration with the PCAOB as required by Sarbanes-Oxley, 15 U.S.C. § 7212. The PCAOB confirmed EYHM’s registration as a foreign public accounting firm in a letter dated July 8, 2004. EYHM has remained registered with the PCAOB since that time.

38. EYHM knew when it registered with the PCAOB that the PCAOB or the SEC could request documents under Section 106, as originally enacted as part of Sarbanes-Oxley.

39. EYHM knew when it registered with the PCAOB that there were possible conflicts between its obligations under U.S. and Chinese law. EYHM described possible conflicts of law in its May 25, 2004 PCAOB registration filing that included a legal opinion.

40. The Board’s July 8, 2004 letter confirming EYHM’s registration stated that, although EYHM had not provided with its application a “Consent to Cooperate” with Board inspections and requests for documents, “the Board’s approval of Ernst’s registration . . . does not relieve Ernst of the obligation to cooperate in and comply with Board demands (including for documents or testimony) and to enforce such cooperation and compliance by Ernst’s associated persons. If Ernst prepares or issues, or plays a substantial role in preparing or issuing, an audit report with respect to any issuer . . . U.S. law and the Board’s rules impose cooperation and compliance requirements that apply to Ernst despite the absence of a consent.”

41. In March 2011, pursuant to Sarbanes-Oxley Section 106(d), as amended by Dodd-Frank, EYHM designated Ernst & Young LLP (“EY US”), the United States member firm of EY Global, as its agent for receiving service of document requests under Section 106. In so doing, EYHM confirmed its understanding that the PCAOB or the SEC could request documents under Section 106.

42. EYHM knew at all relevant times that it was possible that it could not, consistent with Chinese law, produce documents directly to the SEC in response to requests for documents under Sarbanes-Oxley Section 106. EYHM also knew, no later than upon the enactment of Dodd-

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<sup>2</sup> On September 3, 2012, Ernst & Young Hua Ming LLP filed with the Public Company Accounting Oversight Board a notification on Form 4 that Ernst & Young Hua Ming LLP had succeeded to the registration status of its predecessor, Ernst & Young Hua Ming Certified Public Accountants.

Frank, in 2010, and at all times subsequent, that that the Commission retained the power to deny EYHM the privilege of appearing or practicing before the Commission to the extent EYHM willfully refused to comply with requests for documents under Sarbanes-Oxley Section 106.

43. In the PCAOB reporting years 2010, 2011, 2012, and 2013, EYHM issued audit reports for eleven (11), twenty-four (24), twenty-one (21), and twenty (20) U.S. issuers, respectively.

44. EYHM was engaged to audit the financial statements of Client B for the fiscal year ended December 31, 2010. In the course of this engagement, EYHM performed audit work on behalf of Client B related to the fiscal year ended December 31, 2010. EYHM did not issue an audit report on Client B's financial statements for the fiscal year ended December 31, 2010.

45. In March 2011, the Division opened an investigation into Client B. The investigation related to, among other things, public allegations of potential accounting fraud and misleading disclosures by Client B, including overstated revenues, falsified assets and customer relationships, and failure to disclose certain related party transactions.

46. On April 26, 2012, the Division properly served on EYHM a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client B] for the fiscal year ending December 31, 2010" (the "Client B Request").

47. By letter dated May 25, 2012, EYHM, through its U.S. counsel, responded to the Client B Request. EYHM stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. EYHM did not include any of the requested audit workpapers or related documents with its response.

48. In June 2012, the Division issued to EYHM a Wells notice that the Division intended to recommend institution of proceedings against EYHM because, in the Division's view, EYHM had willfully refused to comply with the Client B Request.

49. EYHM audited Client C's financial statements for the fiscal year ended September 30, 2010.

50. By September 2011, Division staff opened an investigation involving potential financial and accounting fraud at Client C. The investigation stemmed from a short seller report regarding Client C, and from a letter that EYHM submitted to the Commission, pursuant to Section 10A of the Exchange Act, upon its resignation as Client C's auditor in September 2011. The two primary subjects of the investigation were possible accounting fraud related to asset valuation, and embezzlement by Client C's chairman.

51. On February 2, 2012, the Division properly served on EYHM a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents

related to any audit work or interim reviews performed for [Client C] for the fiscal year ending September 30, 2010 and subsequent periods” (the “Client C Request”).

52. By letter dated April 4, 2012, EYHM, through its U.S. counsel, responded to the Client C Request. EYHM stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. EYHM did not include any of the requested audit workpapers or related documents with its response.

53. In April 2012, the Division issued to EYHM a Wells notice that the Division intended to recommend institution of proceedings against EYHM because, in the Division’s view, EYHM had willfully refused to comply with the Client C Request.

54. On December 3, 2012, the Commission instituted these proceedings against EYHM under Rule 102(e) based on EYHM’s conduct with respect to the Client B Request and the Client C Request. EYHM did not produce any documents responsive to either request to the Commission before the December 3, 2012 OIP.

55. In November 2013, EYHM audit workpapers and related documents concerning Client C were received by the Commission from the CSRC. In March 2014, EYHM audit workpapers and related documents concerning Client B were provided to the Commission by the CSRC.

#### **4. Requests To KPMG Huazhen**

56. On or around April 26, 2004, KPMG Huazhen<sup>3</sup> applied for registration with the PCAOB as required by Sarbanes-Oxley, 15 U.S.C. § 7212. The Board confirmed KPMG Huazhen’s registration as a foreign public accounting firm in a letter dated July 13, 2004. KPMG Huazhen has remained registered with the Board since that time.

57. KPMG Huazhen knew when it registered with the PCAOB that the PCAOB or the SEC could request documents under Section 106, as originally enacted as part of Sarbanes-Oxley.

58. KPMG Huazhen knew when it registered with the PCAOB that there were possible conflicts between its obligations under U.S. and Chinese law. KPMG Huazhen described possible conflicts of law in its April 26, 2004 PCAOB registration filing that included a legal opinion.

59. The Board’s July 13, 2004 letter confirming KPMG Huazhen’s registration stated that, although KPMG Huazhen had not provided with its application a “Consent to Cooperate” with Board inspections and requests for documents, “the Board’s approval of KPMG’s registration . . . does not relieve KPMG of the obligation to cooperate in and comply with Board demands

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<sup>3</sup> On August 14, 2012, KPMG Huazhen (Special General Partnership) filed with the Public Company Accounting Oversight Board a notification on Form 4 that KPMG Huazhen (Special General Partnership) had succeeded to the registration status of its predecessor, KPMG Huazhen.

(including for documents or testimony) and to enforce such cooperation and compliance by KPMG's associated persons. If KPMG prepares or issues, or plays a substantial role in preparing or issuing, an audit report with respect to any issuer . . . U.S. law and the Board's rules impose cooperation and compliance requirements that apply to KPMG despite the absence of a consent."

60. In March 2011, pursuant to Sarbanes-Oxley Section 106(d), as amended by Dodd-Frank, KPMG Huazhen designated KPMG LLP ("KPMG US"), the United States member firm of KPMG International, as its agent for receiving service of document requests under Section 106. In so doing, KPMG Huazhen confirmed its understanding that the PCAOB or the SEC could request documents under Section 106.

61. KPMG Huazhen knew at all relevant times it was possible that it could not, consistent with Chinese law, produce documents directly to the SEC in response to requests for documents under Sarbanes-Oxley Section 106. KPMG Huazhen also knew, no later than upon the enactment of Dodd-Frank, in 2010, and at all times subsequent, that the Commission retained the power to deny KPMG Huazhen the privilege of appearing or practicing before the Commission to the extent KPMG Huazhen willfully refused to comply with requests for documents under Sarbanes-Oxley Section 106.

62. In the PCAOB reporting years 2010, 2011, 2012, and 2013, KPMG Huazhen played a substantial role in the preparation or furnishing of audit reports filed with the SEC (as defined by PCAOB Rule 1001(p)(ii))<sup>4</sup> for twenty-four (24), twenty-three (23), twenty-five (25), and twenty-one (21) U.S. issuers, respectively.

63. KPMG Huazhen was engaged as a component auditor for Client D for the fiscal year ended December 31, 2010. In the course of this engagement, KPMG Huazhen played a substantial role with respect to the audit of Client D related to the fiscal year ended December 31, 2010.

64. By April 2011, the Division opened an investigation into potential accounting fraud at Client D. The investigation concerned allegations made in two short seller reports issued in March 2011, which claimed that Client D's financial statements reported false cash balances, overstated revenues, and failed to disclose a material related party transaction.

65. On February 6, 2012, the Division properly served on KPMG Huazhen a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client D] for the fiscal year ending December 31, 2010" (the "Client D Request").

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<sup>4</sup> PCAOB Rule 1001(p)(ii) defines "Play a Substantial Role in the Preparation or Furnishing of an Audit Report" to mean: "(1) to perform material services that a public accounting firm uses or relies on in issuing all or part of its audit report with respect to any issuer, or (2) to perform the majority of the audit procedures with respect to a subsidiary or component of any issuer the assets or revenues of which constitute 20% or more of the consolidated assets or revenues of such issuer necessary for the principal accountant to issue an audit report on the issuer."

66. KPMG Huazhen was engaged as a component auditor for Client E for the fiscal year ended December 31, 2010. In the course of this engagement, KPMG Huazhen played a substantial role with respect to the audit of Client E related to the fiscal year ended December 31, 2010, but did not complete the engagement.

67. By April 2011, Division staff opened an investigation into potential financial and accounting fraud at Client E. The investigation concerned issues raised in a Form 8-K that Client E filed in April 2011, which stated that Client E would be unable to file its Form 10-K on time because Client E's principal auditor had identified "unexplained issues regarding certain cash transactions and recorded sales."

68. On February 9, 2012, the Division properly served on KPMG Huazhen a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client E] for the fiscal year ending December 31, 2010" (the "Client E Request").

69. KPMG Huazhen was engaged as a component auditor for Client F for the fiscal years ended December 31, 2008, and December 31, 2009. In the course of this engagement, KPMG Huazhen played a substantial role with respect to the audit reports Client F filed with the Commission related to the fiscal years ended December 31, 2008 and 2009.

70. Before February 2012, Division staff opened an investigation involving potential financial and accounting fraud at Client F. The investigation related to issues raised in a pair of disclosures made by Client F in early 2011:

- a. In March 2011, Client F disclosed that it was conducting an internal investigation into "potentially serious discrepancies" in its financial statements for the year ended December 31, 2010, and
- b. In May 2011, Client F disclosed that its principal auditor had resigned after identifying what they considered "potentially serious discrepancies and/or unexplained issues relating to [Client F]'s financial records," in response to which Client F failed to take adequate remedial action.

71. On February 3, 2012, the Division properly served on KPMG Huazhen a Commission request under Section 106 for the production of "[a]ll audit work papers and all other documents related to any audit reports issued, audit work performed, or interim reviews conducted for [Client F] from January 1, 2008 to the present" (the "Client F Request").

72. By letter dated March 27, 2012, KPMG Huazhen, through its U.S. counsel, responded to the Client D Request, the Client E Request, and the Client F Request. KPMG Huazhen stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with any of the requested audit workpapers and related documents. KPMG Huazhen did not include any of the requested audit workpapers or related documents with its March 27 response.



73. In May 2012, the Division issued to KPMG Huazhen a Wells notice that the Division intended to recommend institution of proceedings against KPMG Huazhen because, in the Division's view, KPMG Huazhen had willfully refused to comply with the Client D Request, the Client E Request, and the Client F Request.

74. On December 3, 2012, the Commission instituted these proceedings against KPMG Huazhen under Rule 102(e) based on KPMG Huazhen's conduct with respect to the Client D Request, the Client E Request, and the Client F Request. KPMG Huazhen did not produce audit workpapers or related documents responsive to any of the requests to the Commission before the December 3, 2012 OIP.

## **5. Requests To PwC Shanghai**

75. On or around April 26, 2004, PwC Shanghai<sup>5</sup> applied for registration with the PCAOB as required by Sarbanes-Oxley, 15 U.S.C. § 7212. The PCAOB confirmed PwC Shanghai's registration as a foreign public accounting firm in a letter dated July 13, 2004. PwC Shanghai has remained registered with the Board since that time.

76. PwC Shanghai knew when it registered with the PCAOB that the PCAOB or the SEC could request documents under Section 106, as originally enacted as part of Sarbanes-Oxley.

77. PwC Shanghai knew when it registered with the PCAOB that there were possible conflicts between its obligations under U.S. and Chinese law. PwC Shanghai described possible conflicts of law in its April 26, 2004 PCAOB registration filing that included a legal opinion.

78. The Board's July 13, 2004 letter confirming PwC Shanghai's registration stated that, although PwC Shanghai had not provided with its application a "Consent to Cooperate" with Board inspections and requests for documents, "the Board's approval of Pricewaterhouse's registration . . . does not relieve Pricewaterhouse of the obligation to cooperate in and comply with Board demands (including for documents or testimony) and to enforce such cooperation and compliance by Pricewaterhouse's associated persons. If Pricewaterhouse prepares or issues, or plays a substantial role in preparing or issuing, an audit report with respect to any issuer . . . U.S. law and the Board's rules impose cooperation and compliance requirements that apply to Pricewaterhouse despite the absence of a consent."

79. In March 2011, pursuant to Sarbanes-Oxley Section 106(d), as amended by Dodd-Frank, PwC Shanghai designated PricewaterhouseCoopers LLP ("PwC US"), the United States member firm of PwCIL, as its agent for receiving service of document requests under Section 106. In so doing, PwC Shanghai confirmed its understanding that the PCAOB or the SEC could request documents under Section 106.

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<sup>5</sup> On July 8, 2013, PricewaterhouseCoopers Zhong Tian LLP filed with the Public Company Accounting Oversight Board a notification on Form 4 that PricewaterhouseCoopers Zhong Tian LLP had succeeded to the registration status of its predecessor, PricewaterhouseCoopers Zhong Tian CPAs Limited Company.

80. PwC Shanghai knew at all relevant times it was possible that it could not, consistent with Chinese law, produce documents directly to the SEC in response to requests for documents under Sarbanes-Oxley Section 106. PwC Shanghai also knew, no later than upon the enactment of Dodd-Frank, in 2010, and at all times subsequent, that the Commission retained the power to deny PwC Shanghai the privilege of appearing or practicing before the Commission to the extent PwC Shanghai willfully refused to comply with requests for documents under Sarbanes-Oxley Section 106.

81. In the PCAOB reporting years 2010, 2011, 2012, and 2013, PwC Shanghai issued audit reports for seventeen (17), twenty-seven (27), thirty-one (31), and twenty-three (23) U.S. issuers, respectively.

82. PwC Shanghai was engaged to audit the financial statements of Client H for the fiscal year ended December 31, 2010. In the course of this engagement, PwC Shanghai performed audit work on behalf of Client H related to the fiscal year ended December 31, 2010. PwC Shanghai did not issue any audit report with respect to Client H.

83. By March 2011, the Division opened an investigation into potential accounting fraud at Client H. The investigation concerned public allegations of accounting fraud and market manipulation at Client H. Certain internet reports alleged, among other things, that Client H overstated revenue and earnings by accounting for lease revenues upfront instead of recognizing this revenue over the duration of the leases, and that there were discrepancies between Client H's cash flow and reported net income.

84. On February 8, 2012, the Division properly served on PwC Shanghai a Commission request under Section 106 for the production of “[a]ll audit work papers and all other documents related to any audit work or interim reviews performed for [Client H] for the fiscal year ending December 31, 2010” (the “Client H Request”).

85. By letter dated April 12, 2012, PwC Shanghai, through its U.S. counsel, responded to the Client H Request. PwC Shanghai stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. PwC Shanghai did not include any of the requested audit workpapers or related documents with its response.

86. In April 2012, the Division issued to PwC Shanghai a Wells notice that the Division intended to recommend institution of proceedings against PwC Shanghai because, in the Division's view, PwC Shanghai had willfully refused to comply with the Client H Request.

87. PwC Shanghai was engaged to audit the financial statements of Client I for the fiscal year ended December 31, 2010. In the course of this engagement, PwC Shanghai performed audit work on behalf of Client I related to the fiscal year ended December 31, 2010. PwC Shanghai did not issue any audit report with respect to Client I.

88. By March 2011, Division staff opened an investigation involving potential financial and accounting fraud at Client I. The investigation focused on potential accounting irregularities, undisclosed related party transactions, misappropriation of corporate assets, and market manipulation.

89. On March 22, 2012, the Division properly served on PwC Shanghai a Commission request under Section 106 for the production of “[a]ll audit work papers and all other documents related to any audit work performed for [Client I] for the fiscal year ending December 31, 2010” (the “Client I Request”).

90. By letter dated April 12, 2012, PwC Shanghai, through its U.S. counsel, responded to the Client I Request. PwC Shanghai stated in the letter that the laws and regulations of the PRC prohibited the firm from providing the SEC directly with the requested audit workpapers and related documents. PwC Shanghai did not include any of the requested audit workpapers or related documents with its response.

91. In April 2012, the Division issued to PwC Shanghai a Wells notice that the Division intended to recommend institution of proceedings against PwC Shanghai because, in the Division’s view, PwC Shanghai had willfully refused to comply with the Client I Request.

92. On December 3, 2012, the Commission instituted these proceedings against PwC Shanghai under Rule 102(e) based on PwC Shanghai’s conduct with respect to the Client H Request and the Client I Request. PwC Shanghai did not produce audit workpapers and related documents responsive to either request to the Commission before the December 3, 2012 OIP.

93. In November 2013, PwC Shanghai produced audit workpapers and related documents concerning Client I to the CSRC, in response to a request that PwC Shanghai had received from the CSRC. In March 2014, PwC Shanghai audit workpapers and related documents concerning Client I were provided by the CSRC to the SEC.

**ANNEX B**

**UNITED STATES OF AMERICA  
Before the  
SECURITIES AND EXCHANGE COMMISSION**

**SECURITIES EXCHANGE ACT OF 1934**

**Release No.**

**ACCOUNTING AND AUDITING ENFORCEMENT**

**Release No.**

**ADMINISTRATIVE PROCEEDING**

**File Nos. 3-14872, 3-15116**

**In the Matter of**

**BDO China Dahua CPA Co., Ltd.;**  
**Deloitte Touche Tohmatsu Certified**  
**Public Accountants Ltd.;**  
**Ernst & Young Hua Ming LLP;**  
**KPMG Huazhen (Special General**  
**Partnership);**  
**PricewaterhouseCoopers Zhong Tian**  
**CPAs Limited**

**Respondents.**

**ORDER MAKING FINDINGS AND  
PARTIALLY DENYING [NAME OF  
SETTLING RESPONDENT] THE  
PRIVILEGE OF PRACTICING OR  
APPEARING BEFORE THE  
SECURITIES AND EXCHANGE  
COMMISSION**

**I.**

The Securities and Exchange Commission (“Commission”) issues this Order Making Findings And Partially Denying [Name of Settling Respondent] The Privilege of Practicing Or Appearing Before The Securities and Exchange Commission (“Partial Bar Order”) pursuant to the Offer of Settlement submitted by [Name of Settling Respondent], which was accepted by the Commission in its Order on the Basis of Offers of Settlement of Certain Respondents Implementing Settlement on [MONTH, DAY], 2015 (the “Settlement Order”).

## II.

Respondent [Name of Settling Respondent (“[Short Form of Settling Respondent’s Name – DTTC, EYHM, KPMG Huazhen, or PwC Shanghai]” or “Respondent”)] admits the Commission’s jurisdiction over it in, and over the subject matter of, this proceeding and any proceeding to enforce or that seeks to challenge this Partial Bar Order or the Settlement Order. In addition, Respondent [Short Form of Settling Respondent’s Name] consents to the entry of this Partial Bar Order, as set forth below.

## III.

On the basis of this Partial Bar Order, Respondent [Short Form of Settling Respondent’s Name]’s Offer of Settlement, the Settlement Order, and Rule 102(e) of the Commission’s Rules of Practice, the Commission finds that:

1. [Insert one of the following paragraphs as appropriate:

As of the date of the Settlement Order, DTTC was a special general partnership providing audit and professional services in the People’s Republic of China (“China”). DTTC was located in Shanghai, China, and was a member firm of Deloitte Touche Tohmatsu Limited (“DTT Global”), a UK private company limited by guarantee. DTTC was a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

As of the date of the Settlement Order, KPMG Huazhen was a special general partnership providing audit and professional services in the People’s Republic of China (“China”). KPMG Huazhen was located in Beijing, China, and was a member firm of KPMG International Cooperative (“KPMG International”), a Swiss entity. KPMG Huazhen was a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

As of the date of the Settlement Order, EYHM was a special general partnership providing audit and professional services in the People’s Republic of China (“China”). EYHM was headquartered in Beijing, China, and was a member firm of Ernst & Young Global Limited (“EY Global”), a UK private company limited by guarantee. EYHM was a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.

As of the date of the Settlement Order, PwC Shanghai was a special general partnership providing audit and professional services in the People’s Republic of China (“China”). PwC Shanghai was headquartered in Shanghai, China, and was a member firm of PricewaterhouseCoopers International Limited (“PwCIL”), a UK private company limited by guarantee. PwC Shanghai was

a foreign public accounting firm as defined by Section 106 of Sarbanes-Oxley.]

2. The Settlement Order provides, *inter alia*, that the Commission's Division of Enforcement ("Division"), for a period of four years from the date of the Settlement Order, may issue requests for assistance to the China Securities Regulatory Commission ("CSRC")<sup>1</sup> under international sharing mechanisms with respect to Respondent's audit workpapers and related documents. The Settlement Order also provides that, on or about the date on which such a request for assistance is sent, the SEC or the Division will do one or both of the following: (A) issue a new request under Section 106 of Sarbanes-Oxley, as amended by Section 929J of the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") ("Section 106"), to Respondent through its designated U.S. agent, subject to certain conditions set forth in the Settlement Order; and/or (B) provide Respondent with notice of the request for assistance that was sent to the CSRC, specifying the documents sought by the Division. *See* Settlement Order, Section III.J, Paragraph 2(i).
3. The Settlement Order further provides, *inter alia*, that:
  - i. Within ninety (90) days of receipt of such a request or within forty-five (45) days from the date Respondent receives the first corresponding request from the CSRC, whichever is later, Respondent will provide the Division with an initial declaration ("initial declaration") which states that Respondent has produced all responsive documents, accompanied by an index describing such documents, to the CSRC for production to the SEC, subject to specific exceptions and conditions as set forth in the Settlement Order. *See* Settlement Order, Section III.J, Paragraphs 2(ii)(A)-(B).
  - ii. Within ten (10) days of the SEC notifying Respondent that production from the CSRC to the SEC has occurred, Respondent will provide the Division directly with a certification that it has provided to the CSRC all documents responsive to the CSRC's corresponding request except information set forth on a privilege log, and, where applicable, that it has proposed (subject to the CSRC's review) that documents (or portions of documents) set forth on the withholding log should be withheld under Chinese law governing state sensitive information or state secrets, or for any other reason under Chinese law ("certification of completeness"). *See* Settlement Order, Section III.J, Paragraph 2(ii)(C).

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<sup>1</sup> References to the CSRC in the Settlement Order mean the CSRC and/or such other Chinese authority/ies as may be charged from time to time by the Chinese government with liaising with the SEC on matters of cross-border information-sharing and cooperation.

- iii. If Respondent does not provide the initial declaration as required by the Settlement Order, or if Respondent does not provide the certification of completeness as required by the Settlement Order, the Division shall notify Respondent of the failure and give Respondent twenty (20) days to cure the failure. If, within twenty (20) days of the request for cure by the Division, the Respondent does not provide the initial declaration or the certification of completeness as required by the Settlement Order, the Commission, in its sole discretion, and without regard to the procedures set forth in Rule 5(c) of SEC's Informal and Other Procedures, 17 C.F.R. § 202.5(c), may determine that the relevant Settling Respondent has not complied with its obligations under the Settlement Order and thereupon enter, without further notice, this Partial Bar Order. *See* Settlement Order, Section III.J, Paragraph 3.
4. On [date of request], the SEC or the Division issued a Section 106 request and/or notice of a request for assistance to the CSRC for audit workpapers and related documents of Respondent [Short Form of Settling Respondent's Name], in connection with a Division investigation, [investigation matter number].
5. The Commission, in its sole discretion, has determined that Respondent failed to provide an initial declaration required by the Settlement Order, or that Respondent failed to provide a certification of completeness as required by the Settlement Order, and did not cure such failure within twenty (20) days of a request for cure by the Division. Thus, in accordance with Paragraph 3 of Section III.J of the Settlement Order, the Commission, in its sole discretion, has determined that Respondent has not complied with its obligations under the Settlement Order.

#### **FINDINGS**

6. Based on the foregoing, the Commission finds that Respondent has violated its obligations under Paragraphs 2 and 3 of Paragraph III.J of the Settlement Order.

#### IV.

In view of the foregoing, the Commission deems it appropriate to impose on Respondent [Short Form of Settling Respondent's Name] the remedy agreed to in [Short Form of Settling Respondent's Name] Offer of Settlement, and required by the Settlement Order.

Accordingly, pursuant to Rule 102(e) of the Commission's Rules of Practice, Respondent [Short Form of Settling Respondent's Name]'s Offer of Settlement, and the Settlement Order, it is hereby ORDERED that Respondent [Short Form of Settling Respondent's Name] is partially denied the privilege of practicing or appearing before the Commission for a period of 180 days commencing on [the date of this Partial Bar Order *OR* the day immediately following expiration of the last Partial Bar Order imposed on Settling Respondent under the Settlement Order, if any], as follows:

- A. Respondent is prohibited from issuing an audit report, or otherwise serving as a principal auditor, for any issuer (as defined in Section 2(a)(7) of Sarbanes-Oxley); and
- B. Respondent is prohibited from playing a 50% or greater role in the preparation or furnishing of an audit report for any issuer, meaning the respondent is prohibited from performing:
  - 1. Audit work that a public accounting firm uses or relies on in issuing all or part of its audit report with respect to any issuer, where the engagement hours or fees for such services constitute 50% or more of the total engagement hours or fees, respectively, provided by the principal auditor in connection with the issuance of all or part of its audit report with respect to any issuer; and
  - 2. The majority of audit work with respect to a subsidiary or component of any issuer, the assets or revenues of which constitute 50% or more of the consolidated assets or revenues of the issuer.

By the Commission.

[name of Secretary or designated official]  
[Title]