

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 85115 / February 13, 2019

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4020 / February 13, 2019

ADMINISTRATIVE PROCEEDING
File No. 3-18997

In the Matter of

**DELOITTE TOUCHE TOHMATSU
LLC,
FUTOMICHI AMANO, and
YUJI ITAGAKI,**

Respondents.

**ORDER INSTITUTING PUBLIC
ADMINISTRATIVE AND CEASE-AND-
DESIST PROCEEDINGS PURSUANT TO
SECTIONS 4C AND 21C OF THE
SECURITIES EXCHANGE ACT OF 1934
AND RULE 102(e) OF THE COMMISSION'S
RULES OF PRACTICE, MAKING FINDINGS,
AND IMPOSING REMEDIAL SANCTIONS
AND A CEASE-AND-DESIST ORDER**

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Sections 4C¹ and 21C of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice,² against Deloitte Touche Tohmatsu LLC (“Deloitte Japan”), Futomichi Amano (“Amano”), and Yuji Itagaki (“Itagaki”) (collectively “Respondents”).

¹ Section 4C provides, in relevant part, that:

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 . . . (1) not to possess the requisite qualifications to represent others . . . (2) to be lacking in character or integrity, or to have engaged in unethical or improper professional conduct; or (3) to have willfully violated, or willfully aided and abetted the violation of, any provision of the securities laws or the rules and regulations thereunder.

² Rule 102(e)(1)(ii) provides, in pertinent part, that:

The Commission may censure any person, or deny, temporarily or permanently, the privilege of appearing or practicing before it . . . to any person who is found . . . to have engaged in unethical or improper professional conduct.

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (“Offers”), which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Public Administrative and Cease-and-Desist Proceedings Pursuant to Sections 4C and 21C of the Securities Exchange Act of 1934 and Rule 102(e) of the Commission’s Rules of Practice, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondents’ Offers, the Commission finds³ that:

A. SUMMARY

This matter arises from violations of the independence rules regarding personal financial relationships between certain covered persons in the firm of Deloitte Japan and its audit client, Company A, during Company A’s 2013 through 2016 fiscal years. These personal financial relationships included personal accounts at a banking subsidiary of Company A that carried balances exceeding the amount insured by the Deposit Insurance Corporation of Japan, in violation of Rule 2-01(c)(1)(ii)(B) of Regulation S-X, among other things. As detailed below, through their acts and omissions in this matter, all three respondents engaged in improper professional conduct and were a cause of certain reporting violations by Company A. Deloitte Japan also violated, and Amano and Itagaki were a cause of Deloitte Japan’s violations of, Rule 2-02(b) of Regulation S-X.

B. RESPONDENTS

Deloitte Touche Tohmatsu LLC (“Deloitte Japan”) is an audit firm headquartered in Tokyo, Japan. Since 2004, Deloitte Japan has been registered with the Public Company Accounting Oversight Board (“PCAOB”), pursuant to the Sarbanes Oxley Act of 2002, to prepare and issue audit reports. Deloitte Japan is an affiliate of Deloitte Tohmatsu LLC, which was at all relevant times a member firm of Deloitte Touche Tohmatsu Limited, a U.K. private company limited by guarantee, which is a multinational network of professional services firms.

Futomichi Amano, a resident of Tokyo, Japan, served as Deloitte Japan’s Chief Executive Officer (“CEO”) from November 2010 to July 2015. Amano is licensed by the Japanese Institute of Certified Public Accountants.

³ The findings herein are made pursuant to Respondents’ Offers of Settlement and are not binding on any other person or entity in this or any other proceeding.

Yuji Itagaki, a resident of Tokyo, Japan, served as Deloitte Japan’s acting Reputation and Risk Leader (“RRL”)⁴ from January 2015 to July 2015, its RRL from July 2015 to August 2015, and its Director of Independence (“DOI”) from May 2015 to August 2015. Itagaki is licensed by the Japanese Institute of Certified Public Accountants.

C. RELEVANT ISSUER

Company A is a financial holding company headquartered in Tokyo, Japan. Company A files annual reports on Form 20-F with the Commission as a foreign private issuer, and has American Depositary Receipts listed on the New York Stock Exchange. At all relevant times, Deloitte Japan has served as Company A’s external auditor.

D. FACTS

1. The Nature of the Independence Violations

The subject auditor independence violations primarily relate to bank accounts held by numerous Deloitte Japan partners and/or audit engagement team members⁵ at a banking subsidiary of Company A (“Bank A”) that, at certain times, carried balances exceeding the amount insured by the Deposit Insurance Corporation of Japan in violation of Rule 2-01(c)(1)(ii)(B) of Regulation S-X. That rule provides: “[a]n accountant is not independent ... when any covered person in the firm, or any of his or her immediate family members has ... [a]ny savings, checking, or similar account at a bank, savings and loan, or similar institution that is an audit client, if the account has a balance that exceeds the amount insured by the Federal Deposit Insurance Corporation or any similar insurer”⁶

(a) March 2014 Independence Inspection Uncovers Independence Violations

In February 2014, Amano was selected for an independence inspection as part of Deloitte Japan’s periodic independence inspections for covered persons. As part of this inspection, Amano returned materials in March 2014 indicating that from September through November 2013, he had a bank account balance at Bank A that exceeded the amount insured by the Deposit Insurance Corporation of Japan.⁷ This violation was due, in part, to a lump-sum deposit of

⁴ Deloitte Japan’s Office of Independence is part of its Reputation and Risk Office (“RRO”), which is led by its RRL.

⁵ Members of the audit engagement team, partners in the office in which the lead audit engagement partner practices, and individuals in the chain of command are “covered persons” as defined by Rule 2-01(f)(11) of Regulation S-X. In 2015, there were approximately 1,000 covered persons at Deloitte Japan with respect to Company A.

⁶ The insurance limit of the Deposit Insurance Corporation of Japan is 10 million yen (which averaged approximately \$97,000, based on conversion rates during the relevant time).

⁷ Prior to this inspection, in December 2013, Amano had indicated he had no independence violations in a

partnership compensation from Deloitte Japan into Amano's account at Bank A in late 2013 that alone exceeded the deposit insurance limit. In providing the materials to the Office of Independence, Amano acknowledged his excessive bank account balance and stated he would change the bank account for partnership distributions.

Even though the facts about Amano's independence violation were known to staff in the Office of Independence, including the then-DOI, as early as March 2014, the staff did not fully appreciate whether this violation by Deloitte Japan's CEO could affect the independence of the audits conducted by Deloitte Japan. Accordingly, this violation was not promptly reported at the time to the audit engagement team. As such, even though the then-DOI and Office of Independence were aware of the violation, it was not adequately communicated to Company A until July 2015, as described below.

Despite the acknowledgement of this violation in March 2014, the Office of Independence did not complete Amano's inspection until November 2014, due in part to inadequate staffing in the Office of Independence. In March 2014, Deloitte Japan's Office of Independence was staffed by approximately 7.8 full time equivalents (compared with 40.5 in October 2018) and the then-DOI spent less than half of his time on independence matters. During the eight-month period between the discovery of the violation and the completion of the inspection report, no corrective actions were taken by Deloitte Japan. At the conclusion of the inspection, the then-DOI emailed a reprimand to Amano.

(b) Disclosure of Independence Violations

Disclosures to the Audit Engagement Team: In November 2014, the Office of Independence communicated several violations, including that of Amano, to the audit engagement team. Pursuant to then-existing Deloitte Japan policy, the names of violators were not provided to the engagement team and were only identified by the category of "covered persons" to which they belonged. Initial communications from the Office of Independence correctly identified Amano as being in the chain of command with respect to the audit of Company A. Additional communications between the Office of Independence and audit engagement team personnel confused the issue, leading the audit engagement team to incorrectly conclude that the violation was by a partner in the office and not by an individual in the chain of command.

Disclosures to Company A: In January 2015, Deloitte Japan sent a semi-annual PCAOB Rule 3526 letter to the Company A Audit Committee that identified several personal financial relationship violations, including that of Amano, but did not identify the violators by name.⁸ The letter also wrongly stated that Amano's (still anonymous) violation was not committed by a member of Deloitte Japan's chain of command based on the confused communications and incorrect conclusion referenced above. Moreover, the existence of this violation by Amano was

monthly independence confirmation covering the period of October 2013.

⁸ PCAOB Rule 3526 describes communications that the auditor must make to client Audit Committees concerning all relationships that may reasonably be thought to bear on independence.

not adequately disclosed to Company A until July 2015, including through a second semi-annual PCAOB Rule 3526 letter in July 2015.

(c) Additional Violations Discovered

During the first half of 2015, Deloitte Japan identified other personal financial relationship violations by Amano. Deloitte Japan voluntarily disclosed Amano's violations and other violations then known to Deloitte Japan to the Commission in July 2015. After this voluntary disclosure to the Commission, Deloitte Japan hired a Japanese law firm to conduct an independent internal investigation into Amano's violations and the causes of those violations. Deloitte Japan also conducted extensive additional further testing to determine whether other violations existed. Overall, at various times between 2012 and 2016, eighty-eight (88) Deloitte Japan covered persons had personal financial relationship violations with respect to Company A. These individuals notably included Amano, as discussed above, and its RRL and DOI Itagaki, who were not members of the audit engagement team, but were otherwise both covered persons and had independence violations in successive years wherein Deloitte Japan asserted that it was independent of Company A.

Several of the violations of Rule 2-01(c)(1)(ii)(B) were caused by Deloitte Japan's special distributions of year-end partnership compensation directly into personal accounts held by covered persons at Bank A in late 2013 and late 2014. Although Deloitte Japan's Office of Independence knew that the 2013 payments caused at least two violations, the firm repeated this same process in 2014, causing additional violations. CEO Amano was among those who twice received partnership compensation into his Bank A account that caused a violation of personal financial relationship rules with respect to audit client Company A.

Deloitte Japan's investigations into these issues also uncovered multiple additional personal financial relationship violations by Deloitte Japan covered persons, including credit card balances with a subsidiary of Company A in violation of Rule 2-01(c)(1)(ii)(E) of Regulation S-X, which prohibits "[a]ny aggregate outstanding credit card balance owed to a lender that is an audit client that is not reduced to \$10,000 or less on a current basis" During those investigations, Itagaki was found to have such a balance.

2. Deficiencies in Quality Controls Concerning Independence

Deloitte Japan's system of quality controls did not provide reasonable assurance that the firm and its covered persons maintained independence from its audit clients. These deficiencies included:

Systemic deficiencies: In late 2013, Deloitte Japan initiated a practice of paying firm partners their special year-end partnership draws via lump sum payments deposited directly into their personal bank accounts, including accounts at Bank A. These payments caused the account balances of certain partners to exceed the Japanese insured deposit limit of 10 million yen in violation of Rule 2-01(c)(1)(ii)(B) and, in certain cases, the size of the payment alone exceeded the limit. Although Deloitte Japan warned its partners to make sure that these special distributions did not cause violations of the deposit insurance limits, those warnings were insufficient to avoid violations from the 2013 payments, and the firm did not take any corrective

action before the second round of payments in late 2014 caused additional violations.

Inadequate supervision, training, and staffing: From at least 2012 to 2015, Deloitte Japan's RRO did not adequately supervise or staff its Office of Independence. Acting RRL and RRL Itagaki did not supervise the independence functions of the Office of Independence, and the firm's DOI during most of the subject period served on only a part-time basis, spending the majority of his time on audit work. Additionally, certain personnel in the Office of Independence had misconceptions about the provisions of Regulation S-X as it related to insurance deposit limits, which contributed to the inadequacy of Deloitte Japan's response to the initial Amano violation. In the aftermath of its investigations into the firm's independence issues, Deloitte Japan more than tripled the staffing of its Office of Independence.

An internal policy of not disclosing independence violators by name: During the subject period, Deloitte Japan had an internal policy of not disclosing the names of independence violators, either internally or in communications with its audit clients and others. This policy led to miscommunications and difficulties in correcting and disclosing independence violations, including confusion regarding the initial violation by Amano. Deloitte Japan has since changed its policy and now identifies violators by name.

E. LEGAL ANALYSIS

1. The Financial Relationship Provisions of Regulation S-X

The basic elements of an auditor independence violation in the financial-relationship context are (1) an independence-impairing relationship; (2) existing during all or part of the period covered by the audit, or the period of the audit work, or both; followed by (3) issuance of an audit report asserting the auditor's independence from the client. *See* Rule 2-01(c)(1) of Regulation S-X.⁹

The insured deposit limit violations and the other personal financial relationship violations with subsidiaries of Deloitte Japan audit client Company A, during periods covered by Deloitte Japan's audit reports asserting its independence from Company A, fall within Regulation S-X's prohibition.

2. Violation of, and Causing Violation of, Rule 2-02(b) of Regulation S-X

Each time Deloitte Japan signed an audit report for Company A, where either the period covered by the audit or the period of the audit work (or both) overlapped with personal financial

⁹ Rule 2-01(c)(3) provides:

An accountant is not independent if, at any point during the audit and professional engagement period, the accountant has a direct financial interest or a material indirect financial interest in the accountant's audit client, such as ... [a]ny savings, checking, or similar account at a bank, savings and loan, or similar institution that is an audit client, if the account has a balance that exceeds the amount insured by the [FDIC] or any similar insurer ... [or] [a]ny aggregate outstanding credit card balance owed to a lender that is an audit client that is not reduced to \$10,000 or less on a current basis. . . .

relationship violations by its covered persons, Deloitte Japan directly violated Rule 2-02(b) of Regulation S-X. *See* Rule 2-02(b) (requiring accountant’s report to “state whether the audit was made in accordance with generally accepted auditing standards” [“GAAS”] which, in turn, require auditors to maintain independence — both in fact and appearance — from their audit clients.¹⁰). Thus, the Deloitte Japan year-end audit reports for Company A’s 2013 through 2016 fiscal years incorrectly stated that they were performed in accordance with GAAS.

Further, Amano and Itagaki were a cause of Deloitte Japan’s violations of Rule 2-02(b) of Regulation S-X as a result of their respective violations of the personal financial relationship provisions of Regulation S-X, which were a cause of Deloitte Japan’s lack of independence during this period.

3. Improper Professional Conduct

Deloitte Japan’s failure to meet the requirements of Rule 2-01 of Regulation S-X described above constitutes improper professional conduct under Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice, which provide, in pertinent part, that the Commission may “censure a person or deny, temporarily or permanently, the privilege of appearing or practicing before it... to any person who is found... to have engaged in... improper professional conduct.” Such conduct can be established by, *inter alia*, negligence in the form of either “a single instance of highly unreasonable conduct ... in circumstances [warranting] heightened scrutiny”¹¹ or of “repeated instances of unreasonable conduct...” *See* Rule 102(e)(1)(iv)(B)(1) and (2).

Further, Amano and Itagaki both engaged in improper professional conduct by violating the personal financial relationship provisions of Regulation S-X with respect to Company A, and failing to correct or disclose their above-described violations in a timely manner.

4. Causing Company A’s Annual Report Violations

Each time audit reports were filed with Company A’s annual reports on Form 20-F for the fiscal years ended March 31, 2013, March 31, 2014, March 31, 2015, and March 31, 2016, Company A violated Section 13(a) of the Exchange Act and Rule 13a-1 thereunder, which requires such annual reports to contain financial statements audited by “independent public

¹⁰ Securities Act Release No. 33-8422 (May 24, 2004) states that reference to GAAS are to mean PCAOB standards. Pursuant to PCAOB Professional Standards Rule 3200T, the PCAOB adopted certain preexisting generally accepted auditing standards, as described in AICPA SAS No. 95. Those standards include AU 161 and 220. PCAOB Rule 3500T also explicitly requires compliance with the independence standards described in AICPA’s Code of Professional Conduct Rule 101 as in existence on April 15, 2003, to the extent not superseded or amended by the PCAOB. Rule 3500T further provides that “The Board’s Interim Independence Standards do not supersede the Commission’s auditor independence rules.” Identical language was previously found in PCAOB rule 3600T until certain PCAOB rules were revised in 2014.

¹¹ Auditor independence is always an area warranting heightened scrutiny. *See* Adopting Release for Rule 102(e) [Rel. Nos. 33-7593, 34-40567, 1998 SEC LEXIS 2256 (Oct. 19, 1998)] (“Because of the importance of an accountant’s independence to the integrity of the financial reporting system, the Commission has concluded that circumstances that raise questions about an accountant’s independence always merit heightened scrutiny.”).

accountants.” Deloitte Japan, Amano, and Itagaki each caused these reporting violations because each should have known the subject personal financial relationship violations would cause Company A to violate the provisions listed above.

F. COOPERATION AND REMEDIAL ACTION

In determining to accept Respondent Deloitte Japan’s Offer, the Commission considered the steps taken by the firm to enhance its independence quality control system and the cooperation afforded the Commission staff. Since the conduct discussed in this Order, the firm has continued to improve its independence policies and procedures concerning personal financial relationships. The firm has, among other things, prohibited covered persons of the firm from holding bank accounts with audit clients or subsidiaries of audit clients; restructured and substantially increased staffing of its independence function; ended the practice of keeping the identities of independence violators anonymous in internal and external communications; adopted stronger disciplinary measures for independence violators; enhanced independence training and communications throughout the firm; increased the number and frequency of its procedures for prevention and detection of independence-impairing financial relationships as well as its monitoring to ensure the firm’s independence controls are working effectively. In addition, Deloitte Japan voluntarily shared the results, details, and documents related to its internal investigation; provided translations of key documents; and facilitated the voluntary testimony of overseas witnesses, all of which reduced the time and resources necessary for the Commission staff to conclude the investigation.

G. FINDINGS

Based on the foregoing, the Commission finds that (a) Respondents Deloitte Japan, Amano, and Itagaki engaged in improper professional conduct pursuant to Section 4C(a)(2) of the Exchange Act and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice; (b) Deloitte Japan violated, and Amano and Itagaki caused Deloitte Japan to violate, Rule 2-02(b) of Regulation S-X; and (c) Deloitte Japan, Amano, and Itagaki caused Company A to violate Section 13(a) of the Exchange Act, and Rule 13a-1 thereunder.

IV.

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

Accordingly, it is hereby ORDERED, effective immediately, that:

- A. Respondent Deloitte Japan, Amano, and Itagaki shall cease and desist from committing or causing any violations and any future violations of Rule 2-02 of Regulation S-X.
- B. Respondents Deloitte Japan, Amano, and Itagaki shall cease and desist from committing or causing any violations and any future violations of Section 13(a) of the Exchange Act, and Rule 13a-1 thereunder.
- C. Respondent Deloitte Japan be, and hereby is, censured.

D. Pursuant to Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission's Rules of Practice, Respondent Amano is denied the privilege of appearing or practicing before the Commission as an accountant.

E. After two years from the date of this order, Amano may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission (other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934). Such an application must satisfy the Commission that Amano's work in his practice before the Commission as an accountant will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or
2. a preparer or reviewer, or a person responsible for the preparation or review, of any public company's financial statements that are filed with the Commission as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934. Such an application will be considered on a facts and circumstances basis with respect to such membership, and the applicant's burden of demonstrating good cause for reinstatement will be particularly high given the role of the audit committee in financial and accounting matters; and/or
3. an independent accountant.

Such an application must satisfy the Commission that:

- (a) Amano, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board ("Board") in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
- (b) Amano, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent's or the firm's quality control system that would indicate that Amano will not receive appropriate supervision;
- (c) Amano has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and

- (d) Amano acknowledges his responsibility, as long as he appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

F. The Commission will consider an application by Amano to resume appearing or practicing before the Commission provided that his Japanese Institute of Certified Public Accountants (“JICPA”) license is current and he has resolved all other disciplinary issues with all other boards of accountancy. However, if Amano’s licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission’s review may include consideration of, in addition to the matters referenced above, any other matters relating to Amano’s character, integrity professional conduct, or qualifications to appear or practice before the Commission as an accountant. Whether an application demonstrates good cause will be considered on a facts and circumstances basis with due regard for protecting the integrity of the Commission’s processes.

G. Pursuant to Section 4C of the Exchange Act and Rule 102(e)(1)(ii) of the Commission’s Rules of Practice, Respondent Itagaki is denied the privilege of appearing or practicing before the Commission as an accountant.

H. After one year from the date of this order, Itagaki may request that the Commission consider his reinstatement by submitting an application (attention: Office of the Chief Accountant) to resume appearing or practicing before the Commission as:

1. a preparer or reviewer, or a person responsible for the preparation or review, of any public company’s financial statements that are filed with the Commission (other than as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934). Such an application must satisfy the Commission that Itagaki’s work in his practice before the Commission as an accountant will be reviewed either by the independent audit committee of the public company for which he works or in some other acceptable manner, as long as he practices before the Commission in this capacity; and/or
2. a preparer or reviewer, or a person responsible for the preparation or review, of any public company’s financial statements that are filed with the Commission as a member of an audit committee, as that term is defined in Section 3(a)(58) of the Securities Exchange Act of 1934. Such an application will be considered on a facts and circumstances basis with respect to such membership, and the applicant’s burden of demonstrating good cause for reinstatement will be particularly high given the role of the audit committee in financial and accounting matters; and/or
3. an independent accountant.

Such an application must satisfy the Commission that:

- (a) Itagaki, or the public accounting firm with which he is associated, is registered with the Public Company Accounting Oversight Board (“Board”) in accordance with the Sarbanes-Oxley Act of 2002, and such registration continues to be effective;
- (b) Itagaki, or the registered public accounting firm with which he is associated, has been inspected by the Board and that inspection did not identify any criticisms of or potential defects in the respondent’s or the firm’s quality control system that would indicate that Itagaki will not receive appropriate supervision;
- (c) Itagaki has resolved all disciplinary issues with the Board, and has complied with all terms and conditions of any sanctions imposed by the Board (other than reinstatement by the Commission); and
- (d) Itagaki acknowledges his responsibility, as long as he appears or practices before the Commission as an independent accountant, to comply with all requirements of the Commission and the Board, including, but not limited to, all requirements relating to registration, inspections, concurring partner reviews and quality control standards.

I. The Commission will consider an application by Itagaki to resume appearing or practicing before the Commission provided that his JICPA license is current and he has resolved all other disciplinary issues with all other boards of accountancy. However, if Itagaki’s JICPA licensure is dependent on reinstatement by the Commission, the Commission will consider an application on its other merits. The Commission’s review may include consideration of, in addition to the matters referenced above, any other matters relating to Itagaki’s character, integrity professional conduct, or qualifications to appear or practice before the Commission as an accountant. Whether an application demonstrates good cause will be considered on a facts and circumstances basis with due regard for protecting the integrity of the Commission’s processes.

J. Respondent Deloitte Japan shall, within ten (10) days of the entry of this Order, pay (i) disgorgement of \$971,722, plus prejudgment interest of \$159,397.70, and (ii) a civil money penalty in the amount of \$880,000, for a total of \$2,011,119.70, to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment of disgorgement and prejudgment interest is not made, additional interest shall accrue pursuant to SEC Rule of Practice 600. If timely payment of a civil penalty is not made, additional interest shall accrue pursuant to 31 U.S.C. § 3717.

K. All payments required by this Order must be made in one of the following ways:

- 1. Respondent may transmit payment electronically to the Commission,

which will provide detailed ACH transfer/Fedwire instructions upon request;

2. Respondent may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
3. Respondent may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

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

Payments by check or money order must be accompanied by a cover letter identifying Deloitte Japan as a Respondent in these proceedings, and the file number of these proceedings. A copy of the cover letter and check or money order, or documentation of whatever other form of payment is used, must be simultaneously sent to Melissa R. Hodgman, Associate Director, Division of Enforcement, Securities and Exchange Commission, 100 F St., N.E., Washington, DC 20549.

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

By the Commission.

Brent J. Fields
Secretary