

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

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

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In the Matter of)
BDO China Dahua CPA Co., Ltd.;)
Ernst & Young Hua Ming LLP;)
KPMG Huazhen (Special General)
Partnership);)
Deloitte Touche Tohmatsu Certified)
Public Accountants Ltd.;)
PricewaterhouseCoopers Zhong Tian)
CPAs Limited,)
Respondents.)
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The Honorable Cameron Elliot,
Administrative Law Judge

**RESPONDENTS' REQUEST FOR THE ISSUANCE OF A
SUBPOENA DIRECTED AT THE SECURITIES AND EXCHANGE COMMISSION**

Pursuant to Rule 232 of the U.S. Securities and Exchange Commission (the "SEC") Rules of Practice, 17 C.F.R. § 201.232, BDO China Dahua CPA Co., Ltd., Ernst & Young Hua Ming LLP, KPMG Huazhen (Special General Partnership), Deloitte Touche Tohmatsu Certified Public Accountants Ltd., and PricewaterhouseCoopers Zhong Tian CPAs Limited Company (collectively, "Respondents") respectfully request the issuance of the subpoena attached hereto as Exhibit 1 for the production of documents from the SEC.

This subpoena seeks documents that are fundamental to these actions and critical to the preparation and presentation of Respondents' case at trial.¹ The May 9, 2012 and December 3,

¹ Respondents understand that the documents requested by the subpoena may be in the possession, custody, or control of various divisions or offices of the SEC and accordingly direct the subpoena to the Office of the General Counsel for the coordination of a complete response.

2012 Orders Instituting Proceedings (the “OIPs”) issued by the SEC contend that Respondents willfully violated Section 106(e) of the Sarbanes-Oxley Act by “willfully refusing” to provide the SEC with audit workpapers and other audit-related materials created and located in China. Yet Respondents did not “willfully refuse” to produce the documents—they are prohibited by Chinese law from directly producing the documents to the SEC and would face administrative, civil, and criminal liability in China if they were to do so. Respondents have nonetheless made extensive, good faith efforts in response to the SEC’s Section 106 Requests.

The SEC has long acknowledged the legal impediments to overseas production faced by public accounting firms located in China. Prior to these proceedings, the inability to produce documents based on legal restrictions imposed by another country has never caused the SEC to assert a claim for violation of the securities laws and request such potentially draconian sanctions. To the contrary, the SEC (i) allowed foreign accounting firms to register and audit issuers even though the firms explicitly informed the SEC and the Public Company Accounting Oversight Board (the “PCAOB”) about restrictions on providing workpapers and other documents; (ii) encouraged the registration of foreign private issuers (many from China) on U.S. exchanges knowing that their auditors faced these legal impediments; and (iii) consistently pursued cooperative approaches with foreign regulators to obtain full access to workpapers and other documents. The SEC has recently and without explanation reversed course—seeking sanctions that will harm the public interest without solving the broader issue of the SEC’s access to audit workpapers in China and other foreign jurisdictions.

On May 15, 2013, the SEC Division of Enforcement (the “Division”) made a voluntary production (the “SEC-CSRC Production”) of certain communications between the SEC and the China Securities Regulatory Commission (the “CSRC”) relating to requests for audit

workpapers. See Letter from D. Mendel to M. Flynn (May 15, 2013) (transmittal letter with logs of “Communications *from* the CSRC *to* the SEC” and “Communications *from* the SEC *to* the CSRC”) (attached hereto as Exhibit 2).² The SEC-CSRC Production is highly relevant to disputed issues in this proceeding, including—among others—Respondents’ good faith efforts to provide the SEC with audit workpapers located in China, the Chinese legal impediments to Respondents’ direct production to the SEC, the appropriate application of principles of international comity, and the availability of “alternate means” of production through the CSRC pursuant to Section 106(f) of the Sarbanes-Oxley Act. Indeed, the SEC-CSRC Production strongly supports Respondents’ position that the SEC has long recognized the restrictions imposed by Chinese law and understood that diplomatic negotiations are the appropriate means to obtain workpapers located in China. The SEC-CSRC Production further suggests that the present enforcement actions—which the SEC concedes are not designed to obtain documents necessary for any investigation—are being used by the SEC primarily as a negotiating tool in its ongoing dialogue with the Chinese Government with respect to the development of a broad inter-government cooperation agreement.

The Division’s Production is incomplete in at least three critical respects, compelling Respondents to hereby seek the issuance of a subpoena.³

² The Division designated each of the documents it produced as “Confidential – Subject to Protective Order – File Under Seal” pursuant to the Protective Order dated May 8, 2013, and Respondents therefore are not attaching or quoting from such documents so as to avoid filing the instant Request under seal. Many of the documents are, however, referenced in the Declaration of Alberto Arevalo (the “First Arevalo Declaration”), U.S. Securities and Exchange Commission v. Deloitte Touche Tohmatsu CPA Ltd, No. 11-0512 (D.D.C. filed May 1, 2013) (executed Dec. 3, 2012) (attached hereto as Exhibit 3). The Production includes references to at least two of the issuers who are clients of Respondents in the OIPs in these Omnibus Proceedings. See First Arevalo Decl. ¶¶ 29-30, 57.

³ To the extent that any particular request would impose a significant burden on the SEC, Respondents stand ready to meet and confer concerning its scope.

First, the most recent document in the SEC-CSRC Production is an email (and attached letter) dated November 6, 2012—over six months prior to the date of the Production itself—because the Division did not agree to produce any documents dated after the filing of the December 3, 2012 Omnibus OIP. It is clear that this arbitrary cutoff by the Division omits critical communications between the SEC and the CSRC.

For example, the penultimate paragraph of the First Arevalo Declaration states that (1) the CSRC informed the SEC that they would be in Washington, D.C., on November 26, 2012 (just days before the Division filed the Omnibus OIP and Mr. Arevalo executed that first declaration), (2) the CSRC proposed a meeting with the SEC, (3) the SEC staff agreed to such a meeting, but (4) the SEC staff refused “to engage in additional discussions [at the meeting with the CSRC] of document production, agreements for cooperation, and any related enforcement topics.” First Arevalo Decl. ¶ 65. Mr. Arevalo then concludes that the alternative means of production through the CSRC is “not now a viable gateway for the production of audit work papers, and there is no reason to expect it will become one in the foreseeable future.” *Id.* ¶ 66. The Division also filed a Second Declaration from Mr. Arevalo that references significant, unproduced communications between the SEC and the CSRC through March 2013, including discussions of a possible framework for the production of audit workpapers. See Second Declaration of Alberto Arevalo, United States v. Deloitte Touche Tohmatsu CPA Ltd, No. 11-0512 (D.D.C. filed May 1, 2013) (executed Apr. 29, 2013) (attached hereto as Exhibit 4) ¶¶ 12-14.

Second, the SEC-CSRC Production is limited on its face: it includes only letters and emails and does not include any notes, agendas, briefing papers, or any other documents reflecting the content of meetings—despite references to many such meetings. The Production

also appears to be limited to correspondence involving the SEC's Office of International Affairs and does not include any communications at the Commission or Chairman level.⁴

Third, the SEC-CSRC Production does not include any documents reflecting or containing communications between the PCAOB and the Chinese Government, or between branches of the U.S. Government other than the SEC and the Chinese Government. To the extent that the SEC is in possession of such documents, they should be produced because any such communications are relevant for the same reasons as the documents contained in the SEC-CSRC Production are. They are highly relevant to issues central to this proceeding—namely, for example, (a) whether and how Chinese legal impediments impact the ability of Respondents to produce certain materials; (b) the good faith of Respondents; (c) the conduct of the SEC and the use of these proceedings; (d) principles of international comity; and (e) the availability of alternate means of production. For example, this morning, the PCAOB and Chinese regulators announced that they had reached a Memorandum of Understanding (the “MOU”) regarding a protocol for the provision of workpapers from Chinese audit firms to the PCAOB through the Chinese regulators. The MOU is attached hereto as Exhibit 5, and is highly relevant to the issues identified above. Indeed, the MOU reflects the fact that there are clearly alternate means of production available and that bilateral cooperation between Chinese and U.S. regulators is not only continuing, but is resulting in concrete agreements.

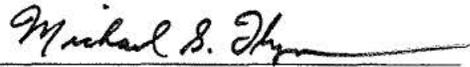
⁴ Counsel for the Division has confirmed that there are no communications in the SEC's possession related to clients other than the Original Client A, Longtop, and Client G.

CONCLUSION

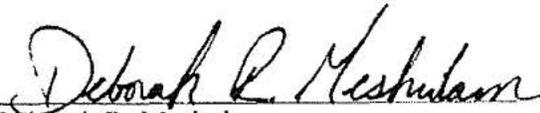
For the foregoing reasons, Respondents respectfully request that the Hearing Officer issue the attached subpoena upon the SEC.

Respectfully submitted,

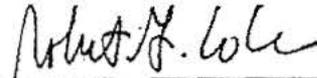
Dated: May 24, 2013



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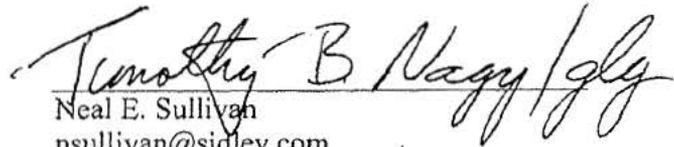
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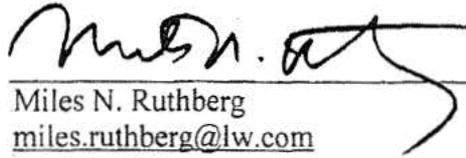
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General Partnership)*

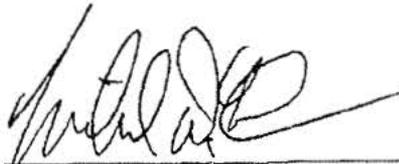


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Exhibit 1

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

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

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In the Matter of)
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Partnership);)
Deloitte Touche Tohmatsu Certified)
Public Accountants Ltd.;)
PricewaterhouseCoopers Zhong Tian)
CPAs Limited,)
)
Respondents.)
)
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SUBPOENA DUCES TECUM

TO: Custodian of Records
United States Securities and Exchange Commission
c/o Office of the General Counsel
100 F Street, N.E.
Washington, DC 20549

YOU MUST PRODUCE everything specified in the Attachment to this Subpoena to:

Davis Polk & Wardwell LLP
450 Lexington Avenue
New York, NY 10017

by the date of _____.

Dated: May ___, 2013.

By: _____
Honorable Cameron Elliot
Administrative Law Judge

**ATTACHMENT TO SUBPOENA
TO THE U.S. SECURITIES AND EXCHANGE COMMISSION**

DEFINITIONS AND INSTRUCTIONS

1. The term “document” is used in the broadest sense, and includes without limitation the following items, whether printed, recorded, microfilmed, or reproduced by any process, or written or produced by hand, and whether or not claimed to be privileged, confidential, personal, or preliminary: letters, memoranda, reports, agreements, working papers, communications (including intra-departmental and inter-departmental communications), correspondence, summaries of records or personal conversations, diaries, forecasts, statistical statements, graphs, charts, plans, drawings, minutes or records of meetings or conferences, expressions or statements of policy, lists of persons attending meetings or conferences, reports of or summaries of interviews, reports of or summaries of investigation opinions or reports of consultants, opinions of counsel, reports of or summaries of negotiations, circulars, drafts of any documents, books, instruments, appraisals, applications, accounts, tapes and all other material of any tangible medium of expression, computer diskettes, and all other magnetic or electronic media.

2. The term “communication” means all inquiries, discussion, conversations, negotiations, agreements, understandings, meetings, telephone conversations, letters, notes, telegrams, correspondence, memoranda, e-mail, facsimile transmissions, or other form of verbal, written, mechanical, or electronic intercourse.

3. The term “concerning” means referring to, relating to, describing, evidencing, or constituting.

4. The term “person” means any natural person or any legal entity, including a proprietorship, partnership, trust, firm, corporation, association, government agency, or other organization, or association.

5. The term “SEC” means the U.S. Securities and Exchange Commission, all divisions thereof, all of its officers, commissioners, employees, representatives, agents, and all other persons or entities acting or purporting to act on its behalf.

6. The term “PCAOB” means the Public Company Accounting Oversight Board, all divisions thereof, all of its officers, board members, employees, representatives, agents, and all other persons or entities acting or purporting to act on its behalf.

7. The term “United States Government” references the executive, legislative, and judicial branches of the federal government of the United States, including any governmental, administrative, or regulatory authority, commission, board, agency, party, department, instrumentality, bureau, or political subdivision, all officers, employees, representatives, or agents thereof, and all other individuals or entities acting or purporting to act on its behalf.

8. The term “CSRC” means the China Securities Regulatory Commission, all divisions, departments or committees thereof, all of its officers, commissioners, employees, representatives, agents, and all other persons or entities acting or purporting to act on its behalf.

9. The term “Chinese Government” means the government of the People’s Republic of China, including any governmental, administrative, or regulatory authority, commission, board, agency, party, peoples’ committee, ministry, department, instrumentality, bureau, or political subdivision and any court, tribunal, or judicial or arbitral body, all officers, employees, representatives, or agents thereof, and all other individuals or entities acting or purporting to act on its behalf.

10. The term “Clients” refers to Client A from In the Matter of Deloitte Touche Tohmatsu CPA Ltd., A.F. 3-14872 and Clients A, B, C, D, E, F, G, H, and I from In the Matter of BDO China Dahua CPA Co., Ltd., A.F. 3-15116.

11. The term “Second Arevalo Declaration” means the Second Declaration of Alberto Arevalo, United States v. Deloitte Touche Tohmatsu CPA Ltd, No. 11-0512 (D.D.C. filed May 1, 2013) (executed Apr. 29, 2013).

12. The singular includes the plural and vice versa; the words “and” and “or” shall be both conjunctive and disjunctive; the word “all” means “any and all”; the word “any” means “any and all”; the word “including” means “including without limitation.”

13. Produce all documents as kept in the usual course of business or produce documents organized and labeled to correspond with the categories in these Requests.

14. Documents are to be produced in full and complete form, including all drafts and all copies of documents that bear any notes, marks, or notations not existing in the original or other copies.

15. Each Request for documents requires the production of all documents described therein in the possession, custody, or control of the SEC, including all documents held by agents, accountants, attorneys, or others with whom the SEC has or has had a professional relationship, or which the SEC has the power to obtain.

16. In the event that any document called for by these Requests is to be withheld on the basis of a claim of privilege, identify the document as follows: author, addressee, indicated or blind copies, date, subject matter, number of pages, attachments or appendices, all persons to whom distributed, shown, or explained, present custodian, the nature of the privilege asserted,

and the complete factual basis for its assertion. Produce a log containing the above descriptions contemporaneously with the documents responsive to the subpoena.

17. If a portion of an otherwise responsive document contains information subject to a claim of privilege, only those portions of the document subject to the claim of privilege shall be deleted or redacted from the document and the rest of the document shall be produced. If any portions of any otherwise responsive documents are deleted or redacted, those portions are to be included on the log of privileged documents and identified as required by instruction 16.

18. Unless otherwise provided, these Requests seek documents from January 1, 2011 to the present.

DOCUMENT REQUESTS

1. To the extent not already produced, all documents constituting, reflecting, or referring to communications before or after November 6, 2012 between the SEC and the CSRC concerning access to or production of audit workpapers, cross-border cooperation, requests for assistance, and/or the “new procedures” referenced in paragraphs 12 through 15 of the Second Arevalo Declaration.

2. All documents constituting, reflecting, or referring to communications between the Chinese Government and/or the CSRC and the SEC regarding audit workpapers associated with the Clients, including but not limited to any offer by the Chinese Government or CSRC to make any such audit workpapers and other documents available to the SEC, and the terms and conditions of such access.

3. All documents concerning, referencing, or reflecting any meetings, negotiations, or communications between (a) the United States Government, the SEC, and/or the PCAOB and (b) the Chinese Government and/or the CSRC relating to access to audit workpapers, inspections

of accounting firms, or any other international or cross-border audit issues, including but not limited to all documents relating to the following meetings, negotiations, agreements, or communications:

- a. The U.S.-China Strategic and Economic Dialogues, including but not limited to those held in July 2009, May 2010, May 2011, and May 2012, and scheduled for July 2013;
- b. Meetings between the CSRC and SEC in July 2011, January 2012, and November 2012;
- c. Former SEC Chairman Mary Schapiro's visit to China in July 2012;
- d. Meetings between the SEC, PCAOB, and CSRC in November 2012; and
- e. The Memorandum of Understanding on Enforcement Cooperation between the PCAOB and the CSRC and the Ministry of Finance of China that was announced by the PCAOB on May 24, 2013.

Exhibit 2



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
100 F Street, N.E.
Washington, DC 20549-5971

DIVISION OF
ENFORCEMENT

David Mendel
Assistant Chief Litigation Counsel
Telephone: (202) 551-4418
Facsimile: (202) 772-9282
Email: MendelD@sec.gov

May 15, 2013

BY UPS OVERNIGHT MAIL

Michael S. Flynn, Esq.
Davis Polk & Wardwell, LLP
450 Lexington Avenue
New York, NY 10017

Re: *In the Matter of BDO Dahua CPA Co., Ltd.*,
SEC Admin. Proc. File Nos. 3-14872, 3-15116

Enclosed for production in the above-referenced proceedings are electronic versions of communications between the SEC and the China Securities Regulatory Commission ("CSRC") that pre-date the Order Instituting Proceedings in the Omnibus matter (File No. 3-15116). The produced documents are bates-stamped SEC_SUPP_AUDIT 000001 – SEC_SUPP_AUDIT 000184.

These documents are confidential and subject to a privilege concerning international communications between U.S. and foreign regulators pursuant to the International Organization of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding Concerning Consultation and Cooperation and the Exchange of Information ("MMOU"). Accordingly, the Division has designated this entire production as "CONFIDENTIAL – SUBJECT TO PROTECTIVE ORDER – FILE UNDER SEAL" under the Stipulated Protective Order recently entered by Judge Elliot in these proceedings. The parties should protect these documents under the terms of that Protective Order. In agreeing to produce these documents, the Division does not concede their relevance to the proceedings.

Also enclosed are privilege logs that list the documents we are producing subject to the Protective Order, including those documents that the Division has redacted. In most cases, the redacted information refers to investigations or proceedings that are unrelated to these proceedings and do not involve SEC requests for assistance to the CSRC involving audit workpapers. This information is protected by the law enforcement investigatory privilege, among other privileges and protections. Certain other redactions protect particular details about the Client G investigation (SEC-CSRC document number 22); privileged, non-public deliberations, recommendations, and/or authorizations among the Commission or its staff (SEC-CSRC document numbers 28, 29, 47);

May 15, 2013

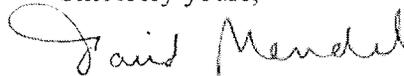
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personal information (SEC-CSRC document number 37, CSRC-SEC document number 7); or identities of other foreign regulators referenced by the CSRC, which are unrelated to any SEC requests for assistance to the CSRC and may raise confidentiality concerns among those foreign regulators if disclosed (CSRC-SEC document number 16).

The documents are being produced on an encrypted CD that contains TIFF images, a Concordance 9 database with a data load file (.dat), and an image (.opt) load file. Each image is endorsed with a unique Bates number. If your IT specialists have any difficulties processing these materials, please contact our specialist, Pete Peterson, at (202) 551-4631. We will separately send to you the password for the CD.

If you have any questions concerning this production, please do not hesitate to contact me or Amy Friedman at 202-551-4520.

Sincerely yours,



David Mendel
Assistant Chief Litigation Counsel
Division of Enforcement

Enclosures: CD
Privilege Log – SEC to CSRC
Privilege Log – CSRC to SEC

Exhibit 3

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

U.S. Securities and Exchange Commission)	
)	
Petitioner,)	
)	
-v.-)	11 Misc. 512 GK/DAR
)	
Deloitte Touche Tohmatsu CPA Ltd.)	
)	
Respondent.)	
)	

DECLARATION OF ALBERTO AREVALO

I, Alberto Arevalo, declare:

1. I am over the age of eighteen years, and I have personal knowledge of the facts set forth in this declaration.
2. I am employed as an Assistant Director in the Office of International Affairs (“OIA”) for the United States Securities and Exchange Commission (“SEC” or “Commission”). I have served as an Assistant Director in OIA since December 2007, and have been employed by the Commission since 2004. In my capacity as Assistant Director, I am involved in the Commission’s international enforcement initiatives and frequently work with foreign regulators and international organizations, and also with the SEC’s other divisions and offices, with respect to the international aspects of the Commission’s programs. Among other things, I oversee OIA’s international enforcement efforts on a day-to-day basis, including matters where the SEC’s Enforcement Division is seeking assistance abroad, as well as matters where foreign regulators are seeking assistance from the SEC. I am a member in good standing of the State Bar of California since 1984.

3. In my capacity as an Assistant Director in the SEC's OIA, I am familiar with the requests for assistance the SEC has sent to the China Securities Regulatory Commission ("CSRC"), and am also familiar with the correspondence the SEC has received from the CSRC in response to these requests. I am also familiar with the efforts made by the SEC to obtain, through the CSRC, audit work papers located in the People's Republic of China ("China").

Overview of Efforts to Obtain Assistance from the CSRC

4. As I will detail in the following paragraphs, beginning in 2009 and continuing to the present, the SEC has sent to the CSRC twenty-one (21) requests for assistance in connection with sixteen (16) different ongoing investigations conducted by the SEC's Division of Enforcement ("enforcement investigations"), including three requests for audit work papers. The SEC has not received any of the requested audit work papers, nor has it received meaningful assistance from the CSRC in any of the other investigations.
5. For the purposes of this declaration, I will refer to each relevant SEC enforcement investigation by an "Investigation Number." Also, if SEC staff sent more than one request for assistance in connection with a particular investigation, I will identify each request.
6. **Investigation Number 1:** In February 2009, SEC staff sent to the CSRC a request for assistance in a financial fraud investigation concerning a U.S. corporation whose stock was listed for trading on the National Association of Securities Dealers Automated Quotations ("NASDAQ"). SEC staff requested that the CSRC provide corporate, business, and accounting records from the company's purported business partners in China, to help determine the accuracy of the company's SEC filings. The SEC did not

receive any of the documents requested. SEC staff withdrew this request in October 2011. (As I discuss in paragraph 27, the delay resulting from the CSRC's failure to provide assistance was a factor in our decision to withdraw this and over a dozen other requests.)

7. **Investigation Number 2:** In April 2009, SEC staff sent to the CSRC a request for assistance in a market manipulation investigation concerning a U.S. corporation with former headquarters and purported operations in China. The company's stock was initially quoted on the Over the Counter Bulletin Board ("OTC BB"), and then later listed for trading on the NASDAQ. This request was the third request sent to the CSRC in connection with this investigation, the CSRC having failed to provide the assistance requested in the first two requests, sent in May 2006 and March 2008, respectively.
8. In this request, we reminded the CSRC that we were still waiting for several categories of records we had earlier requested (business and corporate records, including any filings with agencies in China), but we asked that it give priority to one specific category – bank records. Although the CSRC sent us a letter in April 2009 in connection with this request, the letter was not responsive. From June 2009 to May 2010, we tried repeatedly to obtain responsive information from the CSRC. However, the SEC did not receive any of the documents requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.
9. **Investigation Number 3:** In January 2010, SEC staff sent to the CSRC a request for assistance in connection with an ongoing insider trading investigation. SEC staff requested information concerning persons employed at an entity in China who may have had access to the nonpublic material information. While the CSRC provided some

information in partial response to this request approximately ten months later in November 2010, the limited information received was not of meaningful assistance because by this time the SEC Enforcement Division had closed this investigation (it was closed in June 2010).

10. **Investigation Number 4:** In February 2010, SEC staff sent to the CSRC a request for assistance involving a U.S. company with operations in China whose stock was quoted on the OTC BB. SEC staff sought the CSRC's assistance with, among other things, determining the accuracy of public statements made by the company related to claimed business relationships in China, including obtaining documents related to the company's public statements and SEC filings. Despite receiving an email in May 2010, in which the CSRC indicated (based on SEC staff's internal translation from Chinese to English) that it was working on the request, SEC staff never received any of the documents requested in our February 2010 request.
11. **Investigation Number 5; First Request:** In May 2010, SEC staff sent to the CSRC a request for assistance in a financial fraud investigation concerning a U.S. corporation whose stock was listed for trading on the NASDAQ. SEC staff requested that the CSRC obtain corporate records to verify the existence of certain of the company's Chinese customers, and if the customers existed, to verify reported sales to these customers. The SEC did not receive any of the assistance requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.
12. **Investigation Number 5; Second Request:** In December 2010, six months after the request that I described in the preceding paragraph, the SEC sent a second related request to the CSRC, seeking bank, corporate, and business records from Chinese subsidiaries of

the company. To date, the SEC has not received any of the documents we requested in December 2010, and this request for assistance remains outstanding.

13. **Investigation Number 6:** In June 2010, the SEC sent to the CSRC a request for assistance in a financial fraud investigation concerning a Canadian corporation with its principal place of business in China, and whose stock was listed for trading on the NASDAQ. SEC staff asked the CSRC to obtain the work papers from the China-based audit firm that audited the company's financial statements filed with the SEC. To date, the SEC has not received any of the documents requested and this request for assistance remains outstanding.
14. The request covered in the preceding paragraph, like the action now before this Court, concerned audit work papers. I therefore discuss this particular request for assistance in greater detail in paragraphs 29-42, as it further demonstrates that the CSRC is not at this time a viable gateway for the production of audit work papers.
15. **Investigation Number 7; First Request:** In June 2010, SEC staff also sent to the CSRC a request for assistance in an offering fraud investigation concerning, among other things, a privately-held U.S. corporation and its business partner, a U.S. company doing business in China. SEC staff asked the CSRC to verify the existence of various Chinese companies with which the U.S. entities claimed to have business relationships, and if these companies did in fact exist, to obtain documents reflecting these business relationships. In November 2010, while the CSRC responded, it did not provide the assistance requested, *i.e.*, verification whether the Chinese companies existed or production of the documents requested. The SEC did not receive any of the assistance

requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.

16. **Investigation Number 7; Second Request:** In January 2011, SEC staff sent to the CSRC a second request for assistance in the matter described in the preceding paragraph. SEC staff again inquired as to the existence of the Chinese companies that we specified in our first request. SEC staff also asked the CSRC to verify the existence of additional Chinese companies with which the U.S. entities claimed to have business relationships, and if in fact these companies did exist, to obtain documents reflecting these business relationships. The SEC did not receive any of the assistance requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.
17. **Investigation Number 8; First Request:** In August 2010, SEC staff sent to the CSRC a request for assistance in a financial fraud investigation concerning a U.S. corporation whose stock was quoted on the OTC BB and with its principal place of business in China. SEC staff asked the CSRC to obtain corporate, accounting, and business records. The SEC did not receive any of the documents requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.
18. **Investigation Number 8; Second Request:** In January 2011, SEC staff sent to the CSRC a second request for assistance in the matter described in the preceding paragraph. SEC staff inquired as to the status of the first request, noting our continued interest in obtaining the assistance requested. SEC staff also asked the CSRC to obtain bank records and related information not covered in our first request. The SEC did not receive any of the assistance requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.

19. **Investigation Number 8; Third Request:** In March 2011, SEC staff sent to the CSRC a third request for assistance in the matter described in the preceding two paragraphs. SEC staff asked the CSRC to obtain financial statements filed with another Chinese government agency by the company, a Chinese subsidiary of the company, and another Chinese company with which the subsidiary had reportedly entered into a share transfer agreement. The SEC did not receive any of the assistance requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.
20. **Investigation Number 9; First Request:** In October 2010, SEC staff sent to the CSRC a request for assistance in an investigation concerning a U.S. corporation whose stock was listed for trading on the New York Stock Exchange (“NYSE”). SEC staff sought to determine, among other things, whether the corporation and one of its employees may have made undisclosed payments to a government official in China to facilitate Chinese real estate acquisitions at below market prices. SEC staff requested the employee’s bank records from two accounts he opened in China from which the unlawful payments were reportedly made. The SEC did not receive any of the assistance requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.
21. **Investigation Number 9; Second Request:** In March 2011, SEC staff sent to the CSRC a second request for assistance in the matter described in the preceding paragraph. In this request, SEC asked the CSRC to interview a potential witness located in China who had reportedly provided a loan to the employee, which the employee reportedly used in connection with one of the relevant real estate acquisitions. In this request, SEC staff also asked the CSRC for a status report on the progress of our first request, in which we had requested bank records. Although the CSRC did acknowledge receipt of this request,

the SEC did not receive any of the assistance requested, including the status report. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.

22. **Investigation Number 10:** In December 2010, SEC staff sent to the CSRC a request for assistance in connection with an investigation concerning certain securities, some of which may have been purchased in China. SEC staff asked the CSRC to help identify certain investments in the relevant securities and arrange a phone interview. The SEC did not receive any of the assistance requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.
23. **Investigation Number 11:** Also in December 2010, SEC staff sent to the CSRC a request for assistance in a financial fraud investigation concerning a U.S. corporation with subsidiaries in China and whose stock was listed for trading on the NYSE. SEC staff asked the CSRC to obtain bank and tax records of one of the company's Chinese subsidiaries related to information reported in the company's SEC filings. This request is still pending and, to date, the SEC has not received any of the assistance requested.
24. **Investigation Number 12:** In January 2011, SEC staff sent to the CSRC a request for assistance in an investigation concerning a U.S. corporation whose stock is listed for trading on the NYSE. SEC staff asked the CSRC to arrange for witness interviews of two employees at the company's Chinese affiliate. However, the SEC did not receive any of the assistance requested. As discussed in paragraph 27 below, SEC staff withdrew this request on October 11, 2011.
25. **Investigation Number 13:** In January 2011, SEC staff sent to the CSRC a request for assistance in connection with certain China-based issuers whose American Depositary Shares were listed on the NYSE, and which filed financial reports with the SEC. Various

news outlets had reported that the issuers were under criminal and civil investigation in China. SEC staff sought the CSRC's assistance in obtaining materials and information from any agencies involved, as well as facilitating meetings with the relevant agencies. Although the CSRC responded to this request in April 2011, it did not provide meaningful assistance. In particular, while the CSRC referred the SEC to publicly available information, it also stated that it was not itself aware of any such investigations and was, in any event, unable to provide assistance concerning any other official agencies involved or their related proceedings.

26. **Investigation Number 14:** In June 2011, SEC staff sent to the CSRC a request for assistance in a financial fraud investigation concerning a U.S. corporation with its principal place of business in China. The company's stock was quoted on the over-the-counter market after the NYSE suspended it from trading. SEC staff asked the CSRC to obtain the work papers from the China-based audit firm that audited the company's financial statements filed with the SEC. This request is still pending and, to date, the CSRC has not acknowledged the request or provided any of the assistance requested. (This request did not concern Longtop Financial Industries Limited, whose documents are at issue in this proceeding.)
27. In an October 2011 letter, SEC staff withdrew the requests for assistance related to Investigations Number 1, 2, 5 (first request), 7 (both requests), 8 (all three requests), 9 (both requests), 10 and 12. SEC staff withdrew these requests because, among other reasons, the assistance requested was no longer useful or was of limited utility to the underlying investigations given the passage of time since the SEC had made the requests and the CSRC's failure to provide the assistance requested. It was also our hope that, by

reducing the number of outstanding requests, the CSRC would be able to concentrate on the few open requests remaining and provide the assistance requested. However, as I also cover below, to date, SEC staff has not received any of the assistance, documents, materials, or information that we requested in this limited subset of remaining open requests.

28. In its October 2011 letter, the SEC staff explicitly kept open the requests related to Investigations Number 5 (second request), 6, and 11. SEC staff also continued to seek the audit work papers related to Investigation Number 14, but did not raise this request again in the October 2011 letter based on the already-ongoing discussions over the production of audit work papers related to Investigation Number 6 (covered immediately below). Additionally, SEC staff did not specifically withdraw the requests related to Investigations 3, 4, and 13.

The SEC's Efforts to Obtain Audit Work Papers from the CSRC

29. As noted above in my discussion of Investigation Number 6, in June 2010, SEC staff sent to the CSRC a request for assistance in connection with an investigation into potential accounting fraud, seeking audit work papers from an audit firm based in China.
30. The documents sought by the SEC in Investigation Number 6 are the same documents at issue in an administrative action filed by the Commission on May 9, 2012, entitled *In the Matter of Deloitte Touche Tohmatsu Certified Public Accountants Ltd.*, Second Corrected Order Instituting Administrative Proceedings (Release No. 66948) ("Order"). The respondent in this subpoena enforcement action is also the respondent in the administrative proceeding.

31. The Order alleges that in April and May 2010, SEC staff tried unsuccessfully to obtain the audit work papers directly from Deloitte Touche Tohmatsu CPA Ltd. (“DTTC”). The Order further alleges that, commencing in June 2010, SEC staff tried to obtain the work papers through international sharing mechanisms, but these efforts were not successful. I was involved in the referenced efforts and provide additional details in the following paragraphs.
32. On June 7, 2010, SEC staff sent a request for assistance to the CSRC in connection with Investigation Number 6. In that request for assistance, the SEC requested that the CSRC obtain and provide copies of the audit work papers DTTC had prepared for its client – whose conduct was related to the investigation.
33. Between June 2010 and May 2012, SEC staff sent or participated in over 30 communications with CSRC, including letters, emails, in-person meetings and telephone calls, in connection with our efforts to obtain from the CSRC, among other things, the audit work papers related to Investigation Number 6. Despite, these efforts, the CSRC has not produced any of the requested documents, as further explained in the paragraphs below.
34. In the course of its efforts to obtain the work papers related to Investigation Number 6, in March 2011 SEC staff learned from counsel for DTTC – not the CSRC – that DTTC had turned over these work papers to the CSRC during the summer of 2010. On April 8, 2011, SEC staff sent an email to the CSRC stating that we understood that the CSRC had the audit works papers in its possession.
35. More than six weeks later, on May 26, 2011, the CSRC acknowledged that it had the audit work papers, but denied the SEC’s requested assistance. The CSRC stated that

unspecified PRC regulations prevented the CSRC from delivering the work papers to the SEC.

36. In the CSRC's May 26, 2011 correspondence, and in subsequent communications in 2011 and 2012, the CSRC took the position that creation of a separate information-sharing framework was necessary to address the SEC's requests for assistance, including requests for audit papers. Throughout this time period, the SEC repeatedly communicated its position that its requests were already covered by – and should be honored under – the International Organizations of Securities Commissions (“IOSCO”) Multilateral Memorandum of Understanding (“MMOU”). (The IOSCO MMOU is discussed in the Declaration of Ethiopis Tafara.) The CSRC, however, raised a variety of obstacles over time to its production of the requested documents, including its position that a separate agreement was necessary for the SEC's various requests.
37. In April 2012 – after numerous additional communications from the SEC seeking production of the requested documents – the CSRC indicated that it was prepared to deliver some of the information sought by the request for assistance related to Investigation Number 6, except that CSRC took the following positions:
- The CSRC conditioned production of any of this information on the SEC's agreement to a “Letter of Consent” that would (1) preclude the SEC from using the information in any legal action or for any related purpose, without the CSRC's advance written authorization, and (2) require the SEC provide a written report regarding the usage of the information and results and consequences of the investigation to the CSRC when the investigation was completed.

- The CSRC was prepared to produce only an unspecified portion of the 18 boxes of audit work papers reportedly in its possession.
- The CSRC would exercise its own judgment as to which of the work papers were relevant to Investigation Number 6 and would produce only those documents.

38. In late March 2012, the CSRC told the SEC that it was prepared to deliver information sought in Investigations Number 5 (second request) and 11, but only on the condition that the SEC sign a Letter of Consent similar to the one described above in paragraph 37. In April 2012, the CSRC told the SEC that the Letter of Consent was necessary because the assistance sought by these requests did not fall within the scope of any existing agreement between the SEC and CSRC, and that a new or revised memorandum of understanding was necessary for the CSRC to assist the SEC.

39. The SEC staff was and is unwilling to accept the pre-conditions to the CSRC's production of requested documents, or the CSRC's production of only a limited portion of the requested materials based on the CSRC's own relevance determinations, as set forth in paragraph 37 above.

40. In the view of SEC staff, the CSRC's insistence that the SEC *not* use the relevant documents in any legal action is contrary to the terms of the IOSCO MMOU. *See* Declaration of Ethiopis Tafara, Exh. 1. The SEC and CSRC are both signatories to the IOSCO MMOU. That protocol expressly provides that documents furnished in response to a request for assistance may be used for the purposes of, among others, conducting civil or administrative enforcement proceedings, including public enforcement proceedings. *See* Declaration of Ethiopis Tafara, ¶ 13 & Exh 1, Sec. 10(a)(i) and (ii).

41. On April 10, 2012, SEC staff sent to the CSRC an email stating that we were willing to sign a letter governing the use of the audit work papers related to Investigation Number 6, but it would have to be consistent with international best practices as embodied in the IOSCO MMOU. SEC staff included a revised "Letter of Consent" consistent with the preceding points.
42. The next day, on April 11, 2012, the CSRC sent the SEC an email declining to provide assistance pursuant to the SEC's revised Letter of Consent. The CSRC said it would only provide assistance if SEC staff signed the CSRC's original draft of the Letter of Consent, which (as I cover in paragraphs 39-40 above) SEC staff was and is unwilling to do. The SEC and CSRC thereafter were unable to resolve their differences over the content of the Letter of Consent or the conditions under which the CSRC would produce audit work papers related to Investigation Number 6 to the SEC, or the information sought by the SEC related to Investigations 5 and 11.

**The Longtop Audit Work Papers
and Events after May 2012**

43. On September 8, 2011, the SEC filed this action seeking to enforce the Subpoena to DTTC for audit work papers and related documents regarding Longtop Financial Technologies Limited ("Longtop").
44. In its court filings in this case, DTTC states that, after it received the Subpoena, DTTC prepared to produce the requested documents to the CSRC "in anticipation of the SEC's making the requisite regulator-to-regulator request." Respondent DTTC's Statement of Points and Authorities Opposing the SEC's Application For Order to Show Cause and Order Requiring Compliance With Subpoena (filed April 11, 2012) at 12 (Dkt. No. 23).

In particular, according to DTTC, in June 2011, DTTC dispatched personnel from Hong Kong and attorneys from Sidley Austin LLP's Hong Kong office to Shanghai to commence a review of potentially responsive documents, and to perform other steps such as copying, scanning, and adding production number (*i.e.*, Bates labeling). *Id.*; Warden Decl. ¶¶ 17-18. DTTC states that "if authorized by the CSRC, DTTC readily would produce the subpoenaed documents to the CSRC." *Opp.* at 12.

45. Before August 2012, the SEC did not send any request for assistance regarding the Longtop audit work papers to the CSRC. Based on the failure of the CSRC to provide any meaningful enforcement assistance in response to the SEC's many requests for assistance as described in this declaration – including specifically the lack of progress in obtaining from the CSRC the audit work papers sought in connection with Investigation Number 6 (and, by extension, our outstanding request for work papers related to Investigation Number 14) – SEC staff believed that requesting the CSRC's assistance in obtaining the Longtop work papers would be futile.
46. At the annual meeting of IOSCO that took place in Beijing, China, in early May 2012, I am informed that the SEC OIA's Director and his counterpart at the CSRC agreed that a meeting between the Chairmen of the SEC and CSRC to discuss enforcement cooperation, including the SEC's need for audit work papers located in China related to ongoing SEC investigations, might be constructive.
47. On May 18, 2012, SEC staff asked the Court to extend the due date for the SEC's reply papers in this action from May 23, 2012 until July 23, 2012, to which the Court agreed. As the SEC stated in its May 18, 2012 filing, the SEC was engaged in an ongoing dialogue with the CSRC on various matters, including cross-border cooperation.

48. In early July 2012, SEC Chairman Mary Schapiro visited China and met with the Chairman of the CSRC and other officials. I am informed that the participants discussed, among other things, the need to develop a mechanism by which the SEC could obtain audit work papers and other documents from audit firms located in China in connection with SEC investigations.
49. While no agreements were reached in China, I am informed that the CSRC's Chairman, Guo Shuqing, expressed the view that conditions might then exist that could make it possible for the CSRC to assist the SEC with respect to audit work papers.
50. Accordingly, in July 2012 after the meeting between the SEC and CSRC Chairmen, SEC staff sent to the CSRC a new proposed letter of cooperation (also referred to here as the "bilateral framework") that would provide for the production of audit work papers located in China. The proposed bilateral framework was more comprehensive than the draft Letters of Consent circulated in April 2012; it was intended to address not only existing matters where the CSRC was unwilling or unable to provide assistance, but also to provide a broader framework for future requests between the parties. SEC staff sent this bilateral framework to the CSRC because, as noted above (in paragraphs 36-38), the CSRC had taken the position that a separate information-sharing framework (beyond the IOSCO MMOU) was necessary to address the SEC's requests for assistance.
51. On July 18, 2012, SEC staff informed the CSRC of staff's intention to seek a temporary stay of this subpoena enforcement action, as well as a stay of the administrative proceeding referenced in preceding paragraphs of this declaration. SEC staff informed the CSRC that the purpose of the proposed stays was to allow time for consideration of the proposed bilateral framework and the use of this framework for production of audit

work papers related to Investigation Number 6. SEC staff also informed the CSRC that we anticipated requesting the Longtop audit work papers under the parameters of the proposed agreement.

52. On July 18, 2012, the SEC filed an Unopposed Motion For Stay of This Action, which the court granted by Minute Order dated August 7, 2012. The SEC's July 18, 2012 filing noted the SEC Chairman's visit to China earlier in the month and stated that, if negotiations between the SEC and CSRC could develop a viable alternative means by which the SEC can obtain the audit work papers and other documents sought by the Subpoena in the near term, it could have a significant impact on the appropriate resolution of this case.
53. After the SEC filed its motion for a stay, SEC staff communicated with the CSRC on several more occasions to try to make progress on the proposed bilateral framework. The SEC's proposed framework would have allowed using documents produced by the CSRC in a legal proceeding without advance authorization from the CSRC. The CSRC objected to this framework and no agreement with the CSRC was reached.
54. Notwithstanding SEC staff's earlier decision not to seek the CSRC's assistance regarding the Longtop audit work papers, on August 6, 2012, SEC staff sent to the CSRC a written request for assistance with respect to the Longtop papers (the "Longtop Request for Assistance"). Although SEC staff made this request under the IOSCO MMOU, we also indicated our willingness to accept the audit work papers pursuant to the draft bilateral framework which SEC staff had previously sent to the CSRC. SEC staff asked the CSRC to provide us the materials requested – DTTC's work papers and related materials concerning its audits of Longtop – by October 1, 2012. SEC staff also asked the CSRC

to inform the SEC in writing by September 15, 2012 if it decided to deny the request for assistance or take the position that the requested assistance is not available under Chinese domestic law.

55. Although the CSRC confirmed receipt of the Longtop Request for Assistance, it did not commit to the production of the requested documents. Rather, and notwithstanding DTTC's representations in this matter that DTTC had started to prepare the documents for production a year ago (see paragraph 44 above), in communications in August and September 2012, CSRC staff told the SEC that it would be delayed in producing any documents. CSRC staff variously stated that: (1) it was still gathering the requested documents; (2) it was unrealistic to expect that the documents could be produced by the requested October 1, 2012 deadline, particularly in light of the amount of time that the CSRC needed to process documents requested by the SEC for Investigation Number 6, which were fewer in number; and (3) SEC staff should consider narrowing its request to specific persons or transactions.

56. To date, almost four months have passed since the SEC sent to the CSRC its Longtop Request for Assistance; almost five months have passed since the meetings between the SEC's and CSRC's Chairmen, and the SEC's transmittal to the CSRC of a proposed bilateral framework for the production of audit work papers located in China; and it has been almost two and one-half years since the SEC's request related to Investigation Number 6 (sent June 2010). Despite this passage of time and the ongoing negotiations throughout this time period, SEC staff has yet to receive from the CSRC any audit work papers related to: (a) DTTC's audits of Longtop; (b) Investigation Number 6; or (c)

Investigation Number 14. Moreover, the CSRC has failed to provide a date by which it would produce any of these documents.

57. **Investigation Number 15:** In addition to all of the requests for assistance described above in this declaration, on August 22, 2012, SEC staff sent to the CSRC a request for assistance in a financial fraud investigation concerning a U.S. corporation whose stock was listed for trading on the NYSE-AMEX. In this request, SEC staff asked the CSRC for assistance in obtaining documents and correspondence related to the suspected transfer of certain corporate assets located in China, as well as statements from witnesses. This request did not seek the production of audit work papers.
58. In an email dated September 11, 2012, the CSRC informed SEC staff that the CSRC was not authorized to obtain key correspondence and documents related to communications with respect to Investigation Number 15. By cover letter dated November 19, 2012 (received by SEC staff on November 26, 2012), the CSRC purported to respond to this request by providing 10 pages of documents relating to asset transfers. Specifically, based on a translation from Chinese to English, the documents appear to consist of six transactional agreements, a summary description of those agreements (including a statement that other requested documents could not be provided), and a business license. The CSRC's cover letter stated that the documents must not be used in any legal action or for any related purpose, without the CSRC's advance written authorization. As discussed above in paragraphs 37-40, SEC staff view this use restriction as unacceptable and contrary to the terms of the IOSCO MMOU. The cover letter also stated that the CSRC could not guarantee the information's authenticity, a significant potential impediment in the event the SEC does try to use these documents in a future legal action. Moreover, the

CSRC's production did not include most of the documents (such as communications) that SEC staff had requested, and did not respond to the SEC's request for witness statements. For these reasons, I do not regard the CSRC's responses related to Investigation 15 to constitute meaningful assistance to the SEC, nor do I regard these responses as any indication that the CSRC has changed its position with respect to the provision of audit work papers from China.

59. Based on the communications between the CSRC and the SEC and the repeated failures of the CSRC to provide meaningful assistance in response to the SEC's requests, as described in this declaration, SEC staff have come to the view that the CSRC is unwilling or unable to cooperate with the SEC in connection with the vast majority of its requests for assistance related to SEC investigations. In particular, SEC staff believes that the CSRC is not a viable gateway for the production of audit work papers.

Other Recent Events

60. In early October 2012, contrary to its prior position, the CSRC informed SEC staff that the CSRC has come to the view that audit work papers may be shared with the SEC under the IOSCO MMOU and there is no need for a bilateral agreement. The CSRC confirmed this position in a letter that it sent by email on November 6, 2012 ("November 2012 letter").
61. If the CSRC now believes that production of the audit work papers is permissible under the IOSCO MMOU, there should be no impediments to its beginning production immediately in response to the requests for assistance related to Investigations Number 6 and 14, and to the Longtop Request for Assistance.

62. However, in the November 2012 letter, the CSRC reiterated that the SEC would have to agree to the preconditions contained in the CSRC's draft Letter of Consent, as described in paragraph 37 above, before the CSRC would agree to a prompt production of documents sought in Investigation Number 6. The CSRC also stated that these same preconditions would apply to the Longtop work papers. The CSRC stated that, if the SEC does not sign the Letter of Consent, the CSRC's provision of the requested audit work papers would take an indeterminate amount of time, because the CSRC would have to consult with the PRC's Ministry of Justice and other unspecified Chinese government authorities as to whether it is permissible for the SEC to use the audit work papers in legal proceedings.
63. Also in the November 2012 letter, the CSRC reiterated its earlier statements (see paragraph 55 above) that the Longtop documents were still being gathered, that it would take a long time for the CSRC to perform its own internal review of the Longtop documents, and that the SEC staff should consider narrowing its request to specific persons or transactions. The CSRC also stated that it was developing guidelines and procedures for providing audit work papers to foreign regulators.
64. As noted above, the CSRC has not produced any documents and has not proposed a date for its production of any of the documents sought in the requests for audit work papers (Investigations Number 6 and 14, and the Longtop Request for Assistance related to this matter). SEC staff would obviously welcome a decision by the CSRC to comply fully with its enforcement cooperation commitments under the IOSCO MMOU. However, at this point in time SEC staff believes there is nothing left to negotiate or discuss with the CSRC on this topic, unless and until the CSRC produces documents in response to

outstanding requests for assistance, including specifically audit work papers. In the view of SEC staff, negotiations with the CSRC with respect to productions of the documents requested, including audit work papers, from within China in response to requests for assistance, have come to an unsuccessful conclusion.

65. The CSRC informed the SEC that it would be in Washington, DC on November 26, 2012, and proposed a meeting. SEC staff agreed to meet, but notified the CSRC that, absent greater clarity about the CSRC's standing to provide the assistance requested, we felt it appropriate to focus the agenda topics for the CSRC's visit on regulatory issues of mutual interest, and not engage in additional discussions of document production, agreements for cooperation, and any related enforcement topics. The meeting occurred on November 26. In light of the proposed focus on regulatory as opposed to enforcement topics, I did not attend the meeting. I am informed that SEC staff gave notice to the CSRC, as SEC staff had done previously, that because the SEC had not received from the CSRC the assistance requested, including the provision of audit work papers, the SEC had no choice but to go forward with this subpoena enforcement action.

66. None of the recent events, including the CSRC's recent communications and production of documents, have changed the SEC staff's view that the CSRC is not now a viable gateway for the production of audit work papers, and there is no reason to expect it will become one in the foreseeable future.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 3, 2012 in Washington D.C.

A handwritten signature in black ink, appearing to read 'Alberto Arevalo', written over a horizontal line.

Alberto Arevalo

Exhibit 4

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

U.S. Securities and Exchange Commission)	
)	
Petitioner,)	
)	
-v.-)	11 Misc. 512 GK/DAR
)	
Deloitte Touche Tohmatsu CPA Ltd.)	
)	
Respondent.)	

SECOND DECLARATION OF ALBERTO AREVALO

I, Alberto Arevalo, declare:

1. I am over the age of eighteen years, and I have personal knowledge of the facts set forth in this declaration.
2. I am employed as Chief of International Cooperation in the Office of International Affairs (“OIA”) for the United States Securities and Exchange Commission (“SEC” or “Commission”). I have served in this position since December 2012. In this capacity, I supervise the OIA Assistant Directors in charge of the international enforcement cooperation, supervisory cooperation, and technical assistance program areas, and am responsible for the strategic direction of these program areas. From December 2007 until I obtained my current position, I served as an Assistant Director in OIA. In my capacity as Assistant Director, I was involved in the Commission’s international enforcement initiatives and frequently worked with foreign regulators and international organizations, and also with the SEC’s other divisions and offices, with respect to the international aspects of the Commission’s programs. Among other things, I oversaw OIA’s international enforcement efforts on a day-to-day basis, including matters where the

SEC's Enforcement Division was seeking assistance abroad, as well as matters where foreign regulators were seeking assistance from the SEC. I have been employed by the Commission since 2004. I am a member in good standing of the State Bar of California since 1984.

3. In my capacity as Chief of International Cooperation in the SEC's OIA, as in my prior capacity as an Assistant Director in that office, I am familiar with the requests for assistance the SEC has sent to the China Securities Regulatory Commission ("CSRC"), and am also familiar with the correspondence the SEC has received from the CSRC in response to these requests. I am also familiar with the efforts made by the SEC to obtain, through the CSRC, audit work papers located in the People's Republic of China ("China").
4. This declaration supplements the prior declaration I submitted in this matter on December 3, 2012 ("First Arevalo Declaration").

The SEC's Requests For Assistance To The CSRC

5. As described in the First Arevalo Declaration, supplemented by detail in the following paragraphs, beginning in 2009 and continuing to the present, the SEC has sent to the CSRC twenty-three (23) requests for assistance in connection with eighteen (18) different investigations conducted by the SEC's Division of Enforcement ("enforcement investigations"), including three requests for audit work papers. The investigation relating to Longtop Financial Technologies Limited ("Longtop") is one of the three investigations for which audit work papers were requested. The SEC has not received any of the requested audit work papers, nor has it received meaningful assistance from the CSRC in any of the other investigations.

6. As in the First Arevalo Declaration, I refer to each relevant SEC enforcement investigation by an "Investigation Number." (Note, however, that I did not assign a number to the Longtop investigation.) Since the First Arevalo Declaration, SEC staff sent to the CSRC two additional requests for assistance as follows.
7. **Investigation Number 16:** In January 2013, SEC staff sent to the CSRC a request for assistance in a fraud investigation concerning a U.S. corporation that apparently had been offering purported investments to investors in China and functioning as a mechanism for wealthy foreign investors to obtain EB-5 visas. SEC staff requested that the CSRC obtain offering and marketing materials from a local sales agent in China to assess the truthfulness of representations made to Chinese investors. It was our hope that the CSRC would be motivated to assist with this investigation, as the victims were primarily Chinese citizens.
8. **Investigation Number 17:** In February 2013, SEC staff sent to the CSRC a request for assistance in another fraud investigation (similar to Investigation 16) concerning a U.S. corporation that apparently has been offering purported investments to Chinese investors in the U.S. and China, and functioning as a mechanism for foreign investors to obtain EB-5 visas. SEC staff requested that the CSRC obtain bank records to identify investors and to determine whether investor funds were being misappropriated. Again, it was our hope that the CSRC would be motivated to assist with this investigation, as the victims appear to include Chinese citizens.
9. Although I received an email in February 2013, in which the CSRC stated that it was working on responding to our requests made in connection with Investigation Numbers

16 and 17 (paragraphs 7 and 8, above), to date SEC staff has not received any of the assistance requested. These requests are still pending.

10. With respect to **Investigation Number 15** described in the First Arevalo Declaration, after I submitted that declaration the CSRC asked the SEC to provide additional information to facilitate the CSRC's processing of that request. The SEC has provided the additional information and is waiting to hear back from the CSRC.

The SEC's Efforts to Obtain Audit Work Papers from the CSRC

11. As described in the First Arevalo Declaration, on August 6, 2012, SEC staff sent to the CSRC a written request for assistance with respect to the audit work papers and related documents of Deloitte Touche Tohmatsu CPA Ltd. ("DTTC") concerning its audits of Longtop. The SEC made this request, as it did the other requests for assistance described in the First Arevalo Declaration and this declaration, under the International Organizations of Securities Commissions ("IOSCO") Multilateral Memorandum of Understanding ("MMOU").
12. In January 2013, SEC staff was informed that the CSRC may be in the process of developing new procedures intended to facilitate the production of audit work papers, including those work papers sought by the SEC's prior requests for assistance. Following the SEC's receipt of this information, former OIA Director Ethiopis Tafara had several communications with the CSRC about these purported new potential procedures.
13. By letter to the CSRC dated March 4, 2013, Mr. Tafara stated his understanding that, under the CSRC's purported new potential procedures, the CSRC would be able to provide to the SEC in a matter of weeks all of the DTTC documents relating to Longtop

that the SEC previously had requested of the CSRC under the IOSCO MMOU. Mr. Tafara also stated that until the SEC receives the requested documents and information consistent with the IOSCO MMOU, the SEC will continue to litigate the ongoing subpoena-enforcement action involving Longtop through resolution.

14. Later in March 2013 the CSRC acknowledged receipt of Mr. Tafara's March 4, 2013 letter and stated that it would start the new procedures with regard to the SEC's prior requests for Longtop-related documents as previously discussed with Mr. Tafara. However, to date, the SEC has not received any Longtop-related documents, or any audit work papers for any other investigations, from the CSRC.
15. As explained in the First Arevalo Declaration, the SEC has been trying since June 2010 to obtain audit work papers from China through the CSRC, and during this time the CSRC has conveyed a number of different positions about its ability or willingness to produce, or facilitate the production of, audit work papers. While the SEC would welcome a decision by the CSRC to comply fully with its enforcement cooperation commitments under the IOSCO MMOU – whether through the implementation of new procedures or otherwise – as stated above, to date no requested audit work papers have been produced by the CSRC.
16. None of the events described in this supplemental declaration change the views that I expressed in the First Arevalo Declaration that: (i) the CSRC currently is unwilling or unable to cooperate with the SEC in connection with the vast majority of its requests for assistance related to SEC investigations; and (ii) the CSRC currently is not a viable gateway for the production of audit work papers. As before, the SEC's discussions with

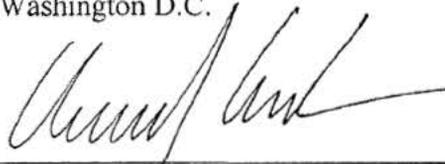
the CSRC have not yielded any concrete new results with respect to the SEC's requests for audit work papers, including the Longtop documents.

Staff Changes at the SEC

17. In March 2013, Ethiopis Tafara left the SEC. Robert M. Fisher is now OIA's Acting Director. I am not aware that Mr. Fisher has had any communication with the CSRC about the subject matter of this declaration since he became Acting Director.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on April 29, 2013 in Washington D.C.

A handwritten signature in black ink, appearing to read 'Alberto Arevalo', written over a horizontal line.

Alberto Arevalo

Exhibit 5

MEMORANDUM OF UNDERSTANDING ON ENFORCEMENT COOPERATION

BETWEEN THE PUBLIC COMPANY ACCOUNTING OVERSIGHT BOARD OF THE UNITED STATES AND THE CHINA SECURITIES REGULATORY COMMISSION AND THE MINISTRY OF FINANCE OF CHINA

The Public Company Accounting Oversight Board ("PCAOB") in the United States and the China Securities Regulatory Commission ("CSRC") and the Ministry of Finance ("MoF") in China agree as follows:

Article I. Purpose of Memorandum of Understanding

- (a) The PCAOB in the United States and the CSRC and MoF in China (collectively, the "Authorities" or "Parties") each seek to improve the accuracy and reliability of audit reports so as to protect investors and to help promote public trust in the audit process and investor confidence in their respective capital markets. Given the global nature of capital markets, the Authorities recognize the need for cooperation to ensure compliance with, and enforcement of, their respective laws and regulations in matters related to the oversight of the auditors subject to their regulatory jurisdictions.
- (b) This Memorandum of Understanding ("MOU") sets forth the Authorities' intent with regard to mutual assistance and the exchange of information for the purpose of enforcing and securing compliance with the respective Laws and Regulations of the jurisdictions of the Authorities. The provisions of this MOU are not intended to create legally binding obligations or, out of respect for the laws and regulations or national sovereignty of each party, supersede domestic laws.

Article II. Definitions

"Party"/"Parties" or "Authority"/"Authorities" means the PCAOB and/or the CSRC and/or the MoF.

"Firm" or "audit firm" means a public accounting firm or statutory audit firm, or an individual public accountant or statutory auditor, that is subject to a Party's regulatory jurisdiction.

"Laws and Regulations" means any laws or regulations in force in the respective countries of the Parties, including but not limited to the Parties' authorizing statutes.

“Information” may include but is not limited to (1) documents -including but not limited to electronic or computerized data compilations- sufficient to identify all audit review or other professional services performed by audit firms, including, but not limited to, contracts, engagement letters, or other documents defining the nature and scope of the professional services performed and (2) audit working papers or other documents -included but not limited to electronic or computerized data compilations- held by audit firms, provided that the documents relate to audit work that is subject to the regulatory jurisdictions of the PCAOB and/or the CSRC and/or MoF.

“Investigations” refers to investigations undertaken by a Party of any act or practice, or omission to act, by a public accounting firm or associated person of such firm, that may violate applicable laws, rules or professional standards, pursuant to the *Securities Law of the People's Republic of China* and *Law of the People's Republic of China on Certified Public Accountants in China* and/or the Sarbanes-Oxley Act of 2002 as amended, or applicable federal securities laws in the United States.

Article III. Mutual Assistance and The Exchange of Information

- (a) The Authorities recognize the importance and desirability of providing mutual assistance and exchanging information for the purpose of enforcing, and securing compliance with, the Laws, rules, or regulations applicable in their respective jurisdictions and agree to cooperate towards this end by responding on a timely basis to requests for assistance.
- (b) A request for assistance may be denied on an exceptional basis by the Requested Party:
 - (i) where the request would require the Requested Party to act in a manner that would violate domestic law;
 - (ii) where the request is not made in accordance with the provisions of this MOU;
 - (iii) on grounds of public interest or essential national interest; or
 - (iv) where the information provided in the request is not sufficient or specific enough for the requested party to provide assistance, the requested party can deny the request or ask the requesting party to provide more information.

- (c) This MOU does not confer upon any Person not a Party the right or ability, directly or indirectly, to obtain, suppress or exclude any information, or to challenge the execution of a request for assistance under this MOU.

Article IV. Scope of Assistance

- (a) The Authorities will, within the framework of this MOU, provide each other with the fullest assistance permissible to secure compliance with the respective Laws and Regulations of the Authorities.
- (b) The assistance available under this MOU includes, without limitation:
- (i) providing information and documents held in the files of the Requested Party regarding the matters set forth in the request for assistance;
 - (ii) providing information and documents regarding the matters set forth in the request for assistance, including:
 - documents sufficient to identify all audit review or other professional services related to matters set forth in the request for assistance performed by audit firms, including, but not limited to, contracts, engagement letters, or other documents defining the nature and scope of the professional services;
 - audit working papers or other documents held by audit firms, provided that the documents relate to audit work that is subject to the regulatory jurisdictions of the PCAOB and/or the CSRC and MoF; and
 - documents sufficient to identify firms' quality control systems including organizational structures, policies adopted and procedures established to provide assurance of compliance with professional standards.
- (c) Assistance will not be denied based on the fact that the type of conduct under investigation would not be a violation of the Laws and Regulations of the Requested Party.
- (d) Cooperation in the context of this agreement does not cover a request for assistance or information to the extent that it involves a

Requested Party obtaining on behalf of the Requesting Party information to which the Requesting Party is not entitled under its own laws and regulations.

Article V. Requests For Assistance

- (a) Requests for assistance will be made in writing, in such form as may be agreed by the parties from time to time, and will be addressed to the Requested Party's contact office listed in Appendix A.
- (b) Requests for assistance should specify:
 - (i) information requested, which should relate to the matters set forth in the assistance request;
 - (ii) a description of the conduct or suspected conduct which gives rise to the request;
 - (iii) the purpose for which the information is sought (including details of the laws or regulatory requirements pertaining to the matter which is the subject of the request);
 - (iv) the link between the specified laws or regulations and the regulatory functions of the Requesting Party;
 - (v) the persons or entities suspected by the Requesting Authority to possess the information sought, or the place where such information may be obtained, if the Requesting Party is knowledgeable thereof; and
 - (vi) the desired time period for the reply.
- (c) In urgent circumstances, requests for assistance may be effected by electronic means provided such communication is confirmed through an original, signed document.

Article VI. Execution of Requests for Assistance

- (a) Information and documents requested under this MOU will be gathered and provided in accordance with the procedures applicable in the jurisdiction of the Requested Party and by persons designated by the Requested Party.
- (b) The requested party shall not assume any legal liability in the jurisdiction of the requesting party.

Article VII. Permissible Uses of Information

- (a) The Requesting Party may use non-public information and non-public documents furnished in response to a request for assistance under this MOU solely for:
 - (i) the purposes set forth in the request for assistance, including ensuring compliance with the Laws and Regulations related to the request; and
 - (ii) the purpose of conducting administrative enforcement proceedings, conducting any investigation for any charge applicable to the violation of the provision specified in the request where such charge pertains to a violation of the Laws and Regulations administered by the Requesting Party, or for any other purpose permitted or required by the Requesting Party's authorizing statute, regulations or rules. This use may include imposing sanctions on audit firms within either party's jurisdiction; these enforcement proceedings and any resulting sanctions may be made public after notifying and discussing generally with the other party the content to be publicized.
- (b) If a Requesting Party intends to use information furnished under this MOU for any purpose other than those stated in Article VII, it must obtain the consent of the Requested Authority.
- (c) The Requesting Party should inform the Requested Party in a timely manner about the progress and results achieved by using information provided according to the request.

Article VIII. Confidentiality

- (a) Consistent with their respective authorizing statutes, each party will keep confidential requests made under this MOU, the contents of such requests, and any matters arising under this MOU, including consultations between or among the Authorities, and unsolicited assistance. The Requested Party may disclose the fact that the Requesting Party has made the request if such disclosure is required to carry out the request.
- (b) Except as set forth in Art. IX, and consistent with their respective authorizing statutes, each Party shall keep confidential all non-public information received or provided under this MOU. The Requesting Party will not disclose non-public documents and information received under this MOU, except as contemplated by Article IX or in response to a legally enforceable demand. In the event of a legally

enforceable demand, the Requesting Party will notify the Requested Party prior to complying with the demand, and will assert such appropriate legal exemptions or privileges with respect to such information as may be available.

Article IX. Exceptions to Confidentiality

- (a) Before publicly announcing any sanctions imposed on an auditor or audit firm that is located in the Requested Party's jurisdiction and subject to the Requested Party's authority, the Requesting Party shall give reasonable advance notice of the publication to the Requested Party. The Requested Party may inform the Requesting Party if inclusion of information in the intended publication would be inconsistent with its laws and regulations.
- (b) A Party may share non-public information obtained in connection with cooperation under this MOU with certain law enforcement or regulatory authorities within its jurisdiction. The PCAOB may share such information only with those entities identified in section 105(b)(5)(B) of the Sarbanes-Oxley Act, as amended which states that these entities shall maintain such information as confidential and privileged. The CSRC and/or MoF may share such information with Chinese enforcement or regulatory authorities, as long as the intended recipient is legally obligated and has agreed to maintain the information as confidential.
- (c) A Party that intends to transfer to other authorities within its jurisdiction any non-public information received in the course of cooperation shall request the prior written consent for such transfer of the Party that provided the information, and the Party that intends to transfer this information shall indicate, in a notice requesting consent, to whom, and the reasons and the purposes for which, the information is to be transferred, except as provided below:

Where the PCAOB is required or otherwise determines to share non-public information obtained under this agreement with the SEC, the PCAOB will notify the Chinese side in advance.

Article X. Consultation Regarding Mutual Assistance and the Exchange of Information; and Reservation of Rights

- (a) The Authorities will consult periodically with each other regarding this MOU about matters of common concern with a view to improving its operation and resolving any issues that may arise. In particular, the Authorities will consult in the event of:

- (i) a significant change in market or business conditions or in legislation where such change is relevant to the operation of this MOU;
 - (ii) a demonstrated change in the willingness or ability of an Authority to comply with the provisions of this MOU; and
 - (iii) any other circumstance that makes it necessary or appropriate to consult, amend or extend this MOU in order to achieve its purposes.
- (b) The Requesting Authority and Requested Authority will consult with one another in matters relating to specific requests made pursuant to this MOU, *e.g.*, where consent for onward sharing or a request may be denied, in whole or in part.
- (c) The Parties acknowledge that, if the requested information and/or consent is not provided by a Party to this agreement, based upon a conflict of laws, the Parties should endeavor to find a solution by consultation.

Article XI. Unsolicited Assistance

Each Party will make all reasonable efforts to provide, without prior request, the other Party with any information that it considers is likely to be of assistance in securing compliance with Laws and Regulations applicable in the other Party's jurisdiction.

Article XII. Effective Date

Cooperation in accordance with this MOU will begin on the date of its signing by the Authorities.

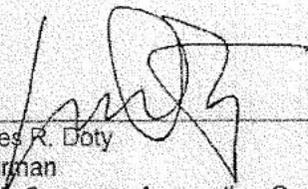
Article XIII. Termination

- (a) A Party may terminate its participation in this MOU at any time by giving at least 30 days prior written notice to the other Party or Parties.
- (b) In the event that a Party gives written notice to terminate its participation in this MOU, cooperation and assistance in accordance with this MOU will continue until the expiration of 30 days. If any Authority gives a termination notice, cooperation and assistance in accordance with this MOU will continue with respect to all requests for assistance that were made, or information provided, before the date of the termination notice.

(c) In the event of the termination of a Party's participation in the MOU, information obtained under this MOU will continue to be treated confidentially in the manner prescribed under Article VIII.

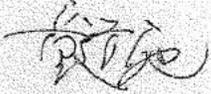
Article XIV. Others

This MOU is made in duplicate in the Chinese and English languages, and both versions being equally authentic.



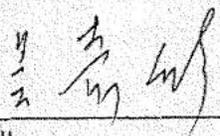
James R. Doty
Chairman
Public Company Accounting Oversight Board

Date: 5.7.13



TONG Daochi
Director-General of Department of International Affairs
China Securities Regulatory Commission

Date: 2013.5.7



WU Qixiu
Director-General of Supervision Bureau
Ministry of Finance of People's Republic of China

Date: 2013.5.10