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ORDER INSTITUTING DISCIPLINARY )  
PROCEEDINGS, MAKING FINDINGS, )  
AND IMPOSING SANCTIONS ) PCAOB Release No. 105-2017-031  
)  
*In the Matter of Crowe Horwath (HK) CPA ) July 25, 2017*  
*Limited,* )  
)  
*Respondent.* )

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By this Order, the Public Company Accounting Oversight Board ("Board" or "PCAOB") is censuring the registered public accounting firm Crowe Horwath (HK) CPA Limited, a partnership located in the Hong Kong Special Administrative Region of the People's Republic of China (hereinafter, "Respondent" or "the Firm") and revoking the Firm's registration.<sup>1</sup> The Board is imposing these sanctions on the basis of its findings concerning Respondent's noncooperation with a Board investigation, by failing to comply with an Accounting Board Demand requiring the production of documents, including audit work papers.

I.

The Board deems it necessary and appropriate, for the protection of investors and to further the public interest in the preparation of informative, accurate, and independent audit reports, that disciplinary proceedings be, and hereby are, instituted pursuant to Section 105(c) of the Sarbanes-Oxley Act of 2002, as amended ("Act"), and PCAOB Rule 5200(a)(3) against the Respondent.

II.

In anticipation of the institution of these proceedings, and pursuant to PCAOB Rule 5205, Respondent has submitted an Offer of Settlement ("Offer") that the Board has determined to accept. Respondent admits the facts, findings, and violations set forth below, and consents to entry of this Order Instituting Disciplinary Proceedings, Making Findings, and Imposing Sanctions ("Order").<sup>2</sup>

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<sup>1</sup> The Firm may reapply for registration after three (3) years from the date of this Order.

<sup>2</sup> The findings herein are made pursuant to the Respondent's Offer, and are not binding on any other person or entity in this or any other proceeding.

**ORDER**

**III.**

On the basis of Respondent's Offer in this matter, the Board finds<sup>3</sup> that:

**A. Respondent**

1. Respondent is, and at all relevant times was, a partnership headquartered in the Hong Kong Special Administrative Region of the People's Republic of China, and is a member of the Crowe Horwath International network. The Firm is a member of the Hong Kong Institute of Certified Public Accountants ("HKICPA") (License No. M338). The Firm has been registered with the Board pursuant to Section 102 of the Act and PCAOB rules since April 2010.

2. From its registration with the Board through 2016, Respondent issued 50 audit reports for 22 different issuers (publicly traded companies that are required to file audited financial statements with the U.S. Securities and Exchange Commission (the "Commission")). All but two of those issuers reported having operations in Mainland China. Because of the position taken by authorities in Mainland China with respect to audit documentation concerning such operations, the Board has not had access to the information that is necessary to be able to inspect Respondent's issuer audit work as required by the Act and PCAOB Rules.<sup>4</sup>

3. On October 3, 2016, Respondent filed a Form 1-WD requesting leave to withdraw from registration with the Board. Subsequently, the Board determined that permitting Respondent's withdrawal during the pendency of an investigation would be inconsistent with the Board's responsibilities under the Act, and accordingly, pursuant to PCAOB Rule 2107(d), delayed a decision on Respondent's withdrawal request pending the investigation by the Board's Division of Enforcement and Investigations (the "Division").

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<sup>3</sup> The sanctions that the Board is imposing on Respondent in this Order are imposed pursuant to Section 105(b)(3) of the Act, 15 U.S.C. § 7215(b)(3), and PCAOB Rule 5300(b).

<sup>4</sup> In the absence of that obstacle to access, the Board, in the normal course, would have inspected Respondent (including a selection of its audits and a review of its system of quality control) at least twice in the period from 2011 to 2016. Since October 2010, the Board has considered this obstacle to access when evaluating new registration applications from firms in Hong Kong (among other jurisdictions) and has not approved any new applications from Hong Kong firms in that time.

**ORDER**

**B. Respondent Failed to Cooperate with a PCAOB Investigation**

4. Pursuant to Section 105(b) of the Act and PCAOB Rules, the Board conducts investigations into acts or practices of registered public accounting firms and their associated persons that may violate any provision of the Act, the Rules of the Board, the provisions of securities laws relating to the preparation and issuance of audit reports and the obligations and liabilities of accountants with respect thereto, including the rules of the Commission issued under the Act, or professional standards. Section 105(b)(3)(A) of the Act authorizes the Board to sanction a registered public accounting firm for refusing to produce documents in connection with a Board investigation. Board rules include procedures for implementing that authority.<sup>5</sup> Noncooperation with a Board investigation includes failing to comply with an Accounting Board Demand ("ABD").<sup>6</sup>

5. As described below, Respondent failed to cooperate with the Board's investigation in this matter by failing to comply with an ABD, issued to Respondent pursuant to PCAOB Rule 5103, requiring the Firm to produce audit work papers and other documents.

Background

6. Respondent audited the financial statements of a People's Republic of China ("PRC")-based issuer ("Issuer A"). At all relevant times, Issuer A was an issuer.

7. On March 1, 2016, the Board issued an Order of Formal Investigation regarding Respondent's audits and reviews of the financial statements of Issuer A. The investigation arose from the Division's review of Issuer A's filings with the Commission.

Respondent's Failure to Produce Documents

8. Pursuant to the Board's Order of Formal Investigation, on March 10, 2016, the Division issued an ABD requiring Respondent to produce to the Division audit work papers and other documents related to the Firm's audits of Issuer A.

9. Respondent, through counsel, informed the Division in late April 2016 that the Firm would not comply with the ABD requesting audit work papers and other documents relating specifically to the Firm's audits of Issuer A.

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<sup>5</sup> See PCAOB Rules 5110 and 5200(a)(3).

<sup>6</sup> See PCAOB Rule 5110(a)(1).

## ORDER

10. Respondent maintains that it sought guidance from the PRC Ministry of Finance ("MOF") about how it may respond to the Division's ABD. According to Respondent, consistent with advice provided by Respondent's PRC-based counsel, the MOF, in effect, directed it not to produce audit work papers maintained within the PRC in the absence of a request by the Division for assistance under a memorandum of understanding between the Board, the China Securities Regulatory Commission ("CSRC") and the MOF (collectively the "parties"), which Respondent believed to be the May 2013 Memorandum of Understanding on Enforcement Cooperation between the parties ("2013 MOU"). The Division informed Respondent, through counsel, that, notwithstanding the MOF's communications, any alleged obstacles created by foreign law were not a valid basis for Respondent's refusal to produce the information called for by the ABD. The Division explained that non-U.S. legal obstacles do not create an exception to a registered firm's obligations to provide documents and other information to the Board, and are not a defense to Board disciplinary action for noncooperation.

11. Respondent's reliance on the 2013 MOU is not a valid justification for refusing to provide documents in a Board investigation. The 2013 MOU "sets forth the [parties'] 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 parties'] jurisdictions...."<sup>7</sup> At the same time, the 2013 MOU states that it is "not intended to create legally binding obligations or ... supersede domestic laws" of the parties.<sup>8</sup> By its unequivocal terms, the 2013 MOU affords Respondent no legal rights. Rather, the 2013 MOU is strictly a non-binding agreement between the signing parties.

12. The Division's personnel informed Respondent that its asserted grounds for refusing to provide documents were not valid, including through a letter from the Division pursuant to PCAOB Rule 5109(d), notifying Respondent of the Division's intention to recommend a disciplinary proceeding in the event of a continued refusal to provide documents. Respondent continued to assert that it was unable to provide audit work papers and other documents for the reasons stated above. Respondent's failure to provide the required documents impeded the Board's ability to determine if Respondent's audits were performed in accordance with PCAOB rules and standards, and whether violations occurred that justified sanctions.

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<sup>7</sup> See MOU at 1.

<sup>8</sup> Id.

**ORDER**

**IV.**

In view of the foregoing, and to protect the interests of investors and further the public interest in the preparation of informative, accurate, and independent audit reports, the Board determines it appropriate to impose the sanctions agreed to in Respondent's Offer. Accordingly, it is hereby ORDERED that:

- A. Pursuant to Section 105(b)(3)(A)(iii) of the Act and PCAOB Rule 5300(b)(1), Crowe Horwath (HK) CPA Limited is hereby censured;
- B. Pursuant to Section 105(b)(3)(A)(ii) of the Act and PCAOB Rule 5300(b)(1), the registration of Crowe Horwath (HK) CPA Limited is revoked; and
- C. After three (3) years from the date of this Order, Crowe Horwath (HK) CPA Limited may reapply for registration by filing an application pursuant to PCAOB Rule 2101.

ISSUED BY THE BOARD.

/s/ Phoebe W. Brown

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Phoebe W. Brown  
Secretary

July 25, 2017