

The U.S. is Standing Firm on U.S.-China Auditing Dispute, Reserve the Rights to Punish Audit Firms, Optimistic on Future Regulation Cooperation

■ An Exclusive Interview with Mr. Ferguson

Zhenyu Ji Dec 7th, 2012

On Dec. 3rd, five accounting firms' Chinese branches were sued by SEC, for not providing audit reports of nine U.S.-listed Chinese firms. SEC decided that these nine Chinese firms had potential violations.

On Dec. 6th, we had an exclusive interview with Mr. Louis Ferguson, one for the five members of PCAOB (including President Mr. Doty). Mr. Ferguson is also the chairman of U.S. delegation in the U.S.-China accounting regulation negotiation this July.

Mr. Ferguson said that PCAOB is closely following this event, and reserves the right to take and possible measures to these accounting firms, including punishment, in order to protect the interests of investors. However, Mr. Ferguson also pressed positive expectation to the future cooperation between China and the America.

The U.S. is standing firm on rights for potential punishments.

So far, many market insiders concern that one influence of the lawsuit is that the five accounting firms sued would lose their registration in PCAOB, thus cannot conduct audit business in the U.S.

Mr. Ferguson said that, 'PCAOB has its obligations under the U.S. laws, if have to, we reserve the rights to take any possible measures, including punishment, to protect the interests of mass investors.'

'Registration' is the 'lifeline' for those accounting firms who want to do business in America. Sarbanes-Oxley Act passed by U.S. Congress in 2002 required that any America-listed companies should only hire accounting firms registered in PCAOB. So far, about 50 Chinese accounting firms are registered in PCAOB.

All the branches of the five accounting firms sued by SEC on Dec. 3rd are registered in PCAOB.

What is worth mentioning is that PCAOB is closely connected with SEC, and the later one has direct supervision to the former one. The president and other four members of PCAOB are all appointed by SEC. Any rules, standards, and financial budgets are approved by SEC.

Mr. Ferguson also stressed to me that, the U.S. has to take other measure to fulfill its obligation and investigate those registered Chinese accounting firms if this issue could not be dealt with properly.

‘Right now we are facing the complicated problems with Chinese regulators together. However, if we cannot get to the same page, PCAOB has the legal obligation to protect interests of investors under American laws. We might have to fulfill our responsibility through other measures to investigate Chinese accounting firms registered in PCAOB.’

Mr. Ferguson repeated that to protect investors’ interests is the purpose of SEC, the U.S. hopes that the recent lawsuit could be dealt with perfectly.

Optimistic on the future cooperation between China and America

So far, most analysts think the fundamental problem is the disagreement between China and the U.S. on accounting regulation, which is the conflict between Chinese and U.S. institutions.

Mr. Ferguson pressed the confidence on future cooperation despite the tough reality. Mr. Ferguson said, ‘we still remain optimistic on final agreement, but we need to deal with the current problems now’, when asked about his attitude towards the future.

Mr. Ferguson said that both U.S. and China have been working hard on accounting regulation these years.

Mr. Ferguson revealed that Chinese security regulatory officers met with PCAOB officers last week, in Washington D.C. they had a widely discussion on sharing audit materials, enhancing investigation and enforcement corporation.

During the meeting, PCAOB officers gave Chinese officers a memo to evaluate and discuss. Mr. Ferguson said that PCAOB will continue the discussion with their Chinese partners.

‘We hope the recent meeting with China could accelerate the future corporation on accounting investigation and enforcement. And in the near future, some agreement on auditing examination and important paper exchanging could be achieved’, said Mr. Ferguson.

美方对中美会计纠纷立场坚决 保留处罚会计所权利 对中美监管合作仍展望积极 ——独家专访美国会计监管委员会委员刘易斯-弗格森

3日，五家会计师事务所在中国的分公司遭到美国证券交易委员会的起诉，理由是未能按要求提供9家在美上市的中国公司的审计报告，美国证交会认为这9家中国公司存在潜在违规行为。

6日，我们独家专访了美国会计监管委员会包括主席在内的五名委员中的一位——刘易斯·弗格森，他也是今年7月份，与中国监管层进行中美会计监管合作会谈的美方代表团主席。

弗格森表示，会计监管委员会正在密切关注这一事件，并将对这些会计公司保留其可以执行的所有可能措施，包括惩戒手段，以保护投资者利益。但弗格森同时表示，对中美双方在会计监管方面的合作依然展望积极。

美方立场坚决 保留行使惩罚措施可能性

目前，不少市场人士担心，这起起诉案件带来的直接影响之一是被起诉的五家会计公司可能失去在会计监管委员会的注册资格，从而无法在美国从事相关审计工作。

对此，弗格森说，“在美国法律下，委员会有着其自身要履行的义务。我们在不得已的情况下，会保留行使所有一切可能的手段权利，包括惩戒措施，以保护投资大众的利益。”

“注册资格”对于想在美国开展业务的会计师事务所来说，可谓一道“生命线”。2002年美国国会通过萨巴内斯·奥克斯利（Sarbanes-Oxley）法案，要求任何在美国上市的公司，必须雇佣在美国公司会计监管委员会登记注册的会计公司。目前，大约有50个中国的会计公司在委员会注册。

3日被美国证券交易委员会起诉的五家会计公司的中国分公司，均在会计监管委员会登记注册。

值得注意的是，美国公司会计监管委员会和美国证券交易委员会的关系密不可分，后者对前者有直接的监管权，公司会计监管委员会主席及另外四名委员由美国证券交易委员会直接任命产生，而其规定、标准及财政预算均由证券交易委员会批准。

弗格森对笔者强调，如果得不到有效解决，美方将不得不通过其他手段来履行我们的义务，审查在委员会注册的中国会计公司。

“我们目前正在和中国方面的监管者共同面对这些我们双方都面对的复杂问题，但如果我们不能达成共识，在美国法律下，作为委员会有法律义务来保护投资者利益，我们不得不通过其他手段来履行我们的义务，审查在委员会注册的中国会计公司。”

弗格森一再表示，保护投资者利益一直是美国会计监管委员会的宗旨，美方迫切希望近期的起诉事件能够得到圆满解决。

对中美会计监管合作前景乐观

目前，对于该事件分析人士普遍认为，根本症结在于中美双方在会计监管合作方面没有达成一致，本质上是中美双方制度的矛盾。

尽管情况严峻，弗格森还是表达了对于未来的信心。在回答对中美会计监管合作持乐观态度还是悲观态度时，弗格森说：“对于最终达成协议，我们依然保持乐观，但是我们需要在近期把眼前面临的一系列问题尽快解决。”

弗格森表示，近年来，无论是中方还是美方，都在加强会计监管合作方面做出了很多努力。

弗格森透露说，就在上周，来自中国的监管层官员在华盛顿和美国会计监管委员会的官员就共享审计文件、加强调查和执法合作方面的话题进行了广泛探讨。

在会上，委员会的官员向中国官员提交了一份谅解备忘录的草案，供他们评估和讨论。弗格森表示，委员会将继续与中方的伙伴就上述问题进行谈判。

“我们希望最近的和中国方面的会谈，能够促进我们在未来在会计监管和执行方面的合作，并最终在不远的将来，在审计监察以及重要文件的交换方面达成协议。”弗格森说。(文/纪振宇)