

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES ACT OF 1933
Release No. 11206 / July 3, 2023

SECURITIES EXCHANGE ACT OF 1934
Release No. 97829 / July 3, 2023

ACCOUNTING AND AUDITING ENFORCEMENT
Release No. 4425 / July 3, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21511

In the Matter of

Future FinTech Group Inc.,

Respondent.

ORDER INSTITUTING CEASE-AND-DESIST PROCEEDINGS PURSUANT TO SECTION 8A OF THE SECURITIES ACT OF 1933 AND SECTION 21C OF THE SECURITIES EXCHANGE ACT OF 1934, MAKING FINDINGS, AND IMPOSING A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission (“Commission”) deems it appropriate that cease- and-desist proceedings be, and hereby are, instituted pursuant to Section 8A of the Securities Act of 1933 (“Securities Act”) and Section 21C of the Securities Exchange Act of 1934 (“Exchange Act”) against Future FinTech Group Inc. (“FTFT” or “Respondent”).

II.

In anticipation of the institution of these proceedings, Respondent submitted an Offer of Settlement (the “Offer”) which the Commission has determined to accept. Solely for the purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission’s jurisdiction over it and the subject matter of these proceedings, which are admitted, Respondent consents to the entry of this Order Instituting Cease-and-Desist Proceedings Pursuant to Section 8A of the Securities Act of 1933 and Section 21C of the Securities Exchange Act of 1934, Making Findings, and Imposing A Cease-and-Desist Order (“Order”), as set forth below.

III.

On the basis of this Order and Respondent's Offer, the Commission finds¹that:

Summary

These proceedings arise out of, and this Order covers, recurring material misstatements in the financial statements of Future FinTech Group Inc. ("FTFT") during a three year period. The misstatements included material errors for the carrying amount of investments during the fiscal years of 2016, 2017, and 2018 (the "relevant period"). Additionally, as disclosed in FTFT's filings with the Commission, FTFT has had recurring material weaknesses in its Internal Control over Financial Reporting and repeatedly failed to remediate them.

Respondent

Future FinTech Group Inc., is a Florida corporation (formerly doing business as SkyPeople Fruit Juice, Inc.) that engaged in the production and sale of fruit juice, purees, and concentrates, with operations in the People's Republic of China and is headquartered in Beijing, China. In 2018 FTFT changed its business model to include block chain technology and an e-commerce platform. FTFT is a public issuer whose ordinary shares are registered with the Commission pursuant to Exchange Act Section 12(b). FTFT's shares are traded on the NASDAQ under the symbol FTFT.

Facts

1. During the relevant period, FTFT experienced a series of setbacks that resulted in a continuous decline in the economic condition of its core business. As a result, certain assets experienced various triggering events throughout the relevant period that required FTFT to test those assets for recoverability and record impairment losses in the event an asset's carrying value exceeded its fair value.

2. ASC Topic 360, *Property, Plant, and Equipment*, requires an issuer to recognize an impairment loss if the carrying amount of a long-lived asset is not recoverable and exceeds its fair value and provides examples of circumstances for when an asset or asset group must be tested for recoverability as the result of events or changes in circumstances that indicate a carrying amount may not be recoverable. Such circumstances include a significant adverse change in the extent or manner in which a long-lived asset is used, a current-period operating or cash flow loss combined with a history of operating or cash flow losses, or a projection or forecast that demonstrates continuing losses associated with the use of a long-lived asset.

¹ The findings herein are made pursuant to Respondent's Offer of Settlement and are not binding on any other person or entity in this or any other proceeding.

3. Throughout the relevant period, FTFT experienced various events or changes in circumstances that indicated the carrying amounts of certain assets may not have been recoverable. As disclosed in its Form 10-K filings for fiscal years 2015 through 2018, FTFT stated that some of its fruit juice related businesses were experiencing significant adverse changes in the business climate, including limited or no production and sustained operating losses that would affect certain assets. Moreover, over the course of the relevant period, despite disclosing the adverse business conditions, FTFT did not recognize those losses in its financial statements in accordance with ASC Topic 360 due to insufficient internal accounting controls, including an insufficient understanding of GAAP. FTFT's assertion that its assets were carrying at the appropriate value was not substantiated with sufficient evidence or documentation.

4. Examples of this are seen in the following operating subsidiaries of FTFT:

a. Huludao Wonder

i. In FTFT's Management Discussion and Analysis ("MD&A") of its Form 10-K for the fiscal year ended December 31, 2016, the company disclosed that its subsidiary, Huludao Wonder ("Huludao"), which produced concentrated apple juice, was being wound down after years of operating losses. The disclosure suggested that equipment would be transferred to another subsidiary, that land and facilities would be sold upon favorable circumstances, and that the book value of the subsidiary's land usage rights and building was "lower than its fair market value, less the cost to sell." Similar disclosures were made in the Forms 10-K for fiscal years 2017 and 2018, and the company recorded fixed asset impairment losses of \$2.4 million in 2016, and \$11.3 million in 2017. However, FTFT's process to test for impairment and measure any related impairment loss was insufficient. As such, FTFT's asserted carrying amounts for assets related to Huludao were unsupported.

ii. For example, FTFT's board of director minutes for fiscal year 2016 document a decision to recognize a full impairment for Huludao's equipment assets. However, FTFT did not record full impairment losses in the audited financial statements in its Form 10-K filing for fiscal year 2016. More significantly, the land and equipment were used by Huludao as collateral for a loan on which Huludao had defaulted.

b. Suizhong Project

i. This project involved the construction of facilities to support FTFT's fruit juice business. FTFT reported related assets including an office building, dormitory, refrigeration storage facility, and warehouse. The company disclosed in the MD&A of its Form 10-K for the fiscal year 2015 that work on the project had been suspended because of heavy competition in the fruit juice business. In the Form 10-K for fiscal year 2016, the company's MD&A disclosures indicated that the situation had not changed. Nonetheless, despite these significant adverse changes to the business climate and a lack of any operating cash flow over multiple years, FTFT failed to perform sufficient recoverability analyses and had insufficient basis for the

carrying amounts of these assets.

ii. In the fiscal year 2017 Form 10-K, FTFT recorded impairment losses of \$25.06 million, equaling their construction costs and nearly their entire investment.

c. Guo Wei Mei

i. Shaanxi Guo Wei Mei Kiwi Deep Processing Co., Ltd. (“Guo Wei Mei”), a subsidiary of a subsidiary called Hede Jiachaan Xian, was supposed to produce kiwi fruit juice, puree, and cider beverages. Since its establishment in 2013, it had not become operable and FTFT disclosed in its fiscal years 2015 and 2016 Forms 10-K that it projected completing construction in the second quarter of 2017. However, the fiscal year 2017 Form 10-K disclosed in its MD&A and footnote disclosure that the Chinese government had recently tightened environmental regulations, that the company was in the process of adapting to the new standards, that the project had been delayed and construction stopped in early 2017, and most importantly: “Since the [c]ompany’s current cash cannot support the future input of this project and there is no forecasted cash flow from this project, the [c]ompany recorded an impairment cost of \$30.26 million with respect to construction in progress and fixed assets of this project.”

ii. In its Form 10-K for 2018, FTFT inconsistently disclosed that it recorded an impairment loss of \$25.19 million in the footnotes for its financial statements compared to a \$45 million impairment loss in the MD&A. In addition to the inconsistency of the disclosure, the disclosures contained no additional relevant facts as to why the additional impairment was not recorded earlier in fiscal 2017 nor justification for recording the impairment loss in fiscal 2018.

d. Yingkou

i. In the fiscal year 2015 Form 10-K that FTFT filed in November 2016, FTFT disclosed in the MD&A that a concentrated apple juice business operating in a subsidiary called Yingkou had no production activity, had not operated in the past two years, and was recognizing a \$2.38 million impairment loss with respect to its production equipment. Notably the MD&A sections of the subsequent filings contained inconsistencies. In its Form 10-K for fiscal year 2016, the company disclosed in the MD&A that it had recognized a \$2.1 million impairment loss in 2016 with respect to the concentrated fruit juice equipment. However, in its Form 10-K for the fiscal year 2017, FTFT’s filing disclosed in the MD&A that it recognized an impairment loss of \$2.1 million in 2017 and \$0 in 2016. And finally, in its Form 10-K for fiscal year 2018, it disclosed in the MD&A that it had recorded an impairment loss of \$4.36 million for 2018.

ii. Contrary to these inconsistent disclosures, FTFT actually did not record any impairment losses for Yinkou in 2016 and 2017 in its financial statements, but did recognize impairment of the remaining value of the asset in 2018.

5. FTFT recorded impairment losses of \$4.5 million in fiscal year 2016, \$89 million in fiscal year 2017, and \$178 million in fiscal year 2018. However, as a result of the above

failure to perform appropriate recoverability testing during the relevant period, those numbers were unsupported and materially misstated. The financial statements for fiscal years 2016 and 2017 should have included losses that were not taken until later years, and the financial statements for fiscal years 2017 and 2018 included losses that should have been taken in earlier years.

6. In addition to the accounting errors identified above, FTFT's Forms 10-K during the relevant period contained numerous errors and inconsistencies. For instance, for the fiscal year 2017 Form 10-K, FTFT described the impairment for Huludao as either \$11.76 million (p.40), \$11.34 million (p.50) or \$11.33 million (p.F-7). Similarly the fiscal year 2018 Form 10-K described the impairment for Huludao as \$1.07 million (p.59) or \$10.78 million in fixed assets and \$2.2 million in inventory (p.62). The fiscal year 2018 Form 10-K also disclosed that impairments in both 2017 and 2018 were taken for "concentrated fruit juice production equipment" (p.59), while FTFT did not actually record any impairment losses in 2018.

7. While FTFT's Forms 10-K for fiscal years 2016, 2017, 2018, and 2019 disclosed that the company had effective Internal Control over Financial Reporting, the company's Forms 10-Q reflected material weaknesses in multiple quarters of every year except for 2019. Specifically, the company identified material weaknesses in all three quarters of fiscal years 2016 and 2017, and the second and third quarters of fiscal year 2018. The Forms 10-Q in 2019 contained no language regarding the effectiveness of its internal control over financial reporting.

8. Starting with the Form 10-Q for the first quarter of fiscal year 2020, FTFT's Forms 10-Q and 10-K have all disclosed the company's Internal Control over Financial Reporting were ineffective because of material weaknesses.

9. As a result, for the fiscal year 2016 forward, seventeen out of twenty-one quarterly filings disclosed material weakness in Internal Control over Financial Reporting. In each instance, the material weakness was due to the fact that the company lacked "sufficient accounting personnel with the appropriate level of knowledge, experience and training in U.S. GAAP and SEC reporting requirements." Although the filings repeatedly described efforts to remediate this problem, the material weakness persisted, as exemplified by the company's last three Forms 10-K. The company's most recent Form 10-K, filed on April 19, 2023, again notes a material weakness "related to our lack of U.S. GAAP and SEC reporting experience," with plans to purportedly address that weakness.

10. During and soon after the relevant period, FTFT offered and sold securities in a number of transactions, including on a registered basis.

Violations

11. As a result of the conduct described above, FTFT violated Section 17(a)(2) and (3) of the Securities Act, which prohibit FTFT from obtaining money or property by means of any untrue statement of a material fact or any omission to state a material fact necessary in order to

make the statements made, in light of the circumstances under which they were made, not misleading and engaging in any transaction, practice, or course of business which operates or would operate as a fraud or deceit upon the purchaser in connection with the offer or sale of securities.

12. Section 13(a) of the Exchange Act requires issuers with a class of securities registered pursuant to Section 12 of the Exchange Act to file such periodic and other reports as the Commission may prescribe and in conformity with such rules as the Commission may promulgate. Exchange Act Rules 12b-20, 13a-1 and 13a-13 require the filing of annual and quarterly reports, respectively. As a result of the conduct described above, FTFT violated Section 13(a) of the Exchange Act and Rules 12b-20, 13a-1 and 13a-13 promulgated thereunder.

13. As a result of the conduct described above, FTFT violated Section 13(b)(2)(A) of the Exchange Act, which requires companies with a class of securities registered pursuant to Section 12 of the Exchange Act to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect their transactions and dispositions of their assets.

14. As a result of the conduct described above, FTFT violated Section 13(b)(2)(B) of the Exchange Act, which requires companies with a class of securities registered pursuant to Section 12 of the Exchange Act to devise and maintain a system of internal accounting controls sufficient, among other things, to permit preparation of financial statements in conformity with GAAP or any other criteria applicable to such statements. FTFT also violated Exchange Act Rule 13a-15(a), which requires issuers to maintain internal control over financial reporting as defined in Rule 13a-15(f).

Undertakings

Respondent has undertaken to:

15. Retain, within sixty (60) days of the date of entry of the Order, at its own expense, a qualified independent consultant (the "Consultant") not unacceptable to the Commission staff, to test, assess, and review Respondent's internal accounting controls and internal control over financial reporting (collectively, "review"). The Consultant's review shall include the following areas:

- a. The implementation, effectiveness and sufficiency of FTFT's internal accounting controls. The review shall include, but not be limited to, a review of the manner and means the company accounts for asset valuations and impairments, including but not limited to the Respondent's policies, practices, procedures, and controls, relating to (i) asset valuation, and (ii) the assessment and testing of assets for impairment;
- b. FTFT's compliance with Commission requirements related to internal

control over financial reporting, including but not limited to the adequacy of FTFT's control environment and risk assessment based upon criteria established in the Internal Control – Integrated Framework (2013) by the Committee of Sponsoring Organizations of the Treadway Commission (“COSO”);

- c. FTFT's employment of a sufficient number of accounting and finance personnel with an understanding of GAAP and financial reporting requirements, as well as the reporting lines of accounting and finance personnel to management and the Board of Directors; and
- d. FTFT's training of its employees on matters related to GAAP as well as financial reporting requirements.

16. Provide, within seventy-five (75) days of the issuance of this Order, a copy of the engagement letter detailing the Consultant's scope of work and responsibilities to Sheldon Pollock, Esq. at the SEC's New York Regional Office, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616.

17. Require the Consultant, at the conclusion of the review, which in no event shall be no more than 180 days after the entry of the Order, to submit a report of the Consultant to the Respondent and the Commission staff. The report shall address the Consultant's findings and shall include a description of the review performed, the conclusions reached, and the Consultant's recommendations for changes or improvements.

18. Adopt, implement, and maintain all policies, procedures and practices recommended in the report of the Consultant within 120 days of receiving the report from the Consultant. As to any of the Consultant's recommendations about which the Respondent and the Consultant do not agree, such parties shall attempt in good faith to reach an agreement within 180 days of the date of the entry of the Order. In the event that the Respondent and the Consultant are unable to agree on an alternative proposal, the Respondent will abide by the determination of the Consultant and adopt those recommendations deemed appropriate by the Consultant.

19. Cooperate fully with the Consultant in its review, including making such information and documents available as the Consultant may reasonably request, and by permitting and requiring the Respondent's employees and agents to supply such information and documents as the Consultant may reasonably request, subject to any applicable privilege.

20. To ensure the independence of the Consultant, the Respondent (i) shall not have received legal, auditing, or other services from, or have had any affiliations with, the Consultant during the two years prior to the issuance of this Order; (ii) shall not have the authority to terminate the Consultant without prior written approval of the Commission staff; and (iii) shall compensate the Consultant for services rendered pursuant to the Order at their reasonable and customary rates.

21. For the period of engagement and for a period of two years from completion of the engagement, Respondent shall not (i) retain the independent Consultant for any other professional services outside of the services described in this Order; (ii) enter into any other professional relationship with the independent Consultant, including any employment, consultant, attorney-client, auditing or other professional relationship; or (iii) enter, without prior written consent of the Commission staff, into any such professional relationship with any of the independent Consultant's present or former affiliates, employers, directors, officers, employees, or agents acting in their capacity as such.

22. The reports by the Consultant will likely include confidential financial, proprietary, competitive business or commercial information. Public disclosure of the reports could discourage cooperation, impede pending or potential government investigations or undermine the objectives of the reporting requirement. For these reasons, among others, the reports and the contents thereof are intended to remain and shall remain non-public, except (1) pursuant to court order, (2) as agreed to by the parties in writing, (3) to the extent that the Commission determines in its sole discretion that disclosure would be in furtherance of the Commission's discharge of its duties and responsibilities, or (4) is otherwise required by law.

23. Require the Consultant to report to the Commission staff on its activities as the staff may request.

24. Respondent agrees that the Commission staff may extend any of the dates set forth above at its discretion.

25. Certify, in writing, compliance with the undertaking(s) set forth above. The certification shall identify the undertaking(s), provide written evidence of compliance in the form of a narrative, and be supported by exhibits sufficient to demonstrate compliance. The Commission staff may make reasonable request for further evidence of compliance, and the Respondent agrees to provide such evidence. The certification and reporting material shall be submitted to Sheldon Pollock, Esq. at the SEC's New York Regional Office, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616, with a copy to the Office of the Chief Counsel of the Division of Enforcement, no later than thirty (30) days from the date of the completion of the undertakings.

IV.

In view of the foregoing the Commission deems it appropriate to impose the sanctions agreed to in FTFT's Offer.

Accordingly, it is hereby ORDERED that:

A. Pursuant to Section 8A of the Securities Act and Section 21C of the Exchange Act, Respondent FTFT cease and desist from committing or causing any violations and any future

violations of Sections 17(a)(2) and (3) of the Securities Act, Sections 13(a), 13(b)(2)(A) and 13(b)(2)(B) of the Exchange Act, and Rules 12b-20, 13a-1, 13a-13 and 13a-15(a) thereunder.

B. Respondent FTFT shall pay a civil money penalty in the amount of \$1,650,000 to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). Payment shall be made in the following installments: The first installment of \$150,000 shall be paid within ten (10) days of the entry of this Order; the second installment of \$375,000 shall be paid within 90 days of the entry of this Order; the third installment of \$375,000 shall be paid within 180 days of the entry of this Order; the fourth installment of \$375,000 shall be made within 270 days of the entry of this Order; and the last installment of \$375,000 shall be made within 360 days of the entry of this Order. Payments shall be applied first to post order interest, which accrues pursuant to 31 U.S.C. 3717. Prior to making the final payment set forth herein, Respondent shall contact the staff of the Commission for the amount due. If Respondent fails to make any payment by the date agreed and/or in the amount agreed according to the schedule set forth above, all outstanding payments under this Order, including post-order interest, minus any payments made, shall become due and payable immediately at the discretion of the staff of the Commission without further application to the Commission.

Payment must be made in one of the following ways:

- (1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;
- (2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at <http://www.sec.gov/about/offices/ofm.htm>; or
- (3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

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

Payments by check or money order must be accompanied by a cover letter identifying FTFT as a Respondent in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Sheldon Pollock, Esq. at the SEC's New York Regional Office, 100 Pearl Street, Suite 20-100, New York, NY 10004-2616.

C. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To

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

D. Respondent shall comply with the undertakings enumerated in paragraphs III.15 through III.25 above.

By the Commission.

Vanessa A. Countryman
Secretary