

16 January 2024

Aarna Capital Limited
8th Floor, Al Khatem Tower
ADGM Square
Al Maryah Island
Abu Dhabi
United Arab Emirates

Attention:

[REDACTED]

[REDACTED]

Sent by e-mail:

[REDACTED]

Dear Sirs

CONFIRMATION OF DECISION IN RELATION TO PENALTY IMPOSED FOR CONTRAVENTIONS OF THE COMMON REPORTING STANDARD REGULATIONS 2017

1. The Financial Services Regulatory Authority (“FSRA”) of the Abu Dhabi Global Market (“ADGM”) hereby confirms its decision to impose a penalty on Aarna Capital Limited (“ACL”) pursuant to subsection 9(1) of the *Common Reporting Standard Regulations 2017* (the “Regulations”). This notice is issued pursuant to Article 7(5) of Cabinet Resolution No. 93 of 2021 (“Cabinet Resolution”), which applies pursuant to the Regulations, following due consideration of an appeal submitted by ACL on 27 October 2023 in response to a notice from the FSRA dated 28 September 2023.

Defined Terms

2. Terms defined in the notice are defined at the first instance the term is used in parentheses. Other capitalised terms are defined in the Regulations and shall bear the same meaning in this notice, unless the context otherwise requires.

SUMMARY

3. The FSRA considers that ACL has classified itself as a Reporting Financial Institution (“RFI”) for the purposes of the Regulations and failed to:
 - a. apply due diligence procedures as required by the Regulations, by not conducting reviews to confirm the reasonableness of self-certifications received, in contravention of Schedule

FINANCIAL SERVICES REGULATORY AUTHORITY
سلطة تنظيم الخدمات المالية

ADGM Authorities Building, ADGM Square, Al Maryah Island, PO Box 111999, Abu Dhabi, UAE
مبنى سلطات سوق أبوظبي العالمي، مربعة سوق أبوظبي العالمي، جزيرة الماريه، ص ب 111999، أبوظبي، الإمارات العربية المتحدة

T +971 2 333 8888 adgm.com

1, Part 6, subparagraph A(1)(a) of the Regulations in force at the time of the contraventions (“2021 Regulations”)¹;

- b. treat accounts as Reportable Accounts where the self-certification indicated that the Account Holder was resident in a Reportable Jurisdiction, in contravention of Schedule 1, Part 6, subparagraph A(1)(b) of the 2021 Regulations;
- c. document its due diligence procedures and keep records of the due diligence procedures performed, in contravention of subsection 6(1) and Schedule 1, Part 2, paragraph A of the 2021 Regulations;
- d. report information as required by the Regulations in a complete and accurate manner, by failing to:
 - i. collect and report the Taxpayer Identification Number (“TIN”) of a Reportable Account and its Controlling Person that was a Reportable Person;
 - ii. accurately report the:
 - aa. TIN of three Reportable Accounts;
 - bb. country of residence of three Controlling Persons; and
 - iii. report seven Reportable Accounts,

in contravention of subsection 3(1) and Schedule 1, Part 1, paragraph A(1) of the Regulations in force at the time of the contravention (“2022 Regulations”)².

- 4. Following due consideration of ACL’s appeal, submitted pursuant to subsection 9(2) of the Regulations, the FSRA has decided to impose a total penalty of AED 60,000 on ACL.

BACKGROUND

- 5. The Organisation for Economic Co-operation and Development (“OECD”) developed the Common Reporting Standard (“CRS”), which came into force in October 2014. The CRS was established in the United Arab Emirates (“UAE”) with effect from 1 January 2017 pursuant to the ratification of various conventions and declarations by the UAE, and publication of Federal Law No. 54 of 2018.
- 6. The CRS sets out the required information to be exchanged, the types of entities required to report, the different types of financial accounts and account holders in scope and the common due diligence procedures to be followed by RFIs.
- 7. Appropriate legislation to support the implementation of the CRS in the UAE has been issued at both a federal level in the UAE and in the ADGM. This includes the enactment of the Regulations by the Board of Directors of ADGM in 2017. The Regulations apply the Cabinet Resolution in the

¹ See:

[https://en.adgm.thomsonreuters.com/sites/default/files/net_file_store/CRS_Regulations_2017_\(Consolidated_2020\)_v3.pdf](https://en.adgm.thomsonreuters.com/sites/default/files/net_file_store/CRS_Regulations_2017_(Consolidated_2020)_v3.pdf)

² See:

[https://en.adgm.thomsonreuters.com/sites/default/files/net_file_store/CRS_Regulations_2017_\(Consolidated_January_2022\)_v4.pdf](https://en.adgm.thomsonreuters.com/sites/default/files/net_file_store/CRS_Regulations_2017_(Consolidated_January_2022)_v4.pdf)

ADGM pursuant to subsection 2(1) of the Regulations, and the CRS and any explanatory material and commentary published by the OECD in relation to the CRS pursuant to subsection 3(1) of the Regulations.

8. On 27 January 2017, the ADGM published the '*Notification of collection of information under the Common Reporting Standards*' prepared by the UAE's Ministry of Finance, setting out the requirements for implementation of the CRS across all jurisdictions within the UAE.
9. On 8 June 2017, ACL was granted a Financial Services Permission by the FSRA under which it was permitted to undertake the Regulated Activities of "*Arranging Deals in Investments*", "*Dealing in Investments as Agent*", "*Dealing in Investments as Principal*" and "*Providing Custody*".
10. On 18 August 2021, the FSRA sent an email to Senior Executive Officers ("SEOs") and Money Laundering Reporting Officers ("MLROs"), attaching Notice 19 of 2021, informing them that the UAE was under review by the OECD regarding the implementation of the CRS and all Relevant Persons were instructed to complete the CRS Risk Based Questionnaire by 26 August 2021. Relevant Persons were reminded that failure to comply may constitute a breach of Cabinet Resolution (5/11) of 2020 (which was subsequently replaced by the Cabinet Resolution) and that the FSRA may take appropriate action for contraventions of federal laws and FSRA requirements.
11. On 21 September 2021, the FSRA published Notice No. 25 of 2021 – 'CRS Compliance Programme', and also sent it to relevant entities via email at the same time as enclosing Notice No. 19 of 2021, to assist SEOs and MLROs in understanding the CRS Compliance Programme and actions that the RFI would need to adopt and implement, and enclosing links to training materials. The FSRA stated that it would shortly be in contact to provide a self-certification form that would need to be completed by each entity licensed by ADGM ("Entity Self-Certification").
12. On 1 October 2021, ACL sent its completed Entity Self-Certification to the FSRA. In it, ACL self-classified as an 'Investment Entity' for the purposes of the CRS, and thus an RFI.
13. On 17 May 2022, the Ministry of Finance announced the go-live of the Automatic Exchange of Information ("AEOI") reporting portal for submission of returns relating to CRS, and the Foreign Account Tax Compliance Act as implemented in the UAE.
14. On 20 June 2022, the FSRA sent an email to SEOs and MLROs enclosing Notice No. 20 of 2022 stating that the AEOI portal would be open for submission of the annual information return relating to CRS ("CRS Return") for the 2021 calendar year on 20 June 2022, and that submissions must be made by 20 July 2022. The notice also required RFIs to complete and submit the attached form of 'Risk Assessment Questionnaire' ("Questionnaire") for the 2021 calendar year by 20 July 2022.
15. On 20 July 2022, the FSRA sent an email to ACL informing it that it had not yet submitted the Questionnaire, and that its failure to do so would result in ACL being rated as 'High Risk' and so determine the frequency of CRS audit review of ACL by the FSRA.
16. The Ministry of Finance extended the deadline for submission of CRS Returns for the 2021 calendar year to 15 August 2022. On or around 12 August 2022, ACL registered on the AEOI portal as an RFI and filed its CRS Return.
17. On 9 November 2022, the FSRA sent an email to ACL enclosing Notice No. 46 of 2022, and the Questionnaire for completion and return to the FSRA. The FSRA informed ACL that it had been selected for an audit review for compliance with the Regulations in respect of the 2021 calendar year ("Review"), and that the Review would include its CRS Return as submitted on the AEOI

portal. ACL was advised that failure to return the Questionnaire and participate in the Review could constitute a breach of the Regulations.

18. On 23 November 2022, the FSRA sent an email to ACL stating that the Ministry of Finance had informed the FSRA that the Questionnaire needed to be submitted manually by 15 December 2022.
19. On 23 December 2022, the FSRA sent an email to ACL advising that the FSRA had not yet received the completed Questionnaire from ACL. ACL was advised that failure to comply by the extended deadline of 31 December 2022 may constitute a breach of the Regulations.
20. On 30 December 2022, ACL sent an email to FSRA attaching the Questionnaire, together with a checklist. On 2 January 2023, the FSRA sent an email to ACL requesting ACL to fully complete the Questionnaire and to resubmit it at their earliest convenience. On 3 January 2023, ACL sent an email to the FSRA attaching the updated Questionnaire.
21. On 21 February 2023, the FSRA sent an email to ACL, enclosing a letter informing ACL that the Review would include an on-site or virtual inspection (the "Inspection") on 21 March 2023. The FSRA asked ACL to confirm its availability for the Inspection, and to provide certain information and documents by 3 March 2023.
22. Between 3 March 2023 and 6 March 2023, ACL corresponded with the FSRA concerning the information requested by the FSRA.
23. On 13 March 2023, the FSRA sent an email to ACL to request rescheduling of the Inspection to 22 March 2023, and requesting that ACL confirm its availability. On the same day, ACL confirmed its availability for the Inspection on 22 March 2023.
24. On 22 March 2023, the FSRA conducted its Inspection as part of the Review.

FAILURE TO CONDUCT DUE DILIGENCE PROCEDURES AND FAILURE TO KEEP RECORDS

25. The 2021 Regulations apply to the conduct of due diligence and keeping of records because that was the version of the Regulations that was in force during the 2021 calendar year when ACL was (or ought to have been) undertaking the relevant due diligence in respect of the clients identified below.
26. Subsection 6(1) of the 2021 Regulations required every RFI to keep records of the steps and measures undertaken and any evidence relied upon for the performance of the due diligence procedures and the measures to obtain those records that the RFI obtained or created for the purpose of complying with the 2021 Regulations.
27. Schedule 1, Part 6, subparagraph A(1)(a) of the 2021 Regulations set out the procedures that RFIs must apply for new Entity accounts to determine the residence of the Account Holder and, where applicable, its Controlling Persons³. This included obtaining self-certification(s) that allowed the RFI to determine the Account Holder's residence(s) for tax purposes ("Self-Certification Form")

³ Where the Entity is a Passive NFE

and the RFI confirming the reasonableness of such self-certification based on the information obtained by the RFI in connection with the opening of the account.

28. Schedule 1, Part 6, subparagraph A(1)(b) of the 2021 Regulations required an RFI to treat an account as a Reportable Account where the self-certification indicates that the Account Holder is resident in a Reportable Jurisdiction, unless the RFI reasonably determined based on information in its possession or that is publicly available that the Account Holder is not a Reportable Person.
29. The Inspection was unable to establish, based on a review of the client files provided by ACL for the clients identified as Clients 1 to 3 and 7 to 13 in Annexure A to this notice, that ACL had undertaken or documented the required due diligence to confirm the reasonableness of the Self-Certification Forms provided by those clients. Further, in relation to Clients 7 to 13, the Inspection identified that ACL failed to treat those accounts as Reportable Accounts based on the Self-Certification Forms received. ACL did not have available for review any documents recording the steps undertaken to ascertain the reasonableness of the Self-Certification Forms received or the basis upon which it elected to treat the accounts of Clients 7 to 13 as non-Reportable Accounts.

Client 1

30. The Controlling Person of Client 1, identified as CP1 in Annexure A to this notice, completed its Self-Certification Form, signed the form and dated the date of their signature on the form with their date of birth rather than the date the form was signed.

Client 2

31. The Self-Certification Forms for both the Account Holder and its Controlling Person, both dated 5 July 2021, identified as CP2 in Annexure A to this notice, did not include their country/jurisdiction of tax residence and did not include their respective TINs.

Client 3

32. In the Self-Certification Form provided by Client 3 dated 4 November 2021, Client 3 classified itself as an 'Investment Entity' as well as a 'Passive NFE'. These classifications are inconsistent as an Account Holder is unable to be an Investment Entity and a Passive NFE at the same time for the purposes of establishing whether or not the relevant Account is a Reportable Account.

Clients 7 to 13

33. Clients 7 to 13 submitted Self-Certification Forms that self-classified as 'Active NFE'. The relevant Self-Certification Forms were dated between August 2017 and July 2021 and all indicated residency in jurisdictions other than the United States of America.
34. The term 'Active NFE' is defined in Schedule 1, Part 8, subparagraph D(9) of the 2021 Regulations. An Active NFE is a Reportable Person if it is a Reportable Jurisdiction Person and it is not "(i) a corporation the stock of which is regularly traded on one or more established securities markets; (ii) any corporation that is a Related Entity of a corporation described in clause (i); (iii) a Governmental Entity; (iv) an International Organisation; (v) a Central Bank; or (vi) a Financial Institution". Pursuant to Schedule 1, Part 8, subparagraph D(1) of the 2021 Regulations, the accounts of Reportable Persons are Reportable Accounts.
35. As per the relevant Self-Certification Forms, Clients 7 to 13 were all Reportable Jurisdiction Persons for the purposes of applying the due diligence procedures described in Parts 2 to 7 of the

2021 Regulations because they were resident in a jurisdiction other than the United States of America. There was nothing held on the relevant client files to suggest that ACL had reasonably determined that any of Clients 7 to 13 were not Reportable Persons. Accordingly, Clients 7 to 13 were Reportable Persons and their accounts should have been treated as Reportable Accounts. However, ACL failed to treat the accounts of Clients 7 to 13 as Reportable Accounts and failed to report them (see paragraph 51 below).

36. Furthermore, the Inspection was unable to establish from a review of the client files for Clients 7 to 13 that ACL had undertaken or documented the required due diligence to confirm the reasonableness of the relevant self-certifications or assess whether or not those clients were Reportable Persons.
37. The FSRA therefore considers that ACL has contravened subsection 6(1) and Schedule 1, Part 6, subparagraph A(1)(a) and (b) of the 2021 Regulations.

FAILURE TO REPORT INFORMATION REQUIRED TO BE REPORTED IN A COMPLETE AND ACCURATE MANNER

38. The 2022 Regulations apply to the reporting of information because this was the version of the Regulations in force in 2022 when ACL was (or ought to have been) reporting the required information for the 2021 calendar year to the UAE Competent Authority.
39. Schedule 1, Part 1, paragraph A of the 2022 Regulations provided that each RFI must collect and report to the UAE Competent Authority (whether directly or indirectly via the Regulatory Authority) information with respect to each Reportable Account. Pursuant to Schedule 1, Part 1, subparagraph A(1) of the 2022 Regulations, the required information to be reported for each Reportable Account is the name, address, jurisdiction(s) of residence, TIN(s) and date and place of birth (in the case of an individual) of each Reportable Person that is an Account Holder. The same information also needs to be reported for each Reportable Person that is a Controlling Person of an Entity that is an Account Holder.
40. Schedule 1, Part 8, subparagraph E(5) of the 2022 Regulations defines a TIN as a Taxpayer Identification Number or functional equivalent in the absence of a TIN.
41. The “*OECD Common Reporting Standard XMI Schema*” published by the OECD as guidance to the application of the CRS sets out that, in a submission, the RFI should provide as an entity identification number a US GIIN, a TIN, company registration number, Global Entity Identification Number (EIN) or other similar identifying number specified by the tax administration. That requirement applied as part of the CRS in the ADGM pursuant to subsection 2(1) of the 2022 Regulations.
42. On 21 September 2021, the FSRA published ‘Notice No. 25 of 2021 – CRS Compliance Programme’ to assist RFIs in understanding the requirements of the UAE’s CRS compliance programme that they would need to adopt and implement, with a link to training materials.
43. Having undertaken the Review, the FSRA considers that ACL failed to report information required to be reported in a complete and accurate manner in its 2021 CRS Return as set out below.

Controlling Person of Client 3

44. From a review of the client file of Client 3 during the Inspection, it was noted that the Controlling Person of Client 3, identified as CP3 in Annexure A to this Notice, provided a Self-Certification

Form to ACL dated 4 November 2021 recording a Singaporean address as its country of residence. However, in its CRS Return, ACL reported CP3's country of residence as India.

Client 4

45. From a review of the Self-Certification Form provided by Client 4 dated 11 November 2020, a discrepancy was identified between the TIN provided by Client 4 and the TIN reported in the CRS Return whereby an 'l' was misreported as the number '1' by ACL. Accordingly, the TIN reported for Client 4 by ACL in its CRS Return was incorrect.

Controlling Person of Client 4

46. The Controlling Person of Client 4, identified as CP4 in Annexure A to this notice, recorded its country of tax residence as the Republic of Cyprus in its Self-Certification Form dated 11 November 2020. However, in its CRS Return, ACL reported CP4's country of tax residence as Russia.

Client 5

47. The Self-Certification Form for Client 5 dated 12 May 2021 recorded its country of tax residence as Hungary and the country where it currently resides as Cyprus. However, in its CRS Return, ACL reported Client 5's country of tax residence as 'CY' for Cyprus, rather than Hungary. In addition, the TIN for Cyprus was supposed to be 8 numbers followed by a letter. However, the TIN recorded for Client 5 had 10 numbers without a letter and hence was invalid.

Client 6

48. Client 6 recorded in its Self-Certification Form dated 26 July 2021 that it was a 'Passive NFE' with its country of tax residence as the UAE, and one (1) Controlling Person, identified as CP5 in Annexure A to this notice. CP5 recorded Cyprus as a country of tax residence in its Self-Certification Form dated 26 July 2021.
49. Schedule 1, Part 6, subparagraph A(2) of the 2022 Regulations requires RFI's to determine if an Account Holder is a Passive NFE with one or more Controlling Persons that are Reportable Persons by virtue of their jurisdiction of residence. In such cases, the account must be treated as a Reportable Account.
50. Cyprus was a Reportable Jurisdiction for the purposes of the 2022 Regulations, and accordingly, CP5 was a Reportable Person and Client 6's account was a Reportable Account. However, ACL failed to report the account of Client 6 as a Reportable Account in its CRS Return.

Clients 7 to 13

51. As set out in paragraphs 33 to 35, the Inspection found that the accounts of Clients 7 to 13 should have been treated as Reportable Accounts. However, ACL failed to include the accounts of Clients 7 to 13 as Reportable Accounts in its CRS Return.

Client 14

52. By ACL's own admission in its email of 21 July 2023 to the FSRA, the format of the TIN reported for Switzerland, the country/jurisdiction of tax residence of the Controlling Person of Client 14 identified as CP6 in Annexure A to this Notice was invalid.

53. Accordingly, the FSRA considers that ACL has contravened subsection 3(1) and Schedule 1, Part 1, subparagraph A(1) of the 2022 Regulations by failing to report the information required to be reported under the 2022 Regulations in a complete and accurate manner.

PENALTIES

54. The FSRA considers ACL to have contravened the 2021 Regulations and the 2022 Regulations as set out above. In particular, ACL failed to:
- a. apply due diligence procedures as required by the 2021 Regulations, by not conducting reviews to confirm the reasonableness of self-certifications received in contravention of Schedule 1, Part 6, subparagraph A(1)(a) of the 2021 Regulations;
 - b. treat accounts as Reportable Accounts where the self-certification indicated that the Account Holder is resident in a Reportable Jurisdiction, in contravention of Schedule 1, Part 6, subparagraph A(1)(b) of the 2021 Regulations;
 - c. document its due diligence procedures and keep records of the due diligence procedures performed, including the evidence relied upon as part of due diligence and the measures undertaken to obtain those records, in contravention of subsection 6(1) and Schedule 1, Part 2, paragraph A of the 2021 Regulations;
 - d. report information as required by the Regulations in a complete and accurate manner by failing to:
 - i. collect and report the Taxpayer Identification Number ("TIN") of a Reportable Account and its Controlling Person that was a Reportable Person;
 - ii. accurately report the:
 - aa. TIN of three Reportable Accounts;
 - bb. country of residence of three Controlling Persons; and
 - iii. report seven Reportable Accounts,
- in contravention of subsection 3(1) and Schedule 1, Part 1, paragraph A of the 2022 Regulations.

The Penalty

55. The penalty for a failure to apply and record due diligence procedures was set out in Schedule 2, paragraphs 1.2 and 1.3 of the 2021 Regulations. The penalty for a failure to report information as required by the Regulations in a complete and accurate manner was set out in Schedule 2, Part A, paragraph 1.5 of the 2022 Regulations.
56. The total penalty imposed by the FSRA on ACL is AED 60,000.
57. The breakdown of the penalty imposed by the FSRA on ACL pursuant to the Regulations in force at the time of the relevant contravention is as follows:

Reference	Contravention	Penalty (AED)
Paragraph 1.2 of Schedule 2 of the 2021 Regulations	A Reporting Financial Institution fails to keep records of the due diligence procedures performed under the Regulations.	10,000
Paragraph 1.3 of Schedule 2 of the 2021 Regulations	A Reporting Financial Institution fails to apply the due diligence procedures specified in Schedule 1, Part 2 through to Part 7 of the Regulations	25,000
Paragraph 1.5 of Part A of Schedule 2 of the 2022 Regulations	A Reporting Financial Institution fails to report the information required to be reported under these Regulations in a complete and accurate manner.	25,000

CONSIDERATION OF APPEAL

58. On 28 September 2023, the FSRA issued ACL with a notice in which it imposed on ACL a penalty of AED 60,000 and a direction to undertake a review of its systems and controls relevant to compliance with the Regulations and complete certain remedial actions ("Direction").
59. Under subsection 9(2) of the Regulations and Article 7(1) of the Cabinet Resolution, ACL had the opportunity to appeal against the FSRA's decision set out in the notice dated 28 September 2023.
60. On 27 October 2023, ACL submitted its appeal, which was acknowledged by the FSRA on the same day.
61. In its appeal ACL asked the FSRA to take certain matters into consideration, as follows.

Level of the penalty

- a. The administrative penalty imposed is disproportionate to the alleged contraventions, as several of the alleged contraventions pertain to innocent errors that occurred during ACL's manual process of transferring information from the populated forms to its CRS systems. In addition, ACL submitted that it had now proactively undertaken a comprehensive review of its systems, controls, policies and procedures that are relevant to its compliance with the Regulations and that it has subsequently automated several aspects of the process to assist in its compliance with its obligations under the Regulations.

Failure to conduct due diligence procedures and failure to keep records

- b. In relation to Client 1, whilst ACL accepted that the Controlling Person of Client 1 completed its Self-Certification Form and dated their signature with their date of birth, the CRS/FATCA status of Client 1 is 'Active NFE'. As such the Self-Certification Form was not mandatory and was voluntarily submitted by the customer during ACL's onboarding process. ACL was therefore not required to undertake or document due diligence to confirm the reasonableness of the Self-Certification Form provided by the Controlling Person of Client 1.
- c. In relation to Client 2, ACL accepted the FSRA's finding that the Self-Certification Forms for both Client 2 and its Controlling Person failed to include their country/jurisdiction of tax residence. However, ACL did not agree that TINs were required for both Client 2 and its Controlling Person, as Client 2 is a UAE freezone entity and the Controlling Person of Client

2 declared its address for tax residence purposes as being in the UAE. Accordingly, ACL submitted that it did not fail to undertake or document the required due diligence and that the account had been dormant since it was opened and had never made any transactions.

- d. In relation to Client 3, despite a minor administrative error having been made in the form, ACL's due diligence to assess the reasonableness of Client 3's Self-Certification Form was evidenced by ACL's use of Client 3's responses in a W-8BEN-E form in order to correctly ascertain which of the two classifications Client 3 selected should be preferred.
- e. In relation to Clients 7 to 13, the FSRA's findings were not contested. ACL has updated its CRS policies to include new provisions requiring ACL to assess the reasonableness of the information provided in Self-Certification Forms to prevent similar contraventions from occurring in future.

Failure to report information required to be reported in a complete and accurate manner

- f. In relation to Client 2, the Self-Certification Forms for Client 2 and its Controlling Person were not required to include TINs as these were not issued in the UAE. ACL was therefore under no obligation to collect or report the TIN for Client 2 and its Controlling Person in its CRS Return.
 - g. In relation to the Controlling Person of Client 3, an error was made during ACL's manual reporting process. As part of its remediation process conducted with the support of a third party, ACL's CRS processes were automated, and this was done without instruction from the FSRA. This demonstrates ACL's commitment to ensuring compliance with the Regulations in future reporting periods.
 - h. In relation to Client 4 and its Controlling Person, ACL admitted that an error was made during ACL's manual reporting process and similar errors should not occur in future reporting periods due to remedial actions taken by ACL.
 - i. In relation to Client 5, ACL did not contest the FSRA's findings and submitted that similar errors should not occur in future due to the remedial actions undertaken by ACL. Client 5's account was closed on 30 December 2021, and as such no rectification measures specific to Client 5's file were possible.
 - j. In relation to Client 6, ACL noted that the error had been remediated and the account has been correctly reported in 2023.
 - k. In relation to Clients 7 to 14, ACL did not contest the FSRA's findings and submitted that it has worked with a third party to ensure that all Reportable Accounts are identified and duly reported in 2023.
62. ACL stated that on or around 10 May 2023, it engaged a third party to assist it in ensuring ACL's compliance with the Regulations in future CRS submissions. In light of the remedial actions taken by ACL, ACL submitted that it had complied with the Direction.
63. The FSRA has considered the grounds and supporting documentation submitted in support of ACL's appeal.
64. In relation to ACL's representations that the administrative penalties imposed by the FSRA are disproportionate to the alleged contraventions, whilst the errors are considered by ACL to be

“innocent errors” as a result of manual processes, the applicable penalties are prescribed under the Cabinet Resolution.

65. In relation to ACL’s representations regarding its failure to conduct due diligence and keep records, as regards:
- a. the Controlling Person of Client 1, the FSRA accepts that ACL did not need to collect the Controlling Person’s Self-Certification Form since Client 1 was an Active NFE. However, the FSRA noted that the 'CRS Self-Certification Form for Entities' for Client 1 was also dated with the same date of birth of the Director of Client 1;
 - b. Client 2 and its Controlling Person, ACL failed to ensure that the country/jurisdiction of tax residence was completed, which would then inform whether TINs for Client 2 and its Controlling Person were required to be collected and reported;
 - c. Client 3, the inconsistency would have been detected and a correction sought if adequate due diligence was conducted by ACL;
 - d. Clients 7 to 13, the FSRA expects all RFIs to maintain and document due diligence procedures that are effective in identifying Reportable Accounts under the Regulations. The FSRA is unable to recognise an update of such procedures after failures to comply with the Regulations have occurred in relation to the imposition of a penalty for those failures.
66. In relation to ACL’s representations regarding its failure to report information required to be reported in a complete and accurate manner, as regards:
- a. Client 2 and its Controlling Person, in light of the representation made by ACL in paragraph 61(f) above that both Client 2 and its Controlling Persons are tax resident in the UAE, the FSRA accepts that no TINs needed to be reported;
 - b. Clients 3 to 14, the FSRA expects all information to be collected and reported with respect to each Reportable Account in accordance with the Regulations. The FSRA is unable to recognise changes made to prevent future failures in relation to the imposition of a penalty for failures that have already occurred.
67. The FSRA has considered the grounds submitted in support of ACL’s appeal and has decided to vary its decision in this matter. The FSRA has decided to confirm the penalty as previously imposed and not to issue a Direction to ACL, taking into consideration that ACL has undertaken and completed its remedial actions.

PROCEDURAL MATTERS

Manner and time for payment of penalty

68. Pursuant to Article 6(4) of the Cabinet Resolution, the penalty imposed pursuant to this notice is to be paid by ACL within fifteen (15) business days from the date of this notice, i.e. on or before **6 February 2024**.
69. Payment of the penalty can be made by electronic funds transfer into the following account:

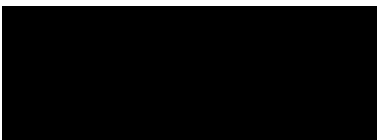
Account Name	[REDACTED]
Account Number	[REDACTED]
IBAN Number	[REDACTED]
Account Type	[REDACTED]
Bank Name	[REDACTED]
Swift Code	[REDACTED]
Reference	[REDACTED]

70. If the penalty or any part of it remains outstanding on the date by which it must be paid, the obligation to make the payment is enforceable as a debt by the FSRA.

Publicity

71. The FSRA will generally publish, in a manner we consider appropriate and proportionate, information and statements relating to enforcement action. Accordingly, the FSRA will publish relevant information about the decision in this notice, including the notice itself, as the FSRA considers appropriate. The publication of enforcement outcomes is consistent with the FSRA's commitment to open and transparent processes and our objectives.

Yours sincerely,



Mr. Adrian Bock
 Director - Enforcement
 Abu Dhabi Global Market Financial Services Regulatory Authority