

**FINAL NOTICE ISSUED UNDER
SECTION 936 OF THE
COMPANIES REGULATIONS 2020**

To: Mr. Mohammed Wasim Nazir

[REDACTED]

Email:

[REDACTED]

Date: 20 June 2023

1. DECISION

1.1 This Final Notice (“Notice”) is issued under section 936 of the *Companies Regulations 2020* (“CR 2020”).

1.2 For the reasons given in this Notice, the Registrar of Abu Dhabi Global Market (“ADGM”) decides to impose on Mr. Mohammed Wasim Nazir (“Nazir”) the following financial penalties:

- i. **USD 45,000** for a contravention of section 867C of CR 2020 (make a prescribed statement without having reasonable grounds for the opinions expressed in it) in relation to HSQ Holdings LTD with ADGM Registration No. 000002494 (“HSQ”);
- ii. **USD 45,000** for a contravention of section 867C of CR 2020 (make a prescribed statement without having reasonable grounds for the opinions expressed in it) in relation to PL1 Holdings with ADGM Registration No. 000002483 (“PL1”); and
- iii. **USD 4,000** for a contravention of section 868 of CR 2020 (circumstances in which voluntary strike off application not to be made) in relation to PL1.

1.3 This Notice is issued to Nazir only. Other persons may be referred to in this Notice due to their factual connection to the matter under the Notice. This Notice does not construct a determination by the RA or ADGM that any other person other than Nazir has committed a contravention of ADGM’s enactments or subordinate legislation, nor it is a reflection upon any other person or entity.

REGISTRATION AUTHORITY
سلطة التسجيل

2. DEFINED TERMS AND RELEVANT REGULATIONS

- 2.1 Defined terms are identified in the Notice in parentheses, using the capitalisation of the initial letter of a word or of each word in a phrase, and are either defined in the Regulations, or in the body of this Notice at the first instance the term is used. Unless the context otherwise requires, where capitalisation of the initial word is not used, an expression has its natural meaning.
- 2.2 Extracts of Regulations and Rules referred to in this Notice are attached in **Annexure A**. Complete copies of the Regulations and Rules are accessible on the ADGM website www.adgm.com/legal-framework/rules-and-regulations.

3. SUMMARY OF EVIDENCE SUPPORTING THE DECISION

Incorporation and Licensing

- 3.1 On 11 June 2019, HSQ and PL1 were each incorporated as ADGM private companies limited by shares. Specifically, each were incorporated as a Special Purpose Vehicle (“SPV”). Their permitted business activities under their respective ADGM commercial licences both fall under Category B classification - Non-Financial, Special purpose vehicle (activity code: 7017) described as:

A Body Corporate whose sole purpose, either generally or when acting in a particular capacity, is to carry out one or more of the following functions:

- *issuing Investments;*
- *redeeming or terminating or repurchasing, whether with a view to re issue or to cancellation, an issue, in whole or part, of Investments; or*
- *entering into transactions or terminating transactions involving Investments in connection with the issue, redemption, termination or re purchase of Investments; and*

And has been explicitly established for the purpose of:

- *securitising assets; or*
- *investing in Real Property*

- 3.2 The directors of both HSQ and PL1 are Nazir and ONYX Investments Holding Ltd (“ONYX”). Nazir is also the ultimate beneficial owner of HSQ and PL1.
- 3.3 HSQ and PL1 each submitted business plans to the RA dated 25 February 2019 as part of their registration applications, both of which contained the following:
- a. An acknowledgement signed by Nazir confirming that “*the proposed SPV will only be used as a passive entity and will not be used as an operational entity to conduct economic or commercial business activities*”.
 - b. The description of the reason for the establishment of the SPVs is indicated as “*Holding Company of Property Investment Agreements*”.

- c. A signed declaration stating HSQ and PL1 will “comply with the licensed activities and undertake not to exceed the licensed activities and engage in any commercial operational activities throughout the lifecycle of the legal entity”, “undertake to convert this SPV into operational legal entity should the business concept requires so” and “under no circumstances this SPV would conduct any other business activities apart from those stated in the license issued by ADGM Registration Authority without prior authorization obtained from ADGM Registration Authority”.
- 3.4 Since their incorporation and registration in June 2019, HSQ and PL1 have not applied for any variations of their ADGM commercial licenses.
- 3.5 On 27 September 2020, HSQ and PL1 filed their annual accounts separately for the year ending 31 December 2019 (collectively, the “2019 Annual Accounts”). These filings are largely identical and indicate Fixed Assets of USD 50,000 and Net Liabilities of USD (1,260) for “Creditors: amounts falling due within one year” for both HSQ and PL1.
- 3.6 On 21 September 2021 and 30 September 2021 respectively, PL1 and HSQ filed their annual accounts for the year ending 31 December 2020 (collectively, the “2020 Annual Accounts”). As per the 2020 Annual Accounts, PL1 and HSQ purportedly had fixed assets of USD 50,000 and no liabilities. As with the 2019 Annual Accounts, these account filings of PL1 and HSQ appear largely identical.

HSQ and PL1 – Voluntary Strike-Off Applications

- 3.7 On 8 June 2021, HSQ and PL1 each filed applications to voluntarily strike-off pursuant to section 867A of CR 2020. The following information was submitted to the RA as part of these applications:
- a. pursuant to section 867A and 867C of CR 2020, Nazir signed and submitted two prescribed statements dated 6 June 2021 for each HSQ and PL1 (collectively, the “Nazir Prescribed Statements”). The Nazir Prescribed Statements confirmed the following for each of HSQ and PL1:
- That all creditors of the company have been paid or otherwise discharged in full and the company has no other liabilities (including contingent or prospective liabilities and liabilities in respect of current or former Directors, employees or clients).*
- b. pursuant to section 867A of CR 2020, as the authorised signatory of ONYX, Nazir signed and submitted two shareholders’ resolutions dated 6 June 2021 for each of HSQ and PL1.

HSQ and PL1 Objections

- 3.8 On 10 June 2021, a public notice was issued on ADGM’s website for PL1 (Notice ID 00203/2021), as per section 876A of CR 2020, stating that “The company has applied for voluntary striking off under section 867A of the Companies Regulations 2020. The Registrar of

companies may strike the company's name off the register when two months have passed since the publication of this notice”.

- 3.9 On 20 June 2021, a public notice was issued on ADGM’s website for HSQ (Notice ID 00212/2021), as per section 876A of CR 2020, stating that *“The company has applied for voluntary striking off under section 867A of the Companies Regulations 2020. The Registrar of companies may strike the company's name off the register when two months have passed since the publication of this notice”.*
- 3.10 Since 13 July 2021, the RA received notices of objection to the HSQ strike-off from 77 persons (“HSQ Objectors”).
- 3.11 Since 25 July 2021, the RA received notices of objection to the PL1 strike-off from 25 persons (“PL1 Objectors”).
- 3.12 Below is a summary of key information based on information and documents provided by HSQ Objectors and PL1 Objectors:
- HSQ was the Resort Manager of an investment property under the name of Hanover Square and located in Jumeirah Village in Dubai (“Hanover Square Investment Property”).
 - PL1 was the Resort Manager of an investment property under the name of Platinum One and located in Arjan in Dubai (“Platinum One Investment Property”).
 - HSQ and PL1 are still keeping and renting apartment units despite having applied for strike-off.
 - HSQ and PL1 failed to pay investment returns to a number of apartment owners and other creditors.
 - Legal cases have been initiated by apartments owners against HSQ and PL1.
- 3.13 As a result of receiving the objections, the RA suspended the de-registration process for both HSQ and PL1. On 30 November 2021, [REDACTED], the company service provider acting for HSQ and PL1, was advised that the strike-off applications would, *“remain on hold pending enquiries being conducted by the Registration Authority.”*

RA Investigation

- 3.14 On 18 April 2022, pursuant to section 31 of the Commercial Licensing Regulations 2015 (“CLR 2015”) an investigation commenced into the conduct of HSQ, PL1 and Nazir (“Investigation”).
- 3.15 On 25 April 2022, HSQ, PL1 and Nazir received notices of Appointment of Investigators which were acknowledged by Nazir via phone and email on 11 May 2022.
- 3.16 During the course of the Investigation, the investigators:
- Obtained information and documents from twelve selected objectors on a sample basis from HSQ Objectors and PL1 Objectors (“Selected Objectors”);
 - Interviewed some Selected Objectors;

- c) Obtained documents and information from HSQ, PL1 and Nazir via four requirement notices issued on 2 June 2022 (“2 June Requirement Notices”) and 30 June 2022 (“30 June Requirement Notices”) pursuant to section 33(1)(b) and section 33(2) of Part 3 of CLR 2015; and
- d) Multiple attempts were made to interview Nazir pursuant to section 33(1) of CLR 2015. Three interview requirement notices were issued from 8 August 2022 to 19 September 2022 as part of these efforts to interview Nazir. However, Nazir did not attend any of these compulsory interviews.

Findings of the Investigation

3.17 The following facts were established during the Investigation:

- a. From 8 July 2019 to 1 August 2021, HSQ was the Resort Manager of Hanover Square Investment Property.
- b. From 8 July 2019 to 1 August 2021, PL1 was the Resort Manager of Platinum One Investment Property.
- c. Apartment owners entered into a Sale and Purchase Agreement (“SPA”) with the property developer [REDACTED] (“[REDACTED]”) which is registered in Dubai with Real Estate Regulatory Authority¹. As per the SPA, [REDACTED] is incorporated and registered in the British Virgin Islands with a Dubai address as well. As part of the SPA, a Management and Income Pooling Agreement (“MIPA”) was also signed by apartment owners with [REDACTED].
- d. As per the SPA and MIPA:
 - o The purchase price was paid in instalments by apartment owners to [REDACTED] till the completion date of the investment properties.
 - o The developer ([REDACTED]) would assign a Resort Manager to manage the investment property².
 - o The primary purpose of MIPA is to “create investment returns for Owners by maximising occupancy by rent-paying tenants..”.
 - o The apartment owner agreed to grant the Resort Manager the right to manage the apartment for 20 years.
 - o 60% of the Net Operating Profit (“NOP”) generated by the Resort Manager is payable to owners and the remaining 40% shall belong to the Resort Manager.
- e. As per MIPA, Resort Manager responsibilities include the following:
 - o Pay apartment owners their sums due (percentage of the NOP).
 - o Perform all management and operational obligations necessary to operate the investment property.
 - o Responsible for repair/maintenance of the apartments.

¹ [REDACTED]

² The name of the Resort Manager is not mentioned under the SPA. The SPA gives the developer [REDACTED] the right to appoint any management company as the Resort Manager.

- Pay the operating cost and expenses associated with the operation and management of an executive residence out of the gross revenue.
- Authorised to demand, receive and receipt for gross revenue from the occupancy of the apartment.
- Terminate MIPA by 90 days notice in writing from the Resort Manager. Only the Resort Manager is entitled to terminate MIPA.

3.18 Various documents and copies of correspondence exist evidencing that HSQ and PL1 were conducting operational activities beyond the scope of their passive ADGM SPV commercial licence and purporting and/or carrying out the role of Resort Manager. Further, various documents exist evidencing that HSQ and PL1 were carrying out the Resort Manager obligations and rights stipulated under the SPA and MIPA signed with the apartment owners.

Contravention of section 867C of CR 2020 - making a prescribed statement without having reasonable grounds for the opinions expressed in it

HSQ

3.19 Disputes regarding the MIPA between HSQ Objectors and the Resort Manager of Hanover Square Investment Property have been ongoing since March 2019 as per copies of communication shared by HSQ Selected Objectors. This time period started before HSQ's incorporation in ADGM and continued after submission of its voluntary strike-off application.

3.20 It appears that Nazir was aware of the dispute and claims made by Hanover Square Investment Property apartment owners based on the below documents:

3.20.1 On 4 March 2019 and 9 May 2019 (prior to HSQ's incorporation in ADGM), two letters were sent by a legal representative named [REDACTED] ("[REDACTED]") from law firm [REDACTED]. These letters:

- Were sent to two different Hanover Square apartment owners.
- Stated "we act on behalf of Hanover Square DWC LLC ("Our Client"), the Resort Manager in terms of the Sale and Purchase Agreement ("SPA")".
- Included concerns about apartment owners disconnecting DEWA services of the respective apartment and stated that such acts are in breach of the SPA.
- Advised the respective apartment owners to go through arbitration proceedings detailed under the SPA if they wish to amend or challenge the terms of the SPA.

3.20.2 On 20 October 2020, HSQ appointed a law firm ([REDACTED]) to provide advice in relation to its dealings with Hanover Square Investment Property. Its legal representative, [REDACTED] remained the same. The letter of engagement with this law firm was signed by Nazir on behalf of HSQ. The engagement letter was sent to the investigators by Nazir in response to the 30 June Requirement Notices.

3.20.3 On 21 April 2021, a letter was sent by [REDACTED] to an HSQ objector referring to recent correspondence and stating that the only means of cancelling the SPA and MIPA is by mutual agreement or by court/arbitration order. Further, their "client" will defend any

court action and another option to exit the income pooling scheme is to market the investment unit for sale.

PL1

- 3.21 A number of copies of correspondence exist evidencing that Nazir was aware of the ongoing claims and disputes by Platinum One Investment Property apartment owners:
- 3.21.1 On 20 October 2020, PL1 appointed ██████ to advise it in relation to Platinum One Investment Property. The letter of engagement with the law firm was signed by Nazir on behalf of PL1. The engagement letter was sent to the RA by Nazir in response to the 30 June Requirement Notices.
- 3.21.2 On 25 November 2020, letters were sent by ██████ to a number of PL1 Objectors. The letters stated “we act on behalf of PL1 Holdings Ltd. (“Our Client”), the Resort Manager” and claimed that their actions resulting in disconnecting DEWA to the apartment was preventing PL1 from leasing and managing the apartment. Further, these letters claimed that disconnecting DEWA was a breach of the SPA and for one to amend or challenge the terms of the SPA, one had to follow arbitration proceedings as provided by the SPA.
- 3.21.3 From 25 November 2020 to 29 March 2021, chain of emails exist between a PL1 Objector and ██████ in relation to the letter of 25 November 2020 were exchanged on behalf of PL1.
- 3.21.4 On 11 March 2021, further letters were sent by ██████ on behalf of PL1 to a number of PL1 Selected Objectors. The letters reiterated that their disconnection of DEWA from their apartment was a breach of SPA and that the appropriate means of challenging the terms of the SPA was through arbitration.

Contravention of Section 868 of CR 2020 - circumstances in which voluntary strike off application not to be made

PL1

- 3.22 A number of copies of return statements exist evidencing that PL1 continued to carry out the role of Resort Manager post its voluntary strike-off application to the RA. The return statements are dated 15 July 2021, stamped with PL1 name including ADGM registration number and reference is made to ADGM in the stamp “Registered in Abu Dhabi Global Markets”. The return statements are for the period from 1 June 2020 to 31 May 2021.
- 3.23 Nazir failed to attend his compulsory interview despite multiple opportunities given to him by the investigators to schedule the interview and to provide his statements in relation to subsection 868(4) of CR 2020 “It is a defence to such a contravention for the person who committed the contravention to prove that he did not know, and could not reasonably have known, of the existence of the facts that led to the contravention.”.

3.24 Accordingly, at this point in time, Nazir has declined the opportunity to fully avail himself or PL1 of the defence afforded by section 868(4) of CR 2020.

4. CONTRAVENTIONS

4.1 Based on the facts and matters noted above, the Registrar considers that Nazir committed the follow contraventions:

1. Contravention of section 867C of CR 2020 (making a prescribed statement without having reasonable grounds for the opinions expressed in it) in relation to HSQ and PL1

4.2 Below is the relevant extract of section 867C of CR 2020:

- (1) *A prescribed statement is a statement that each of the directors has formed the opinion, as regards the company's situation at the date of the statement that-*
- i.*
 - ii. the company is not precluded by sections 868 and 869 from making an application under section 867A (application for voluntary striking off supported by prescribed statement),*
 - iii.*
 - iv. that all creditors of the company have been paid or otherwise discharged in full and the company has no other liabilities (including any contingent or prospective liabilities and liabilities in respect of current or former directors, employees or clients).*
- (2) *In forming those opinions-*
- (a) the directors must take into account-*
 - (i) any payment to members proposed to be made prior to the company being dissolved, details of which must be stated on the prescribed statement, and*
 - (ii) all of the company's liabilities (including any contingent or prospective liabilities),*
 - (b) the directors may take into account any arrangement made by the company for the discharge of the company's contingent or prospective liabilities by a third party following its dissolution and striking off.*
- (3)
- (4) *If the directors make a prescribed statement without having reasonable grounds for the opinions expressed in it, and the statement is delivered to the Registrar, a contravention of these Regulations is committed by every director who is in default.*
- (5) *If the directors make a prescribed statement and prior to an application made under section 867A being finally dealt with cease to have reasonable grounds for the opinions expressed in the prescribed statement or the opinions expressed in the prescribed statement cease to be true, the directors shall withdraw the company's application under section 873 (circumstances in which application to be withdrawn).*
- (6) *A person who commits a contravention of subsection (4) is liable to a fine of up to level 8.*

4.3 The Registrar considers that Nazir has committed a breach of section 867C of CR 2020 by making the Nazir Prescribed Statements without having reasonable grounds for the opinions expressed in them due to the following:

- a. The Nazir Prescribed Statements expressed the following “*all creditors of the company have been paid or otherwise discharged in full and the company has no other liabilities (including contingent or prospective liabilities and liabilities in respect of current or former Directors, employees or clients)*”. However, based on available documents there has been ongoing disputes for a long period of time between HSQ with Hanover Square Investment Property apartment owners and between PL1 with Platinum One Investment Property apartment owners.
- b. HSQ and PL1 have appointed an external law firm to act on their behalf and provide legal advice in relation the management of the investment properties that were managed by each HSQ and PL1.
- c. The disputes were still ongoing at the time of HSQ and PL1 submission of the Nazir Prescribed Statements. Consequently, HSQ and PL1 had contingent and prospective liabilities to the contrary to the statements made by Nazir under the Nazir Prescribed Statements.

4.4 A per section 867C (6) of CR 2020, a person who commits a contravention of subsection (4) is liable to a fine of up to level 8 i.e. USD 50,000. Therefore, the Registrar may impose a penalty on Nazir of up to USD 50,000 for each of the two Nazir Prescribed Statements in relation to HSQ and PL1.

II. Contravention of section 868 of CR 2020 (circumstances in which voluntary strike off application not to be made) in relation to PL1

4.5 Below is the relevant extract of section 868 of CR 2020:

- (1) *An application under section 867 (application for voluntary striking off with notice to members, employees etc.) or under section 867A (application for voluntary striking off supported by prescribed statement) on behalf of a company must not be made if, at any time in the previous three months, the company has—*
 - (a)
 - (b) *traded or otherwise carried on business,*
 - (c)
- (2)
- (3) *It is a contravention of these Regulations for a person to make an application in contravention of this section.*
- (4) *It is a defence to such a contravention for the person who committed the contravention to prove that he did not know, and could not reasonably have known, of the existence of the facts that led to the contravention.*
- (5) *A person who commits a contravention under this section shall be liable to a level 3 fine.*

- 4.6 The Registrar considers that Nazir committed a contravention of section 868 of CR 2020 for submitting PL1 voluntary strike off application when the company continued conducting business post its strike-off application.
- 4.7 As per subsection 868(5) of CR 2020, “A person who commits a contravention under this section shall be liable to a level 3 fine”. Therefore, Nazir could be liable to a fine up to USD 5,000.

5. SANCTIONS

Financial Penalties

- 5.1 In reaching its final decision to impose financial penalties, the Registrar has considered the below factors and considerations.

Determination to impose a financial penalty

- 5.2 The Registrar considers the following factors to be of relevance in deciding to impose financial penalties against Nazir:
- a. To promote compliance with the Regulations and achieve the Registrar’s objectives by:
 - i. penalising persons who have committed contraventions;
 - ii. deterring persons that have committed or may commit similar contraventions; and
 - iii. depriving persons of any benefit that they may have gained as a result of their contraventions.
- 5.3 The Registrar has decided to impose financial penalties, given the seriousness of the contravention and the circumstances.

Determination of the level of financial penalty

- 5.4 The Registrar has considered the factors and considerations for determining the appropriate level of the financial penalty that it decided to impose, which are set out as follows.

The seriousness of the contraventions

- 5.5 Nazir committed multiple significant and serious contraventions of ADGM commercial legislation.
- 5.6 Through HSQ and PL1, Nazir misled a number of persons (at a minimum, 77 Hanover Square Investment property apartment owners and 25 Platinum One Investment property apartment owners) by using the ADGM name in various correspondence misrepresenting HSQ and PL1 as being licensed by ADGM to conduct property management activities in or from the ADGM, when in fact they are not so licenced.

- 5.7 Then, through HSQ and PL1, Nazir has submitted false and misleading applications and submissions to the RA to attempt to strike-off HSQ and PL1 when both companies had a large number of prospective creditors and ongoing legal disputes.
- 5.8 It is a very serious offence to submit false or misleading prescribed statements to the Registrar as part of a voluntary strike off application, particularly in an apparent attempt to knowingly dissolve a company that still has a large number of prospective creditors.
- 5.9 Further, Nazir through PL1 continued to carry out operational activities following its voluntary strike-off application, in contravention of ADGM commercial legislation.

Deliberate or reckless

- 5.10 The contraventions by Nazir appear to be deliberate due to the following:
- Nazir signed and submitted acknowledgments and declarations at the incorporation stage confirming that the proposed SPVs will only be used as passive entities and will not engage in any commercial operational activities.
 - As per Nazir's written response dated 14 July 2022 to the RA's 30 June 2022 Requirement Notices, it also appears that Nazir is fully aware of the limited scope of the SPV licence held by PL1 and HSQ.
 - Disputes on SPA and MIPA were ongoing at the time of voluntary strike-off applications with a number of HSQ Objectors and PL1 Objectors and an external law firm was appointed by HSQ and PL1, yet Nazir have signed two prescribed statements confirming that HSQ and PL1 have no current or prospective liabilities.
 - Nazir signed two prescribed statements confirming that *"all creditors of the company have been paid or otherwise discharged in full and the company has no other liabilities (including contingent or prospective liabilities and liabilities in respect of current or former Directors, employees or clients)"* when he had appointed an external law firm acting on behalf of HSQ and PL1 to communicate with HSQ Objectors and PL1 Objectors on the ongoing dispute.

Whether the person is an individual

- 5.11 Nazir is an individual, a director and the ultimate beneficial owner of both HSQ and PL1. He is therefore fully responsible for the contraventions perpetrated through HSQ and PL1.
- 5.12 Nazir has misled the Registrar and a large number of apartment owners (prospective creditors) by attempting to strike-off and dissolve HSQ and PL1.
- 5.13 Given the circumstances of this case, there is no basis to impose a lower penalty for the mere fact that Nazir is an individual.

Effect on third parties

- 5.14 HSQ Objectors and PL1 Objectors, claimed that their investment properties were mismanaged by HSQ and PL1 resulting in poor returns.

Deterrence

- 5.15 Deterrence is one of the main purposes of taking enforcement action. That is, deterring persons who have committed contraventions from committing further contraventions, and deterring other licensed persons from committing similar contraventions.
- 5.16 The penalty imposed must deter Nazir and other ADGM licensed persons from submitting or attempting to submit misleading information as part of their applications including but not limited to voluntary strike-off applications.
- 5.17 Making prescribed statements without having reasonable grounds for the opinions expressed in are serious contraventions, and any sanction will send a strong and meaningful message of deterrence to other ADGM licenced persons.

Financial gain or loss avoided

- 5.18 As per copies of HSQ and PL1 License Agreement and MIPA, HSQ and PL1 appear to have retained 40% of the NOP of the investment scheme by purporting to be the Resort Manager and without having an appropriate ADGM commercial licence.
- 5.19 The exact amount of profit made by HSQ and PL1 is not determined as apartment owners claimed that they were not receiving full information about the total returns and profit being generated from the investment scheme. Further, the NOP is not included under the 2019 Annual Accounts and 2020 Annual Accounts submitted by HSQ and PL1 to the RA as part of their periodic required submissions.

Subsequent conduct

- 5.20 Lack of cooperation by Nazir during the Investigation since:
- Nazir concealed material documents and information from the RA in response to HSQ 2 June 2022 Requirement Notice, PL1 2 June 2022 Requirement Notice, HSQ 30 June 2022 Requirement Notice and PL1 30 June 2022 Requirement Notice; and
 - Nazir failed to attend his compulsory interview despite various communications and opportunities provided by the Investigators to Nazir to schedule the interview.

Disciplinary record and compliance history

5.21 At the time of the contravention and to the knowledge of the investigators, Nazir has no disciplinary record with the RA.

Maximum Penalty

5.22 As per section 867C (6) of CR 2020, a person who commits a contravention of subsection (4) is liable to a fine of up to level 8 on the standard fines scale which equals USD 50,000. Nazir submitted two subscribed statements, one for HSQ and one for PL1 containing false information and attempted to strike-off both companies when there was an ongoing dispute with a number of apartment owners. The Registrar considers that **USD 45,000** would be wholly appropriate for each HSQ contravention and PL1 contravention.

5.23 As per subsection 868 (5) of CR 2020, “A person who commits a contravention under this section shall be liable to a level 3 fine” which equals USD 5,000. Therefore, Nazir would be liable to a fine up to USD 5,000 for submitting PL1 voluntary strike off application when the company continued conducting business post its strike-off application. The Registrar considers that **USD 4,000** would be wholly appropriate for this contravention in relation to PL1.

6. NAZIR REPRESENTATIONS

6.1 On 3 April 2023, the Registrar issued Nazir with a Warning Notice in which it stated that it proposed to impose a financial penalty.

6.2 Nazir was provided with an opportunity to make written representations regarding the Registrar’s concerns and the action proposed.

6.3 As at the date of this Notice, no representations have been submitted by Nazir.

6.4 Having taken into account the facts, matters and circumstances of the contraventions above, the Registrar has decided to impose a financial penalty on Nazir.

7. PROCEDURAL MATTERS

Issuance of Decision Notice

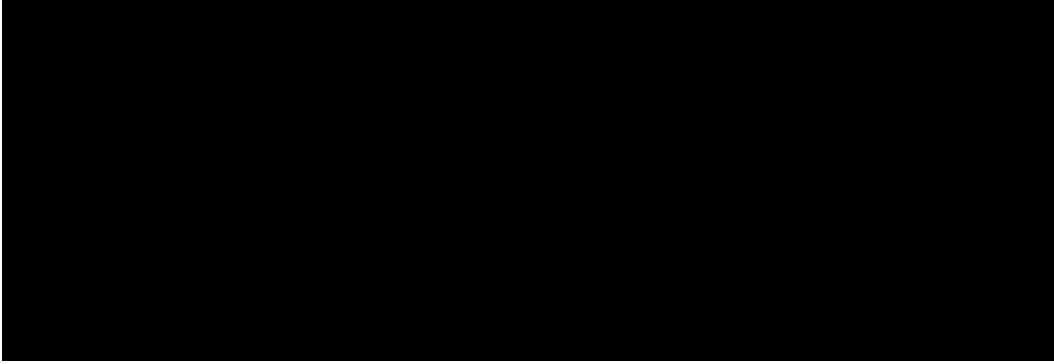
7.1 On 8 May 2023, the Registrar issued a Decision Notice to Nazir pursuant to section 44 of the CLR 2015.

7.2 Under section 44(4) of the CLR 2015, Nazir had the opportunity to refer the Decision Notice to the ADGM Courts.

- 7.3 As at the date of this Final Notice, no referral has been made by Nazir to the ADGM Courts.
- 7.4 As a referral was not made to the ADGM Courts for a review of the Decision Notice within 28 days of Nazir's receipt of the Decision Notice, the Registrar has proceeded to issue this Final Notice pursuant to section 50 of the CLR 2015.

Confidentiality and publicity

- 7.5 This Final Notice has now been issued, pursuant to section 51(5) of the CLR 2015, the Registrar must publish the details about the matter to which the Final Notice relates as it considers appropriate.



Sami Mohammed

ADGM Commissioner of Data Protection, Registration Authority
Delegate of the Registrar, Registration Authority

ANNEXURE A

EXTRACTS OF THE REGULATIONS AND RULES REFERRED TO IN THIS FINAL NOTICE

EXTRACT OF THE *COMMERCIAL LICENSING REGULATIONS 2015*

PART 3: INFORMATION GATHERING AND INVESTIGATIONS

30. Appointment of persons to carry out general investigations

(1) If it appears to the Registrar that there is good reason for doing so, it may appoint one or more competent persons to conduct an investigation on its behalf into –

- (a) the nature, conduct or state of the business of a licensed person;
- (b) a particular aspect of that business; or
- (c) the ownership or control of a licensed person.

(2) If a person appointed under subsection (1) thinks it necessary for the purposes of his investigation, he may also investigate the business of a person who is or has at any relevant time been –

- (a) a member of the group of which the person under investigation ("A") is part; or
- (b) a partnership of which A is a member.

(3) If a person appointed under subsection (1) decides to investigate the business of any person under subsection (2) he must give that person written notice of his decision.

(4) The power conferred by this section may be exercised in relation to a former licensed person but only in relation to –

- (a) business carried on at any time when he was a licensed person; or
- (b) the ownership or control of a former licensed person at any time when he was a licensed person.

(5) "Business" includes any part of a business even if it does not consist of carrying on controlled activities.

31. Appointment of persons to carry out investigations in particular cases

(1) Subsection (2) applies if it appears to the Registrar that there are circumstances suggesting that a person may have committed a contravention of any enactment or subordinate legislation where such contravention is punishable by a fine.

(2) The Registrar may appoint one or more competent persons to conduct an investigation on its behalf.

32. Investigations: general

(1) This section applies if the Registrar appoints one or more competent persons ("investigators") under sections 30 or 31 to conduct an investigation on its behalf.

(2) The Registrar must give written notice of the appointment of an investigator to the person who is the subject of the investigation ("the person under investigation").

(3) Subsections (2) and (9) do not apply if the investigator is appointed as a result of section 31 and the Registrar believes that the notice required by subsections (2) or (9) would be likely to result in the investigation being frustrated.

(4) A notice under subsection (2) must –

- (a) specify the provisions under which, and as a result of which, the investigator was appointed; and

- (b) state the reason for his appointment.
- (5) Nothing prevents the Registrar from appointing a person who is a member of its staff as an investigator.
- (6) An investigator must make a report of his investigation to the Registrar.
- (7) The Registrar may, by a direction to an investigator, control –
 - (a) the scope of the investigation;
 - (b) the period during which the investigation is to be conducted;
 - (c) the conduct of the investigation; and
 - (d) the reporting of the investigation.
- (8) A direction may, in particular –
 - (a) confine the investigation to particular matters;
 - (b) extend the investigation to additional matters;
 - (c) require the investigator to discontinue the investigation or to take only such steps as are specified in the direction;
 - (d) require the investigator to make such interim reports as are so specified.
- (9) If there is a change in the scope or conduct of the investigation and, in the opinion of the Registrar, the person subject to investigation is likely to be significantly prejudiced by not being made aware of it, that person must be given written notice of the change.

33. Powers of persons appointed under section 30

- (1) An investigator may require the person who is the subject of the investigation ("the person under investigation") or any person connected with the person under investigation –
 - (a) to attend before the investigator at a specified time and place and answer questions; or
 - (b) otherwise to provide such information as the investigator may require.
- (2) An investigator may also require any person to produce at a specified time and place any specified documents or documents of a specified description.
- (3) A requirement under subsections (1) or (2) may be imposed only so far as the investigator concerned reasonably considers the question, provision of information or production of the document to be relevant to the purposes of the investigation.
- (4) For the purposes of this section, a person is connected with the person under investigation ("A") if he is or has at any relevant time been –
 - (a) a member of A's group;
 - (b) a controller of A;
 - (c) a partnership of which A is a member; or
 - (d) in relation to A, a person mentioned in Part 1 or Part 2 of the Schedule.
- (5) "Investigator" means a person conducting an investigation under section 30.
- (6) "Specified" means specified in a notice in writing.

34. Additional power of persons appointed as a result of section 31

- (1) An investigator has the powers conferred by section 33.
- (2) An investigator may also require a person who is neither the subject of the investigation ("the person under investigation") nor a person connected with the person under investigation –
 - (a) to attend before the investigator at a specified time and place and answer questions; or
 - (b) otherwise to provide such information as the investigator may require for the purposes of the investigation.
- (3) A requirement may only be imposed under subsection (2) if the investigator is satisfied that the requirement is necessary or expedient for the purposes of the investigation.
- (4) "Investigator" means a person appointed as a result of section 31.
- (5) Subsections (6) to (8) apply if an investigator considers that any person ("A") is or may be able to give information which is or may be relevant to the investigation.
- (6) The investigator may require A –
 - (a) to attend before him at a specified time and place and answer questions; or
 - (b) otherwise to provide such information as he may require for the purposes of the investigation.
- (7) The investigator may also require A to produce at a specified time and place any specified documents or documents of a specified description which appear to the investigator to relate to any matter relevant to the investigation.
- (8) The investigator may also otherwise require A to give him all assistance in connection with the investigation which A is reasonably able to give.
- (9) "Specified" means specified in a notice in writing.

35. Admissibility of statements made to investigators

- (1) A statement made to an investigator by a person in compliance with an information requirement is admissible in evidence in any proceedings, so long as it also complies with any requirements governing the admissibility of evidence in the circumstances in question.
- (2) "Investigator" means a person appointed under sections 30 or 31.
- (3) "Information requirement" means a requirement imposed by an investigator under sections 33, 34 or 36.

36. Information and documents: supplemental provisions

- (1) If the Registrar or an investigator has power under this Part to require a person to produce a document but it appears that the document is in the possession of a third person, that power may be exercised in relation to the third person.
- (2) If a document is produced in response to a requirement imposed under this Part, the person to whom it is produced may –
 - (a) take copies or extracts from the document; or
 - (b) require the person producing the document, or any relevant person, to provide an explanation of the document.
- (3) A document so produced may be retained for so long as the person to whom it is produced considers that it is necessary to retain it (rather than copies of it) for the purposes for which the document was requested.
- (4) If the person to whom a document is so produced has reasonable grounds for believing –
 - (a) that the document may have to be produced for the purposes of any legal proceedings; and
 - (b) that it might otherwise be unavailable for those purposes, it may be retained until the proceedings are concluded.
- (5) If a person who is required under this Part to produce a document fails to do so, the Registrar or an investigator may require him to state, to the best of his knowledge and belief, where the document is.

(6) A lawyer may be required under this Part to furnish the name and address of his client.

(7) No person may be required under this Part to disclose information or produce a document in respect of which he owes an obligation of confidence by virtue of carrying on the business of banking unless –

(a) he is the person under investigation or a member of that person's group;

(b) the person to whom the obligation of confidence is owed is the person under investigation or a member of that person's group;

(c) the person to whom the obligation of confidence is owed consents to the disclosure or production; or

(d) the imposing on him of a requirement with respect to such information or document has been specifically authorised by the Registrar.

(8) If a person claims a lien on a document, its production under this Part does not affect the lien.

(9) "Relevant person", in relation to a person who is required to produce a document, means a person who –

(a) has been or is or is proposed to be a director or controller of that person;

(b) has been or is an auditor of that person;

(c) has been or is an actuary, accountant or lawyer appointed or instructed by that person; or

(d) has been or is an employee of that person.

(10) "Investigator" means a person appointed under sections 30 or 31.

Companies Regulations 2020

867A. Striking off on application by company supported by a prescribed statement

- (1) On application by an eligible company (see section 867B) under this section, the Registrar may strike the company's name off the register.
- (2) An application under this section—
- (a) must be approved by all members of the company present at a meeting of members or by written resolution signed by each member of the company,
 - (b) must be supported by a prescribed statement (see section 867C) made not more than 15 days before the date on which the resolution is passed, and
 - (c) must contain the prescribed information.
- (3) Where the resolution is proposed as a written resolution, a copy of the statement must be sent or submitted to every eligible member at or before the time at which the proposed resolution is sent or submitted to him.
- (4) Where the resolution is proposed at a general meeting, a copy of the prescribed statement must be made available for inspection by members of the company throughout that meeting.
- (5) The validity of a resolution is not affected by a failure to comply with subsection (3) or (4).
- (6) The Registrar may not strike a company off under this section until after the expiration of two months from the publication by the Registrar on the Registrar's website of a notice—
- (a) stating that the Registrar may exercise the power under this section in relation to the company, and
 - (b) inviting any person to show cause why that should not be done.
- (7) The Registrar must publish notice on the Registrar's website of the company's name having been struck off.
- (8) On the publication of the notice on the Registrar's website the company is dissolved.
- (9) However—
- (a) the liability (if any) of every director, managing officer and member of the company continues and may be enforced as if the company had not been dissolved, and
 - (b) nothing in this section affects the power of the Court to wind up a company the name of which has been struck off the register.

867B. Eligible company

- (1) An eligible company for the purpose of section 867A (application for voluntary striking off supported by prescribed statement) is a company that
- (a) qualifies as a small company for the purpose of section 369 (companies qualifying as small) as modified by section 371 (companies excluded from small companies regime),
 - (b) meets such additional requirements as the Registrar may from time to time publish on the Registrar's website, and (c) subject to subsection (2), is not and has not been either an Authorised Person (as defined in the Financial Services and Markets Regulations 2015) or carried out a Regulated Activity (as defined in the Financial Services and Markets Regulations 2015).
- (2) Companies who:
- (a) meet the criteria in paragraphs (a) and (b) of subsection (1),

(b) are licensed pursuant to the Commercial Licensing Regulations 2015 to carry on the Controlled Activity (as defined in the Commercial Licensing Regulations 2015) of developing Financial Technology Services within the RegLab, and

(c) have ceased to be an Authorised Person (as defined in the Financial Services and Markets Regulations 2015), are eligible companies for the purpose of section 867A.

867C. Prescribed statement

(1) A prescribed statement is a statement that each of the directors has formed the opinion, as regards the company's situation at the date of the statement that-

(a) the company is an eligible company,

(b) the company is not precluded by sections 868 and 869 from making an application under section 867A (application for voluntary striking off supported by prescribed statement),

(c) that the company has no employees, and

(d) that all creditors of the company have been paid or otherwise discharged in full and the company has no other liabilities (including any contingent or prospective liabilities and liabilities in respect of current or former directors, employees or clients).

(2) In forming those opinions-

(a) the directors must take into account-

(i) any payment to members proposed to be made prior to the company being dissolved, details of which must be stated on the prescribed statement, and

(ii) all of the company's liabilities (including any contingent or prospective liabilities),

(b) the directors may take into account any arrangement made by the company for the discharge of the company's contingent or prospective liabilities by a third party following its dissolution and striking off.

(3) The prescribed statement must be in the prescribed form and must state-

(a) the date on which it is made, and

(b) the name of each director of the company.

(4) If the directors make a prescribed statement without having reasonable grounds for the opinions expressed in it, and the statement is delivered to the Registrar, a contravention of these Regulations is committed by every director who is in default.

(5) If the directors make a prescribed statement and prior to an application made under section 867A being finally dealt with cease to have reasonable grounds for the opinions expressed in the prescribed statement or the opinions expressed in the prescribed statement cease to be true, the directors shall withdraw the company's application under section 873 (circumstances in which application to be withdrawn).

(6) A person who commits a contravention of subsection (4) is liable to a fine of up to level 8.

868. Circumstances in which application not to be made: activities of company

(1) An application under section 867 (application for voluntary striking off with notice to members, employees etc.) or under section 867A (application for voluntary striking off supported by prescribed statement) on behalf of a company must not be made if, at any time in the previous three months, the company has-

(a) changed its name,

(b) traded or otherwise carried on business,

REGISTRATION AUTHORITY
سلطة التسجيل

(c) made a disposal for value of property or rights that, immediately before ceasing to trade or otherwise carry on business, it held for the purpose of disposal for gain in the normal course of trading or otherwise carrying on business, or

(d) engaged in any other activity, except one which is–

- (i) necessary or expedient for the purpose of making an application under that section, or deciding whether to do so,
- (ii) necessary or expedient for the purpose of concluding the affairs of the company,
- (iii) necessary or expedient for the purpose of complying with any statutory requirement, or
- (iv) specified by rules made by the Board by resolution for the purposes of this sub-paragraph.

(2) For the purposes of this section, a company is not to be treated as trading or otherwise carrying on business by virtue only of the fact that it makes a payment in respect of a liability incurred in the course of trading or otherwise carrying on business.

(3) It is a contravention of these Regulations for a person to make an application in contravention of this section.

(4) It is a defence to such a contravention for the person who committed the contravention to prove that he did not know, and could not reasonably have known, of the existence of the facts that led to the contravention.

(5) A person who commits a contravention under this section shall be liable to a level 3 fine.

936. The Registrar's functions

(1) The Registrar shall -

- (a) perform the functions conferred on the Registrar by or under the ADGM Founding Law, these Regulations, the Commercial Licensing Regulations 2015 or any other law or regulation applicable in the Abu Dhabi Global Market,
...

984. General false statement contravention

(1) It is a contravention of these Regulations for a person knowingly or recklessly–

- (a) to deliver or cause to be delivered to the Registrar, for any purpose of these Regulations, a document, or
- (b) to make to the Registrar, for any such purpose, a statement,
that is misleading, false or deceptive in a material particular.

(2) A person who commits the contravention referred to in subsection (1) is liable to a fine of up to level 7.