



DECISION NOTICE ISSUED UNDER  
RULE 42 OF THE  
COMPANIES REGULATIONS (AUDITORS) RULES 2023

**To:** KPMG Lower Gulf Limited  
Office No 15-111, 15th Floor,  
Al Khatem Tower, ADGM Square,  
Al Maryah Island, Abu Dhabi,  
United Arab Emirates

**Attention:** Mr Emilio Pera

**Email:** [REDACTED]

**Date:** 24 July 2023

**1. DECISION**

1.1 This Decision Notice ("Notice") is issued under Rule 42 of Part 11 of the *Companies Regulations (Auditors) Rules 2023* (the "Auditors Rules 2023").

1.2 For the reasons given in this Notice, the Registrar of Abu Dhabi Global Market ("ADGM") has decided to impose a financial penalty of **USD 30,000** on KPMG Lower Gulf Limited with ADGM Registration No. 000000441 ("KPMG") for contravention of Rule 18(a) of the Auditors Rules 2023<sup>1</sup> (Principles for Registered Auditors - Management, systems and controls).

1.3 This Notice is issued to KPMG 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 Registrar or ADGM that any other person other than KPMG has committed a contravention of ADGM's enactments or subordinate legislation, nor is it a reflection upon any other person or entity.

**2. EXECUTIVE SUMMARY**

2.1 The ADGM Registration Authority ("RA") has decided to take the action set out in this Notice as it considers that KPMG failed to ensure proper systems and controls are in place to prevent

<sup>1</sup> The Auditors Rules (Companies Regulations (Auditors) Rules 2021) were first adopted on 25 August 2021, the revised Companies Regulations (Auditors) Rules 2022 was adopted on 18 April 2022 and the latest version Companies Regulations (Auditors) Rules 2023 was adopted on 9 February 2023. Rule 18 of the Auditors Rules remained the same in 2021, 2022 and 2023 versions.

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the error of a non-Registered Audit Principal signing audit reports for ADGM entities from occurring.

- 2.2 On 18 October 2022, a KPMG non-Registered Audit Principal signed an audit report for an ADGM entity – O.B.S.I.<sup>2</sup> LTD (“OBSI”) - for the financial year ending 31 December 2021 (“OBSI 2021 Audit Report”).
- 2.3 KPMG has a history of purported non-compliance with section 1043 of the ADGM Companies Regulations 2020 (“CR 2020”), which relates to misleading statements in holding oneself as an ADGM registered audit principal (“RAP”) when such individual’s name does not appear on the ADGM’s register of auditors.
- 2.4 Four previous audit reports were signed by a non-RAP at KPMG (excluding the OBSI 2021 Audit Report).
- 2.5 Despite ongoing communication between the RA and KPMG over concerns regarding a non-RAP individual signing audit reports and KPMG confirming it had enhanced its systems and controls to prevent such issues from occurring in the future, the issue occurred again for a fifth time with the OBSI 2021 Audit Report. This demonstrates that the systems and controls that KPMG had attempted to enhance and/or put in place are ineffective and inadequate.
- 2.6 Rule 18(a) of Auditors Rules 2023 requires that registered auditors, at all times, have in place internal controls and policies as are reasonably required to enable the registered auditor to act in compliance with Auditors Rules 2023.
- 2.7 Given the nature of the contravention, the RA considers it appropriate in the circumstances to impose a financial penalty on KPMG.

### 3. DEFINED TERMS AND RELEVANT REGULATIONS

- 3.1 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 legislation, 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.
- 3.2 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](http://www.adgm.com/legal-framework/rules-and-regulations).

<sup>2</sup> Abbreviated form of the name is used throughout this Notice.

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#### 4. SUMMARY OF EVIDENCE SUPPORTING THE ACTION

##### KPMG Incorporation & Registration

- 4.1 On 3 January 2017, KPMG was registered as a Branch of a Foreign Company in ADGM for the Non-Financial (Category B) business activities of auditing, accounting, bookkeeping, management consultancy and tax consultancy.
- 4.2 On 16 January 2017, KPMG was registered as recognised auditor in ADGM.
- 4.3 On 22 August 2021, the RA received an application from KPMG to register Mr [REDACTED] as a Responsible Individual ("RI"), which was approved on 1 September 2021.
- 4.4 On 25 August 2021, ADGM's new Auditors' Framework (the "Auditors' Framework") was enacted, and Companies Regulations (Auditors) Rules 2021 (the "Auditors Rules 2021") were adopted. The Auditors Rules 2021 and Auditors Framework came into force on 1 December 2021.
- 4.5 For existing recognised auditors, the Auditors Rules 2021 provided a transition period which stipulated that existing recognised auditors must re-register within 12 months from 1 December 2021 or on the firm's registration renewal date, whichever is the earlier.

##### KPMG Previous Purported Non-Compliance Occurrences

- 4.6 On 26 December 2021, the RA notified KPMG via email that it had come to the RA's attention that [REDACTED] signed audit reports of ADGM entities on behalf of KPMG before his registration as an RI on 1 September 2021. Further, the RA requested details of every audit report [REDACTED] signed prior to the RA's approval on 1 September 2021 with clarifications.
- 4.7 On 5 January 2022 and subsequent to a follow up email from the RA, KPMG responded to the RA's email under paragraph 4.6 advising that "[REDACTED] inadvertently and due to an oversight signed audit reports of one client on the basis of his registration with the UAE Ministry of Economy". Further, KPMG confirmed that they "have taken the necessary measures to ensure Responsible Individuals are kept abreast and aware of their responsibilities and obligations in respect of applicable registration requirements of ADGM". KPMG did not provide the requested details of all audit report(s) [REDACTED] signed prior to his RI approval under this email.
- 4.8 On 2 February 2022, the RA via email again requested the details of each audit report signed before by [REDACTED] prior to his RI registration and on the same day KPMG provided the following details:

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- 4.8.1 [REDACTED] prior to his RI registration at ADGM only signed audit reports for one ADGM client F.H.L<sup>3</sup> ("FHL").
- 4.8.2 The following two audit reports were signed by [REDACTED] for FHL:
- Audit report dated 20 June 2021 for the year ending 31 December 2020 ("FHL 2020 Audit Report"); and
  - Audit report dated 6 July 2020 for the year ending 31 December 2019 ("FHL 2019 Audit Report").
- 4.9 On 15 February 2022, KPMG was re-registered under the Auditors' Framework.
- 4.10 On 24 January 2022, the RA received the applications of [REDACTED] and six other individuals, to become RAPs under the new Auditor's Framework.
- 4.11 On 6 April 2022, the RA again via email requested KPMG for a complete list of all the ADGM audit reports signed by [REDACTED] prior to 1 September 2021 and details of the steps taken by KPMG to enhance its systems and controls to ensure that audited accounts of ADGM entities are only signed by RAPs.
- 4.12 On 15 April 2022 at 1:23 PM, the RA approved the applications of the six other RAP except [REDACTED] application pending additional information requested.
- 4.13 Later on 15 April 2022 at 2:03 PM, KPMG disclosed that [REDACTED] signed two more reports for A.G.T<sup>4</sup> LTD ("AGT") prior to his RI registration with the RA (in addition to FHL 2020 Audit Report and FHL 2019 Audit Report disclosed previously by KPMG as described under paragraph 4.8.2). The details of the AGT reports are as follows:
- 4.13.1 Auditor's report signed by [REDACTED] on 11 May 2021 for the financial year ending 31 December 2020 ("AGT 2020 Audit Report"); and
- 4.13.2 Condensed interim financial information signed by [REDACTED] on 3 June 2021 for the period ended 31 Mar 2021 ("AGT 2021 Interim Financials").
- 4.14 On 15 April 2022, KPMG further confirmed that it has a policy (Naming and Signing Protocol Policy) and procedures governing the identification of a properly licensed RI to sign audit reports. KPMG further listed enhanced and additional controls put in place to ensure that audited accounts of ADGM entities are only signed by RAPs, which included the following:

<sup>3</sup> Abbreviated form of name is used throughout this Notice. The annual accounts for the years 2019 and 2020 that were signed by [REDACTED] were filed by FHL with the RA on 21 September 2020 and 2 September 2021 respectively.

<sup>4</sup> Abbreviated form of name is used throughout this Notice. The annual accounts for the financial year ending 31 December 2020 and signed by [REDACTED] was filed by AGT with the RA on 17 June 2021.



- 4.14.1 "All clients are mapped to the relevant regulatory jurisdictions" and independent checks will be performed "to ensure only authorized and licensed partners under the relevant jurisdiction are signing related audit reports";
- 4.14.2 "The list of registered RIs, with the clients and regulatory bodies they are registered under, are now published to all Audit staff and any changes are updated and published when effected"; and
- 4.14.3 An additional layer of control is added "to formally verify that the RI signing the report is appropriately licensed by the relevant regulatory authority to which the report relates".
- 4.15 On 21 April 2022, the RA informed KPMG that the list of audits provided under the email on 15 April 2022 described under paragraph 4.14 appeared to be incomplete. The RA raised with KPMG a query regarding I.O.M<sup>5</sup> Limited ("IOM") which is an ADGM registered company. The RA noted that IOM's annual accounts for the year ending 31 December 2019 included an audit report dated 3 March 2020 that was signed by ██████████ ("IOM 2019 Audit Report"). Furthermore, the RA sought clarification on the steps being taken by KPMG to enhance and add controls to prevent such incidents from occurring.
- 4.16 On 20 May 2022, KPMG confirmed that its initial review ranged from October 2020 to September 2021. Therefore, IOM was missed. KPMG further confirmed that it expanded its review period to include the previous 3 years and implemented controls to mitigate such risks in future.
- 4.17 On 1 June 2022, the RA sent further enquiries to KPMG to share the results of their review and to ensure that the review is not limited to the past three years only.
- 4.18 Following several extension requests by KPMG to provide the required information under paragraph 4.17, on 12 July 2022, KPMG confirmed that no further audit reports were signed by ██████████ in relation to ADGM entities.
- 4.19 Accordingly, as of September 2022 and to the RA's knowledge a total number of four audit reports were signed by a non-RAP (i.e. ██████████) at KPMG concerning ADGM entities. The four reports are:
- I. FHL 2020 Audit Report;
  - II. FHL 2019 Audit Report;
  - III. AGT 2020 Audit Report; and
  - IV. IOM 2019 Audit Report.

#### RA's Concerns Letter – September 2022

- 4.20 On 23 September 2022, the RA sent a concerns letter ("Concerns Letter") to KPMG:

<sup>5</sup> Abbreviated form of name is used throughout this Notice.



- 4.20.1 highlighting the RA's concerns in relation to [REDACTED] signing audit reports prior to his RI registration;
- 4.20.2 referring the potential contraventions under the RA's administered legislation including CR 2020 and the Auditors Rules 2022; and
- 4.20.3 requiring actions from KPMG including to:
- 4.20.3.1 provide a copy of the Naming and Signing Protocol Policy;
  - 4.20.3.2 provide a copy of the Concerns Letter to be provided to relevant KPMG persons with appropriate seniority responsibility for the conduct of risk and compliance for consideration and incorporation; and
  - 4.20.3.3 confirm to whom within KPMG the Concerns Letter has been provided.
- 4.21 On 30 September 2022, KPMG provided their response to the Concerns Letter in which they have:
- a. Provided the Naming and Signing Protocol Policy; and
  - b. Confirmed that a copy of the Concerns Letter has been shared with the Head of Risk Management at KPMG who is the relevant person with appropriate seniority and with a member of their Risk Management team.
- 4.22 Following careful consideration of KPMG's response and documentation provided, the RA decided it would include a review of KPMG's systems and controls in future supervisory on-site assessments.
- 4.23 On 24 November 2022, the RA approved the RAP application for [REDACTED].

Additional Audit Report Signed by a Non-Registered Audit Principal – OBSI

- 4.24 On 18 January 2023, the RA as part of a routine review sent a letter to KPMG requiring details of every ADGM entity that KPMG was engaged by to perform external audit work during the period between 1 January 2022 and 31 December 2022.
- 4.25 On 30 January 2023 at 10:00 am, the Office Managing Partner & Head of Audit at KPMG informed an RA staff ("RA Staff") during a telephone call that another audit report had been issued by KPMG for an ADGM entity that was signed by an individual who is not an RAP.
- 4.26 On 31 January 2023, KPMG shared the required clients' details under paragraph 4.24 via email with RA Staff.
- 4.27 On 2 February 2023, the RA Staff via email requested further details from KPMG about the audit report that was signed by the non-RAP.

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- 4.28 On 3 February 2023, KPMG provided the following requested details in response to the email under paragraph 4.27:
- 4.28.1 The ADGM entity audited is OBSI.
- 4.28.2 The OBSI 2021 Audit Report is dated 18 October 2022 and it relates to the financial year ending 31 December 2021.
- 4.28.3 The individual that signed the OBSI 2021 Audit Report is [REDACTED].
- 4.28.4 The following was stated in response to the circumstances surrounding the issue “The firm has instituted an automated signing memo process to control the correct signing of audit reports. ADGM-registered Audit Principals are included in a drop-down list for ADGM audit report but for the audit report in question, signatory name was not selected although it is a mandatory field, and instead was signed erroneously by a signatory registered with the UAE Ministry of Economy rather than an ADGM-registered Audit Principal. The firm is further assessing its processes to strengthen its controls for the signing of audit reports”.

## 5. CONTRAVENTION

- 5.1 Rule 18 of the Auditors Rules 2023 requires “internal control, monitoring, compliance and risk management systems, controls and policies” to enable the Registered Auditor to act in compliance with these Rules.
- 5.2 As per Rule 33 of the Auditors Rules 2023, if the Registrar considers that a Registered Auditor or Registered Audit Principal has contravened a relevant requirement, it may take enforcement action including financial penalties.
- 5.3 Pursuant to Rule 33(3) of the Auditors Rules 2023, any financial penalty imposed by the Registrar may be in such amount and may be payable on such terms, as it considers appropriate, provided that the financial penalty does not exceed the amount specified for level 8 on the standard fines scale which equals to USD50,000.
- 5.4 Further, Rule 33(6) of the Auditors Rules 2023 defines “relevant requirement” as “a requirement with which a Registered Auditor or Registered Audit Principal must comply under (a) these Rules or the Companies Regulations; and (b) any Additional Permit.”
- 5.5 KPMG’s ineffective systems and controls failed to ensure compliance with the requirement under 474 of CR 2020.

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- 5.6 Section 474 of CR 2020 requires the auditor's report to be signed by a "senior auditor" and states that *"The auditor's report must state the name of the auditor and be signed and dated by the senior auditor in his own name, for and on behalf of the auditor"*.
- 5.7 As per section 475 of the Companies Regulations (Amendment No. 2) of 2021 ("CR 2021, Amendment No. 2"), *"senior auditor means the individual appointed by the audit firm as the audit principal in accordance with Rules made by the Registrar under Part 35 of these Regulations"*.
- 5.8 Based on the facts and matters noted above, the Registrar considers that KPMG contravened Rule 18(a) of the Auditors Rules 2023 for its failure to put in place proper systems and controls to enable it to act in compliance with Companies Regulations 2020 and Auditors Rules 2023. Therefore, KPMG may be held liable to a fine up to USD50,000.

## 6. SANCTIONS

### Financial Penalties

- 6.1 In reaching its decision to impose a financial penalty, the Registrar has considered the below factors and considerations to be of relevance:
- 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.
- 6.2 The Registrar has decided to impose a financial penalty, given the seriousness of the contravention and the circumstances.

### Determination of the level of financial penalty

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

#### *The seriousness of the contraventions*

- 6.4 Contravening a relevant requirement under RA administered legislation is a serious contravention. The Registrar expects all its Registered Auditors to avoid any actions that might reasonably be expected to risk bringing discredit to their profession.
- 6.5 Registered Auditors are also expected to ensure they adhere to registered auditors' principles stipulated under the Auditors Rules 2023.

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- 6.6 The seriousness of this contravention is aggravated by the fact that the RA had previously been engaged in ongoing communication with KPMG over several months regarding concerns over non-RAPs signing audit reports. KPMG confirmed that it had put in place systems and controls to prevent this from happening. However, it subsequently re-occurred in relation to OBSI.

*Deliberate or reckless*

- 6.7 Although not deliberate nor reckless, the re-occurring act by KPMG of having a non-RAP sign the audit report for an ADGM entity after the issuance of the Concerns Letter can reasonably be concluded to be at the least, careless.

*Whether the person is an individual*

- 6.8 KPMG is not an individual. Therefore, this factor was not considered.

*Effect on third parties*

- 6.9 This may have detrimental impact any person(s) who relied on the OBSI 2021 Audit Report as it was signed by a non-RAP and not carried out in accordance with applicable regulations.

*Deterrence*

- 6.10 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.
- 6.11 The penalty imposed must deter other Registered Auditors from having in place ineffective systems and controls that may result in breach of relevant requirements.
- 6.12 Further, ADGM registered auditors must adhere to applicable principles stipulated under the Auditors Rules 2023.

*Financial gain or loss avoided*

- 6.13 Persons who relied on OBSI 2021 Audit Report may suffer financial loss if the audit and corresponding audit report is not carried out in accordance with applicable standards and regulations or carried out by persons who are non-RAP to conduct audits for ADGM entities.

*Disciplinary record and compliance history*

- 6.14 As set out under this Notice, KPMG has a purported non-compliance history of non-RAP erroneously signing audit reports for ADGM entities. The RA has notified KPMG about the repeated non-compliance and required KPMG to enhance its systems and controls to avoid such incidents from occurring. However, despite the RA's ongoing communications, the controls put in place by KPMG proved to be ineffective as the issue occurred again.
- 6.15 Specifically, the OBSI 2021 Audit Report was signed by a non-RAP on 18 October 2022 which is shortly after the RA's Concerns Letter dated 23 September 2022 in which clear requirements were communicated to KPMG to incorporate all action plans under its systems and controls to address the RA's concerns.

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*Maximum Penalty*

- 6.16 As per Rule 33(3) of the Auditors Rules 2023, the maximum financial penalty for contravention of Rule 18 is level 8 which is up to USD 50,000.
- 6.17 The Registrar considers the financial penalty amount of USD 30,000 would be wholly appropriate in order to reflect the seriousness of the contravention and taking into consideration the purported non-compliance history of KPMG.

**7. PROCEDURAL MATTERS**

**Representations**

- 7.1 On 8 June 2023, the Registrar issued KPMG with a Warning Notice pursuant to Rule 41 of the Auditors Rules 2023 in which it stated that it proposed to impose a financial penalty on KPMG.
- 7.2 KPMG was provided with an opportunity to make representations in response to the Warning Notice and the action proposed.
- 7.3 On 5 July 2023, the Registrar received written representations from KPMG. It is understood that KPMG's response to the Warning Notice consists of the following 'key' representations (along with the Registrar's response to each):

- a) In light of the concerns stated in the Warning Notice, KPMG has undertaken a detailed assessment of the controls and processes once again to identify aspects of the process which need to be further enhanced and strengthened.

The Registrar is of the view that since these further improvements were made after the issuance of the Warning Notice, the improvements are not considered relevant for purposes of the contravention under this Notice as they do not fall within the relevant period of the contravention to which the financial penalty relates.

- b) The error in the signing partner on the audit report was not in any way an attempt to knowingly contravene or breach the licensing requirements, rather it was a genuine human error, and is not representative of KPMG's "internal Control, monitoring, compliance and risk management systems, controls and policies".

The Registrar is of the view that KPMG not only failed to prevent non-RAP from signing an audit report for an ADGM entity by failing to put in place effective preventative controls, KPMG also failed to detect and monitor such instances. It was only after the RA's notification and communication to KPMG that the OBSI 2021 Audit Report instance was disclosed to the RA.

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Rule 18(a) of Auditors Rules 2023 requires that registered auditors, at all times, have in place internal controls and policies as are reasonably required to enable the registered auditor to act in compliance with Auditors Rules 2023. Taking into consideration KPMG's previous confirmation that it had enhanced its systems and controls to prevent issues of non-RAPs signing audit reports for ADGM entities from occurring in the future, the issue occurred again for a fifth time with the OBSI 2021 Audit Report. This demonstrates that the systems and controls that KPMG had attempted to enhance and/or put in place are ineffective and/or inadequate.

Accordingly, in the Registrar's view, KPMG failed to put sufficient and effective controls in place to prevent contraventions of ADGM legislation.

- c) The previous four audit reports were signed by the same non-RAP, and should be considered as one instance (rather than multiple instances with different non-RAPs) given that these were collectively identified pertaining to the same non-RAP and were discussed with ADGM.

The Registrar is of the view that considering all four audit reports as one instance (because the non-RAP was the same individual) would be incorrect given that:

- each audit report is considered a separate audit engagement;
- the audit reports concern three different audit clients;
- each audit engagement attracts its own audit fees for each audit report; and
- the four instances span over a period of more than twelve months.

Further, the proposed action under the Warning Notice concerns only the OBSI 2021 Audit Report. The previous four audit reports signed by non-RAPs are described under the Warning Notice as factors considered in proposing and determining the amount of the financial penalty.

- d) There is no detrimental impact on any third parties who have or may have relied on the OBSI 2021 Audit Report as the audit was carried out in accordance with applicable international standards and regulations.

The Registrar is of the view that there could be potential impact on third parties (including audit clients, stakeholders and relevant professional indemnity insurers) who may have relied on the OBSI 2021 Audit Report given that the non-RAP have not demonstrated to the Registrar's satisfaction that he meets the registration criteria in Rules 9 and 10 of the Auditors Rules 2023, and, to this date, the concerning non-RAP has not submitted a registration application to the RA.

- 7.4 Having taking into account the facts, matters and circumstances of the contravention, the Registrar has decided to impose on KPMG a financial penalty in the amount of USD 30,000.

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#### Opportunity to have the matter referred to the ADGM Courts

- 7.5 Under Rule 43 of the Auditors Rules 2023, the decision contained in this Notice may be referred by KPMG to the ADGM Courts within one month of KPMG's receipt of this Notice.
- 7.6 In the event that a referral is not made to the ADGM Courts for a review of this Notice within one month, then this Notice will be considered a final and conclusive decision by the Registrar and the fine must be paid by KPMG on or before the date stated on the invoice attached with this Notice.
- 7.7 In the event that any part of the financial penalty remains outstanding on the date by which it must be paid, the obligation to make the payment is enforceable as a debt by the Registrar.
- 7.8 Payment of the financial penalty can be made by electronic funds transfer. The account details are listed in the invoice attached with this Notice.

#### Confidentiality and publicity

- 7.9 As this Notice has now been issued, pursuant to Rule 46(2) of the Auditors Rules 2023, the Registrar must publish the details about the matter to which the Notice relates as it considers appropriate.

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ABU DHABI GLOBAL MARKET  
سوق أبوظبي العالمي

Signed:



**Natella Safar Ali**  
Executive Director – Registration & Incorporation  
Registration Authority  
Delegate of the Registrar, Registration Authority

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## ANNEXURE A

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

#### EXTRACT OF THE COMPANIES REGULATIONS (AUDITORS) RULES 2023

##### 18. Additional Principles for Registered Auditors

These additional principles apply to every Registered Auditor:

- (a) **Management, systems and controls** – a Registered Auditor must at all times have in place such members of a senior management team with appropriate experience and competence and a management structure (taking into account the relative size of such Registered Auditor) and such internal control, monitoring, compliance and risk management systems, controls and policies as are reasonably required to enable the Registered Auditor to act in compliance with these Rules.
- (b) **Resources** – a Registered Auditor must at all times ensure that it has access to all such resources, whether financial, professional, IT, security or otherwise, as may be required to enable it to perform or conduct any audit work and otherwise to act in compliance with and to the standard required by, these Rules.

##### 33. Sanctions

- (1) If the Registrar considers that a Registered Auditor or Registered Audit Principal (a "Relevant Entity") has contravened a relevant requirement, it may take any or all of the following courses of action in relation to the Relevant Entity—
  - (a) issue a private or public censure in relation to such contravention; or
  - (b) impose a financial penalty; or
  - (c) issue a prohibition order; or
  - (d) enter into an enforceable undertaking; or
  - (e) suspend or withdraw the Relevant Entity's registration or Additional Permit or Permits in accordance with Rule 34(1)(a).
- (2) Censure statements
  - (a) A censure statement must describe in such detail as the Registrar may determine the nature of the contravention and may include such guidance as to any remedial action that the Relevant Entity should consider taking to avoid any repetition of such contravention or any other contravention taking place, as the Registrar may see fit to specify.
  - (b) A public censure statement must be published in such manner as the Registrar determines and a copy of the censure statement must be sent by the Registrar to the Relevant Entity.
- (3) Financial penalties  
Any financial penalty imposed by the Registrar may be in such amount and may be payable on such terms, as it considers appropriate, provided that the financial penalty not exceed the amount specified for level 8 on the standard fines scale.
- (4) Prohibition orders
  - (a) The Registrar may issue an order prohibiting or restricting a Relevant Entity

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from providing or otherwise being involved in the provision of, in the Abu Dhabi Global Market, any Audit Service of such type as may be specified in the order and subject to such conditions as may be specified in the order.

- (b) The Registrar may, if it considers it appropriate or desirable, publish details of any such order in such manner as it determines.

(5) Enforceable undertakings

- (a) If the Registrar considers that this would be an appropriate way in which to address any contravention of a relevant requirement or any other concern that it may have with respect to a Registered Auditor or Registered Audit Principal, it may accept a written undertaking from a Relevant Entity on such terms as may be agreed.
- (b) The Registrar may, if it considers it appropriate or desirable, publish details of any such order in such manner as it determines.
- (c) If the Registrar considers that any person who has given such an undertaking has breached any of its terms, the Registrar may take such further action as it considers appropriate, including without limitation, imposing another sanction and taking any other action available to him under these Rules and applying to the ADGM Courts for an order or other relief to enforce or provide a remedy in respect of any breach.

(6) In this Rule a "relevant requirement" means a requirement with which a Registered Auditor or Registered Audit Principal must comply under—

- (a) these Rules or the Companies Regulations; and  
(b) any Additional Permit.

**34. Right of the Registrar to Suspend or Withdraw Registration or Additional Permits**

- (1) The Registrar may withdraw or suspend the registration or any Additional Permits of a Registered Auditor or Registered Audit Principal on:
- (a) its own initiative; or  
(b) at the request of the Registered Auditor or Registered Audit Principal.
- (2) Where the Registrar decides to suspend the registration or any Additional Permit of a Registered Auditor or Registered Audit Principal, it may direct that such suspension:
- (a) be for a specific period of time (which may be extended for such further periods and from time to time as the Registrar may consider desirable); or  
(b) continue until such time as such conditions as the Registrar may consider appropriate have been met to his satisfaction.

**38. Suspension or Withdrawal of Registration or Additional Permits of a Registered Auditor at the Request of the Registered Auditor**

- (1) A request for suspension or withdrawal of registration or one or both Additional Permits by a Registered Auditor must be made in writing to the Registrar in the form specified by the Registrar from time to time in accordance with the requirements of these Rules.
- (2) Acceptance of such request remains at the discretion of the Registrar and before granting a request for suspension or withdrawal the Registrar must first be satisfied that:

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- (a) the Registered Auditor has made appropriate arrangements with respect to its existing audit clients; and
  - (b) any other matter which the Registrar reasonably expects to be resolved before such suspension or withdrawal takes effect has been resolved.
- (3) Once a Registered Auditor has made a request for its registration, or one or both of its Additional Permits, to be suspended or withdrawn, it must not:
- (a) In the case of the suspension or withdrawal of the Registered Auditor's registration,
    - (i) accept any appointment or re-appointment as a Registered Auditor;
    - (ii) provide any Audit Service;
    - (iii) issue any audit reports; or
  - (b) in the case of the suspension or withdrawal of an Additional Permit, carry out work for which such Additional Permit is required,
- in each case without obtaining the prior written consent of the Registrar.

#### 40. The Registrar's Procedures

- (1) The Registrar will exercise its powers and discharge its responsibilities as set out in these Rules in each case accordance with established principles of natural justice, ensuring that its actions are fair and transparent.
- (2) Without prejudice to the generality of Rule 34(1), the Registrar must comply with the following principles in relation to the issuance of Warning Notices and Decision Notices under this Rule:
  - (a) a decision to issue a Warning Notice or a Decision Notice must be taken only by:
    - i. a person not directly involved in establishing the evidence on which the decision is based; or
    - ii. 2 or more persons who include a majority of persons not directly involved in establishing that evidence.
  - (b) the procedural formalities and protections afforded to a Recipient must be commensurate with the gravity or seriousness of the proposed action.
- (3) The ADGM Courts may take into account any failure of the Registrar in complying with these requirements in considering a matter referred to them.

#### 41. Warning Notices

- (1) If the Registrar proposes to -
  - (a) refuse to grant registration to an Auditor Applicant under Rule 8, or grant such registration only subject to restrictions or conditions;
  - (b) refuse to grant registration to an Audit Principal Applicant under Rule 11, or grant such registration only subject to restrictions or conditions;
  - (c) refuse to grant an Additional Permit under Rule 12, or grant such Additional Permit only subject to restrictions or conditions; or
  - (d) impose any sanction pursuant to its powers under Rule 33, it must provide a warning notice (a "Warning Notice") to the relevant Auditor Applicant, Auditor Principal Applicant, Permit Applicant, or direct subject of the sanction, as appropriate (the "Recipient").

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- (2) A Warning Notice must –
- state the action(s) which the Registrar proposes to take;
  - be in writing;
  - give reasons for the proposed action(s);
  - specify a reasonable period (which may not be less than 14 days) within which the person to whom it is given may make representations to the Registrar;
  - state whether Rule 38 applies; and
  - if that Rule applies, describe its effect and state whether any material exists to which the person concerned must be allowed access under it.
- (3) Following the receipt of a Warning Notice, the Recipient must have the amount of time specified in the Warning Notice, or such longer time as the Registrar may agree with the Recipient, to make representations to the Registrar in respect of the Warning Notice.
- (4) The Registrar must consider relevant materials, documentation or information relating to the matter, and consider the representations made by the Recipient within the permitted time (if any), and must, within two months starting on the date on which the period for making representations under Rule 41(3) ends, take one or more of the following actions:
- abandon all actions proposed by the Warning Notice, in which case it will notify the Recipient of that fact in writing as soon as practicable;
  - issue a subsequent Warning Notice, proposing different or further actions;
  - or
  - take one or more actions specified in the Warning Notice by issuing a Decision Notice.
- If the Registrar has not taken any of the above actions within the prescribed period, the Registrar will be deemed to have abandoned all actions proposed by the Warning Notice.

#### 42. Decision Notices

- (1) If the Registrar decides to take an action referred to in a Warning Notice, it must provide a Decision Notice (a "Decision Notice") to the relevant Auditor Applicant, Auditor Principal Applicant, Permit Applicant, or direct subject of the sanction, as appropriate (the "Decision Notice Recipient").
- (2) A Decision Notice must –
- be in writing;
  - give the reasons of the Registrar for the decision to take the action to which the notice relates; and
  - give an indication of any right to refer the matter to the ADGM Courts which is given by these Rules.

#### 43. Right to refer matters to the ADGM Courts

- (1) A Decision Notice Recipient may refer the matter to the ADGM Courts within one month of receipt of the Decision Notice, which will review the matter in accordance with their own procedures.
- (2) A Decision Notice that has been referred to the ADGM Courts continues in effect until the matter has been resolved by the ADGM Courts, unless the ADGM Courts determine otherwise.

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#### 44. Access to Material

- (1) If the Registrar gives a person ("A") a Warning Notice notifying a recipient that it intends to, on its own-initiative, withdraw or suspend any registration or Additional Permit under Rule 34(1)(a), it must –
  - (a) allow the person access to the material on which it relied in taking the decision which gave rise to the obligation to give the notice;
  - (b) allow the person access to any other material which was considered or obtained by the Registrar in connection with determining and reaching its decision which, in the Registrar's opinion, might undermine that decision.
- (2) The Registrar may refuse A access to particular material which it would otherwise have to allow A access to if, in its opinion, allowing A access to the material -
  - (a) would not be in the public interest;
  - (b) would breach confidentiality requirements; or
  - (c) would not be fair, having regard to -
    - (i) the likely significance of the material to A in relation to the matter giving rise to the Warning Notice; and
    - (ii) the potential prejudice to the commercial interests of a person other than A which would be caused by the material's disclosure.
- (3) If the Registrar refuses under Rule 44(2) to allow access to material, it must give A written notice of -
  - (a) the refusal; and
  - (b) the reasons for it.
- (4) The Registrar may refuse A access to particular material on the basis that it consists of a protected item, in which case, it must give A written notice of -
  - (a) the existence of the protected item; and
  - (b) the Registrar's decision not to allow him access to it.

#### 46. Publication

- (1) A Warning Notice, the existence of a Warning Notice and the contents of a Warning Notice must not be published or disclosed by the Registrar, the Recipient or any other person.
- (2) The Registrar may publish, in such manner as it considers appropriate, a Decision Notice, part of a Decision Notice, or such information about the matter to which a Decision Notice relates as it considers appropriate, taking into account the fairness of such publication and the effect on the Decision Notice Recipient, the interests of participants in the Abu Dhabi Global Market or the interests of the Abu Dhabi Global Market as a whole.

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## EXTRACT OF THE COMPANIES REGULATIONS 2020

### 474. Signature of auditor's report

The auditor's report must state the name of the auditor and be signed and dated by the senior auditor in his own name, for and on behalf of the auditor.

### 1043. Misleading, false and deceptive statements

- (1) A person will commit a contravention of these Regulations if– (a) for the purposes of or in connection with any application under this Part, or (b) in purported compliance with any requirement imposed on him by or by virtue of this Part, he knowingly or recklessly furnishes information which is misleading, false or deceptive in a material particular.
- (2) It is a contravention of these Regulations for a person whose name does not appear on the register of auditors kept under Resolutions under section 1039 to describe himself as a registered auditor or so to hold himself out as to indicate, or be reasonably understood to indicate, that he is a registered auditor.
- (3) It is a contravention of these Regulations for a body which is not a recognised professional body to describe itself as so recognised or so to describe itself or hold itself out as to indicate, or be reasonably understood to indicate, that it is so recognised.
- (4) A person who commits the contravention referred to under subsection (1) shall be liable to up to a level 6 fine.
- (5) A person who commits the contravention referred to under subsection (2) or (3) shall be liable to up to a level 6 fine.
- (6) It is a defence for a person charged with an offence under subsection (2) and (3) to show that he took all reasonable precautions and exercised all due diligence to avoid the commission of the contravention.

## EXTRACT OF THE COMPANIES REGULATIONS (AMENDMENT No. 2) 2021

### 475. Senior auditor

- (1) The senior auditor means the individual appointed by the audit firm as the audit principal in relation to the audit in accordance with Rules made by the Registrar under Part 35 of these Regulations.
- (2) The senior auditor must be eligible for appointment as audit principal of the company in question, including, in the case of public interest entities and financial institutions, satisfying any additional requirements for audit principals of such companies.

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